

FINAL NEGATIVE DECLARATION/INITIAL STUDY SCH #2013032035
WIRELESS TELECOMMUNICATION FACILITIES ORDINANCE
December 8, 2015

I. Introduction:

This document constitutes the Final Negative Declaration/Initial Study (ND), State Clearinghouse SCH #2013032035, for the proposed Wireless Telecommunication Facilities Ordinance (Ordinance). The Board of Supervisors will consider the Draft ND, the Final ND and the findings therein prior to taking action on the project as a whole.

On March 12, 2013, the Contra Costa County Department of Conservation and Development (DCD) published a Draft ND, which analyzed potential significant adverse environmental impacts of the proposed Ordinance. Pursuant to Section 15073 of the California Environmental Quality Act (CEQA) the Draft ND included a 30-day public review period, ending on April 11, 2013. The purpose of the public review period is for the public to submit comments on the adequacy of the environmental analysis in the Initial Study.

DCD received four letters and one email in response to the publication of the Draft ND. The Final ND includes all the comments in each letter and email and responses to the comments received. The Final ND also includes edits/corrections to the Initial Study made in response to comments. As a result of the revisions made to the first draft Ordinance, changes have been made to several sections throughout the document, and unless differently stated, the current version of the Draft is referred here in as the “revised” or “current” Draft Ordinance.

II. Comments Received and Responses:

During the March 12 to April 11, 2013 public review period, DCD received three letters from Channel Law Group on behalf of American Tower Corporation, AT&T Services Inc., Mackenzie & Albritton on behalf of Verizon Wireless, and one email from Marilynne Mellander. After the close of the public review period, DCD received an additional letter on January 5, 2015, from Paul O’Boyle on behalf of Crown Castle NG West.

The comments received are in the following categories.

- General Comments
- CEQA
- Public Notice / Public Input
- Existing Facilities
- Legal Non-Conforming Wireless Facility
- Collocation
- County Right-of-Way
- Substantial Change
- Camouflage
- Landscape Maintenance
- Proximity of Towers
- Low Visibility Facility
- High Visibility Facility
- Maximum Height of Towers
- Reflectivity
- Microwave Dish
- Equipment Enclosure
- Antenna / Antenna Support Structure
- "With or Without"
- Submittal Requirements
- Permit Types
- Determination of Costs / Escrow Deposit
- Shot Clock
- Facility Abandonment

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The letters and email received by DCD are included herein as an attachment. Following are comment summaries and staff responses to the comments.

A. Channel Law Group on behalf of American Tower Corporation (American Tower)

1. CEQA

American Tower Comment 1: The commenter disagrees with the no impact finding of the Initial Study and states that the document is defective and must be revised.

American Tower Comment 6: The Initial Study is defective because it fails to analyze the environmental effects of the Ordinance. A new Initial Study must be prepared.

Response: The Draft ND includes a general environmental assessment of the proposed Ordinance. As stated in the Initial Study, the purpose of the Initial Study is to discuss how the proposed Ordinance would establish criteria for the location and design of wireless facilities in the County. Environmental review of any future permit application at this time is speculative, because the proposed Ordinance does not require any facility to be modified, removed, replaced, or relocated, and moreover, it does not terminate any approved permit.

2. Existing Facilities

American Tower Comment 2: The Initial Study should analyze regulation of existing facilities; existing towers located in prohibited areas, on scenic ridges, and on a lot in front of a building, a public street, bikeway, trail, or park; and renewal of a land use permit for a high-visibility facility in prohibited areas, on scenic ridges, and on a lot in front of a building, a public street, bikeway, trail, or park.

American Tower Comment 3: The proposed Ordinance states the need to camouflage and screen high visibility facilities. The proposed Ordinance should offer specific screening and camouflaging techniques. If existing towers would be required to be reduced in height, the Initial Study should assess the environmental effects of the height reductions.

American Tower Comment 5: The removal or replacement of existing facilities could result in coverage gaps. The Initial Study should assess the environmental effects of any coverage gaps on public services such as police, fire, or ambulance services as well as effects on traffic and air quality.

Response: As detailed in Section 88-24.206(c)(8) of the current draft Ordinance, an existing facility with a valid County land use permit or other approval is exempt from the Ordinance, unless the facility is modified, removed and replaced, or relocated, or if the land use permit has expired. Section 88-24.206(c)(6) proposes to exempt facilities for a regional emergency communication systems, including, 911 system facilities. In addition, the Ordinance would not affect a non-exempt existing facility until such time an

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application for a new wireless facility permit is submitted. Section 88-24.408 details the design requirements to reduce a facility's visual and aesthetic impacts, which would apply to an application for a new wireless facility permit or one that is either substantially changed, relocated or expired, as stated under Section 88-24.206.

As explained in the Draft ND, the proposed Ordinance does not include review or approval of a specific facility. Moreover, the proposed Ordinance does not require any facility to be modified, removed, replaced, or relocated, and moreover, does not terminate any approved permit. At the time an application for a new wireless facility permit is submitted for any existing facilities separate specific CEQA analysis would be conducted for the particular facility, if CEQA review is warranted. In the absence of a discretionary permit review, no physical modifications would be imposed on an existing facility beyond the requirements that were already specified under the existing land use permit approval.

3. Maximum Height of Towers

American Tower Comment 4: The Initial Study should assess whether any existing facilities are over 250 feet tall, and assess the environmental effects of renewing the permits for these facilities or removing or reducing the height of the facilities.

Response: The section referencing a maximum height of 250 feet has been deleted from the proposed Ordinance. The revised draft does not restrict the height of telecommunications facilities.

B. AT&T Services Inc. (AT&T)

1. General Comments

AT&T Comment 1: AT&T's plans for wireless telecommunication service in the County will develop as the wireless needs of its customers grow.

AT&T Comment 2: The FCC has authority over technical and operational matters, and cites Federal rules and regulations applicable to wireless telecommunication service including the Telecommunications Act of 1996, the FCC Declaratory Ruling 09-99, and Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1455).

Response: As stated in Section 88-24.202(a)(1) of the current draft, a purpose of the Ordinance is to facilitate high quality wireless telecommunication service. Section 88-24.202(b) acknowledges the County's need to adhere to all of the requirements in Federal and State law that apply to wireless facilities. The proposed Ordinance is consistent with applicable Federal and State law.

2. CEQA

AT&T Comment 5: The draft Ordinance includes many references to CEQA and does not recognize that most wireless facilities are categorically exempt from CEQA.

AT&T Comment 15: While applications for collocation permits require an environmental report or statement, this should not be required for permits to construct wireless facilities, because they are exempt from CEQA.

AT&T Comment 18: The sections of the draft Ordinance requiring an environmental report or statement for a collocation permit and environmental findings for approval of a collocation permit or a land use permit are unnecessary and should be eliminated.

Response: We agree with the commentor that many facilities are exempt from CEQA. In fact, a large number of existing facilities within the County have obtained a CEQA exemption. However, pursuant to CEQA Guidelines *Section 15300.2- Exception*, the County may need to determine if an exception to the categorical exemption is warranted. A collocation permit application may be submitted for a collocation-eligible facility that has completed environmental review as allowed under California Government Code Section 65850.6. A land use permit application and a wireless facility access permit application may require the preparation of an environmental document. The County would review each application on a case by case basis.

Section 88-24.604(c)(2) of the proposed Ordinance requires the submittal of a completed CEQA document for the collocation-eligible facility with the application for a collocation permit, if one has been prepared. Section 88-24.610(b) requires that, in order to approve a collocation permit for a collocation-eligible facility, a CEQA document has been completed for the collocation-eligible facility, that a supplemental or subsequent environmental impact report is not required, and that mitigation measures have been incorporated into the project.

3. Collocation

AT&T Comment 3: The FCC issued a public notice defining collocation broadly. Processing applications for collocation should be ministerial.

AT&T Comment 6: The definition of collocation in the draft Ordinance is too limited and must be expanded. A wireless service provider may collocate on their own facilities. Moreover, the definition is inconsistent with Federal law (47 U.S.C. 1455) and the FCC's recently issued guidance on the Federal law.

Response: Section 88-24.204(e) of the revised Ordinance includes a definition of collocation that is consistent with the FCC definition of collocation in Section 1.40001 of Title 47 of the Code of Federal Regulations, which became effective on January 8, 2015. Section 88-24.610 describes the ministerial approval of a collocation permit application.

4. County Right-of-Way

AT&T Comment 8: The draft Ordinance should exempt wireless facilities in public rights-of-way and only an encroachment permit should be required.

Response: We recognize the service provider’s right to locate a facility within the public right-of-way and we are no longer requiring a wireless facility to undergo a land use permit process. Section 88-24.402(a)(1) of the Ordinance clarifies that the only County permit required for a facility in a County right-of-way is a wireless facility access permit. This permit would be processed administratively, unless we receive a request for a public hearing. In addition, this permit would be the functional equivalent of an encroachment permit and a separate encroachment permit would not be required.

5. Substantial Change

AT&T Comment 7: The definition of substantial modification in the draft Ordinance is inconsistent with Federal law.

Response: The proposed Ordinance has been revised such that Section 88-24.204(ac) of the current draft references “substantial change” as defined in Section 1.40001 of Title 47 of the Code of Federal Regulations.

6. Landscape Maintenance

AT&T Comment 10: Landscape maintenance should not be required for collocations without an agreement between the owner and the collocating wireless service entities.

Response: We understand that landscaping within a collocation facility requires effort and collaboration between all the parties involved. However, we do not believe this coordination should become a burden to the County. The provisions of Section 88-24.414 of the Ordinance, which states that “Building standards, maintenance, and operational requirements”, would apply to any wireless facility. Standards and requirements, such as landscape maintenance, would be included as applicable in the conditions of approval of an approved permit. Not all provisions of this section are applicable to every wireless facility application. The County will include conditions of approval that are relevant to a particular permit.

7. Proximity of Towers

AT&T Comment 9: The draft Ordinance applies a restrictive 1,000 foot rule for the placement of towers near existing towers, and the determination that the cumulative visual and aesthetic impacts of a proposed tower is “less than significant” leaves too much discretion to the County. Also an exception should be made for stealthy and smaller or low profile facilities.

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AT&T Comment 4: The draft Ordinance prohibits facilities within 1,000 feet of other facilities.

Response: Section 88-24.406(b) of the current draft Ordinance does not prohibit facilities within 1,000 feet of an existing tower, it states it “may” unless certain findings are met. The County’s determination of the significance of cumulative visual and aesthetic impacts of a proposed tower within 1,000 feet of an existing tower is governed by CEQA Guidelines Section 15064, and therefore, the Zoning Administrator’s determination may be based on evidence in the record and available scientific and factual data and/or according to Section 26-2.2008 of the County Code.

8. Low Visibility Facility

AT&T Comment 4: Low-visibility facility is defined without any specific reference to smaller facilities.

Response: Section 88-24.204(p) of the current draft defines a low-visibility facility as being one of seven specific types of facilities, including lower profile facilities, stealth facilities, and distributive antenna system (DAS) facilities .

9. Submittal Requirements

AT&T Comment 11: The draft Ordinance requires an EMF report every three years, including anticipated increases in emissions due to collocations; however, the extent of collocations or likely future emissions cannot be predicted.

AT&T Comment 12: The draft Ordinance requires that an applicant describe the maximum number of antennas; however, we cannot predict the maximum number that will be located or collocated at a facility.

AT&T Comment 13: The draft Ordinance requires meeting standards established by the Telecommunications Industry Association (TIA); however, the TIA is a membership organization and it is not appropriate to use these standards. Further, Federal law preempts this requirement.

AT&T Comment 14: The draft Ordinance requires use of best available technology; however, this should not be used to determine whether an application is complete. Also, Federal law prevents the preference of certain wireless technologies over others.

Response: As stated in Section 88-24.604(a)(2) of the proposed Ordinance “[t]he application must describe the proposed physical capacity at the time of the application, including the maximum number of antennas to be located or collocated at the facility.” Accordingly, the applicant would describe the wireless facility they are proposing, including the maximum number of antennas that are proposed to be located on the facility at the time of the application. A subsequent application for the facility may include a different maximum number depending upon the particular equipment proposed to be

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installed by the wireless service provider. The requirement for an EMF report every three years in Section 88-24.410(h) and use of best available technology in Section 88-24.604(a)(3) of the first draft Ordinance have been deleted from the current draft Ordinance. The reference in Section 88-24.604(a)(2) of the proposed Ordinance to the TIA standards is consistent with the privatization of standards-setting by the FCC in FCC 00-400 Report and Order, adopted on November 9, 2000, whereby the standards were delegated to the Administrative Council for Terminal Attachment, jointly established by the TIA and the Alliance for Telecommunications Industry Solutions.

10. Determination of Costs

AT&T Comment 16: The County should not require financial assurance to remove a wireless facility and restore a facility site. Further, the Zoning Administrator should not determine the cost for removing a facility and restoring the facility site, because the applicant is required to determine that amount.

Response: The County may require financial assurance for the removal of a wireless facility and restoration of the facility site, provided the financial assurance is consistent with California Government Code Section 65964. The financial assurance would be used in the event a wireless service provider abandons a facility, leaving the facility removal and site restoration to the County. Section 88-24.604(a)(11) of the current draft of the proposed Ordinance requires the applicant to submit a cost estimate; however, the Zoning Administrator would determine if this cost estimate is accurate and reasonable.

11. Shot Clock

AT&T Comment 17: Pursuant to the draft Ordinance, the Zoning Administrator will notify the applicant whether the application is complete or incomplete. The notice should be made in writing and any incomplete notice should be sent within 30 days of the application being filed, pursuant to the FCC's Shot Clock Order.

AT&T Comment 19: The section on judicial review of a denial of a wireless facility permit in the draft Ordinance is unnecessary and preempted by Federal law. Also, the County may be unable to take action within the Shot Clock time period.

Response: FCC14-153 Report and Order, adopted on October 17, 2014, clarified the ruling on the tolling of the Shot Clock. Based on FCC14-153, the County is required to send a written notice of incomplete application within 30 days of the application being filed.

The procedures for judicial review of a denial of a wireless facility application in Section 88-24.614(d) of the Ordinance are separate from the Shot Clock, which addresses the time period within which the County must make a decision on a wireless facility application. Once the County has made a decision, the appeal time period specified in 47 U.S.C. Section 332(c)(7)(B)(v) of the Telecommunications Act of 1996 would apply.

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This Section states any person affected by the County's decision may commence legal action within 30 day after the County's final decision.

C. Mackenzie & Albritton on behalf of Verizon Wireless (Verizon)

1. General Comments

Verizon Comment 1 and Comment 25: There is no need for a wireless facilities ordinance. The County could propose changes to its 1998 Telecommunications Policy.

Verizon Comment 20: The section on approval of a land use permit in the draft Ordinance should be revised to include a general reference to federal preemption over wireless facilities.

Response: A number of Federal and State laws that have been adopted since County adoption of the Telecommunications Policy in 1998. The proposed Ordinance adds new Federal and State requirements for the permitting of wireless facilities that are not found in the 1998 Telecommunications Policy. Section 88-24.202(b) of the proposed Ordinance acknowledges the requirements in Federal and State law placed on local jurisdictions that apply to wireless facilities. As such, the County is proposing this Ordinance, which will allow the establishment of criteria for the location and design of wireless facilities.

2. Legal Non-Conforming Wireless Facility

Verizon Comment 22: The draft Ordinance should be revised to provide for renewal of permits for legal non-conforming wireless facilities.

Response: Section 88-24.620(a) of the current draft includes text that allows renewal of a permit that meets County requirements applicable at the time that a permit was issued for the facility.

3. Collocation

Verizon Comment 3: The draft Ordinance is overly restrictive in its treatment of collocation facilities such that it violates Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012. The narrow definition of collocation facility used in California Government Code Section 65850.6 must be avoided. Further, the requirement under Section 65850.6 that the final build-out of the wireless facility must be reviewed under a CEQA document at the time of the initial application violates federal law.

Verizon Comment 6: The County should retain its definition of collocation and avoid the definition in California Government Code Section 65850.6. Further, there have been "scant few" collocations approved under this Government Code section. Any wireless communication facility should be eligible for collocation and any issues of impacts from the proposed collocation should be irrelevant.

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Verizon Comment 15: The prerequisites for an eligible collocation facility in the draft Ordinance should be deleted and should be consistent with 47 U.S.C. 1455.

Verizon Comment 18: The findings for a collocation permit in the draft Ordinance must be consistent with 47 U.S.C. 1455. Further, collocation approval requirements based on California Government Code Section 65850.6 are probably not necessary.

Response: Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1455) does not define collocation. The definition of collocation in Section 88-24.204(e) of the proposed Ordinance is consistent with the FCC definition of collocation in Section 1.40001 of Title 47 of the Code of Federal Regulations, which became effective on January 8, 2015.

The relevance of California Government Code Section 65850.6 is that the processing of collocation permit applications by the County is required to be consistent with this Government Code section. Section 65850.6 of the California Government Code intends to address a facility's needs to undergo future upgrades and expansions. However, it does require that the collocation-eligible facility be subject to a certified environmental impact report, or an adopted negative declaration or mitigated negative declaration. The Middle Class Tax Relief and Job Creation Act of 2012 states a local jurisdiction should not deny a facility that includes a non-substantial modification; it does not however, state "how" a local jurisdiction should approve the facility.

Regarding eligible facilities, FCC 14-153 Report and Order, adopted on October 17, 2014, clarified what constitutes an eligible facility. It defines collocation as the installation of wireless transmission equipment on an eligible support structure. It also defines what constitutes a substantial change. Substantial change has been since codified in Section 1.40001 of Title 47 of the Code of Federal Regulations. The definitions of collocation-eligible facility and substantial change in the current draft of the proposed Ordinance, in Sections Section 88-24.204(f) and 88-24.204(ac), respectively, are consistent with both FCC 14-153 and Section 1.40004 of Title 47.

47 U.S.C. 1455 states that a local government may not deny an "eligible facilities request" to modify an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station, involves collocation of new equipment, removal of existing equipment, or replacement of existing equipment. Accordingly, Section 88-24.610(b) of the proposed Ordinance details the findings for ministerial approval of a collocation permit application. Section 88-24.608(b) of the current draft details the findings required for ministerial approval of a minor alteration permit application. The definition of minor alteration in Section 88-24.204(q) of the current draft includes the collocation of a wireless service provider's new antenna on an existing facility, which is consistent with 47 U.S.C. 1455.

4. County Right-of-Way

Verizon Comment 2: The draft Ordinance should distinguish between a facility in a public right-of-way and a facility on private property. Telephone corporations have a statewide franchise to locate a facility on a public right-of-way under California Public Utilities Code (CPUC) Section 7901.

Verizon Comment 9: The Ordinance should not apply to a public right-of-way as it would violate CPUC Section 7901.

Verizon Comment 13: The only reference to right-of-way is in Section 88-24.402(g) of the draft Ordinance; public right-of-way should be excluded from the Ordinance.

Response: Section 88-24.402 of the revised draft Ordinance addresses facilities in a County right-of-way and facilities on County-owned property. Section 88-24.402(a)(1) clarifies that the only County permit required for a facility within a County right-of-way is a wireless facility *access permit*. This permit would be the functional equivalent of an encroachment permit and a separate encroachment permit would not be required.

CPUC Section 7901.1(a) allows for reasonable control over the time, place, and manner in which a public right-of-way is accessed. Section 88-24.408 (f) of the Ordinance lists design requirements for a facility in a County right-of-way. Section 88-24.604(d) describes specific application information required for wireless facility *access permits*, and Section 88-24.612 describes the process for approving an access permit.

5. Substantial Change

Verizon Comment 4: The definition of substantial modification should more closely mirror FCC regulations.

Verizon Comment 8: The definition of substantial modification in the draft Ordinance should be consistent with definitions recently adopted by the FCC. Further, the County cannot require additional permitting based on technology.

Verizon Comment 10: The definition of substantial modification in the draft Ordinance should be revised to be consistent with the FCC. Authorized capacity in Section 88-24.206(c)(9) of the draft Ordinance should be deleted. Further, any modification or collocation that is not a substantial modification should be an exemption in Section 88-24.206(c). In addition, two exemptions should be added, including the collocation of new equipment on existing wireless facilities that do not substantially change the physical dimensions of the facility and “small cell facilities installed on existing structures that do not exceed fifteen cubic feet in total capacity.”

Response: The proposed Ordinance has been revised such that Section 88-24.204(ac) references “substantial change” as defined in Section 1.40001 of Title 47 of the Code of Federal Regulations. Section 88-24.206(c)(9) of the first draft has been deleted. As

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discussed above under “Collocation”, the proposed Ordinance accommodates ministerial approval of a collocation permit application. Section 88-24.204(p) of the current draft defines a low-visibility facility, which depending upon its design, could include a small cell facility. Section 88-24.204(q) defines minor alteration in a manner consistent with 47 U.S.C. 1455(a)(2). Wireless facility applications that qualify as a minor alteration would be processed through the procedure for ministerial approval of a minor alteration permit as detailed in Section 88-24.608 of the current draft.

6. Camouflage

Verizon Comment 5: The draft Ordinance should be revised to add landscaping to list of available screening for camouflage.

Response: Section 88-24.204(d) of the proposed Ordinance has been revised to include landscaping as an option for camouflage

7. High Visibility Facility

Verizon Comment 7: Verizon questions the definition of high-visibility facility of the draft Ordinance; it is not logical that a facility that is not low-visibility must be high visibility.

Verizon Comment 12: The location requirements for high-visibility facilities in the draft Ordinance should be revised to add the following phrase to the end of the section: “taking into account the radiofrequency propagation requirements for the wireless telecommunication facility.”

Response: The proposed Ordinance includes two facility visibility types: high visibility and low visibility. There is no other facility visibility type. Accordingly, a wireless facility would be either a high-visibility facility as defined in Section 88-24.204(n) of the current draft of the proposed Ordinance or a low-visibility facility as defined in Section 88-24.204(p) of the current draft. Also, Section 88-24.406(e) has been revised to further restrict the manner in which such facilities are to be located in order to minimize aesthetics impacts. Adding the phrase “taking into account the radiofrequency propagation requirements” is unnecessary as permit application requirements in Section 88-24.604(a)(5) of the current draft of the proposed Ordinance include identifying the geographic service area and any service coverage gaps.

8. “With or Without”

Verizon Comment 11: Use of the phrase “with or without” in the proposed Ordinance in relation to avoiding scenic ridges is too ambiguous and should be replaced by the phrase “taking into account”.

Response: The phrase “with or without” is a phrase in common use, including in the United States Code (U.S.C.) and in many FCC publications. In the context of Section 88-

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24.406(c) of the current draft of the proposed Ordinance the phrase relates to making a finding that there will be no significant visual or aesthetic impacts either with incorporation of CEQA mitigation measures or without incorporation of such measures. In other words, a less than significant aesthetic impact can be accomplished either “after” establishment of mitigations measures or “before” measures are established because measures are not warranted.

9. Submittal Requirements

Verizon Comment 14 and Comment 21: The submittal requirements of the draft Ordinance must be based on the findings required for approval of the wireless facility. The draft Ordinance should be revised to delete requirements to provide descriptions of the “proposed physical capacity” and the “maximum number of antennas”. Applicants should be allowed to apply for what they believe is reasonable for the facility. EMF reporting every three years as required by the draft Ordinance is burdensome and unnecessary. The requirement related to best available technology should be deleted. Further, references to Telecommunications Industry Association standards should be deleted. Requesting information on the geographic service area is irrelevant to the wireless facility application, and such information is inapplicable to facilities in public rights-of-way. The County’s limited role is to confirm that the proposed facility will conform to FCC guidelines.

Response: The listing of submittal requirements in Section 88-24.604 of the proposed Ordinance is consistent with California Government Code Section 65940. Submittal requirements include information on the proposed facility that would describe what the facility is as well as information needed to make findings for the approval of an application. As stated in Section 88-24.604(a)(2) of the proposed Ordinance “[t]he application must describe the proposed physical capacity at the time of the application, including the maximum number of antennas to be located or collocated at the facility.” Accordingly, the applicant would describe to their knowledge, the wireless facility they are proposing.

The requirement for an EMF report every three years and use of best available technology have been deleted from the proposed Ordinance. The reference in Section 88-24.604(a)(2) of the proposed Ordinance to the TIA standards is consistent with the privatization of standards-setting by the FCC in FCC 00-400 Report and Order, adopted on November 9, 2000, whereby the standards were delegated to the Administrative Council for Terminal Attachment, jointly established by the TIA and the Alliance for Telecommunications Industry Solutions. Section 88-24.604(a)(5) of the current draft requires geographic service area information if the applicant is claiming that the facility is necessary to close a significant gap in wireless service. The requested information would be used to verify the applicant’s claim.

10. Determination of Costs / Escrow Deposit

Verizon Comment 16: The Zoning Administrator's determination of cost must be reasonably based on the applicant's estimate. Further, California Government Code Section 65964(a) prohibits requiring escrow accounts for removal of wireless facilities and allows for other forms of security, and therefore, the Ordinance should be revised to allow for other forms of security.

Response: California Government Code Section 65964(a) states that a city or county shall not require an escrow deposit, and further states that "a performance bond or other surety or another form of security may be required". Section 88-24.606(c) of the proposed Ordinance is consistent with the Government Code in that it requires financial assurance to be provided in one or more of five ways, including a deposit, a surety bond, a standby letter of credit, an escrow account, and a renewable bond or other financial assurance or security. Section 88-24.604(a)(11) of the current draft of the proposed Ordinance requires the applicant to submit a cost estimate; however, the Zoning Administrator would determine if this cost estimate is accurate and reasonable.

11. Shot Clock

Verizon Comment 17 and Comment 19: The notices of complete application in the draft Ordinance should be revised to include the provisions in FCC 09-99 regarding the shot clock.

Response: FCC14-153 Report and Order, adopted on October 17, 2014, clarified the ruling on the tolling of the Shot Clock in FCC10-144 Order on Reconsideration, adopted on August 10, 2010, which in turn revised the ruling in FCC09-99. Based on FCC14-153, the County is required to send a written notice of incomplete application within 30 days of the application being filed. It would be inadvisable to tie the Ordinance to a particular FCC ruling on the shot clock, due to the frequent updates and reconsiderations by the FCC.

12. Facility Abandonment

Verizon Comment 23: The draft Ordinance should be revised to provide a 30-day noticing period for abandoned facility.

Verizon Comment 24: The draft Ordinance should be revised to provide a 60-day removal and restoration period.

Response: Section 88-24.622(b)(1) of the current draft includes text for a 30-day noticing period. Section 88-24.622(b)(2) includes text for a 60-day removal and restoration period.

D. Marilynne Mellander

1. General Comments

Mellander Comment 1 and Comment 3: Opposed to the County ordinance. There is abundant evidence on the harmful effects of radio frequency emissions. There is no need for more electro smog.

Response: Accommodation of wireless facilities by local jurisdictions is mandated by various Federal and State laws, as acknowledged in Section 88-24.202(b) of the current draft of the proposed Ordinance. Radio frequency emissions are regulated by the FCC pursuant to FCC96-326 Report and Order, adopted on August 1, 1996. Accordingly, Section 88-24.604(a)(7) of the current draft of the proposed Ordinance requires information on radio frequency emissions to be part of the application submittal for a wireless facility, including information on how the facility will conform to the emissions standards adopted by the FCC.

2. Public Notice / Public Input

Mellander Comment 2: Ample public notice should be given for a proposed wireless facility and the public should be allowed to give its opinion.

Response: Notices for consideration of approval of a land use permit for a wireless facility proposed on private property would be mailed to owners of real property within a 300 foot radius of the proposed facility site, pursuant to County Code Section 26-2.2004 and according to Section 26-2.2104 for facilities within the County right-of-way. The notice would include the time, date and place of the hearing for the application, as applicable), at which time the public can submit oral and written comments on the application.

E. Paul O'Boyle on behalf of Crown Castle NG West (Crown Castle)

1. General Comments

Crown Castle Comment 3: The Ordinance should acknowledge that wireless communications plays a critical and beneficial role. The Ordinance should allow for orderly deployment of wireless facilities while minimizing its potentially negative effects.

Response: We agree with the commenter. Section 88-24.202(a)(1) of the current draft of the proposed Ordinance states that one purpose of the Ordinance is to facilitate high quality wireless telecommunication service.

2. County Right-of-Way

Crown Castle Comment 2: How does the Ordinance apply to wireless service providers that occupy a right-of-way?

Crown Castle Comment 8: Facility site refers to a lot. Add a provision to address wireless facilities in the public right-of-way.

Crown Castle Comment 9: Wireless facilities, especially in the public right-of-way, require at least 10 feet in height clearance, and therefore, will be considered high visibility facilities and be subject to greater scrutiny.

Crown Castle Comment 11: Public right-of-way areas in Public and Semi-Public and other zoning districts should be acknowledged as having unique qualities, otherwise wireless facilities in the public right-of-way would be effectively prohibited.

Crown Castle Comment 16: The proposed 100-foot setback requirement for high visibility facilities and towers from residential uses would prohibit wireless facilities in the public right-of-way in those areas. The text of the Ordinance should be modified to state that “no high visibility facility shall be located on a lot between the face of a building and the right-of-way.” The public right-of-way is its own district land use. The County should have a ministerial process for certain wireless facilities in the public right-of-way.

Crown Castle Comment 18: The requirement to fence or wall high visibility facilities and ground-mounted antennas should not apply to wireless facilities in the public right-of-way.

Crown Castle Comment 20: Wireless facilities that attach to existing infrastructure in the right-of-way should be considered collocations. Adding new equipment in the right-of-way should not trigger a permit process unless applied equally in a non-discriminatory manner to all users of the right-of-way.

Crown Castle Comment 22: Given that wireless facilities in the right-of-way often cover small areas, it makes little sense to require contour mapping within 1 mile of the proposed facility.

Crown Castle Comment 24: A wireless facilities in the right-of-way that meets the County definition of “small cell” should qualify for ministerial review.

Response: Section 88-24.402 of the current draft addresses facilities in a County right-of-way and facilities on County-owned property. Section 88-24.402(a)(1) clarifies that the only County permit required for a facility in a County right-of-way is a wireless facility *access permit*. This permit would be the functional equivalent of an encroachment permit and a separate encroachment permit would not be required.

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CPUC Section 7901.1(a) allows for reasonable control over the time, place, and manner in which a public right-of-way is accessed. Accordingly, Section 88-24.408 (f) of the current draft of the proposed Ordinance lists design requirements for a facility in a County right-of-way. Section 88-24.604(d) of the current draft describes specific application information required for wireless facility *access permits*, and Section 88-24.612 of the current draft describes the approval process for a wireless facility access permit. An *access permit* may be approved administratively, unless a public hearing is requested

Also, Section 88-24.406(e) of the current draft of the proposed Ordinance includes text as suggested by the commenter regarding not placing a high visibility facility between the face the building and the public right-of-way.

3. Substantial Change

Crown Castle Comment 13: Why is an increase in the physical capacity of an antenna support structure a substantial modification if the dimensions of the structure are not altered? The County should adopt the FCC guidelines that classify increases in height of more than 10% as being substantial.

Response: The proposed Ordinance has been revised such that Section 88-24.204(ac) of the current draft references “substantial change” as defined in Section 1.40001 of Title 47 of the Code of Federal Regulations.

4. Camouflage

Crown Castle Comment 4: Camouflage is blending in with the surrounding environment, including natural and man-made features.

Crown Castle Comment 17: Whether a facility is visibly against the skyline depends on the vantage point of the observer. The Ordinance should state that a wireless facility should be painted to blend into the surrounding environment. The appropriate color would be determined by the Zoning Administrator.

Response: Section 88-24.204(d) of the proposed Ordinance includes a definition of “camouflage”. Section 88-24.408(a) of the current draft of the proposed Ordinance addresses the requirement for a facility to blend in with the surrounding environment to limit its visual and aesthetic impacts.

5. Low Visibility Facility

Crown Castle Comment 1: How does the Ordinance treat small facilities such as DAS (Distributed Antenna Systems)?

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Response: Section 88-24.204(p) of the current draft of the proposed Ordinance defines a low-visibility facility as being one of seven specific types of facilities, including lower profile facilities, stealth facilities, and DAS facilities .

6. Reflectivity

Crown Castle Comment 12 and Comment 17: The term reflectivity should be deleted from the Ordinance. Radio frequency energy emissions are the purview of the federal government.

Response: Section 88-24.204(v) of the current draft of the proposed Ordinance defines “reflectivity” as light reflection from a surface. Reflectivity has nothing to do with radio frequency emissions.

7. Microwave Dish

Crown Castle Comment 15: Why is a receiving microwave dish exempt while a transmitting microwave dish is not exempt?

Response: A receiving microwave dish is commonly used to receive satellite TV signals and is incapable of receiving and transmitting wireless telecommunication transmissions.

8. Equipment Enclosure

Crown Castle Comment 6: Why is an underground vault considered an equipment enclosure?

Response: Within a public right-of-way, wireless telecommunications equipment is commonly mounted on a pole, placed in a grade-level equipment cabinet, or placed in a below-grade equipment vault. Section 88-24.204(h) of the current draft acknowledges that a wireless service provider may opt to place equipment in a below-ground vault. As such, a vault is viewed as an equipment enclosure because it serves the purposes of housing equipment.

9. Antenna / Antenna Support Structure

Crown Castle Comment 7: Are pole-mounted antennas facade-mounted antennas or ground-mounted antennas? Pole-mounted antennas, particularly in the public right-of-way should have its own definition and approval process.

Crown Castle Comment 10: Wireless facilities in the right-of-way mounted to existing pole infrastructure should be ground-mounted facilities or collocations.

Crown Castle Comment 14: The definition of “tower” should exclude ground-mounted antennas attached to utility poles, street lights or traffic signals.

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Response: Pole-mounted antennas are ground-mounted antennas as defined in Section 88-24.204(l). The definition of “tower” in Section 88-24.204(ad) of the current draft is consistent with the FCC definition of “tower”. Section 88-24.402 of the current draft addresses wireless telecommunication facilities located in a County right-of-way. See response above on “County right-of-way”.

10. Submittal Requirements

Crown Castle Comment 19: A radio frequency emissions report should only be required if a wireless facility is modified or expanded.

Crown Castle Comment 21: The Ordinance should not refer to “best available technology.” It would be preferable to define a ministerial process for a small cell, and thereby encourage wireless service providers to use smaller equipment.

Crown Castle Comment 23: For a geographic service area, what is the purpose of having a wireless facility applicant show all wireless facilities and the corresponding coverage areas in the County?

Response: The requirement for an EMF report every three years and use of best available technology have been deleted from the proposed Ordinance. Section 88-24.604(a)(5) of the current draft requires geographic service area information if the applicant is claiming that the facility is necessary to close a significant gap in wireless service. The requested information would be used to verify the applicant’s claim. Section 88-24.604 (a) (9) requires applicant certification that the proposed antenna or facility is designed to minimize its size and height.

11. Permit Types

Crown Castle Comment 5: The various permit types should be clearly articulated, e.g., in a table and/or a matrix.

Response: Article 88-24.6 of the proposed Ordinance (Permits and Fees) describes the four (4) types of permits associated with wireless telecommunication facilities, including a land use permit, a collocation permit, a minor alteration permit, and a wireless facility access permit, along with application requirements for all permits, and the approval process for each permit. The permit types, eligibility for a particular permit, permit prerequisites and approval process are summarized in the table on the following page.

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Permit Type	Eligibility for Permit	Permit Pre-requisites	Ministerial Approval
Land Use Permit	New facility or a substantial change to an existing facility	Valid land use permit required for a substantial change to an existing facility	No
Access Permit	New facility or substantial change to an existing facility within a County right-of-way	Valid land use permit* required for a substantial change to an existing facility (*valid wireless facility access permit required upon adoption of ordinance)	Yes, unless hearing is requested
Alteration Permit	Minor alteration to an existing facility	Valid land use permit	Yes
Collocation Permit	Collocated on a collocation-eligible facility, and not a minor alteration	(1) Valid land use permit (2) Certified environmental document	Yes

III. Negative Declaration Edits and Corrections:

The following edits/corrections to the ND have been made in response to comments. New text is shown in double-underline text and deleted text is shown in ~~strikeout text~~.

- 1) The Ordinance has been revised to add “a wireless facility access permit”, and therefore, page 2, section 10, fourth full paragraph is revised as follows:

The Ordinance would also allow review of facilities through a land use permit, a wireless facility access permit, and ministerial reviews. A wireless facility access permit can be ministerial; however, there is public notification of pending approval of an access permit and there may be a written request for a public hearing. In conformance with state law, a ministerial review is applicable for facilities that have been through prior discretionary approval. Typically, collocation and upgrade of an existing facility will be reviewed ministerially and a new facility will be processed through a land use permit or a wireless facility access permit. However, even if a facility is undergoing ministerial review, it still needs to meet the required design/development requirements of the proposed Ordinance.

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- 2) The Ordinance has been revised to delete reference to “best available technology”, and therefore, page 5, subsection I.d, second full paragraph is revised as follows:

The proposed Ordinance includes requirements for all facilities to be properly screened and designed to blend in with the surrounding environment. A facility that is high-visibility and includes towers will not be allowed in or within 100 feet from residential areas, and not allowed on any property between the face and a public street, bikeway, trail, or park. The Ordinance may also require an applicant to provide evidence that the facility proposed will be constructed ~~with best technology available~~ to minimize visual impacts. As such, it would result in no impacts to aesthetics with regard to scenic vistas, scenic resources, degrading the existing visual character, creating new sources of light or glare, or affecting areas of public assembly and congregation. Unless required by the Federal Aviation Administration and/or the Federal Communication Commission due to safety reasons, no lights or beacons would be allowed.

- 3) The Ordinance has been revised to delete the requirement for and EMF report, and therefore, pages 13 and 14, subsection VIII.a-h, second and third full paragraphs are revised as follows:

With the exception of a few facilities that have back-up generators, wireless facilities are not generally associated with the use, storage or transport of hazardous materials. Furthermore, any future facility proposal would be analyzed for potential hazardous effects under CEQA, and would need to undergo separate project and environmental review, where these issues would be further analyzed. Currently, the location and timing of such proposals is speculative. The Ordinance is consistent with applicable Federal and State telecommunications law. Accordingly, the Ordinance provides for a facility to submit evidence once every three years that it is in compliance with all applicable Federal and State laws and regulations. The Ordinance has been prepared in light of the following Federal Telecommunication Act Requirement which states:

~~No state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's [Federal Communications Commission] regulations concerning such emissions. 47 U.S.C. 332(e)(7)(B)(iv)~~

~~The Ordinance requires that a technical report assessing the expected radio frequency emissions from a given facility be submitted as part of the application for approval. The radio frequency emissions must be found to be within the acceptable range pursuant to the Federal Communication Commission (FCC) standards prior to the County approving a project. The Ordinance includes measures to ensure that the emissions levels remain within FCC standards. A facility will be required to continue providing evidence through a 3-year interval, that the facility continues to meet the FCC standards. Therefore, the adoption of this Ordinance would result in no impact.~~

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- 4) The Ordinance has been revised to add “a wireless facility access permit”, and therefore, page 16, subsection X.a, third full paragraph is revised as follows:

The Ordinance would also allow review of facilities through a land use permit, a wireless facility access permit, and ministerial reviews. A wireless facility access permit can be ministerial; however, there is public notification of pending approval of an access permit and there may be a written request for a public hearing. In conformance with state law, a ministerial review is applicable for facilities that have been through prior discretionary approval. Typically, colocation and upgrade of an existing facility will be reviewed ministerially and a new facility will be processed through a land use permit or a wireless facility access permit. However, even if a facility is undergoing ministerial review, it still needs to meet the required design/development requirements of the proposed Ordinance.

- 5) The Ordinance has been revised to clarify restrictions within residential areas, and therefore, page 19, subsection XII.a-c, first full paragraph is revised as follows:

The Ordinance will specifically restrict new high-visibility facilities and new towers within residential areas. However, any impacts related to population and housing will be individually analyzed ~~for~~ as each project is proposed for review. The adoption of this Ordinance will have no impact on population and housing.

ATTACHMENTS

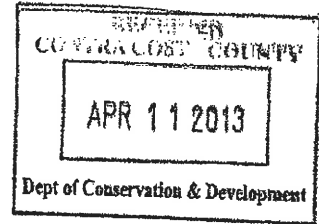
Comment Letter: Channel Law Group on behalf of American Tower Corporation

Comment Letter: AT&T Services Inc.

Comment Letter: Mackenzie & Albritton on behalf of Verizon Wireless

Comment Email: Marilynne Mellander

Comment Letter: Paul O'Boyle on behalf of Crown Castle NG West



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April 11, 2013

VIA ELECTRONIC MAIL AND FACSIMILE
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Telma B. Moreira, Principal Planner
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Community Development Division
Contra Costa County
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telma.moreira@dcd.cccounty.us

Re: Wireless Facility Ordinance County File #ZT13-0001

Dear Ms. Moreira:

This firm represents American Tower Corporation ("ATC") with respect to Contra Costa County's ("County") proposed adoption of County-wide regulations for wireless communication facilities ("Proposed Ordinance"). ATC is in receipt of the County's "Notice of Public Review and Intent to Adopt a Proposed Negative Declaration," dated March 12, 2013, pursuant to the California Environmental Quality Act ("CEQA") in which the County concludes that "the proposed project will not result in any significant, adverse effects on the environment." As you know, ATC is the owner of several towers located in the unincorporated areas of the County, which are used by numerous commercial wireless carriers and public agencies.

ATC has reviewed the analysis undertaken in the Initial Study/Environmental Checklist and disagrees with the conclusion that the Proposed Ordinance has "no impact" on the environment, especially as it relates to existing wireless facilities located in the County. ATC contends that the Initial Study prepared by the County is defective and must be revised in order to comply with the mandates of CEQA. The bases for ATC's claims are as follows:

①

The Impacts of the Proposed Ordinance

In addition to setting forth regulations and standards for new wireless communications facilities, the Proposed Ordinance purports to regulate existing facilities and modifications to the same. For example, Section 88.24-612(c)(4)(A) states that towers seeking to have their land use permits renewed must "meet[] the applicable requirements of this chapter." The Proposed Ordinance's impacts on these existing towers must be analyzed under CEQA. As an initial matter, it should be noted that existing facilities may be deemed "high-visibility" facilities as that term is defined in the Proposed Ordinance due to the fact that they were constructed over 10 years ago and are characterized as monopoles and lattice towers.

First, existing towers in the County's jurisdiction may be located in areas that are prohibited under the Proposed Ordinance. Section 88-24.402 states the following:

"Limitations on locating within or near certain zones. No high-visibility facility or tower may be established in, or within 100 feet of, any of the following: (1) A single-family residential (R-), two-family residential (D-1), multiple-family residential (M-), water recreational (F-1), mobile home/manufactured home park (T-1), or Kensington combining (-K) zoning district (2) A residential lot within a planned unit (P-1) zoning district."

Because the County knows where existing towers are located, the Initial Study should analyze whether or not any existing facilities are located in these areas. Additionally, the County should analyze whether or not the Proposed Ordinance would authorize an applicant to renew a land use permit for a high-visibility facility in these areas. If not, the County should analyze the environmental effects of removal of these facilities.

Second, existing towers in the County's jurisdiction may be located in "scenic ridges," areas that are to be "avoided" under the Proposed Ordinance. See Section 88-24-402(d). The Initial Study should analyze whether any existing towers subject to the County's jurisdiction are located in scenic ridges. Additionally, the County should analyze whether or not the Proposed Ordinance would authorize an applicant to renew a land use permit for a facility in these areas. If not, the County should analyze the environmental effects of removal of these facilities.

Third, existing towers deemed "high-visibility" facilities may be located on a "lot between the face of a building and a public street, bikeway, trail or park," areas prohibited under the Proposed Ordinance. See Section 88-24.402(f). Again, the County should analyze whether or not the Proposed Ordinance would authorize an applicant to renew a land use permit for a facility in these areas. If not, the County should analyze the environmental effects of removal of these facilities.

2

Fourth, the Proposed Ordinance contains a provision requiring "high visibility facilities" to be both screened and camouflaged. Section 88-24.404(a)(2) states the following:

"High visibility facilities - Towers. In addition to meeting the requirements in subsection (b)(1) of this section, a tower or other ground-mounted high-visibility facility must be screened and surrounded by a solid fence or wall, and must be camouflaged. Each fence or wall must have a non-reflective finish and be painted and textured to match or blend with the predominant background color in order to minimize visual and aesthetic impacts."

3

The County needs to offer specific screening/camouflaged techniques for use in connection with existing tall legacy towers, some of which are as tall as 200 feet and are frequently located at isolated, high elevations. If the County contends that such towers cannot be made compliant with the Proposed Ordinance without reductions in height, then the County should assess the environmental impacts of those actions.

Finally, the Proposed Ordinance contains a maximum height limit of 250 feet. See Section 88-24.404(d). The County should assess whether or not any existing facilities in the County are over 250 feet tall. The County should analyze whether or not the Proposed Ordinance would authorize an applicant to renew a land use permit for a facility that exceeds the maximum height limit. If not, the County should analyze the environmental effects of removal or reduction in height of these facilities. Reductions in height clearly reduces coverage. This could create significant coverage gaps in wireless service in and around the existing facility that could not immediately be rectified by the construction of new facilities.

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All of the aforementioned provisions of the Proposed Ordinance could require existing facilities to be removed, replaced or significantly reduced in height. This could result in the creation of significant coverage gaps, which will have an effect on the environment that requires review under CEQA. These impacts include, but are not limited to, public health and safety, emergency communications (public services), air quality and transportation/traffic. Reduced coverage would undoubtedly have an effect on public services. Wireless communications systems service a critical need in the event of public emergency, including traffic accidents and other freeway incidents. In a 2006 survey by the Pew Internet & American Life Project, of the 66% of American adults who had cell phones at that time, nearly 74% of those cell phone owners say they have used their mobile phone in an emergency and gained valuable help.¹ Wireless systems also are an economical alternative to wired networks. According to the Centers for Disease Control's latest National Health Interview Survey (NHIS) from 2012, 35.8% of American homes rely solely on cell phones and an additional 15.9% who currently have a landline phone indicating they received all or almost all calls on wireless telephones.² The NHIS

5

¹ Pew Internet & American Life Project, "Pew Internet Project Data Memo" (April 2006)

² Blumberg SJ, Luke JV. Wireless substitution: Early release of estimates from the National Health Interview Survey, January–June 2012. National Center for Health Statistics. December 2012. Available from: <http://www.cdc.gov/nchs/nhis.htm>

study further revealed that six in 10 adults aged 25-29 (60.1%) lived in households with only wireless telephones *Id.* A copy of the NHIS Survey is attached as Exhibit 1.

Without the reliable wireless coverage provided by wireless communication facilities, in addition to the normal inconveniences incident to an absence of telephone service in any location, such residents would be unable to call for police, fire or ambulance services in the event of an emergency at home, nor would school officials be able to contact them in the event of emergencies affecting their children at school. As a result of the coverage gap, the need for new or physically altered government facilities may be required in order to maintain acceptable service ratios/response times. Similarly, the creation of coverage gaps will have a significant environmental effect on transportation and traffic as well. Residents, business and visitors who would otherwise be able to make a cell phone call would now be more likely to drive to a destination to conduct business, home or residence to communicate. And public safety officials would have to notify residents in person of emergency situations to the extent reverse 911 systems could not reach local residents. This creates impacts on traffic as well as air quality that the County must analyze under CEQA.

5

Further, the inability to utilize wireless-based health and business services such as medical monitoring devices or telecommuting will increase not only traffic but also demand for physical infrastructure such as hospitals, clinics and office buildings that might otherwise be unnecessary as well as creating demand for more local residential development because of the necessity to engage in physical travel for work, health care, education and other activities that could otherwise have been engaged in via wireless communication.

In addition, the lack of sufficient, effective wireless broadband infrastructure necessitates the construction of physical broadband infrastructure, which is far more environmentally impactful. Wireless technology is also necessary to facilitate development of the smart grid which will generate significant environmental benefits.

Conclusion

The Initial Study prepared by the County in conjunction with the Proposed Ordinance is inherently defective because it fails to meaningfully analyze the environmental effect of the project. The County cannot legally defer the required environmental analysis to a later date when there are reasonably foreseeable indirect and/or secondary effects on the environment. While the above discussion is not intended to be an exhaustive list of the reasonably foreseeable indirect or secondary effects of the adoption of the Proposed Ordinance, it is illustrative of the types of impacts that the County has failed to even consider. ATC has outlined a fair argument that the Proposed Ordinance would have a significant environmental effect. As such, the County must conduct a new Initial Study and provide the public with an additional public review period to comply with the legal mandates of CEQA.

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Sincerely,

A handwritten signature in black ink, appearing to read "Jamie T. Hall". The signature is fluid and cursive, with the first name "Jamie" being more prominent than the last name "Hall".

Jamie T. Hall
Attorney for American Tower Corporation

Exhibit 1



Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January–June 2012

by Stephen J. Blumberg, Ph.D., and Julian V. Luke
Division of Health Interview Statistics, National Center for Health Statistics

Overview

Preliminary results from the January–June 2012 National Health Interview Survey (NHIS) indicate that the number of American homes with only wireless telephones continues to grow. More than one-third of American homes (35.8%) had only wireless telephones (also known as cellular telephones, cell phones, or mobile phones) during the first half of 2012—an increase of 1.8 percentage points since the second half of 2011. In addition, nearly one of every six American homes (15.9%) received all or almost all calls on wireless telephones despite also having a landline telephone. This report presents the most up-to-date estimates available from the federal government concerning the size and characteristics of these populations.

NHIS Early Release Program

This report is published as part of the NHIS Early Release Program. Twice each year, the Centers for Disease Control and Prevention's (CDC) National Center for Health Statistics (NCHS) releases selected estimates of telephone coverage for the civilian noninstitutionalized U.S. population based on data from NHIS, along with comparable estimates from NHIS for the previous 3 years. The estimates are based on in-person interviews that NHIS conducts continuously throughout the year to collect information on health status, health-related behaviors, and health care access and utilization. The survey also includes information about household telephones and whether anyone in the household has a wireless telephone.

Two additional reports are published regularly as part of the NHIS Early Release Program. *Early Release of Selected Estimates Based on Data From the National Health Interview Survey* is published quarterly and provides estimates for 15 selected measures of health. *Health Insurance Coverage: Early Release of Estimates From the National Health Interview Survey* is also published quarterly and provides additional estimates regarding health insurance coverage. Other Early Release Program products are released as needed.

Methods

For many years, NHIS has asked respondents to provide residential telephone numbers, to permit the recontacting of survey participants. Starting in 2003, additional questions were asked to determine whether a family had a landline telephone. NHIS

families were considered to have landline telephone service if the survey respondent for each family reported that there was "at least one phone inside your home that is currently working and is not a cell phone." (To avoid possible confusion with cordless landline telephones, the word "wireless" was not used in the survey.)

An NHIS "family" can be an individual or a group of two or more related persons living together in the same housing unit (a "household"). Thus, a family can consist of only one person, and more than one family can live in a household (including, for example, a household where there are multiple single-person families, as when unrelated roommates are living together).

The survey respondent for each family was also asked whether "anyone in your family has a working cellular telephone." Families are identified as

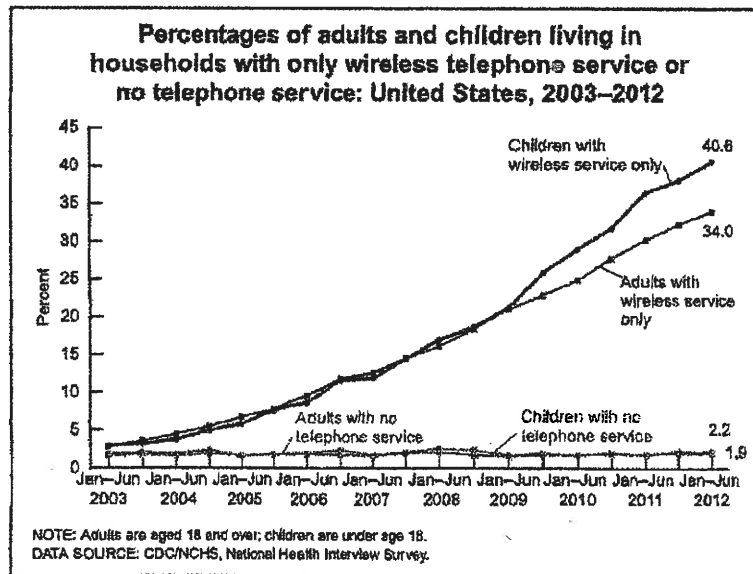


Figure 1



“wireless families” if respondents reported that someone in the family had a working cell phone at the time of interview. This person (or persons) could be a civilian adult, a member of the military, or a child.

Households are identified as “wireless-only” if they include at least one wireless family and if there are no working landline telephones inside the household. Persons are identified as wireless-only if they live in a wireless-only household. A similar approach is used to identify adults living in households with no telephone service (neither wireless nor landline). Household telephone status (rather than family telephone status) is used in this report because most telephone surveys do not attempt to distinguish between families when more than one family lives in the same household.

From January through June 2012, information on household telephone status was obtained for 20,608 households that included at least one civilian adult or child. These households included 38,896 civilian adults aged 18 and over, and 13,905 children under age 18. Analyses of telephone status are presented separately for households, adults, and children in Table 1.

Analyses of demographic characteristics are based on data from the NHIS Person and Household files. Demographic data for all civilian adults living in interviewed households were used in these analyses. “Household income” is the sum of the family incomes in the household. Estimates stratified by household poverty status are based on reported income only because imputed income values are not available until a few months after the annual release of NHIS microdata. Household poverty status was unknown for 20.2% of adults in these analyses.

Analyses of selected health measures are based on data from the NHIS Sample Adult file. Health-related data for one civilian adult randomly selected from each family were used in these analyses. From January through June 2012, data on household telephone status and selected health measures were collected from 16,891 randomly selected adults.

Because NHIS is conducted throughout the year and the sample is designed to yield a nationally representative sample each week, data can be analyzed quarterly. Weights are created for each calendar quarter of the NHIS sample. NHIS data weighting procedures are described in more detail in a previous NCHS report (Botman et al., 2006). To provide access to the most recent information from NHIS, estimates using the January–June 2012 data are being released prior to final data editing and final weighting. These estimates should be considered preliminary. If estimates are produced using the final data files, the estimates may differ slightly from those presented here.

Point estimates and 95% confidence intervals were calculated using SUDAAN software to account for the complex sample design of NHIS. Differences between percentages were evaluated using two-sided significance tests at the 0.05 level. Terms such as “more likely” and “less likely” indicate a statistically significant difference. Lack of comment regarding the difference between any two estimates does not necessarily mean that the difference was tested and found to be not significant. Because of small sample sizes, estimates based on less than 1 year of data may have large variances, and caution should be used in interpreting such estimates.

Telephone Status

In the first 6 months of 2012, more than one of every three households (35.8%) did not have a landline telephone but did have at least one wireless telephone (Table 1). Approximately 34.0% of all adults (about 80 million adults) lived in households with only wireless telephones; 40.6% of all children (approximately 30 million children) lived in households with only wireless telephones.

The percentage of households that are wireless-only has been steadily increasing. However, the 1.8-percentage-point increase from the second 6 months of 2011 through the first 6 months of 2012 is the smallest

increase observed for any 6-month period dating back to January 2008. The percentage of adults and children living in wireless-only households has also been increasing steadily (Figure 1).

The percentages of adults and children living without any telephone service have remained relatively unchanged over the past 3 years. Approximately 2.1% of households had no telephone service (neither wireless nor landline). Nearly 4.5 million adults (1.9%) and 1.6 million children (2.2%) lived in these households.

Demographic Differences

The percentage of U.S. civilian noninstitutionalized adults living in wireless-only households is shown by selected demographic characteristics and by survey time period in Table 2. For the period January–June 2012, there are four demographic groups in which the majority live in households with only wireless telephones: adults aged 25–34, adults living only with unrelated adult roommates, adults renting their home, and adults living in poverty.

- Six in 10 adults aged 25–29 (60.1%) lived in households with only wireless telephones. This rate is greater than the rates for adults aged 18–24 (49.5%) or 30–34 (55.1%). The percentage of adults living in households with only wireless telephones decreased as age increased beyond 35 years: 39.1% for those aged 35–44; 25.8% for those aged 45–64; and 10.5% for those aged 65 and over.
- More than three in four adults living only with unrelated adult roommates (75.9%) were in households with only wireless telephones. This rate is higher than the rate for adults living alone (43.0%) and the rate for adults living only with spouses or other adult family members (27.0%).
- More than half of all adults renting their home (58.2%) had only wireless telephones. This rate is more than twice as large as the rate



for adults owning their home (23.2%).

- Adults living in poverty (51.8%) were more likely than adults living near poverty (42.3%) and higher income adults (30.7%) to be living in households with only wireless telephones.

Other demographic differences exist:

- Men (35.2%) were more likely than women (32.9%) to be living in households with only wireless telephones.
- Adults living in the Midwest (37.5%), South (37.2%), and West (34.0%) were more likely than adults living in the Northeast (23.1%) to be living in households with only wireless telephones.
- Hispanic adults (46.5%) were more likely than non-Hispanic white adults (30.4%) or non-Hispanic black adults (37.7%) to be living in households with only wireless telephones.

Demographic Distributions

The demographic differences noted in the previous section are based on the distribution of household telephone status within each demographic group. When examining the population of wireless-only adults, some readers may instead wish to consider the distribution of various demographic characteristics within the wireless-only adult population.

Table 3 gives the percent distribution of selected demographic characteristics for adults living in households with only wireless telephones, by survey time period. The estimates in this table reveal that the distributions of selected demographic characteristics changed little over the 3-year period shown. The exceptions were related to sex, age, employment status, and household structure. From the second 6 months of 2008 to the first 6 months of 2012,

- The proportion of women among all wireless-only adults increased from 47.6% to 50.2%.
- Among all wireless-only adults, the proportion aged 35 and over has increased steadily. In the first 6 months of 2012, more than one-half of wireless-only adults (51.7%) were aged 35 and over, up from 41.9% in the second 6 months of 2008.
- The proportion of employed adults among all wireless-only adults has decreased from 74.5% to 69.3%. Over the same time period, the proportion of adults with an employment status other than working, keeping house, or going to school increased. These adults (largely unemployed or retired) made up 20.2% of wireless-only adults in the first 6 months of 2012, up from 15.4% in the second 6 months of 2008.
- Among all wireless-only adults, the proportion living with children has increased. In the first 6 months of 2012, 40.4% of wireless-only adults were living with children, up from 34.3% in the second 6 months of 2008.

Selected Health Measures by Household Telephone Status

Many health surveys, political polls, and other research are conducted using random-digit-dial (RDD) telephone surveys. Until recently, these surveys did not include wireless telephone numbers in their samples. Now, despite operational challenges, most major survey research organizations are including wireless telephone numbers when conducting RDD surveys. If they did not, the exclusion of households with only wireless telephones (along with the small proportion of households that have no telephone service) could bias results. This bias—known as coverage bias—could exist if there are differences between persons with and

without landline telephones for the substantive variables of interest.

The NHIS Early Release Program updates and releases estimates for 15 key health indicators every 3 months. Table 4 presents estimates by household telephone status (landline, wireless-only, or phoneless) for all but two of these measures. (“Pneumococcal vaccination” and “personal care needs” were not included because these indicators are limited to older adults aged 65 and over.) For the period January–June 2012,

- The prevalence of having five or more alcoholic drinks in 1 day during the past year among wireless-only adults (30.5%) was substantially higher than the prevalence among adults living in landline households (17.5%). Wireless-only adults were also more likely to be current smokers than were adults living in landline households.
- Compared with adults living in landline households, wireless-only adults were more likely to engage in regular leisure-time physical activity and less likely to have ever been diagnosed with diabetes.
- The percentage without health insurance coverage at the time of interview among wireless-only adults under age 65 (27.9%) was greater than the percentage among adults in that age group living in landline households (15.1%).
- Compared with adults living in landline households, wireless-only adults were more likely to have experienced financial barriers to obtaining needed health care, and they were less likely to have a usual place to go for medical care. Wireless-only adults were also less likely to have received an influenza vaccination during the previous year.
- Wireless-only adults (42.4%) were more likely than adults living in landline households (29.7%) to have ever been tested for human immunodeficiency virus, known as HIV, the virus that causes AIDS.



The potential for bias due to undercoverage remains a real threat to surveys conducted only on landline telephones.

Wireless-mostly Households

The potential for bias due to undercoverage is not the only threat to surveys conducted only on landline telephones. Researchers are also concerned that some people living in households with landlines cannot be reached on those landlines because they rely on wireless telephones for all or almost all of their calls.

In 2007, a question was added to NHIS for persons living in families with both landline and cellular telephones. The respondent for the family was asked to consider all of the telephone calls his or her family receives and to report whether "all or almost all calls are received on cell phones, some are received on cell phones and some on regular phones, or very few or none are received on cell phones." This question permits the identification of persons living in "wireless-mostly" households—defined as households with both landline and cellular telephones in which all families receive all or almost all calls on cell phones.

Among households with both landline and wireless telephones, 29.9% received all or almost all calls on the wireless telephones, based on data for the period January–June 2012. These wireless-mostly households make up 15.9% of all households.

During the first 6 months of 2012, approximately 41 million adults (17.6%) lived in wireless-mostly households. This prevalence estimate was greater than the estimate for the second 6 months of 2008 (15.4%) but has remained largely unchanged since January 2010.

Table 5 gives the percentage of adults living in wireless-mostly households, by selected demographic characteristics and by survey time period. For the period January–June 2012,

- Adults working at a job or business (20.6%) were more likely to be

living in wireless-mostly households than were adults keeping house (15.5%) or with another employment status such as retired or unemployed (10.8%).

- Adults with college degrees (21.0%) were more likely to be living in wireless-mostly households than were high school graduates (15.5%) or adults with less education (11.9%).
- Adults living with children (22.4%) were more likely than adults living alone (10.2%) or with only adult relatives (16.2%) to be living in wireless-mostly households.
- Adults living in poverty (10.8%) and adults living near poverty (11.1%) were less likely than higher-income adults (21.5%) to be living in wireless-mostly households.
- Adults renting their home (12.7%) were less likely to be living in wireless-mostly households than were adults owning their home (19.9%).

Research by Boyle, Lewis, and Tefft (2009) suggests that the majority of adults living in wireless-mostly households are reachable using their landline telephone number. NHIS data cannot be used to estimate the proportion of wireless-mostly adults who are unreachable or to estimate the potential for bias due to their exclusion from landline surveys.

References and Other Sources of Information

For more information about the potential implications for health surveys that are based on landline telephone interviews, see

- Blumberg SJ, Luke JV. Reevaluating the need for concern regarding noncoverage bias in landline surveys. *Am J Public Health* 99(10):1806–10. 2009. Available from: <http://ajph.aphapublications.org/cgi/content/abstract/99/10/1806>.

- Blumberg SJ, Luke JV, Cynamon ML, Frankel MR. Recent trends in household telephone coverage in the United States. In: Lepkowski JM et al., eds. *Advances in telephone survey methodology*. New York: John Wiley and Sons, 56–86. 2008.

- Boyle JM, Lewis F, Tefft B. Cell phone mainly households: Coverage and reach for telephone surveys using RDD landline samples. *Survey Practice*. 2009. Available from: <http://surveypractice.wordpress.com/2009/12/09/cell-phone-and-landlines/>.

When including wireless telephone numbers in RDD surveys, researchers have many methodological, statistical, operational, legal, and ethical issues to consider. These issues have been described in a report from a task force of the American Association for Public Opinion Research (AAPOR). That task force included staff from CDC, and its report is available online:

- AAPOR Cell Phone Task Force. New considerations for survey researchers when planning and conducting RDD telephone surveys in the U.S. with respondents reached via cell phone numbers. Deerfield, IL: American Association for Public Opinion Research (AAPOR). 2010. Available from: http://aapor.org/cell_phone_task_force.htm.

The potential for bias may differ from one state to another because the prevalence of wireless-only households varies substantially across states. For more information about prevalence estimates at the state and local level, see

- Blumberg SJ, Luke JV, Ganesh N, et al. Wireless substitution: State-level estimates from the National Health Interview Survey, 2010–2011. National health statistics reports; no 61. Hyattsville, MD: National Center for Health Statistics. 2012. Available from: <http://www.cdc.gov/nchs/data/nhsr/nhsr061.pdf>.



For more information about NHIS and the NHIS Early Release Program, or to find other Early Release Program products, see

- NHIS home page at <http://www.cdc.gov/nchs/nhis.htm>.
- Early Release home page at <http://www.cdc.gov/nchs/nhis/releases.htm>.
- Botman SL, Moore TF, Moriarity CL, Parsons VL. Design and estimation for the National Health Interview Survey, 1995–2004. National Center for Health Statistics. Vital Health Stat 2(130). 2000. Available from: http://www.cdc.gov/nchs/data/series/sr_02/sr02_130.pdf.

Suggested Citation

Blumberg SJ, Luke JV. Wireless substitution: Early release of estimates from the National Health Interview Survey, January–June 2012. National Center for Health Statistics. December 2012. Available from: <http://www.cdc.gov/nchs/nhis.htm>.



Table 1. Percent distribution of household telephone status for households, adults, and children, by date of interview: United States, July 2008–June 2012

Date of interview	Household telephone status						Total
	Landline with wireless	Landline without wireless	Landline with unknown wireless	Nonlandline with unknown wireless	Wireless-only	Phoneless	
	Percent of households						
	Number of households (unweighted)						
Jul-Dec 2008	59.6	17.4	0.9	0.0	20.2	1.9	100.0
Jan-Jun 2009	59.4	15.5	0.4	0.0	22.7	1.9	100.0
Jul-Dec 2009	21,375	14.9	0.4	0.0	24.5	2.0	100.0
Jan-Jun 2010	17,619	12.9	0.3	0.0	26.6	2.0	100.0
Jul-Dec 2010	16,676	12.9	0.3	0.1	29.7	2.0	100.0
Jan-Jun 2011	20,133	11.2	0.2	0.1	31.6	2.0	100.0
Jul-Dec 2011	19,311	10.2	0.2	0.0	34.0	2.2	100.0
Jan-Jun 2012	20,608	9.4	0.2	0.0	35.8	2.1	100.0
95% confidence interval ¹	51.21–53.70	8.87–9.99	0.13–0.27	0.01–0.06	34.70–37.00	1.84–2.35	...
	Number of adults (unweighted)						
	Percent of adults						
Jul-Dec 2008	63.7	15.1	1.0	0.0	18.4	1.7	100.0
Jan-Jun 2009	23,632	13.4	0.4	0.0	21.1	1.5	100.0
Jul-Dec 2009	40,619	12.6	0.3	0.0	22.9	1.7	100.0
Jan-Jun 2010	33,780	10.9	0.3	0.0	24.9	1.7	100.0
Jul-Dec 2010	31,791	10.7	0.3	0.1	27.8	1.8	100.0
Jan-Jun 2011	36,104	9.0	0.2	0.0	30.2	1.8	100.0
Jul-Dec 2011	36,564	8.3	0.2	0.0	32.3	1.9	100.0
Jan-Jun 2012	38,896	7.8	0.2	0.0	34.0	1.9	100.0
95% confidence interval ¹	54.90–57.34	7.29–8.36	0.12–0.26	0.01–0.06	32.84–35.10	1.68–2.16	...

See footnotes at end of table.



Table 1. Percent distribution of household telephone status for households, adults, and children, by date of interview: United States, July 2008–June 2012—Con.

Date of interview	Household telephone status						Total
	Landline with wireless	Landline without wireless	Landline with unknown wireless	Nonlandline with unknown wireless	Wireless-only	Phoneless	
	Number of children (unweighted)						
	Percent of children						
Jul–Dec 2008	67.1	11.1	0.7	0.0	18.7	2.4	100.0
Jan–Jun 2009	67.6	9.1	0.3	0.0	21.3	1.7	100.0
Jul–Dec 2009	63.4	8.5	0.2	0.0	25.9	1.9	100.0
Jan–Jun 2010	62.8	6.4	0.1	–	29.0	1.7	100.0
Jul–Dec 2010	59.8	6.2	0.1	0.1	31.8	2.0	100.0
Jan–Jun 2011	56.7	5.1	0.1	0.0	36.4	1.7	100.0
Jul–Dec 2011	54.7	4.8	0.1	0.0	38.1	2.2	100.0
Jan–Jun 2012	52.7	4.5	0.1	–	40.6	2.2	100.0
95% confidence interval ¹	51.00–54.31	3.86–5.15	0.03–0.15	...	39.05–42.25	1.78–2.67	...

0.0 Quantity more than zero but less than 0.05.

... Category not applicable.

– Quantity zero.

¹Refers to the time period January–June 2012.

NOTE: Data are based on household interviews of a sample of the civilian noninstitutionalized population.

DATA SOURCE: CDC/NCHS, National Health Interview Survey, July 2008–June 2012.



Table 2. Percentage of adults living in wireless-only households, by selected demographic characteristics and calendar half-years: United States, July 2008–June 2012

Demographic characteristic	Calendar half-year								95% confidence interval ¹
	Jul-Dec 2008	Jan-Jun 2009	Jul-Dec 2009	Jan-Jun 2010	Jul-Dec 2010	Jan-Jun 2011	Jul-Dec 2011	Jan-Jun 2012	
Percent									
Race/ethnicity									
Hispanic or Latino, any race(s)	25.0	28.2	30.4	34.7	38.4	40.8	43.3	46.5	44.40–48.61
Non-Hispanic white, single race	16.6	19.7	21.0	22.7	25.0	27.6	29.0	30.4	28.99–31.76
Non-Hispanic black, single race	21.4	21.3	25.0	28.5	31.1	32.5	36.8	37.7	35.65–39.79
Non-Hispanic Asian, single race	17.8	18.0	20.6	18.8	27.0	27.7	31.6	33.4	30.12–36.93
Non-Hispanic other, single race	17.3	20.6	26.5	*16.1	31.9	33.8	44.1	43.4	34.17–53.02
Non-Hispanic multiple race	22.5	28.7	26.9	36.0	36.1	39.3	36.7	40.2	34.71–46.01
Age									
18–24 years	33.1	37.6	37.8	39.9	45.5	46.8	48.6	49.5	46.96–52.10
25–29 years	41.5	45.8	48.6	51.3	53.5	58.1	59.6	60.1	57.41–62.63
30–34 years	30.4	33.5	37.2	40.4	43.8	46.2	50.9	55.1	52.63–57.50
35–44 years	17.5	21.5	23.9	27.0	30.9	34.3	36.8	39.1	37.38–40.77
45–64 years	11.6	12.8	14.9	16.9	18.8	21.6	23.8	25.8	24.67–27.04
65 years and over	3.3	5.4	5.2	5.4	7.7	7.9	8.5	10.5	9.58–11.56
Sex									
Male	20.0	22.5	24.5	26.2	29.0	31.4	33.7	35.2	33.94–36.40
Female	17.0	19.8	21.3	23.7	26.8	29.1	30.9	32.9	31.71–34.01
Education									
Some high school or less	18.8	22.2	24.7	28.6	29.2	32.1	34.7	36.4	34.55–38.33
High school graduate or GED ²	17.8	20.8	22.9	23.6	27.6	30.8	32.7	33.9	32.47–35.38
Some post-high school, no degree	20.1	23.6	25.0	26.5	30.9	31.8	35.1	36.7	35.03–38.38
4-year college degree or higher	17.7	18.2	19.5	22.7	24.3	26.9	27.8	30.1	28.51–31.69
Employment status last week									
Working at a job or business	21.5	24.3	26.0	28.5	31.5	34.2	36.8	38.4	37.09–39.72
Keeping house	16.0	16.6	20.5	22.7	25.8	31.2	32.7	34.0	31.48–36.71
Going to school	23.5	29.7	29.2	33.2	38.6	35.3	40.8	41.9	37.76–46.15
Something else (incl. unemployed)	11.0	14.0	15.9	16.8	19.2	21.0	22.3	23.6	22.42–24.79

See footnotes at end of table.



Table 2. Percentage of adults living in wireless-only households, by selected demographic characteristics and calendar half-years: United States, July 2008–June 2012—Con.

Demographic characteristic	Calendar half-year												95% confidence interval ¹
	Jul-Dec 2008	Jan-Jun 2009	Jul-Dec 2009	Jan-Jun 2010	Jul-Dec 2010	Jan-Jun 2011	Jul-Dec 2011	Jan-Jun 2012					
	Percent												
Household structure													
Adult living alone	28.1	30.8	32.9	33.5	36.8	38.0	41.3	43.0	41.02–45.05				
Unrelated adults, no children	68.6	68.5	62.9	69.4	69.7	71.3	77.5	75.9	69.17–81.60				
Related adults, no children	14.7	16.8	17.1	19.1	22.1	23.2	25.1	27.0	25.57–28.41				
Adult(s) with children	17.2	20.4	24.1	26.9	29.4	33.6	35.4	37.2	35.72–38.64				
Household poverty status ²													
Poor	30.9	33.0	36.3	39.3	42.8	46.8	51.4	51.8	49.09–54.47				
Near poor	23.8	26.5	29.0	32.9	35.2	38.1	39.6	42.3	39.95–44.68				
Not poor	16.0	18.9	19.6	21.7	24.1	27.7	28.9	30.7	29.39–32.05				
Geographic region ⁴													
Northeast	11.4	14.6	15.1	15.8	17.2	18.8	20.6	23.1	20.71–25.61				
Midwest	20.8	21.9	25.6	26.6	30.0	33.5	35.2	37.5	35.01–39.96				
South	21.3	25.0	25.4	29.3	31.1	33.6	35.9	37.2	35.38–39.09				
West	17.2	19.0	22.2	23.5	28.7	30.3	33.0	34.0	31.68–36.42				
Metropolitan, statistical area status													
Metropolitan	19.7	22.4	24.2	26.5	29.1	31.4	33.6	35.7	34.43–36.97				
Not metropolitan	13.5	16.5	17.9	19.3	22.9	25.6	27.2	27.1	25.06–29.25				
Home ownership status ⁵													
Owned or being bought	9.9	12.8	14.0	15.5	17.7	20.6	21.2	23.2	22.09–24.33				
Renting	39.2	40.9	43.1	47.1	50.3	52.5	56.0	58.2	56.58–59.87				
Other arrangement	17.7	33.6	33.8	34.9	35.1	38.4	40.7	37.7	32.27–43.53				
Number of wireless-only adults in survey sample (unweighted)	4,426	5,078	9,401	8,659	9,228	11,872	12,350	13,724	...				

* Estimate has a relative standard error greater than 30% and does not meet National Center for Health Statistics (NCHS) standards for reliability.



... Category not applicable.

¹Refers to the time period January–June 2012.

²GED is General Educational Development high school equivalency diploma.

³Based on household income and household size using the U.S. Census Bureau's poverty thresholds. "Poor" persons are defined as those below the poverty threshold. "Near poor" persons have incomes of 100% to less than 200% of the poverty threshold. "Not poor" persons have incomes of 200% of the poverty threshold or greater. Early Release estimates stratified by poverty status are based on reported income only and may differ from similar estimates produced later that are based on both reported and imputed income. NCHS imputes income when income is unknown, but the imputed income file is not available until a few months after the annual release of National Health Interview Survey microdata. For households with multiple families, household income and household size were calculated as the sum of the multiple measures of family income and family size.

⁴In the geographic classification of the U.S. population, states are grouped into the following four regions used by the U.S. Census Bureau: *Northeast* includes Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, and Pennsylvania. *Midwest* includes Ohio, Illinois, Indiana, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Kansas, and Nebraska. *South* includes Delaware, Maryland, District of Columbia, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Oklahoma, Arkansas, and Texas. *West* includes Washington, Oregon, California, Nevada, New Mexico, Arizona, Idaho, Utah, Colorado, Montana, Wyoming, Alaska, and Hawaii.

⁵For households with multiple families, home ownership status was determined by considering the reported home ownership status for each family. If any family reported owning the home, then the household-level variable was classified as "Owned or being bought" for all persons living in the household. If one family reported renting the home and another family reported "other arrangement," then the household-level variable was classified as "Other arrangement" for all persons living in the household.

NOTE: Data are based on household interviews of a sample of the civilian noninstitutionalized population.

DATA SOURCE: CDC/NCHS, National Health Interview Survey, July 2008–June 2012.



Table 3. Percent distribution of selected demographic characteristics for adults living in wireless-only households, by date of interview: United States, July 2008–June 2012

Demographic characteristic	Calendar half-year										95% confidence interval ¹
	Jul-Dec 2008	Jan-Jun 2009	Jul-Dec 2009	Jan-Jun 2010	Jul-Dec 2010	Jan-Jun 2011	Jul-Dec 2011	Jan-Jun 2012			
Percent distribution											
Race/ethnicity											
Hispanic or Latino, any race(s)	18.5	18.4	18.5	19.4	19.5	19.0	19.1	20.3	18.66–22.03		
Non-Hispanic white, single race	61.9	63.8	62.5	61.6	61.0	61.8	61.0	59.6	57.72–61.38		
Non-Hispanic black, single race	13.3	11.7	12.7	13.3	13.0	12.5	13.1	12.7	11.67–13.90		
Non-Hispanic Asian, single race	4.4	3.9	4.1	3.5	4.5	4.3	4.7	5.1	4.39–5.80		
Non-Hispanic other, single race	0.6	0.7	1.0	0.6	0.7	0.8	0.9	0.8	0.59–1.09		
Non-Hispanic multiple race	1.2	1.5	1.3	1.6	1.3	1.6	1.3	1.5	1.31–1.82		
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	...		
Age											
18–24 years	23.1	22.9	21.2	20.7	21.1	20.0	19.4	18.9	17.57–20.32		
25–29 years	21.0	19.9	19.6	19.1	17.7	17.6	17.0	15.5	14.64–16.42		
30–34 years	14.0	13.6	14.0	13.9	13.7	13.3	14.0	14.0	13.11–14.85		
35–44 years	17.4	18.4	18.6	18.9	19.3	19.5	19.2	19.5	18.57–20.45		
45–64 years	21.6	21.0	22.8	23.7	23.6	25.0	25.8	26.7	25.65–27.68		
65 years and over	2.9	4.3	3.8	3.7	4.7	4.5	4.6	5.5	4.95–6.07		
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	...		
Sex											
Male	52.4	51.4	51.8	50.9	50.3	50.4	50.7	49.8	49.05–50.57		
Female	47.6	48.6	48.2	49.1	49.7	49.6	49.3	50.2	49.43–50.95		
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	...		
Education											
Some high school or less	15.8	15.5	16.0	16.6	15.4	15.6	15.2	15.2	14.20–16.22		
High school graduate or GED ²	27.2	27.7	28.9	26.7	28.1	27.8	28.2	27.1	25.97–28.23		
Some post-high school, no degree	31.7	33.3	32.9	32.0	32.7	32.2	32.7	33.3	31.90–34.64		
4-year college degree or higher	25.3	23.5	22.3	24.7	23.9	24.3	23.9	24.5	23.19–25.81		
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	...		

See footnotes at end of table.



Table 3. Percent distribution of selected demographic characteristics for adults living in wireless-only households, by date of interview: United States, July 2008–June 2012—Con.

Demographic characteristic	Calendar half-year										95% confidence interval ¹
	Jul–Dec 2008	Jan–Jun 2009	Jul–Dec 2009	Jan–Jun 2010	Jul–Dec 2010	Jan–Jun 2011	Jul–Dec 2011	Jan–Jun 2012			
Employment status: last week											
Working at a job or business	74.5	71.1	69.1	69.7	68.8	68.5	69.0	69.3	68.23–70.29		
Keeping house	5.3	4.5	5.3	5.3	5.5	5.9	5.6	5.3	4.93–5.78		
Going to school	3.7	4.6	4.4	4.3	4.7	4.2	4.0	4.3	3.73–4.96		
Something else (incl. unemployed)	15.4	18.7	20.2	19.5	20.0	20.3	20.6	20.2	19.27–21.16		
Unknown, not reported	*1.1	1.1	1.1	1.3	1.1	1.0	0.7	0.9	0.64–1.23		
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	...		
Household structure											
Adult living alone	23.6	22.1	21.9	19.9	20.0	18.7	19.8	18.9	17.73–20.10		
Unrelated adults, no children	5.2	5.4	4.1	4.1	4.0	4.3	4.0	3.8	3.09–4.61		
Related adults, no children	36.0	36.0	34.0	35.1	36.0	35.3	35.8	36.9	35.40–38.42		
Adult(s) with children	34.3	36.4	40.0	40.9	40.0	41.7	40.5	40.4	38.78–42.11		
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	...		
Household poverty status ³											
Poor	15.5	15.5	16.4	16.5	17.4	15.6	15.9	15.0	13.83–16.22		
Near poor	16.8	17.9	18.5	19.8	18.6	17.7	18.2	17.7	16.68–18.86		
Not poor	53.3	56.7	53.0	53.2	52.3	47.8	46.2	47.1	45.27–48.87		
Unknown, not reported	14.4	10.0	12.2	10.6	11.7	18.8	19.8	20.2	18.87–21.62		
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	...		
Geographic region ⁴											
Northeast	11.3	12.2	12.1	11.4	11.0	11.1	11.7	12.4	11.16–13.75		
Midwest	26.0	23.9	26.0	24.0	24.7	24.9	25.2	24.5	22.49–26.61		
South	41.1	43.8	39.5	42.3	40.2	40.5	39.9	40.4	38.31–42.43		
West	21.6	20.1	22.4	22.3	24.1	23.5	23.3	22.8	21.16–24.44		
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	...		

See footnotes at end of table.



Table 3. Percent distribution of selected demographic characteristics for adults living in wireless-only households, by date of interview: United States, July 2008–June 2012—Cont.

Demographic characteristic	Calendar half-year								95% confidence interval
	Jul-Dec 2008	Jan-Jun 2009	Jul-Dec 2009	Jan-Jun 2010	Jul-Dec 2010	Jan-Jun 2011	Jul-Dec 2011	Jan-Jun 2012	
	Percent distribution								
Metropolitan statistical area status									
Metropolitan	85.1	83.3	83.7	83.2	82.7	82.8	82.3	83.9	81.88–85.81
Not metropolitan	14.9	16.7	16.3	16.8	17.3	17.2	17.7	16.1	14.19–18.12
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	...
Home ownership status ¹									
Owned or being bought	37.1	42.1	42.3	43.7	43.3	47.0	44.2	46.5	44.50–48.51
Renting	61.1	55.0	54.3	53.5	54.2	49.9	53.3	51.2	49.20–53.21
Other arrangement	1.8	2.9	3.3	2.8	2.5	3.0	2.5	2.3	1.90–2.78
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	...
Number of wireless-only adults in survey sample (unweighted)	4,426	5,078	9,401	8,659	9,228	11,872	12,350	13,724	...

... Category not applicable.

* Estimate has a relative standard error greater than 30% and does not meet National Center for Health Statistics (NCHS) standards for reliability.

¹Refers to the time period January–June 2012.

²GED is General Educational Development high school equivalency diploma.

³Based on household income and household size using the U.S. Census Bureau's poverty thresholds. "Poor" persons are defined as those below the poverty threshold. "Near poor" persons have incomes of 100% to less than 200% of the poverty threshold. "Not poor" persons have incomes of 200% of the poverty threshold or greater. Early Release estimates stratified by poverty status are based on reported income only and may differ from similar estimates produced later that are based on both reported and imputed income. NCHS imputes income when income is unknown, but the imputed income file is not available until a few months after the annual release of National Health Interview Survey microdata. For households with multiple families, household income and household size were calculated as the sum of the multiple measures of family income and family size.

⁴In the geographic classification of the U.S. population, states are grouped into the following four regions used by the U.S. Census Bureau: *Northeast* includes Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, and Pennsylvania. *Midwest* includes Ohio, Illinois, Indiana, Michigan, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Kansas, and Nebraska. *South* includes Delaware, Maryland, District of Columbia, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Oklahoma, Arkansas, and Texas. *West* includes Washington, Oregon, California, Nevada, New Mexico, Arizona, Idaho, Utah, Colorado, Montana, Wyoming, Alaska, and Hawaii.



For households with multiple families, home ownership status was determined by considering the reported home ownership status for each family. If any family reported owning the home, then the household-level variable was classified as "Owned or being bought" for all persons living in the household. If one family reported renting the home and another family reported "other arrangement," then the household-level variable was classified as "Other arrangement" for all persons living in the household.

NOTE: Data are based on household interviews of a sample of the civilian noninstitutionalized population.

DATA SOURCE: CDC/NCHS, National Health Interview Survey, July 2008-June 2012.



Table 4. Prevalence rates (and 95% confidence intervals) for selected measures of health-related behaviors, health status, health care service use, and health care access for adults aged 18 and over, by household telephone status: United States, January–June 2012

Measure	Household telephone status		
	Landline ¹	Wireless-only	Phoneless
	Percent (95% confidence interval)		
Health-related behaviors			
Five or more alcoholic drinks in 1 day at least once in past year ²	17.5 (16.41–18.54)	30.5 (28.85–32.14)	24.5 (19.17–30.65)
Current smoker ³	14.5 (13.48–15.51)	24.3 (22.80–25.81)	20.8 (15.58–27.20)
Engaged in regular leisure-time physical activity ⁴	35.7 (34.23–37.11)	40.1 (38.31–41.93)	41.9 (35.30–48.88)
Health status			
Health status described as excellent or very good ⁵	59.3 (57.89–60.75)	62.2 (60.63–63.80)	65.0 (58.43–70.96)
Experienced serious psychological distress in past 30 days ⁶	2.8 (2.34–3.25)	3.5 (2.97–4.14)	*3.0 (1.65–5.38)
Obese (adults aged 20 and over) ⁷	28.6 (27.31–29.93)	29.3 (27.77–30.95)	21.8 (16.68–27.90)
Asthma episode in past year ⁸	4.3 (3.77–4.86)	4.6 (3.88–5.36)	*4.1 (2.07–8.15)
Ever diagnosed with diabetes ⁹	10.8 (10.06–11.56)	6.4 (5.69–7.19)	6.1 (3.53–10.33)
Health care service use			
Received influenza vaccine during past year ¹⁰	44.4 (43.09–45.82)	27.6 (26.01–29.16)	31.3 (24.98–38.37)
Ever been tested for HIV ¹¹	29.7 (28.53–30.93)	42.4 (40.75–44.16)	40.9 (34.17–47.95)
Health care access			
Has a usual place to go for medical care ¹²	88.0 (87.05–88.98)	72.4 (70.86–73.97)	70.3 (64.48–75.61)
Failed to obtain needed medical care in past year due to financial barriers ¹³	6.0 (5.44–6.62)	12.2 (11.22–13.25)	8.4 (5.69–12.36)
Currently uninsured (adults aged 18–64) ¹⁴	15.1 (13.95–16.36)	27.9 (26.03–29.80)	31.7 (25.02–39.15)
Number of adults in survey sample (unweighted)	9,984	6,546	361

* Estimate has a relative standard error greater than 30% and does not meet National Center for Health Statistics (NCHS) standards for reliability.

¹Includes households that also have wireless telephone service.

²A year is defined as the 12 months prior to interview. The analyses excluded adults with unknown alcohol consumption (about 2% of respondents each year).

³A person who had smoked more than 100 cigarettes in his or her lifetime and now smokes every day or some days. The analyses excluded persons with unknown smoking status (about 1% of respondents each year).

⁴Regular leisure-time physical activity is defined as engaging in light-moderate leisure-time physical activity for greater than or equal to 30 minutes at a frequency greater than or equal to five times per week, or engaging in vigorous leisure-time physical activity for greater than or equal to 20 minutes at a frequency greater than or equal to three times per week. Persons who were known to have not met the frequency recommendations are classified as "not regular," regardless of duration. The analyses excluded persons with unknown physical activity participation (about 3% of respondents each year).

⁵Health status data were obtained by asking respondents to assess their own health and that of family members living in the same household as excellent, very good, good, fair, or poor. The analyses excluded persons with unknown health status (about 0.5% of respondents each year).

⁶Six psychological distress questions are included in the National Health Interview Survey. These questions ask how often during the past 30 days a respondent experienced certain symptoms of psychological distress (feeling so sad that nothing could cheer you up, nervous, restless or fidgety, hopeless, worthless, that everything was an effort). The response codes (0–4) of the six items for each person were equally weighted and summed. A value of 13 or more for this scale indicates that at least one symptom was experienced "most of the time" or "all of the time" and is used here to define serious psychological distress.



⁷Obesity is defined as a body mass index (BMI) of 30 kg/m² or more. The measure is based on self-reported height and weight. The analyses excluded people with unknown height or weight (about 4% of respondents each year). Estimates of obesity are presented for adults aged 20 and over because the Healthy People 2020 objectives (<http://www.healthypeople.gov>) for healthy weight among adults define adults as persons aged 20 and over.

⁸Information on an episode of asthma or an asthma attack during the past year is self-reported by adults aged 18 and over. A year is defined as the 12 months prior to interview. The analyses excluded people with unknown asthma episode status (about 0.3% of respondents each year).

⁹Prevalence of diagnosed diabetes is based on self-report of ever having been diagnosed with diabetes by a doctor or other health professional. Persons reporting "borderline" diabetes status and women reporting diabetes only during pregnancy were not coded as having diabetes in the analyses. The analyses excluded persons with unknown diabetes status (about 0.1% of respondents each year).

¹⁰Receipt of flu shots and receipt of nasal spray flu vaccinations were included in the calculation of flu vaccination estimates. Responses to these two flu vaccination questions do not indicate when the subject received the flu vaccination during the 12 months preceding the interview. In addition, estimates are subject to recall error, which will vary depending on when the question is asked because the receipt of a flu vaccination is seasonal. The analyses excluded those with unknown flu vaccination status (about 1% of respondents each year).

¹¹Individuals who received human immunodeficiency virus (HIV) testing solely as a result of blood donation were considered not to have been tested for HIV. The analyses excluded those with unknown HIV test status (about 4% of respondents each year).

¹²Does not include a hospital emergency room. The analyses excluded persons with an unknown usual place to go for medical care (about 0.6% of respondents each year).

¹³A year is defined as the 12 months prior to interview. The analyses excluded persons with unknown responses to the question on failure to obtain needed medical care due to cost (about 0.5% of respondents each year).

¹⁴A person was defined as uninsured if he or she did not have any private health insurance, Medicare, Medicaid, Children's Health Insurance Program (CHIP), state-sponsored or other government-sponsored health plan, or military plan at the time of interview. A person was also defined as uninsured if he or she had only Indian Health Service coverage or had only a private plan that paid for one type of service, such as accidents or dental care. The data on health insurance status were edited using an automated system based on logic checks and keyword searches. The analyses excluded persons with unknown health insurance status (about 1% of respondents each year).

NOTE: Data are based on household interviews of a sample of the civilian noninstitutionalized population.

DATA SOURCE: CDC/NCHS, National Health Interview Survey, January–June 2012.



Table 5. Percentage of adults living in wireless-only households, by selected demographic characteristics and calendar half-years: United States, July 2008–June 2012

Demographic characteristic	Calendar half-year								95% confidence interval ^a
	Jul-Dec 2008	Jan-Jun 2009	Jul-Dec 2009	Jan-Jun 2010	Jul-Dec 2010	Jan-Jun 2011	Jul-Dec 2011	Jan-Jun 2012	
Total	15.4	16.2	16.3	17.7	17.4	18.2	17.8	17.6	16.75–18.41
Race/ethnicity									
Hispanic or Latino, any race(s)	15.9	18.0	16.9	19.7	17.2	16.3	17.0	16.1	14.65–17.63
Non-Hispanic white, single race	14.9	15.6	16.1	17.2	17.2	18.4	17.9	17.6	16.54–18.68
Non-Hispanic black, single race	14.7	15.0	16.2	17.5	16.2	18.4	17.1	17.6	15.91–19.42
Non-Hispanic Asian, single race	20.3	19.6	18.5	20.8	22.5	21.0	20.3	21.5	18.76–24.43
Non-Hispanic other, single race	15.5	22.9	*16.1	*12.3	23.8	17.6	15.6	15.1	10.49–21.28
Non-Hispanic multiple race	24.2	22.5	18.2	21.0	20.7	16.1	21.7	18.7	14.61–23.57
Age									
18–24 years	18.8	20.0	19.9	21.4	18.7	20.1	18.9	20.1	18.42–21.94
25–29 years	18.3	17.7	16.4	17.4	16.8	16.3	15.8	15.0	13.25–16.93
30–44 years	19.0	20.3	19.5	21.2	21.6	21.9	21.2	20.7	19.46–22.09
45–64 years	15.4	16.5	17.5	19.0	18.9	19.8	19.9	19.3	18.31–20.33
65 years and over	4.9	5.3	6.3	7.0	7.1	8.9	8.9	8.9	7.93–10.00
Sex									
Male	15.4	16.2	16.5	18.1	17.8	18.5	18.3	17.9	16.94–18.89
Female	15.2	16.1	16.2	17.4	17.1	17.9	17.3	17.3	16.48–18.06
Education									
Some high school or less	9.8	12.1	11.5	12.0	12.1	12.9	11.7	11.9	10.77–13.16
High school graduate or GED ^b	13.2	13.7	14.2	16.0	15.3	16.6	15.7	15.5	14.42–16.62
Some post-high school, no degree	18.6	17.7	18.1	20.1	18.9	20.0	19.4	19.1	17.90–20.36
4-year college degree or higher	18.0	19.7	19.7	20.3	21.3	21.1	21.4	21.0	19.70–22.38
Employment status last week									
Working at a job or business	18.4	19.5	19.7	20.8	20.5	21.6	20.9	20.6	19.59–21.74
Keeping house	11.9	12.7	15.1	14.5	16.7	14.9	16.6	15.5	13.76–17.38
Going to school	21.5	21.1	21.7	23.5	24.4	23.5	20.0	23.7	20.66–26.99
Something else (incl. unemployed)	7.8	9.0	9.0	11.5	10.2	11.3	11.4	10.8	10.03–11.64

See footnotes at end of table.



Table 5. Percentage of adults living in wireless-only households, by selected demographic characteristics and calendar half-years: United States, July 2008–June 2012—Con.

Demographic characteristic	Calendar half-year										95% confidence interval ¹
	Jul-Dec 2008	Jan-Jun 2009	Jul-Dec 2009	Jan-Jun 2010	Jul-Dec 2010	Jan-Jun 2011	Jul-Dec 2011	Jan-Jun 2012			
	Percent										
Household structure											
Adult living alone	12.2	10.0	10.6	10.1	9.5	10.2	10.1	10.2	10.2	9.18–11.36	
Unrelated adults, no children	21.3	13.9	15.5	13.4	13.4	*15.6	10.3	13.0	13.0	8.08–20.14	
Related adults, no children	13.2	14.7	15.0	15.7	15.8	17.2	16.9	16.2	16.2	15.18–17.35	
Adult(s) with children	19.2	20.5	20.2	23.3	22.7	22.8	22.5	22.4	22.4	21.20–23.67	
Household poverty status ²											
Poor	9.5	11.0	10.0	11.0	10.2	10.5	8.8	10.8	10.8	9.07–12.71	
Near poor	11.3	12.0	12.7	12.6	13.8	13.3	13.5	11.1	11.1	9.90–12.52	
Not poor	18.2	18.8	19.2	20.8	20.4	21.6	21.9	21.5	21.5	20.36–22.60	
Geographic region ⁴											
Northeast	12.0	15.3	14.9	17.1	18.5	19.5	17.9	18.9	18.9	17.01–20.97	
Midwest	13.2	14.6	14.7	17.5	16.3	17.7	16.6	15.5	15.5	13.88–17.33	
South	16.2	16.7	17.3	18.1	17.2	18.0	17.7	17.3	17.3	15.83–18.84	
West	18.7	17.7	17.7	17.8	18.0	18.1	19.1	18.9	18.9	17.59–20.31	
Metropolitan statistical area status											
Metropolitan	15.8	16.9	16.8	18.0	17.8	18.4	18.2	17.9	17.9	17.01–18.74	
Not metropolitan	13.4	13.5	14.5	16.5	16.1	17.3	16.4	16.4	16.4	14.16–18.88	
Home ownership status ⁵											
Owned or being bought	15.9	17.2	17.5	19.6	19.4	20.0	19.9	19.9	19.9	18.82–20.96	
Renting	13.0	13.9	13.6	13.9	13.0	13.9	13.5	12.7	12.7	11.64–13.73	
Other arrangement	24.6	13.8	15.8	10.8	15.6	20.0	11.7	13.8	13.8	10.50–17.88	
Number of adults in survey sample who live in landline households with wireless telephones (unweighted)	14,816	14,886	24,904	20,610	18,357	21,626	20,184	21,100	21,100	...	

* Estimate has a relative standard error greater than 30% and does not meet National Center for Health Statistics (NCHS) standards for reliability.



... Category not applicable.

¹Refers to the time period January–June 2012.

²GED is Central Educational Development high school equivalency diploma.

³Based on household income and household size using the U.S. Census Bureau's poverty thresholds. "Poor" persons are defined as those below the poverty threshold. "Near poor" persons have incomes of 100% to less than 200% of the poverty threshold. "Not poor" persons have incomes of 200% of the poverty threshold or greater. Early Release estimates stratified by poverty status are based on reported income only and may differ from similar estimates produced later that are based on both reported and imputed income. NCHS imputes income when income is unknown, but the imputed income file is not available until a few months after the annual release of National Health Interview Survey microdata. For households with multiple families, household income and household size were calculated as the sum of the multiple measures of family income and family size.

⁴In the geographic classification of the U.S. population, states are grouped into the following four regions used by the U.S. Census Bureau: *Northeast* includes Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, and Pennsylvania. *Midwest* includes Ohio, Illinois, Indiana, Michigan, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Kansas, and Nebraska. *South* includes Delaware, Maryland, District of Columbia, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Oklahoma, Arkansas, and Texas. *West* includes Washington, Oregon, California, Nevada, New Mexico, Arizona, Idaho, Utah, Colorado, Montana, Wyoming, Alaska, and Hawaii.

⁵For households with multiple families, home ownership status was determined by considering the reported home ownership status for each family. If any family reported owning the home, then the household-level variable was classified as "Owned or being bought" for all persons living in the household. If one family reported renting the home and another family reported "other arrangement," then the household-level variable was classified as "Other arrangement" for all persons living in the household.

NOTE: Data are based on household interviews of a sample of the civilian noninstitutionalized population.

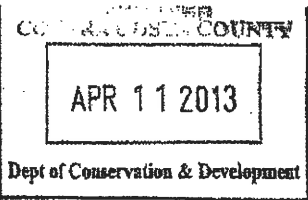
DATA SOURCE: CDC/NCHS, National Health Interview Survey, July 2008–June 2012.



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April 11, 2013

BY ELECTRONIC MAIL

Telma Moreira
Principal Planner
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Dear Ms. Moreira:

AT&T appreciates the opportunity to provide Contra Costa County the following comments on the County's March 12, 2013 draft wireless telecommunication facilities ordinance ("Draft Ordinance"). It is clear that the County has worked hard on the Draft Ordinance, and we are pleased to see that one of the stated key purposes of this effort recognizes the importance of and need for continued development of infrastructure necessary to provide personal wireless services. While AT&T understands that the County desires to develop a comprehensive approach to siting wireless communication facilities, there are many issues with the Draft Ordinance that must be considered in the broader context of the fast-paced advances in wireless technology, the effects of which cannot be predicted entirely, as well as controlling state and federal laws that limit the County's authority in this area. Many of these considerations weigh against adopting bright line rules that may impede advances in technology and may even discourage lower-profile facilities, like small cells and AT&T's distributive antenna system (DAS) project pending before the County.

AT&T's operations and network configurations are driven by its obligation to serve its customers within the limits of its licensed spectrum, even as their needs evolve with new technologies, many of which impact network capacity differently in different regions. It is difficult, if not impossible, to predict network needs years into the future given ever-changing wireless technologies and the exponential increases in the use of wireless voice and data services. With consumers' strong adoption of smart phones, customers now have access to a plethora wireless broadband applications. AT&T customers are using these applications in a

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manner that has caused a 20,000% increase in mobile data usage on AT&T's network over the five year period from 2007 to 2011. AT&T expects total mobile data volume to grow 8x-10x over the next five years. To put this estimate in perspective, all of AT&T Mobility's mobile traffic during 2010 would be equal to only six or seven weeks of mobile traffic volume in 2015.

Last year, the President's Council of Economic Advisers issued its report *The Economic Benefits of New Spectrum for Wireless Broadband*.¹ According to the report, data traffic alone on mobile devices is predicted to increase 20-fold between 2010 and 2015. By all accounts, over the next three years the demand for wireless communications technology will be far greater than now. Very likely, new technologies and new types of mobile devices will emerge capable of handling voice and data traffic in ways that will demand wireless providers to continue to fine-tune, optimize and build-out networks. Given the exponential growth, new sites will need to be constructed in most markets. But AT&T cannot build local sites to national trends based on this predicted growth, and its plans for the County will develop as the wireless needs of its customers in the County grow and develop.

AT&T's comments to the Draft Ordinance also must be viewed in the context of the applicable federal law. Many of the issues raised by the Draft Ordinance straddle the boundary between issues within the exclusive authority of the Federal Communications Commission ("FCC") and the smaller universe of issues left to state and local authorities. Under the Telecommunications Act of 1996, 47 U.S.C. § 332 ("Act"), Congress preempted all regulation of mobile services, with the exception of preserving state and local governments' traditional land use and zoning authority in the context of permitting wireless communication facilities. While some powers remain with the state and local governments, these statutory limits serve to promote the important national goal to deploy wireless technologies. In 2005, the United States Supreme Court helpfully explained:

Congress enacted the Telecommunications Act of 1996 (TCA), 110 Stat. 56, to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." *Ibid.* One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934, 48 Stat. 1064, to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities, 110 Stat. 151, codified at 47 U. S. C. § 332(c)(7).²

Indeed, the purpose of the Act was "to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced

¹ Available at http://www.whitehouse.gov/sites/default/files/cea_spectrum_report_2-21-2012.pdf.

² *City of Rancho Palos Verdes v. Abrams*, 544 U.S. 113, 115-16 (2005).

telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition.³ In discussing the need to speed deployment and availability of wireless technologies, the House Committee found that “current State and local requirements, siting and zoning decisions by non-federal units of government, have created an inconsistent and, at times, conflicting patchwork of requirements which will inhibit the deployment of Personal Communications Services (PCS) as well as the rebuilding of a digital technology-based cellular communications network.”⁴

To promote “rapid deployment of new telecommunications technologies,” the Act mandates state and local governments take final action on permit applications seeking to construct wireless communication facilities within a reasonable period of time by issuing their decisions in writing and supported by substantial evidence.⁵ In so doing, state and local governments are precluded from taking actions that effectively prohibit a wireless provider from providing personal wireless services.⁶ Likewise, state and local governments are precluded from unreasonably discriminating among providers of functionally equivalent services.⁷

In 2009, the FCC issued an important declaratory ruling (“Shot Clock Order”) aimed at removing impediments to installation of wireless communications facilities caused by protracted state and local permitting procedures.⁸ The Shot Clock Order establishes presumptive maximum numbers of days that constitute a “reasonable period of time” for the state or local authority to take final action, in writing and supported by substantial evidence, within the meaning of the Act. For collocations, state or local governments must take final action within 90 days from the time a complete application is filed.⁹ For sites other than collocation, the presumptive maximum time from completed application to final action is 150 days.¹⁰

Congress empowered the FCC to encourage broadband deployment and to “remove barriers to infrastructure investment.” See 47 U.S.C. § 1302(a). Thus, in 2011, in order to serve the federal interests in and authority over deployment of wireless technologies, the FCC issued a Notice of Inquiry seeking comments to foster the acceleration of broadband deployment throughout the United States.¹¹ The FCC received hundreds of comments from communities

³ H. Conf. Rep. No. 104-458, at 1 (1996).

⁴ H. Rep. No. 104-204, at 94 (1995) (describing the section of the House bill that became 47 U.S.C. § 332(c)(7)).

⁵ 47 U.S.C. § 332(c)(7)(B)(ii) and (iii).

⁶ 47 U.S.C. § 332(c)(7)(B)(i)(II).

⁷ 47 U.S.C. § 332(c)(7)(B)(i)(I).

⁸ See *Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B)*, WT Docket No. 08-165, Declaratory Ruling, 24 FCCR 13994 (2009) (Shot Clock Order); see also, *City of Arlington v. Federal Communications Com'n*, 668 F.3d 229 (5th Cir. 2012) (holding “the FCC is entitled to deference with respect to its exercise of authority to implement § 332(c)(7)(B)(ii) and (v)”).

⁹ *Id.*, ¶¶45-48, 71.

¹⁰ *Id.*

¹¹ See *In the Matter of Acceleration of Broadband Deployment: Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting*, WC Docket No. 11-59, Notice of Inquiry, 26 FCCR 5384 (2011) (“Acceleration of Broadband NOI”).

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around the country, from wireless services providers, including AT&T, and from a host of other interested parties and groups. In the Acceleration of Broadband NOI, the FCC explained, “[i]ncreasing broadband deployment throughout the nation is one of the great infrastructure challenges of our time.”¹² To this end, the FCC aptly noted that state and local policies for siting wireless facilities “affect how long it takes and how much it costs to deploy broadband.”¹³ In support of this statement, the FCC pointed out that the wireless industry will need to build 16,000 new sites across the country to fulfill broadband demands, and the FCC noted this figure is likely understated.¹⁴

Through the Act and its regulations, the FCC has exclusive authority over technical and operational matters concerning wireless communications. Thus, as the Second Circuit Court of Appeals explained, state and local governments are preempted from exercising authority over decisions about the technologies and operation of personal wireless facilities:

* * * While section 332(c)(7) “preserves the authority of State and local governments over zoning and land use matters,” H.R.Rep. No. 104-458, at 207-08 (1996), 1996 U.S.C.C.A.N., at 222, this authority does not extend to technical and operational matters, over which the FCC and the federal government have exclusive authority, *id.* at 209. Indeed, in *Freeman [v. Burlington Broadcasters]*, 204 F.3d 311 (2d Cir. 2000) we held that “[i]n light of the FCC’s pervasive regulation of broadcasting technology, [section 332(c)(7)(A)] is most reasonably understood as permitting localities to exercise zoning power based on matters not directly regulated by the FCC.” 204 F.3d at 323.¹⁵

In this case, the court held a local government was preempted from requiring, or legislating a preference, that wireless providers build new sites using alternate technologies. The court explained that local governments “are also preempted because they interfere with the federal government’s regulation of technical and operational aspects of wireless telecommunications technology, a field that is occupied by federal law.”¹⁶

Last year, a new federal statute was enacted that further restricts local governments from regulating the modification of wireless communication facilities, including collocation, removal or replacement of transmission equipment. The new law provides that notwithstanding any other provision of law “a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.”¹⁷ Under this new

¹² *Id.*, ¶1.

¹³ *Id.*, ¶4.

¹⁴ *Id.*, n.7.

¹⁵ *New York SMSA L.P. v. Town of Clarkstown*, 612 F.3d 97, 106 (2d Cir. 2010).

¹⁶ *Id.*, 612 F.3d at 105.

¹⁷ Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455.

2

law, state and local governments do not have discretion with respect to certain collocation applications, but instead have a duty to approve them. Combined with the Shot Clock Order, state and local governments have 90 days to approve modification requests that are consistent with the new law.

2

In January of this year, the FCC issued its public notice interpreting key provisions of the new federal statute. Importantly, the FCC defined collocation broadly, consistent with other federal guidance, to include locating a wireless communication facility at a common location with another wireless communication facility and locating a wireless communication facility on structures such as water tanks, utility poles and light standards.¹⁸ The FCC's public notice also explained the term "substantially change the physical dimensions" of a tower or base station in order to provide clarity as to the scope of the federal law.

With these important federal laws and objectives in mind, AT&T offers the following comments to the Draft Ordinance:

3

Overarching Comments

We are pleased to see that the Draft Ordinance encourages collocation of wireless service facilities, and that the County is making some effort to streamline applications for collocation permits. Unfortunately, however, it appears that even applications for collocation permits would be bogged down by the Draft Ordinance's many requirements. In order to comply with federal law, 47 U.S.C. § 1455, the County should exempt applications for collocations from anything but a ministerial approval process. While several provisions of the Draft Ordinance appear to reflect some consideration given to this new federal law, the Draft Ordinance does not follow the letter and spirit of the law, which requires the County to approve eligible facilities requests, including applications to collocate a personal wireless service facility.

The Draft Ordinance seeks to encourage so-called "low-visibility facilities," but in doing so the County is actually making it harder for service providers to deploy low-profile solutions such as microcells and DAS. This is because "low-visibility facility" is defined without an express reference to smaller facilities. Worse, the Draft Ordinance will unlawfully prohibit facilities within 1,000 feet from other facilities, which will actually and effectively prohibit service providers from providing personal wireless services through the use of smaller, lower-profile facilities (and other newer technologies) because they may need to be closer to one another, and closer to other facilities, than 1,000 feet. This ban on facilities would violate the Act, 47 U.S.C. § 332(c)(7)(B)(i)(II). In fact, these smaller facilities that would be unlawfully prohibited by the Draft Ordinance are less visually impactful than macro sites even though they may not meet the County's proposed definition as "low-visibility facilities." The County should explicitly exempt small cell and DAS facilities or, at a minimum, reconsider its approach to defining its preference for low-visibility facilities in order to avoid violating federal law and to avoid unintentionally prohibiting smaller sites and new technologies.

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¹⁸ See Public Notice, *Wireless Telecommunication Bureau Offers Guidance On Interpretation Of Section 6409(a) Of The Middle Class Tax Relief And Job Creation Act of 2012* (DA 12-2047), Jan. 25, 2013.

The Draft Ordinance also contains many references to CEQA without recognizing that most personal wireless service facilities are categorically exempt from CEQA. Several provisions of the Draft Ordinance can be trimmed or deleted in order to avoid such unlawful regulation.

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Provision-Specific Comments

Section 88-24.204(e)

This section of the Draft Ordinance defines collocation as a new wireless service facility mounted on another service provider's existing wireless service facility. This definition is too limited, and must be expanded to comply with the law. First, as a practical point, collocation should not be limited to mounting on "another service provider's" equipment. Service providers may, from time to time, collocate on their own facilities, and there is no reason to treat such installations any different – they are collocations. Second, the County's definition for collocation is inconsistent with federal law. The FCC recently and helpfully issued guidance to interpret the new federal statute, 47 U.S.C. § 1455. The FCC explains that collocation is broader, and includes placing a personal wireless facility on other structures that house personal wireless service facilities and on other utility facilities, such as water tanks, utility poles and lights standards.¹⁹ In order to come in line with federal law, the County should consider defining collocation more broadly or by reference to the FCC's guidance.

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Section 88-24.204(ab)

This section of the Draft Ordinance defines "substantial modification" in a way that is inconsistent with federal law. Based on the use of this term throughout the Draft Ordinance, it appears that the purpose of this definition is to exempt certain applications from permitting requirements in order to comply with the federal law, 14 U.S.C. § 1455. But by offering a definition that is different from the federal statutory definition, the Draft Ordinance may unlawfully require more than ministerial approval of eligible facilities requests. One key difference that highlights the problem is that, under the County's definition, *any* increase in height is a "substantial modification," but under the federal law a relatively insignificant increase in height is not considered a substantial change to the physical dimensions of a facility. Definitions and interpretations of what constitutes a substantial change should be left to the relevant federal authorities, and if the County desires to apply those definitions it should simply cross reference the federal statute.

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¹⁹ See *id.*, §III(F).

Section 88-24.206

This section of the Draft Ordinance, regarding applicability of the draft ordinance, should exempt sites in public rights-of-way. This is an important distinction that is needed to comply with state law. Under California law, AT&T has the right to place communications equipment in public rights-of-way. While Section 88-24.402(g) of the Draft Ordinance contemplates an encroachment permit for sites in the public rights-of-way, that section also requires that such applications must meet all requirements of the Draft Ordinance, including the requirement under Section 88-24.616(b) to obtain either a collocation permit or a land use permit. The County cannot lawfully impose its zoning authority in the public rights-of-way, and only an encroachment permit should be required.

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Section 88-24.402(c)

This section of the Draft Ordinance provides that towers (with the term "tower" too liberally defined by the Draft Ordinance) must be at least 1,000 feet from existing towers unless the cumulative visual/aesthetic impact is less than significant and existing towers are not collocation-eligible. The phrase "less than significant" is too vague, and it leaves unfettered discretion to the County to make unreasonable aesthetic judgments. Where the aesthetic impact is viewed as significant and collocation cannot close the subject service coverage gap, this provision would effectively prohibit new sites under circumstances where gaps in service coverage could not be filled consistent with the 1,000-foot limitation. As discussed earlier, this section also risks prohibiting lower-profile facilities and would be preempted by federal law to the extent it restricts certain technologies and certain modes of operation. The County should not apply a bright-line 1,000-foot limitation to all facilities, and should provide an exception for stealthy and limitation smaller or low profile facilities.

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Section 88-24.410(d)

This section of the Draft Ordinance requires maintenance of landscaping at a facility site, but does not specify who is responsible for it. The requirement should not apply to collocators on an existing facility site absent agreement among the owner and collocating entities.

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Section 88-24.410(h)

This section of the Draft Ordinance, requires a new EMF report every three years, which must include "to the extent ascertainable, the anticipated increase in emissions associated with future collocation." This requirement is not appropriate because AT&T cannot predict the timing and extent of collocations by other service providers, nor can AT&T predict their likely emissions. While the County has limited this requirement "to the extent ascertainable," this section is superfluous as AT&T can never predict future emissions of unknown future collocators.

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Section 88-24.604(a)(2)

This section of the Draft Ordinance requires the applicant to describe "the maximum number of antennas to be located or collocated at the facility." An applicant cannot know the maximum number of antennas that will be located or collocated at the facility because the applicant cannot predict collocations, or the number of antennas of potential future collocators, which may be dependent on the size of antennas and technologies deployed by other service providers in the future.

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This section also requires the applicant to "establish that the technology being utilized at the facility will meet Telecommunications Industry Association standards, and must include a copy of all applicable standards." The Telecommunications Industry Association is a membership organization, and does not make all of its standards freely available. It would be unfair to require AT&T to meet standards of a particular trade association that are not generally available. Moreover, to the extent the County seeks to use these standards to regulate technical or operational aspects of the provision of personal wireless services, this requirement is preempted by federal law.

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Section 88-24.604(a)(3)

This section of the Draft Ordinance requires an applicant to establish that the design of a proposed facility uses the "best available technology" to minimize visual impacts. This provision also requires an applicant to pay an engineer selected by the County Zoning Administrator, at the Zoning Administrator's option, to verify use of best available technology as a condition to finding the application complete. This issue is better suited to design review, and should not be used as a way for the County to deem an application incomplete. Additionally, federal law prevents the County from preferring certain wireless technologies over others.

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Section 88-24.604(c)(2)

This section of the Draft Ordinance requires an environmental report or statement for collocation permits, but this should not be required for applications for permits to construct a wireless telecommunications facility, which are exempt from CEQA.

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Section 88-24.0606(a)

This section of the Draft Ordinance provides that "the zoning administrator will determine the cost to remove the facility and restore the facility site," which will be the basis for the required financial assurance. The County should not require financial assurance for removal of a facility. Further should the zoning administrator calculate the amount because, under 88-24.604(a)(9), the applicant already is required to determine that amount.

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Section 88-24.608(a)

This section of the Draft Ordinance provides that the zoning administrator will notify the applicant that the application is complete or incomplete, but this section does not provide by when or how the zoning administrator must provide that notice. Any notice should be made in writing. And any notice that an application is incomplete must be made as soon as possible, and in any event within 30 days after the application is filed. The FCC's Shot Clock Order makes clear that a notice that an application is timely only if it is provided within the first 30 days from when the application is filed. The same comments apply to Section 88-24.610(a).

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Section 88-24.608(b)

This section of the Draft Ordinance provides for administrative approval of a collocation permit, but subsection (b)(2) requires an environmental report or statement as a condition for approval. This should not be a condition for approval because applications for permits to construct a wireless telecommunications facility are exempt from CEQA. For the same reason, subsections (b)(3) and (4) should be eliminated because they refer to unnecessary environmental findings.

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Section 88-24.610(b)

This section of the Draft Ordinance provides for discretionary approval of a land use permit, but subsections (b)(3) and (4) should be eliminated because they refer to unnecessary environmental findings.

Section 88-24.610(d)

This section of the Draft Ordinance seeks to regulate the basis and timing for bringing a lawsuit in federal court under Telecommunications Act of 1996. This is unnecessary and is preempted by federal law. Although there is no reason to include this provision, the most that the County should state here is that the process is subject to federal law. Any effort to summarize federal legal requirements runs the risk that if those federal requirements are amended, this section would be unlawful. This section also requires exhaustion of administrative remedies including "appeals to each division of the planning agency." Depending on the timing for various appeals, the County may be unable to take action within the time period required by the federal statute, 47 U.S.C. § 332(c)(7)(B)(ii), and the FCC's Shot Clock Order. If multiple administrative appeals are required, which is not at all clear from the Draft Ordinance, they all must be completed within the applicable shot clock deadline, and it is the County's responsibility to meet the shot clock deadline.

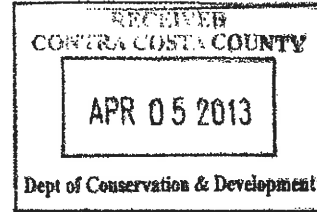
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We look forward to participating in additional dialogue with the County on this matter and appreciate the County's efforts on this important issue.

Very truly yours,

/s/ John di Bene

John di Bene



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April 5, 2013

VIA EMAIL

Telma Moreira
Principal Planner
Department of Conservation and Development
Community Development Division
Contra Costa County
30 Muir Road
Martinez, California 94553

Re: Comments to Proposed Wireless Facility Ordinance
County File #ZT13-0001

Dear Telma:

We write to you on behalf of our client Verizon Wireless to provide you with preliminary comments on the draft wireless telecommunication facilities ordinance (the "Draft Ordinance") issued by Contra Costa County (the "County") on March 12, 2013. In general, we find the Draft Ordinance to have been thoughtfully drafted and we are certain that it took substantial effort to prepare.

Given this effort to date, we hope that it is not too late for you to step back and ask whether a new wireless ordinance is necessary to better regulate installation of wireless communication facilities in Contra Costa County. In our experience, the County has been diligent in its ongoing regulation of wireless telecommunication facility installation, maintenance and compliance. While certain modifications of state and federal law have occurred since the County's 1998 Telecommunication Policy (the "Policy"), we believe simple changes to that Policy can accommodate these changes in law without a wholesale change of the regulation of wireless facilities in the County. We also believe that guidelines provide the flexibility for policy changes that reflect changes in technology and changes in law in a manner that avoids the rigidity of an ordinance. In sum, we recommend that you propose policy changes and avoid adoption of a wireless ordinance that will limit future flexibility for rapidly changing technology.

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In addition to our general concern regarding the adoption of a new wireless ordinance, we have identified three major failings with respect to the proposed Draft Ordinance, which are described in more detail in this letter. First, we are concerned that the Draft Ordinance does not make a distinction between right-of-way facilities and facilities on public and private property. As you know, right-of-way facilities are controlled by California Public Utilities Code §7901, which grants telephone corporations such as Verizon Wireless a statewide franchise for the placement of telephone equipment in the right-of-way and which does not apply to other public and

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Telma Moreira
Contra Costa County
April 5, 2013

Page 2 of 9

private parcels. The rights of telephone corporations to use the right-of-way are not adequately reflected in the Draft Ordinance. 2

Second, the Draft Ordinance overly restricts the approval of collocations in a manner that violates recently adopted Section 6409 of the *Middle Class Tax Relief and Job Creation Act of 2012* codified as 47 U.S.C. §1455 and will likely discourage collocation as a preferred means for developing wireless facilities. Under 47 U.S.C. §1455 and under the recent Public Notice regarding 47 U.S.C. §1455 (the "FCC Public Notice")¹ issued by the Federal Communications Commission ("FCC"), it is clear that most collocations shall be approved by local jurisdictions administratively. As a result, the narrow definition of collocation facility provided in Government Code §65850.6 must be avoided as a prerequisite to collocation. The requirement under Government Code §65850.6 that the final build-out of a wireless facility with all potential future collocators must be initially permitted and reviewed under a California Environmental Quality Act ("CEQA") environmental document at the time of the initial application for the facility simply violates the federal requirement that most collocations shall be approved administratively. Indeed, these Government Code requirements for collocation have proven to be entirely infeasible and to our knowledge have never been successfully implemented in any California jurisdiction. Requirements to define and review the capacity of a wireless facility through the initial application and approval as a prerequisite to future collocation must be deleted from the Draft Ordinance. 3

Finally, we do not believe the Draft Ordinance adequately reflects the spirit and intent of 47 U.S.C. §1455. Specifically, the definition of substantial modification under the Draft Ordinance must be expanded to include, for example, modifications which may increase the height of a wireless facility and to otherwise more closely follow the accepted definition of "substantially change the physical dimensions" as interpreted by the FCC Public Notice. 4

Our specific comments to the Draft Ordinance are as follows:

§88-24.204 - Definitions

(d) Camouflage

For consistency, we would add landscaping to the list of available screening for camouflage. 5

(e) Collocation

If the County truly seeks to encourage collocation of wireless facilities, it should retain the definition of collocation found in the Policy² and avoid the narrowly-drafted definition of collocation facility found in Government Code §65850.6. The Policy definition of collocation is consistent with the definition of collocation found in the 6

¹ See Public Notice, *Wireless Telecommunication Bureau Offers Guidance On Interpretation Of Section 6409(A) Of The Middle Class Tax Relief And Job Creation Act Of 2012* (DA 12-2047), January 25, 2013.

² Section III(F) of the Policy reads: "Co-location' means the location of two or more wireless communications facilities on a single support structure, or otherwise sharing a common location. Co-location shall also include the location of wireless communications facilities with other utility facilities and structures such as, but not limited to, water tanks, transmission towers and light standards."

Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (the "Nationwide Collocation Agreement") while the Government Code definition of collocation is not.

It is no secret that California cities and counties successfully pressed to narrowly constrict the scope of Government Code §65850.6 by requiring that any "collocation facility" be approved through a negative declaration or an environmental impact report. In California, nearly all wireless facilities are approved with a categorical exemption under CEQA. As a result, there have been a scant few "collocation facilities" approved under the restrictions of this Government Code section. Accordingly, if the County seeks to encourage collocation in Contra Costa County, the Government Code definition of "collocation facility" should not be used.

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(f) Collocation-eligible facility

Any wireless communications facility should be eligible for collocation regardless of whether it is in a zoning district where it is or was a permitted use, or whether a use permit has been obtained to approve a wireless communications facility. Any issues of impacts arising from collocation should be addressed with respect to the proposed collocation and prior discretionary use review should be irrelevant.

(m) High-visibility facility

We question the value of this open-ended broad definition. It does not logically follow that any facility that is not low-visibility must be high-visibility.

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(ab) Substantial modification

Based upon the use of this defined term throughout the Draft Ordinance, e.g., in §88-24.206(c) describing modifications that would be exempt from permitting requirements, the County must adopt the definitions of "substantial" change to a wireless telecommunication facility that have recently been applied by the FCC in its interpretation of 47 U.S.C. §1455. The FCC Public Notice released earlier this year sets forth a four-part definition of "substantially change" derived from the Nationwide Collocation Agreement. In turn, the County's proposed definition of "substantial modification" is unclear and likely unenforceable.

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As noted above, the needed "capacity" for a wireless facility cannot be accurately predicted and this measure must be deleted in defining "substantial modification". Limitation on increases in height and antennas are overly restrictive. Finally, the County may not regulate based upon technology and, for example, could not require additional permitting simply because Verizon Wireless had obtained licenses for additional spectrum from the FCC.³

§88-24.206 – Applicability

(a) Application

³ See *New York SMSA v. Town of Clarkstown*, 612 F.3d 97 (2d Cir. 2010) ("*Clarkstown*").

This provision should be revised to clarify that it does not apply to the public right-of-way. The Draft Ordinance, as proposed, cannot apply to the public right-of-way without violating California Public Utilities Code §7901 as set forth above. If the Draft Ordinance were read to apply to the right-of-way, then utility-mounted facilities would likely be banned altogether in certain zones. For example, placement of antennas on an existing utility pole in the right-of-way would likely qualify as a high-visibility facility under the Draft Ordinance that would be prohibited in or within 100 feet of all residential zones.⁴ Such a prohibition of wireless service in the right-of-way would violate the statewide franchise granted to Verizon Wireless as a telephone corporation under California Public Utilities Code §7901.

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(c) Exemptions

As noted above, in order to avoid conflict with federal law, the definition of "substantial modification" must be revised to comply with the FCC Public Notice for the exemptions listed in this section. In addition, the reference to "authorized capacity" in Subsection (9) should be deleted. To be consistent with definitions under the Draft Ordinance, this exception should apply to any modification or collocation that is not a "substantial modification" of the existing wireless telecommunication facility. Finally, we recommend that two further exemptions be added. First, to accommodate the provisions of 47 U.S.C. §1455, an exemption must be added that provides for collocation of new transmission equipment on existing wireless telecommunication facilities that do not substantially change the physical dimensions of the facility. Second, to accommodate the current urgent need of wireless providers to expand data capacity and to encourage the installation of aesthetically-preferred "small cells", we highly recommend that the County include an exemption for "small cell facilities installed on existing structures that do not exceed fifteen cubic feet in total capacity."

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§88-24.402 - Location Requirements

(d) Avoiding scenic ridges

We believe the phrase "with or without" to be ambiguous. We recommend substituting the phrase "taking into account".

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(f) High-visibility facilities

Aesthetic considerations of the zoning administrator under this provision must take into account the radiofrequency propagation requirements of the proposed facility. We recommend adding the end of this provision, "taking into account the radiofrequency propagation requirements for the wireless telecommunication facility."

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(g) Facilities on County property

We note this is the only reference to the right-of-way in the entire ordinance, reflecting the need to exclude public right-of-way from the Draft Ordinance.

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⁴ We note that if this Draft Ordinance were to apply to the right-of-way, it would conflict with Ordinance Code Title 10, Division 1002 regarding encroachments in the right-of-way.

§88-24.410 – Building Standards, Maintenance and Operational Requirements

(h) Emissions report

Compliance reporting every three years is burdensome and unnecessary. Wireless telecommunication facilities operate at a fraction of the FCC guideline limits and very rarely approach maximum permissible exposure levels. RF exposure calculations are already required for any substantial modification of a wireless telecommunication facility. Further, this requirement does not acknowledge the collocation of facilities and would lead to multiple and duplicative evaluations by multiple permittees on a given wireless telecommunication facility. We propose a compromise, used in other jurisdictions, under which the tower operator for collocated facilities and the wireless provider for non-collocated facilities certify that all of the wireless facilities located in that jurisdiction are in compliance with applicable codes, conditions of approval, and licenses. Any three year reporting requirement should only begin after the commencement of operations or final inspection of the wireless telecommunication facility and, where appropriate, should allow for consolidation of multiple facilities in one report on a three-year schedule.

§88-24.604 – Application Requirements for All Permits

As a general matter, submittal requirements must be based on the findings that are required for approval of a wireless telecommunication facility. Submittals that are not relevant to required findings cannot be required and must be deleted. Regulation of frequencies and technology used by a wireless service providers is beyond the authority of the County and cannot be required. As noted above, notwithstanding Government Code §65850.6, wireless telecommunication facilities are never proposed or permitted based upon maximum future capacity, which is entirely unpredictable and therefore considered unpermissible.

(a) Application requirements for permits under this chapter

(2) Description of facility or substantial modification

As noted above, it is impossible for wireless providers to predict the potential maximum capacity of a wireless facility and even more difficult to get such a potential "maximum" capacity facility permitted by the County. Descriptions of the "proposed physical capacity" and the "maximum number of antennas to be located or collocated" should be deleted from the application requirements and applicants should be allowed to apply for the number of antennas they believe are reasonably required for the facility. Provision for future collocation must be balanced based upon need and potential adverse impacts on a case-by-case basis. We are unaware of any legal authority that will allow the County to impose or to regulate Telecommunications Industry Association standards. References to the Telecommunications Industry Association standards should be deleted.

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Any effort by the county to regulate wireless technology in this way is preempted by federal law.⁵

(3) Best available technology

Requirements regarding "best available technology" and third-party review related to best available technology must be deleted. The technology used by wireless providers is fully regulated by the FCC and any effort of the County to regulate technology is fully preempted by federal law. Ordinances that have attempted to regulate wireless facilities based on technology have been invalidated by federal courts.⁶

(6) Geographic service area

An applicant's County-wide network is irrelevant to a specific wireless telecommunication facility application. At most, the County may request information regarding an applicant's facilities providing service to the areas surrounding the proposed wireless telecommunication facility. In keeping with our comments above regarding the public right-of-way and California Public Utilities Code §790I, application materials such as coverage maps are generally inapplicable for facilities proposed in the public right-of-way. As noted, we believe the Draft Ordinance is not intended to regulate wireless telecommunication facilities in the right-of-way in Contra Costa County.

(8) Electromagnetic emission information

The County's limited role with respect to radiofrequency emissions, if any, would be to confirm that a proposed facility will comply with FCC guidelines, and in particular FCC OET Bulletin 65. Any additional requirements, including speculative collocation calculations or references to other standards, are preempted and over-reaching,

(c) Applications for collocation permits

As noted above, 47 U.S.C. §1455 preempts Government Code §65850.6 to the extent the state law preempts administrative approval of collocations. Accordingly, application requirements that impose the prerequisites for an eligible "collocation facility" under Government Code §65850.6 should be deleted. Requirements for a collocation permit should track those of an "eligible facility request" under 47 U.S.C. §1455 and should be granted where the collocation will not substantially change the physical dimensions of the wireless telecommunication facility.

§88-24.606 – Financial Assurance Required for All Permits

(a) Financial assurance required

⁵ See *Clarkstown, supra*.
⁶ See *Clarkstown, supra*.

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The zoning administrator's determination of the cost of removal and restoration of a wireless telecommunication facility must be reasonably based on the estimate provided under §88-24.604(a)(9) of the Draft Ordinance.

- (c) Form of financial assurance
- (4) Escrow account

We note that Government Code §65964(a) specifically prohibits local jurisdictions from requiring escrow accounts for removal of wireless telecommunication facilities and allows for a "performance bond or other surety or another form of security". We recommend adding a phrase to this requirement allowing "other forms of security permitted under state law".

§88-24.608 – Ministerial Approval of Application for Collocation Permit

- (a) Notice of complete application

Under *In Re: Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, Etc.*, FCC 09-99 (FCC November 18, 2009) (the "Shot Clock Ruling"), the County is allowed the first 30 days following the date of application to advise an applicant of items necessary for the application to be complete. The deadlines under the Shot Clock Ruling are stayed only for that period of time following such a request and until applicant submits the requested materials. This provision should be revised accordingly.

- (b) Issuance of collocation permit

In keeping with our comments regarding collocation above, the required findings for a collocation permit must comply with 47 U.S.C. §1455. Any requested collocation that is an eligible facilities request under this federal law "shall" be approved. While the County may wish to accommodate any "collocation facility" that has been approved under Government Code 65850.6, we would first inquire whether any such facility has been approved in the County since that state law was enacted in 2007. Otherwise, collocation approval requirements based on this state law are likely unnecessary.

§88-24.610 – Discretionary Approval of Application for Land Use Permit

- (a) Notice of complete application

Refer to our comments regarding completeness under §88-24.608(a).

- (b) Discretionary approval of application and issuance of land use permit

- (2) Finding of compliance with County code or federal law

While we appreciate the recognition of the limitations imposed by federal law over local jurisdictions' decisions on the siting of wireless facilities, we prefer a reference

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to all federal law limitations rather than the recent federal court interpretations of one such limitation that evaluates "significant gap" and "least intrusive means". We would replace Subsection (B) with a general reference to federal preemption using language such as "Federal law requires approval of the facility or substantial modification."

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(7) Payment of fees and costs

As referenced in our comments to §88-24.604(a)(3), any County regulation of wireless technology is preempted and references to the "best available technology to minimize visual impacts" must be deleted.

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§88-24.612 – Permit Duration, Modification, Suspension, Revocation and Renewal

(c) Permit renewal

(4) Approval of renewal request

This renewal provision fails to acknowledge that the Draft Ordinance may place certain existing wireless telecommunication facilities into non-compliance. This provision should be revised to provide for the renewal of legal non-conforming facilities for a period of at least 10 years following the date of adoption of the Draft Ordinance.

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§88-24.614 – Discontinuation of Facility Use and Facility Abandonment

(b) Facility abandonment

(1) Notice of abandonment

Our experience is that County notices regarding wireless telecommunication facilities are frequently misdirected. This is due both to the changing nature of the wireless telecommunication industry and inaccurate records. To lessen the possibility of costly miscommunications, we recommend a 30-day noticing period for presumed abandoned facilities.

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(2) Removal and restoration

From our experience, removal of wireless facilities may require multiple County permits related to demolition, street closures and disposal of reclamation of materials. We recommend a 60-day removal and restoration period.

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Conclusion

We thank you for the opportunity to comment on the Draft Ordinance but must reiterate that the current Policy has effectively guided the placement of wireless telecommunication facilities in Contra Costa County for the last 15 years and should not be discarded lightly. In our opinion, recent changes to federal law do not justify a wholesale redrafting of wireless policies for Contra Costa County. The perils of adopting

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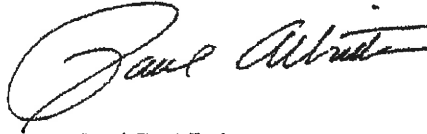
Telma Moreira
Contra Costa County
April 5, 2013

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a wireless ordinance are evident in the specifics set forth in the Draft Ordinance which are likely to be outdated within a few years. We again encourage amendment to the current Policy which allows flexibility in siting wireless facilities with changing technology in coming years. If the Draft Ordinance is pursued, we ask that you carefully consider the required revisions set forth in the above letter.

25

Very truly yours,

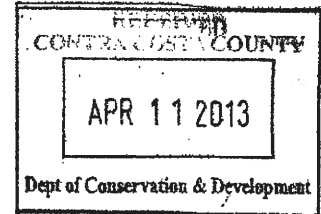


Paul B. Albritton

cc: County Counsel
Verizon Wireless

Telma Moreira

From: Jim and Marilynne Mellander <mellander@comcast.net>
Sent: Thursday, April 11, 2013 11:23 AM
To: Telma Moreira
Cc: mellander@comcast.net
Subject: Comment Wireless Facility Ordinance File #ZT13-0001



ZT13-0001

Ms. Moreira,

I am OPPOSED to any countywide wireless communication ordinance permitting wireless communication facilities.

| ①

There is abundant evidence that the radio frequency (RF) emissions cause great harm to the surrounding areas.

Each time one of these carriers want to install one of these facilities the ample public notification should be given and the public should be permitted to give their opinion.

| ②

I am OPPOSED to any new wireless facilities ANYWHERE in unincorporated Contra Costa County. There is no need for more electro smog polluting our atmosphere.

| ③

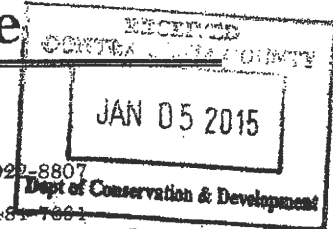
Sincerely,
Marilynne L. Mellander
510-223-0443
El Sobrante

Paul R. O'Boyle

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January 2, 2015

Mr. Stanley Muraoka
Contra Costa County
Conservation and Development Department
30 Muir Road
Martinez, CA 94553

RE: Contra Costa County Code – Chapter 88-24
Regulation of Wireless Telecommunication Facilities
Comments on Draft Ordinance

Dear Mr. Muraoka,

As outside counsel for Crown Castle NG West LLC ("Crown"), I want to thank the County of Contra Costa ("County") for allowing Crown to participate in the process of rewriting of the County's Wireless Telecommunication Facilities Ordinance ("Ordinance"). Crown is hopeful that this letter will provide the County with information and insight on newer technologies, such as Distributed Antenna Systems ("DAS"), that facilitate improved wireless coverage and capacity solutions without creating the same level of impacts to the community as traditional "macro" wireless cell sites.

Crown is a Competitive Local Exchange Carrier ("CLEC") in the State of California providing regulated telecommunications services under Certificate of Public Convenience and Necessity ("CPCN") #U-6741-C. Crown is not a wireless service provider, nor does it provide wireless services to the general public. Instead, Crown is a telephone utility that provides DAS coverage and capacity solutions primarily to wireless carriers such as Verizon, AT&T and Sprint to name but a few. As a state mandated utility, Crown has expressed rights to access the public right-of-way ("ROW") in order to install its network and to provide regulated services.

Therefore, Crown's primary areas of concern are, How does the Ordinance:

- 1) treat small cells, such as less intrusive equipment like DAS in the ROW; and,
- 2) apply to other entities that use and occupy the ROW, consistent with Public Utilities Code Section 7901 and recent case law.

①

②

Below are specific comments on the Draft Ordinance:

Section 88-24.202 Purpose. A Paragraph should be added acknowledging the critical and beneficial role wireless communications plays in our society. Whether for business, recreation or health and safety, wireless infrastructure is needed and wanted.

The need for reliable cellular and mobile internet connectivity has never been higher. Not only are smartphone and tablet devices now ubiquitous, with social networking becoming commonplace, but even the FCC has recognized the usefulness of a reliable cellular signal for emergency purposes.

"The number of 911 calls placed by people using wireless phones has significantly increased in recent years. It is estimated that about 70 percent of 911 calls are placed from wireless phones, and that percentage is growing. For many Americans, the ability to call 911 for help in an emergency is one of the main reasons they own a wireless phone. Other wireless 911 calls come from "Good Samaritans" reporting traffic accidents, crimes or other emergencies. The prompt delivery of wireless 911 calls to public safety organizations benefits the public by promoting safety of life and property." www.fcc.gov/guides/wireless-911-services

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The purpose of the Ordinance should be to allow for the orderly deployment of wireless infrastructure, while balancing the community's desire to minimize potentially negative impacts of WTFs.

Section 88-24.204 Definitions

Section 88-24.204(d) Camouflage should stress blending in with the surrounding environment which includes natural as well as man-made, built and developed features.

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Section 88-24.204(f) Collocation requires a "use permit". The permit regime required for various permit types (collocation, right-of-way sites, etc.) should be clearly articulated, preferably in a table and/or matrix.

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Section 88-24.204(g) Why is an underground vault considered an "equipment enclosure"?

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Section 88-24.204(h) Façade-mounted antenna includes mounting to buildings and other structures. It is unclear whether pole-mounted antennas would be covered by this definition or by ground-mounted antennas as defined in Section 88-24-204(k). Pole-mounted antennas, especially in the public right-of-way, should have its own definition and approval process.

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Section 88-24.204(i) Facility site refers to a lot upon which a wireless telecommunication facility is located. A provision or definition should be added that addresses wireless telecommunication facilities in the public right-of-way.

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Section 88-24.204(o)(1) A low visibility facility means any wireless facility < 10-feet above the ground including ground-mounted antenna, monopoles, lattices tower, etc. Wireless telecommunication facilities, especially those located in the public right-of-way, because of line-of-sight technology and health and safety issues usually require at least 10-feet in height clearance from the surrounding area. Consequently, virtually all wireless telecommunication facilities located in the public right-of-way will be considered high visibility facilities and subject to higher scrutiny. A more nuanced approach is needed.

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Section 88-24.204(p) Language should be added stating that right-of-way facilities mounted to existing pole infrastructure are not considered monopoles but ground-mounted facilities or collocations.

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Section 88-24.204(r) Non-urban area includes Public and Semi-Public as well as Park and Recreation areas. The public right-of-way in these zoning districts, as well as in all zoning districts, should be acknowledged as having unique qualities and thus have specific rules and regulations. Not to do so would effectively prohibit the deployment of wireless telecommunication facilities in the public right-of-way, which directly contravenes federal and state law.

11

Section 88-24.204(u) Reflectivity – This term should be struck. Radio frequency “energy” emissions are the purview of the federal government and local agencies are pre-empted. Inclusion of this term is misleading and confusing.

12

Section 88-24.204(ab)(1) Why should the increase in the physical capacity of an antenna support structure trigger a substantial modification if the physical appearance (dimensions) of the structure is not altered? The County is limited to regulating the aesthetics of wireless telecommunication facilities. The County should adopt FCC guidelines which call out increases of more 10% as being classified as substantial.

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Section 88-24.204(ab)(3) Increases in height. The County should adopt FCC guidelines which call out increases of more 10% as being classified as substantial.

Section 88-24.204(ac) The definition of Tower should explicitly exclude ground-mounted antennas attached to utility poles, street lights or traffic signals.

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Section 88-24.206(c)(3) Why should a receiving microwave dish be exempt, while a transmitting microwave dish is not? The County is limited to regulating the aesthetics of wireless telecommunication facilities. Why is the County making a distinction between receiving and transmitting?

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Section 88-24.402(b)(1) and (b)(2) The County's proposed 100-foot setback requirement for high visibility facilities and towers from residential uses, mobile/manufactured home parks, the Kensington district and residential lots within a planned zoning district would effectively prohibit the deployment of wireless telecommunication facilities within the public right-of-way in those areas. A more nuanced approach is needed. Similarly situated counties in California, such as Ventura County, have created a small cell exception whereby wireless telecommunication facilities of a certain size and dimension in the public right-of-way undergo a ministerial review and approval process.

Section 88-24.402(f) This Section should be modified to read that no high visibility facility shall be located on a lot between the face of a building and the right-of-way. The public right-of-way is its own distinct land use and should therefore have specific regulations that apply to its unique status.

Section 88-24.402(g) As noted throughout this comment letter, the public right-of-way is a distinct and unique land use. The County should pursue a more nuanced approach to regulating wireless telecommunication facilities in the public right-of-way. A small cell exception should be included. Other California counties, such as Ventura County, have revised their wireless telecommunication facility ordinances with wide spread support of the wireless industry and community alike. The County should seek out these existing ordinances as templates.

Section 88-24.404(c) Whether a facility is visible against the skyline is completely based on the vantage point of the observer. The Ordinance should simply state that a wireless telecommunication facility should be painted to blend into the surrounding environment. The appropriate color will be determined by the Zoning Administrator, unless a specific color is required under federal or state regulations. References to reflectivity should be struck as it is confusing and misleading as it could be construed that the County is attempting to regulate RF emissions which is beyond its purview.

Section 88-24.404(2) The requirement that high visibility facilities / ground mounted antennas must be walled or fenced should not be applicable to facilities located within the public right-of-way.

Section 88-24.410(h) An RF emissions report should only be required if there is a modification or expansion to a facility, OR, at the discretion of the Zoning Administrator. These reports can cost thousands of dollars and rarely, if ever, identify changes in emissions.

Section 88-24.602 (b) Wireless telecommunication facilities that attach to existing infrastructure in the right-of-way, such as utility poles and street lights, should be considered collocations. Telecommunication facilities, wireless or otherwise, have existed in the public right-of-way for more than a hundred years. The addition of new

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telecom equipment into the right-of-way should not trigger a permit process unless applied equally and in a non-discriminatory manner to all users of the right-of-way.

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Section 88-24.604(3) Best available technology. The opinion of a third party consultant is just that, an opinion. It would be hubris of the County or its consultant to make assertions as to the most appropriate technology for a wireless provider. Aesthetics are but one criteria used by a wireless providers in determining the appropriate technology to use. The County would be better served by defining a small cell exception whereby a ministerial review process would apply. In doing so, the County would encourage wireless providers to use smaller equipment if the provider wishes to avail itself to more favorable zoning treatment.

21

Section 88-24.604(5)(A) Given that telecommunication sites in the right-of-way are often used to cover small areas often only a couple hundred feet in diameter, such as major intersections, or to enhance capacity, it makes little sense to require contour mapping within 1 mile of a proposed facility. This requirement should only be required if a proposed facility was intended to cover larger areas. Section 88-24.604(5) (B) requirement of mapping existing features within 150-feet of a wireless facility is reasonable.

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Section 88-24.604(6) The second sentence should be struck. What is the purpose of having an applicant show all wireless facilities and the corresponding coverage areas in the County? If the other sites have a pertinent and substantial bearing on a proposed wireless facility then it is appropriate to have that information. Otherwise, it is best that the County not create needless submittal requirements.

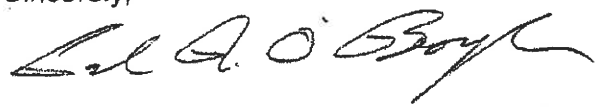
23

Section 88-24.608 Right-of-way wireless facilities that meet a County defined "small cell" definition should qualify for ministerial review. The County should avail itself to recently approved wireless telecommunication facility ordinances, such as Ventura County, that steer wireless providers to deploy smaller equipment by offering a streamlined permitting process.

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If you have any questions or need additional information regarding these comments, please do not hesitate to contact me. Thank you again for the opportunity to comment, we look forward to working with the County on a new and improved Ordinance.

Sincerely,



Paul R. O'Boyle