

Ordinance No. 2016-11

Wireless Telecommunication Facilities

A proposed amendment to the County Ordinance Code to include procedures, conditions, and requirements for establishing and locating wireless telecommunication facilities within unincorporated areas of Contra Costa County.

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ORDINANCE NO. 2016-11

(WIRELESS TELECOMMUNICATION FACILITIES)

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance establishes procedures, conditions, and requirements for establishing and locating wireless telecommunication facilities within Contra Costa County.

SECTION II. Chapter 88-24 is added to the County Ordinance Code to read:

**Chapter 88-24
WIRELESS TELECOMMUNICATION FACILITIES**

Article 88-24.2. General Provisions.

88-24.202. Purpose.

- (a) The purpose of this chapter is to establish criteria for the location and design of wireless telecommunication facilities in Contra Costa County, consistent with state and federal requirements. This chapter is intended to advance and promote the following goals:
 - (1) Enable wireless telecommunication service providers to provide high quality wireless communications service infrastructure to serve the current and future needs of the County's residents, businesses, and local governments.
 - (2) Avoid adverse visual and aesthetic impacts of wireless telecommunication facilities by regulating the location and design of the facilities in a manner that is consistent with state and federal laws and regulations, including the 1996 Federal Telecommunications Act and the regulations promulgated under that act.
 - (3) Protect and enhance the public health, safety, and welfare of County residents.
 - (4) Encourage collocation of wireless telecommunication facilities whenever feasible.
- (b) This chapter establishes requirements that apply to wireless telecommunications facilities consistent with the limitations imposed on the County under State and Federal law. Under Federal law, the County may not regulate the type of technology used on a wireless telecommunications facility, regulate any facility not located on County-owned property based on radio-frequency emissions emitted by the facility, discriminate between providers of wireless telecommunication services, or prohibit the provision of personal wireless service. Federal law requires the County to allow minor alterations to facilities. Under State law, if an existing facility was approved under a discretionary land use permit following environmental review, the County must allow new facilities to collocate on the existing facility. State law authorizes the County to impose reasonable time, place, and manner restrictions on facilities located within the County's rights of way. (Ord. 2016-11 § 2.)

88-24.204. Definitions.

For purposes of this chapter, the following words and phrases have the following meanings:

- (a) “Ancillary equipment” means all cables, conduits, connectors, and other equipment that powers or supports a facility or antenna, and does not directly receive or transmit wireless signals or data. Ancillary equipment does not include an antenna support structure.
- (b) “Antenna” means any panel, rod, wire, drum, reflecting disc, dish, or similar device used to transmit or receive radio frequency signals or electromagnetic signals. Antenna does not include an antenna support structure.
- (c) “Antenna support structure” means a structure on which one or more antennas may be mounted.
- (d) “Camouflage” means to reduce the visibility of a facility, when viewed in relation to its surrounding environment, by means of screening, concealment, or other action taken to reduce the facility’s visibility within the surrounding environment. Camouflage also means the use of features similar to natural environmental features found in the immediate area surrounding the facility, such as trees and landscaping.
- (e) “Collocate” or “collocation” means the mounting or installation of transmission equipment on a facility for the purpose of transmitting or receiving radio frequency signals for communications purposes.
- (f) “Collocation-eligible facility” means a facility that is designed and constructed to accommodate future collocation, and for which a land use permit has been issued under this chapter, in accordance with Government Code section 65850.6, subdivision (b).
- (g) “County right-of-way” means the areas in, under, above, and adjacent to County roads, highways, and waterways that the County may regulate pursuant to Public Utilities Code section 7901.1.
- (h) “Equipment enclosure” means any cabinet, shelter, structure, or vault that is used to enclose and secure ancillary equipment.
- (i) “Façade-mounted antenna” means an antenna, including any mounting hardware, that is designed to be mounted on the exterior lateral face of a building or other structure.
- (j) “Facility site” means the lot on which a facility is located.
- (k) “Final day of use” means the last day of facility operation, or the last day a permit issued under this chapter is valid, whichever is sooner.
- (l) “Ground-mounted antenna” means an antenna that is anchored directly to the ground or to an in-ground foundation.

- (m) “Guyed tower” means an antenna support structure that is supported, in whole or in part, by guy wires and ground anchors.
- (n) “High-visibility facility” means any tower, antenna, or facility that is not a low visibility facility.
- (o) “Lattice tower” means an antenna support structure that is freestanding, three- or four-sided, with a trussed steel frame.
- (p) “Low-visibility facility” means any of the following:
 - (1) A facility that does not exceed 10 feet in height above ground level and is a ground-mounted antenna, an antenna support structure with antennas, a monopole, a lattice tower, or a guyed tower.
 - (2) A roof-mounted antenna, or an antenna support structure with antennas, that does not exceed 10 feet above the maximum height for the zoning district in which it is located, or 10 feet above the surface of the roof on which it is located, whichever is less.
 - (3) A façade-mounted antenna that does not extend more than 36 inches above the roofline of a building or structure.
 - (4) A facility or antenna installed on an existing high-voltage electricity transmission tower, or installed on an existing utility or street light pole.
 - (5) A stealth facility or stealth antenna.
 - (6) A distributed antenna system (DAS) facility.
 - (7) A minor alteration to an existing facility.
- (q) “Minor alteration” means a change to a facility that meets the definition of an “eligible facilities request” in Title 47, Code of Federal Regulations, section 1.40001.
- (r) “Monopole” means an antenna support structure that consists of a freestanding single pole constructed without guy wires.
- (s) “Mount Diablo area” means the geographic area within the Mt. Diablo State Park boundary at the time that a permit application or request for permit renewal is made.
- (t) “Non-urban area” means an area within any zoning district that is designated as “Agricultural Core (AC),” “Agricultural Lands (AL),” “Delta Recreation and Resources (DR),” “Public and Semi-Public (PS),” “Watershed (WS),” “Open Space (OS),” or “Parks and Recreation (PR),” in the Land Use Element of the County General Plan.
- (u) “Person” means a natural person, corporation, partnership, joint venture, limited liability company, sole proprietorship, or other entity of any kind.

- (v) “Reflectivity” means the measure of the amount of energy or light that is reflected from a surface, expressed as a percentage of energy or light directed toward that surface.
- (w) “Relocation” means removal of a facility from one facility site and placement of that facility on another facility site. Relocation does not include removal of a facility for the purpose of collocating the facility with a planned or existing collocation-eligible facility.
- (x) “Roof-mounted antenna” means an antenna, including any mounting hardware, that is affixed to the roof of a building or other structure.
- (y) “Scenic ridge” means an area within any zoning district that is identified as a scenic ridge in the Open Space Element of the County General Plan.
- (z) “Service network” means a service provider’s wireless telecommunications system located within the County.
- (aa) “Service provider” means a private sector entity that provides wireless telecommunication services, or provides support facilities to improve or enhance wireless service, or owns or operates a facility.
- (ab) “Stealth facility” or “stealth antenna” means a facility or antenna that is not immediately recognizable as a facility or antenna and concealed from view in one of the following ways:
 - (1) The antenna or facility is integrated, included, or incorporated within another physical feature.
 - (2) The antenna or facility is designed as a structure, improvement, or feature that is consistent with the surrounding environment in which it is located, such as a flag pole; an agricultural structure, such as a barn, silo, or windmill; an architectural feature, such as a chimney or parapet; an art piece; or a natural feature, such as a boulder.
- (ac) “Substantial change” has the same meaning as “substantial change” in Title 47, Code of Federal Regulations, section 1.40001.
- (ad) “Tower” means any ground-mounted antenna support structure, and includes a monopole, a lattice tower, and a guyed tower.
- (ae) “Transmission equipment” has the same meaning as “transmission equipment” in Title 47, Code of Federal Regulations, section 1.40001.
- (af) “Wireless” means through the airwaves, including, but not limited to, infrared line of sight, cellular, personal communication service (PCS), wireless internet (WiFi), pagers, enhanced specialized mobile radio service, microwave, satellite, radio, and television signals, and similar services that currently exist or that may be developed in the future.
- (ag) “Wireless telecommunication facility” or “facility” means a facility that transmits and/or receives wireless signals. The facility may include one or more antenna support structures, antennas, repeaters, radio transmitters, cables, ancillary equipment, equipment enclosures, air

vents, support structures, air conditioning units, fans, fire suppression systems, emergency back-up generators or other back-up power sources, parking area and other accessory development. (Ord. 2016-11 § 2.)

88-24.206. Applicability.

- (a) **Application.** Except as specified in this section, the requirements of this chapter apply to all of the following: a new facility, a relocated facility, a facility that is removed and replaced, a substantial change to a facility, a collocation on a collocation-eligible facility, and a minor alteration to a facility.
- (b) **Requirements cumulative.** The requirements of this chapter are in addition to any other applicable requirements of this code, and state and federal laws and regulations, that apply to the location, design, construction, installation, operation, and licensing of each facility.
- (c) **Exemptions.** The following facilities are exempt from this chapter:
 - (1) An antenna or facility that is expressly exempt from local regulation by any state or federal law or regulation, or by any permit issued by California Public Utilities Commission or Federal Communications Commission.
 - (2) A facility for non-commercial telecommunication purposes that:
 - (A) Is located on private property;
 - (B) Does not exceed the height limit for the zoning district in which it is located; and
 - (C) Is operated either as a part of the Amateur Radio Service under Title 47, Code of Federal Regulations, Part 97, or as part of a citizen's band radio system under Title 47, Code of Federal Regulations, Part 65, Subpart D.
 - (3) A microwave dish or satellite dish measuring 72 inches or less in diameter that receives but does not transmit radio or television wireless signals.
 - (4) A facility that is established temporarily and meets both of the following requirements:
 - (A) The facility is established during or after a community-wide emergency or natural disaster declared by any federal, state, or local official, or during or after an emergency as defined in Title 14, California Code of Regulations, section 15359.
 - (B) The facility is established for 60 days or less. Notwithstanding this 60-day limitation, the zoning administrator may authorize a temporary facility to remain established for so long as necessary to repair or reconstruct a facility that is damaged or destroyed as a result of an event specified in subsection (c)(4)(A) of this section.

- (5) A mobile or vehicle-mounted facility that is located at a single location for 72 hours or less, and is used by a public or private radio or television broadcasting company, cable service provider, journalist, or internet content provider, for news coverage, public information, or other similar purposes.
- (6) A facility owned or operated by one or more federal, state, or local government entities, including, but not limited to, any facility for a regional emergency communication system, and any facility for a 911 system.
- (7) A facility accessory to other publicly owned or operated equipment for data acquisition related to irrigation control, well monitoring, or traffic signal control.
- (8) A facility existing and operating under a land use permit or other discretionary approval issued prior to the enactment of this chapter may continue to exist and operate under the terms of that permit or approval. However, unless the previously-issued land use permit or other discretionary approval provides otherwise, the facility must comply with the applicable requirements of this chapter, as follows:
 - (A) If the previously permitted facility is substantially changed, a permit under this chapter must be obtained for the substantially-changed facility.
 - (B) If the previously permitted facility is removed and replaced with a new facility, a permit under this chapter must be obtained for the new facility.
 - (C) If the previously permitted facility is relocated, a permit under this chapter must be obtained for the relocated facility.
 - (D) If a new facility is collocated on the previously permitted facility, a permit under this chapter must be obtained for the new, collocated facility.
 - (E) If a minor alteration is made to the previously permitted facility, a minor alteration permit under this chapter must be obtained for the minor alteration.
 - (F) If the previously-issued land use permit or other discretionary approval expires and is not renewed before the discretionary approval expires, a permit under this chapter must be obtained for the facility. (Ord. 2016-11 § 2.)

Article 88-24.4. Facility Location, Design, and Operation.

88-24.402. Location of facilities in County right-of-way and County-owned property.

- (a) Facilities within a County right-of-way.
 - (1) A new facility may be located within a County right-of-way pursuant to Public Utilities Code section 7901 only under a wireless facility access permit issued by the County under this chapter. A facility located in a County right-of-way may be substantially changed only under a wireless facility access permit issued by the County under this chapter.

- (2) In addition to the requirements of this chapter, the requirements of Chapters 1002-4 and 1002-8 of this Code apply to the construction of, or substantial change to, a facility under a wireless facility access permit. If there is any conflict between the requirements of this chapter and the requirements of Chapters 1002-4 and 1002-8, the requirements of this chapter will govern. The remaining requirements of Division 1002 of this Code do not apply to a wireless facility access permit issued under this chapter.
- (b) County-owned property. An antenna or facility may be located on County-owned property, or on any County-owned facility, if the applicant satisfies both of the following requirements:
 - (1) The applicant must obtain a land use permit under this chapter. In addition to the information that must be submitted to obtain a land use permit under this chapter, the applicant must provide the County sufficient information to enable the County's Chief Information Officer to determine whether the applicant's antenna or facility will interfere with existing antennas or facilities located on the County-owned property or County-owned facility. A land use permit for a facility on County-owned property or a County-owned facility will include location, operation, and other requirements that the County's Chief Information Officer determines are necessary to prevent the applicant's antenna or facility from interfering with any other antennas or facilities on the County-owned property or the County-owned facility.
 - (2) The applicant must enter into a lease, license, or other agreement with the County. The County has sole discretion to determine whether to lease, license, or otherwise convey an interest in, any of its property or facilities, and the terms of any lease, license, or other agreement may be more restrictive than the requirements of this chapter. (Ord. 2016-11 § 2.)

88-24.404. Location requirements applicable within residential zoning districts. No new high-visibility facility or new tower may be established in, or within 300 feet of, any of the following:

- (a) 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.
- (b) A residential lot within a planned unit (P-1) zoning district. (Ord. 2016-11 § 2.)

88-24.406. Location requirements. Except as otherwise specified in Sections 88-24.402 and 88-24.404, the location requirements of this section apply to all facilities in all zoning districts:

- (a) Collocation encouraged. The collocation of facilities with existing or proposed collocation-eligible facilities is encouraged.
- (b) Proximity of towers. No new tower may be located within 1,000 feet of an existing tower, unless the zoning administrator finds both of the following:

- (1) The cumulative visual and aesthetic impacts of the tower will be less than significant with or without the incorporation of mitigation measures identified during the California Environmental Quality Act environmental review process for the tower.
 - (2) The existing tower is not a collocation-eligible facility, or collocation is not otherwise possible.
- (c) Avoiding impacts to ridges, scenic ridges, and peaks.
- (1) No facility may be located on a ridge or peak unless the facility is required to close a significant gap in coverage. The zoning administrator will determine whether the facility is required to close a significant gap in coverage based on information provided by the applicant in accordance with Section 88-24.604(f). If it is feasible to close the significant gap in coverage by collocating a new facility on an existing facility on or near the ridge or peak, the new facility must be collocated. If it is not feasible to close the significant gap in coverage by collocating a new facility on an existing facility on or near the ridge or peak, in its application for a permit under this chapter the applicant must explain why collocation is infeasible.
 - (2) Notwithstanding anything to the contrary in Section 88-24.406(c)(1), no facility may be located within 50 horizontal feet of any ridge or peak within the Mount Diablo area, or within 50 horizontal feet of any scenic ridge located in a non-urban area, unless the zoning administrator finds that the facility will not result in significant visual or aesthetic impacts with or without the incorporation of mitigation measures identified during the California Environmental Quality Act environmental review process for the facility. No facility may extend above the height of a ridge or peak within the Mount Diablo area, or above the height of a scenic ridge in a non-urban area, unless the zoning administrator determines that an extension of the facility above the ridge, peak, or scenic ridge will not result in significant visual or aesthetic impacts.
- (d) Setback requirements. A facility that is used for AM, FM, International, or television broadcast service, or that receives television signals for processing and distribution over a cable network (a cable “headend” facility), must meet the setback distance that is the greater of: the setback requirement that applies within the zoning district in which it is located; or a distance equivalent to 110% of the height of the facility. All other ground-mounted antenna support structures or towers must meet the setback requirements that apply in the zoning district where the facility is located.
- (e) High-visibility facilities. A high-visibility facility must be located within the facility site at a location that the zoning administrator finds will have the least visual and aesthetic impacts to the surrounding lots. If a building exists on a lot, no high-visibility facility may be located on the lot between the face of the building and any public street, bikeway, trail, or park. (Ord. 2016-11 § 2.)

88-24.408. Design requirements.

- (a) Except as otherwise specified in subsections (b) through (f) of this section, a facility must meet all of the following requirements in order to limit the facility’s visual and aesthetic impacts:

- (1) A facility must be designed to minimize its visual and aesthetic impacts on, and to blend in with, the surrounding area.
 - (2) A facility must have a non-reflective finish and be painted and textured to match or blend with the predominant background.
 - (3) A facility other than a stealth facility, or portion thereof, that is visible against the skyline must be painted light gray, or a similar color approved by the zoning administrator, or camouflaged, and have a reflectivity of less than 55%, unless the California Public Utilities Commission, Federal Communications Commission, Federal Aviation Administration, or any state or federal law, regulation, or rule requires the facility or antenna to be painted, designed, or marked otherwise.
- (b) Design requirements applicable to facilities in residential zones. A facility on private property located in 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) district, or that is located on a residential lot within a planned unit (P-1) zoning district, must be a low-visibility facility.
- (c) Design requirements applicable to façade-mounted antennas.
- (1) Visibility. Except for any portion of a façade-mounted antenna that extends above the roofline and is visible against the skyline, a façade-mounted antenna that is not a stealth antenna must be painted a color that matches or blends with the color of the façade on which it is mounted. Any portion of a façade-mounted antenna, other than a stealth antenna, that extends above the roofline and is visible against the skyline must be painted as described in subsection (a)(3) of this section. Any equipment enclosure that serves a façade-mounted antenna must be painted a color that matches the color of the surface on which it is mounted.
 - (2) Installation. A façade-mounted antenna must be installed at least eight feet above ground level. A façade-mounted antenna must be mounted directly on the exterior lateral face of a building or facility.
 - (3) Maximum extension. No façade-mounted antenna may extend more than 24 inches from the face of the building or structure on which the antenna is mounted. No façade-mounted antenna may extend beyond the corner or edge of the wall on which it is mounted, except that a façade-mounted antenna may extend above the roofline of the facility.
- (d) Design requirements applicable to roof-mounted antennas. Any portion of a roof-mounted antenna other than a stealth antenna that is visible against the skyline must be painted in the manner described in subsection (a)(3) of this section. Any other portion of a roof-mounted antenna other than a stealth antenna must be painted a color that matches or blends with the color of the primary background against which the roof-mounted antenna is viewed from ground level. Any equipment enclosure that serves a roof-mounted antenna must be painted a color that matches the color of the surface on which it is mounted.

- (e) Design requirements applicable to towers. In addition to meeting the requirements in subsection (a) of this section, a tower and any equipment enclosure and all ancillary equipment that serve a tower must be screened and surrounded by a fence or wall at least six feet in height. Each door or gate must be lockable. 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.

- (f) Requirements applicable to facilities within a County right-of-way. In addition to meeting all applicable requirements in subsections (a) through (e) of this section, a facility within a County right-of-way must meet the following requirements:
 - (1) A facility must be designed and located so that it does not impair vehicle circulation or parking within the right-of-way. A facility must not impede or impair vehicle, bicycle, or pedestrian access to or within the right-of-way. If the zoning administrator, in consultation with the Public Works Department, determines that a turnout is necessary to avoid impairing vehicle circulation or parking within the right-of-way, the applicant must construct and maintain the turnout.

 - (2) A facility must be designed and located as follows:
 - (A) No more than four antenna enclosures may be located on a single utility pole or streetlight pole in a County right-of-way within or adjacent to a residential zone. No facility may be located on a County traffic signal pole.

 - (B) An equipment enclosure that serves a facility or antenna must be installed below ground, or must be installed at grade and camouflaged. Each below-ground equipment enclosure must be accessible by a flush-to-grade portal.

 - (C) No antenna may extend above the height of the pole or facility on which it is mounted by more than 10 feet.

 - (D) No antenna may extend over the vehicular path of travel within the right-of-way.

 - (E) Any portion of a facility or antenna not extending above the height of the pole or facility on which it is located must be painted to match the color of that pole or facility.

 - (F) A facility or antenna must incorporate any other reasonable, feasible alteration that the zoning administrator determines is necessary to reduce the visual or aesthetic impacts of the facility or antenna.

 - (G) Ancillary equipment not enclosed in an equipment enclosure must be installed at a location the zoning administrator determines will minimize visual and aesthetic impacts to the greatest extent feasible.

- (3) A facility, an equipment enclosure, and ancillary equipment must be designed and located in a manner that does not violate any accessibility requirements of the Americans with Disabilities Act.
- (4) A facility, an equipment enclosure, and ancillary equipment must be designed and located in a manner that does not obstruct the roadway views of vehicles, bicycles, and pedestrians traveling within the County right-of-way, and does not obstruct the visibility of signs located within the right-of-way.
- (5) No facility may include any advertising material.
- (6) No facility may include any type of lighted signal, lights, or other illumination, except to the extent required under state or federal law.
- (7) A facility that will be located on a streetlight pole must be located so that it does not block the required illumination provided by the streetlight. (Ord. 2016-11 § 2.)

88-24.410. Placards. A facility and every façade-mounted antenna, roof-mounted antenna, and ground-mounted antenna, must include a placard that states the name, phone number, and address of the service provider and permittee, and all safety precautions or other statements required by the California Public Utilities Commission and Federal Communications Commission. The placard must be mounted on or near the facility or antenna at a location that is visible from ground-level. For any facility that is surrounded by a fence or wall, the placard must be mounted on the exterior of the fence or wall. (Ord. 2016-11 § 2.)

88-24.412. Safety and security. A facility must meet the following facility safety and security requirements:

- (a) All ancillary equipment must be enclosed in an equipment enclosure. The equipment enclosure must be locked at all times, except as otherwise approved by the zoning administrator.
- (b) No lights or beacons may be installed on any antenna or antenna support structure, unless lights or beacons are required by a state or federal agency having jurisdiction over the antenna or antenna support structure, such as the California Public Utilities Commission, Federal Communications Commission, or Federal Aviation Administration, or if lights or beacons are recommended by the County Airport Land Use Commission.
- (c) A ground-mounted facility and every tower must include physical measures designed to prevent climbing by unauthorized persons. (Ord. 2016-11 § 2.)

88-24.414. Building standards, maintenance, and operational requirements.

- (a) A facility must be constructed and maintained in compliance with all applicable local, state, and federal laws and regulations, including County building, electrical, and fire codes.
- (b) A facility must be maintained in working order and kept graffiti and litter-free.

- (c) A facility, all fences and walls surrounding the facility, and all other fixtures and improvements on a facility site must be repainted as often as necessary to prevent fading, chipping, or weathering of paint.
- (d) Any landscaping at a facility site must be maintained in a healthy state. Dead or dying landscaping must be replaced.
- (e) If any stealth facility is designed as a flagpole, one or more flags must be flown and properly maintained on the flagpole during daylight hours.
- (f) A permittee must notify the zoning administrator within 30 days after any facility license or registration required by any local, state, or federal agency is revoked, modified, replaced, reissued, or suspended.
- (g) No facility may be operated at a frequency that will interfere with an emergency communication system or 911 system, including any regional emergency communication system.
- (h) Five years after the date a land use permit, collocation permit, or wireless facility access permit is issued under this chapter, and every five years thereafter, a permittee must submit to the zoning administrator a certification that:
 - (A) States the location of the facility, identifies the land use permit, collocation permit, or wireless facility access permit under which the certification is submitted, and states the date on which the permit was issued; and
 - (B) States that the facility is in compliance with all applicable County permits, County ordinances, and state and federal laws and regulations. (Ord. 2016-11 § 2.)

Article 88-24.6. Permits and Fees.

88-24.602. Permit required.

- (a) Except as otherwise provided in subsections (b) through (d) of this section, a land use permit is required for a new facility, a substantial change to an existing facility, or a collocation on an existing facility that is not a collocation-eligible facility.
- (b) A collocation permit is required for a facility that:
 - (1) Will be collocated on a collocation-eligible facility; and
 - (2) Will not be a minor alteration.
- (c) A minor alteration permit is required to make a minor alteration to a facility.
- (d) A wireless facility access permit under this chapter is required for each new facility and each substantial change to an existing facility located within a County right-of-way. (Ord. 2016-11 § 2.)

88-24.604. Application requirements.

- (a) The following information must be included in an application for a land use permit, collocation permit, or wireless facility access permit under this chapter:
- (1) General information. An application must include the information specified in Section 26-2.2002 of this code. The application must provide the name and address of all service providers that will occupy the facility.
 - (2) Description of facility or substantial change. An application must describe the type of facility or substantial change for which a permit is sought. The application must describe the proposed physical capacity of the facility at the time of application, including the maximum number of antennas to be located or collocated at the facility. The application must describe the number, type, and dimensions of all antennas, equipment enclosures, ancillary equipment, and antenna support structures. The application must establish that the technology being utilized at the facility will meet Telecommunications Industry Association standards, and must include a copy of all applicable standards.
 - (3) Authorization to install. An application must include a statement that the new facility will be, or the existing facility to be substantially changed is, located on a lot, building, or other structure or facility that is owned or leased by the applicant. If the structure or facility is leased by the applicant, the applicant must include a statement that the owner authorizes and consents to the submittal of the permit application.
 - (4) High-visibility facilities – map of surrounding area. An application for a high-visibility facility, or a substantial change that would cause a facility to become a high-visibility facility, must include both of the following:
 - (A) A USGS topographic map or survey with existing topographic contours showing the proposed facility site and showing the area within a one-mile radius of the site.
 - (B) A larger-scale map of the facility site showing the facility, all fences and walls surrounding the facility, the equipment enclosure, any access roads, and the surrounding area within a 150-foot radius of the facility.
 - (5) Geographic service area. If the applicant claims that a personal wireless service facility is necessary to close a significant gap in service area coverage, the application for the facility must:
 - (A) Identify the geographic area the facility will serve.
 - (B) Identify the location and service coverage area of all other facilities operated by the applicant within the County.

- (C) Describe the extent to which the proposed facility will increase existing service area capacity, or extend the service provider's service area to cover any existing gap in service coverage.
 - (D) Include a map based on propagation prediction tools or software and radio frequency propagation measurements at the proposed facility site, or similar engineering data, showing the estimated service coverage area of the facility in relation to the area affected by the gap in service coverage.
- (6) Engineered drawings. An application must include copies of all engineered drawings and to-scale plans for facility construction and installation, or for completion of the substantial change.
- (A) For each tower and other antenna support structure that will be located on a facility site, the engineered drawings must identify all antennas to be included on each tower or structure, any space for future antennas, equipment enclosures, fencing, landscaping, and lighting that will be located at the facility site.
 - (B) For any ground-mounted, façade-mounted, and roof-mounted antennas, the engineered drawings must show the location at which each antenna will be installed, and the location of any equipment enclosure to serve the antenna.
- (7) Electromagnetic emission information. An application must include a statement, prepared by an electrical engineer licensed by the State of California Board of Engineers, Land Surveyors and Geologists, that provides all of the following information:
- (A) The frequency assigned to the facility by the Federal Communications Commission, and the measures that will be taken to ensure the facility operates within that frequency.
 - (B) How the facility will conform to the radio-frequency exposure standards adopted by the Federal Communications Commission, and how it will not exceed Federal Communications Commission-adopted standards regarding human exposure in areas subject to general public radio-frequency exposure, as defined by the National Council on Radiation Exposure Prevention.
 - (C) The anticipated radio and electromagnetic emissions from the facility, and, to the extent ascertainable, the anticipated increase in emissions that will be caused by any future collocation.
- (8) Noise. An application must describe the noise impacts (not including construction noise), if any, that will be caused by the antenna or facility.
- (9) Statement regarding least intrusive design. The applicant must certify that the proposed antenna, facility, or substantial change is designed to minimize the size and height of the antenna or facility.

- (10) Peer review. The applicant must agree to reimburse the County for its costs to retain an electrical engineer licensed by the State of California Board of Engineers, Land Surveyors and Geologists to complete a peer review of the information submitted by the applicant under this section, to verify that the information is accurate. At any time before a permit is issued under this chapter, the zoning administrator may require a peer review to be performed pursuant to this subsection (a)(9).
 - (11) Estimated cost of remediation. For a new facility, the application must include an estimate of the cost to remove the facility from the facility site, and restore the facility site to the condition that it was in before the construction and installation of the facility. For a substantial change to an existing facility, the application must include an estimate of any increase in cost attributable to the substantial change to remove the facility and restore the facility site.
- (b) Applications for facilities requiring a land use permit. In addition to the information required under subsection (a) of this section, an application for a facility, or an application for a substantial change to a facility, requiring a land use permit must include:
- (1) Visual simulations and images. An application must include visual simulations or images that show both the facility site before installation or construction of the facility and the anticipated view of the facility site after the facility is installed or constructed. A visual simulation or image must be provided for each of two adjoining sides (*i.e.*, sides that meet at a corner) of the facility.
 - (2) Alternatives considered. An application for a facility must include a description of the facility site-selection process, identify each alternative facility site that was considered, and explain why each alternative facility site was rejected in favor of the proposed facility site. If no alternative sites were considered, the application must explain why no site other than the proposed facility site was considered.
 - (3) If the application is for a collocation-eligible facility, the application must include a statement that the applicant will allow other service providers to collocate on the facility, as long as there is sufficient permitted facility capacity, and as long as collocation is technically and economically feasible.
- (c) Applications for collocation permits. In addition to the information required under subsection (a) of this section, an application for a collocation permit must include:
- (1) A copy of the land use permit for the collocation-eligible facility; and
 - (2) A copy of any certified environmental impact report, mitigated negative declaration, or negative declaration that was prepared for the collocation-eligible facility.
- (d) Applications for wireless facility access permits. In addition to the information required under subsection (a) of this section, each application for a wireless facility access permit must include the following information:

- (1) Traffic control. An application must include a plan to safely guide pedestrian, bicycle, and vehicular traffic in, around, and by construction and installation work.
 - (2) Accessibility. An application must include a plan for maintaining the facility without impeding or interfering with pedestrian, bicycle, and vehicular traffic and circulation within the County right-of-way.
 - (3) Analysis of alternatives. An application must include an analysis of reasonable alternative locations for each antenna or facility, and potential cluster installations of antennas or facilities, in the right-of-way, including the aesthetic impacts of each alternative in comparison to the preferred location.
 - (4) Visual simulations and images. An application must include images of the existing facility site and visual simulations of the anticipated view of the facility site after the facility or antenna is installed or constructed, or the substantial change is completed. A visual simulation or image must be provided for each of two adjoining sides (*i.e.*, sides that meet at a corner) of the facility, and from areas within a visual sightline of the facility, antenna, or substantial change.
 - (5) Additional engineered plans. In addition to the information required by subsection (a)(6), an application must include a scale plan that illustrates all the following within 150 feet of the proposed antenna, facility, or substantial change: utility poles, light poles, fire hydrants, bus stops, traffic signals, storm drains, above-ground and below-ground utility equipment enclosures, curbs, driveway approaches, easements, walls, existing utility facilities, trees more than six feet in height, sidewalks, and structures, and each adjacent land use.
- (e) Applications for minor alteration permits. An application for a minor alteration permit must include the following:
- (1) The application must provide the name and address of the owner and operator of the equipment on the facility that is being altered.
 - (2) The geographic location of the facility.
 - (3) A copy of the County permit or other County approval that was issued for the facility that will be subject to the minor alteration.
 - (4) A description of the minor alteration to the facility. The application must describe the number, type, and dimensions of all antennas, equipment enclosures, ancillary equipment, and antenna support structures that will be collocated on, removed from, or added to the facility. (Ord. 2016-11 § 2.)

88-24.606. Financial assurance.

- (a) Financial assurance required. An applicant for a wireless facility access permit, collocation permit, or a land use permit shall provide a financial assurance as specified in this section as a condition of permit issuance. The zoning administrator will determine the reasonable cost to

remove the facility and restore the facility site to the condition that it was in before construction and installation of the facility. An applicant must provide financial assurance in that amount before a permit will be issued under this chapter. A financial assurance must be irrevocable and not cancelable, except by the County.

- (b) Duration of financial assurance. Each form of financial assurance must remain valid for the duration of the permit and for at least six months following the termination, cancellation, or revocation of the permit.
- (c) Form of financial assurance. Financial assurance must be provided in one or more of the following forms:
 - (1) A deposit with the County. The deposit will not earn interest.
 - (2) A surety bond issued by an admitted surety insurer, pursuant to Code of Civil Procedure section 995.010, et seq.
 - (3) A standby letter of credit, naming the County as beneficiary, issued by a bank authorized to do business in the State of California. The letter of credit must be payable within seven business days, upon demand by the County.
 - (4) An escrow account comprised of any of the following: cash; a negotiable bond of the United States or any state, county, or municipality endorsed by the applicant and rated "A" or "A2" or higher by a nationally-recognized bond rating organization; or a negotiable certificate of deposit in a depository insured by the Federal Deposit Insurance Corporation. The value of any of those will be based on the then-current value, not the value at maturity. The financial instruments held in escrow must be payable within seven business days, upon demand by County.
 - (5) A renewable bond, or any other financial assurance or security acceptable to the zoning administrator.
- (d) Substitution of financial assurance.
 - (1) Substitution permitted. At any time during the term of a permit, a permittee may replace its financial assurance with another form of financial assurance authorized under this section. After receiving a request to replace its financial assurance, and after the permittee provides the new financial assurance to the County, the County will return any deposit, or authorize the cancellation or revocation of any other financial assurance being replaced.
 - (2) Substitution required. If, during the term of the permit, the Federal Deposit Insurance Corporation or another governmental entity becomes the receiver or conservator of the issuer of a financial assurance, or the issuer files for bankruptcy or dissolves, the County may request that the permittee provide a new financial assurance authorized under this section. Within 30 days after that request, a permittee must provide a new financial assurance, and, after it is provided, the County will cancel the financial assurance being replaced. If a permittee does not provide a new financial assurance

within 30 days after County's request, the permit will be suspended until the new financial assurance is provided.

- (e) County's use of financial assurance. After providing notice to the permittee, the County may draw upon and use a financial assurance to remove an abandoned facility, as provided by this chapter. (Ord. 2016-11 § 2.)

88-24.608. Ministerial approval of minor alteration permit application.

- (a) Notice of complete application. The County will notify an applicant that the application is complete or incomplete. A notice of incomplete application will describe the additional information required to complete the application.
- (b) Issuance of minor alteration permit. The zoning administrator will approve an application and issue a minor alteration permit if the zoning administrator finds the minor alteration meets the following requirements:
 - (1) The minor alteration is to an existing facility;
 - (2) The minor alteration will not result in a substantial change to the facility. (Ord. 2016-11 § 2.)

88-24.610. Ministerial approval of collocation permit application.

- (a) Notice of complete application. The County will notify an applicant that the application is complete or incomplete. A notice of incomplete application will describe the additional information required to complete the application.
- (b) Issuance of collocation permit. The zoning administrator will approve an application and issue a collocation permit under this chapter if all of the following requirements are satisfied:
 - (1) A land use permit was issued under this chapter for the collocation-eligible facility.
 - (2) A California Environmental Quality Act environmental impact report, mitigated negative declaration, or negative declaration was certified for the existing collocation-eligible facility, pursuant to Public Resources Code section 21000, et seq.
 - (3) The collocation of the facility with an existing collocation-eligible facility will not require the preparation of a subsequent or supplemental environmental impact report pursuant to Public Resources Code section 21166.
 - (4) The facility to be collocated will incorporate required mitigation measures specified in an environmental impact report or mitigated negative declaration that was certified for the existing collocation-eligible facility.
 - (5) The applicant has provided the financial assurance required by this chapter. (Ord. 2016-11 § 2.)

88-24.612. Approval of wireless facility access permit application.

- (a) Notice of complete application. The County will notify the applicant that the application is complete or incomplete. A notice of incomplete application will describe the additional information required to complete the application.
- (b) Issuance of wireless facility access permit.
 - (1) An application for a wireless facility access permit will be decided under the procedures specified in Article 26-2.21 of this code.
 - (2) Following receipt of a complete application for a wireless facility access permit, the Department of Conservation and Development will provide the application to the Public Works Department for its review.
 - (4) A wireless facility access permit will be issued if all of the following requirements are satisfied:
 - (A) The zoning administrator finds each of the following:
 - (i) The facility or substantial change will be designed in a manner that complies with the applicable requirements of section 88-24.408.
 - (ii) The facility or substantial change will not interfere with the use of the County right-of-way, or existing improvements or utilities located on, in, under, or above the right-of-way.
 - (iii) The facility or substantial change will not interfere with any vehicular, bicycle, or pedestrian use of the County right-of-way.
 - (iv) The facility or substantial change will not cause any violation of the accessibility requirements of the Americans with Disabilities Act.
 - (B) Indemnity requirement. To the fullest extent permitted by law, the applicant shall defend, indemnify, and hold harmless the County, its officers, employees, contractors, consultants, and volunteers from and against: (1) all claims, losses, damages (including injury or death), liabilities, suits, costs, and expenses, including reasonable attorney's fees, in any way connected to or arising from the design, construction, installation, use, maintenance, or operation of the facility; and (2) all claims, actions, or proceedings to attack, set aside, void, or annul any decision to approve the application and issue a wireless facility access permit to the applicant, or any other discretionary action of the County related to the issuance of that permit.
 - (C) Insurance requirement. The applicant shall maintain a policy of general liability insurance, naming the County as an additional insured, in the amount of \$1,000,000 that provides coverage for personal injury, death, and property

damage resulting from the construction, installation, use, maintenance, and operation, of the facility.

- (D) The applicant shall repair, at its sole cost and expense, any damage to the County's or any other person's facilities or improvements caused by the construction of, or substantial change to, the facility.
- (E) The applicant shall, upon demand by the County or any other public agency, modify, remove, or relocate its facility, or any portion of its facility, without cost or expense to the County or other public agency, if that modification, removal, or relocation is necessary due to abandonment, change of grade, alignment, or widening of any street, sidewalk, or other public facility, or due to the construction, maintenance, or operation of any other underground or aboveground facility, including but not limited to sewers, storm drains, conduits, gas, water, electric, or other utility systems, or pipes owned by the County or any other public agency.
- (F) The applicant shall provide the zoning administrator, within 180 days after the facility is operational, all information required by the zoning administrator to confirm that the facility complies with the requirements of this chapter and with the wireless facility access permit issued under this chapter.
- (G) Any required environmental review of the facility has been completed.
- (H) The applicant has paid all required fees and costs, including but not limited to the application fee, any required environmental review fee, and any peer review fee required to be paid under this chapter.
- (I) The applicant has provided the financial assurance required by this chapter. (Ord. 2016-11 § 2.)

88-24.614. Discretionary approval of land use permit application.

- (a) Notice of complete application. The County will notify the applicant that the application is complete or incomplete. A notice of incomplete application will describe the additional information required to complete the application.
- (b) Discretionary approval of application and issuance of land use permit. The zoning administrator will approve an application and issue a land use permit under this chapter if it makes the findings required by section 26-2.2008 of this code, and finds all of the following:
 - (1) The application is complete.
 - (2) Either:
 - (A) The facility or substantial change will meet the requirements of this chapter; or

- (B) Federal law requires approval of a land use permit for the facility or substantial change.
- (3) The facility or substantial change has been reviewed pursuant to all appropriate environmental laws and regulations, including the California Environmental Quality Act.
- (4) If an environmental impact report or mitigated negative declaration was prepared for the facility or substantial change, the facility or substantial change will incorporate all mitigation measures identified in either of those documents. Each mitigation measure will be included as a term of the permit.
- (5) If the Contra Costa County Airport Land Use Commission reviewed and commented on the application, the facility or substantial change will incorporate each mitigation measure recommended by the commission and deemed by the zoning administrator to be necessary to protect public safety, health, and welfare. Each mitigation measure will be included as a term of the permit.
- (6) The applicant has provided the financial assurance required by this chapter.
- (7) The applicant has paid all required fees and costs, including but not limited to the application fee, any required environmental review fee, and any required peer review fee.
- (c) Denial of applications. If the zoning administrator denies an application for a permit, the applicant may appeal the denial pursuant to Article 26-2.24 of this code.
- (d) Judicial review of denial of personal wireless service facility permit. For a permit application for a personal wireless service facility, after exhausting its appeals to each division of the planning agency, and within 30 days after receiving the last decision sustaining denial of the permit application, the applicant may seek judicial review of the denial in any court having jurisdiction over the denial, or seek relief from the Federal Communications Commission, as provided by Title 47, United States Code, section 332, subdivision (c)(7)(B)(v). (Ord. 2016-11 § 2.)

88-24.616. Permit duration.

- (a) A land use permit and a wireless facility access permit issued under this chapter has a term of 10 years.
- (b) A minor alteration permit and a collocation permit issued under this chapter each has a term that is the shorter of the following:
 - (1) 10 years; or
 - (2) The duration, including any renewal period, of the permit that authorizes the existing facility on which the new facility will be collocated or on which the minor alteration will occur. (Ord. 2016-11 § 2.)

88-24.618. Permit modification, suspension, and revocation. A permit may be modified, suspended, or revoked in accordance with Article 26-2.20 of this code. (Ord. 2016-11 § 2.)

88-24.620. Permit renewal.

- (a) A land use permit or other discretionary approval for a facility issued prior to the enactment of this chapter may be renewed in accordance with the requirements in effect at the time the discretionary approval was issued.
- (b) A minor alteration permit for collocation, a collocation permit, a land use permit, and a wireless facility access permit issued under this chapter may be renewed as follows:
 - (1) Timing of request. A renewal request must be submitted to the zoning administrator at least 60 days before the expiration of the permit's current term.
 - (2) Required submittals. A renewal request must be submitted with all of the following:
 - (A) A copy of the permit being renewed;
 - (B) A copy of the original application for the permit, if available;
 - (C) A copy of any environmental document that was certified for the permit.
 - (3) Renewal of financial assurance required. Before a collocation permit, land use permit, or wireless facility access permit renewal is effective, the permittee must renew the financial assurance provided for its original permit under this chapter, or provide a new financial assurance in a form authorized by this chapter. The renewed or new financial assurance must be in an amount that the zoning administrator determines is necessary to pay, as of the date that the renewal request is approved, the cost to remove the facility and restore the facility site to its original condition before construction or installation of the facility.
 - (4) Approval of renewal request.
 - (A) A renewal request for a minor alteration permit for collocation will be approved by the zoning administrator upon receipt of a renewal request and all required submittals.
 - (B) A renewal request for a collocation permit, land use permit, or wireless facility access permit will be approved by the zoning administrator after receiving the request and all required submittals if the zoning administrator finds all of the following:
 - (i) The facility meets of the County requirements applicable to the facility at the time that a permit was issued for the facility, and any terms or conditions included in the permit for the facility.

- (ii) The permittee has met the financial assurance requirements of subsection (b)(3) of this section.
 - (iii) The permittee has paid the renewal request processing fee.
- (5) Permit renewal duration.
 - (A) A land use permit renewal or a wireless facility access permit renewal has a term of 10 years.
 - (B) A minor alteration permit renewal or collocation permit renewal has a term that is the shorter of the following:
 - (i) 10 years; or
 - (ii) The duration, including any renewal period, of the permit that authorizes the existing facility on which the minor alteration or collocated facility is located.
 - (C) A permit issued under this chapter may be renewed at the expiration of a prior renewal period, provided all of the requirements of this subsection (b) are met. (Ord. 2016-11 § 2.)

88-24.622. Discontinuation of facility use and facility abandonment.

- (a) Discontinuation of facility use. The following requirements apply when a permittee intends to discontinue its use of a facility:
 - (1) Notice of discontinuance of use. At least 60 days before the final day of use, a permittee that intends to discontinue its use of any facility must provide to the zoning administrator written notice of the permittee's intent to discontinue use of the facility. A copy of the notice must be provided to the owner of the facility site if the permittee is not the owner of that site.
 - (2) Removal and restoration. Within 60 days after the final day of use, the permittee must completely remove the facility and restore the facility site to the condition it was in before the construction and installation of the facility. Within 48 hours after completing facility removal and facility-site restoration, the permittee must provide notice to the County that removal is complete. The County may inspect the facility site to confirm removal is complete.
 - (3) Cancellation of financial assurances. Within 30 days after receiving a notice of completion of facility removal and facility-site restoration, the County will confirm that facility removal and facility-site restoration are complete and then return any financial assurance deposited with it, and cancel, or authorize the cancellation of, any other type of financial assurance provided by the permittee.

- (b) Facility abandonment. If the permittee fails to remove the facility and restore the facility site to the condition it was in before the construction and installation of the facility, as provided in subsection (a) of this section, the County will consider the facility to be abandoned. The following provisions apply to an abandoned facility:
- (1) Notice of abandonment. The County will provide the owner of the facility 30 days' advance written notice that the County deems the facility to be abandoned and that it will draw upon and use the financial assurances, as described in this subsection (b).
 - (2) Removal and restoration. If, within 30 days after the date of the notice, the owner has not commenced facility removal and facility-site restoration, the County may draw upon and use the financial assurances to complete facility removal and facility-site restoration. If the owner commences facility removal and facility-site restoration within 30 days after the date of the notice, but does not complete removal and restoration within 60 days after the date of the notice, the County, without further notice to the owner, may draw upon and use the financial assurances to complete facility removal and facility-site restoration.
 - (3) Cancellation of remaining financial assurances. The amount of the financial assurances used by County may not exceed the County's actual cost of facility removal and facility-site restoration. After completing facility removal and facility-site restoration, the County will return to the permittee, cancel, or authorize the cancellation of, any remaining amount of financial assurance. (Ord. 2016-11 § 2.)

88-24.624. Other permits and licenses.

- (a) A person who is issued a permit under this chapter is not relieved from the obligation to obtain all other permits or licenses for a facility required by this code or state or federal law, including but not limited to licenses issued by the California Public Utilities Commission, Federal Communications Commission, or Federal Aviation Administration.
- (b) A person who has obtained permits or licenses otherwise required by this code or state or federal law for a facility is not relieved from the obligation to obtain a permit that is required by this chapter. (Ord. 2016-11 § 2.)

SECTION III. Section 26-2.2102 of the County Ordinance Code is amended to read:

26-2.2102. Decisions without public hearing.

Unless otherwise required by this article, the zoning administrator may, without public hearing, decide applications for any of the following:

- (a) Variance permits pursuant to subsection (1) of Section 26-2.1204.
- (b) Minor subdivisions pursuant to subsection (3) of Section 26-2.1204 including applications for improvement exceptions.

- (c) After zoning administrator determination on it, any involved small lot application pursuant to subsection (c) of Section 82-10.002.
- (d) A second unit permit that does not meet one or more of the development standards specified in subsection (j), (k), or (l) of Section 82-24.012.
- (e) Wireless facility access permits pursuant to Chapter 88-24. (Ords. 2016-11 § 3, 2011-05 § V, 95-51 § 3, 80-87 § 2: See Gov. C. § 65901.)

SECTION IV. Section 82-2.010 of the County Ordinance Code is amended to read:

82-2.010. Utilities and pipelines.

- (a) Except as otherwise provided in this section, the use of land for rights-of-way for the construction and repair of public utilities and publicly owned utilities and for privately owned pipelines for the transmission of oil, gas, water, and other substances transportable by pipelines, is not regulated or restricted by Divisions 82 and 84; and accessory and appurtenant structures forming a part of public utilities, publicly owned utilities, and pipelines are not regulated or restricted by Divisions 82 and 84, except for setback regulations.
- (b) Development projects involving hazardous waste and hazardous materials are subject to the requirements of Chapter 84-63 of this Code.
- (c) Wireless telecommunication facilities are subject to the requirements of Chapter 88-24 of this Code. (Ord. 2016-11 § 4; Prior code § 8120; Ord. 382.)

SECTION V. EFFECTIVE DATE. This ordinance becomes effective thirty (30) days after passage, and within fifteen (15) days after passage, this ordinance shall be published once with the names of the supervisors voting for or against it in the Contra Costa Times, a newspaper published in this County.

PASSED on _____, by the following vote:

AYES:
 NOES:
 ABSENT:
 ABSTAIN:

ATTEST: DAVID J. TWA
 Clerk of the Board of Supervisors _____
 and County Administrator Board Chair

By: _____
 Deputy [SEAL]

SMS:
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