

TOWN OF HILLSBOROUGH	Policy No. 19-01
TOWN COUNCIL POLICY	Adopted: January 14, 2019 Revised:
GENERAL SUBJECT: DESIGN STANDARDS FOR INFRASTRUCTURE DEPLOYMENTS	

I. Design Standards.

A. This policy identifies preferences and requirements for the location and design of WCFs, both on private property and within the public rights-of-way, to provide guidance to (1) prospective applicants as they seek authorization to construct, install, operate, maintain, repair and collocate WCFs in appropriate locations within the Town, and (2) the City Manager or designee in determining whether to grant, grant with conditions or to deny a WCF application. WCFs on public property outside the public rights-of-way shall require a license from the Town in addition to a WCF permit; provided, however, that such WCF (1) shall not be subject to the aesthetic design requirements in this policy but (2) shall be subject to all health and safety requirements in this policy and (3) shall be subject to all applicable conditions of approval in this policy. Aesthetic design requirements for WCFs on public property outside the public right-of-way shall be specified in the applicable license agreement. The Town desires to promote cleanly organized and streamlined infrastructure deployments that utilize the smallest and least intrusive means available to provide essential and beneficial utility services to the community without harming its rural residential character. To that end, this policy is guided by three core principles: First, community health and safety is a paramount concern in all aspects of public right-of-way management and no WCF or other infrastructure deployment shall be permitted in the Town’s right-of-way unless it complies with all applicable health and safety regulations. Second, new obstructions and enlargements of existing obstructions in the public rights-of-way implicate both safety and aesthetic concerns and should be avoided to the maximum extent technically feasible and legally permissible. Third, new development should enhance rather than detract from the community’s character and, when new or enlarged obstructions cannot be avoided, the applicant must minimize the adverse aesthetic impacts by placing, designing and finishing the equipment in a manner that conceals and blends it with the surrounding environment, minimizes the impact on the surrounding neighborhood, and maintains the character and appearance of the Town, consistent with other provisions of the Code and this policy. To that end, WCFs and other infrastructure deployments should:

1. Employ the smallest and lowest profile equipment, placed in the least conspicuous location when viewed from properties from which the WCF is visible;

2. Accommodate collocation or modifications to the extent feasible and consistent with the other design requirements of this policy; and
 3. Be consistent with the general plan.
- B. This policy applies to all new WCFs and to all collocations and modifications to existing WCFs, except collocations and modifications to existing WCFs that qualify as a Section 6409(a) modification. Unless otherwise provided in this policy, the preferences and requirements in this resolution shall apply equally to WCFs on private property, on public property outside the public rights-of-way, and within the public rights-of-way. To the extent that other infrastructure deployments, including without limitation any deployments that require approval pursuant to Chapter 12.12, involve the same or substantially similar structures, apparatus, equipment, fixtures, equipment or improvements, the Town official responsible to review and approve or deny requests for authorization in connection with such other infrastructure deployment shall apply the preferences and requirements in this resolution unless specifically prohibited by applicable law.
- C. In addition to the ordered location preferences listed in Hillsborough Municipal Code § 15.32.070.C, a WCF and any other infrastructure deployment in the public right-of-way must comply with the following:
1. A WCF or any other infrastructure deployment shall not be permitted on any new, non-replacement wood poles, unless the wood pole is a preferred concept design designated pursuant to Section R of this policy.
 2. Any antenna(s) proposed to be installed on an existing wood utility pole must be installed directly above the pole within a canister style shroud or radome, unless pole-top placement would be inconsistent with other standards in this policy (such as height limits).
 3. Integrated Poles. Applicants that propose to install a WCF on a new, non-replacement pole must install a support structure that fully conceals the equipment from public view and blends with the surrounding environment, which may include, for example, a new streetlight substantially similar to the Town's standards and specifications but designed to accommodate wireless antennas and equipment or a preferred concept design designated pursuant to Section R of this policy. If there are no existing streetlights in the immediate vicinity, the applicant may propose to install a metal or composite decorative pole capable of concealing all the equipment either within the pole itself or within an enclosure integrated into the base of the pole. The centerline of the new pole shall be consistent with the location of other existing poles or street trees relative to the edge of the paved road. The pole height, including all components, shall not exceed 35 feet in overall height above ground level adjacent to the base of the pole. Unless a preferred concept design designated

pursuant to Section R of this policy is used, the pole diameter shall not exceed 18 inches and the integrated base enclosure shall: (a) not exceed 48 inches in height, and 26 inches on any side (in the case of a rectangular design) or 28 inches in diameter; (b) be consistent with any standards and specifications by the City Engineer for decorative pole bases or, if no such standards or specifications exist, shall be designed to mimic the pole to which it is attached; (c) not have any flat surface area on the top of the shroud greater than two square inches to prevent objects from being placed on the shroud; and (d) include a tapered or decorative transition between the top of the base enclosure and the pole. All WCFs on new, non-replacement poles shall be a "stealth facility" (i.e., a facility designed to resemble something other than a wireless facility). The approval authority shall state in the findings the nature and character of the stealth facility, including without limitation what the facility is designed to mimic and the specific concealment elements incorporated to achieve the stealth effect.

4. No WCF, other infrastructure deployment or any related equipment, appurtenance or improvement in the public right-of-way shall be permitted in a location that interferes with or impedes any: (a) worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors; (b) access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop; (c) worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency; (d) access to any fire hydrant or water valve; (e) access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building or other structure appurtenant to the public rights-of-way; (f) access to any fire escape; or (g) access to any driveway or entryway to any private property that abuts the public rights-of-way.
 5. Equipment placed above ground, whether pole-mounted or ground-mounted, shall be placed so as to avoid, to the extent technically feasible, visibility from the entryways and windows associated with residential dwellings. Applicants are encouraged to consult with Town staff in advance to evaluate potential visibility issues. As a general matter, but not as a rule, locations as close to the common property line between adjoining properties as possible will likely comply with this requirement.
- D. WCFs proposed on private property should be collocated with existing WCFs on private property, if within one thousand five hundred feet of an existing WCF on private property. WCFs within the public rights-of-way should be collocated with existing WCFs within the public rights-of-way, if within 750 feet of an existing WCF within the public rights-of-way.
- E. A WCF or other infrastructure deployment located in the public rights-of-way:

1. Shall place all equipment (other than antennas) underground in any (i) location within a designated underground utility district; (ii) area where substantially all existing utilities within 1,500 feet in any direction from the site are already located underground; or (iii) location where the additional above-ground equipment would incommode the public's use of the public rights-of-way in a manner inconsistent with applicable law. For the purposes of this policy, an area shall be considered one in which "substantially all existing utilities within 1,500 feet in any direction from the site are already located underground" when there are no overhead lines in any linear direction along the public rights-of-way in front of abutting properties even when existing overhead lines are located within private utility easements outside the public rights-of-way (such as in the case of backyard utility poles).
2. All undergrounded equipment must be installed in an environmentally controlled vault that is flush-to-grade and load-rated to meet the Town's standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover. Vents for airflow shall be flush-to-grade when placed within the sidewalk and may not exceed two feet above grade when placed off the sidewalk. Applicants shall not be permitted to install an underground vault in a location that would cause any existing tree to be materially damaged or displaced unless the City Manager or designee specifically approves the proposed location and the applicant provides a fee for the tree replacement when the City Manager or designee finds that the fee is a reasonable approximation of the objectively reasonable costs the Town will incur to replace the tree, and to maintain it for a period of not less than five (5) years.
3. Shall, with respect to its pole-mounted components, be located on an existing or replacement streetlight or an existing or replacement utility pole; provided, however, that if no streetlight or utility pole exists within 500 feet from the proposed site location and the applicant is authorized to construct new pole in the public rights-of-way, the applicant may propose a new, non-replacement pole consistent with the provisions in Section C.
4. Shall not, with respect to its pole-mounted components, protrude from the surface of the pole more than 18 inches.
5. Shall be shrouded or concealed within a covering that is consistent in color and texture with other existing natural or manmade features in the public rights-of-way near the location where the infrastructure is to be located. All antennas and associated mounting equipment, hardware, cables or other connectors must be completely concealed within an opaque antenna shroud or radome. The antenna shroud or radome must be a flat, non-reflective color that matches the underlying support structure. Shrouds or radomes must taper to the pole or other support structure.

6. Shall, with respect to its pole-mounted components, conform to the following height restrictions: (a) for installations on existing or replacement utility poles, the pole-mounted equipment shall not exceed the minimum separation from electrical lines required by applicable safety regulations, plus four feet; and (b) for all other installations on structures in the public rights-of-way, four feet above the existing support structure.
7. Shall not be permitted with any combination of antennas that exceeds six cubic feet in volume. The volume calculation shall include the antenna, any radios physically integrated with the antenna, any mounting hardware and any shroud or radome.
8. All equipment other than the antennas installed above ground level shall not cumulatively exceed twelve (12) cubic feet in volume. The volume calculation shall include any shroud, cabinet or other concealment device used in connection with the equipment. The volume calculation shall not include any equipment or other improvements placed underground. The volume calculation may include any electric meter required by the electric utility serving the facility, but may not include any disconnect switch or vertical cable runs for electrical power and other utilities (but this exclusion shall not limit or affect any other provision in this Policy applicable to electric meters, disconnect switches or vertical cable runs). The volume limits in this subsection E.8 do not apply to integrated pole designs complying with subsection C.3.
9. To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be stored on the pole outside equipment cabinets or shrouds.
10. Shall use flat-rate electric service or other method that obviates the need for a separate electric meter. If flat-rate service is not available, a shrouded smart meter may be used. The City Manager or designee may approve a different pole-mounted meter, or a ground-mounted electric meter only if the applicant has demonstrated that a flat-rate service and a shrouded smart meter are both unavailable. If a ground-mounted electric meter is required in such a circumstance, it shall be housed within the same cabinet or integrated base as all other ground-mounted equipment.
11. Shall not permanently displace any landscaping or cause any street trees to be damaged or displaced. If any landscaping or street trees are damaged or displaced, the applicant shall pay a fee for tree and landscaping replacement in an amount the City Manager or designee finds is an approximation of the objectively reasonable costs the Town will incur to replace the tree or landscaping, and to maintain it for a period of not less than five (5) years. Likewise, new infrastructure and/or associated equipment shall not prevent the planting or replanting of a street tree in the future.

12. Shall not encroach onto or over any private or other property outside the public rights-of-way without the property owner's express written consent.
13. Shall not encroach upon or over the surface of the roadway within the public rights-of-way.
14. Shall not be approved on any existing structure if the additional equipment would reduce the excess structural or wind loading capacity to levels deemed unsafe by generally accepted engineering practices.
15. Shall not be approved if any proposed attachments to a Town-owned pole would encroach upon space reserved for the Town's use or would interfere with the Town's ability to perform its municipal functions.
16. Shall not be approved if the proposed attachments would alter any streetlighting pattern; provided, however, that this provision shall not prevent the Town from approving a new streetlight with illumination patterns that are consistent with the General Plan, the Code, this policy and any standards and specifications promulgated by the City Engineer.
17. Shall not be placed within any sight distance triangles at any intersections as established by the visibility requirements of Section 12.08.010.
18. Shall be placed at least 15 feet away from the edge of any alleyway, driveway or established pedestrian pathway to a residential structure appurtenant to the public rights-of-way.
19. Shall not be permitted to use any overhead lines that traverse the roadway except overhead fiber runs that coincide with existing utility line runs, whether the proposed infrastructure deployment is located within an underground utility district or not.
20. Shall not be permitted with permanent standby power generators; provided, however, that the facility may include an Appleton socket or similar connection for a temporary generator that may be permitted during emergencies subject to any other applicable laws.
21. Shall not be permitted in any location that is closer to any primary residential dwelling than the average front yard setback of the primary residential dwelling for those properties within a 500 foot radius from the proposed site. The properties to be included in the calculation of the average front yard setback are those where any portion of the area within the 500 foot radius includes a residential dwelling on the property. The front yard setback for each property shall be measured in a perpendicular line from the public right-of-way at the front yard property line to the primary residential dwelling on the property and

shall be capped at 100 feet for any individual property whose front yard setback exceeds 100 feet.

22. Shall not be permitted in any location in the public rights-of-way along that portion of any adjacent parcel's lot line which corresponds in width to the side(s) of the primary residential dwelling, including any attached garage, situated upon that adjacent parcel and facing the public rights-of-way.
 23. All lights and light fixtures must be aimed and shielded so that their illumination effects are directed downwards in a manner consistent with any other standards and specifications by the City Engineer. No flashing lights or indicators shall be visible.
- F. The pole-mounted components of a WCF or other infrastructure deployment on a streetlight, traffic signal, utility pole or similar support structure shall, whether on private property or within the public rights-of-way:
1. Comply with all applicable CPUC General Orders, including without limitation General Order 95 and General Order 128, as each may be amended or replaced;
 2. Be consistent with the scale of pole-mounted equipment installed on utility poles near the WCF or other infrastructure deployment.
 3. Be installed flush to the pole to minimize the overall visual profile. If any applicable health and safety regulations including the CPUC regulations in Section F(1) prohibit flush-mounted equipment, the maximum separation permitted between the equipment and the pole shall be the minimum separation required by such regulations. Any gap between pole-mounted equipment and the pole must be covered by opaque panels (or "wings") that are integrated into the equipment shroud and conceal the gap.
 4. Be placed and oriented to minimize the overall visual profile when viewed from properties that abut the public rights-of-way. To that end, pole-mounted equipment may be installed behind street, traffic or other signs to the extent that the installation complies with applicable public health and safety regulations. If all orientations would be equally visible from abutting properties as determined by the City Manager or designee, and no existing signage can conceal the attachments, the default orientation will be away from the view of oncoming traffic on the side of the street where the installation is proposed.
 5. Not involve external conduits or risers except as provided herein. All cables, wires and other connectors must be routed through conduits within the pole, and all conduit attachments, cables, wires and other connectors must be concealed from public view. To the extent that cables, wires and other connectors cannot be routed through the pole, applicants shall route them

through a single external conduit or shroud that matches the underlying support structure. Undergrounded cables and wires must transition directly into the pole base without any external housing.

6. Shall be centered on the pole and no wider than 1.5 times the diameter of the pole.
 7. To the extent consistent with F.1, shall be mounted so that the lowest portion of the lowest attachment is no less than eight feet above the established grade or support platform.
- G. The ground-mounted components of a WCF or other infrastructure that are not placed in an integrated pole base, whether on private property or within the public the rights-of-way:
1. To the extent the structures are utility boxes within the meaning of this Code, be reviewed and subject to the same approvals as utility boxes installed in connection with other infrastructure deployments; and
 2. Shall be shrouded and painted and textured (or wrapped) to blend with the streetscape and landscape around the site. Above ground equipment components shall be placed behind landscaped features to further conceal the equipment and blend in with the surroundings. Non-reflective paints shall be used on all painted surfaces.
 3. Shall not have any flat surface area on the top of the shroud greater than two square inches to prevent objects from being placed on the shroud
- H. No support structure whose highest point would be more than thirty-five feet above surrounding ground level shall be permitted except:
1. where the support structure is an existing utility pole and additional height is required for compliance with minimum separations between attachments on the pole; provided, however, in no circumstances shall the total overall height exceed forty-five feet; or
 2. the support structure is stealth (i.e., designed to look like something other than a wireless facility) and all attachments thereto must be concealed in a manner consistent with the overall stealth design, including without limitation an overall height and design consistent with the non-wireless facility it mimics.
- I. [intentionally omitted from this policy]
- J. [intentionally omitted from this policy]

- K. All portions of a WCF or other infrastructure deployment affixed to a support structure shall be designed to blend in or be screened from view in a manner consistent with the support structure's architectural style, color and materials, when viewed from any part of the Town. Visible surfaces on WCFs and other infrastructure deployments shall be painted and textured or otherwise camouflaged to match the color and texture of the support structure on which they are mounted. Where the support structure is a building, the WCF, including without limitation base station cabinets, remote transmitters and receivers, and antenna amplifiers, shall be placed within the building or mounted behind a parapet screened from public view unless that is not feasible. If the City Manager or designee determines that such in-building placement is not feasible, the equipment shall be roof-mounted in an enclosure or otherwise screened from public view as approved by the director.
- L. WCFs and other infrastructure deployments shall not be lighted except with the authorization of the City Manager or designee. The City Manager or designee may permit lighting at the lowest intensity necessary:
 - 1. For proximity-triggered and/or timer-controlled security lighting;
 - 2. To comply with regulations for the illumination of the any flag attached to a WCF or other infrastructure deployment; or
 - 3. Where such lighting is required by the City Manager or designee to protect public health or welfare, or as part of the concealment for a particular design.
- M. No advertising signage shall be displayed on any WCF or other infrastructure except for government required signs shown in the permit application. Additionally, site identification, address, warning and similar information plates may be permitted where approved by the City Manager or designee.
- N. WCFs and other infrastructure deployments shall comply with all requirements of the Americans with Disabilities Act of 1990 ("ADA"), as may be amended or replaced, which includes without limitation maintaining a clear space at the landing of any curb ramp.
- O. [intentionally omitted from this policy]
- P. All new wireless towers and base stations shall be stealth facilities. The installation of a non-stealth wireless tower or base station is prohibited.
- Q. For deployments not located within the public right-of-way, exposed cables and wiring (including without limitation jumpers and other short connectors) are never permitted and must be shrouded. All cables and connectors for telephone, data backhaul, primary electric and other similar utilities must be routed underground in conduits large enough to accommodate future facilities. The approval authority shall

not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost. Equipment shall be located flush to grade where necessary to avoid creating a hazard.

R. Preferred Concept Designs.

1. The Town Council may, upon a recommendation from the City Manager or designee, designate certain preferred concept designs for consideration by applicants. Such preferred concept designs may use a specific manufacturer's or vendor's designs as an illustrative example but shall not specifically require applicants to use any particular manufacturer or vendor so long as their proposal substantially conforms to the physical dimensions and appearance in the preferred concept design. Preferred concept designs may be proposed by any service or infrastructure provider for possible recommendation by the City Manager. Designated preferred concept designs shall be attached to this policy as exhibits that include, at a minimum, a general description including any stealth elements; physical dimensions for the support structure, antenna shrouds and equipment shrouds; and photographs that depict required design elements and/or features. Such preferred concept designs may include, without limitation, appropriately designed street directional signs that are consistent with the other provisions in this policy and all other laws applicable to street directional signs. The City Manager or designee may review the list of preferred concept designs and recommend that the Town Council make any necessary modifications.
2. Once approved by the Town Council, any applicant may include the preferred concept design in a site-specific permit application. Using a preferred concept design in a permit application does not guarantee approval of the permit application and the application will still be subject to all site-specific design and locational requirements of this policy not specifically addressed in the preferred concept design.

S. Exceptions.

1. An exception may be granted to one or more requirements of this policy in the following circumstances:
 - i. If an applicant demonstrates to the City Manager with objective, fact-based evidence set forth in a feasibility study that compliance with a requirement of the policy would be technically infeasible and the proposed WCF complies with the requirements of this policy to the greatest extent technically feasible. For example, an exception to a requirement to conceal antennas in a shroud may be granted if shrouding is shown to be technically infeasible and an alternative concealment such as a colored film wrap is proposed. As another example, an exception to the volume limitation for antennas in a single shroud may be granted if the applicant can demonstrate that a greater volume is technically required, and that it

- is using the smallest, technically feasible design for providing personal wireless services, taking into account the other requirements of this policy;
or
- ii. If an applicant demonstrates to the City Manager in writing that the particular design or location proposed involves only minor non-compliance with a requirement of the policy but such non-compliance either results in no increase in visual harms to the community or provides other benefits. For example, an exception to the antenna or equipment size or volume limitations may be granted where the applicant can demonstrate that because of the proposed location of the WCF away from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers) in the public right-of-way, any additional visual and physical impacts of the larger WCF would be insignificant. As another example, an exception to the WCF location limitations may be granted where the applicant can demonstrate that the placement is less visible from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers) in the public right-of-way, or is less physically intrusive (for example, less impactful to tree roots or reduces noise), or the applicant can demonstrate that in a multi-site deployment, the placement would reduce the overall number of sites needed and be no more visible or physically intrusive than placement in accordance with the WCF location criteria. Among other factors, in deciding whether or not to grant an exception, the city manager may consider the impact of expansions to the facility that the applicant would be entitled to make as of right if granted.
2. Factors to be addressed in a feasibility study requesting an exception to undergrounding requirements based on feasibility, under subsection S.1.i of this policy, shall include but are not limited to: construction impacts (including duration and extent of excavation and soil disturbance); traffic and pedestrian impacts (including impediments to access during construction and maintenance, or permanent impediments due to the nature of particular equipment); operational challenge (such as water, heat, or maintenance complications affecting network reliability); noise impacts (such as venting and pumping which may be required in some instances); cost impacts; aesthetic considerations; and permanent impacts to the integrity and future capacity of public rights-of-way.
 3. Exceptions must be requested the time an application is initially submitted for a WCF permit. The request must include both the specific provision(s) from which exception is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for exception after the City Manager has deemed an application complete constitutes a material change to the proposed WCF and shall be considered a new application. A request for exception from one or more requirements does not relieve the applicant from compliance with all other applicable provisions of law or of this policy.

4. Any application that seeks an exception that is approved by the City Manager or designee shall be automatically presented to the Town Council for final decision following the procedure for hearing appeals in HMC Section 15.32.090.

II. Conditions of approval.

All permits issued for WCFs and other infrastructure deployments, whether approved in accordance with the Code and this policy or deemed-approved or deemed granted by the operation of law, shall be subject to the standard conditions of approval provided in this section. The Town Council may add, remove or modify any conditions of approval as necessary or appropriate to protect and promote the public health, safety and welfare.

- A. Within thirty days after installation of a WCF or other infrastructure deployment, the applicant shall deliver to the City Manager or designee a written report that demonstrates that its facility as constructed and normally-operating fully complies with the conditions of the permit, including height restrictions, and applicable safety codes, including structural engineering codes. The demonstration shall be provided in writing to the City Manager or designee containing all technical details to demonstrate such compliance, and certified as true and accurate by qualified professional engineers, or, in the case of height or size restrictions, by qualified surveyors. This report shall be prepared by the applicant and reviewed by the Town at the sole expense of the applicant, which shall promptly reimburse the Town for its review expenses. If the facility involves an antenna subject to FCC regulations for RF exposure, the compliance report shall contain additional proofs of RF emission compliance as part of the application process and on an ongoing basis to the extent the Town may do so consistent with federal law.
 1. If the initial report required by this section shows that the WCF or other infrastructure deployment does not so comply, the permit shall be deemed suspended, and all rights thereunder of no force and effect, until the applicant demonstrates to the Town's satisfaction that the WCF or other infrastructure deployment is compliant. Applicant shall promptly reimburse the Town for its compliance review expenses.
 2. If the initial report required by this section is not submitted within the time required, the City Manager (or designee) or its selected and qualified professionals may, but is not required to, undertake such investigations as are necessary to prepare the report described in paragraph A. Applicant shall within five days after receiving written notice from the City Manager or designee that the Town is undertaking the review, shall deposit such additional funds with the City Manager or designee to cover the estimated cost of the Town obtaining the report. Once said report is obtained by the Town, the Town shall then timely

refund any unexpended portion of the applicant's deposit. The report shall be provided to the applicant. If the report shows that the applicant is non-compliant, the Town may suspend the permit until the applicant demonstrates to the Town's satisfaction that the WCF or other infrastructure deployment is compliant. During the suspension period, the applicant shall be allowed to activate any transmitting antenna(s) for short periods, not to exceed one hundred twenty minutes during any twenty-four hour period, for the purpose of testing and adjusting the antennas to come into compliance.

3. If the WCF or other infrastructure deployment is not brought into compliance promptly, the Town may revoke the permit and require removal of the facility and all related equipment and improvements to return the site to its original condition before the installation or construction occurred.
- B. Any validly-issued WCF permit granted hereunder shall be effective for a period of exactly ten years from the date of issuance, except where a shorter term is authorized by Cal. Gov. Code Section 65964(b) as may be amended or replaced. Any renewal application must be tendered to the City Manager or designee between three hundred sixty-five days and one hundred eighty days prior to the expiration of the current WCF permit, and shall be accompanied by all required application materials, fees and deposits for a new WCF application as then in effect.
 - C. As a condition of every permit issued for an infrastructure deployment, the permit will automatically expire six (6) months from the approval date (the "build-out period") unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved infrastructure facility, which includes without limitation any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, the infrastructure facility or its use. If this build-out period expires, the City will not extend the build-out period but the permittee may resubmit a complete application, including all application fees, for the same or substantially similar project.
 - D. The permit holder shall also comply with Chapter 12.04 and all other requirements of this Code.
 - E. The permit holder shall obtain and maintain all other applicable permits, approvals, and agreements necessary to install and operate the infrastructure facility in conformance with federal, state, and local laws, rules and regulations. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all laws. No failure or omission by the Town to timely notice, prompt or enforce compliance with any applicable provision in the Hillsborough Municipal Code, this policy any permit, any permit condition or any applicable law or regulation, shall be deemed to relieve, waive or lessen the

permittee's obligation to comply in all respects with all applicable provisions in the Hillsborough Municipal Code, this policy, any permit, any permit condition or any applicable law or regulation.

- F. The Town or its agents may inspect permitted infrastructure facility(ies) and property and may enter onto a site to inspect facilities upon reasonable notice to the permit holder. In case of an emergency or risk of imminent harm to persons or property within the vicinity of permitted facilities, the Town reserves the right to enter upon the site of the infrastructure facility and to support, disable, or remove those elements of the infrastructure facility posing an immediate threat to public health and safety. The permittee, if present, may observe the Town's officers, officials, staff, agents or other designees while any such inspection or emergency access occurs.
- G. The permit holder shall maintain on file with the Town and onsite at the infrastructure facility contact information of all parties responsible for maintenance of the infrastructure facility.
- H. The permit holder and, if applicable, the private property owner shall defend, indemnify and hold harmless the Town, its agents, officers, officials, and employees (except with respect to their gross negligence or willful misconduct):
 - 1. From any and all damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, lawsuits, writs of mandamus, and other actions or proceedings brought against the Town or its agents, officers, officials, or employees to challenge, attack, seek to modify, set aside, void or annul the Town's approval of the permit; and
 - 2. From any and all damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, lawsuits, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the acts or omissions of the permit holder, the private property owner, or their agents, employees, licensees, contractors, subcontractors, or independent contractors in any way related to the WCF ("actions"). Further, permit holders shall be strictly liable for interference caused by their WCFs with the Town's communications systems. The permit holder shall be responsible for costs of determining the source of the interference, all costs associated with eliminating the interference, and all costs arising from third party claims against the Town attributable to the interference ("claims"). In the event the Town becomes aware of any such actions or claims the Town shall promptly notify the permit holder and the private property owner and shall reasonably cooperate in the defense. It is expressly agreed that the Town shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the Town's defense, and the property owner and/or permit holder (as applicable) shall

reimburse Town for any costs and expenses directly and necessarily incurred by the Town in the course of the defense.

- I. A permit may be terminated if the Town determines that the permit was granted based on false, misleading or incomplete information; if a material provision of the permit is no longer enforceable; or if the permit holder violates a condition of the permit, or modifies the infrastructure facility or support structures without permission.
- J. The permit holder shall file with the Town, and shall maintain in good standing throughout the term of the permit, a performance bond or other surety or another form of security for the removal of the infrastructure facility in the event that the use is abandoned or the permit expires, or is revoked, or is otherwise terminated. The security shall be in the amount equal to one hundred fifteen percent of the cost of physically removing the WCF or other infrastructure deployment and all related facilities and equipment on the site. The permit holder shall reimburse the Town for staff time associated with the processing and tracking of the bond, based on established hourly rates. Reimbursement shall be paid when the security is posted.
- K. The permit holder shall make a good faith effort to minimize project-related disruptions to adjacent properties. Site improvement and construction work, including set-up, loading or unloading of materials or equipment, performed as part of this project is subject to the provisions of Section 8.32.040. Emergency maintenance and repairs are exempt from the restricted hours. Violation of this condition may result in issuance of a stop work order or administrative citations.
- L. In addition to all other standard conditions of approval required under this policy, and to all conditions of approval permitted under state and federal law that the City Manager or designee may deem appropriate for a specific infrastructure deployment, all Section 6409(a) modifications, whether granted by the City Manager or designee under the federal directive in 47 U.S.C. section 1455(a) or deemed granted by the operation of law, shall automatically include all the conditions of approval as follows:
 - 1. Grant, deemed grant or acceptance of a Section 6409(a) modification permit shall not renew or extend the permit term for the underlying WCF;
 - 2. In the event that a court of competent jurisdiction invalidates or limits, in part or in whole, 47 U.S.C. section 1455(a), such that such statute would not mandate approval for the collocation or modification granted or deemed granted under a Section 6409(a) modification permit, such permit shall automatically expire twelve months from the date of that opinion;
 - 3. Grant, deemed grant or acceptance of Section 6409(a) modification permit shall not waive and shall not be construed or deemed to waive the Town's standing in a court of competent jurisdiction to challenge 47 U.S.C. Section 1455(a) or

any Section 6409(a) modification permit issued pursuant to 47 U.S.C. section 1455(a) or this Code.

- M. The site and the facility, including but not limited to all landscaping, fencing and related transmission equipment, must be maintained in a neat, clean and safe manner in accordance with all approved plans and conditions of approval. The permittee shall keep the site area free from all litter and debris at all times.
- N. All facilities utilizing antennas must comply with all standards and regulations relating to RF exposure issued by the FCC or any other federal or state authority authorized to issue such standards and regulations.
- O. All graffiti on facilities must be removed at the sole expense of the permittee within forty-eight hours after notification from the Town.
- P. All infrastructure facilities within the Town shall be designed, maintained, and shall be operated at all times to comply with the provisions of the Code, this policy and the following other requirements:
 - 1. Conditions in any permit or license issued by a local, state, or federal agency, which has jurisdiction over the infrastructure facility;
 - 2. Rules, regulations, and standards of the state and federal governments and the Town, including without limitation the FCC, the CPUC and the Code;
 - 3. Easements, covenants, conditions, and/or restrictions on or applicable to the underlying real property;
 - 4. Rules, regulations, and standards of the Town governing underground utility districts;
 - 5. All other laws, codes, and regulations applicable to the infrastructure facility, including the California Environmental Quality Act (CEQA).
- Q. Without limiting the foregoing, all infrastructure facilities shall be maintained in good working condition and to the visual standards established at the time of approval over the life of the permit as may be extended. The infrastructure facility and surrounding area shall remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as is practicable, and in no instance more than ten calendar days from the time of notification by the Town or after discovery by the permit holder. If landscaping was required, the landscaping must be maintained by the permittee.
- R. A permit may be revoked if permittee is not in compliance with permit conditions, if the permit conditions are not enforceable, or for a failure to comply with any provision of the Code relating to the permit, or relating to the infrastructure facility

associated with the permit (“default event”). By way of example and not limitation, a refusal to timely remove facilities located in the rights-of-way where required in connection with a public works project would be a default event.

1. The City Manager or designee may revoke a permit only after: (i) written notice of the default event has been provided to the permit holder; and (ii) the permit holder has been afforded a reasonable opportunity to cure and comply with its permit, or demonstrate that no default event occurred.
 2. If the permit holder fails to cure, the city council or the city council through a designee shall conduct a noticed public hearing where the permit holder shall be afforded an opportunity to speak and be heard and to provide written material prior to the hearing. If the city council, after the public hearing, finds that the infrastructure facility or the permit holder has violated any law regulating the infrastructure facility or has failed to comply with the requirements of this chapter, the permit, any applicable agreement or any condition of approval the city council may revoke the permit.
 3. Upon revocation, the city council may require the removal of the infrastructure facility or take any other legally permissible action or combination of actions necessary to protect the health and welfare of the Town.
- S. Any permit holder who abandons or discontinues use of an infrastructure facility for a continuous period of ninety days shall so notify the City Manager or designee by certified mail within thirty days after the ninety day period.
1. If the City Manager or designee believes an infrastructure facility has been abandoned or discontinued for a continuous period of ninety days, the City Manager or designee shall send a notice of abandonment or discontinuation to the permit holder stating why the Town believes the infrastructure facility to be abandoned or discontinued. Failure of the permit holder to reply to the City Manager or designee in writing within thirty days after receiving, rejecting, or returning the Town’s certified letter shall entitle the City Manager or designee to make a determination that the infrastructure facility is, in fact, abandoned or discontinued.
 2. Upon declaration of the City Manager or designee that the infrastructure facility is abandoned or discontinued, as to private property, the permit holder or owner of the affected real property shall have ninety days from the date of the declaration or a further reasonable time as may be approved by the City Manager or designee, within which to complete one of the following actions:
 - i. Reactivate use of the infrastructure facility;

- ii. Transfer the rights to use the infrastructure facility to another entity (who shall be subject to all the provisions of this chapter) and the entity immediately commences use of the infrastructure facility; or
 - iii. Remove the infrastructure facility and any supporting structures installed solely in connection with the infrastructure facility, and restore the site to be consistent with the then-existing surrounding area.
3. If after the ninety day time period set forth in subsection 1 of this section none of the required actions in subsections 2.i through 2.iii of this section has occurred, the city council at a noticed public hearing may declare that the infrastructure facility is deemed abandoned. The City Manager or designee shall provide notice of such finding to the permit holder last known to use the infrastructure facility and, if applicable, to the owner of the affected private real property, providing thirty days from the date of the notice within which to complete one of the following actions:
 - i. Reactivate use of the infrastructure facility, subject to the terms and conditions of the applicable permit;
 - ii. Transfer the rights to use the infrastructure facility to another operator (who shall be subject to all the provisions of the Code and this policy); or
 - iii. Remove the infrastructure facility and any supporting structures installed solely in connection with the infrastructure facility, and restore the site to be consistent with the then-existing surrounding area.
4. If there is no reactivation, transfer or removal as set forth in subsection 3 of this section, the Town may thereafter remove the abandoned infrastructure facility, repair any and all damages to the premises caused by such removal, and otherwise restore the premises as is appropriate to be in compliance with applicable codes. If the Town removes the infrastructure facility, the Town may, but shall not be required to, store the removed infrastructure facility or any part thereof, and may use it, sell it or dispose of it in any manner deemed by the Town to be appropriate. The entity that abandoned the infrastructure facility, or its successor in interest, and if on private property, the private property owner shall be jointly liable for the entire cost of such removal, repair, restoration and storage and shall remit payment to the Town promptly after demand therefor is made. In addition, the city council, at its option, may utilize any financial security required in conjunction with granting the permit to recover such costs.
5. Until the cost of removal, repair, restoration and storage is paid in full, a lien shall be placed on the infrastructure facility and any related personal property and any private real property on which the WCF was located for the full amount of the cost of removal, repair, restoration and storage. The city clerk shall cause the lien to be recorded with the San Mateo County recorder.

- T. After adequate written notice to the permit holder, the city council may require the relocation, at the permit holder's expense and according to the then-existing standards for infrastructure facilities, of any infrastructure facility located in the rights-of-way, as necessary for maintenance or reconfiguration of the Town's rights-of-way or for other public projects, or take any other action or combination of actions necessary to protect the health and welfare of the Town.
1. If an existing utility pole that hosts a infrastructure facility must be replaced, the permit holder shall within thirty days after the installation of the replacement pole either relocate its infrastructure facility in the same configuration on the replacement pole, or remove the prior-existing infrastructure facility rather than relocate it, and notify the City Manager or designee of the removal, and surrender its permit for cancellation by the City Manager or designee.
 2. If the permit holder fails to relocate or remove the infrastructure facility as required by this subsection, the Town may elect to treat the infrastructure facility as a nuisance to be abated as set forth in Section 8.16.035 of the Code.
- U. A permit holder shall not assign or transfer any interest in its permit(s) for infrastructure facility(ies) without advance written notice to the Town. The notice shall specify the identity of the assignee or transferee of the permit, as well as the assignee or transferee's address, telephone number, name of primary contact person(s), and other applicable contact information, such as an e-mail address or facsimile number. The new assignee or transferee shall comply with all of the permit's terms and conditions of approval, and shall submit to the Town a written acceptance of the permit's terms and conditions and a written assumption of the obligations thereafter accruing under such permit prior to the date that such assignment or transfer is intended to take effect.
- V. Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the permit application, the approved permit, the approved plans and photo simulations incorporated into the approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the permit (collectively, "records"). If the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records will be construed against the permittee. The permittee shall protect all records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep records in an electronic format; provided, however, that hard copies or electronic records kept in the Town's regular files will control over any conflicts between such Town-controlled copies or records and the permittee's electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to

create any obligation to create or prepare any records not otherwise required to be created or prepared by other applicable laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record-retention obligations under applicable law.

- W. The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree. The type, size and location for a replacement tree shall be subject to the approval of the City Manager or designee. The permittee shall, at all times, be responsible to maintain any replacement landscape features.
- X. The permittee acknowledges and agrees that (i) the permittee's request for authorization to construct, install and/or operate the wireless facility will cause the Town to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the City for all costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility; (iii) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse City for all such costs 10 days after a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the City shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee.
- Y. Notwithstanding any term remaining on any WCF permit, if other utilities or communications providers in the public rights-of-way underground their facilities in the segment of the public rights-of-way where the permittee's facility is located, the permittee must also underground its equipment, except the antennas and any approved electric meter, at approximately the same time. Equipment, including but not limited to radios and computers, that require an environmentally controlled underground vault to function shall not be exempt from this condition. WCFs installed on wood utility poles that will be removed pursuant to the undergrounding program may be reinstalled on a streetlight that complies with the Town's standards and specifications or other fully concealed preferred concept design designated pursuant to Section R of this policy. Such undergrounding shall occur at the permittee's sole cost and expense except as may be reimbursed through tariffs approved by the state public utilities commission for undergrounding costs.

- Z. If the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee on its own initiative and at its sole cost and expense shall remove the separate or ground-mounted electric meter and enclosure. Prior to removing the electric meter, the permittee shall apply for any encroachment and/or other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.
- AA. The permittee acknowledges that the Town, in its sole discretion and at any time, may: (i) change any street grade, width or location; (ii) add, remove or otherwise change any improvements in, on, under or along any street owned by the Town or any other public agency, which includes without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles and utility systems for gas, water, electric or telecommunications; and/or (iii) perform any other work deemed necessary, useful or desirable by the Town (collectively, "Town work"). The Town reserves the rights to do any and all Town work without any admission on its part that the Town would not have such rights without the express reservation in this permit. If the Public Works Director determines that any Town work will require the permittee's facility located in the public rights-of-way to be rearranged and/or relocated, the permittee shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation. If the permittee fails or refuses to either permanently or temporarily rearrange and/or relocate the permittee's facility within a reasonable time after the Public Works Director's notice, the Town may (but will not be obligated to) cause the rearrangement or relocation to be performed at the permittee's sole cost and expense. The Town may exercise its rights to rearrange or relocate the permittee's facility without prior notice to permittee when the Public Works Director determines that the Town work is immediately necessary to protect public health or safety. The permittee shall reimburse the Town for all costs and expenses in connection with such work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs.