

**STAKEHOLDER COMMENTS ON  
SECTIONS 20.03.046, 20.08.002  
AND 12.42.011 AND THE  
MASTER LICENSE AGREEMENT**

## Melby, Karen

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**From:** Diamond, Danna C <danna.diamond@verizonwireless.com>  
**Sent:** Wednesday, March 27, 2019 3:57 PM  
**To:** Sendall, Brandon; Melby, Karen  
**Subject:** Verizon Comments to Section 20.03.046 & 20.08.002  
**Attachments:** 03-18-19\_Definitions for Small Cell (VZW Comments) (49782960v1).DOCX; 03-18-19\_Chapter 20-03-046 Wireless communication (VZW Comments and Track Changes) (49784115v1).DOCX

**Categories:** Important

Hi Brandon and Karen,

Attached to this email are our comments to the two above mentioned sections of the code - I apologize again for my tardiness in getting them to you. If you would like to go over them, I am happy to set up a call to go over anything you may have questions about as to why we may have commented. Especially after today's meeting, I realize there are specifics regarding the City of Sparks that we may not understand, so maybe a call would be a good idea?

If you would like this call before the 4th, let me know your availability and I will set it up.

I would like to come to the Planning Commission hearing on the 4th as it would be helpful for us to start to get an idea of any public comment, etc. If you are in attendance at the meeting, I will see you then if I do not talk to you sooner.

Thanks,

*Danna Diamond*

NorCal - Small Cell Strategy

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*We don't wait for the future. We build it...*

## Section 20.03.046 - Wireless communications ~~tower or antenna~~Facilities.

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### Use Category: Infrastructure—Communications facilities

Purpose: This section establishes general guidelines for the siting design and location of wireless communications towers and antennas. ~~And small wireless facilities located on private property.~~ The goals of this chapter are to: (1) protect residential areas and other land uses from potential adverse impacts of wireless communications towers and antennas ~~or small wireless facilities~~; (2) encourage the location of wireless communications towers and antennas in non-residential areas; (3) minimize the total number of wireless communications towers and antennas throughout the community; (4) strongly encourage the joint use of new and existing wireless communications tower sites as a primary option rather than construction of additional single-use wireless communications towers and antennas; (5) encourage ~~users the location of wireless communications towers and antennas to locate them and small wireless facilities,~~ to the extent possible, in areas where the adverse impact on the community is minimal; (6) encourage ~~users the configuration of wireless communications towers and antennas and small wireless facilities, to configure them the extent possible,~~ in a way that minimizes ~~the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;~~ (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; (8) consider the public health, education and safety, and welfare of communication the public relating to wireless communications towers and antennas and small wireless facilities; and (9) avoid potential harm or damage to people and adjacent properties from wireless communications tower failure through or failure of poles or other structures associated with small wireless facilities through structural and engineering analysis and careful siting of tower structures wireless communications towers and antennas and small wireless facilities. In furtherance of these goals, the City of Sparks shall give due consideration to the City of Sparks master comprehensive plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

#### A. Applicability.

1. This section applies to any “wireless communication tower or antenna” and “small wireless facilities” located on private property.
2. **New towers and antennas.** All new small wireless facilities and wireless communication towers or antennas and associated equipment in the City of Sparks that are located on private property are subject to these regulations ~~located on private property.~~

#### B. Exemptions.

1. **Amateur radio station operators/receive only antennas.** This section does not apply to any tower, or the installation of any antenna, that is under 70 feet in height and owned and operated by a federally-licensed amateur radio station operator or used exclusively for receive only antennas.

2. **Direct home satellite dishes.** Subject to appropriate FCC regulations, this section does not apply to video programming signals from direct broadcast satellites, multichannel multipoint distribution providers and television broadcast stations.
3. **Preexisting towers or antennas.** Preexisting towers and preexisting antennas are not required to meet the requirements of this section, other than the requirements of subsections C.6, 8 and 14.
4. **AM array.** For purposes of implementing this chapter, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

5. Any repair or maintenance of a wireless communication tower or antenna or small wireless facility.

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4.6. Any small wireless facility in the public right-of-way which are subject to Chapter 12-42-011 – Small Wireless Facilities.

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**C. General Requirements for wireless communication towers and antennas.**

1. **Principal or accessory use.** ~~Antennas-Wireless communication antennas~~ and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot does not preclude the installation of an antenna or tower on such lot.
2. **Lot size.** For purposes of determining whether the installation of a tower or antenna complies with the City of Sparks zoning/~~special or conditional~~ use regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
3. **Inventory of existing sites.** ~~On an annual basis at the request of the City, an Each~~ applicant for an antenna and/or tower shall provide to the ~~director-Administrator~~ an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City of Sparks or within one mile of the border thereof, including specific information about the location, height, and design of each tower. ~~The director-Administrator may share the information with other applicants applying for administrative approvals or Conditional Use Permits under this chapter or other organizations seeking to locate antennas within the jurisdiction of the City of Sparks. However, the Administrator is not, by sharing the information, in any way representing or warranting that any sites are available or suitable.~~

**Commented [RMK1]:** This is confidential and proprietary information which VZW does not wish to be made publically available. VZW is happy to meet annually with the City to review its existing map and discuss its three year plan, but it is not willing to agree to submit its inventory as part of the public record that will be shared with other carriers.

3-4. Modification of existing wireless communication towers and antennas. Any modification of such equipment that does not (1) increase the height of the structure, (2) alter the profile of the structure, (3) increase the footprint of the facility, or (4) otherwise exceed the conditions of prior City approvals shall not be required to obtain any administrative or conditional use permit. The applicant shall submit a modification letter to the Administrator outlining the proposed changes with a set of plans for review and approval by the Administrator prior to issuance of any building permit.

4-5. Aesthetics. Towers-Wireless communication towers and antennas shall meet the following requirements:

a. Towers shall be constructed of steel, or other appropriate materials and either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or aesthetic requirements imposed by the Administrator are painted a neutral color so as to reduce visual obtrusiveness.

a.b. Towers and antennas shall be designed to minimize the physical and visual impact on the community, including the use of stealth or camouflaging siting techniques or other aesthetic requirements as imposed by the Administrator.

b.c. At a tower site, the design of the buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend them into the natural setting, surrounding buildings and site area.

e.d. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive.

5-6. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

6-7. State or federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, Federal Aviation Administration (FAA), the Federal Communication Commission (FCC), and any other agency of the state or federal government with the authority to regulate towers and antennas. If those standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring the towers and antennas into compliance with the revised standards and regulations within six months of the effective date of the standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency or there is a written agreement between the City and the holder of the permit. Failure to bring towers and



antennas into compliance with the revised standards and regulations ~~is~~ constitute grounds for the removal of the tower or antenna at the owner's expense.

~~7.8.~~ **FCC notification requirements.** Each applicant shall provide to the Administrator ~~within 60 days after the construction prior to issuance of any building permit~~ of an appropriate antenna/tower, written documentation confirming that the FCC has been notified of the location of the antenna/tower for inclusion in the FCC antenna registration database. A change in ownership or affiliation of the tower or any changes in collocation must be accompanied by verified documentation that the FCC and its antenna registration database have been notified of the change. Failure to timely provide the ~~director~~ Administrator with written documentation concerning FCC notification is grounds for removal of the tower or antenna.

~~8.9.~~ **Building codes; safety standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City of Sparks concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon written notice being provided to the owner of the tower, the owner has 30 days to bring the tower into compliance with those standards. Failure to bring the tower into compliance within 30 days is grounds for the removal of the tower or antenna at the owner's expense.

~~9.10.~~ **Measurement.** For purposes of measurement, tower setbacks and separation distances are calculated and applied to facilities irrespective of municipal and county jurisdictional boundaries.

~~10.11.~~ **Applicability of City zoning ordinances.** Towers and antennas are regulated and permitted pursuant to this chapter and all other applicable zoning ordinances enacted in the City of Sparks.

~~11.12.~~ **Franchises.** Owners and/or operators of towers or antennas shall identify all local backhaul networks to be used by the applicant.

~~12.13.~~ **Signs.** ~~No-Except as required by law, no~~ signs are allowed on an antenna or tower.

**Commented [RMK2]:** Should we modify to allow for signs required by law or emergency contact info?

~~13.14.~~ **Certification of financial compliance Business License.** The applicant shall provide to the Administrator all applicable City of Sparks business licensing fees or fees in lieu of a business license in accordance with Section 5.20.010 of this code. ~~The Administrator shall, on a quarterly basis, be provided with a list of those businesses that have failed to provide their quarterly payments as required by the Sparks Municipal Code.~~ The failure or refusal to remit appropriate fees to the Administrator shall constitute grounds to remove the applicant's tower or antennas.

14.15. **Licensed Professional.** Prior to the issuance of a building permit, a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant.

**Commented [RMK3]:** Certification from a licensed engineer is a substantial expense and, thus, VZW request this be provided after the zoning permit is issued but prior to the building permit.

15.16. **Availability of suitable existing towers, other structures, or alternative technology.** No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Administrator or planning commission, that there is no existing tower, structure or alternative technology that can accommodate the applicant's proposed antenna or tower. An applicant shall submit information requested by the Administrator related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or structures are located within the geographic area meet applicant's engineering requirements.
- b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- f. The applicant demonstrates that an alternative technology that does not require the use of wireless communication towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, small wireless facilities, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the alternative technology unsuitable.
- g. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

**Commented [RMK4]:** Small wireless facilities are not intended to replace macro facilities. Small wireless facilities supplement and offload capacity from macro facilities.

**D. Administrative Review for new wireless communication antennas and towers (excluding small wireless facilities).**

1. **General.** The following provisions apply to the issuance of administrative review approvals for ~~towers and wireless communication antennas and towers.~~
  - a. The Administrator may approve the uses listed in this section.
  - b. Each applicant shall file an application with the Administrator providing the information set forth in the ~~appendix Appendix A-11 to this title~~Title.
  - c. The Administrator shall review the application and determine if the proposed use complies with this title. ~~Within 310 working days after the application is received, the Administrator shall determine whether the application is complete and send a written notice of the determination to the applicant. The Administrator shall specify those parts of the application that are incomplete and shall indicate how they can be made complete. The Administrator and the decision-making agency are not obligated to further review the application until the required information is provided.~~
  - d. The Administrator shall respond to each ~~such complete application that seeks approval to collocate facilities within 6090 days after the filing of the each application by either approving or denying the application, unless the applicant and Administrator mutually agree in writing to extend the deadline. If an application seeks approval for construction of a new tower and antenna then the Administrator shall respond within 150 days by either approving or denying the application, unless the applicant and Administrator mutually agree to extend the deadline. If the Administrator fails to timely respond within 60 days from deeming these timeframes, the application complete, for the application wireless communication tower or antenna is deemed to be approved.~~
  
2. **Administrative review applicability.** The following uses may be approved by the Administrator after conducting an ~~Administrative~~administrative review:
  - a. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any ~~I (industrial), MUD (MU-C), MUD (DT/VS), C1 (neighborhood commercial), C2 (general commercial), TC (tourist commercial) or PF (public facilities)~~ zoning districts.
  - b. Locating antennas on existing structures or towers consistent with the following:
    - (1) **Antennas on existing structures.** Any antenna that is not attached to a tower may be approved by the Administrator as an accessory use to any ~~I (industrial), MUD (MU-C), MUD (DT/VS), C1 (neighborhood commercial), C2 (general commercial), TC (tourist commercial) or PF (public facilities)~~ zoning districts, if:



(a) The antenna and equipment is a new carrier.

(a)(b) The antenna does not extend more than ~~30~~1020 feet above the highest point of the structure;

(b)(c) The antenna complies with all applicable FCC and FAA regulations; and

(e)(d) Complies with the Aesthetics section of this chapter.

- (2) **Antennas on existing towers.** An antenna which is attached to an existing tower may be approved by the Administrator and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers takes precedence over the construction of new towers. This applies if:

(a) The antenna and equipment is a new carrier.

(a)(b) The tower is modified or reconstructed to accommodate the collocation of an additional antenna is of the same tower type as the existing tower, unless the Administrator allows reconstruction as a monopole.

(b)(c) Height.

- I. An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna.
- II. The height change as listed above may only occur one time per communication tower.
- III. The additional height referred to above does not require an additional distance separation as set forth in this Title. The tower's pre-modification height is used to calculate the distance separations.

(e)(d) On-site location.

- I. A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved on-site within 50 feet of its existing location.
- II. After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

H.III. A cellular tower on wheels (C.O.W.) may be used during construction.

3. ~~Setbacks and Separation~~ **Locating Requirements.** Locating any new tower in a non-residential zoning district ~~other than industrial or commercial~~, if:

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a. **Setbacks.** The following setback requirements apply to all towers.

- (1) Towers must be set back a distance equal to ~~at least~~ 75 percent of the height of the tower from any adjoining lot line.
- (2) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

b. **Height.** The tower meets the following height and usage criteria:

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- (1) for a single user, up to 90 feet in height;
- (2) for 2 users, up to 120 feet in height; and
- (3) for 3 or more users, up to 150 feet in height.

c. **Separation.** The following separation requirements apply to all towers and antennas.

- (1) **Separation from off-site uses/designated areas.** Tower separation is measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table: ~~Off-site Use/Designated Area~~ Separation Distance, except as otherwise provided Table: ~~Off-site Use/Designated Area~~ Separation Distance.

**Commented [RMK5]:** The proposed separation distance from off-site use / designated areas will limit the ability to deploy macro facilities within certain zone districts.  
How does Subsection C(1) – Separation from off-site uses / designated areas comport with Subsection A – Setback?

~~Table: Off-site Use/Designated Area~~

Table: Designated Separation Distance

<u>Off-site Use</u>	<u>Separation Distance*</u>
Single-family or duplex residential units <sup>†</sup>	<del>100 feet or 100% height of tower whichever is greater</del> 200 feet or 300% height of tower whichever is greater

\* Separation measured from base of tower to closest property line of off-site use.

<sup>†</sup> Includes modular homes and mobile homes used for living purposes.

Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	100 feet or 100% height of tower whichever is greater <sup>2</sup> or 200 feet or 300% height of tower <sup>3</sup> whichever is greater
Vacant unplatted residentially zoned lands <sup>4</sup>	100 feet or 100% height of tower whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

- (2) Separation distances between towers. Separation distances between towers apply to and are measured between the proposed tower and ~~preexisting~~ existing towers. The separation distances are measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) are as shown in the Table: Distance Separation between Existing Tower by Types.

Table: Distance Separations between Existing Towers—Types (in feet)

	Lattice	Guyed	Monopole 75 Ft in Height or Greater	Monopole Less Than 75 Ft in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 Ft in Height or Greater	1,500	1,500	1,500	750
Monopole Less Than 75 Ft in Height	750	750	750	750

Commented [RMK6]: VZW is checking with Engineering.

<sup>2</sup> Separation measured from base of tower to closest building setback line properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land.  
<sup>3</sup> Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land.

- d. **Security fencing.** Towers shall be enclosed by security fencing at least 6 feet in height and shall also be equipped with an appropriate anti-climbing device.
- e. **Landscaping.** The following requirements govern the landscaping surrounding towers. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residentially zoned properties as reviewed and approved by the Administrator. The standard buffer shall consist of a landscaped strip at least 410 feet wide outside the perimeter of the compound. The Administrator may exempt the landscaping requirement.
- f. **Buildings or other Equipment Storage.**
- (1) **Antennas mounted on structures or rooftops.** The equipment cabinet or structure used in association with antennas shall comply with the following:
- (a) The cabinet or structure may contain up to 500 square feet of gross floor area ~~or and be~~ up to 10 feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure, shall either be screened from view to the satisfaction of the Administrator or shall not be located on the roof-structure.
- (b) Equipment storage buildings or cabinets shall comply with all applicable building codes.
- (2) ~~Antennas mounted on utility poles or light poles.~~ The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:
- (a) ~~In a front or side yard provided the cabinet or structure is no greater than seven feet in height or 150 square feet of gross floor area and the cabinet/structure is located a minimum of 15 feet from all lot lines. The cabinet/structure shall be screened where necessary to the satisfaction of the Administrator.~~
- (b) ~~In a rear yard, provided the cabinet or structure is no greater than ten feet in height or 500 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.~~
- (c) ~~In MUD (MU-C), MUD (DT/VS), C1, C2 or TC zoning districts, the equipment cabinet or structure may be up to 10 feet in height or 500 square feet in gross floor area. The~~

~~structure or cabinet shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet.~~

~~(3)(2)~~ **Antennas located on towers.** The related unmanned equipment structure may contain up to 500 square feet of gross floor area or 10 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

~~(4)(3)~~ **Building Design Standards.** The equipment and antennas to be installed on an existing building shall incorporate designs that minimize the visual impacts through ~~careful~~ design, including siting considerations, screening with substantial improvements to the building or innovative camouflaging techniques to the approval of the Administrator.

**E. Conditional Use Permit-associated equipment for wireless communication towers and antennas.**

1. **General.** The following provisions govern the issuance of conditional use permits for wireless communication towers or antennas:
  - a. If the tower or antenna cannot comply with the standards listed in the Administrative Review Section of this Title, an applicant may apply for a Conditional Use Permit which may be considered by the Planning Commission.
  - b. Applications for Conditional Use Permits under this Section are subject to the procedures and requirements of Section 20.05.009 except as modified in this section.
2. **Additional Conditional Use Permit Findings.**
  - a. Factors considered in granting Conditional Use Permits for wireless communication towers and antennas. In addition to any findings for consideration of Conditional Use Permit applications pursuant to section 20.05.009 of this code, the planning commission shall consider the following factors in determining whether to issue a Conditional Use Permit.
    - (1) Height of the proposed tower;
    - (2) Proximity of the tower to residential structures and residential district boundaries;
    - (3) Nature of uses on adjacent and nearby properties;



- (4) Surrounding topography;
- (5) Surrounding tree coverage and foliage;
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (7) Proposed ingress and egress; and
- (8) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, ~~as discussed in this section.~~

**F. Small wireless facilities located on private property or easements.**

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1. General. The following provisions apply to issuance of building permits for small wireless facilities and associated equipment on private property or easements.

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- a. Each installation will be reviewed through the building permit process for conformance with this chapter and all applicable building and construction standards.
- b. The Administrator shall evaluate the completeness of an application to install and operate a small wireless facility, including construction of a new pole for the purpose of installing and operating small wireless facilities, within 310 days after receipt of the building permit application. If an application is deemed incomplete, the Administrator shall provide written notice that the application is incomplete and a summary of the missing documentation or information. Any notice that an application is incomplete will toll the applicable deadline for City action until the missing documentation or information is supplemented. The Administrator shall respond to each complete small wireless facilities building permit application that seeks to collocate small wireless facilities on an existing pole or structure within sixty (60) days after the filing of the building permit application by either approving or denying the application, unless the applicant and Administrator mutually agree to extend the deadline for City action. For any applications seeking approval to construct a new pole or structure for the purpose of operating or attaching small wireless facilities, the Administrator shall respond to each complete application within ninety (90) days after the filing of the building permit application, unless the applicant and Administrator mutually agree to extend the deadline for City action. ~~If an applicant submits multiple batched applications on the same day that include applications for the construction of new poles or structures and applications for collocation on existing structures, then the Administrator shall respond to each complete application within ninety (90) days, unless the applicant and Administrator mutually agree to extend the deadline for City action.~~

- c. An applicant considering attaching small wireless facilities to an existing pole or structure that is not owned or controlled by the City of Sparks shall provide documentation demonstrating that it has authority to attach small wireless facilities to the existing pole or structure.
- d. Carrier shall be responsible for obtaining access and connection to electrical power and fiber optic lines or other backhaul solutions that may be required for the operation of its small wireless facilities.
- e. Carrier shall, at its own cost and expense, install the small wireless facilities or poles in a good and workmanlike manner and in accordance with the requirement promulgated by the Administrator, as such may be amended from time to time. All work done in connection with the installation, operation, maintenance, repair, modification, and/or replacement of the small wireless facilities or poles shall be in compliance with all laws, ordinances, codes, standards, rules, and regulations ("Laws").
- f. Carrier shall post its name, location identifying information, and emergency contact telephone number in an area on the cabinet or other exterior portion of the small wireless facility that may be visible to the public. Signage required under this section shall not exceed 4"x6" inches in size, unless otherwise required by direction of the Administrator or by law.
- g. Except as required by law, the carrier shall not post any other signage or advertising on its small wireless facilities or any supporting pole or structure.

2. Aesthetics.

- a. Small wireless facilities equipment to be installed on an existing pole or structure shall be concealed or enclosed as much as is technologically feasible in an equipment box, cabinet or other unit that may include ventilation openings. External cables and wires shall be sheathed, placed inside the pole, or enclosed in a metal conduit so that the wires are protected and not visible or visually minimized to the maximum extent possible. For new pole or structure installation, all wiring shall be enclosed within the pole/structure, equipment box, cabinet or other unit that may include ventilation openings. The preferred location for any ground equipment shall be in an underground vault to the extent it is reasonably feasible from a technical, construction, engineering or design perspective, but if any equipment must be placed above ground it shall be a color or material to match the surrounding area and ensure that it allows for necessary pedestrian access as required under the Americans with Disabilities Act, including the maintenance of a minimum forty-eight (48) inches walking space.

- b. To the extent technically feasible, antennas and associated equipment located on a pole structure shall be installed within a camouflaged facility to the approval by the Administrator. Camouflaging may include hiding the antennas by use of radome or other similar ~~stealth~~concealed designs and matching colors or materials to the surrounding area.
- c. The maximum height of any new pole or structure shall be 40 feet, including antennas and any other appurtenances.
- d. When a supporting pole or structure bearing a small wireless communication facility is replaced, the carrier shall, to the extent technically feasible, install camouflaged poles or supporting structures, small wireless facilities, and/or ground equipment in compliance with the City's adopted aesthetics standards, unless otherwise approved by Administrator.
- e. Any ground equipment shall be no more than 28 cubic feet excluding any concrete pad which must be flush with grade or more than six (6) inch above grade.
- f. The antenna volume shall be not more than 3 cubic feet. The volume of a remote radio unit (RRU) shall not be more than 6 cubic feet in total, shall not extend more than one foot from the face of the point of connection, and shall not be wider than two times the dimension of the pole diameter.
- g. The total size of small wireless communications facilities installed on a pole or structure shall not exceed 4 feet in height, 2 feet in width, and 2 feet in depth, and shall not be more than 16 cubic feet, unless otherwise approved by the Administrator.

**Commented [RMK7]:** VZW Construction and Engineering are reviewing.

3. Placement.

- a. Small wireless facilities on a pole or other vertical structure shall be installed at least 8 feet above the ground.
- b. Small wireless facilities, including antennas, ground equipment, and other appurtenances, shall be placed so as to not impede pedestrian or vehicular traffic in the right-of-way. Generators or back-up generators shall not be installed without the prior approval of Administrator.
- c. The preferred placement of ground equipment shall be in an underground vault if it is reasonable from a technical, construction, engineering or design perspective. If the equipment cannot be placed underground, the ground equipment shall be placed a minimum of 6 feet from the pole or supporting structure and shall not impede pedestrian or vehicular traffic in the right-of-way.

d. The distance between small wireless facilities shall be a minimum of 150 feet measured radially from the center of each facility's pole or supporting structure.

(8)

**F.G. Removal of abandoned antennas and towers.**

Any antenna or tower that is not operated for a continuous period of 12 months is considered abandoned, and the owner of the antenna or tower shall remove it within 90 days of receipt of notice from the City of Sparks notifying the owner of the abandonment. Failure to timely remove an abandoned antenna or tower is grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, this provision does not become effective until all users cease utilization of the tower.

(Ord. 2512, § 1(Exh. A), Add. 08/24/2015)



**Updated Definitions within SMC 20.08.002 for small cell:**

Wireless communication tower or antenna (existing definition) – An antenna, alternative tower structure, and/or tower as defined by Section 20.03.413046, not to include small wireless communications facilities. This definition is intended to encompass traditional macro wireless communications towers and associated structures, not small wireless communications facilities also known as small cell structures.

Small wireless communication facilities – compact communications equipment that consists of radios, radio transceivers, small cell antennas, wires, fiber optic cables, coaxial cables, amplifiers, switches, power sources, repeaters, regular and backup power supply, and other supporting devices installed overhead or above the ground, as well as all control boxes, pull boxes, cabinets, and other supporting devices that may be installed at ground level as part of a wireless network for the purpose of providing wireless services. Such facilities provide a smaller coverage area than traditional macrocell communications facilities which are encompassed within the definition of wireless communication towers or antennas.

Style Definition: DocID

**Commented [RMK1]:** The following definition of Small Wireless Facility conforms to the FCC Order and definition:

A WCF where each Antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an Antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch. A Small Wireless Facility includes a Micro Cell Facility. Small Wireless Facilities may be attached to Alternate Tower Structures, Replacement Poles, and Base Stations.

VZW proposes the City consider using this definition to be consistent with the FCC Order.



## Melby, Karen

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**From:** Buzz Lynn <Buzz.Lynn@epicwireless.net>  
**Sent:** Tuesday, March 26, 2019 3:36 PM  
**To:** Melby, Karen  
**Subject:** Re: City of Sparks, NV Draft Wireless Communication and Small Cell/Wireless Facilities Codes and Master License Agreement  
**Attachments:** 03-18-19\_Chapter 20-03-046 Wireless communication\_Buzz Lynn redline notes.pdf

Hi Karen - Please see my notes on pages 1, 3, and 9. More soon. Thanks!

Buzz Lynn  
Site Development  
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Folsom, CA 95630  
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**From:** Melby, Karen <kmelby@cityofsparks.us>  
**Sent:** Monday, March 18, 2019 1:40 PM  
**Cc:** Sendall, Brandon  
**Subject:** City of Sparks, NV Draft Wireless Communication and Small Cell/Wireless Facilities Codes and Master License Agreement

Good afternoon,

The City of Sparks has been working on amendments to Sparks Municipal Code pertaining to wireless communication and drafting a Master License Agreement (MLA). Please find attached to this email the following draft documents:

- a. Section 20.03.046 Wireless Communication amendments revising the macro tower section of the zoning code and addressing small cellular/wireless development on private property. (with track changes and clean version)
- b. Amendments to Section 20.08.002 to revise the existing definition in the Zoning Code for wireless communication tower or antenna and adding a new definition for small wireless communication facilities.
- c. Section 12.42.011 Small Wireless Communication Facilities is a new section establishing regulations for the siting of small cell wireless facilities within City right-of-way
- d. Master License Agreement (MLA) to allow carriers to install and operate small wireless facilities in city right-of-way. There will be one MLA with each carrier and as sites are added there will be addendums or Site Supplements to the MLA. For the installation of small wireless facilities, the permitting will be a building permit as well as any necessary street cut and/or encroachment permits.

## Section 20.03.046 - Wireless communications tower or antenna Facilities.

"Health" has always needed clarification. Federal requirements of the FCC state that perceived health effects may not be considered as a basis for denial

Please reconsider landscaping requirement

Purpose: This section establishes general guidelines for the siting, design and location of wireless communications towers and antennas and small wireless facilities located on private property. The goals of this chapter are to: (1) protect residential areas and other land uses from potential adverse impacts of wireless communications towers and antennas or small wireless facilities; (2) encourage the location of wireless communications towers and antennas in non-residential areas; (3) minimize the total number of wireless communications towers and antennas throughout the community; (4) strongly encourage the joint use of new and existing wireless communications tower sites as a primary option rather than construction of additional single-use wireless communications towers and antennas; (5) encourage the location of wireless communications towers and antennas to locate them, and small wireless facilities, to the extent possible, in areas where the adverse impact on the community is minimal; (6) encourage the configuration of wireless communications towers and antennas and small wireless facilities, to configure them the extent possible, in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; (8) consider the public health, education and safety, and welfare of the public relating to wireless communications towers and antennas and small wireless facilities; and (9) avoid potential harm or damage to people and adjacent properties from wireless communications tower failure through or failure of poles or other structures associated with small wireless facilities through structural and engineering analysis and careful siting of tower structures wireless communications towers and antennas and small wireless facilities. In furtherance of these goals, the City of Sparks shall give due consideration to the City of Sparks master comprehensive plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

### A. Applicability.

1. This section applies to any "wireless communication tower or antenna" and "small wireless facilities" located on private property.
2. **New towers and antennas.** All new small wireless facilities and wireless communication towers or antennas and associated equipment in the City of Sparks that are located on private property are subject to these regulations located on private property.

### B. Exemptions.

1. **Amateur radio station operators/receive only antennas.** This section does not apply to any tower, or the installation of any antenna, that is under 70 feet in height and owned and operated by a federally-licensed amateur radio station operator or used exclusively for receive only antennas.

2. **Direct home satellite dishes.** Subject to appropriate FCC regulations, this section does not apply to video programming signals from direct broadcast satellites, multichannel multipoint distribution providers and television broadcast stations.
3. **Preexisting towers or antennas.** Preexisting towers and preexisting antennas are not required to meet the requirements of this section, other than the requirements of subsections C.6, 8 and 14.
4. **AM array.** For purposes of implementing this chapter, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.
5. Any repair or maintenance of a wireless communication tower or antenna or small wireless facility.

**C. General Requirements– for wireless communication towers and antennas**

1. **Principal or accessory use.** ~~Antennas~~Wireless communication antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot does not preclude the installation of an antenna or tower on such lot.
2. **Lot size.** For purposes of determining whether the installation of a tower or antenna complies with the City of Sparks zoning/~~special~~or conditional use regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
3. **Inventory of existing sites.** Each applicant for an antenna and/or tower shall provide to the ~~director~~ Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City of Sparks or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The ~~director~~ Administrator may share the information with other applicants applying for administrative approvals or Conditional Use Permits under this chapter or other organizations seeking to locate antennas within the jurisdiction of the City of Sparks. However, the Administrator is not, by sharing the information, in any way representing or warranting that any sites are available or suitable.
4. Modification of existing wireless communication towers and antennas. Any modification of such equipment that does not (1) increase the height of the structure, (2) alter the profile of the structure, (3) increase the footprint of the facility, or (4) otherwise exceed the conditions of prior City approvals. The applicant shall submit a modification letter to the Administrator

outlining the proposed changes with a set of plans for review and approval by the Administrator prior to issuance of any building permit.

3.

As this does not affect the footprint or height of the tower, I suggest notification only, not consent.

**4.5. Aesthetics.** ~~Towers~~ Wireless communication towers and antennas shall meet the following requirements:

- a. Towers shall be constructed of steel, or other appropriate materials and either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or aesthetic requirements imposed by the Administrator are painted a neutral color so as to reduce visual obtrusiveness.
- b. Towers and antennas shall be designed to minimize the physical and visual impact on the community, including the use of stealth or camouflaging siting techniques or other aesthetic requirements as imposed by the Administrator.
- c. At a tower site, the design of the buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend them into the natural setting, surrounding buildings and site area.
- d. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive.

**5.6. Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

**6.7. State or federal requirements.** All towers must meet or exceed current standards and regulations of the ~~FAA, the FCC,~~ Federal Aviation Administration (FAA), the Federal Communication Commission (FCC), and any other agency of the state or federal government with the authority to regulate towers and antennas. If those standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring the towers and antennas into compliance with the revised standards and regulations within six months of the effective date of the standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with the revised standards and regulations ~~is~~ constitute grounds for the removal of the tower or antenna at the owner's expense.

**7.8. FCC notification requirements.** Each applicant shall provide to the Administrator ~~within 60 days after the construction~~ prior to issuance of any building permit of an appropriate antenna/tower, written documentation confirming that the FCC has been notified of the location of the



antenna/tower for inclusion in the FCC antenna registration database. A change in ownership or affiliation of the tower or any changes in collocation must be accompanied by verified documentation that the FCC and its antenna registration database have been notified of the change. Failure to timely provide the ~~director~~ Administrator with written documentation concerning FCC notification is grounds for removal of the tower or antenna.

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

**9.10. Measurement.** For purposes of measurement, tower setbacks and separation distances are calculated and applied to facilities irrespective of municipal and county jurisdictional boundaries.

**10.11. Applicability of City zoning ordinances.** Towers and antennas are regulated and permitted pursuant to this chapter and all other applicable zoning ordinances enacted in the City of Sparks.

**11.12. Franchises.** Owners and/or operators of towers or antennas shall identify all local backhaul networks to be used by the applicant.

**12.13. Signs.** No signs are allowed on an antenna or tower.

**13.14. ~~Certification of financial compliance~~ Business License.** The applicant shall provide to the Administrator all applicable City of Sparks business licensing fees or fees in lieu of a business license in accordance with ~~Section 5.20.010 of this code. The Administrator shall, on a quarterly basis, be provided with a list of those businesses that have failed to provide their quarterly payments as required by the Sparks Municipal Code.~~ Section 5.20.010 of this code. The failure or refusal to remit appropriate fees to the Administrator shall constitute grounds to remove the applicant's tower or antennas.

**14.15. Licensed Professional.** A licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant.

**15.16. Availability of suitable existing towers, other structures, or alternative technology.** No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Administrator or planning commission, that there is no existing tower, structure or



alternative technology that can accommodate the applicant's proposed antenna or tower. An applicant shall submit information requested by the Administrator related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or structures are located within the geographic area meet applicant's engineering requirements.
- b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- f. The applicant demonstrates that an alternative technology that does not require the use of [wireless communication](#) towers or structures, such as ~~a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system~~ [small wireless facilities](#), is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the [alternative](#) technology unsuitable.
- g. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

**D. Administrative Review, [for new wireless communication antennas and towers](#)**

**1. General.** The following provisions apply to the issuance of administrative review approvals for ~~towers and~~ [wireless communication antennas](#) ~~and towers.~~

- a. The Administrator may approve the uses listed in this section.
- b. Each applicant shall file an application with the Administrator providing the information set forth in the [appendix Appendix A-11](#) to this [title Title](#).
- ~~b.c.~~ [c.](#) The Administrator shall review the application and determine if the proposed use complies with this [title Title](#). [Within 30 working days after the application is](#)

received, the Administrator shall determine whether the application is complete and send a written notice of the determination to the applicant. The Administrator shall specify those parts of the application that are incomplete and shall indicate how they can be made complete. The Administrator and the decision-making agency are not obligated to further review the application until the required information is provided.

- d. The Administrator shall respond to each ~~such~~ complete application that seeks approval to collocate facilities within ~~60~~ 90 days after the filing of ~~the~~ each application by either approving or denying the application, unless the applicant and Administrator mutually agree to extend the deadline. If an application seeks approval for construction of a new tower and antenna then the Administrator shall respond within 150 days by either approving or denying the application, unless the applicant and Administrator mutually agree to extend the deadline. If the Administrator fails to timely respond within ~~60 days from deeming these~~ timeframes, the application ~~complete, for~~ the application wireless communication tower or antenna is deemed to be approved.

**2. Administrative review applicability.** The following uses may be approved by the Administrator after conducting an ~~Administrative~~ administrative review:

- a. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in ~~any I (industrial), MUD (MU-C), MUD (DT/VS), C1 (neighborhood commercial) C2 (general commercial), TC (tourist commercial) or PF (public facilities) zoning~~ any zoning districts.

- b. Locating antennas on existing structures or towers consistent with the following:

- (1) Antennas on existing structures.** Any antenna that is not attached to a tower may be approved by the Administrator as an accessory use to any ~~I (industrial), MUD (MU-C), MUD (DT/VS), C1 (neighborhood commercial) C2 (general commercial), TC (tourist commercial) or PF (public facilities) zoning~~ districts, if:

(a) The antenna and equipment is a new carrier.

(b) The antenna does not extend more than ~~30~~ 10 feet above the highest point of the structure;

~~(c) (b)~~—The antenna complies with all applicable FCC and FAA regulations; and

~~(d)~~ Complies with the Aesthetics section of this chapter.

- (2) Antennas on existing towers.** An antenna which is attached to an existing tower may be approved by the Administrator and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one

carrier on existing towers takes precedence over the construction of new towers. This applies if:

(a) The antenna and equipment is a new carrier.

(b) The tower is modified or reconstructed to accommodate the collocation of an additional antenna is of the same tower type as the existing tower, unless the Administrator allows reconstruction as a monopole.

(c) ~~(b)~~—Height-

- I. An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna.
- II. The height change as listed above may only occur one time per communication tower.
- III. The additional height referred to above does not require an additional distance separation as set forth in this Title. The tower's pre-modification height is used to calculate the distance separations.

(d) ~~(c)~~—On-site location.

- I. A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved on-site within 50 feet of its existing location.
- II. After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

III. A cellular tower on wheels (C.O.W.) may be used during construction.

3. ~~Setbacks and Separation~~Locational Requirements. Locating any new tower in a non-residential zoning district ~~other than industrial or commercial~~, if:

a. **Setbacks.** The following setback requirements apply to all towers.

- (1) Towers must be set back a distance equal to at least 75 percent of the height of the tower from any adjoining lot line.
- (2) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

b. **Height.** The tower meets the following height and usage criteria:

- (1) for a single user, up to 90 feet in height;

- (2) for 2 users, up to 120 feet in height; and
- (3) for 3 or more users, up to 150 feet in height.

c. **Separation.** The following separation requirements apply to all towers and antennas.

- (1) **Separation from off-site uses/designated areas.** Tower separation is measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table: ~~Off-site Use/Designated Area~~ Separation Distance, except as otherwise provided Table: ~~Off-site Use/Designated Area~~ Separation Distance.

~~Table: Off-site Use/Designated Area~~

Table: Designated Separation Distance

<u>Off-site Use</u>	<u>Separation Distance*</u>
Single-family or duplex residential units <sup>1</sup>	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower <sup>2</sup> whichever is greater
Vacant unplatted residentially zoned lands <sup>3</sup>	100 feet or 100% height of tower whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

~~<sup>1</sup> Includes modular homes and mobile homes used for living purposes.~~

~~<sup>2</sup> Separation measured from base of tower to closest building setback line property line of off-site use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land.~~

~~<sup>3</sup> Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land.~~

- (2) **Separation distances between towers.** Separation distances between towers apply to and are measured between the proposed tower and preexistingexisting towers. The



separation distances are measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) are as shown in the Table: [Distance Separation between Existing Tower by Types](#).

Table: [Distance Separations between Existing Towers—Types \(in feet\)](#)

	Lattice	Guyed	Monopole 75 Ft in Height or Greater	Monopole Less Than 75 Ft in Height
<b>Lattice</b>	5,000	5,000	1,500	750
<b>Guyed</b>	5,000	5,000	1,500	750
<b>Monopole 75 Ft in Height or Greater</b>	1,500	1,500	1,500	750
<b>Monopole Less Than 75 Ft in Height</b>	750	750	750	750

Landscaping: Carriers are not set up to handle this, as it often includes adding water supplies where they do not exist. If Sparks is insistent, I would encourage offering a "Director's Modification" (for a separate fee), as is done in Washoe County to waive this and other conditions that are often difficult to achieve and maintain. Outside the fence is not part of the lease area, but creates an "outside the lease" liability. It also creates an inadvertent zoning infraction for the property owner should the landscape requirement eat into parking spaces/ratios.

**Security fencing.** Towers shall be enclosed by security fencing at least 6 feet in height and also be equipped with an appropriate anti-climbing device.

**Landscaping.** The following requirements govern the landscaping surrounding towers. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens view of the tower compound from property used for residentially zoned properties: [as required and approved by the Administrator](#). The standard buffer shall consist of a landscaped strip at least 4-10 feet wide outside the perimeter of the compound.

**Antennas or other Equipment Storage.**

**Antennas mounted on structures or rooftops.** The equipment cabinet or structure used in association with antennas shall comply with the following:

- The cabinet or structure may contain up to 500 square feet of gross floor area ~~of~~ [and be](#) up to 10 feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure, shall either be screened from view to the satisfaction of the Administrator or shall not be located on the roof-structure.

(b) Equipment storage buildings or cabinets shall comply with all applicable building codes.

~~(2) — Antennas mounted on utility poles or light poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:~~

~~(a) — In a front or side yard provided the cabinet or structure is no greater than seven feet in height or 150 square feet of gross floor area and the cabinet/structure is located a minimum of 15 feet from all lot lines. The cabinet/structure shall be screened where necessary to the satisfaction of the Administrator.~~

~~(b) — In a rear yard, provided the cabinet or structure is no greater than ten feet in height or 500 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.~~

~~(c) — In MUD (MU-C), MUD (DT/VS), C1, C2 or TC zoning districts, the equipment cabinet or structure may be up to 10 feet in height or 500 square feet in gross floor area. The structure or cabinet shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet.~~

(2) ~~(3)~~ **Antennas located on towers.** The related unmanned equipment structure may contain up to 500 square feet of gross floor area or 10 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

(3) ~~(4)~~ **Building Design Standards.** The equipment and antennas to be installed on an existing building shall incorporate designs that minimize the visual impacts through ~~careful~~ design, including siting considerations, screening with substantial improvements to the building or innovative camouflaging techniques to the approval of the Administrator.

E. Conditional Use Permit, for wireless communication towers and associated equipment antennas

1. **General.** The following provisions govern the issuance of conditional use permits for wireless communication towers or antennas:

- a. If the tower or antenna cannot comply with the standards listed in the Administrative Review Section of this Title, an applicant may apply for a Conditional Use Permit which may be considered by the Planning Commission.
- b. Applications for Conditional Use Permits under this Section are subject to the procedures and requirements of Section 20.05.009 except as modified in this section.

2. Additional Conditional Use Permit Findings-

- a. Factors considered in granting Conditional Use Permits for wireless communication towers and antennas. In addition to any findings for consideration of Conditional Use Permit applications pursuant to section 20.05.009 of this code, the planning commission shall consider the following factors in determining whether to issue a Conditional Use Permit.

- (1) Height of the proposed tower;
- (2) Proximity of the tower to residential structures and residential district boundaries;
- (3) Nature of uses on adjacent and nearby properties;
- (4) Surrounding topography;
- (5) Surrounding tree coverage and foliage;
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (7) Proposed ingress and egress; and
- (8) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, ~~as discussed in this section.~~

F. Small wireless facilities located on private property or easements.

1. General. The following provisions apply to issuance of building permits for small wireless facilities and associated equipment on private property or easements.

- a. Each installation will be reviewed through the building permit process for conformance with this chapter and all applicable building and construction standards.
- b. The Administrator shall evaluate the completeness of an application to install and operate a small wireless facility, including construction of a new pole for the purpose of installing and operating small wireless facilities, within 30 days after receipt of the building permit application. If an application is deemed incomplete, the Administrator shall provide written notice that the application is incomplete and a summary of the missing documentation or information. Any notice that an application is incomplete will toll the applicable deadline for City action until the missing documentation or information is supplemented. The Administrator shall respond to each complete small wireless facilities building permit application that seeks to collocate small wireless facilities on an existing pole or structure within sixty (60) days after the filing of the building permit application by either approving or denying the application, unless the applicant and Administrator mutually agree to extend the deadline for City action. For any applications seeking approval to construct a new pole or structure for the purpose of operating or attaching small wireless facilities, the Administrator shall respond to each complete application within ninety (90) days after the filing of the building permit application, unless the applicant and Administrator mutually agree to extend the deadline for City action. If an applicant submits multiple batched applications on the same day that include applications for the construction of new poles or structures and applications for collocation on existing structures, then the Administrator



shall respond to each complete application within ninety (90) days, unless the applicant and Administrator mutually agree to extend the deadline for City action.

- c. An applicant considering attaching small wireless facilities to an existing pole or structure that is not owned or controlled by the City of Sparks shall provide documentation demonstrating that it has authority to attach small wireless facilities to the existing pole or structure.
- d. Carrier shall be responsible for obtaining access and connection to electrical power and fiber optic lines or other backhaul solutions that may be required for the operation of its small wireless facilities.
- e. Carrier shall, at its own cost and expense, install the small wireless facilities or poles in a good and workmanlike manner and in accordance with the requirement promulgated by the Administrator, as such may be amended from time to time. All work done in connection with the installation, operation, maintenance, repair, modification, and/or replacement of the small wireless facilities or poles shall be in compliance with all laws, ordinances, codes, standards, rules, and regulations ("Laws").
- f. Carrier shall post its name, location identifying information, and emergency contact telephone number in an area on the cabinet or other exterior portion of the small wireless facility that may be visible to the public. Signage required under this section shall not exceed 4"x6" inches in size, unless otherwise required by direction of the Administrator or by law.
- g. Except as required by law, the carrier shall not post any other signage or advertising on its small wireless facilities or any supporting pole or structure.

## **2. Aesthetics.**

- a. Small wireless facilities equipment to be installed on an existing pole or structure shall be concealed or enclosed as much as is technologically feasible in an equipment box, cabinet or other unit that may include ventilation openings. External cables and wires shall be sheathed, placed inside the pole, or enclosed in a metal conduit so that the wires are protected and not visible or visually minimized to the maximum extent possible. For new pole or structure installation, all wiring shall be enclosed within the pole/structure, equipment box, cabinet or other unit that may include ventilation openings. The preferred location for any ground equipment shall be in an underground vault, but if any equipment must be placed above ground it shall be a color or material to match the surrounding area and ensure that it allows for necessary pedestrian access as required under the Americans with Disabilities Act, including the maintenance of a minimum forty-eight (48) inches walking space.
- b. To the extent technically feasible, antennas and associated equipment located on a pole structure shall be installed within a camouflaged facility to the approval by the



Administrator. Camouflaging may include hiding the antennas by use of radome or other similar stealth designs and matching colors or materials to the surrounding area.

- c. The maximum height of any new pole or structure shall be 40 feet, including antennas and any other appurtenances.
- d. When a supporting pole or structure bearing a small wireless communication facility is replaced, the carrier shall, to the extent technically feasible, install camouflaged poles or supporting structures, small wireless facilities, and/or ground equipment in compliance with the City's adopted aesthetics standards, unless otherwise approved by Administrator.
- e. Any ground equipment shall be no more than 28 cubic feet excluding any concrete pad which must be flush with grade or more than six (6) inch above grade.
- f. The antenna volume shall be not more than 3 cubic feet. The volume of a remote radio unit (RRU) shall not be more than 6 cubic feet in total, shall not extend more than one foot from the face of the point of connection, and shall not be wider than two times the dimension of the pole diameter.
- g. The total size of small wireless communications facilities installed on a pole or structure shall not exceed 4 feet in height, 2 feet in width, and 2 feet in depth, and shall not be more than 16 cubic feet, unless otherwise approved by the Administrator.

### 3. Placement.

- a. Small wireless facilities on a pole or other vertical structure shall be installed at least 8 feet above the ground.
- b. Small wireless facilities, including antennas, ground equipment, and other appurtenances, shall be placed so as to not impede pedestrian or vehicular traffic in the right-of-way. Generators or back-up generators shall not be installed without the prior approval of Administrator.
- c. The preferred placement of ground equipment shall be in an underground vault. If the equipment cannot be placed underground, the ground equipment shall be placed a minimum of 6 feet from the pole or supporting structure and shall not impede pedestrian or vehicular traffic in the right-of-way.
- d. The distance between small wireless facilities shall be a minimum of 150 feet measured radially from the center of each facility's pole or supporting structure.

### **F. Removal of abandoned wireless communication antennas and towers ~~and small wireless facilities~~**

Any wireless communication antenna or tower ~~or small wireless facilities~~ that ~~is~~ are not operated for a continuous period of ~~12 months~~ 180 days is considered abandoned, and the owner of the antenna or tower shall remove it within 90 days of receipt of notice from the City of Sparks notifying the

owner of the abandonment. Failure to timely remove an abandoned antenna or tower [or small wireless facilities](#) is grounds [for the City](#) to remove the tower or antenna [or small wireless facilities](#) at the owner's expense. If there are two or more users of a single tower, this provision does not become effective until all users cease utilization of the tower.

~~(Ord. 2512, § 1(Exh. A), Add. 08/24/2015)~~

## Melby, Karen

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**From:** Shank, Aaron M. <AShank@porterwright.com>  
**Sent:** Tuesday, March 26, 2019 1:53 PM  
**To:** Melby, Karen  
**Cc:** Sendall, Brandon; SLADE, JEFFREY M (Legal) (JS593D@att.com)  
**Subject:** AT&T's Initial Comments on Proposed Amendments Wireless Siting Regulations  
**Attachments:** AT&T Comments March 26 2019.pdf

Dear Ms. Melby. Please accept this letter from Jeff Slade on behalf of AT&T to provide comments on the city's proposed ordinance to amend Sparks Municipal Code Sections 12.42.011 and 20.03.46, as well as the definition for "small wireless communication facilities" in Section 20.08.002. If you have questions, please contact us.

Aaron M. Shank  
Outside Legal Counsel for AT&T

### AARON M. SHANK

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END OF NOTICE



**JEFFREY SLADE**  
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March 26, 2019

*Via E-Mail*

Karen Melby, Development Services Manager  
City of Sparks Community Services Planning Division  
City Hall  
431 Prater Way  
Sparks, NV 89431

Re. AT&T's Initial Comments on the City's Ordinance Amending Sparks  
Municipal Code Section 20.30.046, Regulating Wireless Communications  
Facilities Located on Private Property, and Section 12.42.011, Regulating  
Small Wireless Facilities in the Right-of-Way

Dear Ms. Melby:

I write on behalf of New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (AT&T) to provide initial comments on the city's proposed ordinance to amend Sparks Municipal Code Section 20.30.046, regulating wireless communications facilities located on private property, and Section 12.42.011, regulating small wireless facilities in the right-of-way ("Proposed Ordinance"). AT&T appreciates that the city recognizes the need to address changes in applicable state and federal laws, including the Federal Communications Commission's *Infrastructure Order*.<sup>1</sup> With more than 70% of Americans relying exclusively or primarily on wireless telecommunications, it is especially important to encourage responsible wireless facility deployments consistent with applicable law.

Unfortunately, the Proposed Ordinance would establish some rules at odds with applicable laws. AT&T respectfully asks that the city pause briefly in considering the Proposed Ordinance to consider these and other comments from the wireless industry. AT&T offers the following summary of applicable laws along with specific comments on the Proposed Ordinance.

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<sup>1</sup> See *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) ("*Infrastructure Order*").



### *Key Legal Concepts*

The Federal Telecommunications Act of 1996 (“Act”) establishes key limitations on local regulations. The Act defines the scope and parameters of the city’s review of AT&T’s applications. Under the Act, the city must take action on AT&T’s applications “within a reasonable period of time.”<sup>2</sup> The Act also requires that the city’s review of AT&T’s applications must be based on substantial evidence.<sup>3</sup> Under the Act, state and local governments may not unreasonably discriminate among providers of functionally equivalent services.<sup>4</sup>

The Act also prohibits a local government from denying an application for a wireless telecommunications facility where doing so would “prohibit or have the effect of prohibiting” AT&T from providing wireless telecommunications services.<sup>5</sup> The FCC has ruled that an effective prohibition occurs when the decision of a local government materially inhibits wireless services.<sup>6</sup> The FCC explained that the “effective prohibition analysis focuses on the service the provider wishes to provide, incorporating the capabilities and performance characteristics it wishes to employ, including facilities deployment to provide existing services more robustly, or at a better level of quality, all to offer a more robust and competitive wireless service for the benefit of the public.”<sup>7</sup> Thus, a local government “could materially inhibit service in numerous ways – not only by rendering a service provider unable to provide existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services.”<sup>8</sup>

In September 2018, the FCC issued its small cell deployment order and associated rules, which went into effect on January 14, 2019. Under this *Infrastructure Order*, the FCC established a standard for lawful fees, which requires that: “(1) the fees are a reasonable approximation of the state or local government’s costs, (2) only objectively reasonable costs are factored into those fees, and (3) the fees are no higher than the fees charged to similarly-situated competitors in similar situations.”<sup>9</sup> Thus, only objectively reasonable costs that are recovered on a nondiscriminatory basis can be included in fees. The FCC also established a standard for local aesthetic regulations that they must be (1) reasonable (i.e., has to be technically feasible), (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.<sup>10</sup>

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<sup>2</sup> 47 U.S.C. § 332(c)(7)(B)(ii).

<sup>3</sup> 47 U.S.C. § 332(c)(7)(B)(iii).

<sup>4</sup> 47 U.S.C. §332(c)(7)(B)(i)(I).

<sup>5</sup> 47 U.S.C. §332(c)(7)(B)(i)(II).

<sup>6</sup> See *Infrastructure Order* (The FCC rejected the significant gap/least intrusive means test for an effective prohibition that many courts, including the Ninth Circuit, have applied); see also, *In the Matter of California Payphone Association Petition for Preemption, Etc.*, Opinion and Order, FCC 97-251, 12 FCC Rcd 14191 (July 17, 1997).

<sup>7</sup> *Infrastructure Order* at n. 95.

<sup>8</sup> *Id.* at ¶ 37.

<sup>9</sup> *Id.* at ¶ 50.

<sup>10</sup> See *id.* at ¶ 86; the FCC delayed the effective date for this aesthetic standard to April 15, 2019 in order to give local governments time to adopt appropriate regulations.

technology because the FCC has exclusive authority over technical and operational matters concerning wireless communications.<sup>19</sup> These provisions must be revised.

3. Height of Antennas on Existing Towers. AT&T also objects to Section 20.03.046(D)(2)(b)(2)(c) stating that a height change for an existing tower “may only occur one time per communication tower.” This blanket “one height change” requirement does not make sense because a height change can be subject to additional zoning requirements.
4. Separation. Section 20.03.046(D)(3)(c)(2) provides separation requirements that apply between towers. AT&T cautions the city that these distance requirements may effectively prohibit wireless services. These separation distances seem especially unnecessary with respect to stealth facilities and placements outside of residential areas.
5. Antennas Mounted on Structures or Rooftops and Located on Towers. Sections 20.03.046(D)(3)(d)(1)(a) and 20.03.046(D)(3)(d)(2) of the Proposed Ordinance restrict equipment to “500 square feet of gross floor area.” This restriction may not be feasible in some instances and may discourage collocating wireless facilities at the same site. AT&T questions the application of this limit, especially on rooftops or where facilities are screened.

#### *Conclusion*

AT&T appreciates the city’s efforts to adapt its wireless facility siting regulations to accommodate new and emerging technologies and changes in law. By addressing the items we raise here, the city will go a long way toward encouraging deployments consistent with state and federal policies and to the great benefit of the city’s residents and businesses.

Sincerely,

*/s/ Jeffrey M. Slade*

Jeffrey M. Slade

cc: Brandon Sendall, Assistant City Attorney  
(bsendall@cityofsparks.us)

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<sup>19</sup> See *New York SMSA L.P. v. Town of Clarkstown*, 612 F.3d 97, 106 (2d Cir. 2010).

## Melby, Karen

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**From:** Justin Terry <jterry@extenetsystems.com>  
**Sent:** Tuesday, March 26, 2019 3:16 PM  
**To:** Melby, Karen  
**Cc:** Joey Acquistapace  
**Subject:** FW: City of Sparks, NV Draft Wireless Communication and Small Cell/Wireless Facilities Codes and Master License Agreement  
**Attachments:** 03-18-19\_Definitions for Small Cell.pdf

Dear Karen,

I will be working with Joey Acquistapace on the proposed amendments to your local Zoning Code and the draft MLA that allows carriers to install and operate small wireless facilities in city right-of-way.

In response to your request for comments by March 26<sup>th</sup> on Sec. 20.08.002, which adds a new definitions for small wireless communication facilities, ExteNet has no objection and is supportive of the language allowing the City to exercise its discretion without unnecessarily calling out sizes and quantities.

On another note, and mindful of a similar March 26<sup>th</sup> deadline, ExteNet has no comment on Sec. 20.03.046, which revises the macro tower section of the zoning code and addresses small cellular/wireless development on private property, as these are not projects with which we are currently involved here.

I look forward to working with the City of Sparks and would kindly ask that you add me to your e-mail distribution.

Thanks!

**Justin L. Terry** | Director, External Relations - Infrastructure



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**From:** Lizzy Schneider <lschneider@extenetsystems.com>  
**Sent:** Tuesday, March 19, 2019 11:56 AM  
**To:** Justin Terry <jterry@extenetsystems.com>  
**Subject:** FW: City of Sparks, NV Draft Wireless Communication and Small Cell/Wireless Facilities Codes and Master License Agreement

**Lizzy Schneider**  
**ExteNet Systems, Inc.**  
Director, External Relations, Infrastructure  
Phone: (720) 379 6414