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(3) A Tier 3 WCF Permit shall be required for the siting of any new WCF that is not a Collocation subject to a Tier 1 or 2 WCF Permit.

(d) WCF Application Requirements

All applications for a WCF Permit shall include the following items:

(1) Any applicant for a WCF Permit shall participate in an intake meeting with the Planning and Community Environment Department to file an application;

(2) The applicant must identify whether the applicant believes the application is for an Eligible Facilities Request subject to the Spectrum Act, and if so, provide a detailed explanation as to why the applicant believes that the application qualifies as an Eligible Facilities Request;

(3) The applicant shall complete the City's standard application form, as may be amended from time to time;

(4) The applicant shall include a completed and signed application checklist available from the City, including all information required by the application checklist;

(5) Payment of the fee prescribed by the Municipal Fee Schedule;

(6) For Tier 1 and 2 WCF Permits, the application must be accompanied by all permit applications with all required application materials for each separate permit required by the City for the proposed collocation or modification to an existing Wireless Communications Facility, including a building permit, an encroachment permit (if applicable) and an electrical permit (if applicable);

(7) For Tier 2 and 3 WCF Permits, the applicant must host a community meeting to provide outreach to the neighborhood around the Project site. The applicant shall give notice of the community meeting to all residents and property owners within 600 feet of the Project site at least 14 days in advance of the community meeting. The applicant shall provide a proof of notice affidavit to the City.

(i) The application must include a completed and signed application checklist available from the City, including all information required by the application checklist;

(ii) Provide proof that the applicant noticed and hosted the Community Meeting before filing the application;

(iii) Summary of comments received at the community meeting and what, if any, changes were made to the application;

(8) For new WCF Projects, the plans shall include a scaled depiction of the maximum permitted increase as authorized by the Spectrum Act, using the proposed Project as a baseline; and

(9) Satisfy other such requirements as may be, from time to time, required by the Planning and Community Environment Department Director (“Director”), as publically stated in the application checklist.

(e) Permit Review (“Shot Clock”) Time Periods

(1) City Review of Application Materials. The timeframe for review of an application shall begin to run when the application is submitted, but shall be tolled if the City finds the application incomplete and requests that the applicant submit additional information to complete the application. Such requests shall be made within 30 days of submission of the application. After submission of additional information, the City will notify the applicant within 10 days of this submission if the additional information failed to complete the application.

(2) Tier 1 Processing Time. For Tier 1 Collocations, the City will act on the WCF application together with any other City permits required for a proposed WCF modification, within 60 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time.

- (i) If the City determines that the application does not qualify as a Tier 1 Eligible Facilities Request, the City will notify the applicant of that determination in writing and will process the application as a Tier 2 WCF permit application.
- (ii) To the extent federal law provides a “deemed granted” remedy for Tier 1 WCF applications not timely acted upon by the City, no such application shall be deemed granted until the Applicant provides notice to the City, in writing, that the application has been deemed granted after the time period provided in Section (e)(2) above has expired
- (iii) Any deemed granted Tier 1 WCF application shall be subject to all requirements of Section 18.42.110(j).

(3) Tier 2 Processing Time. For Tier 2 WCF Permits, the City will act on the application within 90 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time.

(4) Tier 3 Processing Time. For Tier 3 WCF Permits, the City will act on the application within 150 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time.

(5) Denial of Application. If the City denies a WCF application, the City will notify the applicant of the denial in writing of the reasons for the denial.

(f) Tier 1 WCF Permit Process and Findings

(1) A Tier 1 WCF Permit shall be reviewed by the Director. The Director's decision shall not be appealable.

(2) The Director shall grant a Tier 1 WCF Permit provided the following findings can be made:

- (i) The applicant proposes an Eligible Facilities Request; and
- (ii) The proposed Collocation or modification does not defeat any existing concealment elements of the Support Structure.

(g) Tier 2 WCF Permit Process and Findings

(1) A Tier 2 WCF Permit shall be reviewed by the Director. The Director's decision shall be appealable pursuant to the process for architectural review set forth in Section 18.77.070.

(2) The Director, or Council on appeal, shall grant a Tier 2 WCF Permit provided all of the architectural review findings in Section 18.76.020(d) can be made.

(h) Tier 3 WCF Permit Process and Findings

(1) A Tier 3 WCF Permit shall be reviewed by the Director. The Director's decision shall be appealable pursuant to the process for architectural review set forth in Section 18.77.070 and the process for conditional use permits set forth in Section 18.77.060.

(2) The Director or Council on appeal shall grant a Tier 3 WCF Permit provided all of the architectural review findings in Section 18.76.020(d) and the conditional use permit findings in Section 18.76.010 (c) can be made.

(i) Development Standards

A proposed WCF Project shall comply with the following standards:

- (1) Shall utilize the smallest footprint possible;
- (2) Shall be designed to minimize the overall height, mass, and size of the cabinet and enclosure structure;
- (3) Shall be screened from public view;
- (4) Shall be architecturally compatible with the existing site;

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(5) Shall be placed at a location that would not require the removal of any required landscaping or would reduce the quantity of landscaping to a level of noncompliance with the Zoning Code;

(6) An Antenna, Base Station, or Tower shall be designed to minimize its visibility from off-site locations and shall be of a “camouflaged” or “stealth” design, including concealment, screening, and other techniques to hide or blend the Antenna, Base Station, or Tower into the surrounding area;

(7) A building-mounted Antenna, Base Station, or Tower shall be architecturally compatible with the existing building on or to which the Antenna, Base Station, or Tower is attached;

(8) For any Tier 2 or Tier 3 WCF proposed to be attached to or on historic structure/site, as designated by Chapter 16.49, historic preservation review shall also be required;

(9) A building-mounted WCF may extend fifteen (15) feet beyond the permitted height of the building in the zone district, except: A Tower or other stand-alone Tier 3 WCF shall not exceed sixty-five (65) feet in height; and

(10) A Tower or other stand-alone Tier 3 WCF may encroach into the interior/street side and rear setback.

(j) Conditions of Approval

In addition to any other conditions of approval permitted under federal and state law and this Code that the Director deems appropriate or required under this Code, all WCF Projects approved under this Chapter, whether approved by the Director or deemed granted by operation of law, shall include the following conditions of approval:

- (1) Permit conditions. The grant or approval of a WCF Tier 1 permit shall be subject to the conditions of approval of the underlying permit, except as may be preempted by the Spectrum Act.
- (2) As-built plans. The applicant shall submit to the Director an as-built set of plans and photographs depicting the entire WCF as modified, including all Transmission Equipment and all utilizes, within ninety (90) days after the completion of construction.
- (3) Indemnification. To the extent permitted by law, the applicant shall indemnify and hold harmless the City, its City Council, its officers,

employees and agents (the “indemnified parties”) from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City for its actual attorneys’ fees and costs incurred in defense of the litigation. The City may, in its sole discretion and at Applicant’s expense, elect to defend any such action with attorneys of its own choice.

- (4) Compliance with applicable laws. The applicant shall comply with all applicable provisions of the Code, any permit issued under this Code, and all other applicable federal, state and local laws. Any failure by the City to enforce compliance with any applicable laws shall not relieve any applicant of its obligations under this code, any permit issued under this code, or all other applicable laws and regulations.
- (5) Compliance with approved plans. The proposed Project shall be built in compliance with the approved plans on file with the Planning Division.

(k) Removal of Abandoned Equipment

A WCF (Tier 1, Tier 2, or Tier 3) or a component of that WCF that ceases to be in use for more than ninety (90) days shall be removed by the applicant, Wireless Communications Service provider, or property owner within ninety (90) days of the cessation of use of that WCF. A new conditional use permit shall not be issued to an owner or operator of a WCF or a Wireless Communications Service provider until the abandoned WCF or its component is removed.

SECTION 2. Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Council finds that the adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA

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Guideline sections 15061(b) and 15301, 15302 and 15305 because it simply provides a comprehensive permitting scheme.

SECTION 5. This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Senior Asst. City Attorney

City Manager

Director of Planning &
Community Environment