

ATTACHMENT 1

A Resolution of the Board of Supervisors of the County of Humboldt
Making Findings Pursuant to CEQA, the General Plan and
Humboldt County Code Section 312-50 –
Concerning Adoption of Zoning Ordinance Amendments
For Areas Within the Coastal Zone, Title 14 §13551 of the California Code of
Regulations, and Public Resources Code § 30200 (Coastal Act)

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on November 29, 2022

RESOLUTION NO.22-190

CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ADOPTING FINDINGS OF FACT ASSOCIATED WITH THE WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE.

WHEREAS, Section 47 U.S.C.A. §332(c)(7)(A) preserves local zoning authority over decisions regarding the placement, construction, and modification of personal wireless service facilities while the local zoning authority complies with each of the substantive procedural requirements set forth within the subsection 47 U.S.C.A. §332(c)(7)(B); and

WHEREAS, Section 47 U.S.C.A. §1455(a) limits local zoning authority to deny eligible facilities requests for a modification of an existing wireless tower, including co-locations of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment; and

WHEREAS, California Government Code Section 65850, et seq. authorizes counties to regulate land use, and to adopt and amend zoning ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, California Government Code Sections 65850.6 requires discretionary co-locations of facilities initially approved by ministerial action; and

WHEREAS, Humboldt County initiated the zoning ordinance changes herein to implement its General Plan Telecommunications Element, which directs the County to develop a Wireless Telecommunications Facilities Ordinance as set forth in T-IM1; and

WHEREAS, the proposed ordinance and related code amendments may be approved if findings can be made that: (1) the proposed change is in the public interest; (2) the proposed change is consistent with the General Plan; and (3) amendments to the Local Coastal Plans are in conformity with the policies of the Coastal Act and approved Local Coastal Plans; and

WHEREAS, adoption of the Wireless Telecommunications Facilities Ordinance is exempt from environmental review pursuant to the California Environmental Quality Act, under CEQA Guidelines §15307 and §15308; and

WHEREAS, pursuant to 21080.5 and 21080.9 of the Public Resources Code and Sections 15250, 15251(f) and 15265 of the California Environmental Quality Act (CEQA) Guidelines, CEQA does not apply to the activities of a local government for the preparation and adoption of a Local Coastal

Program, and therefore the County adoption of the Coastal Wireless Telecommunications Facilities Ordinance is statutorily exempt; and Local Coastal Program Amendments are exempt subject to approval by the California Coastal Commission, a regulatory program certified by the Secretary of Resources as being the functional equivalent of the environmental review process required by CEQA; and

WHEREAS, this resolution includes substantial evidence in support of making all the required findings for approving the proposed amendments to the zoning text; and

WHEREAS, public hearings were held on the matter before the Humboldt County Planning Commission on March 3, 2022, April 7, 2022, and April 21, 2022 during which the Planning Commission reviewed the staff report, took public comments, and deliberated on the draft Wireless Telecommunications Facilities Ordinance and alternatives presented; and

WHEREAS, on April 21, 2022, the Planning Commission voted to recommend approval of both the inland and coastal Wireless Telecommunications Facilities ordinances, requesting that Planning and Building staff investigate the potential benefit of additional setbacks to sensitive receptors; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on the Wireless Telecommunications Facilities Ordinance on November 1, 2022; and

WHEREAS, that public hearing was continued to November 29, 2022.

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors hereby makes the following findings:

CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).		
1.	FINDING:	The proposed Wireless Telecommunications Facilities Ordinance is exempt from environmental review.
	EVIDENCE:	a) The California Environmental Quality Act (CEQA) Guidelines Section 15307 states that actions by regulatory agencies for protection of natural resources are exempt from environmental review. CEQA Guidelines Section 15308 states that actions by regulatory agencies for the protection of the environment are exempt from environmental review. The proposed amendments to the zoning ordinance will limit the development of wireless telecommunications facilities to those locations that are compatible with nearby land uses, including establishing requirements for site-specific environmental review for new towers in lands zoned Timberland Production Zone (TPZ).

		<p>Also, Public Resources Code Sections 21080.5 and 21080.9 and Sections 15250, 15251(f) and 15265 of the CEQA Guidelines identify that CEQA does not apply to the activities of a local government for the preparation and adoption of a Local Coastal Program, and therefore the County adoption of the coastal version of the ordinance is statutorily exempt from environmental review. Local Coastal Program Amendments are exempt subject to approval by the California Coastal Commission, a regulatory program certified by the Secretary of Resources as being the functional equivalent of the environmental review process required by CEQA.</p>
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CONSISTENCY WITH THE ZONING ORDINANCE.

2.	FINDING:	<p>Section 312-50.3.1 of the Zoning Ordinance requires changes to the Zoning Ordinance to be in the public interest. The proposed Zoning Ordinance amendment is in the public interest.</p>
	EVIDENCE:	<p>a) These regulations which provide a uniform and comprehensive set of standards for the development and installation of wireless telecommunications facilities are in the public interest because they ensure the compatibility of communications facilities with nearby land uses, incentivize unobtrusive design and siting of wireless facilities, and establish clear standards for such facilities.</p> <p>The proposed ordinance would allow Wireless Telecommunications Facilities in all zones. The type of facility and the proposed location will determine the potential for adverse impacts. Those proposed projects with low potential for adverse impacts would be processed as ministerial permits; those proposed projects with potential to cause adverse impacts on the health, safety and welfare of the public, on the aesthetic values, and on the County’s rural character would require discretionary review. The direction given to the FCC by Congress to (1) promote competition and reduce regulations; and (2) encourage the rapid deployment of new telecommunications technologies. The proposed ordinance advances these goals and the local goals as identified in the General Plan and is therefore in the public interest.</p> <p>Additionally, the tier system would reduce environmental harm resulting from new telecommunications facilities, including but not limited to impacts resulting from converting resource lands which can result in habitat degradation and soil erosion into streams. New projects in resource use zones would be subject to project-specific environmental review. The proposed regulations encourage co-location with existing facilities and placement of new facilities in</p>

		<p>commercial zone districts and industrial use zones. This approach also minimizes potential impacts on Tribal Cultural Resources.</p> <p>If the proposed ordinance were not to be adopted, Telecommunications Facilities would continue to be permitted through a confused treatment in the zoning ordinance. In several zones outside the coastal zone including Timberland Production Zone (TPZ), communication transmission facilities are enumerated as a principally permitted use requiring no environmental analysis. This could result in fish and wildlife impacts. Facilities are also allowed in the zoning ordinance under the provisions for quasi-public uses, a broad category which also includes churches, private schools and meeting halls, among other uses. Quasi public uses are principally permitted in several zones including Apartment Professional (R-4) which could result in aesthetic impacts on proximate communities.</p>
3.	FINDING:	<p>Section 312-50.3.2 of the Zoning Ordinance requires changes to the Zoning Ordinance to be consistent with the General Plan. The proposed Ordinances is consistent with the General Plan.</p>
	EVIDENCE:	<p>a) The purpose of the ordinance is to provide a reasonable, uniform and comprehensive set of standards and procedures for the deployment, construction, installation, co-location, modification, operation and removal of wireless telecommunications facilities within the unincorporated areas of Humboldt County, consistent with and to the extent permitted under federal and California state law. Implementation of these regulations is an effort to protect and promote the public health, safety and welfare of the residents of the unincorporated areas of Humboldt County, to protect aesthetic values, to achieve reliable communications, including high speed broadband, to every resident, business and institution, to encourage siting in preferred locations to expand service to unserved and underserved areas, to help minimize visual blight and preserve the County's rural character, including the protection of scenic, natural and cultural resources, and to minimize the intrusion of these uses into residential areas.</p> <p>Implementation Measure T-IMI of the 2017 Humboldt County General Plan states: Adopt a Communications Facilities Ordinance that ensures compatibility of communications facilities with nearby land uses, is proactive in the design and siting of wireless communications facilities, provides incentives for unobtrusive and compatible wireless antennas, and establishes clear standards for such facilities.</p>

		<p>Standard T-S1 of the 2017 Humboldt County General Plan calls for siting of new communications facilities that comply with standards relating to: Tiered Permitting, Performance Standards, Site Co-location, Public Health and Safety, Location and Siting, Design and Screening, Removal of Unused Facilities, Independent Review and Waiver or Modification of Standards.</p> <p>This ordinance accomplishes the General Plan objectives, applying the identified standards in a uniform and comprehensive set of regulations.</p>
4.	FINDING:	<p>Section 312-50.3.4 of the Zoning Ordinance requires changes to the Zoning Ordinance to not reduce the residential density for any parcel below that utilized by the State Department of Housing and Community Development (HCD) in determining compliance with housing element law.</p>
	EVIDENCE:	<p>a) The proposed ordinance involves parcels that are included in the residential land inventory used the by the Department of Housing and Community Development in determining compliance with housing element law. The ordinance is structured to provide a streamlined process in zoning districts that are relatively more compatible with the use including industrial and commercial districts. Where applied in residential zoning districts, the ordinance would not preclude or limit future residential development. The ordinance would have no direct effect on residential densities, and under no circumstances would it decrease densities. Therefore, it would not reduce the residential density for any parcel below that used by the Department of Housing and Community Development in determining compliance.</p>
5.	FINDING:	<p>Section 312-50.3.3 requires if the proposed changes to the Zoning Ordinance requires a Local Coastal Plan Amendment, the amendment is in conformity with the policies of Chapter 3 (commencing with Section 30200) of the Coastal Act. Chapter 3 of the Coastal Act sets forth policies regarding the following issues:</p> <ul style="list-style-type: none"> a. Access (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access) b. Recreation (including protection of water-oriented activities, ocean- front land protection for recreational uses, aquacultural uses, and priority of development purposes) c. Marine Resources (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging,

		<p>fishing, revetments and breakwaters, and water supply and flood control)</p> <p>d. Land Resources (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)</p> <p>e. Development (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)</p> <p>f. Industrial Development (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants).</p> <p>The proposed Wireless Telecommunications Facilities Ordinance is consistent with the Coastal Act.</p>
	<p>EVIDENCE:</p>	<p>a) Access As with the current regulations, the proposed ordinance requires coastal development permits for telecommunications facilities within the coastal zone which provides the necessary discretion to local decision makers to ensure proposed facilities do not impair public access. Aside from coastal development permits, the framework for local agency permits is proposed to use a tiered approach to permitting communication facilities: the lowest tier ("Tier 1") applies a streamlined permit process to easily allow telecommunication facilities least likely to have any impacts. Conversely, the highest tier ("Tier 3") requires a public review process through conditional use permits for projects most likely to have impacts.</p> <p>b) Recreation The framework for local agency permits is proposed to use a tiered approach to permitting communication facilities: the lowest tier ("Tier 1") applies a streamlined permit process to easily allow telecommunication facilities least likely to have any impacts including impacts on recreation uses. Conversely, the highest tier ("Tier 3") requires a public review process through conditional use permits for projects most likely to have recreation impacts. As with the current zoning ordinance, the proposed ordinance requires coastal development permits for telecommunications facilities within the coastal zone which provides the necessary discretion to local decision makers to ensure proposed facilities do not impair recreation uses.</p>

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| | | <p>c) Marine Resources
 The framework for local agency permits is proposed to use a tiered approach to permitting communication facilities: the lowest tier (“Tier 1”) applies a streamlined permit process to easily allow telecommunication facilities least likely to have any impacts including impacts on marine resources. Conversely, the highest tier (“Tier 3”) requires a public review process through conditional use permits for projects most likely to have marine resource impacts. As with the current zoning ordinance, the proposed ordinance requires coastal development permits for telecommunications facilities within the coastal zone which provides the necessary discretion to local decision makers to ensure proposed facilities do not impair marine uses or resources.</p> <p>d) Land Resources
 Presently Telecommunication facilities are allowed in all zones with a conditional use permit as well as a coastal development permit. The proposed changes will use a tiered approach to permitting communication facilities: the lowest tier (“Tier 1”) applies a streamlined permit process to easily allow telecommunication facilities least likely to have any impacts including impacts on land resources. Conversely, the highest tier (“Tier 3”) requires a public review process through conditional use permits for projects most likely to have land resource impacts. As with the current zoning ordinance, the proposed ordinance requires coastal development permits for telecommunications facilities within the coastal zone which provides the necessary discretion to local decision makers to ensure proposed facilities do not impair land resources.</p> <p>e) Development
 The framework for local agency permits is proposed to use a tiered approach to permitting communication facilities: the lowest tier (“Tier 1”) applies a streamlined permit process to easily allow telecommunication facilities least likely to have any impacts including impacts on marine resources. Conversely, the highest tier (“Tier 3”) requires a public review process through conditional use permits for projects most likely to have impacts on scenic resources, public works facilities, safety and priority coastal dependent developments. As with the current zoning ordinance, the proposed ordinance requires coastal development permits for telecommunications facilities within the coastal zone which provides the necessary discretion to local decision makers to ensure proposed facilities do not impair critical development.</p> |
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		f)	<p>Industrial Development</p> <p>The proposed zoning ordinance amendments use a tiered approach to permitting communication facilities whereas the existing regulations simply require conditional use permits for those facilities. Under the proposed regulations, the lowest tier (“Tier 1”) applies a streamlined permit process to easily allow telecommunication facilities least likely to have any impacts including impacts on industrial development. Conversely, the highest tier (“Tier 3”) maintains the current public review process through conditional use permits for projects most likely to have impacts. In addition, the current and proposed zoning ordinances require coastal development permits for telecommunications facilities within the coastal zone which provides discretion to ensure new telecommunication facilities do not impact industrial development.</p>
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BE IT FURTHER RESOLVED that the Board of Supervisors hereby:

1. Finds that the proposed amendments to the Coastal Zoning Regulations conform to and appropriately carry out the policies of each of the Humboldt County’s six Coastal Plans and Chapter 3 of the Coastal Act, and further finds that the proposed Zoning Regulations will be carried out in accordance with the Coastal Act;
2. Finds that the changes to the Coastal Zoning Regulations will become effective only upon certification by the Coastal Commission;
3. Directs and hereby provides notice to the California Coastal Commission and its staff that modifications to the proposed amendments to the Zoning Regulations required by the Coastal Commission for certification shall be brought back to the Board of Supervisors for consideration at a future public hearing prior to certification by the Coastal Commission;
4. Directs the Clerk of the Board to publish the Post-Adoption Summary of the Ordinances within fifteen (15) days after its passage;
5. Directs Planning and Building Department staff to transmit the Telecommunications Facilities Ordinance, including all necessary supporting documentation, to the California Coastal Commission as an amendment to the certified Local Coastal Program for their review and certification in accordance with Public Resources Code Section 305143;
6. Directs Planning Department staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research; and

7. Directs the Clerk of the Board to give notice of the decision to any interested party.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on November 29, 2022 by the following vote:

Adopted on motion by Supervisor Wilson, seconded by Supervisor Madrone and the following vote:

AYES: Supervisors: Bohn, Bass, Bushnell, Madrone, Wilson

NAYS: Supervisors:

ABSENT: Supervisors:

ABSTAIN: Supervisors:



VIRGINIA BASS, CHAIRPERSON,
HUMBOLDT COUNTY BOARD OF SUPERVISORS

(SEAL)

ATTEST:
Kathy Hayes, Clerk of the Board of Supervisors
of the County of Humboldt, State of California

By: 

Nicole Turner, Deputy Clerk

Date: 11-29-2022