

SUPPLEMENTAL INFORMATION #1

For Planning Commission Agenda of:
February 3, 2022

- Consent Agenda Item
- Continued Hearing Item
- Public Hearing Item #5
- Department Report
- Old Business

Re: **Telecommunications Facilities Ordinance**

Record Number: PLN-2021-17452

Attached for the Planning Commission's record and review are the following supplementary information items. Staff comment and recommendations will be included in the staff report presentation.

1. Response to draft ordinance from California Department of Fish and Wildlife
2. Response to draft ordinance from Department of Planning and Building, Building Inspection Division
3. Response to draft ordinance from Crown Castle
4. Response from Bear River Band of the Rohnerville Rancheria
5. Email from Associate General Counsel of Yurok Tribe
6. Email from Department of Aviation
7. Email from Department of Public Works, Land Use Division

McClenagan, Laura

From: O'connell, Gregory@Wildlife <Gregory.OConnell@Wildlife.ca.gov>
Sent: Saturday, January 29, 2022 8:28 AM
To: Hilton, Keenan
Cc: Richardson, Michael
Subject: RE: Humboldt County Planning Department DRAFT Wireless Telecommunications Facilities Ordinance

Hi Keenan. Thanks for the referral for the DRAFT Wireless Telecommunications Facilities Ordinance. Below are some considerations/recommendations. Let me know if you'd like to talk about how these might be addressed in the ordinance, or a project-review basis.

- Several provisions in Fish and Game Code are relevant and protect native birds ([2000](#), [3503](#), and [3503.5](#)). As such, it's incumbent on the project to evaluate risk and prevent unauthorized take. Proposed new Wireless Communication Facilities taller than 150ft should provide site-specific analysis for impact avoidance for birds. Additionally, the California Department of Fish and Wildlife requests to be notified of any bird of prey (e.g. hawks, falcons, owls) nesting activities on telecommunications facilities.
- Specific considerations and recommendations on bird /communication tower interactions are provided by the U.S. Fish and Wildlife at: <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds/collisions/communication-towers.php> and <https://www.fws.gov/midwest/endangered/section7/telecomguidance.html>. Some of these considerations/recommendations include:
 - Approximately 6.6 million migratory birds collide with communication towers in the United States every year. Most of the birds that collide with towers are night migrating songbirds on their journeys to and from warmer climates for the winter. Scientists documented 54 Bird species of Conservation Concern as tower fatalities. Given that our bird populations have decreased by three billion birds since 1970, we need to reduce bird losses in as many ways as possible.
 - Why do birds collide with communication towers? Research indicates risk to birds increases when towers:
 - Are lit with non-flashing lights at night
 - Have guy wires for support
 - Are taller than 350 feet
 - Are located in areas with inclement weather
 - Are located in areas with high densities of migrating birds flying nearby
 - Are located along ridgelines, which brings migrating birds closer to tall towers
 - What are some ways to reduce the risk of bird collisions with towers?
 - Collocation of facilities
 - Avoid siting in or near wetlands, other known bird concentration areas
 - Use construction techniques which do not require guy wires.
 - Towers should be unlighted if Federal Aviation Administration regulations permit.
 - Use extinguishing or reprogramming non-flashing lights where lighting is required
 - Security lighting for on-ground facilities and equipment should be down-shielded to keep light within the boundaries of the site.
 - Towers no longer in use or determined to be obsolete should be removed within 12 months of cessation of use.

Thanks again,

Greg O'Connell
Environmental Scientist
Coastal Conservation Planning
California Department of Fish and Wildlife
619 Second Street
Eureka, CA 95501
Gregory.OConnell@Wildlife.ca.gov

From: Hilton, Keenan <KHilton@co.humboldt.ca.us>
Sent: Wednesday, January 26, 2022 4:28 PM
To: Hilton, Keenan <KHilton@co.humboldt.ca.us>

Cc: Richardson, Michael <MRichardson@co.humboldt.ca.us>

Subject: Humboldt County Planning Department DRAFT Wireless Telecommunications Facilities Ordinance

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Greetings,

The Humboldt County Planning Department has drafted an ordinance to regulate the development of Wireless Telecommunications Facilities (i.e. cell towers). The ordinance includes regulations on traditional cell towers (i.e. 1G – 4G), and also creates new local regulations for small cell facilities (i.e. 5G). We will be presenting the draft ordinance to the Planning Commission next week on Thursday, February 3rd. We invite any and all comments, questions and suggestions that you may have on this item.

I've attached the draft ordinances for both the inland and coastal areas.

You can also find more information and resources on [our website](#).

Sincerely,
Keenan

Keenan Hilton, Planner II
Long Range Planning
Humboldt County Planning and Building Department
(707) 268-3722

McClenagan, Laura

From: Ingersoll, Keith
Sent: Friday, January 28, 2022 8:49 AM
To: Hilton, Keenan
Subject: RE: Humboldt County Planning Department DRAFT Wireless Telecommunications Facilities Ordinance

Hi Keenan

This looks good. The only comments I would make: Make sure that all permitted future cell tower modifications are consistent. Such as an antenna/equipment cell tower modifications on a stealth system would need to be like for like or similar. Additionally, maybe add note to show fire apparatus access/road/turn around/parking.

Nice work



Keith Ingersoll

Chief Building Official

[Planning and Building Department](#)

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Email: kingersoll@co.humboldt.ca.us

From: Hilton, Keenan <KHilton@co.humboldt.ca.us>
Sent: Thursday, January 27, 2022 4:09 PM
To: Ingersoll, Keith <KIngersoll@co.humboldt.ca.us>
Subject: FW: Humboldt County Planning Department DRAFT Wireless Telecommunications Facilities Ordinance

Keith,

In case you are interested in reviewing the draft cell tower regulations, you will find them attached.

-Keenan

From: Hilton, Keenan
Sent: jueves, 27 de enero de 2022 11:51 a. m.
To: Hilton, Keenan <KHilton@co.humboldt.ca.us>
Cc: Richardson, Michael <MRichardson@co.humboldt.ca.us>
Subject: Humboldt County Planning Department DRAFT Wireless Telecommunications Facilities Ordinance

Greetings,

I hope this email finds you well. As Supervising Planner Michael Richardson previously informed you, the Humboldt County Planning Department has drafted an ordinance to regulate the development of Wireless Telecommunications Facilities. The ordinance includes regulations on traditional cell towers, and also creates new local regulations for small cell facilities. We will be presenting the draft ordinance to the Planning Commission next week on Thursday, February 3rd. The draft has developed a bit since December when we initially reached out, largely making things more streamlined. We invite any and all comments, questions and suggestions that you may have on this item.

I've attached the draft ordinances for both the inland and coastal areas.

You can also find more information and resources on [our website](#).

Sincerely,
Keenan

Keenan Hilton, Planner II
Long Range Planning
Humboldt County Planning and Building Department
(707) 268-3722

91.1.3 & 65.1.3 Definition for Stealth Design:

Recommend using language from the FCC "Stealth designed facilities - i.e., facilities designed to look like some feature other than a wireless tower or base station." The regulations may also benefit from including the definition of a "Concealment Element(s)" defined by the FCC as elements of a stealth-designed facility intended to make the facility look like something other than a wireless tower or base station". Any change that defeats the concealment element would be considered a substantial change. *Reference the 5G Upgrade Order Declaratory Ruling, adopted June 9, 2020 III. D- Concealment Elements.*

91.1.4.1.1 & 65.1.4.2.1 Tier 1

Recommend using the complete definition of an eligible facility request. If current language remains county will require some but not all EFRs to file for public hearing possibly resulting in discriminatory actions. Below is the current, complete definition of a substantial change.

A modification is a substantial change if:

- Height: It increases the height of the structure by:
 - For towers outside the right-of-way: More than the greater of (a) 10% or (b) the height of one additional antenna array, plus up to 20 feet of separation from the nearest existing array.
 - For towers inside the right-of-way and base stations: More than the greater of 10% or 10 feet.
- Width: It involves adding an appurtenance to the body of the tower:
 - For towers outside the right of way: That would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.
 - For towers inside the right-of-way or base stations: That would protrude from the edge of the structure by more than six feet.
- Cabinets: It involves installation of more than four cabinets as part of that modification.
 - For towers inside the right of way or base stations, it is also a substantial change if it involves installation of ground cabinets where there are none, or that are more than 10% larger in height or overall volume than any existing ground cabinets.
- Site: It involves excavation or deployment outside of the current site, except for towers outside of the right-of-way, it involves excavation or deployment outside of the current site by more than 30 feet in any direction, not including any access or utility easements.
- Concealment: It would defeat the concealment elements of the eligible support structure. This only applies to a structure that is designed and originally permitted to look like something other than a wireless facility.
- Siting Conditions: It does not comply with the conditions in the siting approval of the eligible support structure, unless this non-compliance meets the other thresholds under Section 6409.

91.1.4.1.2 & 65.1.4.2 Industrial and Commercial Zoning

Comparing Section 65.1.4.2. with the zoning map there does not appear to be any property within the county that would allow for a new tower without also requiring a Public hearing. Recommend a clearer regulation would simply state that all "new Non-SCWF require public hearing."

91.1.4.3.3 & 65.1.4.4.3 Tier 3 Any Other Zoning District

Comparing section 65.1.4.4.3 with the zoning map there does not appear to be any property within the county that would allow for a new tower without also requiring a Public hearing. Again, a clearer regulation would simply state that “all new Non-SCWF require public hearing.”

91.1.5.5 & 65.1.5.5 Removal of operating facility from utility pole

Recommend that a legally established SCWF serving the community should remain on the existing pole or a replacement pole at the expense of the underground utility project. The utility cables can operate underground while the wireless antenna cannot. A wireless carrier pays rent for the pole and is contractually granted to quiet enjoyment of the facility to serve the public health, safety, and welfare of the public.

91.1.8.2 & 65.1.8.2 Ministerial Telecommunications Facilities Planning Checklist

This checklist is not available for review and could not be found on-line. In addition, the ordinance does not clearly differentiate a Ministerial process. Should the reader infer this is the process for Tier 1 projects? If so, it may help to include language in Tier 1 section.

91.1.8.3 (1-4) & 65.1.8.3 (1-4) Applications for Design Review

Due to the standards separating Tier 1 and Tier 2 projects many Eligible Facility Request (EFR) collocation projects are reviewed as Tier 2. The result of which may strain the departments timeline for hearings that are required to complete all zoning and building permitting tasks within 60 days for an Eligible Facility Request that under FCC regulations “must be approved and may not be denied”.

65.1.8.3 (8-9), 65.1.8.4.1.1

Here again due to the standards separating Tier 1 and Tier 2 projects many Eligible Facility Request (EFR) collocation projects are reviewed as Tier 2. The FCC requires that the only standard for the jurisdiction to determine is whether the facility is an EFR. 65.1.8.3, .8 and .9 are not applicable to EFRs. Section 65.4.8.4.1.1 is also not applicable to an EFR project.

65.1.8.4.1.1 & 65.1.8.4.2

Section 65.1.8.4, .1 and .2 are contradictory. How would a carrier demonstrate the lowest possible tower height and at the same time demonstrate the tower is available for collocation? As the use of wireless communications increases exponentially year after year, the county would benefit long term by deciding whether the desired goal is to have fewer towers by encouraging collocation or more tower facilities by enforcing low tower heights. According to the current county zoning ordinance most zoning jurisdictions limit tower height to 45' with few exceptions. According to the counties Cell Tower Map, of the 36 towers, 97% exceed 50' and 78% exceed 100'. Allowing new towers to include additional height for future collocation will reduce the number of towers in populous areas. In addition, taking advantage of less visible guy towers in less populous areas will encourage collocation while taking advantage of the slim nature of the towers.

65.1.9.2 FCC Emission Compliance

Recommend the local jurisdictions avoid regulations that are only the purview of the federal government. This implies to the public that the jurisdiction has authority to enforce the federal regulations and in the eye of the public would make the county culpable for expert knowledge of the broadcast emissions.

ATTACHMENT 2

ORDINANCE NO. _____

ADDING SECTION 314-91 AMENDING TABLES IN SECTIONS 314-7 AMENDING SECTIONS 314-84, 314-138, AND 314-171 OF CHAPTER 4 OF DIVISION 1 OF TITLE III OF THE HUMBOLDT COUNTY CODE, ALLOWING ESTABLISHING UNIFORM REGULATIONS FOR WIRELESS COMMUNICATIONS FACILITIES

ORDINANCE REGULATING THE DEVELOPMENT OF WIRELESS TELECOMMUNICATIONS FACILITIES BY AMENDING TITLE III, DIVISION 1, CHAPTER 4

The Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. PURPOSE OF ADDITION TO THE ZONING REGULATION

Title III, Division 1, Chapter 4, Inland Zoning Regulations, is hereby amended to include a uniform and comprehensive set of standards for the development of Wireless Telecommunications Facilities. This ordinance adds section 314-91, amends the tables in section 314-7, and amends sections 314-84, 314-138, and 314-171 in Chapter 4 of Division 1 of Title III of the County Code.

SECTION 2. WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE

Section 314-91 establishing uniform and comprehensive standards for the development of wireless telecommunications facilities in Title III, Division 1, Chapter 4 of the Humboldt County Code is hereby amended and added to as follows (additions are shown in underline text):

314-91.1 WIRELESS TELECOMMUNICATIONS FACILITIES

91.1.1 PURPOSE. The purpose and intent of this Section 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. These regulations are intended 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 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.

91.1.2 APPLICABILITY. Except as expressly provided otherwise in this Section, these provisions shall be applicable to all telecommunications facilities within the county's jurisdiction.

91.1.3 DEFINITIONS.

Antenna: ~~means communications equipment that transmits or receives radio frequency signals used in providing wireless services. The same as defined by the FCC in 47 C.F.R. § 1.6002(b), as may be amended or superseded, which defines the term as an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under part 15 of Title 47.~~

Commented [KJ1]: The definition should be expanded to include antennas related to all present and future wireless services rather than taking a definition from a federal regulation that is only intended to implement specific sections of federal law.

Camouflaged Facilities: See Stealth Facilities.

Co-location: ~~The same as defined in the Nationwide Programmatic Agreement, as may be amended or superseded, which defines the~~ The term as mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.

Commented [WL2]: "Stealth" has a specific federal definition pursuant to FCC Order that is not necessarily synonymous with "camouflaged." See FCC 20-75. A site may incorporate camouflage elements that do not necessarily render it a "stealth" facility.

Decorative pole: Any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public right-of-way in which the pole is located.

Commented [KJ3]: It is confusing to refer to an external document. The definition should be entirely contained within this document.

Equipment Building: A building used to house equipment used by wireless telecommunication providers at a facility. Equipment buildings shall include, but not be limited to, cabinets and shelters.

Facility: See Wireless Telecommunications Facility.

Faux Trees: Camouflaged monopoles made to resemble different types of trees.

FCC Shot Clock: the presumptively reasonable time frame within which the county must act on a wireless application, as defined by the Federal Communications Commission (FCC) and as may be amended from time to time.

Guyed Tower: A wireless communication mast or tower that is supported, in whole or in part, by guy wires and ground anchors.

High Visibility Facilities: Facilities that are not effectively integrated into the natural and/or built environment and would stand out to the average, untrained observer. High Visibility Facilities include, but are not limited to: (1) Lattice Tower and Guyed Towers; (2) Faux trees and monopoles that exceed the maximum height of the underlying zoning; (3) Non-stealth design facilities; (4) any facility that does not qualify as an invisible or low-visibility facility.

Invisible Facilities: Wireless telecommunication facilities including, but not limited to towers, poles, antennas, equipment buildings and any other ancillary equipment, that cannot be seen from any street nor from any adjacent properties, and that do not result in any apparent architectural changes or additions to a structure or facility. The addition of landscaping, walls, fences or grading as screening techniques does not meet the definition of invisible.

Lattice Tower: A guyed or self-supporting three or four sided, open, steel frame support structure used to support wireless communications equipment.

Low Visibility Facility: Facilities that are well-integrated into the natural and/or built environment. Low visibility facilities include but are not limited to: (1) Monopoles and faux-trees that are within 10% of the height of surrounding structures or trees and which do not exceed the maximum building height for the underlying zone; (2) facilities attached to existing structures which do not increase the height by more than 10% and which do not exceed the maximum building height in the underlying zone; and (3) facilities that are screened or painted to match the appearance of the surrounding area.

Monopole: A wireless telecommunications facility consisting of a single pole constructed without guy wires and ground anchors.

Public Safety Communications Facilities: Wireless telecommunications facilities operated and maintained by public agencies that support Public Safety Communications Systems, which provide wireless communications to law enforcement, fire services, emergency medical services, and other public safety/service agencies. These facilities are considered Essential Services pursuant to Section 1335.

Roof Mounted Antenna: Any antenna with its support structure placed directly on the roof of any building.

Service Area: The area served by a single wireless telecommunications facility.

Service Network: The wireless communication transmission system operated by a service provider in a community or jurisdiction.

Small Cell Wireless Facility (SCWF): The same as defined in the FCC Declaratory Ruling and Third Report and Order, September 27, 2018, as may be amended or superseded, which defines the term as follows:

- The facilities—

- Are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), or
- Are mounted on structures no more than 10 percent taller than other adjacent structures, or
- Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in section 1.1320(d), is no more than three cubic feet in volume;
- All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- The facilities do not require antenna structure registration under part 17 of this chapter;
- The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
- The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 1.1307(b).

Stealth Design: Designs for wireless telecommunication facilities that are not easily recognizable as such. Stealth design includes but is not limited to: (1) Faux trees; (2) faux water tanks; (3) faux flagpoles; (4) facilities under cupolas; and (5) architectural addition consistent in style to existing structure, including existing wireless facilities. Stealth design facilities may be considered low visibility or high visibility depending on the height and effectiveness of the integration.

Telecommunications: The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications Tower: Any mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support Antennas.

Tower: See Telecommunications Tower

Utility Pole: Any above-ground pole used to support electrical, telephone, cable, and internet wires.

Wireless Telecommunications Facility: Any facility that provides ~~personal~~ wireless services. This includes, but is not limited to antennas and other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting said equipment, equipment buildings, parking area and other accessory development. Also known as a wireless communications facility. This definition does not apply to Amateur Radio Stations as defined by the

Commented [KJ4]: This definition should not be limited to personal wireless facilities.

FCC, Part 97 of the Commission's Rules nor to TV and radio transmission facilities, nor to Public Safety Communications Facilities.

91.1.4 WIRELESS TELECOMMUNICATIONS FACILITY APPLICATION PROCESS. Applications shall be processed based upon the following three tier permitting system:

91.1.4.1 Tier 1 – No Public Hearing Required

91.1.4.1.1 Zoning Clearance Certificate Required. These facilities shall be allowed as principally permitted uses without the need for a public hearing. A facility meeting the following criteria shall be subject to a Zoning Clearance Certificate:

1. Co-location of SCWF and Non-SCWF in all zones, except when the following conditions exist. If any of the following is true of a proposed co-located facility, the application shall require design review.
 - a. The proposed co-location facility would increase the height or width of the existing facility by more than 10%.
 - b. The proposed co-location facility would bring the total number of equipment cabinets on the site to more than four.
 - c. The proposed facility would result in excavation outside of the area approved for disturbance under the terms of the original permit or clearance.
 - d. The proposed facility would be co-located on a facility not subject to a discretionary permit pursuant to Government Code section 65850.6, as may be amended or superseded.
2. New Non-SCWF in Industrial and Commercial Zoning Districts (Section 314-2 and 314-3) except when the facility does not meet the height and setback requirements of the underlying zone and/or the facility is within view of a designated California State Scenic Highway.
3. New SCWF excepting those in:
 - a. Residential Zone Districts (Section 314-6) and Resource Zone Districts (314-7)(314-7.4)

91.1.4.1.2 Design Review Required. These facilities shall be allowed only if certain design criteria are met. A facility meeting the following criteria shall be subject to Telecommunications Facilities Design Review.

1. New, invisible Non-SCWF, excepting in Residential Zone Districts (Section 314-6), Agriculture Exclusive Zone (314-7.1), Timberland Production Zone (314-7.4), and Timberland Exclusive (314-7.5).
2. New SCWF in Residential Zoning Districts.
3. Co-location of SCWF and Non-SCWF that do not qualify for a Zoning Clearance Certificate.

91.1.4.2 Tier 2 – Special Permit Required. Facilities meeting any of the following criteria shall require a Special Permit:

91.1.4.2.1 All SCWF & Non-SCWF that do not meet the criteria of Tier 1 or Tier 3

91.1.4.3 Tier 3 – Use Permit Required. Facilities meeting the following criteria shall require a Conditional Use Permit:

91.1.4.3.1 New, non-SCWF in Residential Zone Districts (Section 314-6).

91.1.4.3.2 All SCWF and non-SCWF in Agriculture Exclusive zone (314-7.1), Timberland Production Zone (314-7.4), and Timberland Exclusive zone (314-7.5), except those meeting the criteria for Tier 1.

91.1.4.3.3 Any Other Zoning District

1. New non-SCWF that exceed the maximum height of the underlying zone, except when meeting a criterion for Tier 1.
2. New high visibility non-SCWF facilities, except when meeting a criterion of Tier 1.
3. New non-SCWF located on ridgetops or hilltops, in all zones.

91.1.5 GENERAL REGULATIONS

91.1.5.1 New Telecommunications towers located adjacent to a residential use shall be set back from the nearest residential lot line by a distance at least equal to its total height or 50 feet, whichever is greater. The setback shall be measured from that part of the tower that is closest to the neighboring property (i.e., the setback for a faux tree would be measured from the end of the branch closest to the neighboring property).

91.1.5.2 No new tower or equipment buildings shall be located in a front, rear or side yard setback in any zone and no portion of any antenna array shall extend beyond the property lines.

Commented [KJ5]: This section must be modified to address eligible facility requests that are submitted pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C 1455) and CFR 1.6100 (implementing FCC regulation). CFR 1.6100 states that a state or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of CFR 1.6100. As currently drafted this section does not comply with federal law.

Commented [WL6]: An exception or variance process by which an exception may be obtained is highlight recommended to prevent instances where a requirement is infeasible and therefore preempted by federal regulation.

91.1.5.3 Routine noise from any equipment supporting the facility shall not exceed 50 dB or the ambient noise levels, whichever is lower. Backup generators shall be used on a temporary basis only. Noise levels from backup generators shall not exceed 60 dB. Noise-attenuating structures may be required.

91.1.5.4 All new equipment buildings may not exceed 10 feet in height measured from the base of the foundation unless a greater height is necessary to maximize architectural integration and shall be screened by landscaping.

91.1.5.5 All facilities located on a utility pole shall be promptly removed at the operator's expense prior when a utility is scheduled to be undergrounded.

91.1.5.6 Equipment buildings and facilities shall be secured to prevent unauthorized access.

91.1.5.7 Special provisions in Residential Zones (314-6)

91.1.5.7.1 Lattice towers and guyed towers are prohibited in Residential zones.

91.1.5.7.2 Noise from routine operations and from backup generators shall not exceed 50 dB or ambient, whichever is higher. This may require placement of equipment in a noise-attenuating structure.

91.1.5.8 The Planning Commission may waive or modify standards and requirements based on specific findings that demonstrate necessity and no detriment to public health safety and welfare, or based on finding that strict compliance would effectively prohibit the applicant's ability to provide personal wireless services or otherwise conflict with applicable law. The applicant must clearly and factually demonstrate that:

1. The proposed facility qualifies as a "personal wireless service facility" as defined in 47 U.S.C. Section 332(c)(7)(C)(ii), as may be amended or superseded;
2. a reasonable and clearly defined technical service objective would be achieved by the proposed wireless facility;
3. the proposed wireless facility cannot be deployed in compliance with the applicable provisions in this chapter;
4. all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the County, public comments or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable technical service objective;

Commented [WL7]: Strongly recommend including an exception in this section for equipment that is technically unable to function underground, such as antennae.

Commented [WL8]: Requiring applicants to address any and all public comments is likely unreasonable as the number may be exorbitant and unlikely to take into account applicable legal parameters such as technical feasibility, federal RF standards, restrictions on local regulation of RF emissions, etc.

5. the proposed location and design is the least non-compliant configuration that will reasonably achieve the technical service objective, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive wireless facilities dispersed throughout the intended service area, if any.

91.1.5.9 Conditional Approvals; Denials without Prejudice. Subject to any applicable federal or California laws or regulations, nothing in this chapter is intended to limit the ability of the Director, the Zoning Administrator, or the Planning Commission to conditionally approve or deny without prejudice any permit application as may be necessary or appropriate to ensure compliance with this section.

91.1.5.10 Appeals. Any decision to approve, conditionally approve or deny a Design Review or Special Permit shall be appealable to the Planning Commission. Any decision by the Planning Commission to approve, conditionally approve or deny a project shall be appealable to the Board of Supervisors. Appeals shall be filed pursuant to section 312-13.1.

91.1.6 DESIGN STANDARDS SCWF

91.1.6.1 SCWF shall not be placed on decorative poles unless they are low visibility, or invisible.

91.1.6.2 SCWF shall not increase the height or width of an existing structure by more than 10%.

91.1.6.3 SCWF shall be invisible or stealth design.

Commented [WL9]: Most SCWFs are installed on poles in public ROW and may therefore qualify as low, visibility, but not necessarily invisible due to their placement within the ROW and atop utility poles, which placement limits the feasible camouflage options available to the applicant.

91.1.7 DESIGN STANDARDS – NON-SCWF

The following Design Standards apply to all [new Towers and new roof-mounted antennas \(as applicable\)](#) Wireless Telecommunication Facilities other than Small CellWireless Facilities

91.1.7.1 All Stealth Facilities shall be designed to visually and operationally blend into the surrounding area in a manner consistent with current neighborhood design and existing development. The facility shall also be appropriate for the specific site (i.e., it should not “stand out” from its surrounding environment, such as a faux tree standing alone in a field or standing at a greater height [five feet or more] than other trees on the site).

91.1.7.2 No facility shall be allowed on any building or structure, or in any district, that is listed on any Federal, State or local historical register unless it is determined that the facility will have no adverse effect on the appearance of the building or structure or its eligibility for historic

designation. No change in architecture nor High Visibility facility is permitted on any such building, any such site or in any such district.

91.1.7.3 In cases where the facility site is visible from an officially designated California State Scenic Highway, the facility shall be designed and located in such a manner as to avoid adverse visual impacts. Such locations shall use design methods such as, but not limited to, type of facility, stealth-design, screening and landscaping. No lattice towers or guyed towers are permitted.

91.1.7.4 Facade-mounted antennas shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Facade-mounted antennas shall not extend more than 24 inches out from the building face.

91.1.7.5 All facilities shall be designed to minimize the visual impact to the greatest extent feasible by means of placement, screening, landscaping with native species, whenever feasible, and camouflage, and to be compatible with existing architectural elements, building materials and other site characteristics. The applicant shall use the least visible antennas possible to accomplish the coverage objectives.

91.1.7.6 Colors and materials for facilities shall be non-reflective and chosen to minimize visibility. Facilities, including equipment buildings, shall be painted or textured using colors to match or blend with the primary background, or painted with a mural which would contribute to the vitality and attractiveness of the neighborhood.

91.1.7.7 Beacon lights shall not be included in the design of facilities unless required by the Federal Aviation Administration and shall be included when calculating the height of the facility.

91.1.7.8 No High Visibility Facility, including equipment buildings, may be located between the face of a building and a public street, bikeway, trail or park.

91.1.7.9 No signs, striping, graphics or other attention getting devices are permitted on the telecommunications tower or ancillary facilities except for warning and safety signage with a surface area of no more than three square feet. Such signage shall be affixed to a fence or ancillary facility and the number of signs is limited to no more than two unless a greater number is required by law.

91.1.7.10 Roof-mounted antennas shall be constructed at the minimum height possible to serve the operator's service area and shall be set back as far from the edge of the building as possible or otherwise screened to minimize their visibility.

91.1.7.11 Equipment buildings shall be screened from adjacent sidewalks by landscaping, undergrounding or other means, excluding new walls and fences, or shall be painted with a mural which would contribute to the vitality and attractiveness of the neighborhood.

91.1.7.12 The use of chain link fences for security of a facility is permitted if the fence is fully screened by landscaping. No razor wire or barbed wire is permitted. Slats do not satisfy the requirement for screening.

91.1.7.13 Site lighting shall be kept to a minimum in every instance, shall be shielded to direct the light downward, shall be controlled by a manual switch or timed switch of no greater than one hour's duration and shall not be used except when nighttime maintenance is necessary.

91.1.8 APPLICATION REQUIREMENTS. In addition to the standard application submittal requirements described in section 312-5.2, applicants for Wireless Telecommunication Facilities shall provide the supplemental information listed below.

91.1.8.1 As part of an application for any Design Review, Special Permit, or Use Permit for a Wireless Telecommunications Facility, the applicant/permittee shall indemnify and hold harmless the County of Humboldt and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties that arise from or is in any way related to permit processing and approval, including actions brought under the California Environmental Quality Act, and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the construction, maintenance and/or operation of the Wireless Telecommunications Facility except to the extent such claims, demands, expenses, or liabilities are caused by the intentional misconduct or negligent acts or omissions of the County.

91.1.8.2 Ministerial Telecommunications Planning Checklist. Applications for facilities qualified for a ministerial permitting process shall include a complete Ministerial Telecommunications Facilities Planning Checklist, as may be amended from time to time, made available by the Planning Division.

91.1.8.3 Applications for Design Review, Tier 2 and Tier 3 facilities shall include the following components.

91.1.8.3.1 Design Review Telecommunications Planning Checklist. Applications for facilities qualified for a design review shall include a complete Design Review

Commented [KJ10]: This section must be modified to address eligible facility requests that are submitted pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C 1455) and CFR 1.6100 (implementing FCC regulation). CFR 1.6100 states that a state or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of CFR 1.6100. As currently drafted this section does not comply with federal law.

Telecommunications Facilities Planning Checklist, as may be amended from time to time,

made available by the Planning Division. The Planning Director shall determine that the requirements of the Checklist are met.

91.1.8.3.2 Geographic Service Area. Vicinity map of the geographic service area for the proposed facility, including the service area of the applicant's existing sites in the local service network and the distance between the facilities associated with the gap the facility is meant to close. Describe the service needs of the company's service network.

91.1.8.3.3 Alternatives Analysis. Provide discussion of alternative sites that would accomplish the project goals. Provide specific comparative analysis of how different sites would impact aesthetic values, agricultural, timber and mineral values, and other environmental values as applicable.

91.1.8.3.4 Visual Impact Analysis. Provide a visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette and proposed screening and landscaping. The analysis shall include photo simulations or a balloon test and other information as necessary to determine visual impact of the facility. The analysis shall include a map depicting where the photos were taken. The analysis shall include a native vegetation landscaping plan with a discussion of how the chosen plants, at maturity, will screen the site.

91.1.8.3.5 Noise/Acoustical Information. Provide manufacturer's specifications for all equipment such as air conditioning units and back-up generators, provide a proposal for a noise-attenuating structure to maintain noise levels below 50dB, and provide a depiction of the equipment location in relation to adjoining properties.

91.1.8.3.6 Fire Hazards. Provide information on the site indicating whether it is within a fire-related special district, whether the site is within Local Responsibility Area or State Responsibility Area and identifying the Office of the State Fire Marshall Fire Hazard Severity Zone that is applied to the area; provide a map of sufficient scale showing flammable vegetations surrounding the proposed facilities and indicating how adequate defensible space is to be provided.

91.1.8.3.6.1 Proposed facilities located within a fire-related district, shall provide a service letter from the applicable fire-related district indicating that structural fire protection services are available to the site.

Commented [WL11]: This section appears to apply the now outdated "significant gap" test previously used for a determination of a prohibition of service. The FCC confirmed the California Payphone—not the "significant gap"—standard as the definitive test for determining the existence of a prohibition of service. The FCC clarified, "...an effective prohibition occurs where a state or local legal requirement materially inhibits a provider's ability to engage in any of a variety of activities related to its provision of a covered service. This test is met not only when filling a coverage gap but also when densifying a wireless network ..." FCC 18-133 at para. 37. Most current projects do not involve coverage gaps but rather the improvement of existing services to accommodate increased demand for capacity.

Commented [WL12]: Wouldn't there be instances where this analysis would be irrelevant if the site is not in a location where plants would naturally fit the surrounding aesthetic? This section appears to be mandatory regardless of whether a plantscape is relevant to the specific site.

Commented [WL13]: Is this applicable to small wireless facilities in the ROW?

91.1.8.3.6.2 Proposed facilities located outside of a fire-related district shall obtain from an appropriate local fire service provider written acknowledgement of the available emergency response and fire suppression services and recommended mitigations.

91.1.8.3.6.3 Proposed facilities located within State Responsibility Area shall provide a letter from CAL FIRE indicating that the map showing defensible space meets the applicable state requirements.

91.1.8.3.6.4 Proposed facilities located within Moderate, High, or Very High Fire Hazard Severity Area shall submit a Fire Prevention Plan that recognizes and prepares for the potential for fast moving, wind driven wildfires could burn adjacent to or through the proposed site as the result of severe fire weather conditions, wildland fuels adjacent to the site, and nearby ignition sources. The Plan shall discuss existing, proximate fire hazards, the fire risks posed by the addition of a facility at the location, proposed measures to lessen fire risks associated with the facility and an ongoing maintenance plan. A draft copy of the Plan shall be provided to the local fire service provider and CAL FIRE at least 90 days before the start of any construction activities. The final Plan shall be approved by CAL FIRE (if SRA) and the fire chief of the fire-related district, if any, at least 30 days prior to the initiation of construction activities. The applicant shall fully implement the Plan during all construction and maintenance activities.

91.1.8.3.7 Hazardous Materials. Listing of all hazardous materials to be used onsite.

91.1.8.3.8 Parking. For all applications for facilities located in or along a right of way, show the location of parking for maintenance personnel that does not obstruct a traffic lane or a travelled way for pedestrians, bicyclists and equestrians.

~~91.1.8.3.9~~ Height Justification. Provide evidence establishing the necessity for the height of the proposed facility.

91.1.8.4 Applications for Tier 2 and Tier 3 facilities shall include the following components

91.1.8.4.1 Height Requirements

~~91.1.8.4.1.1~~ Provide evidence establishing the necessity of the proposed height for the facility.

Commented [WL14]: This section seems to be unnecessary where the facility meets applicable maximum height restrictions.

Commented [KJ15]: This section must be modified to address eligible facility requests that are submitted pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C 1455) and CFR 1.6100 (implementing FCC regulation). CFR 1.6100 states that a state or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of CFR 1.6100. As currently drafted this section does not comply with federal law.

Commented [WL16]: Same comment as above.

~~91.1.8.4.1.2~~91.1.8.4.1.1 If the tower will exceed the maximum height limit of the underlying zone, as measured from grade, a discussion of the physical constraints (topographical features, etc.) making the additional height necessary shall be required.

91.1.8.4.2 Co-location Required. Non-SCWF structures shall be built to accommodate future co- location of other carriers wherever technically and economically feasible and aesthetically desirable.

91.1.8.5 Applicants may be required to pay the actual and reasonable cost of independent review to evaluate siting alternatives, the necessity of the facility based on adequacy of existing coverage, and/or the radiofrequency emissions.

91.1.8.6 Notice of Final Action. Notice of final action on an application for design review, a Special Permit or a Conditional Use Permit shall be given as follows:

91.1.8.6.1 Notice shall be provided with five (5) working days of the Director or Hearing Officer's action.

91.1.8.6.2 Notice shall be provided by first class mail to:

91.1.8.6.2.1 The Applicant;

91.1.8.6.2.2 Any person who specifically requested, in writing, notice of such final action

91.1.8.6.3 The notice shall include the following information:

91.1.8.6.3.1 Written findings;

91.1.8.6.3.2 Conditions of approval;

91.1.8.6.3.3 Procedures for appeal.

91.1.9 PERFORMANCE STANDARDS. All Wireless Telecommunications Facilities shall be subject to the requirements of this subsection.

91.1.9.1 Maintenance

91.1.9.1.1 All landscaping shall be maintained as shown on the approved Landscape Plan. Trees and shrubs shall be maintained to screen the site. Dead and dying landscaping shall be replaced in accordance with the approved landscape plan.

Commented [WL17]: CC recommends establishing a published preference for colocation on non-SCWFs as well to discourage proliferation of structures and clutter in the ROW.

91.1.9.1.2 All Wireless Telecommunications sites shall be kept clean and free of litter.

91.1.9.1.3 All equipment buildings shall display a legible operator’s contact number for reporting maintenance problems.

91.1.9.1.4 Maintenance vehicles servicing facilities located in the public or private right of way shall not park on the traveled way or in a manner that would obstruct traffic.

91.1.9.2 FCC emission compliance. Records shall be maintained which demonstrate ongoing compliance with FCC emission regulations and guidelines. Records shall be made available timely to County staff upon request.

91.1.9.3 Abandonment or discontinuation of use.

91.1.9.3.1 All operators who intend to abandon or discontinue the use of any Wireless Telecommunications facility shall notify the County of such intentions no less than 60 days prior to the final day of use.

91.1.9.3.2 Wireless Telecommunications Facilities with use discontinued shall be considered abandoned 90 days following the final day of use.

91.1.9.3.3 All abandoned facilities shall be physically removed by the facility owner no more than 90 days following the final day of use or of determination that the facility has been abandoned, whichever occurs first.

91.1.9.4 Revocation. Failure to comply with any condition of approval or standard in this ordinance shall constitute grounds for possible revocation of use pursuant to Sections 312-14 of the Zoning Ordinance.

SECTION 3. RESOURCE USE REGULATIONS

Tables in Section 314-7 regarding Resource Use Regulations in Title III, Division 1, Chapter 4 of the Humboldt County Code are amended as follows (additions are shown in underline text, deletions are shown in strikethrough text):

314-7.1	AE: AGRICULTURE EXCLUSIVE
	Principal Permitted Uses
	All general agricultural uses, including accessory agricultural uses and structures listed at Sections 314-43.1.3 (Permitted Agricultural Accessory Uses) and 314-69.1.1 (Permitted Agricultural Accessory Structures), except those specified in the following subsection, Uses Permitted with a Use Permit.

Commented [KJ18]: County should clarify that these changes to do not apply to existing facilities retroactively.

(Amended by Ord. 2189, Sec. 1, 2/9/99; Amended by Ord. 2214, 6/6/00)	
Timber production.	
Single-family residence.	
Accessory dwelling unit. On lots forty (40) acres or larger in size, two (2) single detached dwellings are permitted within the same contiguous two (2) acre building envelope containing the primary residence.	
(Amended by Ord. 1949, Sec. 1, 12/4/91; Amended by Ord. 2189, Sec. 1, 2/9/99)	
Manufactured homes.	
Uses Permitted with a Use Permit	
Hog farms, turkey farms, frog farms and fur farms.	
Aquaculture.	
Animal feed yards and sales yards.	
Agricultural and timber products processing plants.	
Agriculture-related recreation, resource-related recreation.	
Agriculture-related visitor-serving: cheese factories and sales rooms, wineries and wine tasting and sales rooms, produce sales, etc., which do not change the character of the principal use.	
Public recreation and public access facilities.	
Rental and sales of irrigation equipment and storage incidental thereto.	
Animal hospitals.	
Stables and kennels.	
Farm employee housing, labor camps and labor supply camps (Table 4-G).	
Fish and wildlife habitat management, watershed management, wetland restoration.	
Utilities and energy facilities: the erection, construction, alteration, or maintenance of gas, electric, water or communications transmission facilities, and wind or hydroelectric solar or biomass generation, and other fuel or energy production facilities.	
Metallic mining, surface mining.	
Any use not specifically enumerated in this division, if it is similar to and compatible with the uses permitted in the AE zone.	
Other Regulations	
No Subdivisions	Subdivisions may only be approved by official map, record of survey or recorded subdivision, for the managed production of resources, where parcels are subject to a binding and recorded restriction prohibiting the development of residential structures or residential accessory structures.
Agricultural Land Conversion	Conditionally permitted uses that would convert zoned agriculture exclusive or AE zone land to nonagricultural uses shall not be

	<p>approved unless the Planning Commission makes the following findings:</p> <p>A. There are no feasible alternatives that would prevent or minimize conversion;</p> <p>B. The facts support an overriding public interest in the conversion; and</p> <p>C. For lands outside of designated urban development boundaries, sufficient off-setting mitigation has been provided to prevent a net reduction in the agricultural land base and agricultural production. This requirement shall be known as the “no net loss” agricultural lands policy. “No net loss” mitigation is limited to one (1) or more of the following:</p> <ol style="list-style-type: none"> 1. Replanning of vacant agricultural lands from a nonagricultural land use designation to an agricultural plan designation along with the recordation of a permanent conservation easement on this land for continued agricultural use; or 2. The retirement of nonagricultural uses on lands planned for agriculture and recordation of a permanent conservation easement on this land for continued agricultural use; or 3. Financial contribution to an agricultural land fund in an amount sufficient to fully offset the agricultural land conversion for those uses enumerated in subsections (C)(1) and (C)(2). The operational details of the land fund, including the process for setting the amount of the financial contribution, shall be established by ordinance.
Conversion of Prime Agricultural Land	<p>Development on agriculture exclusive or AE zone land shall be designed to the maximum extent feasible to minimize the placement of buildings, impermeable surfaces or nonagricultural uses on land as defined in Government Code Section 51201(c)(1) through (c)(5) as prime agricultural lands.</p> <p>Except for the construction of the primary single-family residence or a second residence within the same contiguous two (2) acre building envelope containing the existing primary residence, prime agricultural land shall not be converted without provisions for mitigation offsets, as specified in the “no net loss” agricultural lands policy above.</p>
Minimum Lot Area	Sixty (60) acres.

	<p>Exceptions to the minimum parcel size for the purpose of historic preservation may be approved, where the following findings are made:</p> <p>A. The site or structure qualifies and is included on a local, State or Federal historic registry; and</p> <p>B. The viability of continued agricultural operations is not inhibited; and</p> <p>C. No additional density beyond what would be permitted as part of the existing agricultural operations is created.</p>
Minimum Lot Width	One hundred feet (100').
Maximum Lot Depth	(None specified.)
Minimum Yard Setbacks*	
Front	Thirty feet (30');
Rear	Twenty feet (20');
Side	Ten percent (10%) of the lot width on each side but not more than twenty feet (20') shall be required.
Farm Outbuildings	Farm outbuildings shall not be less than twenty feet (20') from any dwelling on the premises.
Maximum Ground Coverage	Two (2) acres maximum.
Maximum Building Height	(None specified.)

314-7.4	TPZ: TIMBERLAND PRODUCTION
	Principal Permitted Uses
	Growing and harvesting of timber and accessory uses compatible thereto.
	Accessory agricultural uses and structures listed at Sections 314-43.1.3 (Permitted Agricultural Accessory Uses) and 314-69.1.1 (Permitted Agricultural Accessory Structures). (Added by Ord. 2189, Sec. 1, 2/9/99; Amended by Ord. 2214, 6/6/00)
	Principal Permitted Uses Compatible with Timber Production
	The following accessory uses are deemed to be compatible with the growing and harvesting of timber provided they do not significantly detract from the use of the property for, or inhibit, growing and harvesting of timber: (Former Section INL#314-11)
	Management for watershed and wetland restoration.
	Management for fish and wildlife habitat.

A use integrally related to the growing, harvesting and processing of forest products; including but not limited to roads, log landings, and log storage areas (portable chippers and portable sawmills are considered a part of “processing”).
The erection, construction, alteration, or maintenance of gas, electric, or water, or communication transmission facilities.
Grazing and other agricultural uses.
One (1) family dwelling or manufactured home, accessory dwelling unit, and normal accessory uses and structures for owner or caretaker subject to the special restrictions of Section 314-7.4.1.6, Special Restrictions Regarding Residences.
Temporary labor camps, less than one (1) year in duration, accessory to timber harvesting or planting operations.
Recreational use of the land by the public, with or without charge, for any of the following: walking, hiking, picnicking, swimming, boating, fishing, hunting and skiing. (Former Section INL#314-11(h); Ord. 1099, Sec. 2, 9/13/76; Amended by Ord. 1907, Sec. 2, 8/21/90)
Uses Permitted with a Use Permit
Note: Permits authorized under this section cannot be approved if such use will significantly detract from the use of the property for, or inhibit, growing and harvesting of timber. (Former Section INL#314-10(b)(1-2); Ord. 1099, Sec. 1, 9/13/76; Amended by Ord. 1842, Sec. 5, 8/16/88, Amended by Ord. 1907, Sec. 1, 8/21/90, Amended by Ord. 2166, Sec. 11, 4/7/98)
Timber production processing plants (buildings) for commercial processing of wood and wood products, including but not limited to sawmills, lumber and plywood mills, but not including a pulp mill.
Utilities and energy facilities: the erection, construction, alteration, or maintenance of wind or hydroelectric solar or biomass generation, and other fuel or energy production facilities. (Added by Ord. 2635, 8/27/19)
Public recreation and public access facilities. (Added by Ord. 2635, 8/27/19)
Oil and gas drilling and processing, metallic mining, surface mining. (Added by Ord. 2635, 8/27/19)
Incidental camping area, tent camp, temporary recreational vehicle park, special occupancy parks, and similar recreational uses. (Amended by Ord. 2166, Sec. 11, 4/7/98)
Timber-related visitor-serving: burl shops, timber museums, interpretive centers, etc., which do not change the character of the principal use. (Added by Ord. 2635, 8/27/19)
Any use not specifically enumerated in this division, if it is similar to and compatible with the uses permitted in the TPZ zone.

314-7.5	TE: TIMBERLAND EXCLUSIVE ZONE
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Principal Permitted Uses
Growing and harvesting of timber and accessory uses compatible thereto.
Accessory agricultural uses and structures listed at Sections 314-43.1.3 (Permitted Agricultural Accessory Uses) and 314-69.1.1 (Permitted Agricultural Accessory Structures).
One (1) family dwelling or manufactured home, accessory dwelling unit, and normal accessory uses and structures for owner or caretaker subject to the special restrictions of Section 314-7.4.1.6, Special Restrictions Regarding Residences.
Management for watershed and wetland restoration.
Management for fish and wildlife habitat.
A use integrally related to the growing, harvesting and processing of forest products, including but not limited to roads, log landings, and log storage areas (portable chippers and portable sawmills are considered a part of “processing”).
The erection, construction, alteration, or maintenance of gas, electric, or water, or communication transmission facilities.
Grazing and other agricultural uses.
Temporary labor camps, less than one (1) year in duration, accessory to timber harvesting or planting operations.
Recreational use of the land by the public, with or without charge, for any of the following: walking, hiking, picnicking, swimming, boating, fishing, hunting and skiing.
Cottage industry, subject to cottage industry regulations.
Uses Permitted with a Use Permit
Timber production processing plants (buildings) for commercial processing of wood and wood products, including but not limited to sawmills, lumber and plywood mills, but not including a pulp mill.
Incidental camping area, tent camp, temporary recreational vehicle park, special occupancy parks, and similar recreational uses.
Timber-related visitor-serving: burl shops, timber museums, interpretive centers, etc., which do not change the character of the principal use.
Public recreation and public access facilities.
Utilities and energy facilities: The erection, construction, alteration, or maintenance of gas, electric, water or communications transmission facilities, and wind or hydroelectric, solar or biomass generation, and other fuel or energy production facilities.
Oil and gas drilling and processing, metallic mining, surface mining.
Any use not specifically enumerated in this division, if it is similar to and compatible with the uses permitted in the TE Zone.
Other Regulations

Minimum Lot Area	Forty (40) acres.
Minimum Lot Width	One hundred feet (100').
Maximum Lot Depth	(None specified.)
Minimum Yard Setbacks*	
Front	Thirty feet (30');
Rear	Twenty feet (20');
Side	Ten percent (10%) of the lot width on each side but not more than twenty feet (20') shall be required.
Outbuildings	Outbuildings shall not be less than twenty feet (20') from any dwelling on the premises.
Maximum Ground Coverage	Thirty-five percent (35%).
Maximum Building Height	(None specified.)

SECTION 4. PRIVATE COMMUNICATION EQUIPMENT FACILITIES

Section 314-84.1, Private Communication Equipment Facilities, is hereby amended as follows (additions are shown in underline text, deletions are shown in ~~strikethrough~~ text):

~~84.1 PRIVATE COMMUNICATION EQUIPMENT FACILITIES~~

~~Private communication equipment buildings and transmission and distribution facilities shall be permitted in any zone with a Use Permit. (Former Section INL#316-15.1; Added by Ord. 1867, Sec. 1, 6/13/89)~~

SECTION 5. PUBLIC UTILITY BUILDINGS

Section 314-84.2, Public Utility Buildings, is hereby amended as follows (additions are shown in underline text, deletions are shown in ~~strikethrough~~ text):

~~84.2 PUBLIC UTILITY BUILDINGS~~

Public utility buildings including, but not limited to, communication ~~communication~~ equipment buildings, substations, generating plants, gasometers, and transmission and distribution facilities shall be classified as quasi-public uses. (Former Section INL#316-15; Ord. 519, Sec. 615, 5/11/65)

SECTION 6. DEFINITIONS

Section 314-138 is hereby amended and added to as follows (additions are shown in underline text, deletions are shown in ~~strikethrough~~ text):

314-138 DEFINITIONS (C)

~~Communication Equipment Building: Buildings housing electrical and mechanical equipment necessary for the conduct of a public utility or private communications business with or without personnel. (Former Section INL#312-21; Ord. 519, Sec. 221, 5/11/65; Amended by Ord. 1867, Sec. 2, 6/13/89)~~

SECTION 7. CIVIC USE TYPES

Section 314-171 is hereby amended and added to as follows (additions are shown in underline text, deletions are shown in ~~striketrough~~ text):

314-171 Civic Use Types

171.7.1 The Minor Generation and Distribution Facilities Use Type includes wind generators and accessory structures; small hydroelectric generators (less than 5 megawatt) and accessory structures and utility lines; and communication transmission facilities, including radio and television transmission antennae, communication equipment installations and exchanges, and substations. (From Section CZ#A313-6(K); Added to INL by Ord. 2205, Sec. 1, 4/11/00)

Commented [KJ19]: County should clarify that these changes to do not apply to existing facilities retroactively.

SECTION 8. EFFECTIVE DATE.

This ordinance shall become effective thirty (30) days after the date of its passage.

PASSED AND ADOPTED this _____ day of _____, 2022, on the following vote, to wit:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Virginia Bass, Chair
Board of Supervisors of the County of Humboldt,
State of California

(SEAL)

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

By: _____
Ryan Sharp, Deputy Clerk

Date:

ATTACHMENT 3

ORDINANCE NO. _____,

**ADDING SECTION 313-65 AMENDING SECTIONS 313-138, AND 313-171 OF CHAPTER 3 OF DIVISION 1
OF TITLE III OF THE HUMBOLDT COUNTY CODE, ALLOWING ESTABLISHING UNIFORM REGULATIONS
FOR WIRELESS COMMUNICATIONS FACILITIES**

ORDINANCE REGULATING THE DEVELOPMENT OF WIRELESS TELECOMMUNICATIONS FACILITIES BY AMENDING TITLE III, DIVISION 1, CHAPTER 3

The Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. PURPOSE OF ADDITION TO THE ZONING REGULATION

Title III, Division 1, Chapter 3, Inland Zoning Regulations, is hereby amended to include a uniform and comprehensive set of standards for the development of Wireless Telecommunications Facilities. This ordinance adds section 313-65, amends sections 313-138, and 313-171 in Chapter 3 of Division 1 of Title III of the County Code.

SECTION 2. WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE

Section 313-65 establishing uniform and comprehensive standards for the development of wireless telecommunications facilities in Title III, Division 1, Chapter 3 of the Humboldt County Code is hereby amended and added to as follows (additions are shown in underline text):

313-65.1 WIRELESS TELECOMMUNICATIONS FACILITIES

65.1.1 PURPOSE. The purpose and intent of this Section 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. These regulations are intended 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 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.

65.1.2 APPLICABILITY. Except as expressly provided otherwise in this Section, these provisions shall be applicable to all telecommunications facilities within the county's jurisdiction.

65.1.3 DEFINITIONS.

Antenna: ~~means communications equipment that transmits or receives radio frequency signals used in providing wireless services. The same as defined by the FCC in 47 C.F.R. § 1.6002(b), as may be amended or superseded, which defines the term as an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under part 15 of Title 47.~~

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Commented [KJ1]: The definition should be expanded to include antennas related to all present and future wireless services rather than taking a definition from a federal regulation that is only intended to implement specific sections of federal law.

Camouflaged Facilities: See Stealth Facilities.

Co-location: ~~The same as defined in the Nationwide Programmatic Agreement, as may be amended or superseded, which defines the~~ The term as mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.

Commented [KJ2]: It is confusing to refer to an external document. The definition should be entirely contained within this document.

Decorative pole: Any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public right-of-way in which the pole is located.

Equipment Building: A building used to house equipment used by wireless telecommunication providers at a facility. Equipment buildings shall include, but not be limited to, cabinets and shelters.

Facility: See Wireless Telecommunications Facility.

Faux Trees: Camouflaged monopoles made to resemble different types of trees.

FCC Shot Clock: the presumptively reasonable time frame within which the county must act on a wireless application, as defined by the Federal Communications Commission (FCC) and as may be amended from time to time.

Guyed Tower: A wireless communication mast or tower that is supported, in whole or in part, by guy wires and ground anchors.

High Visibility Facilities: Facilities that are not effectively integrated into the natural and/or built environment and would stand out to the average, untrained observer. High Visibility Facilities include,

but are not limited to: (1) Lattice Tower and Guyed Towers; (2) Faux trees and monopoles that exceed the maximum height of the underlying zoning; (3) Non-stealth design facilities; (4) any facility that does not qualify as an invisible or low-visibility facility.

Invisible Facilities: Wireless telecommunication facilities including, but not limited to towers, poles, antennas, equipment buildings and any other ancillary equipment, that cannot be seen from any street nor from any adjacent properties, and that do not result in any apparent architectural changes or additions to a structure or facility. The addition of landscaping, walls, fences or grading as screening techniques does not meet the definition of invisible.

Lattice Tower: A guyed or self-supporting three or four sided, open, steel frame support structure used to support wireless communications equipment.

Low Visibility Facility: Facilities that are well-integrated into the natural and/or built environment. Low visibility facilities include but are not limited to: (1) Monopoles and faux-trees that are within 10% of the height of surrounding structures or trees and which do not exceed the maximum building height for the underlying zone; (2) facilities attached to existing structures which do not increase the height by more than 10% and which do not exceed the maximum building height in the underlying zone; and (3) facilities that are screened or painted to match the appearance of the surrounding area.

Monopole: A wireless telecommunications facility consisting of a single pole constructed without guy wires and ground anchors.

Public Safety Communications Facilities: Wireless telecommunications facilities operated and maintained by public agencies that support Public Safety Communications Systems, which provide wireless communications to law enforcement, fire services, emergency medical services, and other public safety/service agencies. These facilities are considered Essential Services pursuant to Section 1335.

Roof Mounted Antenna: Any antenna with its support structure placed directly on the roof of any building.

Service Area: The area served by a single wireless telecommunications facility.

Service Network: The wireless communication transmission system operated by a service provider in a community or jurisdiction.

Small Cell Wireless Facility (SCWF): The same as defined in the FCC Declaratory Ruling and Third Report and Order, September 27, 2018, as may be amended or superseded, which defines the term as follows:

- The facilities—
 - Are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), or
 - Are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in section 1.1320(d), is no more than three cubic feet in volume;
- All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- The facilities do not require antenna structure registration under part 17 of this chapter;
- The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
- The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 1.1307(b).

Stealth Design: Designs for wireless telecommunication facilities that are not easily recognizable as such. Stealth design includes but is not limited to: (1) Faux trees; (2) faux water tanks; (3) faux flagpoles; (4) facilities under cupolas; and (5) architectural addition consistent in style to existing structure, including existing wireless facilities. Stealth design facilities may be considered low visibility or high visibility depending on the height and effectiveness of the integration.

Telecommunications: The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications Tower: Any mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support Antennas.

Tower: See Telecommunications Tower

Utility Pole: Any above-ground pole used to support electrical, telephone, cable, and internet wires.

Wireless Telecommunications Facility: Any facility that provides ~~personal~~ wireless services. This includes, but is not limited to antennas and other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting said equipment, equipment buildings, parking area and other accessory development. Also known as a wireless communications facility. This definition does not apply to Amateur Radio Stations as defined by the FCC, Part 97 of the Commission's Rules nor to TV and radio transmission facilities, nor to Public Safety Communications Facilities.

Commented [KJ3]: This definition should not be limited to personal wireless services.

65.1.4 WIRELESS TELECOMMUNICATIONS FACILITY APPLICATION PROCESS. Applications shall be processed based upon the following three tier permitting system:

65.1.4.1 Coastal Development Permit Required. In addition to meeting all requirements for the appropriate tier, all applications for facilities in the coastal zone shall require a Coastal Development Permit, unless it is found to be exempt pursuant to Chapter 1, Division 20 of Public Resources Code commencing at Section 30000.

65.1.4.2 Tier 1 – No Public Hearing Required

65.1.4.2.1 Zoning Clearance Certificate Required. These facilities shall be allowed as principally permitted uses without the need for a public hearing. A facility meeting the following criteria shall be subject to a Zoning Clearance Certificate:

1. Co-location of SCWF and Non-SCWF in all zones, except when the following conditions exist. If any of the following is true of a proposed co-located facility, the application shall require design review.

- a. The proposed co-location facility would increase the height or width of the existing facility by more than 10%.
 - b. The proposed co-location facility would bring the total number of equipment cabinets on the site to more than four.
 - c. The proposed facility would result in excavation outside of the area approved for disturbance under the terms of the original permit or clearance.
 - d. The proposed facility would be co-located on a facility not subject to a discretionary permit pursuant to Government Code section 65850.6, as may be amended or superseded.
2. New Non-SCWF in Industrial and Commercial Zoning Districts (Section 314-2 and 314-3) except when the facility does not meet the height and setback requirements of the underlying zone and/or the facility is within view of a designated California State Scenic Highway.
3. New SCWF excepting those in:
- a. Residential Zone Districts (Section 314-6) and Resource Zone Districts (314-7)(314-7.4)

65.1.4.2.2 Design Review Required. These facilities shall be allowed only if certain design criteria are met. A facility meeting the following criteria shall be subject to Telecommunications Facilities Design Review.

- 1. New, invisible Non-SCWF, excepting in Residential Zone Districts (Section 314-6), Agriculture Exclusive Zone (314-7.1), Timberland Production Zone (314-7.4), and Timberland Exclusive (314-7.5).
- 2. New SCWF in Residential Zoning Districts.
- 3. Co-location of SCWF and Non-SCWF that do not qualify for a Zoning Clearance Certificate

65.1.4.3 Tier 2 – Special Permit Required. Facilities meeting any of the following criteria shall require a Special Permit:

65.1.4.3.1 All SCWF & Non-SCWF that do not meet the criteria of Tier 1 or Tier 3

65.1.4.4 Tier 3 – Use Permit Required. Facilities meeting the following criteria shall require a Conditional Use Permit:

65.1.4.4.1 New, non-SCWF in Residential Zone Districts (Section 314-6).

65.1.4.4.2 All SCWF and non-SCWF in Agriculture Exclusive zone (314-7.1), Timberland Production Zone (314-7.4), and Timberland Exclusive zone (314-7.5), except those meeting the criteria for Tier 1.

65.1.4.4.3 Any Other Zoning District

65.1.4.3 Tier 2 – Special Permit Required. Facilities meeting any of the following criteria shall require a Special Permit:

65.1.4.3.1 All SCWF & Non-SCWF that do not meet the criteria of Tier 1 or Tier 3

65.1.4.4 Tier 3 – Use Permit Required. Facilities meeting the following criteria shall require a Conditional Use Permit:

65.1.4.4.1 New, non-SCWF in Residential Zone Districts (Section 314-6).

65.1.4.4.2 All SCWF and non-SCWF in Agriculture Exclusive zone (314-7.1), Timberland Production Zone (314-7.4), and Timberland Exclusive zone (314-7.5), except those meeting the criteria for Tier 1.

65.1.4.4.3 Any Other Zoning District

1. New non-SCWF that exceed the maximum height of the underlying zone, except when meeting a criterion for Tier 1.
2. New high visibility non-SCWF facilities, except when meeting a criterion of Tier 1.
3. New non-SCWF located on ridgetops or hilltops, in all zones.

65.1.5 GENERAL REGULATIONS

65.1.5.1 New Telecommunications towers located adjacent to a residential use shall be set back from the nearest residential lot line by a distance at least equal to its total height or 50 feet, whichever is greater. The setback shall be measured from that part of the tower that is closest to the neighboring property (i.e., the setback for a faux tree would be measured from the end of the branch closest to the neighboring property).

65.1.5.2 No new tower or equipment buildings shall be located in a front, rear or side yard setback in any zone and no portion of any antenna array shall extend beyond the property lines.

65.1.5.3 Routine noise from any equipment supporting the facility shall not exceed 50 dB or the ambient noise levels, whichever is lower. Backup generators shall be used on a temporary basis only. Noise levels from backup generators shall not exceed 60 dB. Noise-attenuating structures may be required.

Commented [KJ4]: This section must be modified to address eligible facility requests that are submitted pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C 1455) and CFR 1.6100 (implementing FCC regulation). CFR 1.6100 states that a state or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of CFR 1.6100. As currently drafted this section does not comply with federal law.

Commented [WL5]: An exception or variance process by which an exception may be obtained is highlight recommended to prevent instances where a requirement is infeasible and therefore preempted by federal regulation.

65.1.5.4 All new equipment buildings may not exceed 10 feet in height measured from the base of the foundation unless a greater height is necessary to maximize architectural integration and shall be screened by landscaping.

65.1.5.5 Except where prohibited or preempted by applicable law, all facilities located on a utility pole shall be promptly removed at the operator's expense prior when a utility is scheduled to be undergrounded.

65.1.5.6 Equipment buildings and facilities shall be secured to prevent unauthorized access.

65.1.5.7 Special provisions in Residential Zones (314-6)

65.1.5.7.1 Lattice towers and guyed towers are prohibited in Residential zones.

65.1.5.7.2 Noise from routine operations and from backup generators shall not exceed 50 dB or ambient, whichever is higher. This may require placement of equipment in a noise-attenuating structure.

65.1.5.8 The Planning Commission may waive or modify standards and requirements based on specific findings that demonstrate necessity and no detriment to public health safety and welfare, or based on finding that strict compliance would effectively prohibit the applicant's ability to provide personal wireless services or otherwise conflict with applicable law. The applicant must clearly and factually demonstrate that:

1. The proposed facility qualifies as a "personal wireless service facility" as defined in 47 U.S.C. Section 332(c)(7)(C)(ii), as may be amended or superseded;
2. a reasonable and clearly defined technical service objective would be achieved by the proposed wireless facility;
3. the proposed wireless facility cannot be deployed in compliance with the applicable provisions in this chapter;
4. all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the County, public comments or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable technical service objective;
5. the proposed location and design is the least non-compliant configuration that will reasonably achieve the technical service objective, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive wireless facilities dispersed throughout the intended service area.

Commented [WL6]: Strongly recommend including an exception in this section for equipment that is technically unable to function underground, such as antennae.

65.1.5.9 Conditional Approvals; Denials without Prejudice. Subject to any applicable federal or California laws or regulations, nothing in this chapter is intended to limit the ability of the Director, the Zoning Administrator, or the Planning Commission to conditionally approve or deny without prejudice any permit application as may be necessary or appropriate to ensure compliance with this section.

65.1.5.10 Appeals. Any decision to approve, conditionally approve or deny a Design Review or Special Permit shall be appealable to the Planning Commission. Any decision by the Planning Commission to approve, conditionally approve or deny a project shall be appealable to the Board of Supervisors. Appeals shall be filed pursuant to section 312-13.1.

65.1.6 DESIGN STANDARDS SCWF

65.1.6.1 SCWF shall not be placed on decorative poles unless they are invisible.

65.1.6.2 SCWF shall not increase the height or width of an existing structure by more than 10%.

65.1.6.3 SCWF shall be low visibility, invisible, or stealth design.

65.1.7 DESIGN STANDARDS – NON-SCWF

The following Design Standards apply to all Wireless Telecommunication Facilities other than Small Cell Wireless Facilities new Towers and new roof-mounted installations (as applicable).

65.1.7.1 All Stealth Facilities shall be designed to visually and operationally blend into the surrounding area in a manner consistent with current neighborhood design and existing development. The facility shall also be appropriate for the specific site (i.e., it should not “stand out” from its surrounding environment, such as a faux tree standing alone in a field or standing at a greater height [five feet or more] than other trees on the site).

65.1.7.2 No facility shall be allowed on any building or structure, or in any district, that is listed on any Federal, State or local historical register unless it is determined that the facility will have no adverse effect on the appearance of the building or structure or its eligibility for historic designation. No change in architecture nor High Visibility facility is permitted on any such building, any such site or in any such district.

65.1.7.3 In cases where the facility site is visible from an officially designated California State Scenic Highway, the facility shall be designed and located in such a manner as to avoid adverse

Commented [WL7]: Most SCWF are installed on poles in public rights-of-way and may therefore qualify as low-visibility, but not necessarily invisible or stealth due to their placement within the ROW and atop utility poles, which placement limits the feasible camouflage options available to the applicant.

visual impacts. Such locations shall use design methods such as, but not limited to, type of facility, stealth-design, screening and landscaping. No lattice towers or guyed towers are permitted.

65.1.7.4 Façade-mounted antennas shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Façade-mounted antennas shall not extend more than 24 inches out from the building face.

65.1.7.5 All facilities shall be designed to minimize the visual impact to the greatest extent feasible by means of placement, screening, landscaping with native species, whenever feasible, and camouflage, and to be compatible with existing architectural elements, building materials and other site characteristics. The applicant shall use the least visible antennas possible to accomplish the coverage objectives.

65.1.7.6 Colors and materials for facilities shall be non-reflective and chosen to minimize visibility. Facilities, including equipment buildings, shall be painted or textured using colors to match or blend with the primary background, or painted with a mural which would contribute to the vitality and attractiveness of the neighborhood.

65.1.7.7 Beacon lights shall not be included in the design of facilities unless required by the Federal Aviation Administration and shall be included when calculating the height of the facility.

65.1.7.8 No High Visibility Facility, including equipment buildings, may be located between the face of a building and a public street, bikeway, trail or park.

65.1.7.9 No signs, striping, graphics or other attention getting devices are permitted on the telecommunications tower or ancillary facilities except for warning and safety signage with a surface area of no more than three square feet. Such signage shall be affixed to a fence or ancillary facility and the number of signs is limited to no more than two unless a greater number is required by law.

65.1.7.10 Roof-mounted antennas shall be constructed at the minimum height possible to serve the operator's service area and shall be set back as far from the edge of the building as possible or otherwise screened to minimize their visibility.

65.1.7.11 Equipment buildings shall be screened from adjacent sidewalks by landscaping, undergrounding or other means, excluding new walls and fences, or shall be painted with a mural which would contribute to the vitality and attractiveness of the neighborhood.

65.1.7.12 The use of chain link fences for security of a facility is permitted if the fence is fully screened by landscaping. No razor wire or barbed wire is permitted. Slats do not satisfy the requirement for screening.

65.1.7.13 Site lighting shall be kept to a minimum in every instance, shall be shielded to direct the light downward, shall be controlled by a manual switch or timed switch of no greater than one hour's duration and shall not be used except when nighttime maintenance is necessary.

65.1.8 APPLICATION REQUIREMENTS. In addition to the standard application submittal requirements described in section 312-5.2, applicants for Wireless Telecommunication Facilities shall provide the supplemental information listed below.

65.1.8.1 As part of an application for any Design Review, Special Permit, or Use Permit for a Wireless Telecommunications Facility, the applicant/permittee shall indemnify and hold harmless the County of Humboldt and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties that arise from or is in any way related to permit processing and approval, including actions brought under the California Environmental Quality Act, and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the construction, maintenance and/or operation of the Wireless Telecommunications Facility except to the extent such claims, demands, expenses, or liabilities are caused by the intentional misconduct or negligent acts or omissions of the County.

65.1.8.2 Ministerial Telecommunications Planning Checklist. Applications for facilities qualified for a ministerial permitting process shall include a complete Ministerial Telecommunications Facilities Planning Checklist, as may be amended from time to time, made available by the Planning Division.

65.1.8.3 Applications for Design Review, Tier 2 and Tier 3 facilities shall include the following components.

65.1.8.3.1 Design Review Telecommunications Planning Checklist. Applications for facilities qualified for a design review shall include a complete Design Review Telecommunications Facilities Planning Checklist, as maybe amended from time to time, made available by the Planning Division. The Planning Director shall determine that the requirements of the Checklist are met.

65.1.8.3.2 Geographic Service Area. Vicinity map of the geographic service area for the proposed facility, including the service area of the applicant's existing sites in the local

Commented [KJ8]: This section must be modified to address eligible facility requests that are submitted pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C 1455) and CFR 1.6100 (implementing FCC regulation). CFR 1.6100 states that a state or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of CFR 1.6100. As currently drafted this section does not comply with federal law.

Commented [WL9]: The following redlines are proposed only if section 65.1.8 apply to ROW and/or SCWFs. It appears this section applies to all applications for WTF, not only non-small wireless facilities.

service network and the distance between the facilities associated ~~with the gap with the coverage or capacity demand~~ the facility is meant to ~~close~~ address. Describe the service needs of the company's service network.

65.1.8.3.3 Alternatives Analysis. Provide discussion of alternative sites that would accomplish the project goals, if any. Provide specific comparative analysis of how different sites would impact aesthetic values, agricultural, timber and mineral values, and other environmental values as applicable.

65.1.8.3.4 Visual Impact Analysis. Provide a visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette and proposed screening and landscaping. The analysis shall include photo simulations or a balloon test and other information as necessary to determine visual impact of the facility. The analysis shall include a map depicting where the photos were taken. The analysis shall include a native vegetation landscaping plan with a discussion of how the chosen plants, at maturity, will screen the site.

65.1.8.3.5 Noise/Acoustical Information. Provide manufacturer's specifications for all equipment such as air conditioning units and back-up generators, provide a proposal for a noise-attenuating structure to maintain noise levels below 50dB, and provide a depiction of the equipment location in relation to adjoining properties.

65.1.8.3.6 Fire Hazards. Provide information on the site indicating whether it is within a fire-related special district, whether the site is within Local Responsibility Area or State Responsibility Area and identifying the Office of the State Fire Marshall Fire Hazard Severity Zone that is applied to the area; provide a map of sufficient scale showing flammable vegetations surrounding the proposed facilities and indicating how adequate defensible space is to be provided.

65.1.8.3.6.1 Proposed facilities located within a fire-related district, shall provide a service letter from the applicable fire-related district indicating that structural fire protection services are available to the site.

65.1.8.3.6.2 Proposed facilities located outside of a fire-related district shall obtain from an appropriate local fire service provider written acknowledgement of the available emergency response and fire suppression services and recommended mitigations.

Commented [WL10]: This section appears to apply the now outdated "significant gap" test previously used for a determination of a prohibition of service. The FCC confirmed the California Payphone—not the "significant gap"—standard as the definitive test for determining the existence of a prohibition of service. The FCC clarified, "...an effective prohibition occurs where a state or local legal requirement materially inhibits a provider's ability to engage in any of a variety of activities related to its provision of a covered service. This test is met not only when filling a coverage gap but also when densifying a wireless network ..." FCC 18-133 at para. 37. Most current projects do not involve coverage gaps but rather the improvement of existing services to accommodate increased demand for capacity.

Commented [WL11]: Wouldn't there be instances where this analysis would be irrelevant if the site is not in a location where plants would naturally fit the surrounding aesthetic? This section appears to be mandatory regardless of whether a plantscape is relevant to the specific site.

Commented [WL12]: Is this applicable to small wireless facilities in the ROW?

65.1.8.3.6.3 Proposed facilities located within State Responsibility Area shall provide a letter from CAL FIRE indicating that the map showing defensible space meets the applicable state requirements.

65.1.8.3.6.4 Proposed facilities located within Moderate, High, or Very High Fire Hazard Severity Area shall submit a Fire Prevention Plan that recognizes and prepares for the potential for fast moving, wind driven wildfires could burn adjacent to or through the proposed site as the result of severe fire weather conditions, wildland fuels adjacent to the site, and nearby ignition sources. The Plan shall discuss existing, proximate fire hazards, the fire risks posed by the addition of a facility at the location, proposed measures to lessen fire risks associated with the facility and an ongoing maintenance plan. A draft copy of the Plan shall be provided to the local fire service provider and CAL FIRE at least 90 days before the start of any construction activities. The final Plan shall be approved by CAL FIRE (if SRA) and the fire chief of the fire-related district, if any, at least 30 days prior to the initiation of construction activities. The applicant shall fully implement the Plan during all construction and maintenance activities.

65.1.8.3.7 Hazardous Materials. Listing of all hazardous materials to be used onsite.

65.1.8.3.8 Parking. For all applications for facilities located in or along a right of way, show the location of parking for maintenance personnel that does not obstruct a traffic lane or a travelled way for pedestrians, bicyclists and equestrians.

65.1.8.3.9 Height Justification. Provide evidence establishing the necessity for the height of the proposed facility.

65.1.8.4 Applications for Tier 2 and Tier 3 facilities shall include the following components

65.1.8.4.1 Height Requirements

~~65.1.8.4.1.1 Provide evidence establishing the necessity of the proposed height for the facility.~~

~~65.1.8.4.1.2~~ 65.1.8.4.1.1 If the tower will exceed the maximum height limit of the underlying zone, as measured from grade, a discussion of the physical constraints (topographical features, etc.) making the additional height necessary shall be required.

Commented [KJ13]: This section must be modified to address eligible facility requests that are submitted pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C 1455) and CFR 1.6100 (implementing FCC regulation). CFR 1.6100 states that a state or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of CFR 1.6100. As currently drafted this section does not comply with federal law.

Commented [WL14]: This section seems to be unnecessary where the facility meets applicable maximum height restrictions.

65.1.8.4.2 Co-location Required. Non-SCWF structures shall be built to accommodate future colocation of other carriers wherever technically and economically feasible and aesthetically desirable.

Commented [WL15]: A preference (not a requirement) for colocation for SCWF is recommended to avoid additional structures and/or clutter in the ROW.

65.1.8.5 Applicants may be required to pay the actual and reasonable cost of independent review to evaluate siting alternatives, the necessity of the facility based on adequacy of existing coverage, and/or the radiofrequency emissions.

65.1.8.6 Notice of Final Action. Notice of final action on an application for design review, Special Permit or Conditional Use Permit shall be given as follows:

65.1.8.6.1 Notice shall be provided with five (5) working days of the Director or Hearing Officer's action.

65.1.8.6.2 Notice shall be provided by first class mail to:

65.1.8.6.2.1 The Applicant;

65.1.8.6.2.2 Any person who specifically requested, in writing, notice of such final action;

65.1.8.6.2.3 The Coastal Commission.

65.1.8.6.3 The notice shall include the following information:

65.1.8.6.3.1 Written findings;

65.1.8.6.3.2 Conditions of approval;

65.1.8.6.3.3 Procedures for appeal.

65.1.9 PERFORMANCE STANDARDS. All Wireless Telecommunications Facilities shall be subject to the requirements of this subsection.

65.1.9.1 Maintenance

65.1.9.1.1 All landscaping shall be maintained as shown on the approved Landscape Plan. Trees and shrubs shall be maintained to screen the site. Dead and dying landscaping shall be replaced in accordance with the approved landscape plan.

65.1.9.1.2 All Wireless Telecommunications sites shall be kept clean and free of litter.

65.1.9.1.3 All equipment buildings shall display a legible operator's contact number for reporting maintenance problems.

65.1.9.1.4 Maintenance vehicles servicing facilities located in the public or private right of way shall not park on the traveled way or in a manner that would obstruct traffic.

65.1.9.2 FCC emission compliance. Records shall be maintained which demonstrate ongoing compliance with FCC emission regulations and guidelines. Records shall be made available timely to County staff upon request.

65.1.9.3 Abandonment or discontinuation of use.

65.1.9.3.1 All operators who intend to abandon or discontinue the use of any Wireless Telecommunications facility shall notify the County of such intentions no less than 60 days prior to the final day of use.

65.1.9.3.2 Wireless Telecommunications Facilities with use discontinued shall be considered abandoned 90 days following the final day of use.

65.1.9.3.3 All abandoned facilities shall be physically removed by the facility owner no more than 90 days following the final day of use or of determination that the facility has been abandoned, whichever occurs first.

65.1.9.4 Revocation. Failure to comply with any condition of approval or standard in this ordinance shall constitute grounds for possible revocation of use pursuant to Sections 312-14 of the Zoning Ordinance.

SECTION 3. DEFINITIONS

Section 313-138 is hereby amended and added to as follows (additions are shown in underline text, deletions are shown in strikethrough text):

313-138 DEFINITIONS (C)

~~Communication Transmission Facilities: (See, Civic Use Types, Generation and Transmission Facilities, Minor; and Civic Use Types, Electric Distribution Lines, Major, in Section D: Use Types.)~~

SECTION 4. CIVIC USE TYPES

Section 313-171 is hereby amended and added to as follows (additions are shown in underline text, deletions are shown in strikethrough text):

Commented [KJ16]: County should clarify that these changes to do not apply to existing facilities retroactively.

171.7 GENERATION AND DISTRIBUTION FACILITIES, MINOR

171.7.1 The Minor Generation and Distribution Facilities Use Type includes wind generators and accessory structures; small hydroelectric generators (less than 5 megawatt) and accessory structures and utility lines; and ~~communication transmission facilities, including~~ radio and television transmission antennae, ~~communication~~ equipment installations and exchanges, and substations. (Former Section CZ#A313-6(K))

SECTION 7. EFFECTIVE DATE.

This ordinance shall become effective thirty (30) days after the date of its passage.

PASSED AND ADOPTED this _____ day of _____, 2022, on the following vote, to wit:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Virginia Bass, Chair
Board of Supervisors of the County of Humboldt,
State of California

(SEAL)

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

By: _____
Ryan Sharp, Deputy Clerk

Date:

65.1.5 GENERAL REGULATIONS

65.1.5.1 New Telecommunications towers-Towers located adjacent to a residential use shall be set back from the nearest residential lot line by a distance at least equal to its total height or 50 feet, whichever is greater. The setback shall be measured from that part of the tower that is closest to the neighboring property (i.e., the setback for a faux tree would be measured from the end of the branch closest to the neighboring property).

65.1.5.2 No new tower or equipment buildings shall be located in a front, rear or side yard setback in any zone and no portion of any antenna array shall extend beyond the property lines.

65.1.5.3 Routine noise from any equipment supporting the facility shall not exceed 50 dB or the ambient noise levels, whichever is lower. Backup generators shall be used on a temporary basis only. Noise levels from backup generators shall not exceed 60 dB. Noise-attenuating structures may be required.

65.1.5.4 All new equipment buildings may not exceed 10 feet in height measured from the base of the foundation unless a greater height is necessary to maximize architectural integration and shall be screened by landscaping.

65.1.5.5 All facilities located on a utility pole shall be promptly removed at the operator's expense prior when a utility is scheduled to be undergrounded.

65.1.5.6 Equipment buildings and facilities shall be secured to prevent unauthorized access.

65.1.5.7 Special provisions in Residential Zones (314-6)

65.1.5.7.1 New Lattice towers and guyed towers are prohibited in Residential zones.

9 1.1.5.7.2 Noise from routine operations and from backup generators shall not exceed 50 dB or ambient, whichever is higher. This may require placement of equipment in a noise-attenuating structure.

65.1.5.8 The Planning Commission may waive or modify standards and requirements based on specific findings that demonstrate necessity and no detriment to public health safety and welfare, or based on finding that strict compliance would effectively prohibit the applicant's ability to provide personal wireless services. The applicant must clearly and factually demonstrate that:

1. The proposed facility qualifies as a "personal wireless service facility" as defined in 47 U.S.C. Section 332(c)(7)(C)(ii), as may be amended or superseded;
2. a reasonable and clearly defined technical service objective would be achieved by the proposed wireless facility;

Commented [WL17]: This requirement may not be feasible for SWF located within public ROW. CC requests the City clarify whether it intends this requirement apply to such sites and if so, what its exception/variance process will be where meeting this setback distance is infeasible.

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3. the proposed wireless facility cannot be deployed in compliance with the applicable provisions in this chapter;

4. all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the County, public comments or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable technical service objective;

5. the proposed location and design is the least non-compliant configuration that will reasonably achieve the technical service objective, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive wireless facilities dispersed throughout the intended service area, if any.

65.1.5.9 Conditional Approvals; Denials without Prejudice. Subject to any applicable federal or California laws or regulations, nothing in this chapter is intended to limit the ability of the Director, the Zoning Administrator, or the Planning Commission to conditionally approve or deny without prejudice any permit application as may be necessary or appropriate to ensure compliance with this section.

65.1.5.10 Appeals. Any decision to approve, conditionally approve or deny a Design Review or Special Permit shall be appealable to the Planning Commission. Any decision by the Planning Commission to approve, conditionally approve or deny a project shall be appealable to the Board of Supervisors. Appeals shall be filed pursuant to section 312-13.1.

65.1.6 DESIGN STANDARDS SCWF

65.1.6.1 SCWF shall not be placed on decorative poles unless they are invisible.

65.1.6.2 SCWF shall not increase the height or width of an existing structure by more than 10%.

65.1.6.3 SCWF shall be low visibility, invisible or stealth design.

Commented [WL18]: See above comment regarding this same. Placement on existing utility or light poles often limit feasible camouflage options.

65.1.7 DESIGN STANDARDS – NON-SCWF

The following Design Standards apply to all new Wireless Telecommunication Facilities other than Small Cell Wireless Facilities

65.1.7.1 All new Stealth Facilities shall be designed to visually and operationally blend into the surrounding area in a manner consistent with current neighborhood design and existing development. The facility shall also be appropriate for the specific site (i.e., it should not “stand out” from its surrounding environment, such as a faux tree standing alone in a field or standing at a greater height [five feet or more] than other trees on the site).

65.1.7.2 No new facility shall be allowed on any building or structure, or in any district, that is listed on any Federal, State or local historical register unless it is determined that the facility will have no adverse effect on the appearance of the building or structure or its eligibility for historic

designation. No change in architecture nor High Visibility facility is permitted on any such building, any such site or in any such district.

65.1.7.3 In cases where ~~the a~~ new facility site is visible from an officially designated California State Scenic Highway, the facility shall be designed and located in such a manner as to avoid adverse visual impacts. Such locations shall use design methods such as, but not limited to, type of facility, stealth-design, screening and landscaping. No lattice towers or guyed towers are permitted.

65.1.7.4 New Facade-mounted antennas shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Facade-mounted antennas shall not extend more than 24 inches out from the building face.

65.1.7.5 All new facilities shall be designed to minimize the visual impact to the greatest extent feasible by means of placement, screening, landscaping with native species, whenever feasible, and camouflage, and to be compatible with existing architectural elements, building materials and other site characteristics. The applicant shall use the least visible antennas possible to accomplish the coverage objectives.

65.1.7.6 Colors and materials for facilities shall be non-reflective and chosen to minimize visibility. Facilities, including equipment buildings, shall be painted or textured using colors to match or blend with the primary background, or painted with a mural which would contribute to the vitality and attractiveness of the neighborhood.

65.1.7.7 Beacon lights shall not be included in the design of facilities unless required by the Federal Aviation Administration and shall be included when calculating the height of the facility.

65.1.7.8 No High Visibility Facility, including equipment buildings, may be located between the face of a building and a public street, bikeway, trail or park.

65.1.7.9 No signs, striping, graphics or other attention getting devices are permitted on the telecommunications tower or ancillary facilities except for warning and safety signage with a surface area of no more than three square feet. Such signage shall be affixed to a fence or ancillary facility and the number of signs is limited to no more than two unless a greater number is required by law.

65.1.7.10 New Roof-mounted antennas shall be constructed at the minimum height possible to serve the operator's service area and shall be set back as far from the edge of the building as possible or otherwise screened to minimize their visibility.

65.1.7.11 New Equipment buildings shall be screened from adjacent sidewalks by landscaping, undergrounding or other means, excluding new walls and fences, or shall be painted with a mural which would contribute to the vitality and attractiveness of the neighborhood.

65.1.7.12 The use of chain link fences for security of a facility is permitted if the fence is fully screened by landscaping. No razor wire or barbed wire is permitted. Slats do not satisfy the requirement for screening.

65.1.7.13 Site lighting shall be kept to a minimum in every instance, shall be shielded to direct the light downward, shall be controlled by a manual switch or timed switch of no greater than one hour's duration and shall not be used except when nighttime maintenance is necessary.

65.1.8 APPLICATION REQUIREMENTS. In addition to the standard application submittal requirements described in section 312-5.2, applicants for Wireless Telecommunication Facilities shall provide the supplemental information listed below.

65.1.8.1 As part of an application for any Design Review, Special Permit, or Use Permit for a Wireless Telecommunications Facility, the applicant/permittee shall indemnify and hold harmless the County of Humboldt and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties that arise from or is in any way related to permit processing and approval, including actions brought under the California Environmental Quality Act, and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the construction, maintenance and/or operation of the Wireless Telecommunications Facility.

65.1.8.2 Ministerial Telecommunications Planning Checklist. Applications for facilities qualified for a ministerial permitting process shall include a complete Ministerial Telecommunications Facilities Planning Checklist, as may be amended from time to time, made available by the Planning Division.

65.1.8.3 Applications for Design Review, Tier 2 and Tier 3 facilities shall include the following components.

65.1.8.3.1 Design Review Telecommunications Planning Checklist. Applications for facilities qualified for a design review shall include a complete Design Review Telecommunications Facilities Planning Checklist, as maybe amended from time to time, made available by the Planning Division. The Planning Director shall determine that the requirements of the Checklist are met.

65.1.8.3.2 Geographic Service Area. Vicinity map of the geographic service area for the proposed facility, including the service area of the applicant's existing sites in the local service network and the distance between the facilities associated with the gap the facility is meant to close. Describe the service needs of the company's service network.

65.1.8.3.3 Alternatives Analysis. Provide discussion of alternative sites that would accomplish the project goals. Provide specific comparative analysis of how different sites

Commented [KJ19]: This section must be modified to address eligible facility requests that are submitted pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C 1455) and CFR 1.6100 (implementing FCC regulation). CFR 1.6100 states that a state or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of CFR 1.6100. As currently drafted this section does not comply with federal law.

Commented [WL20]: Same comment as above regarding the significant gap test.

would impact aesthetic values, agricultural, timber and mineral values, and other environmental values.

65.1.8.3.4 Visual Impact Analysis. Provide a visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette and proposed screening and landscaping. The analysis shall include photo simulations or a balloon test and other information as necessary to determine visual impact of the facility. The analysis shall include a map depicting where the photos were taken. The analysis shall, where applicable, include a nativevegetation landscaping plan with a discussion of how the chosen plants, at maturity, willscreen the site.

65.1.8.3.5 Noise/Acoustical Information. Provide manufacturer's specifications for all equipment such as air conditioning units and back-up generators, provide a proposal for a noise-attenuating structure to maintain noise levels below 50dB, and provide a depiction of the equipment location in relation to adjoining properties.

65.1.8.3.6 Fire Hazards. Provide information on the site indicating whether it is within a fire-related special district, whether the site is within Local Responsibility Area or State Responsibility Area and identifying the Office of the State Fire Marshall Fire Hazard Severity Zone that is applied to the area; provide a map of sufficient scale showing flammable vegetations surrounding the proposed facilities and indicating how adequate defensible space is to be provided.

65.1.8.3.6.1 Proposed facilities located within a fire-related district, shall provide a service letter from the applicable fire-related district indicating that structural fire protection services are available to the site.

65.1.8.3.6.2 Proposed facilities located outside of a fire-related district shall obtain from an appropriate local fire service provider written acknowledgement of the available emergency response and fire suppression services and recommended mitigations.

65.1.8.3.6.3 Proposed facilities located within State Responsibility Area shall provide a letter from CAL FIRE indicating that the map showing defensible space meets the applicable state requirements.

65.1.8.3.6.4 Proposed facilities located within Moderate, Hight, or Very High Fire Hazard Severity Area shall submit a Fire Prevention Plan that recognizes and prepares for the potential for fast moving, wind driven wildfires could burn adjacent to or through the proposed site as the result of severe fire weather conditions, wildland fuels adjacent to the site, and nearby ignition sources. The Plan shall discuss existing, proximate fire hazards, the fire risks posed by the addition of a facility at the location, proposed measures to lessen fire risks associated with the facility and an ongoing maintenance plan. A draft copy of the Plan shall be provided to the local fire service provider and CAL FIRE at least 90 days before the start of any construction activities. The final Plan shall be approved by CAL FIRE (if SRA) and the fire chief of the fire-related district, if any,

Commented [WL21]: See above comment regarding applicability in instances where vegetation is not present.

Commented [WL22]: Same comment as above regarding applicability to ROW sites.

at least 30 days prior to the initiation of construction activities. The applicant shall fully implement the Plan during all construction and maintenance activities.

65.1.8.3.7 Hazardous Materials. Listing of all hazardous materials to be used onsite.

65.1.8.3.8 Parking. For all applications for facilities located in or along a right of way, show the location of parking for maintenance personnel that does not obstruct a traffic lane or a travelled way for pedestrians, bicyclists and equestrians.

~~**65.1.8.3.9** Height Justification. Provide evidence establishing the necessity for the height of the proposed facility.~~

65.1.8.4 Applications for Tier 2 and Tier 3 facilities shall include the following components

65.1.8.4.1 Height Requirements

~~**65.1.8.4.1.1** Provide evidence establishing the necessity of the proposed height for the facility.~~

~~**65.1.8.4.1.2** If the tower will exceed the maximum height limit of the underlying zone, as measured from grade, a discussion of the physical constraints (topographical features, etc.) making the additional height necessary shall be required.~~

65.1.8.4.2 Co-location Required. Non-SCWF shall be built to accommodate future colocation of other carriers wherever technically and economically feasible and aesthetically desirable.

65.1.8.5 Applicants may be required to pay the cost of independent review to evaluate siting alternatives, the necessity of the facility based on adequacy of existing coverage, and/or the radio frequency emissions.

65.1.8.6 Notice of Final Action. Notice of final action on an application for design review, Special Permit or Conditional Use Permit shall be given as follows:

65.1.8.6.1 Notice shall be provided with five (5) working days of the Director or Hearing Officer's action.

65.1.8.6.2 Notice shall be provided by first class mail to:

65.1.8.6.2.1 The Applicant;

65.1.8.6.2.2 Any person who specifically requested, in writing, notice of such final action;

65.1.8.6.2.3 The Coastal Commission.

65.1.8.6.3 The notice shall include the following information:

65.1.8.6.3.1 Written findings;

65.1.8.6.3.2 Conditions of approval;

Commented [WL23]: See above comment regarding the same.

Commented [KJ24]: This section must be modified to address eligible facility requests that are submitted pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C 1455) and CFR 1.6100 (implementing FCC regulation). CFR 1.6100 states that a state or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of CFR 1.6100. As currently drafted this section does not comply with federal law.

Commented [WL25]: See above comment regarding the same. Height justification should not apply unless the proposed site exceeds relevant height restrictions.

Commented [WL26]: See above comment regarding the same.

65.1.8.6.3.3 Procedures for appeal.

65.1.9 PERFORMANCE STANDARDS. All Telecommunications Facilities shall be subject to the requirements of this subsection.

65.1.9.1 Maintenance

65.1.9.1.1 All landscaping shall be maintained as shown on the approved Landscape Plan. Trees and shrubs shall be maintained to screen the site. Dead and dying landscaping shall be replaced in accordance with the approved landscape plan.

65.1.9.1.2 All Wireless Telecommunications sites shall be kept clean and free of litter.

65.1.9.1.3 All equipment buildings shall display a legible operator's contact number for reporting maintenance problems.

65.1.9.1.4 Maintenance vehicles servicing facilities located in the public or private right of way shall not park on the traveled way or in a manner that would obstruct traffic.

65.1.9.2 FCC emission compliance. Records shall be maintained which demonstrate ongoing compliance with FCC emission regulations and guidelines. Records shall be made available timely to County staff upon request.

65.1.9.3 Abandonment or discontinuation of use.

65.1.9.3.1 All operators who intend to abandon or discontinue the use of any Wireless Telecommunications facility shall notify the County of such intentions no less than 60 days prior to the final day of use.

65.1.9.3.2 Wireless Telecommunications Facilities with use discontinued shall be considered abandoned 90 days following the final day of use.

65.1.9.3.3 All abandoned facilities shall be physically removed by the facility owner no more than 90 days following the final day of use or of determination that the facility has been abandoned, whichever occurs first.

65.1.9.4 Revocation. Failure to comply with any condition of approval or standard in this ordinance shall constitute grounds for possible revocation of use pursuant to Sections 312-14 of the Zoning Ordinance.

SECTION 3. DEFINITIONS

Section 313-138 is hereby amended and added to as follows (additions are shown in underline text, deletions are shown in strikethrough text):

313-138 DEFINITIONS (C)

~~Communication Transmission Facilities: (See, Civic Use Types, Generation and Transmission Facilities, Minor, and Civic Use Types, Electric Distribution Lines, Major, in Section D: Use Types.)~~

SECTION 4. CIVIC USE TYPES

Section 313-171 is hereby amended and added to as follows (additions are shown in underline text, deletions are shown in strikethrough text):

171.7 GENERATION AND DISTRIBUTION FACILITIES, MINOR

171.7.1 The Minor Generation and Distribution Facilities Use Type includes wind generators and accessory structures; small hydroelectric generators (less than 5 megawatt) and accessory structures and utility lines; and ~~communication transmission facilities, including~~ radio and television transmission antennae, ~~communication~~ equipment installations and exchanges, and substations. (Former Section CZ#A313-6(K))

SECTION 7. EFFECTIVE DATE.

This ordinance shall become effective thirty (30) days after the date of its passage.

PASSED AND ADOPTED this _____ day of _____, 2022, on the following vote, to wit:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

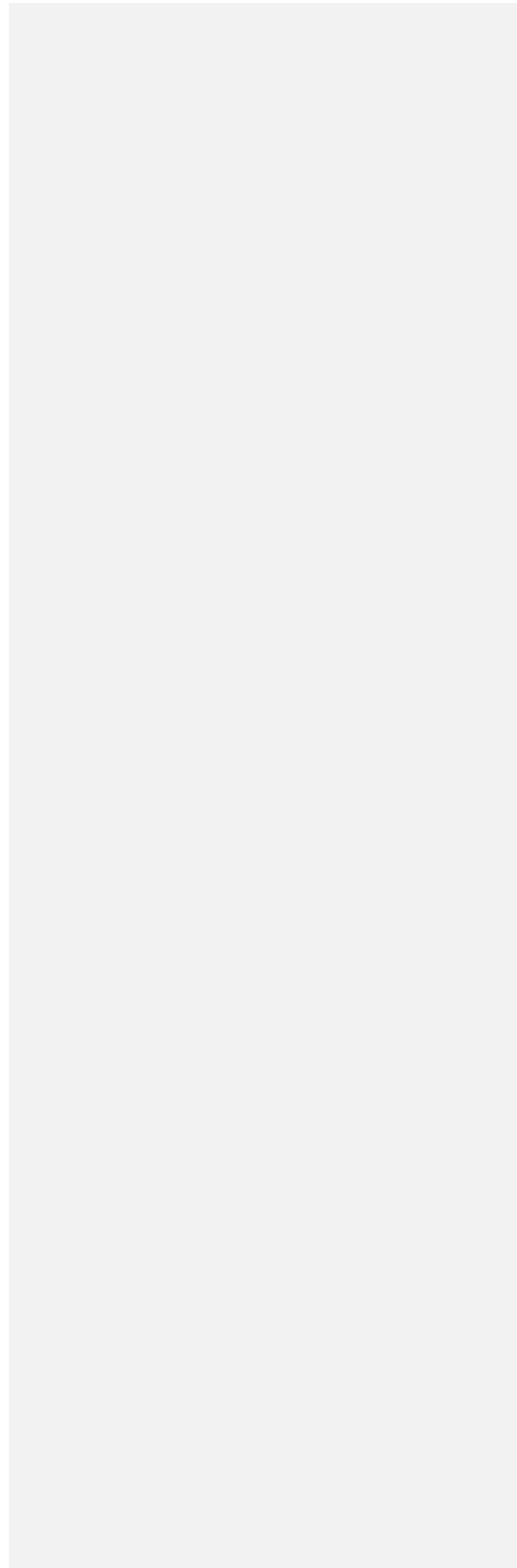
Virginia Bass, Chair
Board of Supervisors of the County of Humboldt,
State of California

(SEAL)

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

By: _____
Ryan Sharp, Deputy Clerk

Date:



McClenagan, Laura

From: THPO Bear River Band <thpo@brb-nsn.gov>
Sent: Tuesday, February 01, 2022 3:43 PM
To: Hilton, Keenan
Subject: Re: Humboldt County Planning Department DRAFT Wireless Telecommunications Facilities Ordinance

Dear Keenan,
Thank you. We do not have any comments at this time.

On Wed, Jan 26, 2022 at 4:27 PM Hilton, Keenan <KHilton@co.humboldt.ca.us> wrote:

Greetings,

The Humboldt County Planning Department has drafted an ordinance to regulate the development of Wireless Telecommunications Facilities (i.e. cell towers). The ordinance includes regulations on traditional cell towers (i.e. 1G – 4G), and also creates new local regulations for small cell facilities (i.e. 5G). We will be presenting the draft ordinance to the Planning Commission next week on Thursday, February 3rd. We invite any and all comments, questions and suggestions that you may have on this item.

I've attached the draft ordinances for both the inland and coastal areas.

You can also find more information and resources on [our website](#).

Sincerely,

Keenan

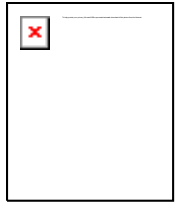
Keenan Hilton, Planner II

Long Range Planning

Humboldt County Planning and Building Department


(707) 268-3722

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THPO Bear River Band
TRIBAL HISTORIC PRESERVATION OFFICE

Bear River Band of the Rohnerville Rancheria

 266 Keisner, Loleta, CA 95551

 707-733-1900 EXT 1233

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McClenagan, Laura

From: Kori Cordero <kcordero@yuroktribe.nsn.us>
Sent: Tuesday, February 01, 2022 1:48 PM
To: Hilton, Keenan
Subject: Draft Telecoms Ordinances

Importance: High

Greetings,

I hope this email finds you well. I'm writing to follow-up on a voicemail I left earlier today. The Yurok Tribe's THPO received copies of two draft telecoms ordinances last week and we have some questions and concerns.

Are you available to have a call today or tomorrow to discuss? Also, is the planning commission vote this Thursday the final step need for enactment or is their another process after this?

I appreciate your time on this issue.

Best,

Kori

Kori Cordero | ASSOCIATE GENERAL COUNSEL

PRONOUNS: they/them/theirs

YUROK TRIBE OFFICE OF THE TRIBAL ATTORNEY

PO BOX 1027

KLAMATH, CA 95548

TEL: (707) 482-1350 EXT. 1304

CELL: (707) 561-2259

EMAIL: KCORDERO@YUROKTRIBE.NSN.US

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McClenagan, Laura

From: Roggatz, Cody
Sent: Wednesday, January 26, 2022 5:59 PM
To: Hilton, Keenan; Eikerman, Curtis
Cc: Richardson, Michael
Subject: RE: Humboldt County Planning Department DRAFT Wireless Telecommunications Facilities Ordinance
Attachments: COASTAL Draft Telecom Ordinance 1.26.22.pdf; INLAND Draft Telecom Ordinance 1-26-22.pdf

Keenan:

Thanks for the e-mail. I have included Curt Eikerman our Airport Operations Manager for the Department of Aviation.

Curt:

Could you glance through the two attachments that Keenan provided in his e-mail this afternoon? Could you coordinate with him, and loop me in as you feel necessary, to ensure that we have proper protections in these draft ordinances for our airports throughout Humboldt County? My two thoughts on priorities are:

- Ensuring that 5G towers/infrastructure do not interfere with approaches, especially at ACV, but wholistically for all of our airports with instrument approaches.
- Ensuring that we have proper protections to prevent cell towers from popping up that would potentially impact approaches and/or penetrate protected (including TERPs) surfaces around our airports.

Thanks all,

Cody

Cody M. Roggatz, C.M.
Director of Aviation
County of Humboldt
Office: (707) 839-5401
Cell: (707) 382-2551



From: Hilton, Keenan <KHilton@co.humboldt.ca.us>
Sent: Wednesday, January 26, 2022 4:28 PM
To: Hilton, Keenan <KHilton@co.humboldt.ca.us>
Cc: Richardson, Michael <MRichardson@co.humboldt.ca.us>
Subject: Humboldt County Planning Department DRAFT Wireless Telecommunications Facilities Ordinance

Greetings,

The Humboldt County Planning Department has drafted an ordinance to regulate the development of Wireless Telecommunications Facilities (i.e. cell towers). The ordinance includes regulations on traditional cell towers (i.e. 1G – 4G), and also creates new local regulations for small cell facilities (i.e. 5G). We will be presenting the draft ordinance to the Planning Commission next week on Thursday, February 3rd. We invite any and all comments, questions and suggestions that you may have on this item.

I've attached the draft ordinances for both the inland and coastal areas.

You can also find more information and resources on [our website](#).

Sincerely,
Keenan

Keenan Hilton, Planner II
Long Range Planning
Humboldt County Planning and Building Department
(707) 268-3722

McClenagan, Laura

From: Bronkall, Bob
Sent: Thursday, January 27, 2022 5:39 PM
To: Ford, John
Cc: Hilton, Keenan; Freed, Ken
Subject: FW: Humboldt County Planning Department DRAFT Wireless Telecommunications Facilities Ordinance
Attachments: COASTAL Draft Telecom Ordinance 1.26.22.pdf; INLAND Draft Telecom Ordinance 1-26-22.pdf; RE: Communication Facilities Ordinance

Follow Up Flag: Follow up
Flag Status: Flagged

John-

Per our conversation, I will work with PW staff to identify changes to the code section to address concerns 2, 3,4 and 5. If you could work with Keenan to address the UG districts, that would be great. I know that you have lots of thoughts on that as you were the one that mentioned that issue to me.

--Bob

List of Issues:

1. Underground districts. See County Code [361-1](#) et seq. Note Section 361-4(b)(6)
2. Need for coordination with fronting land owners to ensure that new facilities are compatible with future development of the fronting. (To ensure that a landowner doesn't yield supreme authority, PW will consider landowners input and will make the final determination for placement.)
3. No small cell facilities on traffic signals or appurtenances
4. Not obstruct pedestrian path of travel (ADA compliance)
5. Not obstruct sight visibility (no large boxes near driveways)

From: Hilton, Keenan <KHilton@co.humboldt.ca.us>
Sent: Wednesday, January 26, 2022 4:28 PM
To: Hilton, Keenan <KHilton@co.humboldt.ca.us>
Cc: Richardson, Michael <MRichardson@co.humboldt.ca.us>
Subject: Humboldt County Planning Department DRAFT Wireless Telecommunications Facilities Ordinance

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Sincerely,
Keenan

Keenan Hilton, Planner II
Long Range Planning
Humboldt County Planning and Building Department
(707) 268-3722