

13.24.009 – General Requirements

- A. **Public Safety Technology:** A wireless provider's operation of a small wireless facility may not interfere with the frequencies used by a public safety agency for public safety communications. A wireless provider must install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment. Unacceptable interference is determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licenses by a public safety agency. If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall take all reasonable steps necessary to correct and eliminate the interference, including, but not limited to, powering down the small wireless facility and later powering up the small wireless facility for intermittent testing, if necessary. The City may terminate a permit for a small wireless facility based on such interference if the wireless provider is not making a good faith effort to remedy the problem in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC, including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675. The burden to establish the good faith effort shall be on the wireless provider, which shall timely deliver to the City all information necessary to demonstrate its efforts to resolve the interference consistent with the Code of Federal Regulations sections cited above. Failure to remedy the interference as required herein shall constitute a public nuisance and the small wireless facility may be abated through the procedures for abatement of such nuisances set forth in this code.
- B. A wireless provider shall not construct or maintain any small wireless facility that:
1. Obstructs, impedes or hinders the usual travel or public safety on a right-of-way;
 2. Obstructs the legal use of right-of-way by utility users;
 3. Violates nondiscriminatory applicable codes;
 4. Violates or conflicts with chapter 13.22 (Construction of Utility Facilities in the Rights-of-way) or other applicable regulations set forth in this code or otherwise adopted by the City, except to the extent such chapters, sections or regulations may be modified by the provisions of this chapter; or
 5. Violates the federal Americans with Disabilities Act of 1990 (42 U. S. C. Section 12101 et seq.)
- C. **Contractual Requirements:** Wireless providers shall comply with all requirements imposed by a contract between the City and any private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.
- D. **Ground- Mounted Equipment:** Wireless providers shall comply with the ground mounted equipment spacing requirements within rights-of-way as set forth in chapter 13.22 (Construction of Utility Facilities in the Rights-of-Way) of this code, including subsection 13.22.015.1. E. **Undergrounding:**
1. The wireless provider shall comply with City code provisions or regulations concerning undergrounding requirements, if any, that prohibit the installation of new or the modification of existing utility poles or equipment in the right-of-way.
 2. A Wireless Provider may receive a waiver from the Director of Public Works to allow small wireless facilities to be located above ground in an area where City ordinances or regulations prohibit or restrict above ground facilities if the wireless provider can establish that:
 - a. Underground equipment is not technically feasible and there is no reasonable alternative or location that is more aesthetically favorable to adjacent property owners and to effectively use and management of the right-of-way; and
 - b. An above ground small wireless facility at the proposed location is necessary at the proposed location to provide coverage in a specified area; and
 - c. An above ground small wireless facility at the proposed location will not disrupt traffic or pedestrian circulation or constitute a safety hazard; and
 - d. An above ground small wireless facility at the proposed location will not interfere with public safety uses or frequencies; and
 - e. Space exists within the public right-of-way to accommodate the above ground small wireless facility at the

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- proposed location; and
- f. An above ground small wireless facility at the proposed location will not create a safety hazard; and
 - g. The above ground small wireless facility is located and designed in such a way so as to minimize its visual impact on adjacent properties; and
 - h. In any historical area, that the above ground small wireless facility will not detrimentally affect the historical nature of the area.
3. Screening for Ground Mounted Facilities. Where a ground- mounted facility is allowed, such equipment shall be screened around the perimeter in accordance with a landscape plan sealed by a professional landscape engineer. Plant materials shall include a mixture of deciduous and coniferous planting materials. The owner or wireless provider shall be responsible for maintenance of all landscaping as provided in the approved landscape plan.
4. Future Undergrounding: The City may, from time to time, make a decision to eliminate above-ground utility poles of a particular type generally, such as electric utility poles, in all or a significant portion of the City. In the event that such a utility pole has a collocated small wireless facility in place at the time of such a decision, the City shall either:
- a. Continue to maintain the utility pole, or install and maintain a reasonable utility pole or wireless support structure for the collocation of the small wireless facility; or
 - b. Offer to sell the utility pole to the wireless provider at a reasonable cost, or allow the wireless provider to install its own utility pole so it can maintain service from that location.
- F. Collocation Limits: Wireless providers shall not collocate small wireless facilities on City utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole. However, the antenna and support equipment of the small wireless facility may be located in the communications space on the City utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole.

For purposes of this subsection, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

- G. Code Compliance: Wireless providers shall comply with applicable codes and local code provisions or regulations that concern public safety.

(2018-M-28 : § 2)