

Recid 08/20/2019  
City Council mtg  
Item C.  
Oral Communication

Calistoga City Council  
Meeting  
Community Building  
August 20, 2019

Dear City Council,

Good evening, B.J, Hopgood, Rancho de Calistoga [REDACTED] I'm here tonight to express concern about the Portable Generators our residents are buying in preparation of our electricity going out for 3 to 5 or more days. According to the National Institute of Standards and Technology you should place your portable generator at least 15' from your home and point the exhaust away from your home and any windows, doors or vents. Some of our mobile homes have only 10', 12' 14' between them. They also say a portable gas powered generator creates 100 times the amount of carbon monoxide then a car exhaust. The Center for Disease Control and Prevention, reported that during the 2004, 2005 hurricane season almost half the death's from carbon monoxide were caused by generators being placed to close to the homes.

Last Friday at a pot-luck a resident mentioned he puts his generator in his car port another resident yelled don't do that you could blow us all up. At our age and with all good intentions we might just forget not to pour gasoline into a hot generator. Also with our fixed incomes and only X amount of money to live out for the rest of our lives. The expense of purchasing a home generator is for some of us is just out of the question. With out delay we need to plan and fix this problem before we have a major disaster.

Thank you,

B.J. Hopgood  
[REDACTED]

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As we all remember well in October 2017 the entire city of Calistoga was evacuated due to the Tubbs fire.

In April 2018 city officials / fire dept researched emergency siren system with the goal of increasing public safety. According to published information the City had planned two sirens - one near Dunaweal Ln, another near Greenwood/Grant. Sirens were approximately \$25k each. The City had funds set aside for the sirens but nothing moved forward.

As we enter the 2019 wildfire season, the City of Calistoga still doesn't have an emergency siren system in place. If the City had continued with the proposal researched in early 2018, almost 18 months ago, we would likely have sirens today. This delay is putting Calistogans at risk.

Citizens of Calistoga **are concerned** that our officials have not put the sirens and our public safety as a high priority. We request that City officials revisit the original plan from April 2018 and expedite installing sirens in the most desirable locations on City owned property or public right of ways.

We ask that our request for emergency warning sirens be place on the council agenda September 3, 2019. Let's get this fast tracked so we have sirens for the wildfire season which is rapidly approaching.

I ask that if anyone in the audience that support this request please stand and state your name / address.

Read by Ivan Miller, at Calistoga City Council Meeting 8/20/2019

We are all subject to a new reality with our electric service – the possibility and likelihood of public safety power shutdowns, which may be frequent and lengthy during fire season. This creates a different but related public safety issue. The shutdowns have resulted in many people purchasing alternative power sources such as portable generators which are fueled by gasoline.

This concerns me for many reasons –

- improper placement of the generator creates a high risk for carbon monoxide poisoning; odorless and can be deadly
- improper storage of fuel for the generator can create a hazard
- adding fuel to generator when the unit is hot can cause combustion
- spilling gasoline in the vicinity of the generator and possible ignition

I recently spoke with Mayor Canning and Chief Steve Campbell about this public safety issue and they also have concerns.

I am bringing this to you and requesting that City officials consider some method of monitoring these portable generators to ensure safe placement, education of the owners, proper usage and anything else that can be done to lessen the dangers.

I don't know the best way to do that – maybe it means the City should consider requiring a permit and/or safety inspection for portable generators.

I'm requesting that you evaluate the situation and decide what will be the best solution for our community's public safety.



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Based on recent actions, it has come to the attention of our citizens that the city should consider a new or renewed set of telecommunication ordinances. As we know, telecommunications continue to evolve and therefore, our citizens, businesses, visitors and city must also put measures in place to evolve to meet needs and desires of these constituents. Through the process of laying the foundation for necessary infrastructure needed for evolving broadband wireless capabilities in our community, we need to also make informed decisions by the city council and staff regarding the rights of cities and the regulation of these industries, the rights of the industry itself, and the options the city has in moving forward.

As is the case with many US and California cities, city ordinances are teetering under the weight of US and state laws which were implemented in times when simple poles and wires between them placed on streets and sidewalks provided telecommunications. There was no need to define sophisticated zoning beyond usual things like commercial, industrial, residential, public utility.

In 2014 the FCC implemented the shot clock (which means cities have limited time to decline cell tower construction through petitions) to assist 4G tall cell towers to be erected in order to deliver faster, better cell service. Just after that, the FCC also implemented an amendment to extend that concept to distributed antenna systems which are short distance microcells. Until 2016, no American city needed an ordinance for how to review a petition for multiple types of wireless transmitter in a historic, charming small town such as Calistoga. A small cell has about a 2000 foot radius and even lower radius for high frequencies, like 5G. These are coming as telecommunications continue to evolve and consumer demands increase.

The federal government leaves it up to cities to determine and regulate for themselves on how structures should look, how they are placed, how they must guarantee improved specific services and bandwidth and speeds are provided, with licensed providers, before permits are approved. These are technical applications and many cities may not have the technical expertise to make informed decisions to approve or dispute applications. The densification of microcells and signals needs to be considered seriously as local governments look at use of private, residential, city and commercial land and infrastructure use / re-use.

We may be limited by the FCC rulings to limitations like aesthetics, but even then, saving the charm, landscape, history, tourism, and property values are important, at least in the opinion of many citizens. Therefore, we ask that the city please add an agenda item to discuss the need for a telecommunications ordinance assessment for Calistoga. Even common ordinances like prohibiting towers in residential zones; requiring scientific data that a serious and significant gap in service exists prior to permitting towers or additional microcells; requiring easements of at least 1 foot for each foot of height, limiting height; requiring collocation or leverage of infrastructure and setbacks and security- even these seem to be needed in Calistoga let alone examining new and future technologies coming soon. Again, this needs to be a topic for the City Council agenda as soon as possible, and absolutely before any telecommunications permits are approved.

Please see the attached list of nearby cities that have drafted such ordinances and some printed pages from Sonoma and San Rafael ordinances.

Telecommunication Ordinances from nearby cities

Sonoma – <https://sonomacity.civicweb.net/document/17797>

Mill Valley – [http://cityofmillvalley.granicus.com/MetaViewer.php?view\\_id=2&clip\\_id=1290&meta\\_id=59943](http://cityofmillvalley.granicus.com/MetaViewer.php?view_id=2&clip_id=1290&meta_id=59943)

San Rafael – <https://cityofsanrafael.org/urgency-ordinance-1967-establishing-regulations-small-wireless-facilities-and-policy-resolution-14621/>

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facilities moving forward. The goal of the City of Sacramento is to be “prepared for the future”, in order to take advantage of a host of new and innovative technologies (driverless cars, connected health care [“telemedicine”], and public safety) using “smart infrastructure”. In Sacramento, the entire small cell wireless facility permitting process is done through their Public Works Department, and they work closely with the IT Department. The permit process is done through a “revocable license permit.” They also rely on the “Small Cell Design and Deployment Standards.” Staff has been in communication with the City of Sacramento’s Planning Division and IT Division to learn how they are handling the “5G” wireless application. Our goal is to learn from their efforts as we start the process to update our Zoning Ordinance with respect to design guidelines and permit implementation.

**ANALYSIS:**

**City’s Limitations on RFR Standards Under FCC Ruling**

As discussed above, the recent FCC ruling made no changes in the 1996 Act related to a local jurisdiction’s ability to regulate or enforce RFR limits on small cell wireless or any other wireless communication facility. Therefore, the City has no authority to approve or deny a small cell wireless facility application on the basis of health risks unless such facility exceeds the FCC standards for public exposure (MPE limits discussed above).

**Regulations and Standards for Small Cell Wireless Facilities**

To assure the City is prepared to evaluate new applications for small wireless facilities, staff has prepared a draft ordinance and special procedures and regulations (including objective aesthetic standards) for administering such facilities. The draft ordinance and special procedures and regulations (resolution) are attached (Attachments 1 and 2).

***Approaches Assessed & Considered by Staff***

The following is a summary of the approaches studied and considered by staff in consultation with Jonathan Kramer and the City Attorney’s Office:

1. Mirror the discretionary permit requirements of the current wireless communication ordinance. As discussed above, the current wireless communication ordinance (SRMC Section 14.16.360), prescribes that applications subject to discretionary review require the approval of both a Use Permit and Environmental and Design Review Permit. Staff initially considered recommending that these permits be required for small cell wireless facility installation to ensure maximum discretion by the City. However, the FCC ruling explicitly states that small cell wireless applications are allowed by-right in all zoning districts. Therefore, a Use Permit cannot be required. The Environmental and Design Review Permit can be required for assessment of aesthetics. For new pole installations and in “least preferred” locations, an Administrative Design Review Permit is recommended to accompany the Telecommunications Permit application. Pursuant to SRMC Section 14.25.060C, Administrative Design Review Permits do not require a public notice or hearing.
2. Mirror the “Alternative Site Analysis” requirements of the current wireless communications ordinance. The current wireless communication ordinance requires that an Alternative Site Analysis be prepared for applications in “Less Preferred” locations such as residential districts. This requirement places the burden of “need” on the applicant as the analysis must demonstrate that there are no other locations available to provide the same level of service coverage. Essentially, this added analysis will discourage the applicant to pursue the “Less Preferred” location. This same requirement for small cell wireless facilities was considered by staff for

Local Jurisdiction	Adoption Date	Key Regulations & Facts
Town of San Anselmo	June 2018	Amended 1999 adopted wireless communication ordinance, adopting a separate resolution addressing small cell facilities. <ul style="list-style-type: none"> <li>• Adopted policy establishes wireless facilities located in the public right-of-way as the second-most preferred locations.</li> <li>• Requires specific design criteria for wireless facilities in the public right-of-way.</li> <li>• Requires applicant (carrier) to hold a community meeting for new installations.</li> </ul>
City of Petaluma	August 2018	Amended 1999 adopted wireless communication ordinance to address small cell facilities. Specific criteria established for placement on light standards/poles in the public right-of-way: <ul style="list-style-type: none"> <li>• Small cell facilities must be placed within the circumference and height of the existing pole.</li> <li>• Requires complete screening of the facilities and equipment must be placed underground.</li> <li>• Prohibits installation in residential districts.</li> <li>• Requires a separation between facilities of 1,500 feet from the nearest pole-mounted facility and a setback of 500 feet from a residential district.</li> </ul>
Town of Ross	August 2018	Town previously did not have an adopted wireless communication ordinance or regulations. New regulations adopted. <ul style="list-style-type: none"> <li>• Adopted regulations prohibit facilities in residential and downtown zoning district.</li> <li>• Facilities proposed in the public right-of-way subject to separate design criteria.</li> <li>• Limits height and width of facilities to a minimum necessary for property function.</li> <li>• Maximum height of 24 feet above the height of the existing utility pole and 7 feet above a street light standard.</li> <li>• Requires equipment to be placed underground.</li> </ul>
City of Mill Valley	September 2018	City introduced an urgency ordinance to expand the list of procedures and regulations previously adopted. <ul style="list-style-type: none"> <li>• Regulations now apply to both public and private property.</li> <li>• Adopted design standards similar to those adopted by the Town of Ross.</li> <li>• Prohibits wireless facilities in a residential zoning district.</li> <li>• Requires a separation between facilities of 1,500 feet from the nearest pole-mounted facility.</li> </ul>
Town of Fairfax	September 2018	Amended 1999 adopted wireless communication ordinance, adopting a separate resolution addressing small cell facilities. Adopted regulations similar to those adopted by the Town of San Anselmo.

Other jurisdictions are currently addressing this topic and responding to the FCC ruling. For example, last month the Marin County Board of Supervisors announced it will join a coalition of public entities suing the FCC in an effort to appeal its rules governing deployment of small cell wireless facilities. The lawsuit is challenging the loss of local control specific to: a) regulating small cell facilities; b) the "shot clock" provisions that mandate tight time lines for local review and action; and c) limitations on charging local permit fees for facility review and action. Some jurisdictions, like the City of Sebastopol have adopted an urgency ordinance establishing a 45-day moratorium on wireless facilities in the public right-of-way, to allow the city to prepare regulations in response to the FCC ruling.

The City of Sacramento has taken an approach that involved direct collaboration with a number of the wireless communication providers. Earlier this year, Sacramento approved the *City of Sacramento – Small Cell Design & Deployment Standards* (see Attachment 5). The standards are very specific and prescribed limiting small cell facility installations on mast arm street lights (Type 15- Caltrans), and include some separation and setback requirements. The *City of Sacramento Wireless Master Plan Update*, prepared by XG Communities, LLC (October 26, 2018) provides a roadmap on addressing small cell

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TO: Calistoga City Council

August 20<sup>th</sup>, 2019

We know the city council and staff are as concerned about fire preparedness as are the rest of Calistoga citizens. Right now we are IN fire season and need to be prepared. Fire sirens are not only common sense they are necessary sense.

To protect lives and property right now we request the Calistoga city council to expedite the installation of the fire sirens previously researched and identified by our own Calistoga Fire Department.

Research indicates that the sirens could be in place within two weeks.

If the city delays in installing the identified sirens and a fire occurs with loss of life and/or property would the city be seen as failing to do its due diligence and therefore be open to litigation?

Thank you for your consideration,

  
Yvonne Henry

  
Calistoga, Ca. 94515



City of Sonoma

ORDINANCE # \_\_\_\_\_ - 2018

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AN URGENCY ORDINANCE OF THE CITY OF SONOMA AMENDING THE SONOMA MUNICIPAL CODE TO ADD CHAPTER 5.30 SUPPLEMENTING WIRELESS TELECOMMUNICATION FACILITIES REGULATIONS IN THE MUNICIPAL CODE, AND REPLACING REFERENCES TO CHAPTER 5.32 WITH CHAPTER 5.30 WITHIN TITLE 19 (INTEGRATED DEVELOPMENT REGULATIONS AND GUIDELINES) OF THE SONOMA MUNICIPAL CODE, AND FINDING THIS ACTION TO BE EXEMPT FROM ENVIRONMENTAL REVIEW UNDER CEQA GUIDELINES SECTIONS 15061(B)(3), 15301, 15303, and 15305

WHEREAS, This Ordinance is adopted as an urgency ordinance pursuant to Government Code Section 36937(b). The facts constituting the urgency are as follows:

(1) The purpose of this Ordinance is to amend the City's Municipal Code to provide uniform and comprehensive standards, regulations and permit requirements for the installation of wireless telecommunications facilities in the City's public right-of-way, in light of the Declaratory Ruling and Third Report and Order in "In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment" adopted September 26, 2018 by the Federal Communications Commission ("Order") setting new limitations on local standards for, and accelerating the processing of, the siting of small cell wireless telecommunications facilities<sup>1</sup> by local jurisdictions over such applications.

(2) Providers within the wireless telecommunications industry have expressed interest in submitting applications, or have already submitted applications, for the installation of "small cell" wireless telecommunications facilities in the City's public rights-of-way of the City. Other California cities have also received applications for small cells to be located within the public right-of-way.

(3) The recent FCC Order provides that all local jurisdictions must comply with various restrictions on the exercise of local aesthetic, zoning, public works, and fee restrictions when dealing with wireless installation siting applications by the effective date of the Order which is January 14, 2019. The FCC Order further provides that all agencies should be capable of fully implementing its provisions within 180 days of its adoption which was on September 26, 2018.

(4) Applications for siting of wireless facilities have grown dramatically among jurisdictions such as Santa Rosa, Hillsborough, Palo Alto, Piedmont, Rancho Palos Verdes, Monterey, Pacifica, Burlingame, and various other cities and counties located within the Bay Area as well as the State since small cell facilities became the most preferred option of wireless providers for wireless telecommunications facilities. Applications for siting of small cell facilities generally are submitted in batches for multiple locations at the same or substantially the same time and thus must all be reviewed and evaluated at the same time. The City last received applications for small cell facilities in a batch of more than ten separate applications for more than ten separate locations within the City which were all submitted on one date.

(5) The Order provides that the trend toward small cell technology to deploy 5G and other next-generation wireless services requires greater densification and pace of build out to enable

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<sup>1</sup> The Order defines small cell wireless facilities as meeting the following conditions: 1) satisfy one of the following- a) mounted on structures no higher than 50 feet (including antennae); b) mounted on structures no more than 10% taller than other adjacent structures; or c) not extend existing structures to a height of more than 50 feet or 10%, whichever is greater; 2) antenna is no greater than 3 cubic feet in volume; 3) all other wireless equipment associated with structure is no more than 28 cubic feet in volume; 4) do not result in human exposure to RF radiation in excess of the FCC guidelines; 5) not located on Tribal lands; and 5) not require antenna registration.

(11) The lack of regulations that are specific to the siting of wireless telecommunications facilities in the public right-of-way combined with the Order's regulations to hasten the spread and development of small cell facilities would, if continued, jeopardize the health and safety of the public by allowing applications for small cell facilities to be submitted and subject to limited local siting regulations resulting from the implementation of the Order. There would not be sufficient time for the City to develop regulations specific to the siting of wireless telecommunications facilities in the public right-of-way before such applications would be made. Yet, under the new "shot clock" rules such applications would need to be approved within either 60 or 90 days of the application being submitted. Any requirements that were placed into effect by the regulations being developed by the City could not be applied to the application before such application would be approved under the new "shot clock" rules. Such a state of affairs would result in facilities being approved that are inconsistent with appropriate regulations being developed by the City in order to exercise the degree of local authority within the parameters allowable under the Order. Thus, projects would be applied for and approved by law without local authority being properly, appropriately, and within the confines of federal and state laws exercised by the City which would in turn result in potentially numerous wireless telecommunications facilities being constructed and existing without local controls for as long as the life of the facility.

(12) The Federal Telecommunications Act of 1996 preempts and declares invalid all state rules that restrict entry or limit competition in both local and long-distance telephone service.

(13) The California Public Utilities Commission (CPUC) is primarily responsible for the implementation of local telephone competition and the CPUC issues certificates of public convenience and necessity to new entrants that are qualified to provide competitive local telephone exchange services and related telecommunications service, whether using their own facilities or the facilities or services provided by other authorized telephone corporations.

(14) Section 234(a) of the California Public Utilities Code defines a "telephone corporation" as "every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state."

(15) Section 616 of the California Public Utilities Code provides that a telephone corporation "may condemn any property necessary for the construction and maintenance of its telephone line."

(16) Section 2902 of the California Public Utilities Code authorizes municipal corporations to retain their powers of control to supervise and regulate the relationships between a public utility and the general public in matters affecting the health, convenience, and safety of the general public, including matters such as the use and repair of public streets by any public utility and the location of the poles, wires, mains, or conduits of any public utility on, under, or above any public streets.

(17) Section 7901 of the California Public Utilities Code authorizes telephone and telegraph corporations to construct telephone or telegraph lines along and upon any public road or highway, along or across any of the waters or lands within this state, and to erect poles, posts, piers, or abatements for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway or interrupt the navigation of the waters.

(18) Section 7901.1 of the California Public Utilities Code confirms the right of municipalities to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed, which control must be applied to all entities in an equivalent manner, and may involve the imposition of fees.

widespread deployment as is sought by the wireless industry. The Order states that as much as 80% of all new deployments will entail small cell technology going forward.

(6) The Order provides that wireless providers variably estimate that the preference towards small cell facilities will likely result in ten to one hundred times the number of wireless facilities existing in the nation, and estimates of the number of small cells nationwide would grow from 150,000 this year to nearly 800,000 by year 2026. Based on estimates of small cell facilities transmitting only a few hundred feet by some providers as stated by the Order, the number of small cells could grow to as many as 25-29 per provider per square mile within the City of Sonoma alone.

(7) The Order is intended to facilitate the spread, growth, and accumulation of small cell facilities over a short period of time in order to enable deployment of technology that the Order claims will enable increased competition in healthcare, Internet of Things applications, life-saving car technologies and create jobs, possibly increasing the U.S. economy by as much as \$100 billion by speeding up the deployment of small cells by only one year. The Order reduces the "shot clock" period allowable to cities to review, comment upon, consider, and make a final determination on small cells applications for as many as 90 days for new facilities and as many as 30 days for collocated and modified facilities.

(8) Small cell wireless facilities are primarily installed within public rights-of-way and as such create significant and far-reaching local concerns in traffic and pedestrian safety, aesthetics, protection and preservation of public property, and the health, safety and welfare of the general public.

(9) Installation of small cell and other wireless telecommunications facilities within the public right-of-way can pose a threat to the public health, safety and welfare, including disturbance to the right-of-way through the installation and maintenance of wireless facilities; traffic and pedestrian safety hazards due to the unsafe location of wireless facilities; impacts to trees where proximity conflicts may require unnecessary trimming of branches or require removal of roots due to related undergrounding of equipment or connection lines; land use conflicts and incompatibilities including excessive height or poles and towers; creation of visual and aesthetic blights and potential safety concerns arising from excessive size, heights, noise or lack of camouflaging of wireless facilities including the associated pedestals, meters, equipment and power generators; and the creation of unnecessary visual and aesthetic blight by failing to utilize alternative technologies or capitalizing on collocation opportunities which may negatively impact the unique quality and character of the City.

(10) The City currently regulates wireless telecommunications facilities in the public right-of-way through its telecommunications ordinance which does not focus specifically on wireless telecommunications facilities within the public right-of-way and the encroachment permit process. The existing standards have not been updated to reflect the development of current wireless telecommunications technologies, such as small cell wireless facilities and DAS systems (Distributed Antenna Systems) which are now the preferred method of providing wireless telecommunications services or necessary legal requirements for such preferred methods and wireless telecommunications facilities covered under Section 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012, among other federal and state law requirements now applicable to local agencies. Further the primary focus of the existing telecommunications facilities regulations in the Sonoma Municipal Code is wireless telecommunications facilities located on private property, and the existing Code provisions were not specifically designed to address the unique legal and practical issues that arise in connection with wireless telecommunications facilities deployed in the public right-of-way.

(19) Section 50030 of the California Government Code provides that any permit fee imposed by a city for the placement, installation, repair, or upgrading of telecommunications facilities, such as lines, poles, or antennas, by a telephone corporation that has obtained all required authorizations from the CPUC and the FCC to provide telecommunications services, must not exceed the reasonable costs of providing the service for which the fee is charged, and must not be levied for general revenue purposes.

(20) State and federal law have changed substantially since the City last adopted regulations for wireless telecommunications facilities in the City. Such changes include modifications to "shot clocks" whereby the City must approve or deny installations within a certain period of time. State and federal laws require local governments to act on permit applications for wireless facilities within a prescribed time period and may automatically deem an application approved when a failure to act occurs. See 47 U.S.C. § 332(c)(7)(B)(iii); 47 C.F.R. §§ 1.40001 et seq.; Cal. Gov't Code § 65964.1. The Federal Communications Commission (FCC) may require a decision on certain applications in as few as 60 days. See 47 C.F.R. § 1.40001(c)(2); see also In the Matter of Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Red. 12865 (Oct. 17, 2014) [hereinafter "2014 Report and Order"]; In the Matter of Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, Declaratory Ruling, 24 FCC Red. 13994 (Nov. 18, 2009) [hereinafter "2009 Declaratory Ruling"]. Pursuant to FCC regulations, the City cannot adopt a moratorium ordinance to toll the time period for review for certain type of facilities, even when needed to allow the City to maintain the status quo while it reviews and revises its policies for compliance with changes in state or federal law. See 47 C.F.R. § 1.40001(c)(3); 2014 Report and Order, 29 FCC Red. at 219, 265. The City is in immediate need of clear regulations for wireless installations in the public right-of-way given the number of anticipated applications and legal timelines upon which the City must act.

(21) The public right-of-way in the City is a uniquely valuable public resource, closely linked with the City's historical, unique small-town character, as well as, its attractiveness for tourists, members of the business community, and residents alike. The reasonably regulated and orderly deployment of wireless telecommunications facilities in the public right-of-way is desirable, and unregulated or disorderly deployment represents an ever-increasing and true threat to the health, welfare and safety of the community.

(22) The regulations of wireless installations in the public right-of-way are necessary to protect and preserve the aesthetics in the community, as well as the values of properties within the City, and to ensure that all wireless telecommunications facilities are installed using the least intrusive means possible.

(23) The City finds that in light of more recent developments in federal and state law with respect to the regulation of small cell and other wireless telecommunications facilities, there is a need for the City to update its current ordinances based on current telecommunications trends, updates in laws, as well as aesthetic and location options for wireless facilities. The City Council also finds that the lack of specifically-designed standards and regulations in the Municipal Code for wireless facilities located in the public right-of-way, the increasing requests for information about the City's regulation of wireless telecommunications facilities, the inability to adopt a temporary moratorium, and the potential liabilities and negative consequences for noncompliance with state and federal regulations (including, without limitation, automatic approvals) present current and immediate threat to the public health, safety and welfare. The City Council further finds and declares that the immediate implementation of the Ordinance is necessary to preserve and protect public health, safety and welfare.

(24) The City recognizes its responsibilities under the Federal Telecommunications Act of 1996 and state law, and believes that it is acting consistent with the current state of the law in ensuring that irreversible development activity does not occur that would harm the public health,

safety, or welfare. The City does not intend that this Ordinance prohibit or have the effect of prohibiting the provision of telecommunications service; rather, but includes appropriate regulations to ensure that the installation, augmentation and relocation of wireless telecommunications facilities in the public rights-of-way are conducted in such a manner as to lawfully balance the legal rights of applicants under the Federal Telecommunications Act and the California Public Utilities Code while, at the same time, protect to the full extent feasible against the safety and land use concerns described herein.

Based on the foregoing, the City Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937(b), and take effect immediately upon adoption. Therefore, this Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare and its urgency is hereby declared.

WHEREAS, adoption of this Ordinance is consistent with the City's General Plan. The City's General Plan provides goals, policies and implementation measures to preserve the high-quality design, scale, unique historical small-town character, aesthetics, scenic vistas, natural setting and resources, and environmental characteristics while also maintaining a strong and vibrant healthy economy for its local business and assuring the health and safety of the predominantly residential character of the community. Adoption of this Ordinance will provide uniform and comprehensive regulations and standards for wireless telecommunications facilities in furtherance of these goals and objectives while reducing the potentially negative impacts.

NOW, THEREFORE, the City of Sonoma City Council does ordain as follows:

Section 1. The above recitals are hereby declared to be true and correct and represent the findings of the City Council of the City of Sonoma, made in the exercise of its independent judgment. Said findings are incorporated by this reference.

Section 2. The Sonoma Municipal Code is hereby amended as follows:

A. A new Chapter 5.30, entitled "Wireless Telecommunications Facilities" is hereby added to Title 5 of the Sonoma Municipal Code to read as set forth in Exhibit A to this Ordinance, which is hereby incorporated as though set forth in full herein.

Section 3. All references to Chapter 5.32 within Title 19 of this Municipal Code, including those within Tables 2-1 through 2-4, shall refer to Chapter 5.30 instead and the terms of Chapter 5.30 shall dictate whether wireless telecommunications facilities subject to this chapter are permitted within the district being referenced by that provision, except that where section 5.30.030(A)(2) is applicable or Chapter 5.30 does not apply by its own terms (such as in the case of applications that have been submitted and are neither stayed nor suspended as of the effective date of this ordinance) Chapter 5.32 shall continue to dictate whether those wireless telecommunications facilities are permitted within the district being referenced by that provision, unless otherwise provided herein.

Section 4. The City Council hereby finds that Adoption of this Ordinance will enact only minor changes in land use regulations, and it can be seen with certainty that its adoption will not have a significant effect on the environment because it will not allow for the development of any new or expanded wireless telecommunication facilities anywhere other than where they were previously allowed under existing federal, state and local regulations. The wireless facilities themselves are exempt from CEQA pursuant to CEQA Guidelines Section 15301, which exempts existing facilities where there is negligible or no expansion of an existing use, Section 15303, which exempts the installation of new, small equipment and facilities in small structures and Section 15305, which exempts minor encroachment permits.

The proposed Ordinance also falls within the "common sense" CEQA exemption set forth in CEQA Guidelines Section 15061(b)(3), excluding projects where "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment."

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Sonoma hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or words might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

Section 6. Notice. The City clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be posted within 15 days after its passage, in accordance with Section 36933 of the Government Code.

Section 7. Effective Date. This ordinance is adopted as an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Section 36937(b) and therefore shall be passed immediately upon its introduction and shall become effective immediately, and shall be published in accordance with applicable provisions of law by publishing the entire Ordinance once in the Sonoma Index Tribune, a newspaper of general circulation, published in the City of Sonoma, within fifteen (15) days after its passage and adoption.

INTRODUCED, PASSED, AND ADOPTED at a regular meeting of the City Council of the City of Sonoma on this 5th day of November 2018, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Madolyn Agrimonti, Mayor

ATTEST:

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Rebekah Barr, MMC, City Clerk