

ATTACHMENT

ORDINANCE NO. 354

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, AMENDING SECTION 9.04.030, CHAPTER 9.162, SECTION 9.184.020, AND SECTION 9.184.040 OF THE LAKE FOREST MUNICIPAL CODE REGARDING WIRELESS COMMUNICATION FACILITIES AND FINDING THE ACTION EXEMPT FROM CEQA.

WHEREAS, Government Code, Section 65800 *et seq.* authorizes the City of Lake Forest ("City") to adopt and administer zoning laws, ordinances, rules and regulations as a means of implementing the General Plan;

WHEREAS, the City adopted a Zoning Code, which is provided in Title 9 of the Lake Forest Municipal Code;

WHEREAS, the City Council has adopted various regulations and requirements applicable to wireless communication facilities (WCFs) to regulate the various health, welfare, and safety impacts presented by the proliferation of WCFs and to balance these impacts with the interests of consumers in receiving the benefits of wireless technologies;

WHEREAS, federal and State law, including various Federal Communications Commission (FCC) orders and regulations, place significant procedural and substantive limits on the City's exercise of local control over WCF matters;

WHEREAS, the purpose of this Ordinance is to update and establish comprehensive standards and regulations regarding the siting, development, and operation of wireless telecommunication facilities within the City in a manner consistent with State and federal law;

WHEREAS, the City's WCF regulations were last amended by the City Council in 2019 (Ord. No. 321) to address changes in federal law embodied in the FCC's Small Cell Order (FCC 18-133). Since that time, there have been court decisions with respect to the FCC Small Cell Order, as well as further changes to FCC wireless regulations and state law affecting local wireless siting authority;

WHEREAS, the proposed updates contained in this Ordinance respond to current wireless communication facility trends, updates in laws and regulations, clarify the City's review procedures and information necessary to analyze wireless applications, and provide generally applicable development standards, and other matters to interpreting the City's General Plan to improve the effectiveness of the City's regulations, and reflect the values of the City;

WHEREAS, Section 9.196.040 of the Zoning Code and California Government

Code section 65854 require the Planning Commission and the City Council to conduct public hearings on Zoning Code amendments. The Planning Commission's action on proposed Zoning Code amendments shall be forwarded to the City Council as a recommendation;

WHEREAS, the Director of Community Development prepared an exhibit of the proposed ordinance, including the proposed language and terminology, and any additional information and documents deemed necessary for the Planning Commission to take action;

WHEREAS, on May 26, 2022, the City gave public notice of a Planning Commission public hearing to be held to consider Zoning Code Amendment ZC 09-21-5462 by advertisement in a newspaper of general circulation;

WHEREAS, the Director of Community Development made the exhibit available for public inspection in the Community Development Department offices and supplied it at cost to all persons desiring a copy, at least ten (10) days prior to the scheduled Planning Commission public hearing date in accordance with Section 9.196.020 of the Municipal Code;

WHEREAS, on June 9, 2022, the Planning Commission held a duly noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning amendments to Title 9 of the Lake Forest Municipal Code, provided comments on the amendments, and voted to forward the proposed ordinance to the City Council with a recommendation in favor of its adoption;

WHEREAS, on July 7, 2022, the City gave public notice of a City Council public hearing to be held to consider Zoning Code Amendment ZC 09-21-5462 by advertisement in a newspaper of general circulation and posted the public notice at City Hall;

WHEREAS, on July 12, 2022, the City Clerk made the ordinance and all relevant documents available for public inspection in the City Clerk's office, at least five (5) days prior to the scheduled City Council public hearing date in accordance with Section 9.196.020 of the Municipal Code;

WHEREAS, on July 19, 2022, the City Council considered the staff report, recommendations by staff, and public testimony regarding amendments to Title 9 of the Municipal Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that this Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The Ordinance does

not authorize any specific development or installation on any specific piece of property within the City's boundaries. Moreover, when and if an application for installation is submitted, the City will at that time conduct preliminary review of the application in accordance with CEQA. Alternatively, even if the Ordinance is a "project" within the meaning of State CEQA Guidelines section 15378, the Ordinance is exempt from CEQA on multiple grounds. The Ordinance is exempt CEQA because the City Council's adoption of the Ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). That is, approval of the Ordinance will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with this Ordinance, the wireless provider would have to submit an application for installation of the wireless facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the City will conduct preliminary review under CEQA at that time. Moreover, in the event that the Ordinance is interpreted so as to permit installation of wireless facilities on a particular site, the installation would be exempt from CEQA review in accordance with either State CEQA Guidelines section 15302 (replacement or reconstruction), State CEQA Guidelines section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines section 15304 (minor alterations to land). The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Orange within five working days of the passage and adoption of the Ordinance.

SECTION 2. Based on the entire record before the City Council, and all written and oral evidence presented, the City Council hereby finds that Zoning Code Amendment ZC 09-21-5462 is consistent with the City's adopted General Plan. Specifically, General Plan Public Facilities Element Goal PF-7: *A community with a modern telecommunications system that improves communication, business development, and provides equitable access*; and Action PF-7: *Periodically review and revise existing City ordinances regulating the placement, maintenance, and operation of cell facilities; revise as needed to implement the General Plan*; and Economic Development Policy ED-2: *Processes. Review, and streamline as appropriate, City regulations, processes, and procedures that impact business development and operations*; and Land Use Action LU-2c: *Periodically review and amend (as needed) the Zoning Ordinance, City Subdivision Regulations, and Grading Regulations to provide consistency with new state legislation and court decisions. Review and amend Zoning Ordinance to clarify permitted and conditionally permitted uses in all districts.* This Zoning Code Amendment furthers these goals, policies, and actions by updating the City's regulations to achieve consistency with federal and state law and making certain refinements to ensure that the Zoning Code is consistent and clear and provides for streamlined approval processes for

wireless communication facilities. Therefore, the Zoning Code Amendment is consistent with the General Plan.

SECTION 3. The following definitions found in Subsection D of Section 9.04.030 of Title 9 of the Lake Forest Municipal Code are hereby deleted in their entirety:

“Major Wireless Facility: A wireless communication facility that is either ground-mounted or roof-mounted; provided that, a roof-mounted facility screened on all four (4) sides by solid material that does not exceed the maximum height of the applicable zoning district shall be deemed a minor facility. Operational standards and requirements are found in Chapter 9.162.”

“Minor Wireless Facility: A wireless communication facility that is either wall-mounted, or utility-mounted, or roof-mounted in such a manner that the entire facility is screened by solid material on four (4) sides and does not exceed the maximum height of the applicable zoning district. Operational standards and requirements are found in Chapter 9.162.”

SECTION 4. Section 9.162.020 of Title 9 of the Lake Forest Municipal Code is hereby amended in its entirety to read as follows:

9.162.020 Applicability.

A. The following uses shall be exempt from the provisions of this chapter until such time as federal regulations are repealed or amended to eliminate the necessity of the exemption:

1. Any satellite antenna that is one (1) meter (39.37 inches) or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals as defined by Section 207 of the Telecommunications Act of 1996, Title 47 of the Code of Federal Regulations, and any interpretive decisions thereof issued by the Federal Communications Commission;

2. Any satellite antenna that is two (2) meters (78.74 inches) or less in diameter and is located in any of the City’s commercial or industrial zoning districts;

3. Any antenna structure that is one (1) meter (39.37 inches) or less in diameter or diagonal measurement and is designed to receive multipoint distribution service, provided that no part of the antenna structure extends more than twelve (12) feet above the principal building on the same lot.

B. The following uses shall be exempt from the provisions of this chapter at all times:

1. Any antenna structure that is designed to receive over-the-air UHF and/or VHF television broad-cast transmission;
2. Any antenna structure that is designed to receive over-the-air AM and/or FM radio broadcast transmission;
3. Any antenna structure used by authorized amateur radio stations licensed by the Federal Communications Commission;
4. Any wireless facilities located within a structure and intended to provide wireless service only within the same structure, including Wi-Fi hotspots and access points;
5. Ordinary maintenance of any existing wireless communications facility;
and
6. Placement of a temporary facility for a period of not more than thirty (30) days following declaration of an emergency or disaster.

SECTION 5. Section 9.162.030 of Title 9 of the Lake Forest Municipal Code is hereby amended in its entirety to read as follows:

9.162.030 Definitions.

For purposes of this chapter, the following words, terms, phrases, and their derivations shall have the meanings given in this chapter. The word “shall” is always mandatory and not merely directory.

“Antenna” means any system of wires, poles, rods, reflecting discs, or similar devices used in wireless communications for the transmission or reception of radio frequency signals (RF) or electromagnetic waves when such system is operated or operating from a fixed location.

“Antenna support structure” or “support structure” means any structure which is used to support, house, or conceal antennas and any related appurtenances.

“Base station” means the same as in 47 C.F.R. Section 1.6002(g)(1) and (2), as may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein, or any equipment associated with a tower. Base station includes, without limitation:

1. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks).

3. Any structure other than a tower that, at the time the relevant application is filed with the City under this chapter, supports or houses equipment described in paragraphs (a)-(b) above and has been previously reviewed and approved by the City.

"Camouflage" means the manners and methods by which a wireless communication facility is designed to be concealed and blend the facility with the surrounding environment.

"City property" means any property in which the City holds a legal interest, including, but not limited to, the public right-of-way.

"Collocation" means the same as defined by the FCC:

1. When used in the context of an eligible facilities request, the definition in 47 C.F.R. § 1.6100(b), as may be amended from time to time, applies.

2. When not used in the context of an eligible facilities request, the definition in 47 C.F.R. § 1.6002(g), as may be amended from time to time, applies.

"Director" means the Director of Community Development or designee.

"Eligible facility request" means the same as defined by the FCC at 47 C.F.R. § 1.6100(b), as it may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: any request for modification of an existing tower or base station that, within the meaning of Section 6409(a) of the Middle Class Tax Relief Act and Job Creation Act of 2012, 47 U.S.C. § 1455(a), does not substantially change the physical dimensions of that tower or base station, and involves (a) the collocation of new transmission equipment, (b) the removal of transmission equipment, or (c) the replacement of transmission equipment.

"Eligible support structure" means the same as defined by the FCC at 47 C.F.R. § 1.6100(b), as it may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: any existing tower or base station that exists at the time the application is filed with the City.

"Existing" means the same as defined by the FCC at 47 C.F.R. § 1.6100(b), as it may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: a constructed tower or base station is existing for purposes of an eligible facilities request if has been previously reviewed and approved under the applicable City zoning or siting process, or under another applicable state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is "existing" for purposes of this definition.

“Facility class” means the type of facility as defined in Section 9.162.050.

“FCC” means the Federal Communications Commission of the United States.

“Ordinary maintenance” means inspections, testing, and modifications to maintain functional capacity, aesthetic and structural integrity. Ordinary maintenance may include “like for like” replacement of antennas with new antennas of the same size, dimensions, shape, and color, and/or “like for like” replacement of equipment within an existing equipment room or enclosure without expansion of the room or enclosure.

“Service provider” means the company or organization that provides and operates the wireless communication network.

“Site” means the same as defined by the FCC at 47 C.F.R. § 1.6100(b), as it may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to the area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a State or local government, if the approval of the modification occurred prior to the Middle-Class Tax Relief Act and Job Creation Act of 2012, 47 U.S.C. § 1455(a) or otherwise outside of the Section 6409(a) process.

“Small cell” or “Small cell facility” shall have the same meaning as “small wireless facility” in 47 C.F.R. Section 1.6002(l), as it may be amended from time to time, or any successor provision (which is a personal wireless services facility that meets the following conditions that, solely for convenience, have been set forth below):

1. The facility:
 - a. Is mounted on a structure fifty (50) feet or less in height, including antennas, as defined in 47 C.F.R. Section 1.1320(d), or
 - b. Is mounted on a structure no more than ten (10) percent taller than other adjacent structures, or
 - c. Does not extend an existing structure on which it is located to a height of more than fifty (50) feet or by more than ten (10) percent, whichever is greater;
2. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three (3) cubic feet in volume;

3. 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 twenty-eight (28) cubic feet in volume.

4. The facility does not require antenna structure registration under 47 C.F.R. Part 17;

5. The facility is not located on Tribal lands, as defined under 36 C.F.R. Section 800.16(x); and

6. The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(b).

“Stealth” means designed to look like something other than a WCF by incorporating camouflaging.

“Substantial change” means the same as defined by the FCC at 47 C.F.R. § 1.6100(b), as it may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: a modification substantially changes the physical dimensions of an eligible support structure if it meets the following criteria:

1. For a tower not located in the public rights-of-way:

a. The height of the tower is increased by (i) more than ten (10) percent, or (ii) by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; or

b. There is added an appurtenance to the body of the tower that would protrude from the edge of the tower by (i) more than twenty (20) feet, or (ii) more than the width of the tower at the level of the appurtenance, whichever is greater.

2. For a tower located in the public rights-of-way and for all base stations:

a. The height of the tower or base station is increased by more than ten (10) percent or ten (10) feet, whichever is greater; or

b. There is added an appurtenance to the body of that structure that would protrude from the edge of that structure by more than six (6) feet; or

c. It involves the installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other ground cabinets associated with the structure; or

d. It involves the installation of any new equipment cabinets on the ground if there is no pre-existing ground cabinet associated with that structure.

3. For any eligible support structure:

- a. It involves the installation of more than four (4) cabinets; or
- b. The proposed modification entails any excavation or deployment outside of the current site, except that for towers not in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site; or
- c. The proposed modification would defeat the concealment elements of the eligible support structure; or
- d. The proposed modification would not comply with the conditions associated with the prior siting approval of construction or modification of the eligible support structure or base station, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding thresholds in this Section.

4. To measure changes in height for the purposes of this Section, the baseline is:

- a. For deployments that are or will be separated horizontally, such as on buildings' rooftops, measured from the original support structure;
- b. For all others, measured from the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved by the City prior to February 22, 2012.

"Temporary facility" means a wireless communications facility installed and maintained for a period not to exceed ninety (90) days.

"Tower" means the same as defined by the FCC at 47 C.F.R. § 1.6100(b), as it may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This term does not include a base station.

"Transmission equipment" means the same as defined by the FCC at 47 C.F.R. § 1.6100(b), as it may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: Equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public

safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

“Utility mounted” means mounted to an existing above-ground utility structure located on utility easements or property, including water tanks and/or structures specifically designed and originally installed to support electrical distribution lines. Structures in the public right-of-way are not considered utility structures for the purposes of this chapter.

“Wi-Fi” means a local area wireless technology that allows electronic devices to exchange data or connect to the internet.

“Wireless communication facility,” “WCF” or “facility” means the transmitters, antenna structures and other types of installations used for the provision of wireless services at a fixed location, including, without limitation, any associated tower(s), support structure(s), and base station(s).

“Wireless communication facility permit” means a non-discretionary permit to establish a wireless communication facility or component thereof, issued by the Director, and applicable to facility classes specified in Section 9.162.050.”

SECTION 6. Section 9.162.040 of Title 9 of the Lake Forest Municipal Code is hereby amended in its entirety to read as follows:

9.162.040 Facility classes.

The following terms shall have the meanings provided.

A. Class 1 Facility. A Class 1 facility is a stealth facility located outside of the public right-of-way and consisting of any facility that is designed to look like something other than a WCF. For example, a Class 1 stealth facility would include a facility that is architecturally integrated into a building or other concealing structure not primarily designed or built for the purpose of supporting a wireless communication facility, such that no portion of any antenna, antenna equipment, or any other apparatus associated with the function of the facility is visible. The concealment elements shall have an aesthetically pleasing design which fits into the context of its surrounding.

B. Class 2 Facility. A Class 2 facility is located outside of the public right-of-way and consists of camouflaged, minimally-visible, and contextually compatible antennas, antenna equipment, or any other apparatus associated with the function of the facility affixed to an existing or proposed structure not primarily designed or built for the purpose of supporting a wireless communication facility including, but not limited to, antennas mounted to and that may be painted to match the exterior of a building or façade.

C. Class 3 Facility. A Class 3 facility is located outside of the public right-of-way and consists of antennas, antenna equipment, or any other apparatus associated

with the function of the facility mounted on or within a freestanding structure built for the sole purpose of supporting antennas including, but not limited to, an enclosed tower, simulated tree, faux-water tower or obelisk. Class 3 facilities shall include design elements which serve to camouflage or conceal antennas and other apparatus and achieve an aesthetically pleasing, contextually appropriate design.

D. Class 4 Facility. A Class 4 facility consists of a wireless communication facility, including a small cell facility and excluding an eligible facilities request (Class 7), that is located in the public right-of-way or on a private street.

E. Class 5 Facility. A Class 5 facility consists of a facility installed for use on a temporary basis not to exceed ninety (90) days, except as exempted pursuant to Section 9.162.020.B(2) and as may be extended pursuant to Section 9.162.050(E)(5).

F. Class 6 Facility. A Class 6 facility consists of antennas affixed to an existing water tank, electrical transmission lattice tower, utility tower or other similar public utility structure or apparatus serving a primary function unrelated to the wireless communication facility and not located in the public right-of-way.

G. Class 7 Facility. A Class 7 facility collocation is an existing facility subject to an eligible facilities request.

H. Class 8 Facility. A Class 8 facility collocation is an existing facility subject to a collocation request submitted pursuant to Government Code Section 65850.6.

SECTION 7. Section 9.162.050 of Title 9 of the Lake Forest Municipal Code is hereby amended in its entirety to read as follows:

9.162.050 Requirements applicable by facility class.

All entitlements required by this chapter shall be processed in accordance with the provisions of Chapter 9.184 and the additional application requirements, findings and requirements listed herein. In the event of conflict between the provisions of Chapter 9.184 and this Chapter 9.162, the provisions of this chapter shall prevail.

A. Class 1 Facilities (Stealth)—Requirements.

1. Required Permit. Administrative site development permit, subject to Director approval. No public hearings or public notification shall be required.

2. Facility Design. All components of a Class 1 facility, including antennas, equipment, cables/wires, mounting brackets and any other apparatus and appurtenances shall be stealth by being fully concealed and/or camouflaged with contextually compatible/site appropriate materials and screening.

3. Maximum Height. Except as may be approved pursuant to Section 9.162.070, a Class 1 facility shall not exceed the overall height of the structure on which it is mounted by more than ten (10) feet.

B. Class 2 Facilities (Camouflaged-Attached)—Requirements.

1. Required Permit. Use permit, subject to Planning Commission approval. Public notification and a public hearing shall be required in accordance with 9.184.020.

2. Facility Design. All unscreened antennas and appurtenances, including mounting brackets, cable trays, conduit and other similar apparatus shall be painted or otherwise coated to match the predominant color of the structure on which they are mounted or otherwise camouflaged to blend with the predominant visual background and/or adjacent architecture.

3. Maximum Height. Except as may be approved pursuant to the provisions of Section 9.162.070, a Class 2 facility shall not exceed the overall height of the structure on which it is mounted by more than ten (10) feet.

C. Class 3 Facilities (Camouflaged-Freestanding)—Requirements.

1. Required Permit. Use permit, subject to Planning Commission approval. Public notification and a public hearing shall be required in accordance with 9.184.020.

2. Maximum Height. Except as may be approved pursuant to the provisions of Section 9.162.070, the maximum height of a Class 3 facility shall be thirty-five (35) feet, zero (0) inches.

3. Minimum Setbacks.

a. From non-residential property lines: as required pursuant to Section 9.72.100, Non-residential building setbacks, or the applicable planned community text.

b. From residential property lines: twenty-five (25) feet, zero (0) inches.

D. Class 4 Facilities (Facilities in the Right-of-Way)—Requirements.

1. Required Permit. Wireless communication facility permit, subject to Director approval. The wireless communication facility permit application shall be acted upon administratively by the Director. No public hearing or public notification shall be required.

2. Facility Design.

a. Wireless communication facilities in the public right-of-way and on private streets shall conform to the location and design standards set through a resolution adopted by the City Council and updated from time to time. The Planning Commission

is authorized to adopt minor changes to the Council-approved location and design standards through a resolution. For purposes of this section, “minor changes” include amendments of no significant effect that comply with the spirit and intent of the original Council action.

3. License Agreement.

a. All Class 4 facilities installed on a City-owned pole or other City-owned apparatus, and any associated equipment installed on the ground in the public right-of-way, shall require approval of a communications site license agreement by the City Council.

b. The required license agreement shall be approved prior to the approval of any permit required by this chapter. Review and processing of the license agreement and required permit application may occur simultaneously subject to written acknowledgement of risk by the applicant in a form as determined by the City Manager in consultation with the City Attorney. This subsection does not require the City to agree to any license agreement.

4. Authority to Use Right-of-Way. No Class 4 facilities may be located in the public right-of-way unless the applicant executes a license agreement as set forth in subsection (D)(3) with the City, if applicable, and the applicant has the legal right to access the right-of-way under Public Utilities Code Section 7901 or other applicable law.

E. Class 5 Facilities (Temporary)—Requirements.

1. Required Permit.

a. Non-Residential Zone. Administrative site development permit subject to Director approval. No public hearings or public notification shall be required.

b. Residential Zone. Use permit subject to Planning Commission approval. Public notification and a public hearing shall be required in accordance with 9.184.020.

2. Facility Design.

a. Appropriate screening measures shall be determined through the application review and permitting process with consideration to the location and temporary nature of the installation.

b. The facility shall not be located in any required vehicle or pedestrian circulation area such that it interferes with, or in any way impairs, the utility or intended function of such area.

c. May displace one or more parking stalls only if the number of on-site parking stalls exceeds the Code required number of parking stalls for the on-site use(s) and the facility displaces only surplus parking stalls.

3. Maximum Height. Thirty-five (35) feet, zero (0) inches or as approved by the Planning Commission.

4. Setbacks. Class 5 facilities shall be set back from all residential dwellings a distance equal to or greater than the height of the facility.

5. Time Limit. Shall be operated and maintained for a maximum of ninety (90) days. A single time extension not exceeding sixty (60) days may be granted by the Director based on reasonable cause, unless otherwise restricted by a condition of approval of the original entitlement.

F. Class 6 Facilities (Utility Mounted)—Requirements.

1. Required Permit. Administrative site development permit subject to Director approval. No public hearings or public notification shall be required.

2. Facility Design. Antennas and related apparatus, including, but not limited to, mounting brackets, cable trays and conduit shall be concealed where feasible or, where concealment is infeasible, painted to match the color of the support structure.

3. Maximum Height. Class 6 facilities shall not exceed the height of the utility structure upon which the facility is mounted.

G. Class 7 Facilities (Eligible Facility Requests)—Requirements.

1. Required Permit. Wireless communication facility permit subject to Director approval. The wireless communication facility permit application shall be acted upon administratively by the Director. There are no public hearing or public notification requirements. If the facility is located in the public right-of-way, the applicant must submit any supplemental application form required by the City. The Director may condition the modification on compliance with applicable building codes or reasonable health and safety standards.

2. Requirements. To the extent expressly required by Section 6409 of the Middle-Class Tax Relief and Job Creation Act of 2012 (codified at 47 U.S.C. § 1455) as implemented by 47 C.F.R. Section 1.6100, the City shall review and approve modifications to eligible facilities. Any applicant wishing to process a facility modification under this subsection shall inform the City of this request when submitting its initial application and shall provide the City with such evidence as reasonably required by the City to demonstrate that this subsection and applicable Federal law applies.

3. Effect of Changes to Federal Law. This subsection does not and shall not be construed to grant any rights beyond those granted by Section 6409 of the Middle-Class Tax Relief and Job Creation Act of 2012 (codified at 47 U.S.C. § 1455) as implemented by 47 C.F.R. Section 1.6100. In the event Section 6409 of the Middle-Class Tax Relief and Job Creation Act of 2012 (codified at 47 U.S.C. § 1455) or 47 C.F.R. Section 1.6100 are stayed, amended, revised or otherwise not in effect, no

modifications to an eligible facility shall be processed or approved under this subsection G.

H. Class 8 Facilities (Government Code Section 65850.6 Collocations)—
Processing Procedures.

1. Collocation facilities are allowed by right when proposed on a wireless telecommunications collocation facility that was subject to an issued discretionary permit and an environmental impact report was certified, or a negative declaration or mitigated negative declaration was adopted for the wireless telecommunication collocation facility in compliance with the California Environmental Quality Act and the collocation facility incorporates required mitigation measures specified in that environmental impact report, negative declaration, or mitigated negative declaration.

2. Required Permit. Wireless communication facility permit subject to Director approval. The wireless communication facility permit application shall be acted upon administratively by the Director. There are no public hearing or public notification requirements. If the facility is located in the public right-of-way, the applicant must submit any supplemental application form required by the City. The Director may condition the modification on compliance with applicable building codes or reasonable health and safety standards.

3. Facility Design. The proposed collocation facility shall comply with all applicable design and development standards as published and updated from time to time by the Director in accordance with Section 9.162.080.

I. Conditions of Approval.

1. Generally. In addition to any supplemental conditions imposed by the Director or designee, or relevant approving authority as the case may be, all permits granted pursuant to this chapter or by operation of law shall be subject to the following conditions, unless modified by the approving authority:

a. Code Compliance. The permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations and other rules.

b. Permit Duration. Unless otherwise specified, a permit issued pursuant to this chapter shall be valid for a period of ten (10) years, unless pursuant to another provision of the Code or these conditions, it expires sooner or is terminated. At the end of ten (10) years from the date of issuance, such permit shall automatically expire, unless an extension or renewal has been granted. A person holding a such a permit must either (1) remove the facility within thirty (30) days following the permit's expiration (provided that removal of support structure owned by City, a utility, or another entity authorized to maintain a support structure in the right of way need not be removed, but must be restored to its prior condition, except as specifically permitted by the City); or (2) at least ninety (90) days prior to expiration, submit an application to renew the permit, which application must, among all other requirements, demonstrate that the

impact of the wireless communications facility cannot be reduced. The wireless communications facility must remain in place until it is acted upon by the City and all appeals from the City's decision exhausted.

c. **Timing of Installation.** The installation and construction authorized by a permit issued pursuant to this chapter shall begin within one (1) year after its approval, or it will expire without further action by the City. The installation and construction authorized by a permit issued pursuant to this chapter shall conclude, including any necessary post-installation repairs and/or restoration to the site, within ninety (90) days following the day construction commenced. Permittee may request an extension for good cause by submitting documentation demonstrating that installation and construction cannot be completed within ninety (90) days. Good cause shall include but not be limited to bona fide delays due to supply chain disruption or inclement weather.

d. **Inspections; Emergencies.** The City or its designee may enter onto the facility area to inspect the facility upon forty-eight (48) hours prior notice. The permittee shall cooperate with all inspections and may be present for any inspection of its facility by the City. The City reserves the right to enter or direct its designee to enter the facility and support, repair, disable, or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property. The City shall make an effort to contact the permittee prior to disabling or removing any facility elements, but in any case shall notify permittee within twenty-four (24) hours of doing so.

e. **Contact.** The permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person.

f. **Insurance.** Permittees for a Class 4 Facility or a WCF located on City-owned property shall obtain and maintain insurance coverage throughout the term of the permit insurance coverage. Permittee shall furnish to the City insurance, evidenced by a certificate of insurance naming the City as additional insured, in form satisfactory to the City, with limits for personal injury of not less than \$1,000,000 for any one person and not less than \$3,000,000 for any one accident and not less than \$100,000 for any one accident and \$500,000 in the aggregate for property damage, insuring the City, its officers, employees and agents against any liability for personal injury or property damage, directly or indirectly resulting from or arising out of the granting of any such permit or any such construction or the method and manner of doing any work permitted or required by any such permit or under this article or from the maintenance and repair of said improvements during a one-year period following completion of said improvement, or any negligent act or omission in connection therewith on the part of the permittee, permittee's employees or agents.

g. **Indemnities.** The permittee and, if applicable, the owner of the property upon which the wireless communications facility is installed shall defend, indemnify and hold harmless the City, its agents, officers, officials, and employees (i) from any and all damages, liabilities, injuries, losses, costs, and expenses, and from any and all claims, demands, law suits, writs of mandamus, and other actions or proceedings brought

against the city or its agents, officers, officials, or employees to challenge, attack, seek to modify, set aside, void or annul the city's approval of the permit, and (ii) from any and all damages, liabilities, injuries, losses, costs, and expenses, and any and all claims, demands, law suits, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the permittee or, if applicable, the property owner or any of each one's agents, employees, licensees, contractors, subcontractors, or independent contractors. In the event the city becomes aware of any such actions or claims the city shall promptly notify the permittee and, if applicable, the property owner and shall reasonably cooperate in the defense. The City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner and/or permittee (as applicable) shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense.

h. Performance Bond. Permittees for a Class 4 Facility or a WCF located on City-owned property shall file with the City and shall maintain in good standing throughout the term of the approval, a performance bond or other surety or another form of security for the removal of the facility in the event that the use is abandoned or the permit expires, or is revoked, or is otherwise terminated. The security shall be in the amount equal to one hundred percent (100%) of the cost of physically removing the facility and all related facilities and equipment on the site, based on the higher of two contractor's quotes for removal that are provided by the permittee. The permittee shall reimburse the city for staff time associated with the processing and tracking of the bond, based on the hourly rate adopted by the City Council. Reimbursement shall be paid when the security is posted and during each administrative review.

i. Adverse Impacts on Adjacent Properties. Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, and removal of the facility.

j. Noninterference. Permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement, or property without the prior consent of the owner of that structure, improvement, or property. No structure, improvement, or property owned by the City shall be moved to accommodate a permitted activity or encroachment, unless the City determines that such movement will not adversely affect the City or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the City's structure, improvement, or property. Prior to commencement of any work pursuant to a permit issued pursuant to this chapter, the permittee shall provide the City with documentation establishing to the City's satisfaction that the Permittee has the legal right to use or interfere with any other structure, improvement, or property within the public right-of-way or City utility easement to be affected by permittee's facilities.

k. No Right, Title, or Interest. The permission granted by a wireless communication facility permit issued pursuant to Chapter 9.162 shall not in any event

constitute an easement on or an encumbrance against the public right-of-way. No right, title, or interest (including franchise interest) in the public right-of-way, or any part thereof, shall vest or accrue in Permittee by reason of a wireless communication facility permit issued pursuant to Chapter 9.162 or the issuance of any other permit or exercise of any privilege given thereby.

l. No Possessory Interest. No possessory interest is created by a permit issued pursuant to this chapter. However, to the extent that a possessory interest is deemed created by a governmental entity with taxation authority, permittee acknowledges that City has given to permittee notice pursuant to California Revenue and Taxation Code Section 107.6 that the use or occupancy of any public property pursuant to a permit issued pursuant to this chapter may create a possessory interest which may be subject to the payment of property taxes levied upon such interest. Permittee shall be solely liable for, and shall pay and discharge prior to delinquency, any and all possessory interest taxes or other taxes, fees, and assessments levied against permittee's right to possession, occupancy, or use of any public property pursuant to any right of possession, occupancy, or use created by this permit.

m. General Maintenance. The site and the facility, including, but not limited to, all landscaping, fencing, and related transmission equipment, must be maintained in a neat and clean manner and in accordance with all approved plans. All graffiti on facilities must be removed at the sole expense of the permittee within forty-eight (48) hours after notification from the City.

n. RF Exposure Compliance. All facilities must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards. After transmitter and antenna system optimization, but prior to unattended operations of the facility, permittee or its representative must provide to City confirmation that the facilities are in compliance with the FCC OET Bulletin 65 RF emissions safety rules for general population/uncontrolled RF exposure in all sectors.

o. Testing. Testing of any equipment shall take place on weekdays only, and only between the hours of 8:30 a.m. and 4:30 p.m., except that testing is prohibited on holidays.

p. Modifications. No changes shall be made to the approved plans without review and approval in accordance with this chapter.

q. Agreement with City. If not already completed, permittee shall enter into the appropriate agreement with the City, as determined by the City, prior to constructing, attaching, or operating a facility on City-owned property or infrastructure. This permit is not a substitute for such agreement.

r. Conflicts with Improvements. For all facilities located within the ROW, the permittee shall remove or relocate, at its expense and without expense to the City, any or all of its facilities when such removal or relocation is deemed necessary by the City

by reason of any change of grade, alignment, or width of any right-of-way, for installation of services, water pipes, drains, storm drains, power or signal lines, traffic control devices, right-of-way improvements, or for any other construction, repair, or improvement to the right-of-way.

s. Records. The permittee must maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition or fails to produce true and complete copies of such records within a reasonable time after a written request from the City, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.

t. Attorney's Fees. In the event the City determines that it is necessary to take legal action to enforce any of these conditions, or to revoke a permit, and such legal action is taken, the permittee shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the City should otherwise agree with permittee to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails in the enforcement proceeding.

J. Conditions of Approval - Eligible Facilities Requests. In addition to the conditions provided in foregoing subsection I and any supplemental conditions imposed by the Director or the relevant approval authority, as the case may be, all permits for an eligible facility request granted pursuant to this chapter shall be subject to the following additional conditions, unless modified by the approving authority:

1. Permit subject to conditions of underlying permit. Any permit granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit.

2. No permit term extension. The City's grant or grant by operation of law of an eligible facilities request permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. Notwithstanding any permit duration established in another permit condition, the city's grant or grant by operation of law of an eligible facilities request permit will not extend the permit term for the underlying permit or any other underlying regulatory approval, and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.

3. No waiver of standing. The City's grant or grant by operation of law of an eligible facilities request does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a), any FCC rules that interpret Section 6409(a), or any modification to Section 6409(a).

K. Conditions of Approval - Class 8 Government Code Section 65850.6 Collocations. In addition to the conditions provided in the foregoing subsection I and any supplemental conditions imposed by the Director or the relevant approval authority, as the case may be, all permits for Class 8 Government Code Section 65850.6 Collocations granted pursuant to this chapter shall be subject to the following additional conditions, unless modified by the approving authority:

1. Permit subject to conditions of underlying permit. Any permit granted in response to an application qualifying as a collocation facility request shall be subject to the terms and conditions of the underlying permit.

2. No permit term extension. The city's grant or grant by operation of law of a collocation facility permit will not extend the permit term for the underlying wireless telecommunication collocation facility permit or any other underlying regulatory approval, and its term shall be coterminous with the underlying permit or other regulatory approval for the subject wireless telecommunication collocation facility.

L. Conditions of Approval - Small Cell Facilities Requests. In addition to the conditions provided in subsection I of this Section 9.162.050 and any supplemental conditions imposed by the Director or relevant approval authority, as the case may be, all permits for a small cell facility granted pursuant to this chapter shall be subject to the following condition, unless modified by the approving authority:

1. No waiver of standing. The City's grant of a permit for a small cell facility request does not waive, and shall not be construed to waive, any standing by the City to challenge any FCC orders or rules related to small cell facilities, or any modification to those FCC orders or rules.

SECTION 8. Section 9.162.060 of Title 9 of the Lake Forest Municipal Code is hereby amended in its entirety to read as follows:

9.162.060 Required findings.

A. General Findings for Approval for all wireless communication facilities subject to this chapter. No permit for any class of wireless communication facility, other than Class 7 eligible facilities requests or Class 8 Government Code Section 65850.6 collocations, shall be approved unless, on the basis of the application and other materials or evidence provided in review thereof, the applicable approval authority finds the following:

1. The facility complies with all applicable requirements of this chapter, including all requirements for the requested permit; all application requirements; and all applicable design, location, and development standards, or has a waiver thereof; and

2. The facility meets applicable requirements and standards of federal and state law, including all applicable general orders of the California Public Utilities Commission.

B. Additional Findings for Temporary Facilities. No permit shall be approved for a temporary facility unless, on the basis of the application and other materials or evidence provided in review thereof, the following findings are made:

1. The facility qualifies as a Class 5 temporary facility;
2. There is an adequate need for the facility (e.g., wireless communication facility relocation or large-scale event).

C. Findings for Class 7 Eligible Facilities Requests. No permit shall be approved for an eligible facilities request unless, on the basis of the application and other materials or evidence provided in review thereof, the following findings are made:

1. The proposed collocation or modification meets each and every one of the applicable criteria for an eligible facilities request stated in 47 C.F.R. Sections 1.6100(b)(3)-(9), or any successor provisions, after application of the definitions in 47 C.F.R. Section 1.6100(b). The reviewing authority shall make an express finding for each criterion;
2. The proposed facility complies with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, except to the extent preempted by 47 C.F.R. Section 1.6100(b)(7)(i) through (iv), or any successor provisions; and
3. The proposed facility will comply with all generally applicable laws.

D. Findings for Class 8 Government Code Section 65850.6 Collocations. No permit shall be approved for Class 8 Government Code Section 65850.6 Collocation unless, on the basis of the application and other materials or evidence provided in review thereof, the following findings are made:

1. The proposed collocation facility meets the requirements of Government Code Section 65850.6.

SECTION 9. Section 9.162.080 of Title 9 of the Lake Forest Municipal Code is hereby amended to read in its entirety as follows:

9.162.080 Authority.

A. The Director is responsible for administering this chapter. As part of the administration of this chapter, the Director, or designee may:

1. Establish processing forms and procedures as deemed necessary and advisable subject to the requirements of this chapter. The Director shall ensure that all forms require applicants to demonstrate compliance with this chapter and applicable law, including those regulating RF signals;
2. Interpret the provisions of this chapter;

3. Develop and implement standards governing the placement and modification of wireless communication facilities consistent with the requirements of this chapter, including regulations governing collocation and resolution of conflicting applications for placement of wireless communication facilities;

4. Develop and implement acceptable designs and development standards for wireless communication facilities;

5. Develop forms and procedures for submission of applications for placement or modification of wireless communication facilities, and proposed changes to any support structure consistent with this chapter;

6. Determine the amount of and collect, as a condition of the completeness of any application, any fee established by this chapter;

7. Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with state and federal laws and regulations;

8. Issue any notices of incompleteness, requests for information, or conduct or commission such studies as may be required to determine whether a permit should be issued;

9. Require, as part of, and as a condition of completeness of any application, notice to members of the public;

10. Subject to appeal as provided herein, determine whether to approve, approve subject to conditions, or deny an application; and

11. Take such other steps as may be required to timely act upon applications for placement of wireless facilities, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

12. Determine on a case-by-case basis if the applicant has established that a denial of a permit application for a wireless communication facility or strict adherence to the location and design standards would, within the meaning of federal law: (1) prohibit or effectively prohibit the provision of personal wireless services; (2) otherwise violate applicable laws or regulations; or (3) require a technically infeasible design or installation of a wireless facility. If that determination is made, the requirements of this chapter or the associated design and location standards may be waived, but only to the minimum extent required to avoid the prohibition, violation, or technically infeasible design or installation.

SECTION 10. Section 9.162.100 of Title 9 of the Lake Forest Municipal Code is hereby amended to read in its entirety as follows:

9.162.100 Facilities on public property—Excluding Class 4 facilities.

The City may develop a list of City-owned properties upon which wireless communication facilities may be proposed. No application(s) for a wireless communication facility on City-owned property shall be accepted unless the City Council has approved such a list and any such proposal shall be limited to properties on the City Council approved list. An approved list of City-owned sites does not guarantee approval of a lease or license, or the granting of the approvals required by this chapter.

SECTION 11. Section 9.162.110 of Title 9 of the Lake Forest Municipal Code is hereby amended to read in its entirety as follows:

9.162.110 Appeals.

A. Class 1, Class 5 (Facilities in Non-Residential Zones), and Class 6: Any decision by the Director or designee to approve, conditionally approve or deny an application for administrative site development permit required by this chapter for Class 1 facilities, Class 5 facilities in non-residential zones, or Class 6 facilities shall be appealable to the Planning Commission in accordance with Section 2.04.100 et seq., of this Code. The decision by the Planning Commission on appeal shall be final.

B. Class 2, Class 3, and Class 5 (Facilities in Residential Zones): Any decision by the Planning Commission to approve, conditionally approve or deny any use permit required by this chapter for Class 2 facilities, Class 3 facilities, or Class 5 facilities in Residential Zones is appealable to the City Council in accordance with Section 2.04.100 et seq., of this Code. The decision by the City Council on appeal shall be final.

C. Class 4, Class 7, and Class 8: Any decision by the Director to approve, conditionally approve or deny any application for a wireless communication facility permit required by this chapter for Class 4 facilities, Class 7 facilities, or Class 8 facilities is appealable to the City Manager in accordance with Section 2.04.100(G). The decision by the City Manager on appeal shall be final.

SECTION 12. Subsection D of Section 9.184.020 of Title 9 of the Lake Forest Municipal Code is hereby amended to read in its entirety as follows:

9.184.020 Types of permits.

D. Site Development Permits. Site plans are included within the term “site development permit.” The purpose of a site development permit is to provide for the administrative review of detailed development plans for a proposed use. Uses which require a site development permit are regarded as having a relatively low potential for adverse impacts on the subject site or surrounding community due to the nature or magnitude of the use vis-à-vis the sensitivity of the subject site or surrounding community.

A site development permit is a precise plan of development and shall include the same elements described in subsection C above for use permits.

A site development permit shall be processed per Section 9.184.040(D), "Administrative action," unless the Director of Community Development determines on a case-by-case basis that the public interest would be better served by a public hearing before the Planning Commission. In such cases, the site development permit shall be processed per Section 9.184.040(C). No public hearings are required for site development permit applications for Class 1 and Class 6 wireless communication facilities or Class 5 wireless communication facilities located in non-residential zones.

If the land use regulations of a planned community or specific plan allow a site development permit or site plan to authorize a use not specifically identified as permitted by the enabling ordinance, such site development permit shall always require a public hearing before the Planning Commission per Section 9.184.040(C).

Establishment, maintenance, and operation of the use or uses proposed by the application shall be in compliance with the information and specifications shown on the approved site development permit.

SECTION 13. Subsections D, E, and G of Section 9.184.040 of Title 9 of the Lake Forest Municipal Code are hereby amended to read as follows:

9.184.040 Processing procedures.

D. Administrative Action. Discretionary permits processed per this subsection shall be acted upon administratively. Where the approving authority is not otherwise specified, the Director of Community Development shall be the approving authority. A public hearing or public notification shall not be required, except per Section 9.184.040(B). For wireless communication facility permit applications for Class 4, Class 7, and Class 8 wireless communication facilities, there are no public hearing or public notification requirements.

E. Findings.

1. Discretionary Permits. The following findings shall be made by the approving authority prior to the approval of any discretionary permit:

a. General Plan. The use or project proposed is consistent with the General Plan.

b. Zoning Code. The use, activity or improvement(s) proposed by the application is consistent with the provisions of the Zoning Code.

c. CEQA. The approval of the permit application is in compliance with the requirements of the California Environmental Quality Act.

d. Compatibility. The location, size, design, and operating characteristics of the proposed use will not create significant noise, traffic or other conditions or situations that may be objectionable, detrimental, or incompatible with other permitted uses in the vicinity.

e. General Welfare. The application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

f. Development Fees for Provision of Public Facilities. One (1) of the following findings shall be made:

i. The property to which the permit applies is not located in a fee area.

ii. The permit would not allow development of a project which would contribute to the need for the facility for which a fee is required.

g. The project has been reviewed in accordance with Citywide Design Guidelines and is consistent with the purpose and intent of the guidelines.

2. For Variance Applications. In addition to the findings required by paragraph 1 of this subsection, the following findings shall be made by the approving authority prior to the approval of any variance application:

a. Special Circumstances. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations. (The special circumstances shall be specified in the adopted finding.)

b. No Special Privileges. Approval of the application will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

3. Modified Development Standards. If the land use regulations of a planned community or specific plan allow a discretionary permit, other than a variance permit, to modify the site development standards to be less restrictive than otherwise stated in the enabling ordinance, the following finding shall be made in addition to subsection (E)(1) above:

“The alternative development standard(s) will result in an equivalent or better project in terms of adverse impacts and public benefits to the immediate and surrounding community.”

4. New Use Allowed. Where the enabling ordinance authorizes a discretionary permit to allow a principal use not specifically identified as permitted or prohibited, the following additional finding shall be made in addition to paragraph above:

“The proposed use is consistent with the purpose and intent of the (name) district/planning area.”

G. Revised Plans. When the approving authority approves an application for any discretionary permit, except for a site development permit for Class 1 and Class 6 wireless communication facilities or Class 5 wireless communication facilities located in non-residential zones, in a manner that is different from that which was presented to them, they may require revised plans to be submitted as a condition of approval. No building or grading permits or certificates of use and occupancy authorized by a discretionary permit shall be issued until such revised plans are submitted to the Director of Community Development and found by the Director or designee to be consistent with the action of the approving authority. If such revision is not submitted within sixty (60) days, or as otherwise specified by the approving authority, after the date of final determination, the permit shall thereafter be null and void. However, prior to the expiration of this period, the Director of Community Development may grant one (1) extension of time of an additional sixty (60) days if it is requested and justified by the applicant.

SECTION 14. The City Council’s actions are made upon review of the Planning Commission’s recommendation, the Staff Report, all oral and written comments, and all documentary evidence presented on the Ordinance.

SECTION 15. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 16. The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council’s findings and determinations are based are located at Lake Forest City Hall, 100 Civic Center Drive, Lake Forest, California 92630. The City Clerk is the custodian of the record of proceedings.

SECTION 17. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a Certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 16th day of August 2022.

ROBERT PEQUEÑO
MAYOR

ATTEST:

LISA BERGLUND, MPA
CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON
CITY ATTORNEY

COUNTY OF ORANGE) SS
CITY OF LAKE FOREST)

I, Lisa Berglund, City Clerk of the City of Lake Forest, California do hereby certify that the foregoing Ordinance No. 354 was duly introduced and placed upon its first reading at a regular meeting of the City Council on the 19th day of July 2022, and thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 16th day of August, 2022, by the following vote, to wit:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

LISA BERGLUND, MPA
CITY CLERK