

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



May 13, 2013

Mayor Jim Wood
City of Oceanside
300 N. Coast Highway
Oceanside, CA 92054

RE: Certification of the City of Oceanside Local Coastal Program Amendment
No. 2-10 (Wireless Communication Facilities)

Dear Mayor Wood,

The California Coastal Commission has reviewed the City's Ordinance 12-OR079-1 together with the Commission's action of July 11, 2012 certifying City of Oceanside Local Coastal Program Amendment #2-10 pertaining to the City's regulation of wireless communication facilities. In accordance with Section 13544 of the Commission's Code of Regulations, I have made the determination that the City's actions are legally adequate and the Commission has concurred at its meeting of May 8, 2013.

By its action on November 28, 2012, the City has formally acknowledged and accepted the Commission's certification of the Local Coastal Program Amendment including all suggested modifications. The modifications clarified how the coastal development permitting process is incorporated into the review and approval of a wireless communication facility. The City is already issuing coastal development permits in conformance with the certified local coastal program for this area.

In conclusion, I would like to congratulate you and all other elected or appointed officials, staff and concerned citizens for continuing to work towards full implementation of the Coastal Act. We remain available to assist you and your staff in any way possible as you continue to develop and implement the City's local coastal program.

Sincerely,

Charles Lester
Executive Director

Cc: Marisa Lundstedt
John Helmer

1 by the Coastal Commission, conforms to the General Plan and Local Coastal Program of the
2 City of Oceanside.

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

4 SECTION 1. Zone Amendment Application ZA-10-00001 Revision 2, amending the
5 text of the Zoning Ordinance as specified in Exhibit "A" is hereby approved, and the City
6 Planner is hereby directed to amend the Zoning Ordinance text as specified by this Ordinance.

7 SECTION 2. Severability. If any section, sentence, clause or phrase of this Ordinance is
8 for any reason held to be invalid or unconstitutional by a decision of any court of competent
9 jurisdiction, such decision shall not affect the validity of the remaining portions of this
10 Ordinance. The City Council hereby declares that it would have passed and adopted this
11 Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any
12 one or more sections, subsections, sentences, clauses or phrases be declared invalid or
13 unconstitutional.

14 SECTION 3. The City Clerk of the City of Oceanside is hereby directed to publish this
15 ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15)
16 days after its passage in the North County Times, a newspaper of general circulation published
17 in the City of Oceanside.

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1 SECTION 4. This ordinance shall take effect and be in force on the thirtieth (30th) day
2 from and after its final passage.

3 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
4 California, held on the 28th day of November, 2012 and, thereafter,

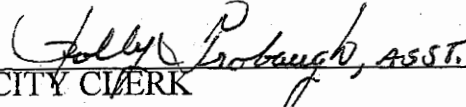
5 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
6 Oceanside, California, held on the 5th day of December, 2012, by the following vote:

- 7 AYES: WOOD, FELIEN, FELLER, KERN, SANCHEZ
8 NAYS: NONE
9 ABSENT: NONE
10 ABSTAIN: NONE

11 
MAYOR OF THE CITY OF OCEANSIDE

12
13 ATTEST:

APPROVED AS-TO FORM:

14 
15 CITY CLERK


16 CITY ATTORNEY

EXHIBIT

" " A

Ordinance No. 12-OR0791-1
Oceanside LCPA 2-10
Wireless Communication Facilities

CITY OF OCEANSIDE LCP AMENDMENT #2-10 WIRELESS COMMUNICATION FACILITIES SUGGESTED MODIFICATIONS ADOPTED BY COASTAL COMMISSION (ON JULY 11, 2012)

1. Modify Section 3901 – Purpose and Intent as follows:

3901 Purpose and Intent

This Article is intended to promote and provide for the following:

- A. Establish development standards for Wireless Communications Facilities, Satellite Dish Antennas and all other forms of antennas and accessory wireless equipment consistent with federal and state law and the City's certified LCP, taking into account the general welfare of City residents and visual compatibility with the existing surroundings while effectively serving the communication needs of the community.
- B. Require all Wireless Communications Facilities to be as unobtrusive as possible, minimizing the number of freestanding and non-camouflaged Communications Facility and establishing standards and policies to ensure that Wireless Communications Facility ies development within the City are developed in harmony is visually compatible with the character of with the surrounding environment through regulation of location and design.
- C. The provisions of this Article are not intended and shall not be interpreted to prohibit or to have the effect of prohibiting wireless communications services, nor shall this Article be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent wireless communications services.

2. Modify Section 3902 - Definitions (Antenna Height) as follows:

Antenna Height. For ground mounted antenna, tThe vertical distance measured from the adjacent existing ground surface adjacent to the base of the antenna support structure to the tip of the highest point of the proposed antenna support structure or antenna, whichever is higher. For building mounted antenna, the vertical distance measured from the adjacent building material upon which the base of the antenna support structure is mounted to the tip of the highest point of the proposed antenna support structure or antenna, whichever is higher.

3. Modify Section 3903 – Applicability, by adding a new sub-section “E”, as follows:

[...]

E. Notwithstanding the aforementioned exemptions in this section, if the provisions of this section conflict with the provisions in the City's certified LCP governing exemptions or any other LCP provisions, the City's certified LCP provisions shall control.

4. Modify Section 3904 – Conditional Use Permit Required, as follows:

3904 Conditional Use Permit Required

A. A Wireless Communications Facility that is not exempt pursuant to Section 3903, or other provision of this Article, shall be required to obtain one or more Conditional Use Permits pursuant to Article 41, a Coastal Development Permit pursuant to the City's certified LCP, if applicable, and in accordance with this Article as follows...

5. Modify Section 3906 – Application Submittal Requirements, subsection "G" as follows:

G. Proof of any existing significant gap(s) in the carrier's own service coverage, and the radius of area from which an antenna may be located to eliminate the significant gap(s).

6. Modify Section 3907- Findings For Approval, Subsection "A," as follows:

A. In addition to any general findings otherwise required by this Article or any other provision of the Zoning Ordinance and the City's certified Local Coastal Program, the following findings must be made prior to the approval of a Conditional Use Permit or Administrative Conditional Use Permit for Wireless Communications Facilities (except for Amateur Radio Antennas):

1. The placement, construction, or modification of a Wireless Communications Facility in the proposed location is necessary for the provision of wireless services to City residents, businesses, and their owners, customers, guests or other persons traveling in or about the City;
2. The proposal demonstrates a reasonable attempt to minimize stand-alone facilities, is designed to protect the visual quality of the City, and will not have an undue adverse impact on historic resources, scenic views, or other natural or man-made resources;
3. Where an applicant claims a significant gap in its coverage, that gap must be geographically defined and the gap proved by clear and convincing evidence. The burden of objectively proving a significant gap in its coverage rests solely with the applicant. Where a significant gap in the applicant's coverage is so proven, the applicant must also prove by clear and convincing evidence that the facility proposed is the least intrusive means of closing the significant gap in coverage;
4. That at least one of the following is true:
 - a. All applicable requirements and standards of this Article have been met;
 - b. A variance has been granted from any requirement or standard of this Article which has not been met;
 - c. Strict compliance with the requirements and standards of this Article would prevent a Telecom Operator from closing a proven significant gap in its service, and no other alternative and less intrusive design of the facility that would meet the development standards is feasible; or
 - d. Strict compliance with the requirements and standards of this Article would prohibit or have the effect of prohibiting the provision of personal wireless;

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Wireless Communication Facilities

services or would unreasonably discriminate among providers of functionally equivalent wireless communications services.

7. Modify Section 3909 – Operation and Maintenance Standards, Subsection “E,” as follows:

E. A Wireless Communication Facility shall be operated to minimize noise impacts to surrounding residents and persons using nearby facilities and recreation areas. All equipment that may emit noise in excess of the levels permitted by Article 38 of the City Municipal Code (noise ordinance) shall be enclosed to attain compliance with Article 38 or any other decibel level necessary to comply with the City’s certified LCP provisions. Backup generators shall only be used during periods of power outages or for testing.

8. Modify Section 3911 – Wireless Communication Facility Standards, as follows:

The following development and design standards shall be used to review any application for a Conditional Use Permit or Administrative Conditional Use Permit for a Wireless Communication Facility pursuant to this Article and Article 41. Additionally, if any facility is proposed to be sited in the Coastal Zone, as defined by the City’s certified Local Coastal Program (LCP), such facility must also comply with all applicable provisions of the City’s certified LCP. Should there be any conflict between the provisions in this Article and any provision in the City’s certified LCP, the City’s certified LCP shall be controlling. All Wireless Communication Facilities (except amateur radio antennas) shall be planned, designed, located, erected, operated, and maintained in accordance with the following standards:...