

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV



W14

Prepared October 31, 2023 for November 15, 2023 Hearing

To: Coastal Commissioners and Interested Persons

From: Dan Carl, Central Coast District Director

Subject: Central Coast District Director's Report for November 2023

The following coastal development permit (CDP) waivers, immaterial CDP amendments, immaterial CDP extensions, emergency CDPs, and LCP certification reviews for the Central Coast District Office are being reported to the Commission on November 15, 2023. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review from the Commission's Central Coast District Office in Santa Cruz. Staff is only reporting any emergency CDPs and LCP certification reviews, is asking for the Commission's concurrence on the other items in the Report and will report any objections received and any other relevant information on these items to the Commission when it considers the Report on November 15th during the hybrid virtual/in-person hearing.

With respect to the November 15th hearing, interested persons may sign up to address the Commission on items contained in this Report prior to the Commission's consideration of the Report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on November 15, 2023 (see attached)

CDP Amendments

- A-3-SLO-01-122-A9, Cambria Pines Lodge Improvements (Cambria)

Emergency CDPs

- G-3-23-0029, Hooper Beach Riprap (Capitola)

LCP Certifications

- LCP-3-SCO-22-0033-1, Wireless Ordinance Update (Santa Cruz County)

CDP Extensions

- None

CDP Waivers

- None

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**NOTICE OF PROPOSED PERMIT AMENDMENT**

Date: October 31, 2023
To: All Interested Parties
From: Kevin Kahn, Central Coast District Manager
Devon Jackson, Central Coast Coastal Planner
Subject: Proposed Amendment to Coastal Development Permit (CDP) A-3-SLO-01-122
Applicant: Pacific Cambria Inc.

Original CDP Approval

CDP A-3-SLO-01-122 was originally approved by the Coastal Commission on August 6, 2003, and it authorized the expansion of the Cambria Pines Lodge, including adding 35 new guest rooms in nine new buildings, a theatre, a retail shop, a tennis court, additional parking spaces, access improvements, and other related improvements at 2905 Burton Drive in the unincorporated coastal community of Cambria in San Luis Obispo County. That CDP has been amended several times over the years, including to allow for a European-style Christmas Market to be held in the holiday season, improve existing infrastructure, and facilitate the movement of guests around the property.

Proposed CDP Amendment

CDP A-3-SLO-01-122 would be amended to add several new facilities within the existing developed footprint of the Lodge, namely a children's carousel and treehouse climbing area, and six new structures designed to only be used to support the Christmas Market event.¹ For the latter, three structures would provide storage for sales booths, one structure would serve as a ticket booth, and two structures would serve as food and beverage preparation areas (in 375 square-foot and 1,867 square-foot buildings respectively). These six new structures would be permanent structures, but, other than storage, would be operational only during the Christmas Market event itself. None of the structures include any water or sewer connections. The Commission's reference number for this proposed immaterial amendment is **A-3-SLO-01-122-A9**.

Executive Director's Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

The proposed improvements are intended to help facilitate the Lodge's annual

¹ The annual Christmas Market generally takes place five nights a week roughly between Thanksgiving and Christmas, where the event includes outdoor food, beverages, and activities. The Market has taken place every year since (with the exception of 2020 due to Covid restrictions), and is currently authorized by San Luis Obispo County CDP DRC2021-0042.

Christmas Market event, and thus would be used only for storage during the rest of the year. All structures would be located within the existing developed footprint of the Lodge, where they should effectively blend with existing facilities, and none are equipped with water or sewer connections, meaning they shouldn't lead to increased water use at the site (which is a primary concern for Cambria due to the lack of sustainable water supplies currently), including because the Christmas Market is required to truck in potable water for its restroom needs, and can only make use of Lodge water consistent with 'normal' operations at the Lodge. Finally, these structures would only be used for the Christmas Market event, and storage during non-event times, and any sort of different use (including using the structures for different events and/or connecting them to water/sewer systems, etc.) is not authorized herein, and would require a separate CDP authorization. Given all this, the proposed project can be considered an appropriate set of improvements for the Lodge that can help to facilitate the annual Christmas Market, and the proposed project can be found consistent with the Commission's original CDP approval and the certified San Luis Obispo County LCP.

Coastal Commission Review Procedure

The CDP will be amended as proposed if no written objections are received in the Central Coast District office within ten working days of the date of this notice. If such an objection is received, the objection and the Executive Director's response to it will be reported to the Commission on November 15, 2023 at the Coastal Commission's hybrid meeting in Rohnert Park. If three or more Commissioners object to the Executive Director's determination of immateriality at that time, then the application will be processed as a material CDP amendment.

If you have any questions about the proposal or wish to register an objection, please contact Devon Jackson in the Central Coast District office at Devon.Jackson@coastal.ca.gov.

CALIFORNIA COASTAL COMMISSION

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SAN FRANCISCO, CA 94105
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**EMERGENCY COASTAL DEVELOPMENT PERMIT****Emergency CDP G-3-23-0029 (Hooper's Beach Riprap)**

Issue Date: October 27, 2023

Permittees: Carolyn and Ron Emrich, Leslie Nielsen, and John M. Sobrato**Emergency Location:** The riprap revetment at the base of the vegetated bluff at Hooper's Beach and fronting the residences at 4920, 4930, and 4940 Cliff Drive (APNs 034-052-14, 034-052-17, and 034-052-16) and the Hooper Beach public access stairway in the City of Capitola, Santa Cruz County.**Emergency Description:** Ongoing storm surges and swells earlier this year resulted in damage to the riprap revetment. Specifically, the swells/storm surges dislodged rocks from the revetment and deposited them seaward onto the sandy beach area and in the surf zone. The back beach/bluff area from where rocks had been dislodged was exposed, increasing the risk of additional damage/erosion due to highly erosive conditions and ongoing storm and large swell events. Additionally, the displaced rock created a public nuisance because it occupied beach space and impeded lateral beach access.**Emergency Development:** This hard copy ECDP follows up on verbal ECDP authorization provided by Commission staff to the Permittees on March 10, 2023. The emergency development consists of the retrieval and restacking of the migrated riprap from the sandy beach area onto the riprap revetment along the back beach area/along the base of the bluff. Approximately eighteen boulders were retrieved via an excavator and restacked against the base of the eroded bluff on March 17, 2023. Restacked rock was concentrated in areas where the revetment was heavily damaged; in other words, the rip rap filled large escarpments that would otherwise continue to compromise the integrity of the bluff and stairway. The retrieval of the rock allowed for large boulders to be removed from the beach, thus minimizing beach encroachment from displaced riprap.**Executive Director's Determination**

The Executive Director of the California Coastal Commission hereby finds that: (a) a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services exists (i.e., an "emergency" (see Title 14 California Code of Regulations Section 13009 and California Coastal Act (Public Resources Code) Section 30624); (b) the emergency requires action more quickly than allowed by the procedures for regular CDPs; (c) the

Enclosure: ECDP Acceptance Form

cc: (via email): Jessica Kahn (City of Capitola), Kim Sanders (California State Water Resource Control Board); Serena Stumpf (California Department of Fish & Wildlife); Joel Casagrande (National Oceanic & Atmospheric Administration); Chad Mitcham (United States Fish & Wildlife Service); Kenneth Foster (State Lands Commission); Sophie De Beukelaer (Monterey Bay National Marine Sanctuary); Debra O'Leary (U.S. Army Corps of Engineers)

Emergency CDP G-3-23-0029 (Hooper's Beach Riprap)

Issue Date: October 27, 2023

emergency development can and will be completed within 30 days unless otherwise specified by the terms of this ECDP; (d) the emergency development carried out under this ECDP is considered temporary work done in an emergency situation to abate an emergency and is undertaken at Permittee risk; (e) a regular CDP must be obtained for the emergency development to become more than temporary emergency abatement and/or if the Permittees wish to expand the scope of work beyond that authorized by this ECDP; (f) absent obtaining a regular CDP, the emergency development shall be removed and the affected area restored; and (g) Commission staff will review public comment on the proposed emergency development as time allows.

The emergency development is hereby approved, subject to the conditions listed below.



Dan Carl, Central Coast District Director, for Kate Huckelbridge, Executive Director

Conditions of Approval

1. The enclosed ECDP acceptance form must be signed by the Permittees and returned to the California Coastal Commission's Central Coast District Office within 15 days of the date of this ECDP (i.e., by November 11, 2023). This ECDP is not valid unless and until the acceptance form has been received in the Central Coast District Office.
2. All emergency development shall be limited in scale and scope to that specifically identified in the Emergency Permit Application Form dated received in the Commission's Central Coast District Office on March 11, 2023. Only that emergency development specifically described in this ECDP and for the specific location listed above is authorized. Any other development requires separate authorization from the Executive Director or the Commission, as applicable.
3. The emergency development authorized on a temporary basis by this ECDP must be completed within 30 days of ECDP issuance (i.e., by November 26, 2023).
4. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, etc.). The Permittees shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
5. By exercising this ECDP, Permittees acknowledge and agree that: (a) the emergency development is temporary, is designed to temporarily abate the emergency, and shall be removed unless and until a regular CDP authorizing the work is approved, and provided the Permittees adhere to such regular CDP's terms and conditions; and (b) a regular CDP is subject to all of the provisions of the California Coastal Act (as codified in Sections 30000 to 30900 of the Public Resources Code) and any applicable Local Coastal Program (LCP) policies and may be conditioned accordingly to avoid and/or to offset coastal resource impacts

Emergency CDP G-3-23-0029 (Hooper's Beach Riprap)

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consistent with the Coastal Act (and LCP as applicable) (including but not limited to requirements for public access provisions (such as offers to dedicate, easements, in-lieu fees, etc.), assumption/disclosure of risks (including deed restrictions), triggers for relocation/removal, offsetting mitigations, etc.). The Permittees acknowledge that review of the CDP application to determine consistency with the Coastal Act (and LCP as applicable) will be based on the conditions the property was legally in prior to initiation of the temporary emergency development that is the subject of this ECDP.

6. By exercising this ECDP, the Permittees acknowledge and agree in relation to this ECDP and the emergency development that it authorizes: (a) to assume all risks (including all coastal hazard risks, that include but are not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tidal scour, storms, tsunamis, coastal flooding, landslide, earth movement, and the interaction of all of these, many of which will worsen with future sea level rise); (b) to unconditionally waive any claim of damage and/or liability against the Commission and/or its officers, employees, agents, successors and/or assigns; (c) to indemnify and hold harmless the Commission and its officers, employees, agents, successors and/or assigns against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement, including as it relates to any damages to public and/or private properties and/or personal injury; (d) that any adverse effects to property or people caused by the emergency development shall be fully the responsibility of the Permittees.
7. The Permittees shall reimburse the Commission in full for all Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (a) charged by the Office of the Attorney General; and/or (b) required by a court) that the Commission incurs in connection with the defense of any action brought by a party other than the Permittees against the Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this ECDP, the interpretation and/or enforcement of ECDP terms and conditions, or any other matter related to this ECDP. The Permittees shall reimburse the Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.
8. Within 120 days of ECDP issuance (i.e., by February 24, 2024), the Permittees shall either: (a) remove all of the materials placed or installed in connection with the emergency development, and restore all affected areas to their prior condition or better, all subject to Executive Director review and approval (and, in some cases, if directed by the Executive Director, subject to a regular CDP); or (b) submit a complete application (i.e., satisfying the requirements of Title 14 California Code of Regulations Section 13056) for a regular CDP to authorize the emergency development (or for a different project designed to address the emergency development), including submitting all information and materials requested, and as directed, by the Executive Director if/when the Executive Director determines that

Emergency CDP G-3-23-0029 (Hooper's Beach Riprap)

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such application is incomplete. If such regular follow-up CDP application is withdrawn by the Permittees, or is denied by the Commission, or if it remains incomplete for a period of 120 days after the Executive Director informs the Permittees that the application is incomplete, then all of the materials placed and/or installed in connection with the emergency development shall be removed, and all affected areas shall be restored to their prior condition or better, all subject to Executive Director review and approval (and, in some cases, if directed by the Executive Director, subject to a regular CDP).

9. Failure to meet any of the applicable requirements of Condition 8 above shall constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Executive Director and/or the Commission. Such formal action may include: recordation of a Notice of Violation on the Permittees' properties; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties of up to \$11,250 per day per violation; a civil lawsuit (that may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day); and/or other applicable penalties and relief pursuant to Coastal Act Chapter 9. In addition, failure to follow and meet all terms and conditions of this ECDP shall also constitute a knowing and intentional Coastal Act violation to which the same actions above may be applied.
10. All emergency development shall be limited to the least amount necessary to temporarily abate the emergency, and shall be undertaken in a time and manner that avoids any and all coastal resource impacts as much as possible, including avoiding impacts to public access. The Permittees shall keep the Executive Director informed regarding emergency development progress, including in terms of any issues encountered that may require adjustment.
11. A licensed civil engineer with experience in coastal structures and processes shall oversee all construction activities and shall ensure that all emergency development is limited to the least amount necessary to temporarily abate the emergency consistent with the terms and conditions of this ECDP.
12. All emergency construction activities shall limit impacts to coastal resources (including public recreational access) to the maximum extent feasible including by, at a minimum, adhering to the following construction requirements:
 - a. Construction activities shall be limited to no more than a total of 7 days, and shall take place on non-holiday weekdays to the maximum extent feasible.
 - b. All construction activities shall take place during daylight hours (i.e., from one-hour before sunrise to one-hour after sunset).
 - c. All construction areas shall be minimized and demarked by temporary fencing designed to allow through public access and protect public safety to the maximum extent feasible, where such areas shall be limited in their spatial extent as much as possible. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.

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- d. The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep equipment covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris; etc.).
 - e. All construction activities that result in discharge of materials, polluted runoff, or wastes to the marine environment shall be prohibited. Any erosion and sediment controls used shall be in place prior to the commencement of construction as well as at the end of each workday.
 - f. All areas impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction.
 - g. All contractors shall ensure that work crews are carefully briefed on the importance of observing the construction precautions given the sensitive work environment. Construction contracts shall contain appropriate penalty provisions sufficient to offset the cost of retrieval/cleanup of foreign materials not properly contained and/or remediation to ensure compliance with this ECDP otherwise.
 - h. The Permittees shall notify planning staff of the Coastal Commission's Central Coast District Office immediately upon completion of construction. If planning staff should identify reasonable restoration measures, such measures shall be implemented immediately.
13. Copies of this ECDP shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of this ECDP, and the public review requirements applicable to it, prior to commencement of construction.
14. Within 30 days of completion of construction authorized by this ECDP, the Permittees shall submit site plans and cross sections to the Executive Director clearly identifying all development completed under this emergency authorization (comparing the legal pre-emergency development condition to both the emergency condition and to the post-emergency development condition), and a narrative description of all emergency development activities undertaken pursuant to this ECDP. Photos showing the project site before the emergency (if available), during emergency development construction activities, and after the work authorized by this ECDP is complete shall be provided with the site plans and cross sections.
15. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the construction coordinator's contact information (i.e., address, email, phone numbers, etc.) including, at a minimum, an email address and a telephone number (with voice mail capabilities) that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas,

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along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (e.g., name, address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. The Permittees shall submit the record of complaints/inquiries and actions taken in response to the Executive Director on a weekly basis, and upon completion of construction activities.

16. Minor adjustments to the requirements above, including deadline adjustments, may be allowed by the Executive Director if the Executive Director determines that such adjustments: (a) are deemed reasonable and necessary to help to temporarily abate the identified emergency, including as emergency conditions may change; (b) are designed to avoid coastal resource impacts (and limit those that are unavoidable) as much as possible; and (c) in the case of deadline extension adjustments, are appropriate in light of circumstances, including that the Permittees have shown diligence in pursuing the emergency development and meeting all ECDP terms and conditions.
17. By exercising this ECDP, Permittees acknowledge and agree that this ECDP shall not constitute evidence against and/or a waiver of any public rights which may exist on the property.
18. The Permittees shall disclose this ECDP, including all of its terms and conditions, to any prospective buyer of the affected property during the period of time that any development that is the subject of this ECDP remains on such property.
19. Failure to comply with the terms and conditions of this ECDP may result in enforcement action under the provisions of Coastal Act Chapter 9. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the property without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Coastal Act Chapter 9.

If you have any questions about the provisions of this ECDP, please contact the Commission's Central Coast District Office at 725 Front Street, Suite 300, Santa Cruz, CA 95060; centralcoast@coastal.ca.gov; and/or (831) 427-4863.

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W14

Prepared October 31, 2023 (for November 15, 2023 Hearing)

To: Coastal Commissioners and Interested Persons

From: Kate Huckelbridge, Executive Director
Kevin Kahn, Central Coast District Manager
Nolan Clark, Coastal Planner

Subject: Certification Review for Santa Cruz County Local Coastal Program (LCP) Amendment Number LCP-3-SCO-22-0033-1 (Wireless Facilities Provisions)

On August 10, 2023 the Coastal Commission approved Santa Cruz County LCP Amendment Number LCP-3-SCO-22-0033-1 with modifications. The amendment serves to align the current Wireless Communications Facilities (WCF) ordinance, which has not been substantially changed since its original certification twenty years ago, with more recent Federal and State telecommunications law, particularly related to the timing and processing of WCF project applications. The amendment also promotes the appropriate siting and design of WCFs to protect visual resources, environmentally sensitive habitat areas, and the scenic quality and community character of residential and agricultural/rural areas while facilitating improved wireless connectivity throughout Santa Cruz County. At that time, and after a public hearing, the Commission conditionally certified the amendment provided it was modified as suggested by the Commission.

The Santa Cruz County Board of Supervisors considered the Commission's conditional certification on September 19, 2023 and October 3, 2023, and approved a version of the LCP amendment with the Commission's suggested modifications (see attachment).

The Executive Director has reviewed the County's September 19, 2023 and October 3, 2023 actions, and has determined that it is legally adequate to meet all of the Commission's conditional certification requirements. The Executive Director will report that determination to the Coastal Commission at the Commission's November meeting on November 15, 2023 as part of the Central Coast District Director's Report. The Commission meeting starts at 9am on November 15th, and the District Director's Report is item number 14 on the agenda for that day. Interested persons are welcome to submit comments and/or to sign-up to testify to the Commission regarding this matter under that agenda item (see the Commission's website at www.coastal.ca.gov for further information and instructions to participate in these ways).

Please note that this certification review is not a time to revisit any substantive issues associated with the approval of the subject LCP amendment, as certification review is limited to the question of whether the County adopted the suggested modifications to the LCP amendment approved by the Commission. Please further note that the Executive Director's determination is not subject to any required concurrence or approval by the Commission, but rather is simply being reported to the Commission as is required by the Commission's regulations in order to allow for the amended LCP to be certified in that form (see Title 14, Division 5.5, Sections 13544 and 13544.5). Upon reporting this item to the Commission in the Central Coast District Director's Report, the amended LCP will be certified as of that date and time.

If you have any questions about this LCP amendment certification review process, including questions about how to submit written comments and/or to testify to the Commission, please contact the Central Coast District office at (831) 427-4863 and/or centralcoast@coastal.ca.gov.

Attachment: Santa Cruz County Board of Supervisors' September 19, 2023 and October 3, 2023 Actions



Adopted 09/19/2023
Board of Supervisors
DOC-2023-797 8. a

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CRUZ,
STATE OF CALIFORNIA

RESOLUTION NO. 174-2023

On the motion of Supervisor: Cummings
Duly seconded by Supervisor: Koenig
the following Resolution is adopted:

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CRUZ
ACCEPTING CALIFORNIA COASTAL COMMISSION MODIFICATIONS TO
AMENDMENTS TO SANTA CRUZ COUNTY CODE 13.10.660 THROUGH 13.10.664
WIRELESS COMMUNICATIONS FACILITIES, AND DIRECTING STAFF TO TRANSMIT
THE ACCEPTANCE TO THE COASTAL COMMISSION**

WHEREAS, pursuant to authority delegated to the County of Santa Cruz by the California Coastal Commission, the County of Santa Cruz regulates development in the portion of the coastal zone that lies in the unincorporated area of the County and that is outside of the original jurisdiction of the California Coastal Commission; and

WHEREAS, the County's General Plan is also the Local Coastal Program Land Use Plan, and County Code Chapter 13.10 is an implementing ordinance of the Local Coastal Program and is also part of the Local Coastal Program Implementation Plan; and

WHEREAS, on May 10, 2022 at a duly noticed public hearing, the Board of Supervisors adopted two identical companion ordinances amending Santa Cruz County Code Chapter 13.10 updating regulations for wireless communications facilities; and

WHEREAS, one ordinance was for wireless communication facilities outside the coastal zone and one ordinance was for wireless communication facilities inside the coastal zone. The ordinance for outside the coastal zone went into effect thirty days after adoption by the Board, and the ordinance for inside the coastal zone needed to be certified by the Coastal Commission before taking effect within the coastal zone; and

WHEREAS, the Board of Supervisors directed staff to submit the proposed amendments to the Santa Cruz County Code for wireless communication facilities inside the coastal zone to the Coastal Commission for certification, as provided in Santa Cruz County Code Chapter 13.03; and

WHEREAS, on August 10, 2023, the Coastal Commission held a public hearing on the amendments to the Local Coastal Program Implementation Plan adopted by the Board of Supervisors and certified the amendments to the Santa Cruz County Code Chapter 13.10 for wireless communication facilities subject to the Board of Supervisors accepting certain suggested modifications to the amendments; and

Resolution 174-2023

WHEREAS, in a letter dated August 11, 2023 the County received the Coastal Commission's resolution of certification and adopted findings approving the proposed amendments to the LCP Implementation Plan, if modified as suggested; and

WHEREAS, the resolution of certification requires the County, by action of the Board of Supervisors, to acknowledge receipt of the resolution of certification, including the suggested modifications, accept and agree to the modifications, and incorporate the modifications into the Santa Cruz County Code; and

WHEREAS, the amendments to the Santa Cruz County Code for wireless communication facilities incorporating the suggested modifications and certified by the Coastal Commission are incorporated into one ordinance for wireless communication facilities that will take effect countywide; and

WHEREAS, adoption of both ordinances by the Board of Supervisors on May 5, 2022 was not a "project" within the meaning of Section 15378 of the California Environmental Quality Act ("CEQA") Guidelines because it had no potential for resulting in direct or indirect physical change in the environment and a CEQA Notice of Exemption was approved and filed with the Clerk of the Board; and

WHEREAS, pursuant to California Code of Regulations 15251(f), the Coastal Commission's LCP amendment certification process is the functional equivalent of the environmental review required by CEQA and the Coastal Commission found that the proposed LCP amendments as modified will not result in any significant adverse environment effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the Board of Supervisors, hereby;

1. Acknowledges receipt of the resolution of certification from the Coastal Commission, including the suggested modifications.
2. Accepts and agrees to each of the suggested modifications and incorporates them into the County Code amendments by adopting one ordinance that will take effect countywide, both inside and outside the coastal zone.
3. Directs staff to transmit this acceptance to the California Coastal Commission.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this 19th day of September 2023, by the following vote:

AYES: Supervisors Koenig, Cummings Hernandez, McPherson, and Friend
NOES: None

Resolution 174-2023

ABSENT: None
ABSTAIN: None

DocuSigned by:
Zach Friend 9/20/2023
815366044E33429

Zach Friend
Chair of the Board of Supervisors

ATTEST: DocuSigned by:
Juliette Burke 9/21/2023
466B074F3141450...
Juliette Burke
Clerk of the Board

APPROVED AS TO FORM:

DocuSigned by:
Justin Graham
40E85ACDEDAB42D...
Office of the County Counsel



Adopted ORD-5439 10/03/2023
Board of Supervisors
DOC-2023-802 15.a

ORDINANCE NO. 5439

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CRUZ REPEALING SANTA CRUZ COUNTY CODE SECTIONS 13.10.660 THROUGH 13.10.668, ADOPTING NEW SECTIONS 13.10.660 THROUGH 13.10.664, AND AMENDING SECTIONS 13.10.312, 13.10.322, 13.10.332, 13.10.342, 13.10.352, 13.10.362, AND 13.10.372 REGARDING WIRELESS COMMUNICATION FACILITIES

WHEREAS, on May 10, 2022 the Board of Supervisors adopted two identical companion ordinances amending Santa Cruz County Code Chapter 13.10 updating regulations for wireless communications facilities; and

WHEREAS, ordinance 5402 was for wireless communication facilities outside the coastal zone and ordinance 5401 was for wireless communication facilities inside the coastal zone. The ordinance for outside the coastal zone went into effect thirty days after adoption by the Board, and the ordinance for inside the coastal zone needed to be certified by the Coastal Commission before taking effect within the coastal zone; and

WHEREAS, on August 10, 2023 the Coastal Commission certified the amendments to the Santa Cruz County Code Chapter 13.10 for wireless communication facilities with modifications to the amendments; and

WHEREAS, this ordinance incorporates the modifications approved by the Coastal Commission and shall be for the regulation of wireless communication facilities countywide.

NOW, THEREFORE, the Board of Supervisors of Santa Cruz County ordains as follows:

SECTION I

The Santa Cruz County Code is hereby amended by changing the “Wireless communication facilities” portion of the Agricultural Uses Chart in SCCC 13.10.312 to read as follows:

USE	AP (P)		
	CA	A	Comb. ⁺
Wireless communication facilities, subject to SCCC 13.10.660 through 13.10.664, inclusive	BP/5	BP/5	BP/5

SECTION II

The Santa Cruz County Code is hereby amended by changing the “Wireless communication facilities” portion of the Residential Uses Chart in SCCC 13.10.322 to read as follows:

USE	RA RR R-1 RM RB
Wireless communication facilities, subject to SCCC 13.10.660 through 13.10.664, inclusive	BP/5 BP/5 BP/5 BP/5 BP/5

SECTION III

The Santa Cruz County Code is hereby amended by changing the “Wireless communication facilities” portion of the Commercial Uses Chart in SCCC 13.10.332 to read as follows:

USE	PA VA Ct C-1 C-2 C-4
Wireless communication facilities, subject to SCCC 13.10.660 through 13.10.664, inclusive	BP/5 BP/5 BP/5 BP/5 BP/5

SECTION IV

The Santa Cruz County Code is hereby amended by changing the “Wireless communication facilities” portion of the Industrial Uses Chart in SCCC 13.10.342 to read as follows:

USE	M-1 M-2 M-3
Wireless communication facilities, subject to SCCC 13.10.660 through 13.10.664, inclusive	BP/5 BP/5 BP/5

SECTION V

The Santa Cruz County Code is hereby amended by changing the “Wireless communication facilities” portion of the Parks, Recreation and Open Space PR District Uses Chart in SCCC 13.10.352 to read as follows:

USE	PR
Wireless communication facilities, subject to SCCC 13.10.660 through 13.10.664, inclusive	BP/5

SECTION VI

The Santa Cruz County Code is hereby amended by changing the “Wireless communication facilities” portion of the Public and Community Facilities PF District Uses Chart in SCCC 13.10.362 to read as follows:

USE	PF
Wireless communication facilities, subject to SCCC 13.10.660 through 13.10.664, inclusive	BP/5

SECTION VII

The Santa Cruz County Code is hereby amended by changing the “Wireless communication facilities” portion of the Commercial Uses Chart in SCCC 13.10.372 to read as follows:

USE	TP
Wireless communication facilities, subject to SCCC 13.10.660 through 13.10.664, BP/5 inclusive	

SECTION VIII

The Santa Cruz County Code is hereby amended by repealing SCCC 13.10.660 through 13.10.668 and replacing those sections with SCCC 13.10.660 through 13.10.664 to read as follows:

Sections

- 13.10.660 Regulations for the siting, aesthetics, operation, and construction of wireless communication facilities.**
- 13.10.661 Applications for wireless communication facilities.**
- 13.10.662 Wireless communication facilities in public rights-of-way.**
- 13.10.663 Modifications to wireless communication facilities.**
- 13.10.664 Indemnification for wireless communication facilities.**

13.10.660 Regulations for the siting, aesthetics, operation, and construction of wireless communication facilities.

(A) Purpose. The purpose of SCCC 13.10.660 through 13.10.664 is to establish regulations for the siting, aesthetics, operation, construction, and modification of wireless communication facilities in the unincorporated areas of Santa Cruz County, while minimizing adverse visual and operational effects of such facilities. The regulations in these sections are intended to be consistent with state and federal law, particularly the Federal Telecommunications Act of 1996, in that they are not intended to: (1) be used to unreasonably discriminate among providers of functionally equivalent services; (2) have the effect of prohibiting wireless communication facilities within Santa Cruz County; or (3) have the effect of prohibiting the siting of wireless communication facilities on the basis of the environmental/health effects of radio frequency emissions, to the extent that the services and facilities comply with the regulations of the Federal Communications Commission concerning such emissions.

(B) Definitions.

(1) “Alternatives analysis” means the evaluation and consideration of various options in siting, design, and construction of wireless communication facilities, including a detailed report on the approach, methods, and information employed in the site and facility selection process.

- (2) “Application” means a formal request, including all required and requested fees, forms, documentation, and information submitted by an applicant to the County for a wireless communication facility permit.
- (3) “Applicant” means a person or entity filing an application for placement or modification of a wireless communication facility.
- (4) “Base station” shall have the meaning as set forth in 47 C.F.R. Section 1.6100(b), or any successor provision.
- (5) “Camouflage” means the incorporation of elements and/or techniques designed to mask or blend a wireless communication facility with the surrounding environment in such a manner to minimize its visual intrusion on the surrounding environment.
- (6) “Collocation” means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes. Collocation also means when more than one wireless service providers share a single wireless communication facility. A collocated facility can be comprised of a tower, pole, or structure that supports one or more antennas, dishes, or similar wireless communication devices, that are separately owned or used by more than one public or private entity.
- (7) “County Code” means the Santa Cruz County Code.
- (8) “County infrastructure” means County-owned or controlled property structures, objects, and equipment in the public rights-of-way, including, but not limited to, streetlights, traffic control structures, banners, street furniture, or other poles, lighting fixtures, or electroliers located within the public rights-of-way.
- (9) “CPUC” means the California Public Utilities Commission.
- (10) “Director” means the Director of the Santa Cruz County Community Development and Infrastructure Department or their designee.
- (11) “Eligible facilities request” shall have the meaning as set forth in 47 C.F.R. Section 1.6100(b)(3), or any successor provision, which defines the term to mean any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station and involves collocation of new wireless equipment, the removal of wireless equipment, or the replacement of wireless equipment.
- (12) “Equipment shelter” means a ground-mounted, fully enclosed cabinet or underground vault containing equipment serving wireless antenna.
- (13) “FCC” means the Federal Communications Commission or its lawful successor.
- (14) “Least Visually Obtrusive” means any technically feasible, viable, and environmentally superior facility site and/or design alternatives, as demonstrated by the alternative analysis, that render the facility the most visually inconspicuous relative to other

sites and/or designs. It does not mean that the facility must be completely hidden, but it may require screening or other camouflaging so that the facility is not immediately recognizable as a wireless communication facility within the visual setting and from scenic resources.

(15) “Public right-of-way” shall have the same meaning as in Santa Cruz County Code Section 9.70.030(H) but shall also include any portion of any road or public way which the County has the responsibility to maintain or manage.

(16) “Right of way” means all land or interest therein, which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to the use of the public for road and street purposes.

(17) “Radiofrequency emissions” or “RF emissions” means radiation from the portion of the electromagnetic spectrum with frequencies below the infrared range (approximately 100 GHz and below), including microwaves, television VHF and UHF signals, radio signals, and low to ultra-low frequencies.

(18) “Significant Gap” means a gap in a wireless provider’s own wireless services that is significant as certified by the wireless carrier.

(19) “Small cell wireless facility” or “small cell facility” means a type of wireless communication facility that has the same meaning as set forth in 47 C.F.R. 1.6002(l), or any successor provision, which defines the term to mean a wireless communication facility where each antenna is no more than three cubic feet in volume, the associated wireless equipment is no more than 28 cubic feet in volume, and the facility is mounted on structures 50 feet or less in height, including antennas, or mounted on structures no more than 10 percent taller than adjacent structures, or that do not extend existing structures on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

(20) “Stealth” means a design with concealment elements so visibility of any antenna or other transmission equipment associated with the facility is generally unnoticeable and so that the wireless facility fits into the context of its surroundings. By way of example, and not of limitation, a faux pine tree in an area with other natural pine trees would be considered stealth.

(21) “Support structure” means any structure supporting a base station, small cell site, tower, wireless antenna or other wireless communication facility equipment.

(22) “Technically feasible” means capable of being accomplished based on existing technology compatible with an applicant’s existing network.

(23) “Tower” means 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 personal wireless 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 definition does not include utility poles.

- (24) “Underground areas” means those areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the right of way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled to be converted from overhead to underground. Electrical facilities are distribution facilities owned by an electric utility and do not include transmission facilities used or intended to be used to transmit electricity at nominal voltages in excess of 35,000 volts.
- (25) “Utility pole” means a long slender usually cylindrical structure in the right-of-way designed to support electric, telephone, and similar utility lines. A tower is not a utility pole.
- (26) “Viable” means when an alternative site for which there is a property owner/manager interested in renting, leasing, selling, or otherwise making available, space for one or more wireless communication facilities upon said site on reasonable terms commensurate with the market in Santa Cruz County.
- (27) “Visual impact” means the placement or design of a wireless communication facility or the associated equipment such that they are not fully screened or shielded or are plainly visible and are likely to be noticeable or otherwise conspicuous.
- (28) “Wireless communication facility, or wireless facility” means the transmitters, antenna structures, and other types of installations used for the provision of personal wireless services at a fixed location, including without limitation, small cell facilities, any associated tower(s), support structure(s), and base station(s).
- (29) “Wireless equipment” or “equipment” means the necessary items associated with an antenna used for wireless communication, including without limitation: shelters, cabinets, generators, power sources, cables, wires, conduits, and switches.
- (30) “Wireless encroachment permit” means a permit issued pursuant to this Chapter authorizing the placement or modification of a wireless facility of a design specified in the permit at a particular location within the right-of-way; and the modification of any existing support structure to which the wireless facility is proposed to be attached.
- (31) “Wireless regulations” means SCCC 13.10.660 through 13.10.664, inclusive, and any other regulations adopted by the Santa Cruz County Board of Supervisors to implement the provisions of this Chapter related to wireless facilities. The regulations comply with the Communications Act of 1934, as amended by the Telecommunications Act of 1996, applicable regulations, orders, and decisions of the Federal Communications Commission and the California Public Utilities Commission and applicable state law. The regulations are designed to regulate the siting, aesthetics, construction, modification, and operation of wireless communication facilities in the unincorporated area of Santa Cruz County, and do not supersede federal and state authority.
- (32) “Wireless service provider” means an entity that provides wireless services to end users.

(C) Restrictions.

(1) Federal and State Regulations. All wireless communication facilities shall comply with the Communications Act of 1934, as amended by the Telecommunications Act of 1996, applicable regulations, orders, and decisions of the FCC and CPUC and applicable state law.

(2) Radio Frequency Emissions. All wireless communication facilities shall 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 conduct and provide evidence of onsite, post-installation RF emissions testing to demonstrate actual compliance with the FCC OET Bulletin 65 RF emissions safety rules for general population/uncontrolled RF exposure in all sectors. For this testing, the transmitter shall be operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the uncontrolled/general population limit.

(3) Federal Aviation Administration Regulations. All wireless communication facilities shall comply with all applicable Federal Aviation Administration (“FAA”) regulations, including requirements of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports, and the State Aeronautics Act (Part 1 [commencing with Section 21001] of Division 9 of the Public Utilities Code).

(4) Zoning. New wireless communication facilities outside of public rights-of-way are prohibited in the following zoning districts: CA, R-1, RM, RB, and MH, unless the proposed facility is a small wireless facility, or is collocated on an existing facility, or modifies an existing facility, or the applicant provides documentation prepared by a qualified professional engineer to enable the County to find:

(a) The proposed facility eliminates or substantially reduces one or more significant gaps in the applicant carrier’s network; and

(b) The proposed facility is located on the least visually obtrusive site and least visually obtrusive portion of the site, where the applicant provides substantial evidence that it chose the best solution for the community after a meaningful comparison of alternative sites and designs, including but not limited to considering less sensitive sites, alternative system designs, alternative tower designs, placement of antennae on existing structures, and other viable, technically feasible, and environmentally (i.e., visually) equivalent or superior potential alternatives.

(5) Coastal Zone. All wireless communication facilities in any portion of the Coastal Zone shall be consistent with the County Local Coastal Program and the California Coastal Act. No portion of a wireless communication facility shall extend onto or impede access to a publicly used beach. Power and telecommunication lines servicing wireless communication facilities in the Coastal Zone shall be required to be placed underground unless the County identifies an environmentally superior alternative. New wireless

communication facilities located between the sea and the seaward side of the first through public road parallel to the sea and within mapped scenic resource areas in the Coastal Zone shall be prohibited unless the applicant complies with SCCC 13.10.660(C)(4)(a) and (b).

(D) Exemptions. Wireless communication facilities intended solely for personal, non-commercial uses, such as short-wave radio, by occupants of the site on which such facilities are located, are exempt from provisions of the County's wireless regulations but are subject to restrictions which pertain to buildings or structures in the zoning district in which such facilities are located. Wireless communication facilities located on County- owned property or on privately-owned property used solely for public or quasi-public use, are exempt.

(E) Siting requirements for wireless communication facilities outside of public rights-of- way.

(1) Collocation. New wireless communication facilities shall be required to be collocated onto existing facilities, base stations, or utility poles, unless there is no existing facility that would provide substantially similar coverage and the proposed facility is visually screened, camouflaged, or otherwise integrated into the surrounding character or scenic resource.

(2) Setbacks. Wireless communication facilities and any above-ground equipment, excepting fencing or barriers, shall comply with the setback standards for the applicable zoning district. Depending upon specific site constraints and circumstances, this requirement may not apply to antennas proposed to be collocated on existing facilities, base stations, or utility poles, nor to underground equipment shelters, if the required setbacks would prohibit the use of the proposed facility site.

(3) Scenic Resources. Wireless communication facilities proposed in mapped scenic areas, scenic road viewsheds, ridgelines, hilltop locations, or locations visible from public beaches shall be hidden from public view, to the maximum extent feasible, and shall incorporate camouflage and stealth techniques to minimize visual impacts. Wireless communication facilities proposed in mapped scenic areas, scenic road viewsheds, ridgelines, hilltop locations, or locations visible from public beaches within the Coastal Zone shall be prohibited unless the applicant complies with SCCC 13.10.660(C)(4)(a and b).

(4) Visual Setting. New wireless communication facilities shall utilize existing natural or human-made features, including but not limited to topography, vegetation, buildings, or other structures, to conceal and integrate the facility into the visual environment to the extent feasible.

(5) Visual Impact Mitigation. Special design of wireless communication facilities is required to mitigate potentially significant adverse visual impacts, including appropriate camouflaging or utilization of stealth techniques. Use of less visually obtrusive design alternatives, such as a small cell facility, is encouraged. Telecommunication towers camouflaged to look like trees (e.g., "monopines") may be favored on wooded sites with existing similar looking trees where they can be designed to adequately blend with and/or mimic the existing trees. In other cases, stealth-type structures that mimic structures

typically found in the built environment where the facility is located may be appropriate (e.g., small-scale water towers, barns, and other typical farm-related structures on or near agricultural areas). Rooftop or other building mounted antennas designed to blend in with the building's existing architecture is required. Co-location of a new wireless communication facilities is required pursuant to SCCC 13.10.660(E)(1) above. Owners/operators of wireless communication towers/facilities are required to maintain the appearance of the tower/facility, as approved, throughout its operational life. Public vistas from scenic roads, as designated in General Plan/LCP Section 5.10.10, shall be afforded the highest level of protection.

(F) Aesthetic requirements for wireless communication facilities outside of public rights-of-way.

(1) Screening. All components of wireless communication facilities and associated enclosures shall be designed to include stealth, camouflage, or screening techniques appropriate to the proposed location, design, visual environment, and nearby uses and/or structures. Landscape plans shall be prepared by a qualified professional and shall be designed to provide long-term screening of the facility. Only species that are native to Santa Cruz County shall be used as vegetative screening, with a preference for species that are native to the specific location of the wireless facility. Visual screening shall be maintained/restored including visual screening impacted by any maintenance on the wireless communication facilities.

(2) Coating. All wireless communication facilities shall be constructed of and/or covered with nonflammable material, unless otherwise specified by the County. All components of wireless communication facilities shall be of a color approved by the County, shall be non-reflective, and shall be repainted and maintained in good repair.

(3) Lighting. Constant lighting shall be prohibited unless otherwise required under FAA regulations. Permittees shall install only timed or motion-sensitive lights and design all lights associated with the wireless communication facility, other than lighting that may be required by FAA regulation, shall be downcast so that direct light rays shall be confined to the premises and light intensity minimized to the extent feasible.

(4) Facility Type. Wireless communication facilities shall be self-supporting monopoles, towers, or other concealment structures whether free-standing or mounted on structures.

(5) Supporting Equipment. Supporting equipment, such as equipment shelters, may be required to be placed underground, if required by the Director. Supporting equipment not placed underground shall be located and designed to minimize its visibility and, if appropriate, to disguise it to render it less conspicuous. Supporting equipment shall be no taller than 12 feet in height and shall blend with existing architecture and/or the natural surroundings in the area or shall be screened from sight by mature landscaping.

(G) Construction requirements for wireless communication facilities outside of public rights-of-way.

(1) Height. All towers shall be designed to be the shortest height technically feasible to minimize visual impacts. The height of a free-standing facility shall be measured from the existing undisturbed ground surface below the center of the base of the facility to the top of the facility itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto. In the case of structure-mounted facilities, the height of the facility includes the height of the structure directly below the facility. The maximum facility/antenna heights allowed in each zone district are as follows:

Zone District	Structure-Mounted	Free-Standing
Residential and Timber Production (TP, inside the Coastal Zone)	50 feet	75 feet
Non-residential	60 feet	85 feet
Timber Production (TP, outside the Coastal Zone)	125 feet	150 feet

(2) Height Exceptions. Any applications for facilities of a height more than the allowed height for facilities in each zone district per SCCC 13.10.660(G)(1) must include a written justification proving the need for a facility of that height and comply with SCCC 13.10.660(C)(4)(a) and (b).

(H) Operations and Maintenance.

(1) Fire Prevention and Emergency. All wireless communication facilities shall be designed and operated in such a manner so as to minimize the risk of igniting or intensifying a fire. To this end, all of the following measures shall be implemented for all wireless communication facilities, when determined necessary by the County Fire Marshall or Fire District Fire Chief:

- (a) At least one-hour fire resistant interior surfaces shall be used in the construction of all buildings;
- (b) Rapid entry (KNOX) systems shall be installed as required by the Fire Chief;
- (c) Type and location of vegetation, screening materials and other materials within 10 feet of the facility and all new structures, including telecommunication towers, shall be reviewed for fire safety purposes by the Fire Chief. Requirements established by the Fire Chief shall be followed;
- (d) All tree trimmings, debris, and refuse surrounding the facility shall be regularly removed from the site; and
- (e) For the protection of emergency response personnel, each wireless facility shall have an on-site emergency power shut-off (“kill switch”) to de-energize all facilities at the site in the event of an emergency.

(2) Noise. All wireless communication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. The following measures shall be implemented for all wireless communication facilities:

(a) Outdoor noise producing construction activities shall only take place on nonholiday weekdays between the hours of 8:00 a.m. and 6:00 p.m., unless allowed at other times by the Director; and

(b) Backup generators shall only be operated during power outages and for testing and maintenance purposes. Such generators shall comply with the noise thresholds of the General Plan Noise Element at the property line.

(I) Administration.

(1) The Director is responsible for administering the County's wireless regulations. As part of the administration of these regulations, the Director may:

(a) Interpret the provisions of SCCC 13.10.660 through 13.10.664 and any other wireless regulations adopted by the Board of Supervisors;

(b) Develop forms, procedures, administrative practice guidelines, and application requirements related to siting or modification of wireless facilities;

(c) Determine the amount of and collect, as a condition of accepting any application, the fees established by resolution of the Board of Supervisors or the County Code;

(d) 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;

(e) 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;

(f) Subject to appeal as provided in SCCC 18.10, determine whether to approve, approve subject to conditions, or deny an application; and

(g) Take such other steps as may be required to timely act upon applications for siting of wireless facilities, including issuing written decisions and entering into agreements with applicants to extend the time for action on an application.

(2) Appeal. Any person adversely affected by the decision of the Director pursuant to this Section may appeal the Director's decision in accordance with the provisions contained in SCCC 18.10, Article VI.

(J) Termination/Abandonment of Wireless Communication Facilities. The site shall be restored as nearly as possible to its natural or preconstruction state within six (6) months of

termination of use or abandonment of the site. Applicant shall enter into a site restoration agreement, subject to the approval of the Director.

13.10.661 Applications for wireless communication facilities.

(A) General Requirements. New wireless communication facilities shall comply with all applicable goals, objectives, and policies of the General Plan/Local Coastal Program, area plans, zoning regulations, and development standards; and all applications for wireless communication facilities shall be subject to review under SCCC 18.10, shall be subject to the California Environmental Quality Act, and shall not be accepted as submitted or reviewed until an application fee is received.

(1) Pre-application Meeting. Prior to application submission, an applicant is strongly encouraged, not required, to schedule a pre-application meeting with the Director to discuss the proposed facility, the requirements of the wireless regulations, and any potential impacts of the proposed facility. This meeting shall not be considered the first required step in submission of an application.

(2) Application Fee(s). The first required step in the application submission process is the payment and receipt of the application fee(s). The Board of Supervisors is authorized to determine, or cause to be determined, the amount, type, and other terms of such fee(s) from time to time by means of resolution. Notwithstanding the foregoing, no application fee shall be refundable, in whole or in part, to an applicant for a wireless permit unless paid as a refundable deposit.

(3) Submission. An applicant shall submit a paper copy, unless the County advises otherwise, and an electronic copy of any application, amendment or supplement to an application, or responses to requests for information regarding an application to the Director at the County Planning Department, 701 Ocean Street, Room 400, Santa Cruz, California, 95060.

(4) Content. An applicant shall submit an application on the forms approved by the Director, which may be updated from time-to-time, and which shall require, in addition to submittal requirements specified in SCCC 18.10, the submission of all required fees, documents, information, and any other materials necessary to allow the Director to make required findings and ensure that the proposed facility will comply with applicable local, state, and federal law and will not endanger the public health, safety, or welfare. The application shall include a completed checklist, on a form supplied by the County, representing that each item required for a complete application is included in the submission.

(5) Waivers. Requests for waivers from any requirement of the wireless regulations shall be made in writing to the Director. The Director may grant or deny a request for a waiver pursuant to this subsection. The Director may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of a waiver, the County will be provided all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the permit sought. All waivers approved pursuant to this

subsection shall be granted only on a case-by-case basis and narrowly tailored to minimize deviation from the requirements of the County Code.

(6) Rejection for Incompleteness. For all wireless communication facilities and eligible facilities requests, applications will be processed, and notices of incompleteness provided, in conformity with state, local, and federal law. If such an application is incomplete, the Director shall notify the applicant and specify the material omitted from or information needed to complete the application.

(B) Required Permits. All new wireless communication facilities, except as provided by SCCC 13.10.661(C), 13.10.662, and 13.10.663, shall be subject to a development permit. All projects located within the Coastal Zone shall require a coastal development permit, unless otherwise exempt or excluded. Additionally, a building permit will be required for construction of new wireless communication facilities.

(C) Ministerial Review.

(1) The following applications shall be processed ministerially:

(a) Collocated wireless communication facilities mounted on existing structures, not otherwise subject to 13.10.662; and

(b) Wireless communication facilities mounted on commercial, industrial, or public facilities within the PF, C-1, C-2, C-4, M-1, M-2, or M3 zone districts.

(2) Exceptions. The Director shall require discretionary review for applications when appropriate due to sensitive location within a designated or protected scenic area, historic site, sensitive habitat, coastal zone, or site visible from a scenic road or public beach, or, if in the opinion of the Director, the project merits discretionary review. Wireless communication facilities proposed in prohibited and/or restricted zone districts or areas shall not be eligible for ministerial review.

(3) Criteria. The required criteria for ministerial review shall be as follows:

(a) Criteria for collocated wireless communication facilities mounted on existing structures, not otherwise subject to 13.10.662 and located outside the Coastal Zone.

(i) For towers outside the public rights-of-way and for all base stations, the collocation qualifies as an eligible facilities request as defined in this Chapter; or

(ii) For all other collocations none of the conditions in 13.10.663(G)(3) through 13.10.663(G)(6) are found.

(iii) For collocations where the existing wireless communications facilities are not adequately camouflaged or concealed, the proposed and

existing facilities shall meet the standards in subsection (b)(i) below or, if unable, subsection (b)(ii).

(b) Criteria for wireless communication facilities mounted on commercial, industrial, or public facilities within the PF, C-1, C-2, C-4, M-1, M-2, or M3 zone districts and located outside the Coastal Zone.

(i) The wireless communication facility, including antennas, cables and cable trays, and equipment and equipment areas must be a completely concealed and integrated facility, meaning a wireless communication facility that is indistinguishable from the built and/or natural environment of the surrounding area; or

(ii) For wireless communication facilities that cannot be completely concealed and integrated with the existing building, all components of the facility shall be architecturally integrated with the existing building to the extent feasible, meaning the wireless communication facility is designed to blend into the surrounding environment or match a building's architectural features and be minimally visible.

(D) Discretionary Review.

(1) Required Findings. To grant a development permit for a wireless communication facility, excluding projects processed ministerially under SCCC 13.10.661(C), 13.10.662, or 13.10.663, the approving body must make the required development permit findings (SCCC 18.10) and, if applicable, the required coastal development permit findings (SCCC 13.20), as well as the following findings:

(a) Either:

(i) The development of the proposed wireless communications facility, as conditioned, will not significantly affect any designated visual resources, environmentally sensitive habitat (as defined in the Santa Cruz County General Plan/LCP Sections 5.1, 5.10, and 8.6.6), and/or other significant designated or protected County natural, cultural, or historic resources, including but not limited to agricultural and open space resources; or

(ii) There is no alternative to the proposed wireless communication facility, as conditioned, that is technically feasible and environmentally equivalent or superior to the proposed wireless communication facility including with less visual and/or other resource impacts and the proposed facility has been modified by condition and/or project design to minimize and mitigate its visual and other resource impacts.

(iii) For projects in the Coastal Zone, the approving body must make both findings.

(b) For sites located in one of the prohibited and/or restricted areas set forth in SCCC 13.10.660(C), and for facilities of a height more than the allowed height for facilities in each zone district per SCCC 13.10.660(G)(1), and for sites located in the Coastal Zone identified in SCCC 13.10.660(E)(3), that the applicant has provided documentation to enable the decision-making body to make the findings in SCCC 13.10.660(C)(4)(a) and (b) above.

(c) That the subject property upon which the wireless communication facility is to be located is free of violations or compliant with all rules and regulations pertaining to zoning uses, subdivisions, and any other applicable provisions of this Chapter, as determined by the County, and that all zoning violation abatement costs, if any, have been paid.

(d) That the proposed wireless communication facility, as conditioned, will not create a hazard for aircraft in flight.

(2) Conditions of Approval. Conditions of approval may be imposed by the Director to ensure compliance with the wireless regulations, and applicable local, state, and federal law.

(3) Alternatives Analysis. For applications with wireless communication facilities proposed in prohibited or otherwise restricted areas specified in SCCC 13.10.660(C)(4), or other areas identified in this Chapter that require compliance with SCCC 13.10.660(C)(4)(a and b), an alternatives analysis must be submitted by the applicant. The alternatives analysis should identify all technically feasible potential location sites which reasonably meet the service provider's coverage objectives, particularly building-mounted sites, within the project vicinity, provide analysis as to the feasibility of those alternatives and compare the level of visual impact with that of the proposed project. At a minimum, this analysis should identify the location of all existing wireless communication facilities within a quarter mile of the proposed site; provide an explanation of why collocation has not been proposed at each of these sites.

(4) Onsite Visual Demonstration. Unless waived by the Director, onsite visual demonstration structures (i.e., mock-ups) shall be required for all proposed wireless communication facilities in time, place, and manner as determined by the Director. Generally, onsite visual demonstrations are not required for collocated and small cell facilities that do not propose a significant visual impact.

(5) Additional Technical Review. The applicant will be notified if the County requires an independent technical review of any submitted technical materials. The applicant shall pay all the costs of said review and may be required to deposit funds in advance to cover the estimated costs.

(E) Records. A permittee must maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the wireless facility, which includes without limitation an approval, the approved plans and photo simulations incorporated into an approval, all conditions associated with an approval, and any ministerial permits or approvals issued in

connection with approval of an application. If the permittee does not maintain such records as required or fails to produce true and complete copies of such records within a reasonable time after a written request from the County, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.

(F) **Attorneys' Fees.** In the event the County 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 attorneys' fees, incurred by the County, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the County should otherwise agree with permittee to waive said fees or any part thereof.

13.10.662 Wireless communication facilities in public rights-of-way.

(A) **Purpose.** The purpose of this Section is to establish a process for managing, and providing uniform standards for acting upon, requests for the siting of wireless communication facilities within the public rights-of-way of Santa Cruz County consistent with the County's obligation to promote public health, safety, and welfare, to manage the public rights-of-way, and to ensure that the public is not inconvenienced by the use of the public rights-of-way for the siting of wireless facilities. The County recognizes the importance of wireless communication facilities to provide high-quality communications service to the residents and businesses within the County, and the County also recognizes its obligation to comply with applicable state and federal law regarding the placement of wireless communication facilities in its public rights-of-way. This Section shall be interpreted as consistent with those provisions.

(B) **Scope.**

(1) **General.** A wireless encroachment permit shall be subject to all the same requirements as an encroachment permit would under SCCC 9.70 in addition to all the requirements of this Section. Unless exempted, placement of a wireless communication facility in the public right-of-way or modification of an existing wireless facility in the public right-of-way requires a wireless encroachment permit authorizing the siting, design, or modification in accordance with this Chapter. Except for small cell facilities, facilities qualifying as eligible facilities requests, or any other type of facility expressly allowed in the public right-of-way by state or federal law, no other wireless facilities shall be permitted pursuant to this Section.

(2) **Exemptions.** This Section does not apply to:

(a) The siting or modification of facilities by the County or by any other agency of the State solely for public safety purposes.

(b) Installation of temporary cell service structures for a fixed period of time in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve significant excavation, movement, or removal of existing facilities.

(3) **Other Applicable Requirements.** In addition to the wireless encroachment permit required herein, the placement of a wireless facility in the right-of-way requires the persons

who will own or control those facilities to obtain all permits required by applicable law, including but not limited to, a coastal development permit, and to comply with applicable law, including, but not limited, applicable law governing RF emissions.

(4) Pre-existing Facilities in the Right-of-Way. Any wireless facility already existing in the right-of-way as of the date of this Section's adoption shall remain subject to the provisions of the County Code in effect prior to this Section, unless and until an extension of such facility's then-existing permit is granted, at which time the provisions of this Section shall apply in full force going forward as to such facility. The review of any request for a renewal of a permit for such pre-existing facilities shall be conducted pursuant to this Section, rather than the portion(s) of the County Code that it was previously reviewed under.

(5) Public Use. Except as otherwise provided by California law, any use of the public right-of-way authorized pursuant to this Section will be subordinate to the County's use and use by the public.

(C) General Standards for Wireless Facilities in the Public Right-of-Way.

(1) Generally. Wireless facilities in the right-of-way shall meet the minimum requirements set forth in this Section and all applicable requirements in the County's wireless regulations, in addition to the requirements of any other applicable state or federal law.

(2) Regulations. The wireless regulations outlined in this Section shall apply, unless it is determined that an applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this Section may be waived but only to the minimum extent required to avoid the prohibition or violation.

(3) Minimum Standards. Wireless facilities shall be installed and modified in a manner consistent with this Section; minimize risks to public safety; avoid placement of aboveground facilities in underground utility districts; maintain the integrity and character of the neighborhoods and corridors in which the facilities are located; ensure that installations are subject to periodic review to minimize the intrusion on the rights-of-way; ensure that the County bears no risk or liability as a result of the installations; and provide that such use does not inconvenience the public, interfere with the primary uses of the rights-of-way, or hinder the ability of the County or other government agencies to improve, modify, relocate, abandon, or vacate the public rights-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the rights-of-way.

(4) Objective Criteria. The required criteria for review of wireless communication facilities in public rights-of-way shall be as follows:

(a) Prohibited Locations.

- (i) County-owned traffic signal infrastructure in the public right-of-way.
 - (ii) Locations requiring the removal or significant modification of any existing public infrastructure or landscaping.
 - (iii) Locations directly in front of residences on either side of the street or within driveway and intersection sight lines.
 - (iv) Locations on strand or overhead lines.
 - (v) Locations within 300 feet of another small cell wireless facility and any associated equipment; provided, however, this restriction may be waived upon a demonstration that the refusal to allow an additional facility within a 300-foot radius will otherwise violate an applicable state or federal law.
 - (vi) Decorative poles.
- (b) Design (wood utility poles).
- (i) Small cell wireless facilities in the public right-of-way attached to existing or replacement utility poles shall not extend the existing pole to a height of more than 50 feet or by more than 10 percent, whichever is greater.
 - (ii) No more than one small cell wireless facility and associated equipment per pole.
 - (iii) Antennas may be either top-mounted or side-mounted and must match the pole profile. Side-mounted antennas shall not exceed the height of the pole with no visible cabling allowed. Top-mounted antennas must blend with the top of the pole, utilizing an antenna skirt to conceal cabling. Each antenna shall not exceed 3 cubic feet in volume, excluding mounting hardware and cabling.
 - (iv) Side-mounted antennas shall maintain a maximum 2-foot horizontal clearance from the centerline of the pole when affixed between supply and communication lines or below communication lines.
 - (v) Horizontal clearances from the centerline of the pole for wireless equipment affixed between supply lines or at the top of a climbable pole shall be minimized and arranged so the pole may be climbed safely.
 - (vi) Antennas shall be shrouded or otherwise concealed using stealth technologies or camouflage techniques.
 - (vii) All wireless equipment shall be placed in ground-mounted cabinets and/or cabinets flush-mounted on the pole and stacked vertically on one side

of the pole, and no pole mounted cabinet shall exceed 18 inches in height. Individual cabinets shall not exceed the width of the pole where mounted and shall not extend more than 12 inches from the pole. Wireless equipment and combined volume of all cabinets shall not exceed 28 cubic feet. Cabinets shall be mounted behind any existing road signs located on a pole and not block any road signs.

(viii) Cooling fans are prohibited, and all equipment cabinets must be passively cooled.

(ix) All wireless equipment shall be painted to match the color of the pole. No visible cabling is allowed.

(x) Minimum height clearance for equipment mounted to the outside of the pole shall be 7 feet above grade.

(xi) All unnecessary equipment manufacturers' logos or decals shall be removed or painted over.

(xii) Any required lighting on equipment shall be shielded from public view.

(xiii) All required radio-frequency warning signs and labels shall be posted in conspicuous locations.

(c) Design (metal streetlight poles).

(i) Small cell wireless facilities in the public right-of-way attached to existing or replacement street light poles shall not extend the existing pole to a height of more than 50 feet or by more than 10 percent, whichever is greater.

(ii) No more than one small cell wireless facility and associated equipment per pole.

(iii) Replacement streetlight poles shall match existing streetlights in the area in pole height, color, diameter, cobra arm height and design, luminaire design and intensity, and maintain a uniform appearance.

(iv) Antennas shall be top-mounted within an antenna shroud and blend with the top of the pole, utilizing an antenna skirt to conceal cabling and create a tapered transition. Each antenna shall not exceed 3 cubic feet in volume, excluding mounting hardware and cabling. All other wireless equipment shall not exceed 28 cubic feet in volume.

(v) All wireless equipment shall be placed in ground-mounted cabinets or housed inside the pole or mounted directly above the top of the light arm connection within the antenna shroud.

- (vi) Electrical supply lines must be undergrounded. No overhead lines are allowed.
 - (vii) Cooling fans are prohibited, and all equipment must be passively cooled.
 - (viii) All electrical infrastructure shall be separate from the County's streetlight infrastructure.
 - (ix) All unnecessary manufacturers' logos or decals on the pole shall be removed or painted over to match the pole color.
 - (x) All required radio-frequency warning signs and labels shall be posted in conspicuous locations.
 - (xi) All current attachments to a pole, such as signs, decorative vegetation, banners, pole number labels, etc., shall remain on the pole and continue to fulfill its intended purpose.
- (5) 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.
- (6) 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 infrastructure, structure, improvement, or property owned by the County shall be moved to accommodate a permitted activity or encroachment, unless the County determines that such movement will not adversely affect the County or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the County's structure, improvement, or property. Prior to commencement of any work pursuant to a wireless encroachment permit, the permittee shall provide the County with documentation establishing to the County'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 County utility easement to be affected by permittee's facilities.
- (7) Modifications. No changes shall be made to the approved plans without review and approval in accordance with this Section.
- (8) New Infrastructure. Except for ground-mounted equipment cabinets, any new infrastructure for wireless communication facilities in the right-of-way shall be considered a new wireless facility and must comply with the requirements set forth in Sections 660 and 661 of this Chapter. Any replacement infrastructure, unless replaced in kind pursuant to 13.10.662(C)(4), for the purpose in whole or in part to accommodate wireless communication facilities in the right-of-way shall be considered a new wireless facility for purposes of this Chapter.

(9) Public Art. Permittee shall participate in the Santa Cruz County Parks Department's Outside the Box art program (or its successor) to cover all related ground-mounted equipment cabinets in the public right-of-way with public art. This requirement may be waived by the Director where ground-mounted equipment is determined not to be visually intrusive.

(D) Applications for Wireless Facilities in the Public Right-of-Way. Wireless communication facilities in the right-of-way shall comply with all applicable goals, objectives, and policies of the General Plan/Local Coastal Program, area plans, zoning regulations, and development standards; and all applications shall be subject to the California Environmental Quality Act and shall not be accepted as submitted or reviewed until an application fee is received.

(1) Pre-application Meeting. Prior to application submission, an applicant is strongly encouraged, not required, to schedule a pre-application meeting with the Director of Public Works or their designee to discuss the proposed facility(ies), the requirements of this Section, and any potential impacts of the proposed facility(ies). This meeting shall not be considered the first required step in submission of an application.

(2) Application Fee(s). The first required step in the application submission process is the payment and receipt of the application fee(s). The Board of Supervisors is authorized to determine, or cause to be determined, the amount, type, and other terms of such fee(s) from time to time by means of resolution. Notwithstanding the foregoing, no application fee shall be refundable, in whole or in part, to an applicant for a wireless permit unless paid as a refundable deposit.

(3) Submission. An applicant shall submit a paper copy, unless the County advises otherwise, and an electronic copy of any application, amendment or supplement to an application, or responses to requests for information regarding an application to the Director of Public Works at 701 Ocean Street, Room 410, Santa Cruz, California, 95060.

(4) Content. An applicant shall submit an application on the forms approved by the Director of Public Works, which may be updated from time-to-time, and which shall require the submission of all required fees, documents, information, and any other materials necessary to allow the Director of Public Works or their designee to confirm the required objective findings and ensure that the proposed facility(ies) will comply with applicable local, state, and federal law and will not endanger the public health, safety, or welfare. The application shall include a completed checklist, on a form supplied by the County, representing that each item required for a complete application is included in the submission.

(5) Waivers. Requests for waivers from any requirement of the wireless regulations shall be made in writing to the Director of Public Works. The Director of Public Works may grant or deny a request for a waiver pursuant to this subsection. The Director of Public Works may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of a waiver, the County will be provided all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the permit sought. All waivers approved pursuant to this subsection shall be granted only on a case-by-case

basis and narrowly tailored to minimize deviation from the requirements of the County Code.

(6) Rejection for Incompleteness. For small cell wireless communication facilities and eligible facilities requests, applications will be processed, and notices of incompleteness provided, in conformity with state, local, and federal law. When an application is determined to be incomplete, the Director of Public Works or their designee shall notify the applicant and specify the material omitted from or information needed to complete the application.

(E) Administration. The Director of Public Works is responsible for administering the County's small cell wireless facility regulations in the right-of-way. As part of the administration of these regulations, the Director of Public Works may:

- (1) Interpret the provisions of this Section;
- (2) Develop forms, procedures, administrative practice guidelines, and application requirements related to siting or modification of wireless facilities;
- (3) Determine the amount of and collect, as a condition of accepting any application, the fees established by resolution of the Board of Supervisors or the County Code;
- (4) 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;
- (5) 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;
- (6) Require, as part of, and as a condition of completeness of any application, notice to members of the public that may be affected by the siting or modification of the wireless facility and proposed changes to any support structure;
- (7) Subject to appeal as provided in SCCC 18.10, determine whether to approve, approve subject to conditions, or deny an application; and
- (8) Take such other steps as may be required to timely act upon applications for siting of wireless facilities, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

(F) Permit Duration. A wireless encroachment permit shall be valid for a period of ten (10) years, unless pursuant to another provision of the County Code, 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 wireless encroachment permit must either: (1) remove the facility within thirty (30) days following the permit's expiration (provided that removal of a support structure owned by the County, 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 County); 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 facility cannot be reduced. The wireless facility must remain in place until it is acted upon by the County and all appeals from the County's decision exhausted.

(G) **Inspections; Emergencies.** The County or its designee may enter onto the facility area to inspect the facility upon forty-eight (48) hours prior notice to the permittee. The permittee shall cooperate with all inspections and may be present for any inspection of its facility by the County. The County 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 County shall make a good faith 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.

(H) **No Right, Title, or Interest.** The permission granted by a wireless encroachment permit shall not in any way 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 encroachment permit or the issuance of any other permit or exercise of any privilege given thereby. No possessory interest is created by a wireless encroachment permit. However, to the extent that a possessory interest is deemed created by a governmental entity with taxation authority, permittee acknowledges that County 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 wireless encroachment permit 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 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.

(I) **Agreement with County.** If not already completed, permittee shall enter into the appropriate agreement with the County, as determined by the County, prior to constructing, attaching, or operating a facility on County-owned infrastructure, buildings, or support structures. An encroachment permit is not a substitute for such agreement.

(J) **Installation without a Permit.** A wireless facility installed without a wireless encroachment permit (except for those exempted under this Section) must be removed; provided that removal of a support structure owned by the County, 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 County. All costs incurred by the County in connection with the revocation and removal shall be paid by persons or entities who own or control any part of the wireless facility.

13.10.663 Modifications to wireless communication facilities.

(A) **Eligible Facilities Requests.** This Section implements Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, as interpreted by the Federal Communications Commission, which requires the County to approve any eligible facilities request for a modification of transmission equipment of an existing tower or base station submitted with a written request for

approval under Section 6409(a) that does not result in a substantial change to the physical dimensions of such tower or base station.

(B) **Application.** Applicants shall comply with the requirements set forth in SCCC 13.10.661 unless the Director has waived specific requirements in writing prior to submission. Requests for information related to the proposed modification shall be limited to the information necessary for the County to consider whether an application is an eligible facility request. The application does not require the applicant to demonstrate a need or business case for the proposed modification. An application will not be accepted as submitted without payment of required fees.

(C) **Review.** Upon receipt of an application and payment of required application fees for an eligible facilities request pursuant to this Section, the Planning Department shall review such application to determine whether the application so qualifies.

(D) **Timeframe for Review.** Within sixty (60) days of the date on which an applicant submits an application seeking approval under this Section, the County shall approve the application unless it determines that the application is not an eligible facilities request and not otherwise covered by this Section.

(E) **Tolling of the Timeframe for Review.** The sixty (60)-day review period begins to run when the application is filed and may be tolled only by mutual agreement by the County and the applicant, or in cases where the County determines that the application is incomplete.

(1) To toll the timeframe for incompleteness, the County will provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application. The application is considered submitted when a valid payment for the application is received.

(2) The timeframe for review begins running again when the applicant makes a supplemental submission in response to the County's notice of incompleteness.

(3) Following a supplemental submission, the County will notify the applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this Section. Second or subsequent notices of incompleteness will not specify missing documents or information that were not delineated in the original notice of incompleteness.

(F) **Interaction with Telecommunications Act Section 332(c)(7).** If the County determines that the applicant's request is not covered by Section 6409(a) as delineated under this Section, the presumptively reasonable timeframe under Section 332(c)(7), will begin to run from the issuance of the County's decision that the application is not a covered request. To the extent such information is necessary, the County may request additional information from the applicant to evaluate the application under Section 332(c)(7), pursuant to the limitations applicable to other Section 332(c)(7) reviews.

(G) Substantial Change. An eligible facilities request for a modification, including collocation, replacement, or removal, of the transmission equipment of an existing tower or base station will result in a substantial change if any of the following are found:

- (1) Towers outside public rights-of-way:
 - (a) Cumulatively increases height by more than 20 feet or 10 percent, whichever is greater;
 - (b) Protrudes from edge of tower more than 20 feet or more than the width of the tower structure at the level of the appurtenance, whichever is greater;
- (2) Towers in public rights-of-way and for all base stations:
 - (a) Cumulatively, increases height of tower or base station by more than 10 percent or 10 feet, whichever is greater;
 - (b) Protrudes from the edge of the structure more than 6 feet;
- (3) Involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
- (4) Entails any excavation or deployment outside the current site of the tower or base station except that, for towers outside 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;
- (5) Would defeat existing concealment elements of the tower or base station; or
- (6) Does not comply with conditions associated with the prior approval of the tower or base station unless non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding “substantial change” thresholds.

(H) Failure to Act. In the event the County fails to approve or deny a request seeking approval under this Section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

13.10.664 Indemnification for wireless communication facilities.

No permit shall be issued pursuant to SCCC 13.10.660 through 13.10.663, inclusive, until the permittee has executed and filed with the County an indemnity agreement satisfactory to the Office of the County Counsel. The permittee shall be responsible for and indemnify the County from all claims, demands, expenses (including attorneys’ fees) or liability, including but not limited to, personal injury and property damage arising out of or related to the subject of, or work

contemplated by, the permit. If any claim of such liability is made against the County, its Board of Supervisors, officers, officials or employees, permittee shall defend, indemnify, and hold the County, its Board of Supervisors, officers, officials, and employees, harmless from such claim.

SECTION IX

The Board of Supervisors further finds and determines in its reasonable discretion on the basis of the entire record before it that the proposed amendments to SCCC 13.10 are consistent and compatible with and will not frustrate the objectives, policies, general land uses, and programs specified in the General Plan and Local Coastal Program.

SECTION XI

Should any section, clause, or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

SECTION XII

This ordinance shall take effect after the Executive Director of the California Coastal Commission reports to the Commission their determination that the County’s actions are legally adequate, and the Commission does not object to the Executive Director’s determination, and notice of the certification of the LCP amendment is filed with the Secretary of the Resources Agency.

PASSED AND ADOPTED this 3rd day of October 2023, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: Supervisors: Koenig, Cummings, Hernandez, McPherson and Friend
NOES: None
ABSENT: None
ABSTAIN: None

DocuSigned by:
Zach Friend
2C437165727F4FD... 10/18/2023

Zach Friend
CHAIR, BOARD OF SUPERVISORS

ATTEST: DocuSigned by:
Juliette Burke
466B074F3141450... 10/18/2023

Juliette Burke
Clerk of the Board

APPROVED AS TO FORM:

DocuSigned by:
Justin Graham
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Office of the County Counsel