



**Environmental
Planning
Commission**

**Agenda Number: 4
Project Number: 1001620
Case Number: 06EPC 01144
November 8, 2007**

Supplemental Staff Report

Agent City of Albuquerque Planning Department

Applicant City of Albuquerque City Council

Request Amending portions of Zoning Code §14-16-3-17, Wireless Telecommunications Regulations, and §14-16-1-5 (Definitions), §14-16-2-15 (O-1 zone), §14-16-2-16 (C-1 zone), §14-16-2-17 (C-2 zone), §14-16-2-19 (IP zone), and §14-16-2-22 (SU-1 zone).

Location City-Wide

Staff Recommendation

That a recommendation of APPROVAL of 07EPC 01144 be forwarded to the City Council based on the Findings beginning on Page 6 and the Conditions of approval beginning on Page 8.

Staff Planner

Catalina Lehner, AICP-Senior Planner

Summary of Analysis

This request is for a recommendation to City Council regarding proposed text amendments to Zoning Code §14-16-3-17, Wireless Telecommunications Regulations. The proposed text amendments intend to minimize the visual impacts of Wireless Telecommunications Facilities (WTFs) by requiring that all new WTFs (except collocations) use a design that conceals their antennas.

This request was deferred in June 2007 by the applicant and in August, September and October by the EPC. A floor substituted version (F/S O-06-40), quite different than the original bill, had been introduced at City Council in April 2007. Staff's analysis is based on F/S O-06-40. No new information has been received from City Council.

Staff found that a great deal of revision is needed to avoid internal inconsistencies and potential loopholes that would render the proposed regulations more permissive than the current regulations and would make implementation more difficult. Staff's proposed conditions were intended to achieve a "middle-of-the-road" compromise between neighborhood and industry concerns and remedy these deficiencies.

In August, the proposed text amendments were re-advertised and Staff conducted a workshop as requested. Additional input, mostly from the industry, was received. In September, Staff discovered an inaccuracy in the legal ad. The EPC deferred the request to the October special hearing to allow for re-advertisement, which has since occurred. The industry provided another letter of input. The City attorney's response to industry concerns, many of which are legal in nature, clarified the City's position. At the October special hearing, the EPC tasked Staff to make revisions to the proposed findings and conditions of approval and return to the November special hearing with the EPC's ideas incorporated.

City Departments and other interested agencies reviewed this application from 8/7/06 to 8/18/06 (O-06-40) and 5/7/07 to 5/18/07 (F/S O-06-40). Agency comments begin on Page 35 of the original Staff report (August 2007).

Originally scheduled for the June 21, 2007 EPC hearing*, this request (F/S O-06-40) was deferred by the applicant for 60 days and was considered at the August 16, 2007 EPC hearing. In August, the EPC voted to defer for 30 more days to obtain additional input. At its September 20, 2007 hearing, the EPC voted to defer to the October 11, 2007 special hearing to allow for re-advertisement. At its October 11, 2007 special hearing, the EPC voted to defer to the November 8, 2007 special hearing so that Staff could make revisions to incorporate the EPC's ideas and return to the special hearing with a cleaned up version of the proposed findings and conditions of approval.

*O-06-40 first entered the EPC process last fall and was scheduled for the September 21, 2006 hearing.

- ⇒ Please refer to p. 3 and 4 of the first supplemental Staff report (see attachment) for an explanation of the outcome of the August deferral and to p. 3 of the first supplemental Staff report (see attachment) for an explanation of the outcome of the September deferral.

I. INTRODUCTION

Request & Context

- ⇒ Please refer to p. 1 and 2 of the first supplemental Staff report dated September 20, 2007 and to the original Staff report dated August 16, 2007 (see attachments).

Background & History

- ⇒ Please refer to p. 1 and 2 of the original Staff report (see attachment).

Zoning, Land Use & Definitions

- ⇒ Please refer to p. 2 and 3 of the original Staff report (see attachment).

II. OVERVIEW

Intent & Purpose

- ⇒ Please refer to p. 3 of the original Staff report (see attachment).

WTFs: Concealed vs. Non-Concealed, Free-Standing

- ⇒ Please refer to p. 3 and 4 of the original Staff report (see attachment).

Application Review Process

- ⇒ Please refer to p. 4 and 5 of the original Staff report (see attachment).

III. ANALYSIS

Federal Law (in brief)-

For a discussion of applicable Federal law,

⇒ Please refer to p. 5-7 of the original Staff report, p. 2-3 of the first supplemental Staff report and to p. 2-3 of the second supplemental report.

⇒ Please refer to the City Attorney's September 13, 2007 letter for a clarification of the City's position (see attachments in the second supplemental Staff reports).

Applicable City Ordinances, Plans and Policies

As demonstrated in the original August 16, 2007 Staff report, the proposed text amendments further the intent of the City Charter and the Zoning Code. Applicable Comprehensive Plan Goals and policies are furthered, partially furthered and not furthered.

⇒ Staff analysis begins on p. 7 of the original report (see attachment).

IV. DISCUSSION AT THE EPC SPECIAL HEARING

⇒ For a summary of what was discussed at the August EPC hearing, please refer to p. 5 of the first supplemental Staff report (see attachment). This report also contains another explanation of the approval process, which has been often misunderstood.

⇒ At the September 20, 2007 EPC hearing, there was no discussion.

At its October 11, 2007 special hearing, the EPC discussed the following relevant topics: 1) preferential location of WTFs on City owned property, fees and a master lease agreement and 2) the appropriateness of certain zones for non-concealed, free-standing WTFs. Staff was given direction to revise the proposed findings and conditions of approval, based on the EPC's discussion, and return to the November 8, 2007 study session.

Location Preference and Fees: Regarding the preferential location of WTFs on City owned property, the EPC was concerned about the idea conceptually and practically. The City giving preference to itself could possibly be construed as a conflict of interest. Then there's the issue of how the preference would be implemented, if the idea goes forward. A master lease agreement, if desired by policy makers, would be needed between the City and the industry. The ideas that the application fee should be discounted (or waived) and that timelines should be established, when locating on City owned property, were discussed.

Staff has consulted with City legal regarding the location preference and the fees issues. Staff mentioned the idea of removing the language for location preference on City owned property; City legal representatives did not object. Without a preference for location on City owned property, a master lease agreement between the City as a land owner and a wireless industry entity as a lessee would not be needed. An incentive for industry to locate on City owned property would not be needed either, so the idea of possibly discounting lease fees for City owned property becomes moot. Besides, a possible master lease agreement is a separate issue that policy makers can consider if desired.

Staff points out that the fees in a master lease agreement differ from the application fees referred to F/S O-06-40, and removing the language for location preference brings the application fees issue back to “square one”. Staff believes that application fees should be the same regardless of who owns the property on which a WTF is proposed. That being said, the EPC discussed the application fees proposed in F/S O-06-40. Some felt these fees are quite high. These application fees, however, were proposed by industry as part of the re-write of O-06-40 and were previously agreed to. Staff believes they should remain as written.

Zoning and Land Use: The EPC also considered the idea of allowing free-standing, non-concealed WTFs (the arrays with antennas around the top) in certain zones, specifically the M-1 (light manufacturing), M-2 (heavy manufacturing) and IP (Industrial Park) zones. The general consensus was that a free-standing, non-concealed WTF would not create adverse impacts in these industrial locations. This proposed change would greatly affect the scope of where concealment would be required and would generally make the text amendments more permissive, though not more permissive than current regulation.

Conversely, an idea that would render the proposed text amendments more restrictive than current regulations, as a way of balancing the proposed “loosening” explained above, was also mentioned. Currently, only concealed WTFs are allowed in historic neighborhoods subject to a Historic Overlay Zone. The idea is to allow only architecturally integrated WTFs in historic districts. Note that current regulation already prohibits all WTFs in the H-1 Historic Old Town Zone.

Currently only a concealed WTF or a collocated WTF is allowed within 1/8 mile (660 ft.) of the edge of a view corridor, and only a concealed WTF is allowed within a quarter mile of City-owned Major Public Open space. The idea in these cases is to allow only architecturally integrated WTFs and collocated WTFs in view corridors and in City-owned Major Public Open Space. Staff suggests extending this protection to the Petroglyph National Monument.

V. CASE DEVELOPMENT UPDATE

Re-advertising & Workshop

- ⇒ Please refer to p. 3 and 4 of the first supplemental Staff report for details about readvertising and the workshop held in August (see attachment).

Additional Input

- ⇒ Please refer to the attachments in the original and supplemental Staff reports for neighborhood letters of input and industry letters of input (see attachments).

- ⇒ Please refer to the October supplemental Staff report for a letter of clarification from the City Attorney, which states that the City does not believe that proposed text amendments would result in an Ordinance that violates Federal law (see attachment).

VI. OUTSTANDING ISSUES

- ⇒ Please refer to the October supplemental Staff report for a discussion of the following issues: concealment, height, setbacks and preferred location (see attachment).

VII. A PROPOSED COMPROMISE

Previous

Staff found that F/S O-06-40 is unbalanced, much like a “one legged stool.” It was Staff’s intention to create balance by adding the neighborhood component and the planning/zoning component to the proposed legislation and to develop a compromise position that takes all parties into account.

The compromise consisted of the following: require concealment of all new WTFs *except* for collocations on existing non-concealed facilities such as existing towers and public utility structures, and do not conceal already existing non-concealed towers (no retrofit provision). Though neither side may be completely satisfied, Staff’s “middle of the road” position offers a logical compromise that will result in concealment of most new WTFs while allowing the industry flexibility to continue non-concealed collocations and a variety of concealed monopole designs. The free-standing pine trees, light poles and flag poles would all continue to be allowed. The only free-standing designs that would no longer be permitted are non-concealed, free-standing towers (with rings of exposed antennas) and the much taller, old style lattice towers.

Updated

However, a new version of the proposed compromise has been recently developed based on discussion at the EPC special hearing in October. This compromise would continue to allow free-standing, non-concealed WTFs in the following zones: M-1, M-2 and IP, but would possibly not allow WTFs in historic districts. Current regulation allows only concealed WTFs in historic districts and prohibits WTFs in the H-1 zone.

VIII. CONCLUSION

This request is for a recommendation to City Council regarding F/S O-06-40, proposed text amendments to Zoning Code §14-16-3-17, the Wireless Telecommunications Regulations. The purpose of the text amendments is to minimize the visual impacts of WTFs by requiring that certain new WTFs use a concealed (stealth) design to hide their antennas.

The City’s current and proposed wireless regulations comply with Federal law. They do not prohibit or have the effect of prohibiting provision of telecommunications service [Section 253(a) Section

704(a)(7)(B)(i)(II)] and do not ban wireless facilities. Many opportunities for concealed designs and collocations (both concealed and non-concealed) would continue to be available. Nor do the regulations discriminate between different wireless providers.

Local regulation of WTFs is permitted under Federal law. Municipalities are allowed to retain authority “over decisions regarding the placement, construction and modification of personal wireless service facilities” [Section 704(a)(7)(A)].

The proposed conditions of approval are intended to add balance to the proposed legislation by incorporating neighborhood concerns and planning/zoning practice, which is critical since the proposed legislation was written largely by industry representatives.

Staff recommends that a recommendation of approval, with conditions, be forwarded to City Council.

FINDINGS- 06EPC 01144, November 8, 2007-Text Amendments Zoning Code §14-16-3-17, Wireless Telecommunication Regulations

1. This request is for a recommendation to the City Council regarding F/S O-06-40, which the City Council introduced in April 2007. F/S O-06-40 contains proposed text amendments to Zoning Code §14-16-3-17, Wireless Telecommunications Regulations, which have been in effect since 1999.

2. The purpose of the proposed text amendments is to—minimize the visual impacts of wireless telecommunications facilities (WTFs) by requiring that certain new WTFs use a concealed (stealth) design to hide their antennas.

3. The proposed text amendments do not conflict with Section 253 or Section 704 of the Federal Telecommunications Act of 1996. Requiring concealment of new WTFs would not have the effect of prohibiting service provision; concealed designs and non-concealed collocations would continue to be allowed [253(a)]. The text amendments would not create an advantage for one wireless provider over another; local regulation would remain competitively neutral [253(b)]. The text amendments, which do not discriminate between wireless providers, also address timeliness for application review and substantiation of decisions in writing [704].

4. Achievement of the City Charter:

Adding provisions to the ROA 1994 to require that wireless telecommunication facilities (WTFs) use concealed (stealth) technology is an exercise in local government (City Charter, Article 1) which is allowable under Federal law. Requiring certain future WTFs to be concealed expresses the Council's desire to protect and preserve natural endowments, ensure the proper use and development of land, and promote and maintain an aesthetic urban environment (City Charter, Article IX).

5. The proposed text amendments *further* the following Comprehensive Plan Goal and policies with respect to the Developed Landscape:

A. Goal— Requiring concealment of new free-standing arrays in all zones except for the M-1, M-2 and IP zones will generally improve the quality of the natural and developed landscape. Concealed antennas blend in and are not readily visible the way non-concealed antennas are.

B. Policy II.C.8a — Features unique to Albuquerque, such as the volcanic escarpment and other amenities, will be protected in most cases from the adverse visual effects of non-concealed free-standing wireless telecommunications facilities (WTFs).

- C. Policy II.C.8b— Wireless telecommunications facilities (WTFs) provide a public function. The proposed text amendments will require that most WTFs do not detract from the overall visual attractiveness of the City, and may even contribute to beautification.
- D. Policy II.C.8e— New wireless telecommunications facilities (WTFs), except for collocations, will be concealed in all zones except for the M-1, M-2 and IP zones. Concealment will require that the WTFs' materials and designs be in harmony with the landscape and their surroundings.
6. The proposed text amendments *partially further* the following Comprehensive Plan Goals:
- A. Community Identity and Urban Design— Requiring concealment of most Wireless telecommunications facilities (WTFs) will generally preserve the natural and built environments, though non-concealed, free-standing WTFs could potentially impact the natural and built environments in some cases.
- B. Economic Development— The proposed text amendments will not impede wireless service provision; they will simply require the use of designs that conceal the antennas (except collocations and M-1, M-2 and IP zones). The cost of balancing economic concerns with social and environmental goals will be quite low since the costs will be distributed among many users.
- C. Historic Resources—The current regulations require that all WTFs in historic districts are concealed within existing buildings or structures, except for in the H-1 zone in which all WTFs are prohibited.
7. The general intent of the Zoning Code is *furthered*. Adding provisions to the Revised Code of Ordinances of Albuquerque 1994 (ROA 1994) to ensure concealment of certain new wireless telecommunications facilities (WTFs) will help achieve the intent of the City Charter, and generally furthers applicable Goals and policies of the Comprehensive Plan. However, as zoning authority for the City of Albuquerque, the City Council will make the final determination as required.
8. The proposed text amendments will necessitate corresponding revisions to the following Sections of the Zoning Code: §14-16-1-5 (Definitions), §14-16-2-15 (O-1 zone), §14-16-2-16 (C-1 zone), §14-16-2-17 (C-2 zone) §14-16-2-20 (M-1 zone) and §14-16-2-22 (SU-1 zone).
9. There is neighborhood concern regarding F/S O-06-40.

RECOMMENDATION- 06EPC 01144, November 8, 2007

That a recommendation of APPROVAL of 06EPC 01144, Text Amendments to Zoning Code §14-16-3-17, Wireless Telecommunication Regulations, to require that certain proposed wireless telecommunication facilities (WTFs) in the City of Albuquerque use concealed technology, be forwarded to the City Council based on the preceding Findings and subject to the following Conditions of approval.

CONDITIONS OF APPROVAL-06EPC 01144, November 8, 2007-Text Amendments to Zoning Code §14-16-3-17, Wireless Telecommunication Regulations

1. Zoning Code Designations:

The following language found in Zoning Code 14-16-2-15, 14-16-2-16, 14-16-2-17 and 14-16-2-22 shall be modified as follows to create internal consistency:

“Wireless Telecommunications Facility, provided that the requirements of §14-16-3-17 of this Zoning Code are met, and as specifically allowed below:

- (a) A free-standing wireless telecommunications facility, up to 65 feet in height [+, only if it meets the definition of a concealed wireless telecommunications facility.+]
- (b) A collocated free-standing wireless telecommunications facility, up to 75 feet in height.
- (c) A face-mounted wireless telecommunications facility.
- (d) A roof-mounted free-standing wireless telecommunications facility, up to 20 feet above the parapet of the building on which it is placed.
- (e) A Community Identity Feature [~~if it is approved by the Planning Commission pursuant to §14-16-3-17 of this Zoning Code.~~]
- (f) A wireless telecommunications facility, the antennas of which are all mounted on an existing vertical structure.

2. Zoning Code Designations:

The following language shall be added to Zoning Code §14-16-2-20 (M-1 zone) to create internal consistency:

“Wireless Telecommunications Facility, provided that the requirements of §14-16-3-17 of this Zoning Code are met, and as specifically allowed below:

- (a) A free-standing wireless telecommunications facility, up to 65 feet in height.
- (b) A collocated free-standing wireless telecommunications facility, up to 75 feet in height.
- (c) A face-mounted wireless telecommunications facility.

(d) A roof-mounted free-standing wireless telecommunications facility, up to 20 feet above the parapet of the building on which it is placed.

(e) A Community Identity Feature.

(f) A wireless telecommunications facility, the antennas of which are all mounted on an existing vertical structure.

3. The following additional Zoning Code sections to be amended shall be listed:

[+, AND AMENDING THE FOLLOWING ASSOCIATED SECTIONS 14-16-1-5, 14-16-2-15, 14-16-2-16, 14-16-2-17, 14-16-2-20 and 14-16-2-22, ROA 1994+]

4. The following definition in Zoning Code §14-16-1-5, Definitions, shall be modified as follows:

Community Identity Feature. A wireless telecommunications facility [~~which is readily visible, but~~] which positively contributes aesthetically to the neighborhood or community in which it is placed [~~as determined by the Planning Commission~~].

5. The following new definitions shall be added to Zoning Code §14-16-1-5, Definitions:

A. [+Wireless Telecommunications Facility on Wheels. Commonly referred to as a Cellular on Wheels or a COW, this portable, vehicle-mounted wireless telecommunications site is self-contained and can be moved and set up on a temporary or emergency basis.+]

B. [+Wireless Telecommunication Equipment Leasable Area: The area, which is typically enclosed with a block wall or fence, that a wireless provider leases and contains space for the telecommunications equipment building or cabinet.+]

C. [+Switching Station, Data: A type of facility with equipment that switches, changes, or regulates how energy and/or data is routed. A data switching station does not transmit data directly for wireless communication.+]

6. The following new proposed Section 1 shall be added (Page 1, Line 11):

(A)Basic Requirements. The following regulations shall apply to certain proposed wireless telecommunications facilities, unless otherwise stated.

[+(1) Concealment:

Wireless telecommunications facilities (WTFs) shall be concealed and be consistent with the definition of a Concealed Wireless Telecommunications Facility pursuant to Zoning Code §14-

16-1-5, except for collocations. Free-standing, non-concealed WTFs are permitted only in the M-1, M-2 and IP zones.

7. The language on Page 7, Lines 24-33 and Page 8, Lines 1-7 shall be modified as follows:

(12) Concealed [~~Stealth Technology~~] Wireless Telecommunications Facility:

[+(a) All proposed Wireless telecommunications facilities [+and+] excluding collocations of antennas on [~~preexisting~~] [+existing+] towers [+and WTFs in the M-1, M-2 and IP zones+] [+and+] [~~that are permissive uses~~] shall use concealed [~~stealth~~] technology. [~~An applicant for a wireless telecommunications facility may seek a variance to make the facility the least visually intrusive when the applicant is able to demonstrate that the stealth~~] [+Consistent with Federal statute, the+] requirement [+for concealment+] [~~has~~] [+shall not have+] the effect of prohibiting the provision of wireless services.+]

8. The language on Page 7, Lines 30-33 and Page 8, Lines 1-18 shall be modified as follows:

[-(a)-] [(b) [~~In order for~~] [+A+] wireless telecommunications [+facility+] [~~facilities to create~~] [+shall be+] the least visually and physically intrusive [~~facility reasonably~~] [+as+] possible [~~given the facts and circumstances involved~~] and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the wireless telecommunications facility.+]

9. The following shall be made a new subsection (c), with the following language modifications:

[+(c)+] A concealed [~~stealth technology~~] wireless telecommunications facility shall [~~be~~]:

1. [~~Be~~] architecturally integrated with existing buildings, structures, [~~and~~] [~~or~~] landscaping, [~~including~~] [~~to blend in with the nature and character of the +built and natural+ environment and take into consideration+~~] height, color, style, massing, placement, design, and shape.
2. [~~Be~~] located to avoid a dominant silhouette of a wireless telecommunications facility on escarpments and mesas, and to preserve view corridors.
3. [~~Be~~] located on existing vertical infrastructure, such as utility poles and public utility structures, including transmission and sub-transmission line structures, if possible.
4. [~~Be~~] located in areas where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.
5. [~~Be located to minimize adverse effects they have on residential property values.~~]

[6-][+5.+] not be a readily visible wireless telecommunications facility.

[7.] [+6.+] [Be] subject to the landscaping and screening requirements of [~~§14-1-6-17 (A)(14)~~]
[+§14-1-6-17+] [if required].

10. The language on Page 2, Lines 24-29 shall be modified as follows:

(5) Collocation [~~+~~New Site Construction]: No new free-standing wireless telecommunications facility shall be permitted unless the Planning Director or his/her designee determines, upon the applicant's demonstration, that no existing tower, structure or public utility structure can be used in lieu of new construction to accommodate the applicant's proposed telecommunications facility.

11. The language on Page 2, Lines 29-33 shall be modified as follows:

Evidence submitted to the city which demonstrates that no existing tower, structure, or public utility structure [can be used in lieu of new construction to] [~~within a 1/4 mile radius of the proposed facility can~~] reasonably accommodate the applicant's proposed telecommunications facility shall consist of the following:

(a) That no existing tower, structure, or public utility structure is located within [~~the~~][+a+] [~~1/4~~][+1/2+] mile radius which meets the applicant's engineering requirements. [An affidavit a notarized statement explaining what the engineering requirements are and why shall be included].

(b) That no existing tower, structure, or public utility structure is located within the [~~1/4~~][+1/2+] mile radius which has sufficient structural strength or space available to support the applicant's proposed telecommunications facility and related equipment.

(c) That the applicant's proposed telecommunications facility would cause unavoidable electromagnetic interference with the antenna(s) on the existing towers, structures or public utility structures, or the antenna(s) on the existing towers, structures or public utility structures would cause interference with the applicant's proposed telecommunications facility;

(d) That there are other limiting factors that render existing towers, structures, or public utility structures within the [~~1/4~~][+1/2+] mile radius unsuitable: [~~and~~][+or+]

(e) That the owners of existing towers, structures, or public utility structures within the [~~1/4~~][+1/2+] mile radius will not allow the applicant to place its telecommunications facility thereon, or such owners are requiring payments thereof that substantially exceed commercially reasonable rates.

12. The language on Page 5, Lines 10-13 shall be modified as follows:

~~[+(9) Collocation. Placing additional [+wireless telecommunication+] antennas on [preexisting] [+existing+] [+non-concealed+] [+wireless telecommunication+] towers and [+existing+] [stealth vertical structures] [+concealed wireless telecommunication facilities+] shall be [permissive uses] [+allowed and encouraged+]. Such collocation shall be done in the least visibly intrusive manner, [blending] [+to blend+] in with the existing structure [+and its surroundings+].~~

13. The following language regarding Horizontal Separation Distance (Page 9, Lines 20-23) shall be reinstated:

(15) Horizontal Separation of Free-Standing Wireless Telecommunications Facilities: Free-standing wireless telecommunications facilities shall be separated by at least 1,000 feet, as measured from the wall or fence of each free-standing wireless telecommunications facility.

14. The language regarding WTF Siting Preferences on Page 3, Lines 21-32 and Page 4, Lines 1-10 shall be deleted.

~~[+(6) Preferred location. [New or collocated] +Wireless telecommunications facilities shall be located, sited and erected in accordance with the following priorities, but consistent with coverage, capacity, and system engineering requirements. If the proposed site is not the highest priority, a detailed [+written+] explanation [must] [+shall+] be provided as to why a [site of a] higher priority [+site+] was not selected [+],+ including why it is [commercially or otherwise] impracticable. The inability to meet [required] coverage, capacity, and system engineering requirements may allow a lower priority location to be used. Priorities are listed in order of most preferred first:~~

- ~~(a) Collocation on existing [+wireless telecommunication+] facilities on City owned property;~~
- ~~(b) Collocation on existing [+wireless telecommunication+] facilities not owned by the City;~~
- ~~(c) [New] [+concealed+] facilities on existing structures on City owned property;~~
- ~~(d) [New] [+concealed+] facilities on existing structures not owned by the City;~~
- ~~(e) [New] [+concealed+] facilities on new structures on City owned properties; or~~
- ~~(f) [New] [+concealed+] facilities on new structures on property not owned by the City.~~

~~In all circumstances, the application for location or collocation shall comply with the requirements of Section 14-16-3-17(A)(12)[+(13) regarding concealment+].~~

15. The language regarding View Corridors & Historic Zones on Page 4, Lines 18-30 shall be reinstated and modified as follows:

(8) View corridors: Only [~~a concealed~~] [+an architecturally integrated+] wireless telecommunications facility or a wireless telecommunications facility, the antennas of which all are located on existing vertical structures, is allowed within 1/8 mile from the outer edge of the right-of-way of any flood control arroyo designated by the City or the Albuquerque Metropolitan Arroyo Flood Control Authority and identified as part of an existing or future trail system by the city, or the following streets: Alameda Boulevard, Griegos Road, Coors Boulevard, Central Avenue, Unser Boulevard, Sunport Boulevard, Paseo del Norte, Rio Grande Boulevard, Tramway Boulevard, Interstate 25 and Interstate 40. All other wireless telecommunications facilities are prohibited within 1/8 mile of the outer edges of the right-of-way.

<make separate section>.

Only [~~a concealed~~] [+an architecturally integrated+] wireless telecommunications facility [+or a wireless telecommunications facility, the antennas of which all are located on existing vertical structures+] is allowed within 1/4 mile from the property line of any City-owned Major Public Open Space [+and the Petroglyph National Monument+].

16. The language regarding Historic Overlay Zones on Page 4, Lines 31-33 and Page 5, Lines 1-9 shall be reinstated and modified as follows:

(a) Only a concealed wireless telecommunications facility [+that is architecturally integrated+] is allowed within neighborhoods which are included in an Historic Overlay Zone, including, but not limited to: 8th & Forester, Huning Highlands, 4th Ward, and Old Town (except within H-1 zone, in which all wireless telecommunications facilities are prohibited).

(b) Only a concealed wireless telecommunications facility [+that is architecturally integrated+] is allowed within neighborhoods listed on the State Register of Cultural Properties or the Federal Register of Historic Places, as defined by their Neighborhood Association Boundaries, pursuant to the requirements of Ordinance 14-1987, including, but not limited to: College View, Silver Hill, and Spruce Park.

17. The language regarding walls/screening and landscaping on Page 2, Lines 11-13 shall be modified as follows:

(3) [~~Telecommunications Equipment Building or Cabinet~~] [+Wireless Telecommunication Equipment Leasable Area+] shall:

(a) Not contain more than four-hundred square feet of gross floor area per user and shall not be more than [~~twelve~~] [+eight+] [+nine+] feet in height.

18. The language on Page 8, Lines 21-22 shall be modified as follows:

A concealed wireless telecommunications facility shall be:

~~[-7.-][+6.+] [-Not-] [Be]~~ subject to the landscaping and screening requirements of ~~[§14-1-6-17(A) (14)]~~ [+§14-16-3-17(A) (15)+][+if required+].

19. The language on Page 9, Lines 15-19 shall be modified as follows:

(b) A free-standing wireless telecommunications facility shall be surrounded by a ~~[six-foot-high]~~ [+landscaping,+][+solid+] fence or wall [+, at least six feet high and not more than eight nine feet high, and landscaping+] [+to properly screen ground equipment facilities from public view.+] ~~[which shall be solid if facing or abutting a residentially zoned lot.]~~ Chain link with slats shall not constitute a solid fence [+or wall+].

20. The language regarding abandonment on Page 2, Lines 22-23 shall be modified as follows:

Abandonment: All wireless telecommunications facilities which are not in use for ~~[-six-]~~ [+three+] consecutive months shall be removed by the wireless telecommunications facility owner. This removal shall take place within three months of the end of such ~~[-six-]~~ [+three+] month period.

<Make separate section>

Upon removal, the site shall be revegetated to blend with the existing surrounding vegetation. [+If there is no vegetation on a WTF site, the site shall be returned to its preconstruction condition.+] [+The facility owner shall notify the City when removal of the facility occurs+].

21. The language regarding neighborhood notification on Page 6, Lines 21-33 shall be modified as follows:

A. (f) ~~[+In the case of an application for a new wireless telecommunication facility, excluding collocation of antennas that are permissive uses+]~~ Evidence that recognized neighborhood ~~[organizations]~~ associations, as defined in the Neighborhood Recognition Ordinance, have been notified in writing ~~[+,+]~~ ~~[; except that the distance from the wireless telecommunications facility of neighborhood associations entitled to notice shall be increased to a 1/4 mile radius from the wireless telecommunications facility.]~~ [+The applicant shall provide mailed notice of a proposed WTF to adjacent property owners that would be entitled to notice of a zone map amendment and to recognized neighborhood organizations within a 1/4 mile radius.+]

B. The following language shall become a separate subsection, and be modified as follows:

[+(g)+][+When requested by interested neighborhood [organizations] associations representatives, the wireless telecommunication facility owner or agent shall meet with [those] association representatives to provide a selection of alternative concealed facility designs deemed both technically feasible and aesthetically non-intrusive, seeking to reach a mutual agreement concerning the most acceptable design.+ [prior to construction]

22. The language on Page 8, Lines 25-27 shall be modified as follows:

A. ~~[(b)-]~~[(c)+] [+The applicant+] [Applicant] shall provide mailed notice of a proposed ~~[concealed]~~ wireless telecommunications facility to ~~[the adjacent]~~ property ~~[owner]~~ [+owners that would be entitled to notice of a zone map amendment +] and to [+recognized+] neighborhood associations [organizations +within a ¼ mile radius +] ~~[that would be entitled to notice of a zone map amendment on the property on which the concealed wireless telecommunications facility is proposed to be located]~~, and shall present written documentation verifying such mailed notice to the Planning Director or his/her designee.

B. The following language shall become a separate subsection, and be modified as follows:

[(d)+] The Planning Director or his/her designee shall decide whether the facility is "concealed." The Planning Director's decision shall be subject to review pursuant to the appeal provisions of the Zoning Code.

23. The language regarding fees on Page 11, Lines 1-8 shall be modified as follows:

[(D) Fees. The Mayor shall set a fee of three thousand dollars (\$3,000) per application for a [new] [+proposed+] [+wireless telecommunication+] facility to cover reasonable administrative expenses based on approximate City costs [in order to cover the cost of reviewing applications, holding public meetings and hearings and other expenses] incidental to the processing [and approval] of applications for siting [of] wireless telecommunications [regulations] [+facilities+]. The fee for an application for a collocation shall be two thousand dollars (\$2,000). Such fees may be increased every two years based on [the CPI] [+Consumer Price Index (CPI)+] increases.+]

24. The language regarding administrative review on Page 11, Lines 9-16 shall be modified as follows:

[(E) Review Time. The administrative review time shall not exceed sixty (60) days for a complete application. If a notice of deficiency is sent to the applicant, the application is not complete until such deficiency is corrected [+to the satisfaction of the Director's designee+]. If a complete application is not acted upon in the sixty [(60)] day period [+], the applicant may choose to refer request referral of the application+] [it shall be referred] to the Environmental Planning Commission [+EPC+] for immediate action at its next [regularly scheduled] [+available+] [meeting] [+hearing+].]

<Make separate section>

If the deficiencies are not corrected within sixty (60) days of notice of the deficiencies [+,+] the application shall be deemed withdrawn and no further action will be taken+] ~~[on it]~~ [+except for adding a note to the file.+]

25. The language regarding application requirements on Page 5-6, Lines 26-33 and Lines 1-9 shall be modified as follows:

(c) ~~[-Collocation-]~~ Evidence [+that demonstrates collocation possibilities+] as described in § 14-16-3-17(A)(5).

(d) A set of site development plans which, in addition to other requirements in this Zoning Code:
1. Includes a scaled site development plan clearly indicating the location, type, color and height of any proposed wireless telecommunications facility, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other jurisdictions), Comprehensive Plan classification of the site, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of any wireless telecommunications facility, topography, parking and other information deemed necessary by the Planning Department to assess compliance with this section;

2. Describes the facility's capacity, including a notarized statement from the applicant which declares the number and type(s) of antenna(s) that it can accommodate, or an explanation why the facility cannot be designed to accommodate other users;

[+3. A notarized statement An affidavit explaining what the engineering requirements are and why shall be included+].

26. The language regarding inventory of sites on Page 5, Lines 18-22 shall be modified as follows:

(10) Application Requirements: In addition to information already required by the Comprehensive City Zoning Code, each applicant for a wireless telecommunications facility shall provide the Planning Department with:

(a) ~~[The first application for a permit by a]~~ [+Each+] wireless telecommunications provider [+and/or owner+] [+,+] after [+not later than+] June 1 [+1999] [+2008, +] shall include an inventory [+set of data+] of all of the said provider's [+and/or owner's+] existing wireless telecommunications facilities ~~[or]~~ [+and+] approved sites for facilities that are either within the City or within one thousand feet of the border thereof.

27. The following corrections shall be made to Page 1, Lines 13-14 and Page 1, Line 20, respectively:

A. (1) Setbacks: (a) A free-standing wireless telecommunications facility shall be set back a minimum of 85 feet from the property line of a [~~residentially zoned property~~] [+residential zone+].

B. (c) A free-standing wireless telecommunications facility shall be set back a minimum of 50 feet from the [~~existing~~] right of way.

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