

ORDINANCE NO. 19-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MAYWOOD REGULATING WIRELESS TELECOMMUNICATIONS FACILITIES CITY-WIDE, AMENDING SECTION 7-1.02 OF CHAPTER 1 (EXCAVATIONS AND REPAIRS) OF TITLE 7 (PUBLIC WORKS) TO THE MAYWOOD MUNICIPAL CODE, AND ADDING CHAPTER 3 (WIRELESS TELECOMMUNICATIONS FACILITIES) TO TITLE 7 (PUBLIC WORKS) OF THE MAYWOOD MUNICIPAL CODE, AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE CITY COUNCIL OF THE CITY OF MAYWOOD ORDAINS AS FOLLOWS:

SECTION 1. Findings:

(a) On September 26, 2018, the Federal Communications Commission (“FCC”) adopted its Declaratory Ruling and Third Report and Order (“Report and Order”) relating to placement of small wireless facilities in public rights-of-way. The Report and Order went into effect on January 14, 2019.

(b) The Report and Order purports to give providers of wireless services rights to utilize public rights-of-way and to attach so-called “small wireless facilities” to public infrastructure including infrastructure of the City of Maywood, subject to payment of “presumed reasonable”, non-recurring and recurring fees. The ability of local agencies to regulate use of their rights-of-way is substantially limited under the Report and Order.

(c) Notwithstanding the limitations imposed on local regulation of small wireless facilities in public rights-of-way by the Report and Order, local agencies retain the ability to regulate the aesthetics of small wireless facilities, including location, compatibility with surrounding facilities, spacing, and overall size of the facility, provided the aesthetic requirements are: (i) “reasonable”, i.e., “technically feasible and reasonably directed to avoiding or remedying the intangible public harm or unsightly or out-of-character deployments”; (ii) “objective”, i.e., they “incorporate clearly-defined and ascertainable standards, applied in a principled manner”; are (iii) published in advance. Regulations that do not satisfy the foregoing requirements are likely to be subject to invalidation, as are any other regulations that “materially inhibit wireless service” (e.g., overly restrictive spacing requirements).

(d) Local agencies also retain the ability to regulate small wireless facilities in the public rights-of-way in order to more fully protect the public health and safety, ensure continued quality of telecommunications services, and safeguard the rights of consumers.

(e) It is the intent of the City Council in adopting this Ordinance to supersede regulations of the City that conflict with the Report and Order, and to establish consistent regulations governing deployment of small wireless facilities in order to more fully protect the public health, safety, and welfare. The City Council declares that it adopts this Ordinance with the understanding that the City expressly reserves all rights to re-enact

and/or establish new regulations consistent with State and federal law as it existed prior to adoption of the Report and Order in the event the Report and Order is invalidated, modified, or limited in any way.

SECTION 2. The City Council hereby amends Section 7-1.02 of Chapter 1 (Excavations and Repairs) of Title 7 (Public Works) of the Maywood Municipal Code to read as follows (additions are highlighted and deletions are marked by ~~strike-outs~~):

"7-1.02 - Permits: Applications: Form.

(a) Except as otherwise provided in Chapter 3 of this Title, street Street excavation permits shall be issued by the Street Superintendent upon a written application therefor and upon the applicant making the deposit or filing the bond required by the provisions of this chapter. Every such application shall contain the following information:

- ~~(a)~~(1) The location of the proposed excavation;
- ~~(b)~~(2) The width, length, and depth of the proposed excavation;
- ~~(c)~~(3) The purpose for which the excavation is to be made;
- ~~(d)~~(4) The probable length of time the excavation will remain open;
- ~~(e)~~(5) The date of the application; and
- ~~(f)~~(6) The signature and address of the applicant.

(b) Installation of wireless telecommunications facilities shall require approval of a permit issued in accordance with Chapter 3 of this Title.

SECTION 3. The City Council hereby amends Title 7 (Public Works) of the Maywood Municipal Code by adding a new Chapter 3 (Wireless Telecommunications Facilities) to read as follows:

"Chapter 3 - WIRELESS TELECOMMUNICATION FACILITIES

7-3.01 -- Purpose and Intent.

The City Council of the City of Maywood expressly finds that the installation of wireless telecommunications facilities within City, including but not limited to, in City rights-of-way and on City infrastructure, requires City regulation, consistent with state and federal law as it currently exists, in order to more fully protect the public health and safety, preserve and protect the City's aesthetic interests, protect City infrastructure and other public facilities, and to provide for the orderly deployment of wireless telecommunications facilities in order to ensure the continued quality of telecommunications services to the public.

The City Council further finds that regulations established herein are not intended to, nor shall they be interpreted or applied to:

- (a) Prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services;
- (b) Prohibit or effectively prohibit any personal wireless service provider's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulations;
- (c) Unreasonably discriminate among providers of functionally equivalent services;
- (d) Deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions;
- (e) Prohibit any collocation or modification that the City may not deny under federal or state law;
- (f) Impose any unfair, unreasonable, discriminatory or arbitrary fees that exceed the reasonable cost to provide the services for which the fee is charged; or
- (g) Otherwise authorize the City to act in conflict with any applicable federal or state law or regulation.

7-3.02 -- Definitions.

Unless the particular provisions or applicable law or the context otherwise requires, the definitions contained in this Section shall govern the construction, meaning and application of words and phrases used in this Chapter.

"Administrative review" means ministerial review by the City of an application relating to the review and issuance of a wireless telecommunications permit, including review by the approval authority to determine whether the issuance of a permit is in conformity with the applicable provisions of this Chapter, the Policy adopted by resolution pursuant to this Chapter, and this Code.

"Applicant" means any natural person, firm, partnership, association, joint venture, corporation, or other entity (or combination of entities), and the agents, employees, and contractors of such person or entity that seeks City permits or other authorizations under this Chapter.

"Application" means a written request, on a form provided by the City, for a wireless telecommunications facility permit under the authority of this Chapter.

“Approval authority” means the City official(s) designated to review and issue a decision on a proposed permit or other authorization under this Chapter.

“C.F.R.” means the Code of Federal Regulations.

“City” means the City of Maywood.

“Day” means a calendar day, except as otherwise set forth in this Chapter or the Policy.

“Department” means the Public Works Department or Community Development Department of the City of Maywood, as specified in the Policy.

“Deployment” means the installation, placement, construction, collocation or modification of a small wireless facility, eligible facility or other wireless telecommunications facility.

“Eligible facility request” means a request for approval of an eligible facility pursuant to Section 6409(a), and as defined by the FCC in 47 C.F.R. § 1.6100(b)(3), or any successor regulation, which defines that term as 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, involving: (1) collocation of new transmission equipment; (2) removal of transmission equipment; or (3) replacement of transmission equipment.

“FCC” means the Federal Communications Commission or its duly appointed successor agency.

“FCC Shot Clock” means the presumptively reasonable time frame within which the City generally must act on a given wireless telecommunications permit application, as defined by the FCC and as may be amended or superseded, and as further set forth in the Policy.

“Infrastructure” means any City-owned or operated facility, equipment, pole, pipe, cabinet, or other structure located in the public right-of-way or in or on any other City-owned or operated property outside of the public right-of-way.

“Master agreement” means an agreement between the City and a permittee authorizing the installation and maintenance of one or more wireless telecommunications facilities.

“Municipal Code” or “Code” means the Maywood Municipal Code, as amended from time to time.

“Ministerial permit” means any City-issued non-discretionary permit required to commence or complete any construction, excavation, or other activity subject to the City's jurisdiction. Ministerial permits may include, without limitation, building permits, construction permits, electrical permits, encroachment permits, excavation permits, traffic

control permits and/or any similar over-the-counter approval issued by the City's departments.

"Notice of deficiency" means a notice issued by the applicable department identifying information and/or documentation necessary in order for the City to deem a wireless telecommunications permit application complete.

"Ordinance" means this Chapter 3 of Title 7 of the Maywood Municipal Code, as may be amended from time to time.

"Permit" means a written authorization (in electronic or hard copy format) to install a wireless telecommunications facility permit at a specified location(s) in the City, including but not limited to, in public right-of-way, on any other City-owned or operated property, facility, or other building or structure outside the PROW, or in or on any other public or private property, facility, building or other structure located anywhere else in the City. A permit may also consist of a master agreement between the applicant and the City to install and maintain one or more wireless telecommunications facilities in or on any property, building, facility or other structure in the City.

"Permittee" means an applicant that has received a permit issued by the City under this Chapter, and all successors-in-interest.

"Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.

"Personal wireless services" means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded.

"Personal wireless service facilities" means the same as defined in 47 U.S.C. § 332(c)(7)(C)(ii), as may be amended or superseded.

"Policy" means of the "City-Wide Policy Regarding Permitting Requirements and Development Standards for Wireless Telecommunications Facilities", as adopted and amended from time to time by City Council resolution, which further implements the requirements and regulations applicable to the deployment of wireless telecommunications facilities in the City.

"Public right-of-way" or "PROW" means any land which has been reserved for or dedicated to the City for the use of the general public for public road purposes, including but not limited to, any public roads, streets, highways, sidewalks, alleys, and unpaved areas. The term does not include a federal or state highway or other areas that are not within the legal jurisdiction, ownership or control of the City.

"Section 6409(a)" means Section 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a) (also known as the "Spectrum Act"), as may be amended or superseded.

“Small wireless facility” or “small wireless facilities” means the same as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded, and which defines a small wireless facility as a wireless telecommunications facility that meets each of the following conditions:

(a) The facility—

(1) is mounted on structures 50 feet or less in height including its antennas as defined in this section; or

(2) is mounted on structures no more than 10 percent taller than other adjacent structures, or

(3) does 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;

(b) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in this section), is no more than three cubic feet in volume;

(c) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

(d) The facility does not require antenna structure registration under Part 17 of Subchapter A of Chapter 1 of Title 47 C.F.R., or its successor regulations;

(e) The facility is not located on Tribal lands, as defined under 36 C.F.R. § 800.16(x), or its successor regulation; and

(f) The facility does not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b), or its successor regulation.

“State” means the State of California.

“Substantial change” means, with respect to an eligible facility, the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(7), or any successor regulation, which defines that term differently based on the type of eligible support structure (tower or base station) and location (in or outside the PROW). For clarity, this definition organizes the FCC’s criteria and thresholds for determining if a collocation or modification substantially changes the physical dimensions of a wireless tower or base station based on the type and location.

(a) For towers outside the PROW, a substantial change occurs when:

(1) The proposed collocation or modification increases the overall height of the tower by more than 10% or the height of one additional antenna array with

separation from the nearest existing antenna not to exceed 20 feet (whichever is greater); or

(2) The proposed collocation or modification adds an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance (whichever is greater); or

(3) The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, but not to exceed four; or

(4) The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.

(b) For towers in the PROW and for all base stations, a substantial change occurs when:

(1) The proposed collocation or modification increases the overall height of the tower more than 10% or 10 feet (whichever is greater); or

(2) The proposed collocation or modification involves adding an appurtenance to the body of the structure that would protrude from the edge of the tower or base station by more than six feet; or

(3) The proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets when there are no pre-existing ground-mounted equipment cabinets associated with the structure; or

(4) The proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are more than 10% larger in height or overall volume than any other existing ground-mounted equipment cabinets; or

(5) The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.

(c) In addition, for all towers and base stations wherever located, a substantial change occurs when:

(1) The proposed collocation or modification would defeat the existing concealment elements of the eligible support structure (wireless tower or base station) as reasonably determined by the Director; or

(2) The proposed collocation or modification violates a prior condition of approval; provided, however, that the collocation need not comply with any

prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this Section.

(d) For purposes of this definition, changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

"Wireless telecommunications facility" (or "WTCF") means the equipment at a fixed location or locations in the City that enables wireless telecommunications services. The term does not include: (1) the support structure, tower or pole on, under, or within which the equipment is located or collocated; or (2) coaxial, fiber-optic or other cabling that is between telecommunications facilities or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. Examples of wireless telecommunications facilities include small wireless facilities and eligible facilities.

"Wireless Telecommunications Facility Permit" or "WTCFP" means a permit issued by the City pursuant to this Chapter and the Policy, and including the following categories:

(a) "Small Wireless Facility Permit" or "SWFP" means a permit issued by the approval authority pursuant to the requirements of this Chapter and the Policy for (a) the deployment of a new small wireless facility, or (b) the replacement of, collocation on, or modification of an existing small wireless facility.

(b) "Eligible Facility Permit" or "EFP" means a permit issued for an eligible facility as defined in Section 6409(a) and subject to the requirements of this Chapter and the Policy.

"Wireless telecommunications services" means any wireless telecommunications services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

"Wireless telecommunications services provider" means a person who provides wireless telecommunications services.

7-3.03 – Permit Required.

Notwithstanding any provision of the Code to the contrary, a wireless telecommunications facility shall not be deployed in the City, including but not limited to, in or on any City-owned rights-of-way or City infrastructure, except upon approval of a wireless telecommunications facility permit issued in accordance with the requirements of this Chapter and the rules, regulations, procedures and policies adopted from time to time by resolution of the City Council pursuant to Section 7-3.02 of this Chapter, and upon approval of all other related ministerial permits.

7-3.04 -- Compliance with the City-Wide Policy Regarding Permitting Requirements and Development Standards for Wireless Telecommunications Facilities.

(a) Notwithstanding any provision of the Maywood Municipal Code to the contrary, all small wireless facilities and eligible facilities that are proposed to be located anywhere in the City are subject to the requirements of the "City-Wide Policy Regarding Permitting Requirements and Development Standards for Wireless Telecommunications Facilities" ("Policy"), as adopted and amended from time to time by City Council resolution, and all such wireless telecommunications facilities shall comply with that Policy.

(b) The Policy may include provisions to implement and administer this Chapter, including but not limited to, provisions establishing the following:

- (1) Application submittal, timing, notices of deficiency, and permit review and action requirements and procedures;
- (2) Application fees;
- (3) Aesthetic, development, locational and other design standards and requirements;
- (4) Conditions of approval;
- (5) Findings for decisions on WTCCFP applications;
- (6) Exceptions from design, aesthetic and development standards;
- (7) Operation and maintenance standards; and
- (8) Such other terms, provisions and requirements deemed necessary and appropriate by the City Council to administer and implement this Chapter.

7-3.05 -- Permit Term; Expiration.

A wireless telecommunications permit shall be valid for a period of ten (10) years, unless it is revoked sooner in accordance with this Chapter or pursuant to any other provision of federal or state law that authorizes the City to issue a WTCCFP with a shorter term, or such WTCCFP is extended pursuant to Section 7-3.06. At the end of the term, the WTCCFP shall automatically expire. Any other permits or approvals issued in connection with any collocation, modification or other change to the WTCCFP, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend the ten-year term limit unless expressly provided otherwise in such permit or approval or required under federal or state law.

7-3.06 -- Extensions.

A permittee may apply for extensions of its WTCFP in increments of no more than ten years and no sooner than 180 days (six months) prior to expiration of the permit. Any request for an extension that is filed less than 180 days (six months) prior to expiration shall require a new permit. Procedures and requirements for extension requests and decisions shall be set forth in the Policy.

7-3.07 -- Cessation of Use or Abandonment.

(a) Determination. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for 90 or more consecutive days. If there are two or more users of a single WTCF, then this provision shall not become effective until all users cease using the WTCF.

(b) Notification. The operator of a wireless telecommunications facility shall notify the City in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including an unpermitted site) within 10 days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the WTCF shall provide written notice to the approval authority of any discontinuation of operations of 30 days or more.

(c) Violation. Failure to inform the approval authority of cessation or discontinuation of operations of any existing wireless telecommunications facility as required by this Section shall constitute a violation of any approvals and be grounds for enforcement pursuant to Section 7-3.08 - Permit Revocation or Modification; Removal, any other provision of this Chapter, or the Code.

7-3.08 - Permit Revocation or Modification; Removal.

(a) Revocation or Modification of WTCFP. The approval authority may modify or revoke any wireless telecommunications permit if the operation or maintenance of the WTCF violates any of the permit's terms or conditions, this Section or any other ordinance or law, in accordance with the following procedures.

(1) When the approval authority has reason to believe that grounds exist for the modification or revocation of a WTCFP, he or she shall give written notice by certified mail thereof to the permittee setting forth a statement of the facts and grounds. The permittee shall have not less than 10 days to submit a written response and supporting documentation to the approval authority prior to the approval authority's decision. The approval authority's decision shall be issued in writing, and shall be posted on the City's website in accordance with the procedures set out in the Policy.

(2) The approval authority may revoke or modify the wireless telecommunications facility permit if he or she makes any of the following findings:

(i) The WTCFP has expired as provided for in Section 7-3.07 - Permit Term; Expiration.

(ii) The WTCFP has been abandoned as provided in Section 7-3.07 - Cessation of Use or Abandonment.

(iii) The permittee has failed to comply with one or more of the conditions of approval, the Policy, this Chapter or any other provision of this Code.

(iv) The WTCF has been substantially changed in character or substantially expanded beyond the approval set forth in the permit.

(3) If the approval authority determines that modification of the WTCFP is warranted, he or she may impose any revised or new conditions that he or she deems appropriate based on his or her other findings.

(4) Decisions of the approval authority to modify or revoke a WTCFP shall be subject to the appeal procedures of Chapter 4 of Title 1 of this Code and any procedures or requirements set forth in the Policy.

(b) Permittee's Removal Obligation. Upon the expiration date of the WTCFP, including any extensions, earlier termination or revocation of the WTCFP or abandonment of the WTCF, the WTCFP shall become null and void, and the permittee, owner or operator shall completely remove its WTCF. Removal shall be in accordance with proper health and safety requirements, this Chapter, the Policy, and all other ordinances, rules, and regulations of the City. The WTCF shall be removed from the property within 30 days, at no cost or expense to the City. If the WTCFP is located on another WTCF or other private property, the private property owner shall also be independently responsible for the expense of timely removal and restoration.

(c) Failure to Remove. Failure of the permittee, owner, or operator to promptly remove its WTCF and restore the property within 30 days after expiration, earlier termination, or revocation of the WTCFP, or abandonment of the WTCF, shall be a violation of this Code, and be grounds for:

(1) Prosecution;

(2) Calling of any bond or other assurance required by this Section or conditions of approval of permit;

(3) Removal of the wireless telecommunications facility by the City in accordance with the procedures established under this Code for abatement of a public nuisance at the owner's expense; and/or

(4) Any other remedies permitted under this Code or federal or state law.

(d) Summary Removal. In the event the approval authority determines that the condition or placement of a wireless telecommunications facility located in the PROW or on any other City property constitutes a dangerous condition, obstruction of the PROW, or an imminent threat to public safety, or determines other exigent circumstances require

immediate corrective action (collectively, "exigent circumstances"), the approval authority may cause the WTCF to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall be served upon the person who owns the WTCF within five (5) business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within 60 days, the WTCF shall be treated as abandoned property.

(e) **Removal of Facilities by City.** In the event the City removes a wireless telecommunications facility wireless in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the City for any damage to such WTCF that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the City may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with this Code. Unless otherwise provided herein, the City has no obligation to store such WTCF. Neither the permittee nor the owner nor operator shall have any claim if the City destroys any such WTCF not timely removed by the permittee, owner, or operator after notice, or removed by the City due to exigent circumstances.

(f) **Non-Exclusive Remedies.** Each and every remedy available for the enforcement of this Chapter or the Policy shall be non-exclusive and it is within the discretion of the authorized inspector or enforcing attorney to seek cumulative remedies set forth in this Code, except that multiple monetary fines or penalties shall not be available for any single violation of this Chapter or this Policy.

7-3.09 -- Deemed Granted.

In the event that an application for a wireless telecommunications facility is deemed granted by rule of federal or state law, all conditions, development and design standards, and operations and maintenance requirements imposed by this Chapter and the Policy for the type of wireless telecommunications facility are still applicable and required for the installation.

7-3.10 -- Exceptions.

An exception from the strict locational, physical, development or other design requirements of this Chapter or the Policy may be granted by the approval authority in his or her discretion, when it is shown to the approval authority's satisfaction based on substantial evidence that, because of special, unique circumstances applicable to the proposed location, the strict application of the requirements of this Chapter or the Policy would deprive the applicant of privileges enjoyed by other permittees in the vicinity operating a similar facility. Any exception granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other wireless providers seeking to locate any wireless telecommunications facility in the area where such property is situated.

Procedures for application, review, findings and decisions on exception applications shall be set forth in the Policy.

7-3.11 -- Fees.

Each applicant/permittee shall pay one-time and recurring fees, per each small wireless facility or other WTCF, in amounts (i) set forth in the City-Wide Policy Regarding Permitting Requirements and Development Standards for Wireless Telecommunications Facilities, or (ii) as established by resolution of the City Council that are not less than those amounts deemed presumptively reasonable under the Report and Order or then-in effect federal law or regulations; or that otherwise are determined to be a reasonable, non-discriminatory approximation of the City's costs in processing applications and administering permits for small wireless facilities; or (iii) as agreed upon by the City and an applicant or permittee in a site or master agreement.

7-3.12 -- Violations and Penalties.

(a) It shall be unlawful for any person to violate or fail, neglect, or refuse to comply with any of the provisions of this Chapter.

(b) Failure or refusal to comply with the City-Wide Policy Regarding Permitting Requirements And Development Standards For Wireless Telecommunications Facilities constitutes a violation of this Chapter.

(c) The City Council may institute a civil action or undertake any other civil or criminal remedies available under state or federal law to compel compliance with this Chapter or any provision of the City-Wide Policy Regarding Permitting Requirements And Development Standards For Wireless Telecommunications Facilities.

7-3.13 -- Conflicting provisions superseded.

The provisions of this Chapter shall govern and supersede any conflicting provisions of the Maywood Municipal Code with respect to the permitting and regulation of wireless telecommunications facilities within the City, including but not limited to wireless telecommunications facilities in City rights-of-way and on City infrastructure.

7-3.14 -- Severability.

If any subsection or portion of this Chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decisions shall not affect the validity of the remaining portion of this Chapter. The City Council hereby declares that it would have adopted this Chapter and each section or subsection thereof, irrespective of the fact that any one (1) or more sections or subsections thereof be declared invalid or unconstitutional.

SECTION 4. Environmental Determination. Pursuant to the California Environmental Quality Act ("CEQA"), as amended, the CEQA Guidelines, and the City's local CEQA Guidelines, City staff for the City of Maywood determined that the proposed

Ordinance has no possibility of causing a significant impact on the environment. The City of Maywood has concluded that the proposed Ordinance is exempt from the application of CEQA pursuant to CEQA Guidelines Section 15061(b)(3), in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. In addition, the City of Maywood has determined that this Ordinance is categorically exempt pursuant to Section 15301 of the CEQA Regulations applicable to minor alterations of existing governmental and/or utility-owned structures.

SECTION 5. Future Modifications. The City Council finds and declares that it is adopting this Ordinance in order to more fully protect and preserve the public health and safety with respect to City rights-of-way in light of the adoption of the Report and Order. Notice is hereby given to any and all wireless providers obtaining a permit pursuant to the Maywood Municipal Code as amended herein, that the City expressly reserves any and all rights it possessed prior to the adoption of the Report and Order concerning its authority to regulate its public rights-of-way and other City-owned or City-operated property. In the event the Report and Order is invalidated, modified, or limited in any way, the City Council reserves the right, subject to reasonable notice and due process, to modify the terms and conditions applicable to any permit issued hereunder including, but not limited to, the term, fees charged, and scope of any future wireless deployments within the City's rights-of-way.

SECTION 6. Severability. If any sections, subsections, sentence, clause, or phrase of the Chapter adopted by this Ordinance is for any reason held to be invalid or unconstitutional by the decision or legislation of any court of competent jurisdiction, or by reason of preemptive legislation, such decision or legislation shall not affect the validity of the remaining portions of the Chapter, and to this end, the provisions of this ordinance are declared to be severable. The City Council declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses, or phrases thereof is declared invalid or unconstitutional.

SECTION 7. Publication. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner prescribed by law. This Ordinance shall take effect thirty (30) days after its final passage.

PASSED, APPROVED AND ADOPTED this 11th day of September, 2019, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:



Eduardo De La Riva, Mayor

ATTEST:



Gerardo Mayagoitia City Clerk

APPROVED AS TO FORM:



Roxanne Diaz, City Attorney

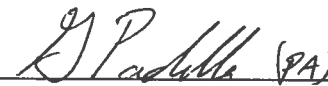
I, Gerardo Mayagoitia, City Clerk of the City of Maywood, do hereby certify that the foregoing Ordinance No. 19-05 was adopted at a regular meeting of the City Council of the City of Maywood held on the 11th day of September, 2019 by the following vote:

AYES: DeLaRiva, Lara and Marquez

NOES:

ABSTAINED:

ABSENT: Medina and Alvarez



Gerardo Mayagoitia, City Clerk