

CHAPTER 26

COMMUNICATION SYSTEMS INCLUDING WIRELESS, OPTIC AND SATELLITE

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Article I General Provisions and Definitions

26-1 Findings.

WHEREAS, the United States Congress adopted the Federal Telecommunications Act of 1996, which encourages the growth of the telecommunications industry through deregulation, while confirming local government’s ability to regulate the installation of wireless communication facilities, buried communication lines, and a variety of related telecommunication facilities for reasons of health, safety and aesthetics; and

WHEREAS, the City of Imperial City Council anticipates that there will be inquiries regarding applications for the installation and operation of telecommunication towers, antennas, repeater, regeneration, and related facilities; and

WHEREAS, many of these facilities will be located within rights-of-way, and on private properties, under control of the City, which can, and will affect the safety of such public facilities; and

WHEREAS, many of these facilities may impact the City both environmentally as well as economically yet provide no significant local benefit, although they could have the opportunity to provide primary communication service and possibly high speed internet services in areas where other services may not be available; and

WHEREAS, the proposed Ordinance was considered by the City of Imperial City Council at duly noticed public meetings on February 7, 2001; and

WHEREAS, the City of Imperial finds that it is in the public interest to permit the siting of wireless communications towers, antennas and buried communication lines within the municipal boundaries where putting it within the municipal boundaries is in keeping with the optimum technical parameters of an FCC licensed communication build-out plan; and

WHEREAS, it is the intent of the City of Imperial to protect and promote the public health, safety and welfare by regulating the siting of wireless communications towers and antennas, along with and in accordance with the applicable codes and regulations of the County, Federal and State agencies, including but not limited to the FCC and the FAA.

Article I General Provisions and Definitions

26-2 Purpose. This Ordinance is enacted to establish a consistent set of standards regulating the placement and design of all types of communication facilities in the City of Imperial. These standards are intended to protect and promote public health, safety, community welfare and the unique visual character of the City of Imperial by encouraging the orderly development of communication infrastructure. It is the intent of the City Council that these regulations serve to:

- a) Protect residential areas and other land uses from potential adverse impacts of towers and antennas;
- b) Encourage the location of towers and re-generation facilities in non-residential areas;
- c) Minimize the number of towers throughout the community;
- d) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- e) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- f) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
- g) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- h) Consider the public health and safety of communication towers;
- i) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. All towers are to be engineered for the environment in which they are to be located and for the expected loading.
- j) Encourage the due consideration of the City of Imperial's General Plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

k) Minimize the amount of private infrastructure systems in public right-of-ways.

26-3 Definitions. For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this sub-Section.

a) Alternative Tower Structure. Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

b) Amateur Radio (HAM) Operator. A person holding a written authorization to be the control operator of an Amateur Radio Facility. This authorization shall be in the form of a license or permit issued by the Federal Communications Commission or a foreign national or multi-national license or permit recognized by treaty as valid in the United States.

c) Amateur Radio (HAM) Service. Radio communication services, including the amateur-satellite service and the amateur service, which are for the purpose of self-training, intercommunication and technical investigations carried out by amateurs who are duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest, as defined in Title 47, Code of Federal Regulations, Part 97 and regulated thereunder.

d) Amateur Radio (HAM) Facility. A wireless communication facility operated by a Federally-licensed Amateur Radio Operator as part of the Amateur Radio Services.

e) Antenna. Any system of towers, poles, panels, rods, wires, drums, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves. The distinction is made between the support structure and the antenna(s) mounted thereon. See also Satellite Dish or Satellite Antenna.

f) Backhaul Network. The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

g) Broadcast. To transmit a signal for direct reception by the general public.

h) Broadband. Pertaining to a transmission system or facility with an information bandwidth capacity greater than a single voice channel (3 kHz).

i) Camouflaged Tower. Any telecommunication tower that due to design or appearance to the extent possible hides, obscures, or conceals the presence of the tower and antennas.

j) Cell. A geographic area covered by a single cellular, ESMR or PCS transmitter.

k) Cellular Network. A system providing mobile telephone services through all the cells in a coverage area. A coverage area consists of multiple adjacent cells operating on slightly different frequencies. Calls are “handed-off” from one cell to the next as a mobile unit moves from cell to cell. This is the fundamental innovation that has allowed for the development of cellular, ESMR and mobile PCS services.

l) Cellular Telephone System. A mobile radio system that connects subscriber hand held devices to each other through the cellular network and with wireline telephones through the public switched network.

m) Co-location. The installation of wireless communication facilities owned and/or operated by two or more entities on a single structure or tower.

n) Commercial Wireless Communication Facility. A wireless communication facility operation by a for-profit business, and includes Commercial Private Wireless Communication Facilities and Commercial Public Wireless Communication Facilities.

o) Commercial Private Wireless Communication Facility. A wireless communication facility operated by a for-profit business for its own internal purposes and without supplying access to members of the general public. See, by contrast, Non-Commercial Wireless Communication Facility and Commercial Public Wireless Communication Facility.

p) Commercial Public Wireless Communication Facility. A wireless communication facility operated by a for-profit business whose business is provision of wireless communication services to subscribers or the general public. See, by contrast, Non-Commercial Wireless Communication Facility and Commercial Private Wireless Communication Facility.

q) Enhanced Specialized Mobile Radio Service (ESMR). A Specialized Mobile Radio Service (SMR) system (see definition below) which utilizes digital cellular technology to enable wide-area coverage as well as interconnection with other users and the cellular and public switched (landline) telephone networks.

r) FAA. The Federal Aviation Administration.

s) FCC. The Federal Communications Commission.

t) Federal Communications Commission (FCC). The Federal regulatory agency established and provided for in Title 47, U.S. Code, and charged with regulation of communication by wire and radio (which includes broadcast and non-broadcast communication of any type).

u) Gigahertz (GHz). A unit of measurement of radio frequency equal to one billion Hertz (cycles per second). One gigahertz is equivalent to 1000 megahertz (MHZ). Microwave frequencies are usually expressed in gigahertz.

v) Ground-Mounted Antenna. An antenna, which is attached to a support structure resting on the ground, and has an overall height not greater than fifteen feet above finished grade at the base of the structure. This definition includes antennas, which are sometimes referred to as “post mounts” and “grounds builds.”

w) Grouped Facility. The installation of several wireless communication facilities owned and/or operated by two or more entities on separate structures or towers within a single parcel and with each facility no more than 100 feet from at least one other facility.

x) Guyed Tower. A telecommunications tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

y) Height. When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

z) Kilohertz (kHz). A unit of measurement of radio frequency equal to one thousand Hertz (cycles per second). One thousand kilohertz is equivalent to one megahertz (MHZ). AM and “shortwave” Broadcast frequencies are usually expressed in kilohertz.

aa) Lattice Tower. A telecommunications tower that consists of vertical and horizontal supports and crossed metal braces which is entirely self-supporting.

bb) Megahertz (MHz). A unit of measurement of radio frequency equal to one million Hertz (cycles per second). One thousand kilohertz is equivalent to one megahertz, and one thousand megahertz is equivalent to one gigahertz. FM and TV Broadcast frequencies and “VHF” and “UHF” communication frequencies are usually expressed in megahertz.

cc) Monopole. A telecommunication tower of a single pole design.

dd) Non-Commercial Wireless Communication Facility. A wireless communication facility operated by a government agency, a non-profit organization, or a private citizen for personal use. It includes all Amateur Radio Facilities. See, by contrast, Commercial Wireless Communication Facility.

ee) Non-Conforming. Any pre-existing telecommunications facility that was in existence prior to the adoption of this Ordinance and that has not been issued a conditional use permit or was issued a conditional user permit prior to the adoption date

of this Ordinance. This definition shall only apply to this specific Ordinance and shall not apply to other City of Imperial Zoning Ordinances.

ff) Operator. Any person or organization that controls the operation and maintenance of a wireless communication facility.

gg) Paging. A wireless communication service that communicates a limited message to subscriber units which are relatively small and can be carried on the subscriber's person. Current paging systems are one-way (subscriber receives the message) but future systems can be two-way in nature. Paging systems are not considered "real time" interactive systems.

hh) Personal Communications Services (PCS). Digital wireless services that offer high quality voice and data communication.

ii) Planning Director. Refers to the Planning Director of the City of Imperial or such other person as may be designated by the City Manager.

jj) Platform. A support system that may be used to connect antennas and antenna arrays to telecommunication towers or alternative support structures.

kk) Preexisting Towers and Preexisting Antennas. Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this Ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

ll) Radio. A generic term for communication of sound, data, or energy by means of electromagnetic wave propagation. For regulatory purposes "radio" includes the popular terms "television" and "microwave." The term "wireless" is interchangeable with "radio" and is the popular term in several other English-speaking countries and some translations.

mm) Radio-frequency (RF). A description pertaining to the electromagnetic spectrum between the audio-frequency portion and the infrared portion.

nn) Radio-frequency Exposure Professional. A certified professional electrical engineer, health physicist or other technical expert with an understanding of the effects and measurement of exposure of the human body to radio frequency energy. Such professional must have substantial professional experience performing environmental measurements of radio frequency (RF) exposure and preparing radio frequency exposure evaluation reports for a variety of entities.

oo) Regeneration Facility. This is a structure, equipment or facility that primarily is used to enhance the transmission of the system by "boosting" or "upgrading" the signal being transmitted through wire, fiber optic or other media. It generally includes ground-based equipment housed in an unmanned shelter that requires

electricity and communication connections. This term may also mean repeater facilities or amplification facilities.

pp) Roof-Mounted. An antenna that is mounted directly to, or on a support structure mounted to, the roof or otherwise on the top most level or levels of a building exterior.

qq) Satellite Dish or Satellite Antenna. An antenna incorporating a reflective surface that is solid, open mesh, or bar configured to form a shallow dish, cone, horn or cornucopia used to transmit and/or receive electromagnetic signals to or from a satellite. This definition includes antennas that are sometimes called “SES,” “TVRO”, “TVBS”, and “DBS” antennas.

rr) Satellite Transmission. A communication system involving signals sent to (“uplink”) and/or by (“downlink”) an orbiting communication relay satellite.

ss) Satellite Dish. A device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVRO’s and satellite microwave antennas.

tt) Site. A legal parcel accommodating a wireless communication facility.

uu) Specialized Mobile Radio (SMR). A radio system in which licensees provide land mobile communication services in the 800 MHZ and 900 MHZ bands on a commercial basis to entities eligible to be licensed in the Private Radio Services (Part 90 of the FCC Rules), federal government entities and individuals. See also Enhanced Specialized Mobile Radio System (ESMR).

vv) Stealth Mount. A way of mounting an antenna that hides the antenna by making it appear to be a part of a structure, tree or other natural object.

ww) Structure-Mounted. Any antenna which (1) is not attached to a dedicated support structure resting on the ground and (2) is attached to a building, billboard, tank, utility pole, or other structure. This definition includes antennas sometimes referred to as “façade mounts” and “sign mounts.”

xx) Telecommunication Facility. A facility, site or location that contains one or more antennas, telecommunication towers, alternative support structures, satellite dish antennas, other similar communication devices and support equipment which is used for transmitting, receiving or relaying telecommunications signals excluding those facilities exempted under Section 26-5.

yy) Telecommunication Facility Co-Located. A telecommunication facility comprised of a single telecommunication tower or building supporting multiple antennas, dishes or similar devices owned or used by more than one public or private entity.

zz) Telecommunication Support Facility. The telecommunication equipment buildings and equipment cabinets.

aaa) Telecommunications Tower. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guy towers or monopole towers. This includes radio and television transmission towers, microwave towers, and common-carrier towers. It shall exclude alternative support structures and those facilities exempted under Section 26-5.

bbb) Tower. A dedicated support structure resting on the ground or attached to another structure, whose principal use is to support wireless communication equipment.

ccc) Tower-Mounted. Any antenna which is attached to a tower and has an overall height greater than ten feet above finished grade at the base of the structure. This definition includes antennas that are sometimes referred to as “monopoles,” “lattice towers” and “guyed towers.”

ddd) Wireless Communication. Electronic communication using radio signals sent between two or more points.

eee) Wireless Communication Facility. The equipment and associated unmanned structures needed to transmit and/or receive electromagnetic signals. A wireless communication facility typically includes antennas, supporting structures, enclosures and/or cabinets housing associated equipment, cable, service parking, and access. Receive-only radio and television antennas and satellite dishes or antennas are excluded from this definition.

fff) Wireline Communication. Electronic communication using physical connections such as wire cables or fiber optics to transmit signals between two or more points.

Article II. Applicability

26-5 Applicability. This chapter shall apply to all types of communication facilities including by not limited to towers, regeneration facilities, amplification facilities, and repeater facilities, whether sited on the ground, or elevated on towers or structures.

a) New Towers and Antennas. All new replacement, or re-permitted towers, antennas or facilities in the City of Imperial shall be subject to these regulations, except

as provided under Section 26-5. Re-permitted shall mean renewal of a permit at any one of the cycles originally approved in the CUP, and shall also mean a facility for which a CUP has expired but is being permitted again by either the same or another owner operator, which may be done by the Planning Director or the Planning Commission.

b) Regen, Repeat, Amplification Facilities. This Ordinance shall regulate all new, replacement or re-permitted facilities.

c) Amateur Radio Station Operators/Receive Only Antennas. This Ordinance shall not govern any tower, or the installation of any antenna, that is under sixty (60) feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

d) Preexisting Towers or Antennas. Preexisting towers, pre-existing facilities and pre existing antennas shall not be required to meet the requirements of this Ordinance, unless and/or until the facility is altered, repaired in excess of 50% of its base value and/or is re-permitted.

e) AM Array. For purposes of implementing this Ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

f) This ordinance shall be applicable to all communication facilities, communication types, including but not limited to radio, television, and satellite.

Article III. Exemptions

26-5 Exemptions. The following communication facilities shall be exempt from this chapter, and shall be permitted without review by the Planning Commission or Planning Director, provided that the following specified conditions are met:

a) Send/receive radio and television antenna, including satellite dishes, provided that:

- 1) The antenna must meet all height, setback, lot coverage and other limitations on structures in its zone;
- 2) The antenna may not be installed between a public street and a structure;
- 3) All required building permits must be obtained;

4) If the facility installed is less than 12 feet high above-ground level, except for roof-mounted meeting the requirements contained herein; and

5) These requirements do not (i) unreasonably delay or prevent the installation, maintenance or use; (ii) unreasonably increase the cost of installation, maintenance of use; or (iii) preclude reception of an acceptable signal.

b) Temporary communication facilities providing public information coverage of a news event, provided that they are set up for a duration of 72 hours or less.

c) Cell on Wheel (C.O.W.) and Cell on Light Truck (COLT) facilities replacing a damaged facility and/or meeting the public need in the event of a public emergency or disaster declared by the County of Imperial or other governmental authority, or as approved by the Planning Director on a case-by-case basis. As a temporary facility this may also be used for events such as large gatherings, rodeos and county fair-type activities, the duration not to exceed the duration of the event.

d) Temporary crank-up towers up to 120 feet erected for a duration of 48 hours or less for the purposes of testing.

e) Amateur radio station facilities, provided that all antennas and supporting structures meet the following requirements:

1) Only one amateur radio station facility shall be installed on any single parcel, and all fixed radio equipment, antennas and antenna support structures so installed shall be included as part of that single facility.

2) All fixed radio equipment, antennas and antenna support structures shall comply with setback, lot coverage and other standards, except height, required in its zone.

3) Multiple antennas shall be grouped so as not to exceed 16 square feet in area when feasible.

4) All required building permits shall be obtained.

5) All small diameter (less than 24") antennae such as satellite dishes or other small antennae providing communication services to residential uses.

f) Facilities or systems that at the time of this ordinance adoption have a signed development agreement or a franchise agreement or a legally binding contract with the jurisdiction responsible for permitting the facility.

Article IV. General Requirements

26-6 General Requirements. All new, altered and re-permitted communication facilities in the City of Imperial, with the exception of those exempted under Section 26-5, shall meet the following general requirements, regardless of the zone in which they are located:

a) Zones. Wireless communication facilities may be located in all base zones which allow such facilities, upon approval of a conditional use permit as described below.

b) Use Permit Required. All wireless communication facilities and all wired or fiber regeneration facilities other than those designated as exempt under Section 26-5 require a conditional use permit (CUP). To obtain a conditional use permit, a hearing is required before either the Planning Director or the Planning Commission, as provided for in Title 9.

c) Building Permit Required. All communication facilities shall require a building permit issued by the City of Imperial.

d) Design Consistency with the Surrounding Environment. To the maximum extent feasible, all wireless communication facilities and all regeneration facilities shall blend in with the predominant features of the existing natural and/or built environments in which they are located. To this end, co-location, stealth mounts, structure mounts and ground mounts are particularly encouraged.

e) Height. All communication facilities shall conform to the following height requirements:

1) All communication facilities shall be of the minimum functional height, with additional provisions for co-location, as allowed in the respective base zone unless a variance is approved concurrent with a CUP. (For example, if the number of co-locators that a particular facility is designed for is 4 and the required height is 80 feet, then the allowed height of the facility would be 100 feet and if it is 5 co-locators, then it would be 120 feet).

2) All communication facilities constructed within $\frac{3}{4}$ mile of a designated scenic corridor (as designated by the City of Imperial General Plan) shall conform with the height limit in the zone in which they are located. New facilities that are co-located with an existing facility may exceed their zone's height limit, provided that the installation of the new facility does not require a height increase of the existing facility.

3) Outside of the $\frac{3}{4}$ -mile range of a designated scenic corridor, communication facility, except an exempt facility, may exceed 120 feet. A bonus of 20 additional feet per facility, up to a maximum height of 300 feet, is permissible for operators co-locating on a single facility.

4) No roof-mounted wireless communication facility, except an exempt facility, may be more than 12 feet taller than the roof of the building on which it is mounted, unless facility is fully screened and height does not exceed height permitted by applicable zoning code.

5) If an operator wishes to apply for an exception to these height limitations, then the facility shall be subject to the provisions at title 9 relating to conditional use permits and variances hearing processes.

f) Screening. All communication facilities shall be screened to the maximum extent possible, pursuant to the following requirements:

1) Ground and tower mounted antennas and all sound structures shall be located within areas where substantial screening by vegetation, landform and/or buildings can be achieved. Additional vegetation and/or other screening may be required as a condition of approval. Each structural screening shall be based on a recommendation from the Planning Department having addressed the visual impacts, which in some instances may, in fact, warrant no screening.

2) The projection of structure-mounted antennas from the face of the structure to which they are attached shall be minimized.

3) Roof-mounted antennas shall be set back from the edge of the roof a distance greater than or equal to the height of the antenna, except when the antennas are fully screened. For roof-mounted antennas, a screening structure that is architecturally compatible with the building on which it is mounted may also be required as a condition of approval. Antenna panels mounted flush on the outside of the parapet wall of an existing building and painted to match the exterior of the building may be allowed.

g) Radio-frequency exposure. No communication facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end, no communication facility or combination of facilities shall produce at any time power densities that exceed the current FCC adopted standards for human exposure to RF fields. Certification that a facility meets this standard is required. A copy of the certification from the FCC shall be submitted to the City.

h) Cabling. For structure-mounted antennas, all visible cabling between equipment and antennas shall be routed within the building wherever feasible, or on the roof below the parapet wall. Cabling on the exterior of a building or monopole shall be located within cable trays painted to match. All cabling shall be performed in accordance with the NEC (National Electrical Code).

i) Painting and Lighting. All facilities shall be painted or constructed of materials to minimize visual impact. All towers shall be painted in a non-reflective

and preferably earth tone colors. All towers shall be lit with approved lighting as required by the FAA and the Airport Land Use Commissions standards.

j) Noise. All communication facilities shall be designed to minimize noise. If a facility is located in or within 100 feet of a residential zone, noise attenuation measures shall be included to reduce noise levels to a maximum exterior noise level of 50 L_{dn} at the facility site's property lines.

k) Accessory Structures. Enclosures and cabinets housing equipment related to a wireless communication facility shall meet setback and height restrictions for such structures in their zones. Such structures shall appear architecturally compatible (as determined by the Planning Director evaluating the facility on the basis of color and materials) with their surroundings and be designed to minimize their visual impact. To meet this requirement, underground vaults may be required.

l) Roads and Parking. Communication facilities shall be served by the minimum roads and parking areas necessary and shall use existing roads and parking areas whenever possible.

m) Provision for Future Co-location. All commercial communication facilities shall be encouraged to promote future facility and site sharing. Technical evidence will be provided as to the infeasibility either technical and/or economic, of co-location or grouping prior to the issuance of a new use permit for a facility that would not be considered to be co-located or grouped under this Ordinance.

n) Removal Upon Discontinuation of Use. All equipment associated with a communication facility shall be removed within 180 days of the discontinuation of the user and the site shall be restored to its original pre-construction condition. The operator's agreeing to such removal and allowing the City access across private property to effect such removal shall be a condition of approval of each permit issued. At its discretion, the City may require a financial guarantee acceptable to the City to ensure removal.

o) Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

p) Lot Size. For purposes of determining whether the installation of a facility complies with City development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on lease parcels within such lot. This shall also take into consideration the height of the tower in the event of a failure whereby it could fall thereby crossing property lines.

q) Inventory of Existing Sites. Each applicant for a facility shall provide to the Planning Director an inventory of its existing towers, antennas, or sites approved for

facilities, that are either within the jurisdiction of the City of Imperial or within one mile of the border thereof, including specific information about the location, height and design of each facility. The Planning Director may share such information with other applicants applying for administrative approvals or special use permits under this Ordinance or other organizations seeking to locate facilities within the jurisdiction of the City of Imperial, provided, however that the Planning Director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

r) Aesthetics. Towers and antennas shall meet the following requirements:

1) Towers shall either maintain a galvanized steel finish, or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obstructiveness.

2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobstructive as possible.

s) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views and community.

t) State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations as mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

u) Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such

tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

v) Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the unincorporated areas of the City of Imperial according to the provisions of Title 9 for the respective base zone.

w) Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

x) Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a communication system in the City of Imperial have been obtained and shall file a copy of all required franchises with the Planning Director.

y) Public Notice. For purposes of this Ordinance, any conditional use permit request, variance request, or appeal of an administratively approved CUP or special use permit shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed for a CUP or variance in the respective base zone, in addition to any notice otherwise required by the Planning Director.

z) Signs. No signs shall be allowed on an antenna or tower except as may be required by law or another permitting or licensing agency.

aa) Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with requirements of Title 9.

bb) Multiple Antenna/Tower Plan. City of Imperial encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

Article V. Permitting Requirements.

26-7 Permitting and Application Requirements. All communication facilities not specifically exempted from these regulations are subject to one of the two permit processes described below. Both processes include a conditional use permit and may have a concurrent variance. Applications for all permits required pursuant to this Chapter shall be made in writing on a form prescribed by the Planning Director, and shall be accompanied by plans and data to assure the fullest practical presentation of facts for the permanent record. Such application shall be accompanied by a fee or fees as may be set by the City Council. No part of such fee shall be refundable.

a) Conditional User Permit before the Planning Director. Certain communication facilities may be conditionally approved by the Planning Director, as described in this sub-section.

1) Qualifying Facilities. The following types of communication facilities qualify for a use permit before the Planning Director:

A. Receive-only radio and television antennas and satellite dishes or antennas that do not qualify for exemption under Section 26-5, including multiple antennas or dishes on a single parcel.

B. Amateur radio facilities that do not qualify for exemption under Section 26-5. When required, a conditional use permit before the Planning Director shall be granted to amateur radio operators with no fee.

C. Communication facilities installed on publicly owned property, regardless of zone, provided they comply with the general requirements in Section 26-6 and hold an executed license or lease agreement.

D. Co-located communication facilities, regardless of zone, provided they comply with the general requirements in Section 26-6.

2) Required Findings. In order for the Planning Director to approve a proposed communication facility under a conditional use permit, the Planning Director shall make the findings required for a conditional use permit, as well as, the following additional findings:

A. The facility complies with all applicable provisions of the chapter.

B. The facility either i) does not require an RF Environmental Evaluation Report as described in Section 26-10, or ii) the RF Environmental Evaluation Report for the facility shows that the cumulative radio-frequency energy emitted by the facility and any near-by facilities will be consistent with FCC regulations.

C. The facility blends in with its existing environment and will not have significant adverse visual impacts.

3) Administrative Approval Process. The Planning Director may administratively approve a proposed communication facility by using the following process:

A. Each applicant for administrative approval shall apply to the Planning Director providing the information and fees set forth in duly adopted resolution or ordinance.

B. The Planning Director shall review the application for administrative approval and determine if the proposed use complies with this Ordinance.

C. The Planning Director shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application.

D. In connection with any such administrative approval, the Planning Director may, in order to encourage shared use, administratively waive any setback requirements or separation distances between towers in the base zone by up to fifty percent (50%).

E. In connection with any such administrative approval, the Planning Director may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole constructions.

F. If an administrative approval is denied, the applicant shall file an application for a conditional use permit pursuant to this Ordinance prior to filing any special appeal that may be available under the Imperial Municipal Code.

4) List of Administratively Approved Uses. The following uses may be approved by the Planning Director after conducting an administrative review:

A. Locating a tower, antenna or facility, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or heavy commercial zone or a grouped facility.

B. Locating antennas or existing structures or towers consistent with the terms of subsections (i) or (ii) below.

(i) Antennas on existing structures. Any antenna, which is not attached to a tower, may be approved by the Planning Director as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided:

a. The antenna does not extend more than thirty (30) feet above the highest point of the structure;

b. The antenna complies with all applicable FCC and FAA regulations;

c. The antenna complies with all applicable building codes.

(ii) Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the Planning Director and, to minimize

adverse visual impacts associated with the proliferation and clustering of towers collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

a. A tower which is modified or reconstructed to accommodate to collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Planning Director allows reconstruction as a monopole.

b. Height.

(1) An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna.

(2) The height change referred to in subsection (b)(i) may only occur one time per communication tower.

(3) The additional height referred to in subsection (c)(i) shall not require an additional distance separation. The tower's premodification height shall be used to calculate such distance separation.

c. Onsite location.

(1) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing locations.

(2) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

(3) A relocation onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to the base zone.

(4) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the Planning Director.

C. New towers in non-residential zones. Locating any new tower in a non-residential zone other than industrial or heavy commercial, provided a licensed professional engineer certifies that the tower can structurally accommodate the number of shared users proposed by the applicant; the Planning Director concludes the tower is in conformity with the goals and requirements of this Ordinance; the tower meets all setback and separation requirements of the base zone; and the tower meets the following height and usage criteria:

- height;
- (i) for a single user, up to ninety (90) feet in height;
- (ii) for two users, up to one hundred twenty (120) feet in height;
- (iii) for three or more users, up to one hundred twenty (120) feet in height; and
- (iv) for four or more users up to one hundred eighty (180) feet in height.

D. Locating any alternative tower structure in a zone other than industrial or heavy commercial that in the judgment of the Planning Director is in conformity with the goals set forth in Section 26-2 of this Ordinance.

E. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

b) Conditional User Permit before the Planning Commission. All other communication facilities or any facility requiring an exception to these regulations shall require a conditional use permit with a public hearing before the Planning Commission.

1) Qualifying Facilities. A conditional use permit is required for any communication facility that is not exempt under these regulations and that does not qualify for a conditional use permit before the Planning Director.

2) Required Findings. In order for the Planning Commission to approve a proposed communication facility under a conditional user permit; the Commission shall make the finding required for a conditional use permit, as well as the following additional findings:

A. No alternative site or design is available that would allow for issuance of a conditional user permit before the Planning Director for the facility. This finding shall be based on the results of an Alternatives Analysis, as described in Section 26-8 below.

B. The facility either 1) does not require an RF Environmental Evaluation Report as described in Section 26-10, or 2) the RF Environmental Evaluation Report for the facility shows that the cumulative Radiofrequency exposure emitted by the facility and any near-by facilities will be consistent with FCC regulations.

C. The facility blends in with its existing environment and will not have significant visual impacts.

3) Conditional Use Permit Process. Applications for conditional use permits under this subsection shall conform to the requirements of Section 26-7, and shall be subject to the procedures and requirements relating to the granting of conditional use permits.

4) Conditions. In granting a conditional use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect if the proposed facilities on adjoining properties.

5) Professional Engineer. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer.

c) Encroachment Permits.

1) Prior to commencing work on City streets, encroachment permits from the Building Department shall be obtained. Plans, specifications drawings which depict detail of the extent of work shall be submitted with the application.

2) The City of Imperial Public Works Department will, as a condition of issuance of the permit, specify trench backfill requirements including, but not limited to, asphalt replacement, depending on the location of the trench.

3) A fee, intended to cover all of City's costs associated with issuance of the permit shall be paid prior to issuance of an encroachment permit.

Article VI. Alternatives Analysis/Information Required.

26-8 Alternatives Analysis. For a facility requiring a conditional user permit before the Planning Commission, an Alternatives Analysis shall be prepared by or on behalf of the Operator, as described below.

a) Alternatives to be Considered. The Alternative Analysis shall consider alternative locations and designs for the proposed facility, including those which would not require a conditional use permit. At a minimum, alternatives included in the analysis shall include 1) collocation at all existing communication facilities whether in the unincorporated area of the County, a city or an adjacent county, 2) lower, more closely spaced communication facilities; and 3) mounting on any existing non-residential structure within ½-mile of the proposed facility in the unincorporated area of Imperial County. The alternatives analyzed shall be approved by the Planning Director. For facilities to be located near an incorporated city, the analysis shall also explain why siting within the city is not possible.

b) Findings. The Alternatives Analysis shall show whether or not the proposed siting and design would have the least possible environmental and visual effect on the community and whether any alternative site or design is available that would allow for issuance of a conditional use permit before the Planning Director for the facility.

c) Review. The Planning Director may, at his/her discretion, employ on behalf of the City an independent technical expert to review this Alternatives Analysis. The Operator shall bear the reasonable costs of this review.

Article VII. Visual Analysis.

26-9 Visual Analysis. For a facility requiring review before the Planning Commission and located within ½ mile of a designated scenic highway, a visual analysis shall be prepared by or on behalf of the Operator, as described below. This visual analysis shall demonstrate compliance with provisions of the City of Imperial General Plan.

a) Contents. The visual analysis shall include at a minimum the following contents.

1) A map of the visual units (as defined in the Scenic Highway Element) from which the proposed facility will be visible.

2) A map of foreground and distant view components, as defined by the Infrastructure Element.

3) A narrative discussion of the visual impact of the proposed facility based on the items above.

b) Findings. The visual assessment shall compare the proposed facility's visual impacts to the criteria contained in the City of Imperial General Plan circulation and Scenic Highway Element. It shall make conclusions as to whether the facility would comply with the Element and suggest changes to the facility that would make it more compatible with the Element.

Article VIII. Radio Frequency Expose Review.

26-10 Radio Frequency Expose Review. An RF Environmental Evaluation Report shall be prepared for any proposed communication facility meeting the specification below. In order for a proposed facility that requires an RF Environmental Evaluation Report to be approved, the report must demonstrate that RF emissions from the facility in combination with existing RF emissions from nearby facilities will meet the current FCC adopted exposure standard.

a) Facilities Requiring an RF Environmental Evaluation Report. Wireless communication facilities meeting any of the following criteria require an RF Environmental Evaluation Report before they may be permitted under these regulations:

1) Facilities described in Table 1 Section 1.1307 “Transmitters, Facilities and Operations Subject to Routine Environmental Evaluation” of the FCC Rules and Regulations, 47 C.F.R. §1.1307, or any superseding regulation.

2) Facilities proposed to be installed within 50 feet of an existing communication facility.

3) Facilities with one or more antenna to be installed less than ten feet above any area that is accessible to untrained workers or the public.

b) Evaluation Report Requirements. The RF Environmental Evaluation Report shall meet the following requirements:

1) The RF Environmental Evaluation Report is subject to approval of the Planning Director.

2) The RF Environmental Evaluation Report shall be prepared by a Radio-frequency Exposure Professional.

3) The RF Environmental Evaluation Report shall explicitly state that “operation of the proposed facility in addition to other ambient RF emission levels will not exceed current FCC adopted standards with regard to human exposure in controlled and uncontrolled areas as defined by the FCC.”

4) Assumptions utilized for the calculations of RF exposure shall be conservative in nature and a minimum be in accordance with the most recent FCC guidance on assessment of RF exposures.

5) The RF Environmental Evaluation Report shall compare RF measurements and/or calculations of RF exposure to the applicable FCC exposure standard. The comparison shall include the power density in micro-watts per square centimeter as a percentage of the applicable FCC exposure standard.

6) RF field measurements of power density of the proposed facility and/or surrounding facilities are required to be included in the RF Environmental Evaluation Report when:

A. Adequate technical information regarding other wireless communication facilities that may substantially contribute to RF exposure at the subject site is unavailable;

B. Calculations of RF exposure indicate the possibility of exposures in excess of the FCC exposure standard; or

C. So directed by the Planning Director because of concerns about the number of near-by facilities.

7) All required RF field measurements shall be performed by a Radio-frequency Exposure Professional. Evidence must be submitted showing that the testing instrument(s) used were calibrated within their manufacturer's suggested periodic calibration interval, and that the calibration is by methods traceable to the National Institute of Standards and Technology. Measurements shall be performed in compliance with FCC guidance regarding the measurement of RF emissions and shall be conducted during normal business hours on a non-holiday weekday.

8) The Planning Director or his/her designee may monitor the performance of testing required for preparation of the RF Environmental Evaluation Report. The cost of such monitoring shall be borne by the Operator.

9) For an amateur radio station facility, self-certification of compliance by the amateur radio station license is acceptable if permitted by FCC regulations and conducted under standards and procedures set forth by the FCC.

Article IX. Towers.

26-11 Information required. In addition to any information required for applications for conditional user permits pursuant to this Chapter and Title 9, applicants for a conditional user permit for a tower shall submit the following information:

a) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and base zoning, adjacent land uses and zoning (including when adjacent to other municipalities), General Plan designation of the site and all properties, adjacent roadways, proposed means of access, setbacks from property lines, elevations drawings of the proposed tower and any other structures, topography, parking and other information deemed by the Planning Director to be necessary to assess compliance with this Ordinance.

b) Legal description of the parent tract and leased parcel (if applicable).

c) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

d) The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

- e) A landscape plan showing specific landscape materials.
- f) Method of fencing and finished color, and if applicable, the method of camouflage and illumination.
- g) A description of compliance with this Ordinance, as well as the provisions of all other applicable federal, state or local laws.
- h) A notarized statement by the applicant as to whether the construction of the tower will accommodate the collocation of additional antennas for future users.
- i) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the City.
- j) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures.

Article X. Modifications to Facilities.

26-12 to the extent necessary to ensure compliance with adopted FCC regulations regarding human exposure to RF emissions, or upon the recommendation of the Planning Director, the operator shall modify the placement of the facilities; install fencing, barriers or other appropriate structures or devices to restrict access to the facilities; install signage, including the radio-frequency hazard warning symbol identified in ANSI C95.2-1982 and multi-lingual warnings if deemed necessary by the Planning Director to notify persons that the facility could cause exposure to RF emissions; and/or implement any other practice reasonably necessary to ensure that the facility is operated in compliance with adopted FCC RF emission standards.

Article XI. Changes to FCC Standards.

26-13 If the FCC RF emission standards are modified, the Operator shall ensure that the facility is reevaluated for compliance with the new standards, and a recertification statement prepared by a Radio-frequency Exposure Professional shall be submitted by the Operator to the Planning Director prior to the effective date of the new FCC RF emission standards. For an amateur radio station facility, self-certification of compliance by the amateur radio station license is acceptable if permitted by FCC regulations and conducted under standards and procedures set forth by the FCC.

Article XII. Life of Approval.

26-14 Life of Approval.

a) General Term. Permits for communication facilities issued under these regulations shall generally be valid for three years, unless such term is changed through the permitting process.

b) Co-located facilities. A permit for a new co-located facility at a facility with an existing permit that has more than three years remaining on it shall have the same term as the existing permit. If a permit is issued for a new co-located facility at a facility with an existing permit that has less than three years remaining on it, than the existing permit shall be extended to the same term as the new permit.

c) Revocation. If the conditions of a conditional use permit granted under this Chapter are not complied with, the User Permit may be revoked pursuant to Title X of the Codified Ordinance of the City of Imperial.

d) Renewal. All permits, regardless of the method by which they were originally given, may be extended administratively by the Planning Director or his/her designee upon verification of the permit-holder's continued compliance with the findings and conditions of approval under which the application was originally approved. As part of the renewal process, the Planning Director or his/her designee may require submission of certification by a Radio-frequency Exposure Professional that the facility is being operated in accordance with all applicable FCC standards for RF emissions. At his/her discretion, the Planning Director or his/her designee may require a public hearing for renewal of a permit for a communication facility under a conditional use permit.

Article XIII. Facilities in Existence Prior to Adoption of these Regulations.

26-15 Facilities in Existence Prior to Adoption of these Regulations.

a) Facilities Permitted Prior to Adoption of these Regulations. Communication facilities that obtained valid permits from City of Imperial and/or were constructed prior to the enactment of this Ordinance are not subject to these regulations. However, facilities that require renewal will be renewed under these regulations, and any facilities operating with existing permits, or facilities that are not permitted and require or which are proposed for modification must acquire new permits under these regulations. The Planning Director and/or the Planning Commission in making its determination on the applicability of any one or all of these sections shall take into consideration the technical feasibility of the compliance required. To that extent the Planning Director and/or the Planning Commission shall have the latitude to consider alternatives that are reasonable, that would effect similar compliance and that provide for uniform application to all similar facilities.

b) Not Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

c) Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding Section 26-15(b), bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a conditional use permit. The type, height and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned.

Article XIV. Public Benefit.

26-16 In the interest of the City of Imperial and for public benefits including, but not limited to, health and safety, law enforcement services, and the greater good of the residents of the City, a public benefit program is herewith established.

The Program under direction of the Planning Director shall secure from all applicants a public benefit service. This may be in the form of a fee, equipment, services or any combination of the above.

In order to implement this Program uniformly, the Planning Director shall secure the input from Imperial Valley Emergency Communication Authority (IVECA).

The Planning Director shall have the authority to negotiate with any applicant/permittee for a local benefit agreement. This may be in the form of a written contract/agreement or a development agreement or such other instrument acceptable to counsel. Regardless of the vehicle used, the final agreement shall be reviewed and approved by the Planning Commission and their decision shall be final.

The City Council herewith authorizes the Planning Commission to enter into such agreements.