

<b>CITY OF SOLANA BEACH</b>	<b>Policy No. 21</b>
<b>COUNCIL POLICY</b>	Adopted: 10/22/2008 Revised: <i>add only if applicable</i>
<b>GENERAL SUBJECT:</b> WIRELESS COMMUNICATION FACILITIES	
<b>SPECIFIC SUBJECT:</b> Review and operation guidelines for wireless communication facilities	

**PURPOSE:**

Wireless communication facilities, or WCFs, refer to the many facilities with antennas and supporting equipment that receive and transmit signals and together enable mobile or other “wire-free” communication and information services. Unlike ground-wired telecommunications, such as the land-based telephone system, wireless communication technologies, by their operational nature, require a network of antennas mounted at various heights and attached typically to buildings, structures and poles. A common name for WCF is “cell site.”

As the popularity and variety of wireless services grow, providers are expected to install more facilities to improve coverage and gain user capacity.

This policy’s purpose is to guide the public, applicants, and staff in reviewing the placement, construction, and modification of WCFs. The goal is to assure WCFs in Solana Beach:

- Are reviewed and provided within the parameters of the law.
- Are encouraged to locate away from residential and other sensitive areas, except as allowed by Section A of this policy - Location Guidelines for the Placement of WCFs.
- Represent the fewest possible facilities necessary to complete a network without discriminating against providers of functionally equivalent services or prohibiting the provision of wireless services.
- Use, as much as possible, “stealth” techniques so they are not seen or easily noticed.
- Maintain the community of Solana Beach’s quality of life.

This policy applies to all commercial providers of wireless communication services. It does not apply to amateur (HAM) radio antennas and dish and other antennas installed on a residence for an individual’s private use.

## POLICY STATEMENT

### Background:

To secure the right to provide wireless services to a region, companies obtain airwave licenses that are auctioned by the Federal Communications Commission (FCC), the federal agency that regulates the telecommunications industry. The FCC mandates the licensees establish their service networks as quickly as possible.

### Review Restrictions:

The Federal Telecommunications Act of 1996 (TCA) preserves the City's ability to regulate the placement, construction, and modification of wireless communication facilities subject to the following restrictions, as contained in TCA Section 704.

- ***The City may not favor any carrier.***  
Regulations may not unreasonably discriminate among competitive networks
- ***The City may not prevent completion of a network.***  
Regulations may not prohibit or have the effect of prohibiting the provision of wireless communication services.
- ***Applications are to be processed in a reasonable time.***  
A city must act on an application for WCFs within a "reasonable" amount of time, roughly the same time as for any similar application.
- ***The City cannot deny an application because of perceived radio frequency health hazards.***  
If federal standards are met, cities may not deny permits or leases on the grounds that radio frequency emissions are harmful to the environment or to the health of residents. However, local governments may require wireless carriers to prove compliance with the standards. The FCC has established procedures to enforce compliance with its rules.
- ***A decision to deny an application must be supported by substantial evidence.***  
A decision to deny a WCF application must be in writing and supported by substantial evidence contained in a written record.

In *Airtouch Cellular v. City of El Cajon* (9th Cir. 2000) 83 F.Supp. 2d 1158, 1166, the court ruled that a city may consider factors such as community aesthetics and noise in regulating the placement, construction, or modification of WCFs.

## **Health Concerns & Safeguards:**

Possible health risks from exposure to the radio frequency (RF) electromagnetic fields generated by WCFs are a significant community concern. Accordingly, the FCC requires facilities to comply with RF exposure guidelines published in the Code of Federal Regulations (see, 47 CFR §1.1307 and 47 CFR §1.1310). The limits of exposure established by the guidelines are designed to protect the public health with a very large margin of safety as they are many times below the levels that generally are accepted as having the potential to cause adverse health effects. Both the Environmental Protection Agency and Food and Drug Administration have endorsed the FCC's exposure limits, and courts have upheld the FCC rules requiring compliance with limits.

Most WCFs create maximum exposures that are only a small fraction of the limits. Furthermore, because the antennas in a PCS, cellular, or other wireless network must be in a line of sight arrangement to effectively transmit, their power is focused on the horizon instead of toward the sky or ground. Generally, unless a person is physically next to and the same height as the antenna, it is not possible to be exposed to the established limits for RF exposure.

The FCC requires providers, upon license application, renewal, or modification, to demonstrate compliance with RF exposure guidelines. Where two or more wireless operators have located their antennas at a common location (called "collocation"), the total exposure from all antennas taken together must be within FCC guidelines. Many facilities are exempt from having to demonstrate compliance with FCC guidelines, however, because their low power generation or height above ground level is highly unlikely to cause exposures that exceed the guidelines.

## **POLICY PROCEDURES**

### **Review and Approval Guidelines:**

Solana Beach Municipal Code Section 17.60.120.G allows WCFs in all zones with the approval of a conditional use permit (CUP) and subject to this policy. These guidelines shall be followed in the review of conditional use permits for new wireless facilities as well as extensions and amendments to CUPs for existing installations.

#### **A. Location Guidelines for Placement of WCFs**

1. *Preferred Locations* - WCFs are encouraged to locate on existing buildings and structures. In addition, WCFs should locate in the following zones and areas, which are listed in order of descending preference:
  - a. Collocation<sup>1</sup> to existing facilities located in non-residential zones.
  - b. Industrial zones.
  - c. Commercial Zones

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<sup>1</sup> The term "collocation" is defined as an arrangement where one or more carriers lease or occupy the same space or facility for its equipment.

- d. Other non-residential zones, except open space.
  - e. Public right-of-way of roads adjacent to industrial and commercial zones and identified on the Circulation Plan contained in the Circulation Element of the city's General Plan.
  - f. Public property (e.g., city facilities) not in residential areas.
  - g. Major power transmission towers in non-residential zones or areas.
  - h. Public and private utility installations (not publicly accessible) open space zones (e.g., water tanks, reservoirs, or the existing communications towers).
  - i. Parks and community facilities (e.g., places of worship, community centers) in residential zones or areas.
  - j. Public right-of-way roads adjacent to residential zones and identified on the Circulation Plan contained in the Circulation Element of the city's General Plan.
2. *Discouraged Locations* - WCFs should not locate in any of the following zones or areas unless the applicant demonstrates no feasible alternative exists as required by Application and Review Guideline D.2.
- a. Open space zones and lots (except as noted in Location Guideline A.2.).
  - b. Residential zones or areas (except as noted in Location Guideline A.1.)
  - c. Major power transmission towers in corridors located in/or next to a residential zone or area.
  - d. Environmentally sensitive habitat.
  - e. Public right-of-way of roads not identified on the Circulation Plan contained in the Circulation Element of the city's General Plan.
  - f. On vacant land.
  - g. Scenic highways as identified on the Circulation Element of the city's General Plan.
3. *Visibility to the Public* - In all areas, WCFs should locate where least visible to the public and where least disruptive to the appearance of the host property. Furthermore, no WCF should be installed on an exposed ridgeline or in a location readily visible from a public place, recreation area, scenic area or residential area unless it is satisfactorily located and/or screened so it is hidden or disguised to fit with the surrounding site design, architecture, and landscaping.
4. *Collocation* - Collocating with existing or other planned wireless communication facilities is recommended whenever feasible. Service providers are also encouraged to collocate with major power transmission and distribution towers, and other utility structures when in compliance with these guidelines.
5. *Monopoles* - No new ground-mounted monopoles shall be permitted unless the applicant demonstrates no existing monopole, building, or structure can accommodate the applicant's proposed antenna as required

by Application and Review Guideline D.3. The term “monopole” is defined as a cylinder self-supporting structure which supports the antennas and cables associated with a WCF. The cables and antennas may be contained within the monopole or may be external to the monopole. A camouflaged monopole may include design configuration such as mono-pine, mono-palm, mono-elm, or other similar structures that are constructed utilizing a monopole for the base. Monopoles may be permitted if it is satisfactorily located and/or screened so it is hidden or disguised to fit with the surrounding site design, architecture, and landscaping.

## B. Design Guidelines

1. *Stealth Design* - All aspects of a WCF, including the supports, antennas, screening methods, and equipment shall exhibit “stealth” design techniques so they visually blend into the background or the surface on which they are mounted. Subject to City approval, developers should use false architectural elements (e.g., cupolas, bell towers, dormers, and chimneys), architectural treatments (e.g., colors and materials), elements replicating natural features (e.g., trees and rocks), landscaping, and other creative means to hide or disguise WCFs. Stealth can also refer to facilities completely hidden by existing improvements, such as parapet walls.
2. *Equipment* - Equipment shall be located within existing buildings to the extent feasible. If equipment must be located outside, it shall be screened with walls, plants, or some other screening device. If small outbuildings are constructed specifically to house equipment, they should be designed and treated to match nearby architecture or the surrounding landscape.
3. *Collocation* - Whenever feasible and appropriate, WCF design and placement should promote and enable collocation.
4. *Height* - WCFs should adhere to the existing height limitations for structures and buildings of the zone in which they are located.
5. *Setbacks* - WCFs, including all equipment, should adhere to the building setback requirements of the zone in which they are located, with the following clarifications:
  - a. If on a site next to a residential zone, the WCF should be set back from the residential boundary a minimum distance equal to the above-ground height of the antenna.
  - b. If in a residential zone and in a public utility installation, park, or community facility, the WCF should be set back from the property boundaries of the utility installation, park, or community facility a minimum distance equal to the above-ground height of the antenna.
  - c. The City Council may decrease or increase these setbacks if it finds such changes would improve the overall compatibility of the

WCF based on the factors contained in Application and Review Guideline D.4.

6. *Building or Structure-Mounted WCFs:*
  - a. Antennas and their associated mountings should not project outward more than 18 inches from the face of the building.
  - b. Roof mounted antennas should not be placed on roof peaks.
  - c. If permitted, WCFs on residential buildings shall only be allowed if disguised as a typical residential feature (e.g., a chimney, a dormer) and if all equipment is located inside, not outside, the building.
  
7. *Ground-mounted Monopoles:*
  - a. All antennas should be mounted as close as possible to the monopole to improve facility appearance.
  - b. The placement, screening, and disguise of the monopole should fit with the surrounding site design, architecture, and landscaping. Tree disguises may be acceptable depending on their quality and compatibility with the landscaping nearby.
  - c. Landscaping should be provided as necessary to screen, complement, or add realism to a monopole. Landscaping should include mature shrubs and trees. Some of the trees should be tall enough to screen at least three-quarters of the height of the monopole at the time of planting. Sometimes, landscaping may not be needed because of the monopole's location or vegetation already nearby.
  - d. When possible and in compliance with these guidelines, monopoles should be placed next to tall buildings, structures, or tall trees.
  
8. *Lattice Towers*
  - a. New lattice towers shall not be permitted in the City. Lattice tower is defined as a free-standing framework tower, typically 3 or 4 sided.
  - b. On the existing lattice towers, all antennas shall be mounted as close as possible to the tower so they are less noticeable.
  
9. *Undergrounding* - All utilities shall be placed underground.
  
10. *Regulatory Compliance* - WCFs shall comply with all FCC, FAA (Federal Aviation Administration), and local zoning and building code requirements.
  
11. *WCFs in Public Right-of-Way*
  - a. Antennas for facilities shall be attached to existing poles (e.g., street lights), substantially similar replacement poles in the same location, or vertical structures already located in the right-of-way. The installation of new poles or vertical structures shall only be permitted if it can be demonstrated that new pole or structure is essential to providing coverage.

- b. The antenna assembly may not exceed the height of the existing pole.
- c. The use of an existing pole, replacement pole or other existing vertical structure shall require the authorization of the owner of the pole or structure. If a city street light or other city-owned structure is used, compensation shall be paid to the city as the owner. If a private pole or structure is used, a right-of-way permit shall be obtained from the city.
- d. Panel antennas shall be vertically mounted to a pole or structure in compliance with any applicable separation requirements and shall not exceed eight-inches in distance from the pole to the front side of the panel.
- e. No more than four Panel Antennas or two omni-directional Antennas shall be mounted on any utility pole or structure by any one provider.
- f. Antennas shall be painted to match the color of the surface of the pole on which they are attached or shall otherwise be screened to reduce their visibility.
- g. All other equipment associated with the facility shall be placed underground wherever possible. If it can be demonstrated that complete undergrounding of associated equipment is not physically possible, waiver requests involving landscaping or other screening techniques or visual mitigation will be considered. All equipment not placed underground shall be setback at least 2.5 feet from the back of the curb and within the parkway or greenway or 2.5 feet back from the edge of the sidewalk when it is contiguous to the curb.
- h. All equipment associated with the facility shall be located so as to minimize impacts to pedestrian access and vehicular site distance and safety.

### C. Performance Guidelines

1. *Noise* - All equipment, such as emergency generators and air conditioners shall be designed and operated consistent with the City noise standards.
2. *Maintenance* - All facilities, related equipment, and landscaping shall be maintained in good condition and free from trash, debris, graffiti, and any form of vandalism. Damaged equipment and damaged, dead or decaying landscaping shall be replaced promptly. Replacement of landscaping that provides facility screening should be, as much as possible, of similar size (including height), type, and screening capability at the time of planting as the plant(s) being replaced.
3. *Maintenance Hours* - Routine maintenance of equipment located in residential zones or within 100 feet of a residential district shall be conducted only during the hours of 8 am and 5 pm weekdays, not including holidays. In other areas, routine maintenance may be conducted

at any time. Emergency repairs and maintenance shall be conducted within a reasonable length of time to be determined by the City Manager or his designee in the cases of power outages and equipment failure or malfunction. Equipment “change out” and overhaul can occur any time with 30 days notice to the Director of Community Development to allow notice to property owners and residents within 300 feet of the facility. Maintenance should not take place on Sundays or holidays.

4. *Lighting* - Security lighting should be kept to a minimum and should only be triggered by a motion detector where practical.
5. *Compliance with FCC RF Exposure Guidelines* - Within six (6) months after the issuance of occupancy, and with each time extension or amendment request, the developer/operator shall submit to the Planning Director either verification that the WCF is categorically excluded from having to determine compliance with the guidelines per 47 CFR §1.1307(b)(1) or a project implementation report that provides cumulative field measurements of radio frequency (RF) electromagnetic fields of all antennas installed at the subject site. The report shall quantify the RF emissions and compare the results with currently accepted ANSI/IEEE standards as specified by the FCC. The Planning Director shall review the report for consistency with the project’s preliminary proposal report submitted with the initial project application and the accepted ANSI/IEEE standards. If, on review, the Planning Director finds the project does not meet ANSI/IEEE standards, the City may take any action necessary, as provided by law, to require compliance, including but not limited to revoking the conditional use permit.
6. *Abandonment* - Any WCF that is not operated for a continuous period of 90 days will be considered abandoned. Within 90 days of receipt of notice from the City notifying the owner of such abandonment, the WCF owner must remove the facility and restore the site, as much as is reasonable and practical, to its prior condition. If such WCF is not removed within 90 days, the WCF will be considered a nuisance and in addition to any other available remedy, will be subject to abatement under Chapter 6.04 of the Solana Beach Municipal Code. If there are two or more users of a single WCF, then this provision will not become effective until all users stop using the WCF. The provider or owner must give notice to the City of the intent to discontinue use of any facility before discontinuing the use.

#### D. Application and Review Guidelines

1. Besides the typical submittal requirements for a conditional use permit (including plans, landscape details, and color and material samples, as appropriate), all WCF applications shall include the following items:
  - a. A description of the site selection process undertaken for the WCF proposed. Coverage objectives and the reasons for selecting the proposed site and rejecting other sites should be provided.

- b. A description or map of the applicant's existing and other proposed sites.
  - c. A description of the wireless system proposed (e.g., cellular, PCS, etc.) and its consumer features (e.g., voice, video, and data transmissions).
  - d. Verification that the proposed WCF will either comply with the FCC's guidelines for human exposure to radio frequency (RF) electromagnetic fields or will be categorically excluded from having to determine compliance with the guidelines per 47 CFR §1.1307(b)(1). If WCFs are proposed for collocation, the verification must show the total exposure from all facilities taken together meets the FCC guidelines.
  - e. Color photo-simulation exhibits, prepared to scale, of the proposed WCF to show what the project would look like at its proposed location and from surrounding viewpoints. The Planning Director may waive the requirement to provide the exhibits if s/he determines they are unnecessary.
2. For WCFs proposed in a zone or area that is a discouraged WCF location as listed in Location Guideline A.2, the applicant shall provide evidence that no location in a preferred zone or area as listed in Location Guideline A.1 can accommodate the applicant's proposed facility. Evidence shall document that preferred zone or area locations do not meet engineering, coverage, location, or height requirements, or have other unsuitable limitations.
3. For proposed new ground-mounted monopoles, the applicant shall also provide evidence to the City's satisfaction that no existing monopole, building, structure, or WCF site ("existing facility") could accommodate the proposal. Evidence should demonstrate any of the following.
  - a. No existing facility is located within the geographic area or provides the height or structural length needed to meet the applicant's engineering requirements.
  - b. The applicant's proposed WCF would cause electromagnetic interference with the existing antennae array or vice versa.
  - c. The fees, costs, or contractual provisions required by the owner to locate on an existing facility or to modify the same to enable location are unreasonable. Costs exceeding new monopole development are presumed to be unreasonable.
  - d. The applicant demonstrates to the City Council's satisfaction that there are other limiting factors that render an existing facility unsuitable.
4. In considering a Conditional Use Permit for a WCF, the City Council shall consider the following factors:
  - a. Compliance with these guidelines.
  - b. Height and setbacks.
  - c. Proximity to residential uses.

- d. The nature of uses on adjacent and nearby properties.
  - e. Surrounding topography and landscaping.
  - f. Quality and compatibility of design and screening.
  - g. Impacts on public views and the visual quality of the surrounding area.
  - h. Availability of other facilities and buildings for collocation.
5. Conditional Use Permits for WCFs shall be granted for a period not to exceed five years. Upon a request for either an extension or an amendment of a CUP, the WCF should be reevaluated to assess the impact of the facility on adjacent properties, the record of maintenance and performance with reference to the conditions of approval, and consistency with these guidelines. Additionally, the City shall review the appropriateness of the existing facility's technology, and the applicant shall be required to document that the WCF maintains the technology that is the smallest, most efficient, and least visible and that there are not now more appropriate and available locations for the facility, such as the opportunity to collocate or relocate to an existing building.
6. A minimum deposit of \$3000.00 is required at the time of application for a WCF for the services of an independent third party expert consultant, as selected by the City, for technical plan review, staff report preparation and attendance at City Council hearings as required as part of the application process. The actual costs of the services rendered by the independent third party consultant, as retained by the City, shall be borne by the applicant. These costs are independent of, and in addition to the conditional use permit fee.