

**Inyo County Code**

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**Chapter 18.76 REGULATION OF WIRELESS COMMUNICATIONS FACILITIES**

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**18.76.010 Findings.**

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In enacting this ordinance the board of supervisors finds that:

A. The scenic beauty of Inyo County is a resource that benefits both those who reside in the county as well as those who visit it, and that aesthetic beauty and the benefits it provides can and will be diminished by the unregulated placement of wireless communications facilities in the county.

B. The unregulated placement of wireless communications facilities in the unincorporated part of the county may result in incompatible land uses and may cause a threat to the health, safety, and welfare of county residents.

C. The unregulated placement of wireless communications facilities in the unincorporated part of Inyo County may impede and pose a hazard to general aviation airports in the county as well as to the missions of the various U. S. Department of Defense facilities within and adjacent to the county; specifically, the United States Air Force's Flight Test Center at Edwards Air Force Base, the Department of the Navy's Naval Air Warfare Center Weapons Division at China Lake, and the Army's Bicycle Lake Army Airfield at Fort Irwin, as well as to those of the California Institute of Technology's Owens Valley Radio Observatory.

D. County-wide wireless communications coverage and capability is and will be beneficial to the health, welfare, safety, and convenience of Inyo County residents as well as to those who visit or do business in the county.

E. For these reasons, the addition of this chapter to the Inyo County Code is necessary to establish and provide county policies, procedures, and standards to govern the location, construction, appearance, modification, and removal of wireless communications facilities and their ancillary facilities in the unincorporated part of Inyo County. (Ord. 1052 § 1 (part), 2002.)

**18.76.020 Purpose and authority.**

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A. The purpose of this chapter is to facilitate the provision of county-wide wireless communications while addressing the concerns set forth in Section 18.76.010; specifically, to:

1. Ensure that sufficient wireless communications facilities are established to allow for countywide wireless communications for the safety and convenience of the public;
2. Implement Inyo County's goals of supporting and expanding tourism while maintaining the county's natural environment and rural quality of life;
3. Require that those who intend to construct or operate wireless communications facilities in Inyo County to submit plans concerning those facilities to the county prior to the construction thereof;
4. Avoid the over-concentration of wireless communications facilities on the limited amount of privately owned open space, residential, and commercial land in Inyo County;
5. Enhance the ability of providers of wireless communications services to provide such services in an efficient manner, with minimal adverse impact to the visual and economic character of the county;
6. Protect residential areas and residential land uses from any adverse impacts of wireless communications facilities and the other structures and construction that support those facilities;
7. Avoid damage and injury to persons and property that could result from the structural failure of wireless

communications facilities and/or supporting structures, through the careful engineering and siting of such facilities and structures;

8. Minimize the number of wireless communications facilities, support structures, and ancillary facilities in the county;

9. Ensure that, to the extent feasible, all wireless communications facilities and ancillary facilities in Inyo County are located and designed in a manner that minimizes their visual impact through careful design, siting, landscaping, and the use of alternative designs and camouflaging;

10. Encourage the placement and joint use or "co-location" of wireless communications facilities on existing structures, as opposed to the construction of new structures and facilities;

11. Avoid any incompatibility between wireless communication facility-generated radio emissions and the United States military's operations and test programs at Edwards Air Force Base, China Lake Naval Air Weapons Station, and the Fort Irwin National Training Center and the civilian radio astronomy operations of the California Institute of Technology at the Owens Valley Radio Observatory;

12. Avoid the blight of abandoned wireless communications facilities by ensuring that those who construct or install such facilities post adequate financial mechanisms to assure that such facilities, if abandoned, can be removed and the affected sites reclaimed;

13. Minimize light pollution from wireless communications facilities.

B. This chapter is enacted pursuant to the authority given the board of supervisors by Section 7 of article XI of the California Constitution, Section 704 of the Telecommunications Act of 1996 (47 U.S.C. § 332(c)(7)), the Planning and Zoning Law of California (Government Code § 65000 et seq.), and, with respect to lands owned by the United States, by the authority of local governments to apply and enforce environmental laws thereon as recognized by the U.S. Supreme Court in *California Coastal Commission v Granite Rock Company*, 480 U.S. 572 (1987). (Ord. 1052 § 1 (part), 2002.)

#### **18.76.030 Scope and applicability.**

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A. Any person who proposes to construct, install, establish, modify, or expand a wireless communications facility in the unincorporated part of Inyo County shall be subject to and comply with all applicable provisions of this chapter.

B. Any telecommunications facility existing in the unincorporated part of Inyo County on the effective date of the ordinance enacting this chapter shall, to the extent it is not in compliance with the provisions of this chapter, be considered and treated as a nonconforming use; and on that date the owner or operator of, and any other person responsible for, any such facility shall be subject to and comply with this chapter including, without limit, the requirement for submission and approval of a wireless communications plan in accordance with Section 18.76.050.

C. The provisions of this chapter shall apply to, and be met by the proponent of, any application or proposal for the modification, expansion, installation, or construction of a wireless communications facility submitted to the Inyo County Planning Department during the time that the interim urgency ordinances enacted by Inyo County concerning such facilities were in effect.

D. The provisions of this chapter shall apply to, and be met by the proponent of, any application or proposal for the modification, expansion, installation, or construction of a wireless communications facility on land in the unincorporated part of the county owned by the United States but, by such declaration of applicability, the county of Inyo asserts only environmental-review authority, and not land-use authority, over such lands.

E. Exemptions. Persons who own, operate, or are responsible for the communications facilities listed below shall be exempt from the provisions of this chapter:

1. Any facility used, exclusively, for public safety purposes by a Public Safety Network or for non-commercial governmental purposes by a public entity;
2. Any facility used exclusively for the transmission of television and/or radio broadcasts;
3. Any tower antenna that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas;
4. Any parabolic dish antenna used exclusively for transmission or reception of radio signals associated with satellites. (Ord. 1052 § 1 (part), 2002.)

#### **18.76.040 Definition of terms.**

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The following terms have the following meanings in this chapter:

A. "Alternative Design" means the design or configuration of a wireless communications facility such that it is not readily recognizable as communications equipment.

B. "Ancillary facilities" means all of the buildings, structures, cabinets, vaults, and equipment associated with or required for operation of wireless communications facilities and systems including, without limit, repeaters, equipment housing, fencing, ventilation, and other mechanical equipment; this term shall be interpreted broadly in the administration of this chapter.

C. "Antenna" means any exterior apparatus designed or intended for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless communications signals, or other communication signals; a parabolic dish antenna used for satellite communications is not included within this definition.

D. "Applicant" means any person who seeks or who has applied for issuance of any permit or approval required by this chapter, regardless of whether that person has already received a permit or approval pursuant to this chapter.

E. "CEQA" means the California Environmental Quality Act (Public Resources Code § 21000 et seq.) and the regulatory Guidelines promulgated hereunder.

F. "Co-location" means the placement of two or more wireless communications facilities in the same or proximate location or on the same support structure.

G. "Height" means, when referring to ground-mounted wireless communications facilities, the distance between the lowest natural undisturbed ground surface at the base of the facility and the top of the facility or the top of the highest antenna or piece of equipment attached thereto, whichever is greater; for building-mounted wireless communications facilities, "height" means the distance between the top of the building on which the facility is mounted and the top of the facility or any or screening structure, whichever is higher. In determining whether a building-mounted facility exceeds or will exceed the height limitations of the zoning district in which it is or will be located, the height of the facility is the combined height of the building and the facility and/or screening structure.

H. "Monopole" means a type of tower or structure supporting a wireless communications facility or facilities that is self-supporting and made of a single shaft of wood, steel, concrete, or other material and a platform or racks for the placement of panel antennas.

I. "Mount" means the structure or surface upon which a wireless communications facility is mounted, and includes the following types of mounts:

1. Building-mount: A mount in which the facility is placed on the roof or side of a building;
2. Ground-mounted: A mount in which the facility is mounted on the ground;
3. Structure-mounted: A mount in which the facility is mounted on or in a structure other than a building.

J. "Personal wireless service facility" means a facility for the provision of personal wireless services (PCS) as that term is defined in the Telecommunications Act of 1996.

K. "Wireless communications" means any personal wireless services, as that term is defined in the Federal Telecommunications Act of 1996, including FCC-licensed commercial wireless telecommunications services such as cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed to provide wireless communications services; the term does not include services of any amateur radio facility owned and operated by a federally-licensed amateur radio station operator or used exclusively for "receive-only" antennas, nor does it include noncellular telephone service.

L. "Wireless communications facility" means a facility designed and/or used for the purpose of transmitting, receiving, or relaying voice and/or data signals from various wireless communication devices and includes any transmission tower, antenna, or other facility designed or used for that purpose. For purposes of this chapter, amateur radio transmission facilities, facilities operated exclusively as part of a public safety network, and facilities used exclusively for the transmission of television and/or radio broadcasts are not "wireless communications facilities." (Ord. 1052 § 1 (part), 2002.)

#### **18.76.050 Wireless communications plans and subsequent applications.**

A. Any person wishing to construct, install, expand, or modify any wireless telecommunications facility in the unincorporated part of Inyo County shall, prior to such activity, apply for and gain approval by the Inyo County planning commission of a wireless communications plan in accordance with this chapter.

B. To be considered by the planning commission, a proposed wireless service plan shall include, at a minimum, the following:

1. A detailed description of the applicant's existing wireless communications facilities in Inyo County, by size, type, frequency range, configuration design, coverage area, and relationship to other such facilities;

2. A detailed description of the applicant's plans with respect to wireless communications facilities in Inyo County including the types, configurations, locations, and coverage areas of the facilities it intends to modify, expand, install, construct, operate, lease, or deploy, and the present or anticipated commitments received by the applicant from wireless communications service providers with respect to the use of such facilities;

3. The applicant's commitment to and its methods for meeting, to the maximum extent feasible, the standards and measures in this chapter concerning the design, location, configuration, deployment, and removal of wireless communications facilities in Inyo County, as well as the remediation of former facility sites, and a description of its policies and practices for doing so, all on both a county-wide and facility-specific basis;

4. The applicant's certification that it has provided a copy of its proposed plan to the Department of Defense installations listed below, to the Owens Valley Radio Observatory, and to the operator of every general aviation airport in Inyo County, and a description or copy of any response:

- a. Air Force Flight Center at Edwards Air Force Base,
- b. China Lake Naval Air Weapons Station,
- c. Bicycle Lake Army Airfield at Fort Irwin.

5. The name and address of the applicant's agent for the receipt of correspondence and notices from Inyo County pursuant to this chapter.

C. Information in an applicant's proposed or approved wireless communications service plan that is either proprietary or a trade secret shall be clearly designated as such by the applicant and shall not be disclosed by the county to third parties unless authorized in writing by the applicant or required by law.

D. Upon a determination by the planning director that an applicant's proposed wireless communications plan

is complete, the planning commission shall hold a public hearing to consider whether to approve the plan; the planning commission shall be the decision-making body with respect to that act, and its consideration of the plan shall be a discretionary act under CEQA.

E. After discharging its duties as the environmental review board in accordance with Section 15.12.040, the planning commission shall approve the wireless communications plan if it finds:

1. That the plan is in substantial compliance with the requirements of this chapter;
2. That the applicant has made a good faith effort and commitment to meeting the standards and goals of this chapter;
3. That none of the entities listed in subsection B.4. have interposed an objection to the plan; and
4. That execution of the plan will not pose or create a threat to the health, safety, or welfare of the public.

F. Following approval by the planning commission of an applicant's wireless communications facilities plan, the applicant may submit to the Inyo County planning director applications for the modification, expansion, installation, or construction of wireless communications facilities in the unincorporated part of Inyo County in accordance with Section 18.76.070.

G. The planning director shall review the application and determine whether the activity proposed will require a conditional use permit pursuant to this chapter and/or a variance pursuant to Chapter 18.81; if it does, the application will be processed accordingly, unless the applicant modifies the application to eliminate that requirement.

H. If the planning director determines that the activity proposed does not require a conditional use permit or a variance and that it is or will be in substantial conformance with the applicant's approved wireless communications plan, the director shall, except as provided in subsection J., approve and issue a permit for that activity; otherwise the director shall deny the application; in either case the director's decision shall be a ministerial act under CEQA.

I. In order to provide notice to the public and to commence the period for filing any appeal, the planning director shall post notice of the director's approval of any application pursuant to this chapter in a manner similar to that followed with respect to the notice of exemption filed under CEQA.

J. If the planning director determines that extraordinary or unique circumstances attend an application for an activity not requiring a conditional use permit or variance, the director shall forward the application for consideration by the planning commission at a public hearing; in that case the planning commission's consideration of the application shall be a discretionary act under CEQA and, in making its decision on the application, the commission shall apply the standards and be guided by the factors set forth in Section 18.76.060 concerning conditional use permits; for purposes of this section, any application which proposes the construction of a road or substantial new construction shall be considered to be an application to which extraordinary circumstances attend.

K. Once approved, a wireless communications plan may be amended only upon application to, and approval by, the planning commission; in considering whether to approve such an amendment, the planning commission shall be guided by the relevant portions of this chapter. (Ord. 1052 § 1 (part), 2002.)

#### **18.76.060 Conditional use permits.**

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Any person desiring to modify, expand, install, or construct a wireless communications facility in the unincorporated portion of Inyo County that will be either:

- A. Located within, or within three hundred feet of, any residential zoning district, i.e., R-1, R-2, R-3, RR, RR-0.5, or RMH; or
- B. Located within an OS, C-1, C-2, C-3, C-4, C-5, M-1, or M-2 zoning district and which, if constructed, will

exceed the maximum height allowed in that district for principal permitted uses, shall first procure a conditional use permit in accordance with this chapter and Chapter 18.81; no conditional use permit may be sought unless the applicant has a planning commission-approved wireless communications plan on file with the planning department. (Ord. 1052 § 1 (part), 2002.)

### **18.76.070 Application requirements.**

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A. Any person wishing to modify, expand, install, or construct a wireless communications facility in the unincorporated portion of Inyo County shall, pursuant to Section 18.76.050 F. and regardless of the type of approval sought, provide the following to the Inyo County planning department:

1. A reference to the portion of the applicant's approved wireless communications plan in which the proposed activity is described and a statement as to how the desired activity or facility is consistent with that plan, as well as a map showing how the proposed facility relates to the applicant's network, if any, of existing and/or proposed facilities sites as described in that plan;
2. Site plans for the proposed activity or facility, drawn to scale, including any landscaping plans;
3. A statement that the applicant owns the site or has permission from the landowner to engage in the activity or construct the facility applied for;
4. A description of all easements on the affected property;
5. A U.S. Geological Survey topographic map or other similarly-detailed survey, showing topographic contours, the proposed facility and any existing at the site, and all existing and proposed ancillary facilities, roads, fencing, etc.; the map shall depict the site upon which the construction or activity is proposed to be located or occur and the area within a minimum of three hundred feet in all directions thereof;
6. A description of the number, type, dimensions, and radio frequencies of all antennas and equipment cabinets/structures present or proposed for use by the applicant at or near the site;
7. A map depicting all existing wireless communications facilities within two miles of the proposed facility or site;
8. A statement as to whether the proposed wireless communications facility is intended to increase the quality or capacity of wireless communications service in an area to which such service has already been extended, or to extend wireless communication service to an unserved area and, in the case of an application for approval of a new wireless communications facility, a certification or other proof that the facility will forthwith be utilized to provide wireless communications service; such other proof shall consist of a lease for the use of the facility, or a letter of intent to enter into such a lease, executed by a provider of wireless communications services;
9. A statement as to whether and, if so, how the facility is or will be designed to allow for co-location, as well as a description of how or to what extent the facility and the site upon which it is proposed to be located will meet the General Requirements set forth in Section 18.76.100 including, to the extent relevant:
  - a. A description of how the proposed facility has been designed and/or will be installed or constructed so as to be as inconspicuous as possible, including landscaping plans,
  - b. Sample exterior materials and colors of the proposed facility and any ancillary facilities and associated structures such as equipment cabinets and fences,
  - c. Visual impact demonstrations including before and after photo-simulations showing the height, location, and appearance of the proposed facility, as viewed from residences and public thoroughfares and places in the vicinity both at night and during the day.
10. A statement describing the applicant's site selection process and explaining why the applicant is seeking to locate the facility on the site proposed;

11. For applications for facilities intended to extend wireless communications services to an unserved area, a map based on either radio frequency propagation or similar engineering data, or drive tests at the proposed site and its vicinity, showing estimated coverage of the proposed facility;

12. A statement verifying that the radio-frequency radiation and electromagnetic field emissions of or associated with the proposed facility will, when operating at full strength and capacity, fall within the applicable standards adopted by the Federal Communications Commission and, if the proposed facility is to be co-located with other wireless communications facilities, a similar verification with respect to the cumulative emissions from those facilities;

13. The applicant's certification that it has provided notice of the application to the Department of Defense installations listed below, to the Owens Valley Radio Observatory, and to the operators of all general aviation airports within five miles of the site of the proposed facility or activity and a description or copy of any response:

- a. Air Force Flight Test Center at Edwards Air Force Base,
- b. China Lake Naval Air Weapons Station,
- c. Bicycle Lake Army Airfield at Fort Irwin.

14. A plan for the removal of the facility and reclamation of the site upon which it is or will be located, including a time frame for doing so;

15. In the case of a facility proposed to be located on land owned by the United States, either written approval of the facility from an authorized representative of the federal agency that administers that land, or a statement from that agency stating that it will not consider the proposal until the applicant has first obtained approval thereof from Inyo County pursuant to this chapter.

B. An applicant may combine or consolidate the maps, data, statements, and other items required by this section as long as that information is fully and clearly provided.

C. In addition to the above requirements, if an applicant is proposing to place or construct a wireless communications facility on or within three hundred feet of a residentially-zoned parcel of land, the planning department may, prior to formal acceptance of the application for the facility, convene a "Pre-Development Meeting" concerning the proposed facility among the applicant, members of the planning department and other affected county departments, and representatives of other interested public agencies to address any special or unique concerns posed by the application. (Ord. 1052 § 1 (part), 2002.)

#### **18.76.080 Review and approval factors—Conditional use permits.**

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A. In addition to the considerations in Section 18.81.100, the Inyo County planning commission shall consider the following factors in determining whether to approve an application for a conditional use permit for a wireless communications facility:

1. The height of the proposed wireless communications facility, and its proportionality to and compatibility with existing structures;
2. The proximity of the proposed facility to any residences and/or residential district boundaries;
3. The zoning and the nature of existing uses on adjacent and nearby properties;
4. The nature, type, and extent of surrounding tree coverage, foliage, and other landscape features;
5. The design of the facility, with particular regard for design characteristics that will reduce or eliminate its conspicuousness and/or obtrusiveness;
6. The proposed ingress and egress to the site of the facility;
7. The availability and suitability of existing facilities and structures, especially whether suitable alternative sites, for which a conditional use permit would not be required, are available to the applicant.

B. The planning commission shall not approve a conditional use permit for the modification, expansion, installation, or construction of a wireless communications facility unless it finds, in addition to the determinations required by Section 18.81.100, that the applicant has, to the maximum extent feasible, designed and configured the facility to meet the requirements and standards set forth in Section 18.76.100 and, in the case of a facility to be installed or constructed in a residential zoning district, that the location of the facility in that district is necessary to provide wireless communications services in that area. (Ord. 1052 § 1 (part), 2002.)

#### **18.76.090 Term, expiration, and renewal of conditional use permits.**

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A. Conditional use permits for wireless communications facilities issued pursuant to this chapter shall expire ten years after their issuance unless the planning commission specifies a lesser period when it approves the permit.

B. Conditional use permits for such facilities may be renewed by the planning commission for additional periods if it finds either that:

1. The facility has not had and will not have a significant adverse effect on surrounding land uses or the public; or
2. Despite its adverse effects, replacement or modification of the facility to remove its deleterious effects is not reasonably feasible and removal of the facility would result in a significant and irreplaceable loss of wireless communication coverage.

C. Notwithstanding the forgoing in this section, the planning commission shall renew a conditional use permit when it is shown to the satisfaction of the commission that failure to do so would deprive the owner, operator, or other responsible person of a reasonable return on the investment made by that person in the permitted facility and in reliance on the conditional use permit; however, any such renewal shall be for the minimum period necessary for the owner, operator, or other responsible person to recoup that investment. (Ord. 1052 § 1 (part), 2002.)

#### **18.76.100 General requirements.**

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A. Regardless of the type of county approval required, the following standards, as they may be deemed applicable by the planning department, shall be met with respect to any wireless communications facility that is modified, expanded, installed, operated, or constructed in the unincorporated part of Inyo County, and shall be conditions of approval in any permit issued by the county with respect to any such facility:

1. Separation from Residential Use: No wireless communications facility that is designed to be taller than the maximum height allowed for principal permitted uses in the zoning district in which the facility is to be located shall be placed or erected closer than a distance equal to one hundred ten percent of the height of the facility from any residence.

2. Minimization of Visual Impact: All wireless communications facilities governed by this chapter shall be designed, configured, installed, and constructed so as to minimize their visibility. To this end, the applicant for a county permit for any such activity and the owner or operator of, or other person responsible for, any such facility shall, to the maximum extent reasonably feasible, observe and implement the following measures with respect thereto:

a. Co-location/Alternative Design of Facilities: The applicant shall co-locate facilities when it is feasible to do so and when it will mitigate or minimize the adverse effects of the facility on land use compatibility, visual resources, public safety, and/or other environmental factors. Co-location is not required when it will create or increase such adverse effects or technical evidence demonstrates to the satisfaction of the planning director or the planning commission, as the case may be, that it is not feasible due to physical, spatial, or technological

limitations. Fiscal constraints or competitive conflicts are not considered justifiable reasons for not co-locating a new facility. No new wireless communications facility may be installed on an undeveloped site unless the facility will blend in with the surrounding natural and/or manmade environment in such a manner so as to be effectively unnoticeable, unless reliable evidence demonstrating all of the following is provided to the planning director or the planning commission, as the case may be:

- i. A clear and convincing need for the facility;
  - ii. The infeasibility or undesirability of co-locating the facility; and
  - iii. The inability to develop an alternative design for the facility.
- b. **Ridgeline Sites:** Wireless communications facilities shall be sited below ridgeline and be designed to minimize their profile, e.g. screened, depressed, or located behind berms that match the landscape at the site.
- c. **Alternative-Design/Use of Camouflage:** Wireless communications facilities and all ancillary facilities shall be designed and constructed or installed using such alternative-design techniques, architectural treatments, and/or camouflaging or screening as will, to the greatest extent possible, minimize their visual impact and allow them to blend in with the existing landscape.
- d. **Colors/Painting:** The paint or other finish applied to wireless communications facilities and ancillary facilities, and to all buildings, poles, towers, antenna supports, antennas, fencing, equipment, gates, and other components associated with a wireless communications facility and/or the site upon which it is located and/or the materials out of which they are made, shall be of such non-reflective colors as will, to the greatest extent possible, minimize their visual impact and allow them to blend in with the existing landscape.
- e. **Support Facilities:** Freestanding, above-ground wireless communications support facilities including equipment shelters shall be no taller than one story and shall be designed and constructed to resemble a structure or facility typically found in the area, or to otherwise blend in with the surroundings; the design must be approved by the Inyo County planning director before a building permit for the structure may be issued.
- f. **Lighting:** Outside lighting is prohibited on wireless communications facilities, ancillary facilities, and supporting structures, and at the site upon which those facilities and structures are located except, and only, to the extent required by the Federal Aviation Administration, the Federal Communications Commission, the Department of Defense, or the Uniform Building Code; to the extent such lighting is required by any of these entities or by the Uniform Building Code, it shall, to the maximum extent feasible, be directed towards the ground and neither cast glare onto adjacent properties, nor disperse into the night sky, nor be a hazard to birds. If necessary, any such required lighting shall be shielded or placed within cowling to prevent it from causing these effects.
- g. **Dish Design:** Open-mesh design shall be utilized for microwave dishes whenever possible.
- h. **Area Disturbance/Landscaping:** Disturbance of/to the landscape and terrain shall be avoided, minimized, and mitigated to the degree feasible in the construction, installation, use, and maintenance of any facility governed by this chapter. All applicants and permit holders shall reclaim disturbed landscape areas immediately following construction of the facility. Disturbance of areas surrounding the site shall be avoided or minimized by utilizing existing disturbed areas for the storage of construction materials and equipment, flagging boundaries of the construction area, and notifying workers of these boundaries and other limits of construction and the need to minimize site damage and disturbance.
- i. **Vegetation:** Wireless communications facilities shall be constructed and installed in such a manner as to maintain and enhance vegetation at the site and existing vegetation shall, to the degree reasonably feasible, be used to screen the facilities. Native and/or fire-resistant, noninvasive adapted vegetation shall be planted and maintained around the facility, in the vicinity of the project site, and along access roads in appropriate situations, when necessary or desirable to provide screening for the facilities and/or to prevent erosion.
- j. **Facade-Mounted Facilities:** Facade-mounted wireless communications facilities shall be camouflaged or

incorporated into the building upon which it is placed as part of the dominant design element of the building.

k. **Building-Mounted Facilities:** Facilities attached to buildings or structures shall be painted to match the existing structure, unless they are used as a design element consistently throughout the building and will add visual interest to the building. When used as a design element, dummy elements may be required to be installed in order to retain the architectural continuity of the building.

3. **Compatibility with Military Operations:** Any applicant proposing to install or construct a wireless communications facility that will exceed eighty-five feet in height shall, before submitting an application for approval of such facility to Inyo County, notify the Air Force Flight Test Center at Edwards Air Force Base, the Frequency Management Office at the China Lake Naval Air Weapons Station, and the National Training Center and Aviation Air Traffic Control Office at the Bicycle Lake Army Airfield at Fort Irwin of the application and receive written approval thereof from each of those installations.

If an applicant provides such notification but receives no response within forty-five days thereof, Inyo County shall deem the application approved by the military installation failing to respond.

4. **Harm to Animals:** All wireless communications facilities, and all ancillary facilities and other structures associated with or auxiliary to such facilities shall be designed, configured, located, installed, and constructed so as to minimize their deleterious effects on birds and other animals to the greatest extent possible.

5. **Security:** Ground-mounted wireless communications facilities shall have appropriate security fencing, gates, and locks. In the instance of a proposed siting on school grounds, day care facility grounds, or in a park or recreational facility, the wireless communications facility, including vehicular ingress and egress, shall be as isolated from, and as minimally intrusive on, those facilities as possible.

6. **Roads:** Existing roads shall be utilized for the construction of wireless communications facilities and, once a facility is constructed, for access to the facility for any reason; if no roads exist, they shall be designed and constructed so as to minimize their visibility and erosion-causing effects.

7. **County Zoning Preferences:** The county has determined that wireless communications facilities are more compatible with certain land uses than with others, and therefore establishes the following preferential hierarchy to be followed by an applicant, to the extent feasible, when selecting sites for the location of such facilities: the applicant shall attempt first to select sites in the public zoning district, then those in an industrial/manufacturing zoning district, then those in a commercial zoning district, and lastly those in the open space zoning district; sites within a residential zoning district are disfavored.

8. **County Mounting-Style Preferences:** The county has determined that certain types of wireless communications facility mountings have less visual impact than others, and therefore establishes the following preferential hierarchy to be followed by an applicant, to the extent feasible, when designing or selecting among mounts for such facilities: the applicant shall attempt first to use a facade mount, then a roof mount, then a ground mount, and lastly a free-standing monopole.

9. **Construction Standards:** The design, construction, modification, installation, and expansion of any wireless communication facility or ancillary facility governed by this chapter shall be in conformance with the Uniform Building Code.

10. **Conflict with Federal Law:** An applicant need not comply with the requirements of this section to the extent they are preempted by federal law. (Ord. 1052 § 1 (part), 2002.)

#### **18.76.110 Financial assurances.**

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A. The planning director or the planning commission, as the case may be, shall, as a condition of approval of any permit issued pursuant to this chapter for the installation or construction of any wireless communications facility, require the applicant to post a financial assurance mechanism to assure the removal of the facility and reclamation of the site upon which it is located in the event the facility becomes abandoned.

B. The financial assurance mechanism shall be held until the wireless communications facility is removed, and shall be made payable to the Inyo County planning department, which shall use the mechanism solely for the purposes described in subsection A.

C. The financial assurance may take the form of a surety bond, an irrevocable letter of credit, a certificate of deposit, cash, or such other form as the planning department determines is adequate; in any event, the mechanism shall meet the applicable financial assurance guidelines and regulations developed and promulgated under the Surface Mining and Reclamation Act of 1975 (Public Resources Code § 2710 et seq.).

D. The amount of the financial assurance mechanism shall be calculated based on the reasonably-anticipated cost to remove the facility and to reclaim the site upon which it is located; the amount of the mechanism may be adjusted in the event the facility is modified, a portion thereof is removed, the site upon which it is located is partially reclaimed, or for any other legitimate reason.

E. No wireless communications facility shall be installed, constructed, or operated unless the financial assurance mechanism required to be posted in connection with that facility is in full force and effect. (Ord. 1052 § 1 (part), 2002.)

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#### **18.76.120 Notification of transfer of ownership.**

Any person to whom a permit has been issued pursuant to this chapter shall notify the planning department in writing of the particulars of any purchase, sale, transfer, merger, acquisition, or other event affecting ownership of the entitlements and privileges associated with or arising from that permit; such notification shall be provided within six months of the ownership-affecting event. (Ord. 1052 § 1 (part), 2002.)

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#### **18.76.130 Abandoned facilities.**

Any wireless communications facility that is not operated on a functional basis for a period of twelve consecutive months shall be deemed abandoned, and the owner or operator of, or other person responsible for, the facility shall remove same within ninety days of its receipt of notification of the planning department's determination that the facility has been abandoned. Failure of owner, operator, or other responsible person to timely remove the facility following its receipt of such notice of abandonment shall result in the institution of proceedings for forfeiture of the financial assurance mechanism posted in connection with the facility. (Ord. 1052 § 1 (part), 2002.)

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#### **18.76.140 Modification and revocation of permits.**

If the Inyo County planning commission finds, following a public hearing, that the conditions of approval of any conditional use permit or other permit or authorization issued pursuant to this chapter have not been fulfilled, or that the use or uses allowed by any such permit has or have resulted in a substantial adverse effect on the general welfare of the public or any persons owning, occupying, or using property adjacent or proximate to the site of the permitted activity, or is detrimental to the provision of public facilities or services, the commission may modify or revoke the permit. If the permit is revoked, the owner or operator of, or other person responsible for, the subject facility shall promptly remove same and reclaim the site upon which it was located to the satisfaction of the Inyo County planning director. (Ord. 1052 § 1 (part), 2002.)

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#### **18.76.150 Responsibility for inspection costs.**

The owner or operator of, or other person responsible for, a wireless communications facility authorized by a permit issued pursuant to this chapter shall be responsible to the county of Inyo for the payment of all reasonable

costs associated with the necessary inspections of the conditions of approval associated with the permit, including costs incurred by the Inyo County planning department, the Inyo County public works department, and any other department of Inyo County. (Ord. 1052 § 1 (part), 2002.)