



**STAFF REPORT**

**TO:** Mayor and City Council

**FROM:** Danielle Staude, Senior Planner *DS*

**SUBJECT:** Introduction of Urgency Ordinance No 18-\_\_\_\_ Amending the Mill Valley Municipal Code to add Chapter 20.73 establishing Wireless Telecommunication Facilities Regulations and Amending Mill Valley Municipal Code Sections 11.16.100; 20.24.020; 20.26.020; 20.36.030; 20.40.030; 20.52.020; and 20.56.030 to incorporate Wireless Telecommunication Facilities.

**DATE:** September 6, 2018

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**Approved for Forwarding:**

*James C. McCann*  
James C. McCann, City Manager

**ISSUE:**

Consideration of an urgency ordinance modifying Title 20 “Zoning” of the Mill Valley Municipal Code (“Zoning Code”), adding Section 20.73 “Wireless Telecommunications Facilities Regulations” establishing comprehensive regulations for the installation, operation and maintenance of wireless telecommunications within the City on private property and within the City right-of-way.

**RECOMMENDATION:**

Receive presentation, introduce and adopt the urgency ordinance (ATTACHMENT 1) with a four-fifths vote.

**BACKGROUND:**

As the wireless telecommunications industry works to meet the growing demand for broadband and data services, service providers are seeking to deploy smaller cell and distributed antenna systems (also known as “DAS”), with many of these facilities installed in the public right-of-way. The Mill Valley Municipal Code does not currently provide regulations specific to the installation, operation and maintenance of wireless telecommunication facilities.

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26 ***Federal Law***

27 Both federal and state laws preempt local authority to regulate certain aspects of wireless  
28 telecommunications facilities, including regulations related to:

- 29 • radio frequency or electromagnetic waves that comply with FCC regulations, the  
30 collocation on existing wireless telecommunications facilities,
- 31 • certain modifications to existing wireless telecommunications facilities, and
- 32 • the installation of wireless telecommunications facilities on existing utility poles  
33 in the public rights of way.

34 Key among these limitations is that local regulations cannot have the effect of prohibiting  
35 the provision of personal wireless services. *These laws, however, preserve local authority*  
36 *to regulate the placement, construction and aesthetics of wireless telecommunications*  
37 *facilities.*

38  
39 Federal law also requires the City to act on an application for wireless telecommunication  
40 facilities within a limited amount of time. These “shot clocks” provide the City:

- 41 • 60 days to act on an application for an eligible facility that does not substantially  
42 change the physical dimensions of the existing wireless telecommunication  
43 facilities tower or base station;
- 44 • 90 days to act on an application for a collocation facility; and
- 45 • 150 days to act on all other applications.

46 These timeframes may change with federal laws. As such the actual “shot clock” and/or  
47 timeframes are not discussed in the ordinance, but will be provided as part of the  
48 application and informational handouts.

49

50 ***Urgency Ordinance***

51 The proposed urgency ordinance is intended to prescribe clear and reasonable criteria to  
52 process applications for wireless telecommunications facilities in a consistent and  
53 expeditious manner and within the limits of federal and state law.

54

55 This proposed ordinance provides an extensive and comprehensive list of procedures and  
56 regulations that allow the community, applicant and internal City Departments to  
57 understand how facilities are regulated, installed, maintained and operate within the City.

58 The regulations contained in the proposed ordinance:

- 59 1. Ensures that the FCC standards regulating radio frequency emissions are strictly  
60 followed.
- 61 2. Establishes an application process for a conditional use permit (CUP) and design  
62 review.
- 63 3. Limits the location of new or updated wireless facilities to private property within  
64 commercial zoning districts (outside of single family and multi-family residential  
65 districts) and the public right-of-way with an order of preference in terms of  
66 location within commercial areas and configuration aimed toward existing  
67 facilities.
- 68 4. Limits the installation of new wireless facilities in the public right-of-way to  
69 existing poles that must be 1,500 feet away from the nearest facility.

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- 70 5. Establishes design standards for the appearance and maintenance of facilities,  
71 including limiting the height and bulk of facilities and requires the concealment of  
72 accessory equipment to the extent feasible.
- 73 6. Imposes strict noise standards.
- 74 7. Where feasible, requires upgrades to existing facilities as new technology  
75 becomes available to replace larger more visually intrusive facilities with smaller  
76 facilities.
- 77 8. Requires the relocation of any facility in the public right-of-way that would  
78 interfere with a future public project or improvements.
- 79 9. Requires a performance bond to ensure that facilities are promptly removed when  
80 they are no longer permitted or needed.
- 81 10. Requires the permittee to defend and indemnify the City from any liabilities  
82 arising from the permits issued by the City and the installation, operation and  
83 maintenance of the facilities.
- 84

85 The ordinance is being proposed as an urgency ordinance which would be adopted  
86 pursuant to Government Code Section 36937(b). Under that section, ordinances adopted  
87 to protect the health, safety, and welfare with a four-fifths vote of the City Council  
88 become effective immediately adoption by 4/5ths vote is required by state law). Given  
89 the increased interest in construction of small-cell facilities in the public right-of-way, it  
90 is critical that the City update its regulations to reflect current federal and state law and  
91 recent trends in wireless facilities. The adoption of urgency standards will ensure that the  
92 City is able to limit disruption to the public right-of-way as well as impose aesthetic  
93 regulations on new facilities.

94

95 Staff is also working to establish permanent regulations which require additional public  
96 notice, Planning Commission and City Council review, followed by City Council  
97 adoption.

98

99 **DISCUSSION:**

100 The proposed urgency ordinance provides uniform and comprehensive regulations for the  
101 permitting, development, siting, installation, design, operation and maintenance of  
102 wireless telecommunications facilities in the City. The ordinance is similar to recent  
103 regulations enacted in San Anselmo and Ross. The ordinance also imposes some  
104 additional requirements on telecommunications facilities that are pole mounted to the  
105 existing public utility infrastructure (known as “small cell wireless facilities”) based on  
106 community interest and recent regulations established in Petaluma (see staff report, lines  
107 171-205).

108

109 ***Applicable Projects (20.73.030)***

110 The urgency ordinance becomes effective immediately. Those applications not approved  
111 prior to the effective date of the urgency ordinance will be subject to the regulations. All  
112 other wireless facilities currently in operation will also be subject to the new regulations  
113 with regard to operation, maintenance and use.

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***Conditional Use Permit (CUP) Required (20.73.040)***

The permitting process described in the table below reflects the requirements of federal and state law, which mandate ministerial approval of collocations on and minor modifications to existing wireless telecommunications facilities.

<b>Description Wireless Facility</b>	<b>Private Property</b>		<b>Public Right-of Way</b>
	<b>RS, RSP, DR, RM Zoning Districts</b>	<b>All Other Zoning Districts</b>	<b>All Zoning Districts</b>
Roof-mounted facility, building-mounted facility, or facility mounted on an existing pole	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
Facility mounted on a replacement pole or new telecommunications tower	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
New wireless telecommunications collocation facility	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
Eligible facilities request <sup>1</sup> or application pursuant to California Government Code Section 65850.6 <sup>2</sup>	Permitted	Permitted	Permitted
<sup>1</sup> See requirements of section 20.73.140.			
<sup>2</sup> See requirements of section 20.73.150.			

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***Application for CUP Permit (20.73.050)***

The proposed ordinance prescribes the content for an application for a wireless telecommunications facility permit. The application requires the submission of detailed site and engineering plans, photographs of facility equipment, a visual impact analysis with photo simulations, a noise study, documentation demonstrating compliance with the FCC standards for radio frequency emissions, and certification that the applicant has a right under state law to install facilities in the public right-of-way if that is the proposed location of the facilities. Also, the City may hire a technical consultant to assist the City in the review of the application at the expense of the applicant.

Based on existing provisions of the City’s Zoning Code, initial wireless facility CUP applications will be heard by the Planning Commission. Smaller subsequent amendments to wireless facility CUPs, such as modifying or collocating equipment, will undergo Zoning Administrator approval. Amendments to CUPs that involve significant design review issues, or are deemed as significant projects by the Planning Director will be heard by Planning Commission. There are also specific design standards, findings and conditions of approval required as part of the approval process for these applications (discussed below).

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144 ***Location and Configuration Preferences (20.73.060)***

145 The proposed ordinance establishes preferences in terms of location and configuration of  
146 wireless facilities.

147

148 Configuration preferences are as follows:

- 149 1. Collocation with existing facilities,
- 150 2. Roof-mounted,
- 151 3. Building-mounted,
- 152 4. Mounted on an existing utility pole or a new utility pole that will replace an  
153 existing utility pole,
- 154 5. Mounted on a new telecommunication tower.

155

156 Location preferences are as follows:

- 157 1. Commercial zoning districts (CG, CN, CL, CD),
- 158 2. Public right-of-way within commercial zoning districts,
- 159 3. Public right-of-way within RM zoning districts,
- 160 4. Mounted on a new telecommunication tower.

161

162 ***Design and Development Standards for All Facilities (20.73.070)***

163 The proposed ordinance provides specific guidance on the design techniques for  
164 camouflaging wireless facilities, and set development standards including the preference in  
165 collocating facilities, landscaping screening, signage, lighting, noise restrictions, and  
166 security requirements.

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168 ***Additional Standards for Facilities Outside the Public Right-of-Way (20.73.080)***

169 Additional design and development standards are identified for wireless facility  
170 applications that are *outside* the right-of-way including the requirement that the facility  
171 cannot interfere with designated parking spaces and additional screening criteria for roof  
172 mounted facilities, towers and accessory equipment.

173

174 ***Additional Standards for Facilities in the Public Right-of-Way (20.73.060-090)***

175 Additional design and development standards are identified for wireless facility  
176 applications that are *inside* the right-of-way including establishing maximum height  
177 limits on utility and streetlight poles for antennas, occupation of space, obtaining an  
178 encroachment permit, and adhering to Americans with Disability Act (ADA)  
179 Compliance, and specific development standards.

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181 Additional design and development standards have been incorporated based on the City  
182 of Petaluma's recently adopted ordinance, and interest from some community members  
183 that are concerned about potential health impacts associated with pole mounted wireless  
184 facilities (see ATTACHMENT 2 for public comments). Staff has incorporated a distance  
185 requirement (1,500 ft. apart) for pole mounted telecommunications facilities, but has not  
186 gone as far as establishing a restriction on the proximity of pole mounted wireless  
187 telecommunication to any residence. The City of Petaluma also establishes a 500 foot  
188 buffer from any residence as part of its ordinance. Due to the size and scale of Mill  
189 Valley, staff recommends moving forward with the following standards, and  
190 incorporating a buffer, if legally feasible, as part of the regular ordinance. Additional

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191 research is required to ensure that such a regulation does not essentially create a ban on  
192 such facilities within the City and expose the City to potential litigation. In the meantime,  
193 the urgency ordinance provides a 1,500 foot buffer from each small cell facility and  
194 prohibits such facilities in residential and multi-family zoning districts.  
195

196 The requirements indicate that wireless facilities in the right-of-way must:

- 197 1. Connect to an existing utility pole that can support its weight.
- 198 2. Be separated by at least 1,500 feet.
- 199 3. Install all new wires needed to service the telecommunications facility within  
200 the width of the existing utility pole so as to not exceed the diameter and  
201 height of the existing utility pole.
- 202 4. Underground (flush to the ground, within three (3) feet of the utility pole), all  
203 ground-mounted equipment not installed inside the pole.
- 204 5. Conceal all equipment. Aside from the transmitter/antenna itself, no additional  
205 equipment may be visible. All cables, including, but not limited to, electrical  
206 and utility cables, shall be run within the interior of the telecommunications  
207 tower and shall be camouflaged or hidden to the fullest extent feasible without  
208 jeopardizing the physical integrity of the tower.  
209

210 ***Conditions of Approval (20.73.100-110) and Findings for Approval (20.73.120)***

211 The proposed ordinance outlines findings and conditions of approval for granting the  
212 design review and CUP applications, with additional specific conditions for those use  
213 permits in the right-of-way. The CUP expires in 10 years unless renewals are approved by  
214 the City.  
215

216 ***Exceptions (20.73.130)***

217 The proposed ordinance allows an applicant to request an exception from the standards in  
218 the event that denial of a permit would violate federal or state law. The applicant has the  
219 burden of providing sufficient facts to support the request.  
220

221 ***Wireless Telecommunications Facilities Covered under Section 6409(a) of the Middle  
222 Class Tax Relief and Job Creation Act (20.73.140)***

223 This Section applies to all collocations or modifications to an existing wireless tower or  
224 base station submitted with a written request for approval pursuant to Section 6409(a).  
225 Section 6409(a) generally requires that State and local governments "...not deny, and shall  
226 approve" requests to collocate, remove or replace transmission equipment at an existing  
227 tower or base station. Such applications undergo administrative review, and the proposed  
228 ordinance outlines required findings for approval, denial, and appeal procedure.  
229

230 ***Collocation Facilities Covered under CA Government Code Section 65850.6 (20.73.150)***

231 This section provides the requirements, standards and regulations for a wireless  
232 telecommunications collocation facility for which subsequent collocation is a permitted use  
233 pursuant to California law.  
234

235 ***Additional Requirements (20.73.160-240)***

236 Additional regulations are established in the remainder of the ordinance including business  
237 license and encroachment permit requirements, emergency deployment, operation and

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238 maintenance standards, permit expiration, cessation of use/abandonment, removal of  
239 equipment)

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241 **EFFECTIVE DATE/NEXT STEPS:**

242 The urgency ordinance would become effective immediately. Staff’s intent is to  
243 implement the urgency ordinance swiftly due to recent inquiries from the wireless  
244 industry to upgrade facilities. Staff intends to utilize the urgency ordinance as a means of  
245 communication, and to obtain feedback from interested parties, including the local  
246 community and wireless industry, as part of the public hearing process for development  
247 of a permanent ordinance. Staff plans to bring the regular ordinance to City Council early  
248 in 2019, with a projected effective date of approximately March 2019.

249

250 **RECENT CORRESPONDENCE:**

251 Staff has received over 150 e-mails from the community. Five of the letters are in support  
252 of the new wireless technology, the remaining pieces of correspondence express concern  
253 about the possible health impacts related to the wireless 4G and 5G technology, and are  
254 urging the City to maintaining local control over the placement, maintenance and operation  
255 of wireless telecommunications. See ATTACHMENT 2 for details.

256

257 **ENVIRONMENTAL REVIEW:**

258 The proposed amendments to MVMC, Chapter 20 “Zoning” are exempt from the  
259 California Environmental Quality Act (“CEQA”). The proposed Ordinance does not  
260 constitute a “project” within the meaning of the California Environmental Quality Act of  
261 1970 (CEQA) Guidelines Section 15060(c)(2) because there is no potential that small cell  
262 facility regulations will result in a direct or reasonably foreseeable indirect physical  
263 change in the environment and CEQA Guidelines Section 15378 because they have no  
264 potential for either a direct physical change to the environment, or a reasonably  
265 foreseeable indirect physical change in the environment. Moreover, even if the proposed  
266 Ordinances and Resolution comprise a project for CEQA analysis, the ordinance falls  
267 within the “common sense” CEQA exemption set forth in CEQA Guidelines Section  
268 15061(b)(3), excluding projects where “it can be seen with certainty that there is no  
269 possibility that the activity in question may have a significant effect on the environment.”  
270 Adoption of this Ordinance will also enact only minor changes in land use regulations,  
271 and it can be seen with certainty that its adoption will not have a significant effect on the  
272 environment because it will not allow for the development of any new or expanded  
273 wireless telecommunication facilities anywhere other than where they were previously  
274 allowed under existing federal, state and local regulations. Finally, the wireless facilities  
275 themselves are exempt from CEQA pursuant to CEQA Guidelines Section 15305, which  
276 exempts minor encroachment permits, and Section 15303, which exempts the installation  
277 of small equipment and facilities in a small structure.

278

279 **FISCAL IMPACT:**

280 The fiscal impacts associated with the Ordinance are the costs associated with the City  
281 Attorney and staff time to prepare the Ordinance and staff report. Once the regulations are  
282 adopted and implemented, the application fees for a Conditional Use Permit and Design  
283 Review would cover the cost of the discretionary approvals.

284 **GENERAL PLAN COMPLIANCE:**

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285 Adoption of this Ordinance is consistent with the City’s General Plan. The City’s General  
286 Plan provides goals and policies to preserve the high-quality design, small-town character,  
287 aesthetics and environmental characteristics while also maintaining a strong, healthy  
288 economy for its local business and assuring the health and safety of the predominantly  
289 residential character of the community. Adoption of this Ordinance will provide uniform  
290 and comprehensive regulations and standards for wireless telecommunications facilities in  
291 furtherance of these goals and objectives while reducing the potentially negative impacts.

292

293 **ATTACHMENTS:**

294

1. Ordinance

295

2. Recent Correspondence (over 150 e-mails received most of which are form letters,  
296 please contact planner to view all emails on file, or download all comments online at  
297 <http://www.cityofmillvalley.org/gov/agendas/watchonline.htm>--go to “upcoming  
298 meetings”, locate the City Council tab and select the September 6, 2018 meeting.

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CITY OF MILL VALLEY

ORDINANCE NO. 18-\_\_\_\_\_

**AN URGENCY ORDINANCE OF THE CITY OF MILL VALLEY AMENDING TITLE 20 (“ZONING”) OF THE MILL VALLEY MUNICIPAL CODE TO ADD CHAPTER 20.73 AND AMEND SECTIONS 11.16.100; 20.24.020; 20.26.020; 20.36.030; 20.40.030; 20.52.020; and 20.56.030 ESTABLISHING REGULATIONS FOR WIRELESS TELECOMMUNICATION FACILITIES**

1           **WHEREAS,** This Ordinance is adopted as an urgency ordinance pursuant to Government  
2 Code Section 36937(b). The facts constituting the urgency are as follows:

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4           (1)     The purpose of this Ordinance is to amend the City's Municipal Code to provide  
5 uniform and comprehensive standards, regulations and permit requirements for the installation  
6 of wireless telecommunications facilities in the City's public right-of-way.

7  
8           (2)     The wireless telecommunications industry has expressed interest in submitting  
9 applications for the installation of “small cell” wireless telecommunications facilities in the  
10 City’s public rights-of-way of the City. Other California cities have already received applications  
11 for small cells to be located within the public right-of-way.

12  
13           (3)     Installation of small cell and other wireless telecommunications facilities within  
14 the public right-of-way can pose a threat to the public health, safety and welfare, including  
15 disturbance to the right-of-way through the installation and maintenance of wireless facilities;  
16 traffic and pedestrian safety hazards due to the unsafe location of wireless facilities; impacts to  
17 trees where proximity conflicts may require unnecessary trimming of branches or require  
18 removal of roots due to related undergrounding of equipment or connection lines; land use  
19 conflicts and incompatibilities including excessive height or poles and towers; creation of visual  
20 and aesthetic blights and potential safety concerns arising from excessive size, heights, noise or  
21 lack of camouflaging of wireless facilities including the associated pedestals, meters, equipment  
22 and power generators; and the creation of unnecessary visual and aesthetic blight by failing to  
23 utilize alternative technologies or capitalizing on collocation opportunities which may  
24 negatively impact the unique quality and character of the City.

25  
26           (4)     The City currently regulates wireless telecommunications facilities in the public  
27 right-of-way through zoning and the encroachment permit process. The existing standards  
28 have not been updated to reflect current telecommunications trends or necessary legal  
29 requirements. Further the primary focus of the zoning regulations is wireless  
30 telecommunications facilities located on private property, and the existing Code provisions  
31 were not specifically designed to address the unique legal and practical issues that arise in  
32 connection with wireless telecommunications facilities deployed in the public right-of-way.

33 (5) The Federal Telecommunications Act of 1996 preempts and declares invalid all  
34 state rules that restrict entry or limit competition in both local and long-distance telephone  
35 service.

36  
37 (6) The California Public Utilities Commission (CPUC) is primarily responsible for the  
38 implementation of local telephone competition and the CPUC issues certificates of public  
39 convenience and necessity to new entrants that are qualified to provide competitive local  
40 telephone exchange services and related telecommunications service, whether using their own  
41 facilities or the facilities or services provided by other authorized telephone corporations.

42  
43 (7) Section 234(a) of the California Public Utilities Code defines a “telephone  
44 corporation” as “every corporation or person owning, controlling, operating, or managing any  
45 telephone line for compensation within this state.”

46  
47 (8) Section 616 of the California Public Utilities Code provides that a telephone  
48 corporation “may condemn any property necessary for the construction and maintenance of its  
49 telephone line.”

50  
51 (9) Section 2902 of the California Public Utilities Code authorizes municipal  
52 corporations to retain their powers of control to supervise and regulate the relationships  
53 between a public utility and the general public in matters affecting the health, convenience,  
54 and safety of the general public, including matters such as the use and repair of public streets  
55 by any public utility and the location of the poles, wires, mains, or conduits of any public utility  
56 on, under, or above any public streets.

57  
58 (10) Section 7901 of the California Public Utilities Code authorizes telephone and  
59 telegraph corporations to construct telephone or telegraph lines along and upon any public  
60 road or highway, along or across any of the waters or lands within this state, and to erect poles,  
61 posts, piers, or abatements for supporting the insulators, wires, and other necessary fixtures of  
62 their lines, in such manner and at such points as not to incommode the public use of the road  
63 or highway or interrupt the navigation of the waters.

64  
65 (11) Section 7901.1 of the California Public Utilities Code confirms the right of  
66 municipalities to exercise reasonable control as to the time, place, and manner in which roads,  
67 highways, and waterways are accessed, which control must be applied to all entities in an  
68 equivalent manner, and may involve the imposition of fees.

69  
70 (12) Section 50030 of the California Government Code provides that any permit fee  
71 imposed by a city for the placement, installation, repair, or upgrading of telecommunications  
72 facilities, such as lines, poles, or antennas, by a telephone corporation that has obtained all  
73 required authorizations from the CPUC and the FCC to provide telecommunications services,  
74 must not exceed the reasonable costs of providing the service for which the fee is charged, and  
75 must not be levied for general revenue purposes.

76 (13) State and federal law have changed substantially since the City last adopted  
77 regulations for wireless telecommunications facilities in the City. Such changes include  
78 modifications to “shot clocks” whereby the City must approve or deny installations within a  
79 certain period of time. State and federal laws require local governments to act on permit  
80 applications for wireless facilities within a prescribed time period and may automatically deem  
81 an application approved when a failure to act occurs. See 47 U.S.C. § 332(c)(7)(B)(iii); 47 C.F.R.  
82 §§ 1.40001 et seq.; Cal. Gov’t Code § 65964.1. The Federal Communications Commission (FCC)  
83 may require a decision on certain applications in as few as 60 days. See 47 C.F.R.  
84 § 1.40001(c)(2); see also In the Matter of Acceleration of Broadband Deployment by Improving  
85 Wireless Facilities Siting Policies, Report and Order, 29 FCC Rcd. 12865 (Oct. 17, 2014)  
86 [hereinafter “2014 Report and Order”]; In the Matter of Petition for Declaratory Ruling to  
87 Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, Declaratory Ruling, 24  
88 FCC Rcd. 13994 (Nov. 18, 2009) [hereinafter “2009 Declaratory Ruling”]. Pursuant to FCC  
89 regulations, the City cannot adopt a moratorium ordinance to toll the time period for review for  
90 certain type of facilities, even when needed to allow the City to maintain the status quo while it  
91 reviews and revises its policies for compliance with changes in state or federal law. See 47  
92 C.F.R. § 1.40001(c)(3); 2014 Report and Order, 29 FCC Rcd. at 219, 265. The City is in immediate  
93 need of clear regulations for wireless installations in the public right-of-way given the number  
94 of anticipated applications and legal timelines upon which the City must act.

95  
96 (14) The public right-of-way in the City is a uniquely valuable public resource, closely  
97 linked with the City’s natural beauty including the beach and coastline, and significant number  
98 residential communities. The reasonably regulated and orderly deployment of wireless  
99 telecommunications facilities in the public right-of-way is desirable, and unregulated or  
100 disorderly deployment represents an ever-increasing and true threat to the health, welfare and  
101 safety of the community.

102  
103 (15) The regulations of wireless installations in the public right-of-way are necessary  
104 to protect and preserve the aesthetics in the community, as well as the values of properties  
105 within the City, and to ensure that all wireless telecommunications facilities are installed using  
106 the least intrusive means possible.

107  
108 (16) The City finds that in light of more recent developments in federal and state law  
109 with respect to the regulation of small cell and other wireless telecommunications facilities,  
110 there is a need for the City to update its current ordinances based on current  
111 telecommunications trends, updates in laws, as well as aesthetic and location options for  
112 wireless facilities. The City Council also finds that the lack of specifically-designed standards  
113 and regulations in the Municipal Code for wireless facilities located in the public right-of-way,  
114 the increasing requests for information about the City’s regulation of wireless  
115 telecommunications facilities, the inability to adopt a temporary moratorium, and the potential  
116 liabilities and negative consequences for noncompliance with state and federal regulations  
117 (including, without limitation, automatic approvals) present current and immediate threat to  
118 the public health, safety and welfare. The City Council further finds and declares that the

119 immediate implementation of the Ordinance is necessary to preserve and protect public health,  
120 safety and welfare.

121

122 (17) The City recognizes its responsibilities under the Federal Telecommunications  
123 Act of 1996 and state law, and believes that it is acting consistent with the current state of the  
124 law in ensuring that irreversible development activity does not occur that would harm the  
125 public health, safety, or welfare. The City does not intend that this Ordinance prohibit or have  
126 the effect of prohibiting telecommunications service; rather, but includes appropriate  
127 regulations to ensure that the installation, augmentation and relocation of wireless  
128 telecommunications facilities in the public rights-of-way are conducted in such a manner as to  
129 lawfully balance the legal rights of applicants under the Federal Telecommunications Act and  
130 the California Public Utilities Code while, at the same time, protect to the full extent feasible  
131 against the safety and land use concerns described herein.

132

133 Based on the foregoing, the City Council finds and determines that the immediate  
134 preservation of the public health, safety and welfare requires that this Ordinance be enacted as  
135 an urgency ordinance pursuant to Government Code Section 36937(b), and take effect  
136 immediately upon adoption. Therefore, this Ordinance is necessary for the immediate  
137 preservation of the public peace, health, safety and welfare and its urgency is hereby declared.

138

139 **WHEREAS**, adoption of this Ordinance is consistent with the City's General Plan. The  
140 City's General Plan provides goals and policies to preserve the high-quality design, small-town  
141 character, aesthetics and environmental characteristics while also maintaining a strong,  
142 healthy economy for its local business and assuring the health and safety of the predominantly  
143 residential character of the community. Adoption of this Ordinance will provide uniform and  
144 comprehensive regulations and standards for wireless telecommunications facilities in  
145 furtherance of these goals and objectives while reducing the potentially negative impacts.

146

147 **NOW, THEREFORE**, the City of Mill Valley City Council does ordain as follows:

148

149 **Section 1.** The Mill Valley Municipal Code is hereby amended as follows:

150

151 **A.** A new Section 20.73, entitled "Wireless Telecommunications Facilities" is hereby  
152 added to Title 18 of the Mill Valley Municipal Code to read as set forth in Exhibit A to this  
153 Ordinance, which is hereby incorporated as though set forth in full herein.

154

155 **B.** Section 11.16.100 (Blanket Permits for Certain Applicants) is hereby amended to  
156 include the following subsection:

157

158 "D. Notwithstanding Subsection A of this Section, no Wireless Telecommunications  
159 Facility governed by Chapter 20.73 shall be installed or maintained pursuant to a blanket  
160 permit."

160

161 C. Section 20.24.020 of Chapter 20.24 (Residential Multifamily (RM-3.5) District) is  
162 hereby amended to include the following conditional use:

163 "N. Wireless Telecommunications Facilities as further outlined in 20.73."  
164

165 D. Section 20.26.020 of Chapter 20.26 (Downtown Residential (DR) District) is  
166 hereby amended to include the following conditional use as part of the proposed table:

167 "Wireless Telecommunications Facilities as further outlined in 20.73."  
168

169 E. Section 20.36.030 of Chapter 20.36 (Limited Commercial (C-L) District) is hereby  
170 amended to include the following conditional use:

171 "E. Wireless Telecommunications Facilities as further outlined in 20.73."  
172

173 F. Section 20.40.030 of Chapter 20.40 (General Commercial (C-G) District) is hereby  
174 amended to include the following conditional use:

175 "AA. Wireless Telecommunications Facilities as further outlined in 20.73."  
176

177 G. Section 20.52.020 of Chapter 20.52 (Commercial Recreational (C-R) District) is  
178 hereby amended to include the following conditional use:

179 "I. Wireless Telecommunications Facilities as further outlined in 20.73."  
180

181 H. Section 20.56.030 of Chapter 20.56 (Open Area (O-A) District) is hereby amended  
182 to include the following conditional use:

183 "H. Wireless Telecommunications Facilities as further outlined in 20.73."  
184

185 **Section 2.** The City Council hereby finds that Adoption of this Ordinance will enact  
186 only minor changes in land use regulations, and it can be seen with certainty that its adoption  
187 will not have a significant effect on the environment because it will not allow for the  
188 development of any new or expanded wireless telecommunication facilities anywhere other  
189 than where they were previously allowed under existing federal, state and local regulations.  
190 The wireless facilities themselves are exempt from CEQA pursuant to CEQA Guidelines Section  
191 15305, which exempts minor encroachment permits, and Section 15303, which exempts the  
192 installation of small equipment and facilities in a small structure. The proposed Ordinance also  
193 falls within the "common sense" CEQA exemption set forth in CEQA Guidelines Section  
194 15061(b)(3), excluding projects where "it can be seen with certainty that there is no possibility  
195 that the activity in question may have a significant effect on the environment."  
196

197 **Section 3.** **Severability.** If any section, subsection, sentence, clause, phrase, or word  
198 of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the  
199 decision of any court of competent jurisdiction, or preempted by legislative enactment, such  
200 decision or legislation shall not affect the validity of the remaining portions of this Ordinance.  
201 The City Council of the City of Mill Valley hereby declares that it would have adopted this  
202 Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless

203 of the fact that any one or more sections, subsections, clauses, phrases, or word might  
204 subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

205

206 **Section 4. Notice.** The City clerk shall certify to the passage and adoption of this  
207 Ordinance and shall cause this Ordinance to be posted within 15 days after its passage, in  
208 accordance with Section 36933 of the Government Code.

209

210 **Section 5. Effective Date.** This ordinance is adopted as an urgency ordinance for  
211 the immediate preservation of the public peace, health and safety within the meaning of  
212 Government Code Section 36937(b) and therefore shall be passed immediately upon its  
213 introduction and shall become effective immediately, and shall be posted in three public places  
214 in the City.

215

216 **INTRODUCED** at a regular meeting of the City Council of the City of Mill Valley on the  
217 6th day of September, 2018, and

218

219 **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Mill Valley  
220 on this 6th day of September, 2018, by the following vote:

221

222 **AYES:**

223 **NOES:**

224 **ABSENT:**

225

226 **ABSTAIN:**

227

228

229

230

\_\_\_\_\_  
Stephanie Moulton-Peters, Mayor

231

232 **ATTEST:**

233

234

235

236 \_\_\_\_\_  
Kelsey Rogers, City Clerk

**Exhibit A**  
**URGENCY ORDINANCE**

**Chapter 20.73**  
**WIRELESS TELECOMMUNICATIONS FACILITIES**

1   **20.73.010**    **Purpose**

2    A.    The purpose and intent of this chapter is to provide a uniform and comprehensive set of  
3 regulations and standards for the permitting, development, siting, installation, design, operation  
4 and maintenance of wireless telecommunications facilities in the City of Mill Valley. These  
5 regulations are intended to prescribe clear and reasonable criteria to assess and process  
6 applications in a consistent and expeditious manner, while reducing the impacts associated with  
7 wireless telecommunications facilities. This chapter provides standards necessary to: (1) preserve  
8 and promote harmonious land uses and the public right-of-way in the City; (2) promote and protect  
9 public health and safety, community welfare, visual resources, and the aesthetic quality of the City  
10 consistent with the goals, objectives and policies of the General Plan; (3) provide for the orderly,  
11 managed, and efficient development of wireless telecommunications facilities in accordance with  
12 the state and federal laws, rules, and regulations; and (4) encourage new and more efficient  
13 technology in the provision of wireless telecommunications facilities.

14    B.    This chapter is not intended to, nor shall it be interpreted or applied to: (1) prohibit or  
15 effectively prohibit any personal wireless service provider's ability to provide personal wireless  
16 services; (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate  
17 telecommunications service, subject to any competitively neutral and nondiscriminatory rules or  
18 regulation for rights-of-way management; (3) unreasonably discriminate among providers of  
19 functionally equivalent services; (4) deny any request for authorization to place, construct or modify  
20 personal wireless service facilities on the basis of environmental effects of radio frequency  
21 emissions to the extent that such wireless facilities comply with the FCC's regulations concerning  
22 such emissions; (5) prohibit any collocation or modification that the City may not deny under federal  
23 or state law; or (6) otherwise authorize the City to preempt any applicable federal or state law.

24    **20.73.020**    **Definitions.** For the purposes of this chapter, the following defined terms shall have  
25 the meaning set forth in this section unless the context clearly indicates or requires a different  
26 meaning.

27    A.    **“Accessory Equipment”** means any equipment associated with the installation of a wireless  
28 telecommunications facility, including but not limited to cabling, generators, air conditioning units,  
29 electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters,  
30 vaults, splice boxes, and surface location markers.

31    B.    **“Antenna”** means that part of a wireless telecommunications facility designed to radiate or  
32 receive radio frequency signals or electromagnetic waves for the provision of services, including, but  
33 not limited to, cellular, paging, personal communications services (PCS) and microwave

34 communications. Such devices include, but are not limited to, directional antennas, such as panel  
35 antenna, microwave dishes, and satellite dishes; omnidirectional antennas; wireless access points  
36 (Wi-Fi); and strand-mounted wireless access points. This definition does not apply to broadcast  
37 antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or  
38 household purposes.

39 C. **“Base Station”** means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(1), as may be  
40 amended, which defines that term as a structure or equipment at a fixed location that enables FCC-  
41 licensed or authorized wireless communications between user equipment and a communications  
42 network. The term does not encompass a tower as defined in 47 C.F.R. § 1.40001(b)(9) or any  
43 equipment associated with a tower. The term includes, but is not limited to, equipment associated  
44 with wireless communications services such as private, broadcast, and public safety services, as well  
45 as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term  
46 includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and  
47 backup power supplies, and comparable equipment, regardless of technological configuration  
48 (including distributed antenna systems and small-cell networks). The term includes any structure  
49 other than a tower that, at the time the relevant application is filed with the State or local  
50 government under this section, supports or houses equipment described in 47 C.F.R. §  
51 1.40001(b)(1)(i)-(ii) that has been reviewed and approved under the applicable zoning or siting  
52 process, or under another State or local regulatory review process, even if the structure was not  
53 built for the sole or primary purpose of providing such support. The term does not include any  
54 structure that, at the time the relevant application is filed with the State or local government under  
55 this section, does not support or house equipment described in 47 C.F.R. § 1.40001(b)(1)(i)-(ii).

56 D. **“Building-mounted”** means mounted to the side or façade, but not the roof, of a building or  
57 another structure such as a water tank, pump station, church steeple, freestanding sign, or similar  
58 structure.

59 E. **“Cellular”** means an analog or digital wireless telecommunications technology that is based  
60 on a system of interconnected neighboring cell sites.

61 F. **“Collocation”** means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(2), as may be  
62 amended, which defines that term as the mounting or installation of transmission equipment on an  
63 eligible support structure for the purpose of transmitting or receiving radio frequency signals for  
64 communications purposes. As an illustration and not a limitation, the FCC's definition effectively  
65 means "to add" and does not necessarily refer to more than one wireless telecommunication facility  
66 installed at a single site.

67 G. **“Eligible Facilities Request”** means the same as defined by the FCC in 47 C.F.R. §  
68 1.40001(b)(3), as may be amended, which defines that term as any request for modification of an  
69 existing tower or base station that does not substantially change the physical dimensions of such  
70 tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of  
71 transmission equipment; or (iii) replacement of transmission equipment.

- 72 H. **“Eligible Support Structure”** means the same as defined by the FCC in 47 C.F.R. §  
73 1.40001(b)(4), as may be amended, which defines that term as any tower or base station as defined  
74 in this section, provided that it is existing at the time the relevant application is filed with the State  
75 or local government under this section.
- 76 I. **“Existing”** means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(4), as may be  
77 amended, which provides that a constructed tower or base station is existing for purposes of the  
78 FCC's Section 6409(a) regulations if it has been reviewed and approved under the applicable zoning  
79 or siting process, or under another State or local regulatory review process, provided that a tower  
80 that has not been reviewed and approved because it was not in a zoned area when it was built, but  
81 was lawfully constructed, is existing for purposes of this definition.
- 82 J. **“FCC”** means the Federal Communications Commission or its duly appointed successor  
83 agency.
- 84 K. **“Modification”** means any change to an existing wireless telecommunications facility that  
85 involves any of the following: collocation, expansion, modification, alteration, enlargement,  
86 intensification, reduction, or augmentation, including, but not limited to, a change in size, shape,  
87 color, visual design, or exterior material. Modification does not include repair, replacement, or  
88 maintenance if those actions do not involve a change to the existing facility involving any of the  
89 following: collocation, expansion, modification, alteration, enlargement, intensification, reduction,  
90 or augmentation.
- 91 L. **“Monopole”** means a structure consisting of a single pole used to support antennas or  
92 related equipment and includes a monopine, monoredwood, and similar monopoles camouflaged to  
93 resemble trees or other objects.
- 94 M. **“Personal Wireless Services”** means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as  
95 may be amended, which defines the term as commercial mobile services, unlicensed wireless  
96 services and common carrier wireless exchange access services.
- 97 N. **“Personal Wireless Service Facilities”** means the same as defined in 47 U.S.C. §  
98 332(c)(7)(C)(i), as may be amended, which defines the term as facilities that provide personal  
99 wireless services.
- 100 O. **“Zoning administrator”** means the City zoning administrator or the City zoning  
101 administrator’s designee.
- 102 P. **“Pole”** means a single shaft of wood, steel, concrete, or other material capable of supporting  
103 the equipment mounted thereon in a safe and adequate manner and as required by provisions of  
104 the Mill Valley Municipal Code.
- 105 Q. **“Public Right-of-Way or “Right-of-Way”** means any public street, public way, public alley or  
106 public place, laid out or dedicated, and the space on, above or below it, and all extensions thereof,  
107 and additions thereto, under the jurisdiction of the City.

- 108 R. **“Reviewing Authority”** means the person or body who has the authority to review and  
109 either grant or deny a wireless telecommunications facility permit pursuant to this chapter.
- 110 S. **“RF”** means radio frequency or electromagnetic waves between 30 kHz and 300 GHz in the  
111 electromagnetic spectrum range.
- 112 T. **“Roof-mounted”** means mounted directly on the roof of any building or structure, above the  
113 eave line of such building or structure.
- 114 U. **“Section 6409(a)”** means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act  
115 of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as such law may be  
116 amended from time to time.
- 117 V. **“Section 6409(a) Approval”** means the approval required by Section 6409(a).
- 118 W. **“Site”** means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(6), as may be  
119 amended, which provides that for towers other than towers in the public rights-of-way, the current  
120 boundaries of the leased or owned property surrounding the tower and any access or utility  
121 easements currently related to the site, and, for other eligible support structures, further restricted  
122 to that area in proximity to the structure and to other transmission equipment already deployed on  
123 the ground.
- 124 X. **“Substantial Change”** means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(7), as  
125 may be amended, which defines that term differently based on the particular wireless facility type  
126 (tower or base station) and location (in or outside the public right-of-way). For clarity, this definition  
127 organizes the FCC’s criteria and thresholds for a substantial change according to the wireless facility  
128 type and location.
- 129 1. For towers outside the public rights-of-way, a substantial change occurs when:
- 130 a) the proposed collocation or modification increases the overall height more than 10%  
131 or the height of one additional antenna array not to exceed 20 feet (whichever is  
132 greater); or
- 133 b) the proposed collocation or modification increases the width more than 20 feet from  
134 the edge of the wireless tower or the width of the wireless tower at the level of the  
135 appurtenance (whichever is greater); or
- 136 c) the proposed collocation or modification involves the installation of more than the  
137 standard number of equipment cabinets for the technology involved, not to exceed  
138 four; or
- 139 d) the proposed collocation or modification involves excavation outside the current  
140 boundaries of the leased or owned property surrounding the wireless tower,  
141 including any access or utility easements currently related to the site.

- 142 2. For towers in the public rights-of-way and for all base stations, a substantial change  
143 occurs when:
- 144 a) the proposed collocation or modification increases the overall height more than 10%  
145 or 10 feet (whichever is greater); or
- 146 b) the proposed collocation or modification increases the width more than 6 feet from  
147 the edge of the wireless tower or base station; or
- 148 c) the proposed collocation or modification involves the installation of any new  
149 equipment cabinets on the ground when there are no existing ground-mounted  
150 equipment cabinets; or
- 151 d) the proposed collocation or modification involves the installation of any new ground-  
152 mounted equipment cabinets that are ten percent (10%) larger in height or volume  
153 than any existing ground-mounted equipment cabinets; or
- 154 e) the proposed collocation or modification involves excavation outside the area in  
155 proximity to the structure and other transmission equipment already deployed on  
156 the ground.
- 157 3. In addition, for all towers and base stations wherever located, a substantial change  
158 occurs when:
- 159 a) the proposed collocation or modification would defeat the existing concealment  
160 elements of the support structure as determined by the zoning administrator; or
- 161 b) the proposed collocation or modification violates a prior condition of approval,  
162 provided however that the collocation need not comply with any prior condition of  
163 approval related to height, width, equipment cabinets or excavation that is  
164 inconsistent with the thresholds for a substantial change described in this section.

165 The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one  
166 or more of the applicable thresholds means that a substantial change would occur. The thresholds  
167 for height increases are cumulative limits. For sites with horizontally separated deployments, the  
168 cumulative limit is measured from the originally-permitted support structure without regard to any  
169 increases in size due to wireless equipment not included in the original design. For sites with  
170 vertically separated deployments, the cumulative limit is measured from the permitted site  
171 dimensions as they existed on February 22, 2012—the date that Congress passed Section 6409(a).

172 Y. **“Telecommunications Tower”** or **“Tower”** means a freestanding mast, pole, monopole,  
173 guyed tower, lattice tower, free standing tower or other structure designed and primarily used to  
174 support wireless telecommunications facility antennas.

175 Z. **“Transmission Equipment”** means the same as defined by the FCC in 47 C.F.R. §  
176 1.40001(b)(8), as may be amended, which defines that term as equipment that facilitates

177 transmission for any FCC-licensed or authorized wireless communication service, including, but not  
178 limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power  
179 supply. The term includes equipment associated with wireless communications services including,  
180 but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless  
181 services and fixed wireless services such as microwave backhaul.

182 AA. **“Utility Pole”** means a pole or tower owned by any utility company that is primarily used to  
183 support wires or cables necessary to the provision of electrical or other utility services regulated by  
184 the California Public Utilities Commission.

185 BB. **“Wireless Services”** means any FCC-licensed or authorized wireless communication service  
186 transmitted over frequencies in the electromagnetic spectrum.

187 CC. **“Wireless Telecommunications Facility”** means any facility constructed, installed, or  
188 operated for wireless service. “Wireless telecommunications facility” includes, but is not limited to,  
189 antennas or other types of equipment for the transmission or receipt of such signals,  
190 telecommunications towers or similar structures supporting such equipment, related accessory  
191 equipment, equipment buildings, parking areas, and other accessory development. “Wireless  
192 telecommunications facility” does not mean any of the following:

- 193 1. A facility that qualifies as an amateur station as defined by the FCC, 47 C.F.R. Part 97, of  
194 the Commission’s Rules, or its successor regulation.
- 195 2. An antenna facility that is subject to the FCC Over-The-Air-Receiving Devices rule, 47  
196 C.F.R. Section 1.4000, or any successor regulation, including, but not limited to, direct-to-  
197 home satellite dishes that are less than one meter in diameter, TV antennas used to  
198 receive television broadcast signals and wireless cable antennas.
- 199 3. Portable radios and devices including, but not limited to, hand-held, vehicular, or other  
200 portable receivers, transmitters or transceivers, cellular phones, CB radios, emergency  
201 services radio, and other similar portable devices as determined by the zoning  
202 administrator.
- 203 4. Telecommunications facilities owned and operated by any government agency.
- 204 5. Telecommunications facilities owned and operated by any emergency medical care  
205 provider.
- 206 6. Mobile services providing public information coverage of news events of a temporary  
207 nature.
- 208 7. Any wireless telecommunications facilities exempted from the Mill Valley Municipal Code  
209 by federal law or state law.

210 **20.73.030 Applicability**

211 A. This chapter applies to all wireless telecommunications facilities as follows:

212 1. All facilities for which applications were not approved prior to the effective date of this  
213 chapter shall be subject to and comply with all provisions of this chapter;

214 2. All facilities, notwithstanding the date approved, shall be subject immediately to the  
215 provisions of this chapter governing the operation and maintenance, cessation of use  
216 and abandonment, removal and restoration of wireless telecommunications facilities and  
217 wireless telecommunications collocation facilities and the prohibition of dangerous  
218 conditions or obstructions by such facilities; provided, however, that in the event a  
219 condition of approval conflicts with a provision of this chapter, the condition of approval  
220 shall control unless and until the permit is amended or revoked.

221 B. Title 20, including but not limited to this chapter 20.73 shall not apply to a wireless  
222 telecommunications facility on property owned by the City.

223 C. Notwithstanding any provision of the Mill Valley Municipal Code to the contrary, provisions  
224 governing the installation of a public utility facility or accessory equipment shall not apply to  
225 wireless telecommunications facilities. This chapter 20.73 shall govern all applications for wireless  
226 telecommunications facilities.

227 **20.73.040 Wireless Telecommunications Facility Permit Required**

228 A. **Conditional Use Permit required.** No wireless telecommunications facility shall be located  
229 or modified within the City on any property, including the public right-of-way, without the issuance  
230 of a permit as required by this chapter as set forth in the table below. Such permit shall be in  
231 addition to any other permit required pursuant to the Mill Valley Municipal Code.

232

<i>Description Wireless Facility</i>	<i>Private Property</i>		<i>Public Right-of Way<sup>3</sup></i>
	<i>RS, RSP, DR, MFR Zoning Districts</i>	<i>All Other Zoning Districts</i>	<i>All Zoning Districts</i>
Roof-mounted facility, building-mounted facility, or facility mounted on an existing pole	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
Facility mounted on a replacement pole or new telecommunications tower	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
New wireless telecommunications collocation facility	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
Eligible facilities request <sup>1</sup> or application pursuant to California Government Code Section 65850.6 <sup>2</sup>	Permitted	Permitted	Permitted
<sup>1</sup> See requirements of section 20.73.140. <sup>2</sup> See requirements of section 20.73.150. <sup>3</sup> For any public right of way not within a zoning district, the location of a wireless telecommunication facility shall be determined based upon the closest district adjacent to the facility's location.			

233

234 B. **Non-exclusive grant.** No approval granted under this chapter shall confer any exclusive  
235 right, privilege, license, or franchise to occupy or use the public right-of-way of the City for delivery  
236 of telecommunications services or any other purposes. Further, no approval shall be construed as  
237 any warranty of title.

238 **20.73.050 Application for Permit**

239 A. **Application content.** All applications for a permit required by this chapter must be made in  
240 writing on such form as the zoning administrator prescribes, which shall include the following  
241 information, in addition to all other information determined necessary by the zoning administrator  
242 as well as all other information required by the City as part of an application for a conditional use  
243 permit:

- 244 1. Full name and contact information for the facility owner, facility operator, agent (if any),  
245 and property owner, and related letter(s) of authorization.

- 246 2. The type of facility, including a full written description of the proposed facility, its  
247 purpose and specifications.
- 248 3. A detailed site and engineering plan of the proposed facility containing the exact  
249 proposed location of the facility, created by a qualified licensed engineer and in  
250 accordance with requirements set by the zoning administrator.
- 251 4. Photographs of facility equipment and an accurate visual impact analysis with photo  
252 simulations.
- 253 5. Completion of an RF exposure guidelines checklist, and proof of all applicable licenses or  
254 other approvals required by the FCC.
- 255 6. If the application is for a facility that will be located within the public right-of-way, the  
256 applicant shall certify that it is a telephone corporation or state the basis for its claimed  
257 right to enter the right-of-way, and provide a copy of its certificate of public convenience  
258 and necessity (CPCN), if a CPCN has been issued by the California Public Utilities  
259 Commission.
- 260 7. A written description identifying the geographic service area for the subject installation,  
261 accompanied by a plan and maps showing anticipated future installations and  
262 modifications for the following two years.
- 263 8. A written report that analyzes acoustic levels for the proposed wireless  
264 telecommunications facility and all associated equipment including without limitation all  
265 environmental control units, sump pumps, temporary backup power generators, and  
266 permanent backup power generators in order to demonstrate compliance with chapter  
267 7.16 (Noise Control). The acoustic analysis must be prepared and certified by an engineer  
268 and include an analysis of the manufacturers' specifications for all noise-emitting  
269 equipment and a depiction of the proposed equipment relative to all adjacent property  
270 lines. In lieu of a written report, the applicant may submit evidence from the equipment  
271 manufacturer that the ambient noise emitted from all the proposed equipment will not,  
272 both individually and cumulatively, exceed the applicable limits.
- 273 9. If the applicant claims it requires an exception to the requirements of this chapter, all  
274 information and studies necessary for the City to evaluate that claim.
- 275 10. An application and processing fee and a deposit for a consultant review as set forth in  
276 paragraph (B) of this section.
- 277 11. Any other studies or information determined necessary by the zoning administrator may  
278 be required.
- 279

280 **B. Independent expert.**

281 1. The zoning administrator is authorized to retain on behalf of the City an independent,  
282 qualified consultant to review any application for a permit for a wireless  
283 telecommunications facility to review the technical aspects of the application, including  
284 but not limited to the following matters:

- 285 (a) The accuracy, adequacy, and completeness of submissions,
- 286 (b) Compliance with applicable radio frequency emission standards,
- 287 (c) Whether any requested exception is necessary to close a significant gap in  
288 coverage and is the least intrusive means of doing so,
- 289 (d) Technical demonstration of the unavailability of alternative sites, facility  
290 designs or configurations, and coverage analysis, and
- 291 (e) The validity of conclusions reached or claims made by applicant.

292 2. The cost of this review shall be paid by the applicant through a deposit pursuant to an  
293 adopted fee schedule resolution.

294 **20.73.060 Location and Configuration Preferences**

295 A. **Purpose.** The purpose of this section is to provide guidelines to applicants and the reviewing  
296 authority regarding the preferred locations and configurations for wireless telecommunication  
297 facilities in the City, provided that nothing in this section shall be construed to permit a wireless  
298 telecommunication facility in any location or configuration that it is otherwise prohibited by this  
299 chapter.

300 B. **Review of Location and Configuration.** The reviewing authority shall consider the extent to  
301 which a proposed wireless telecommunication facility complies with these preferences and whether  
302 there are feasible alternative locations or configurations to the proposed facility that are more  
303 preferred under this section. If the location or configuration of a proposed facility qualifies for two  
304 or more categories of preferred locations or configurations, it shall be deemed to belong to the least  
305 preferred category.

306 C. **Order of Preference - Configurations.** The order of preference for the configuration for  
307 wireless telecommunication facilities from most preferred to least preferred is:

- 308 1. Collocation with existing facilities,
- 309 2. Roof-mounted,
- 310 3. Building-mounted,

- 311 4. Mounted on an existing pole or utility pole
- 312 5. Mounted on a new pole or utility pole that will replace an existing pole or utility pole,
- 313 6. Mounted on a new telecommunication tower.
- 314 D. **Order of Preference - Location.** The order of preference for the location of wireless  
315 telecommunications facilities from most preferred to least preferred is:
- 316 1. In the C-G zoning district,
- 317 2. In the C-N zoning district,
- 318 3. In the C-L zoning district,
- 319 4. In the C-D zoning district,
- 320 5. In the public right-of-way with the closest adjacent district being the C-G district,
- 321 6. In the public right-of-way with the closest adjacent district being the C-N district,
- 322 7. In the public right-of-way with the closest adjacent district being the C-L district,
- 323 8. In the public right-of-way with the closest adjacent district being the C-D district,
- 324 9. In the public right-of-way with the closest adjacent district being the RM district,
- 325 10. Any public right-of-way location that abuts the property line of a structure recognized as  
326 a local, state or national historic landmark, historic district or on the register of historic  
327 places,
- 328 E. **Accessory equipment.** In order of preference from most preferred to least preferred,  
329 accessory equipment for wireless telecommunication facilities and wireless telecommunications  
330 collocation facilities shall be located underground, within a building or structure, on a screened roof  
331 top area or structure, or in a rear yard if not readily visible from surrounding properties and the  
332 roadway, unless the reviewing authority finds that another location is preferable under the  
333 circumstances of the application.
- 334 **20.73.070 Design and Development Standards for All Facilities**
- 335 A. **Basic requirements.** The design and development standards set forth in this section apply to  
336 all wireless telecommunications facilities no matter where they are located. Wireless  
337 telecommunications facilities shall be designed and maintained so as to minimize visual, noise, and  
338 other impacts on the surrounding community and shall be planned, designed, located, and erected  
339 in accordance with the design and development standards in this section.
- 340 B. **No speculative facilities.** A wireless telecommunications facility, wireless

341 telecommunications collocation facility, or a telecommunications tower, which is built on  
342 speculation and for which there is no wireless tenant is prohibited within the City.

343 C. **General guidelines.** The applicant shall employ screening and camouflage design techniques  
344 in the design and placement of wireless telecommunications facilities in order to ensure that the  
345 facility is as visually inconspicuous as possible, to prevent the facility from dominating the  
346 surrounding area and to hide the facility from predominant views from surrounding properties, all in  
347 a manner that achieves compatibility with the community.

348 D. **Traffic safety.** All facilities shall be designed and located in such a manner as to avoid  
349 adverse impacts on traffic safety.

350 E. **Antennas.** The applicant shall use the least visible antennas possible to accomplish the  
351 coverage objectives. Antenna elements shall be flush mounted, to the extent reasonably  
352 feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by  
353 the same or other operators or carriers. Antennas shall be situated as to reduce visual impact  
354 without compromising their function. Whip antennas need not be screened.

355 F. **Landscaping.** Where appropriate, facilities shall be installed so as to maintain and enhance  
356 existing landscaping on the site, including trees, foliage and shrubs, whether or not utilized for  
357 screening. Additional landscaping shall be planted, irrigated, and maintained where such vegetation  
358 is deemed necessary by the City to provide screening or to block the line of sight between facilities  
359 and adjacent uses.

360 G. **Signage.** Wireless telecommunications facilities and wireless telecommunications  
361 collocation facilities shall not bear any signs or advertising devices other than certification, warning  
362 or other signage required by law or permitted by the City.

363 H. **Lighting.** No wireless telecommunications facility may be illuminated unless either  
364 specifically required by the Federal Aviation Administration or other government agency or in  
365 association with the illumination of an athletic field on City or school property. Lightning arresters  
366 and beacon lights are not permitted unless required by the Federal Aviation Administration or other  
367 government agency. Legally required lightning arresters and beacons shall be included when  
368 calculating the height of facilities such as telecommunications towers, lattice towers, and  
369 monopoles.

370 I. **Noise.**

371 1. Each wireless telecommunications facility and wireless telecommunications collocation  
372 facility shall be operated in such a manner so as to minimize any possible disruption  
373 caused by noise.

374 2. Backup generators shall only be operated during periods of power outages, and shall not  
375 be tested on weekends or holidays, or between the hours of 5:00 p.m. and 7:00 a.m.

376 3. At no time shall equipment noise from any facility exceed an exterior noise level of 50  
377 dBA at the facility's property line if the facility is located in a business or commercial zone  
378 that permits those uses, provided, however, that for any such facility located within 500  
379 feet of any property zoned residential or improved with a residential use, such  
380 equipment noise shall at no time be audible at the property line of any such residential  
381 property. For any facility located within a residential zone, such equipment noise shall at  
382 no time be audible at the property line of any residentially improved or residential zoned  
383 property.

384 4. Any equipment, including but not limited to air conditioning units, that may emit noise  
385 that would be audible from beyond three feet from the facility in the case of a facility  
386 located in the right-of-way, or in the case of other facilities the facility's property line,  
387 shall be enclosed or equipped with noise attenuation devices to the extent necessary to  
388 ensure compliance with applicable noise limitations under the Mill Valley Municipal  
389 Code.

390 J. **Security.** Each wireless telecommunications facility and wireless telecommunications  
391 collocation facility shall be designed to be resistant to, and minimize opportunities for, unauthorized  
392 access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations,  
393 visual blight, or attractive nuisances. The reviewing authority may require the provision of warning  
394 signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and  
395 vandalism when, because of their location or accessibility, a facility has the potential to become an  
396 attractive nuisance.

397 K. **Modification.** At the time of modification of a wireless telecommunications facility, existing  
398 equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise, and  
399 other impacts, including, but not limited to, undergrounding the equipment and replacing larger,  
400 more visually intrusive facilities with smaller, less visually intrusive facilities.

401 **20.73.080 Additional Design and Development Standards for Facilities Outside the Public Right-**  
402 **of-Way**

403 A. **Basic Requirements.** Facilities located outside the public right-of-way are subject to the  
404 design and development standards set forth in this section in addition to all design and  
405 development standards that apply to all facilities.

406 B. **No parking interference.** In no event shall the installation of facilities replace or interfere  
407 with parking spaces in such a way as to reduce the total number of parking spaces below the  
408 number that is required.

409 C. **Roof-mounted facilities.** Roof-mounted facilities shall be designed and constructed to be  
410 fully concealed or screened in a manner compatible with the existing architecture of the building the  
411 facility is mounted to in color, texture, and type of material. Screening shall not increase the bulk of  
412 the structure nor alter the character of the structure.

413 D. **Facilities mounted to a telecommunications tower.** Facilities mounted to a  
414 telecommunications tower shall be located in close proximity to existing above-ground utilities, such  
415 as electrical towers or utility poles (which are not scheduled for removal or under grounding for at  
416 least 18 months after the date of application), light poles, trees of comparable heights, and in areas  
417 where they will not detract from the appearance of the City.

418 1. Facilities mounted to a telecommunications tower, including, but not limited to, the  
419 attached antennas, shall be designed to be the minimum functional height and width  
420 required to adequately support the proposed facility and meet FCC requirements. The  
421 applicant shall provide documentation satisfactory to the zoning administrator  
422 establishing compliance with this paragraph. In any event, facilities mounted to a  
423 telecommunications tower shall not exceed the applicable height limit for structures in  
424 the applicable zoning district.

425 2. Aside from the antenna itself, no additional equipment may be visible. All cables,  
426 including, but not limited to, electrical and utility cables, shall be run within the interior  
427 of the telecommunications tower and shall be camouflaged or hidden to the fullest  
428 extent feasible without jeopardizing the physical integrity of the tower.

429 3. Monopole installations shall be situated so as to utilize existing natural or man-made  
430 features including topography, vegetation, buildings, or other structures to provide the  
431 greatest amount of visual screening.

432 4. All antenna components and accessory wireless equipment shall be treated with exterior  
433 coatings of a color and texture to match the predominant visual background or existing  
434 architectural elements so as to visually blend in with the surrounding development.  
435 Subdued colors and non-reflective materials that blend with surrounding materials and  
436 colors shall be used.

437 5. Monopoles shall be no greater in diameter or other cross-sectional dimensions than is  
438 necessary for the proper functioning of the facility.

439 6. If a faux tree is proposed for the monopole installation, it shall be of a type of tree  
440 compatible with those existing in the immediate areas of the installation. If no trees  
441 exist within the immediate areas, the applicant shall create a landscape setting that  
442 integrates the faux tree with added species of a similar height and type. Additional  
443 camouflage of the faux tree may be required depending on the type and design of faux  
444 tree proposed.

445 E. **Accessory equipment.** All accessory equipment associated with the operation of any  
446 wireless telecommunications facility shall be fully screened or camouflaged, and located in a  
447 manner to minimize their visibility to the greatest extent possible utilizing the following methods for  
448 the type of installation:

- 449 1. Accessory equipment for roof-mounted facilities shall be installed inside the building to  
450 which it is mounted or underground, if feasible. If not feasible, such accessory  
451 equipment may be located on the roof of the building that the facility is mounted on,  
452 provided that both the equipment and screening materials are painted the color of the  
453 building, roof, or surroundings. All screening materials for roof-mounted facilities shall be  
454 of a quality and design that is architecturally integrated with the design of the building or  
455 structure.
- 456 2. Accessory equipment for facilities mounted to a telecommunications tower shall be  
457 visually screened by locating the equipment either within a nearby building, in an  
458 underground vault (with the exception of required electrical panels) or in another type of  
459 enclosed structure, which shall comply with the development and design standards of  
460 the zoning district in which the accessory equipment is located. Such enclosed structure  
461 shall be architecturally treated and adequately screened from view by landscape  
462 plantings, decorative walls, fencing or other appropriate means, selected so that the  
463 resulting screening will be visually integrated with the architecture and landscaping of  
464 the surroundings.

465 **20.73.090 Additional Design and Development Standards for Facilities in the Public Right-of-**  
466 **Way**

467 A. **Basic Requirements.** Facilities located in the public right-of-way are subject to the design  
468 and development standards set forth in this section in addition to all design and development  
469 standards that apply to all facilities.

470 B. **Right-of-way authority.** An encroachment permit must be obtained for any work in the  
471 public right of way. Only applicants authorized to enter the public right-of-way pursuant to state or  
472 federal law or a franchise or other agreement with the City shall be eligible for a permit to install or  
473 modify a wireless telecommunications facility in the public right-of-way.

474 C. **Antennas.**

475 1. *Utility poles.* The maximum height of any antenna mounted to an existing utility pole  
476 shall not exceed 24 inches above the height of an existing utility pole, nor shall any  
477 portion of the antenna or equipment mounted on a pole be less than 18 feet above any  
478 drivable road surface. All installations on utility poles shall fully comply with the  
479 California Public Utilities Commission general orders, including, but not limited to,  
480 General Order 95, as revised.

481 2. *Street light poles.* The maximum height of any antenna mounted to a street light pole  
482 shall not exceed seven feet above the existing height of a street light pole in a location  
483 with its closest adjacent district being a commercial zoning district and shall not exceed  
484 three feet above the existing height of a street light pole in any other zoning district. Any  
485 portion of the antenna or equipment mounted on such a pole shall be no less than 18  
486 feet above any drivable road surface.

487 D. Poles.

488 1. Only pole-mounted antennas shall be permitted in the right-of-way. All other  
489 telecommunications towers are prohibited, and no new poles are permitted that are not  
490 replacing an existing pole.

491 2. Pole height and width limitations:

492 (a) All poles shall be designed to be the minimum functional height and width  
493 required to support the proposed antenna installation and meet FCC  
494 requirements. Poles and antennas and similar structures shall be no greater in  
495 diameter or other cross-sectional dimensions than is necessary for the proper  
496 functioning of the facility.

497 (b) Notwithstanding the above, no facility shall be located on a pole that is less  
498 than 26 feet in height and no facility shall exceed 35 feet in height, including,  
499 but not limited to the pole and any antenna that protrudes above the pole.

500 (c) Pole mounted equipment shall not exceed six cubic feet in dimension.

501 3. If an applicant proposes to replace a pole in order to accommodate the facility, the pole  
502 shall match the appearance of the original pole to the extent feasible, unless another  
503 design better accomplishes the objectives of this section. Such replacement pole shall  
504 not exceed the height of the pole it is replacing by more than seven feet.

505 4. If an exception is granted for placement of new poles in the right-of-way, new poles shall  
506 be designed to resemble existing poles in the right-of-way, including size, height, color,  
507 materials and style, with the exception of any existing pole designs that are scheduled to  
508 be removed and not replaced, unless another design better accomplishes the objectives  
509 of this section. Such new poles that are not replacement poles shall be located no closer  
510 than 90 feet to an existing pole.

511 E. **Space occupied.** Facilities shall be designed to occupy the least amount of space in the right-  
512 of-way that is technically feasible.

513 F. **Location.**

514 1. Each component part of a facility shall be located so as not to cause any physical or visual  
515 obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the  
516 right-of-way, or safety hazards to pedestrians and motorists.

517 2. A facility shall not be located within any portion of the public right-of-way interfering  
518 with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults,  
519 valve housing structures, or any other vital public health and safety facility.

- 520 3. Facilities mounted to a telecommunications tower, above-ground accessory equipment,  
521 or walls, fences, landscaping or other screening methods shall be setback a minimum of  
522 18 inches from the front of a curb.
- 523 4. Each pole mounted wireless telecommunications facility must be separated by at least  
524 1,500 feet.
- 525 5. All cables, including, but not limited to, electrical and utility cables, between the pole and  
526 any accessory equipment shall be placed underground, if feasible.
- 527 6. All new wires needed to service the wireless telecommunications facility must be  
528 installed within the width of the existing utility pole so as to not exceed the diameter and  
529 height of the existing utility pole.

530 G. **Americans with Disabilities Act Compliance.** All facilities shall be built in compliance with  
531 the Americans with Disabilities Act (ADA).

532 H. **Accessory equipment.** With the exception of the electric meter, which shall be pole-  
533 mounted to the extent feasible, all accessory equipment shall be located underground to the extent  
534 feasible. When above-ground is the only feasible location for a particular type of accessory  
535 equipment and when such accessory equipment cannot be pole-mounted, such accessory  
536 equipment shall be enclosed within a structure, and shall not exceed a height of five feet and a total  
537 footprint of 15 square feet, and shall be screened and camouflaged to the fullest extent possible,  
538 including the use of landscaping or alternate screening. Required electrical meter cabinets shall be  
539 adequately screened and camouflaged.

540 I. **Documentation.** The applicant shall provide documentation satisfactory to the zoning  
541 administrator establishing compliance with this section 20.73.090.

542 **20.73.100 Conditions of Approval for All Facilities**

543 A. In addition to compliance with the requirements of this chapter, upon approval all facilities  
544 shall be subject to each of the following conditions of approval, as well as any modification of these  
545 conditions or additional conditions of approval deemed necessary by the reviewing authority:

- 546 1. Before the permittee submits any application for a building permit or other permits  
547 required by the Mill Valley Municipal Code, the permittee must incorporate the wireless  
548 telecommunication facility permit granted under this chapter, all conditions associated  
549 with the wireless telecommunications facility permit and the approved plans and any  
550 photo simulations (the "Approved Plans") into the project plans. The permittee must  
551 construct, install and operate the wireless telecommunications facility in strict  
552 compliance with the Approved Plans. The permittee shall submit an as built drawing  
553 within 90 days after installation of the facility.
- 554 2. Where feasible, as new technology becomes available, the permittee shall:

- 555 (a) place above-ground wireless telecommunications facilities below ground,  
556 including, but not limited to, accessory equipment that has been mounted to  
557 a telecommunications tower or mounted on the ground; and
- 558 (b) replace larger, more visually intrusive facilities with smaller, less visually  
559 intrusive facilities, after receiving all necessary permits and approvals required  
560 pursuant to the Mill Valley Municipal Code.
- 561 3. The permittee shall submit and maintain current at all times basic contact and site  
562 information on a form to be supplied by the City. The permittee shall notify the City of  
563 any changes to the information submitted within seven days of any change, including  
564 change of the name or legal status of the owner or operator. This information shall  
565 include, but is not limited to, the following:
- 566 (a) Identity, including the name, address and 24-hour local or toll free contact  
567 phone number of the permittee, the owner, the operator, and the agent or  
568 person responsible for the maintenance of the facility.
- 569 (b) The legal status of the owner of the wireless telecommunications facility,  
570 including official identification numbers and FCC certification.
- 571 (c) Name, address, and telephone number of the property owner if different than  
572 the permittee.
- 573 4. The permittee shall not place any facilities that will deny access to, or otherwise interfere  
574 with, any public utility, easement, or right-of-way located on the site. The permittee  
575 shall allow the City reasonable access to, and maintenance of, all utilities and existing  
576 public improvements within or adjacent to the site, including, but not limited to,  
577 pavement, trees, public utilities, lighting and public signage.
- 578 5. At all times, all required notices and signs shall be posted on the site as required by the  
579 FCC and California Public Utilities Commission, and as approved by the City. The location  
580 and dimensions of a sign bearing the emergency contact name and telephone number  
581 shall be posted pursuant to the approved plans.
- 582 6. At all times, the permittee shall ensure that the facility complies with the most current  
583 regulatory and operational standards including, but not limited to, radio frequency  
584 emissions standards adopted by the FCC and antenna height standards adopted by the  
585 Federal Aviation Administration.
- 586 7. If the zoning administrator determines there is good cause to believe that the facility  
587 may emit radio frequency emissions that are likely to exceed FCC standards, the zoning  
588 administrator may require the permittee to submit a technically sufficient written report  
589 certified by a qualified radio frequency emissions engineer, certifying that the facility is in  
590 compliance with such FCC standards.

- 591 8. Permittee shall pay for and provide a performance bond, which shall be in effect until the  
592 facilities are fully and completely removed and the site reasonably returned to its original  
593 condition, to cover permittee's obligations under these conditions of approval and the  
594 Mill Valley Municipal Code. The bond coverage shall include, but not be limited to,  
595 removal of the facility, maintenance obligations and landscaping obligations. The  
596 amount of the performance bond shall be set by the zoning administrator in an amount  
597 rationally related to the obligations covered by the bond and shall be specified in the  
598 conditions of approval.
- 599 9. Permittee shall defend, indemnify, protect and hold harmless the City, its elected and  
600 appointed council members, boards, commissions, officers, officials, agents, consultants,  
601 employees, and volunteers from and against any and all claims, actions, or proceeding  
602 against the City and its elected and appointed council members, boards, commissions,  
603 officers, officials, agents, consultants, employees and volunteers to attack, set aside, void  
604 or annul, an approval of the City, Planning Commission or City council concerning this  
605 permit and the project. Such indemnification shall include damages, judgments,  
606 settlements, penalties, fines, defensive costs or expenses, including, but not limited to,  
607 interest, attorneys' fees and expert witness fees, or liability of any kind related to or  
608 arising from such claim, action, or proceeding. The City shall promptly notify the  
609 permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit  
610 City from participating in a defense of any claim, action or proceeding. The City shall have  
611 the option of coordinating the defense, including, but not limited to, choosing counsel  
612 for the defense at permittee's expense.
- 613 10. All conditions of approval shall be binding as to the applicant and all successors in  
614 interest to permittee.
- 615 11. A condition setting forth the permit expiration date in accordance with section 20.73.200  
616 shall be included in the conditions of approval.

617 **20.73.110 Additional Conditions of Approval for Facilities in the Public Right-of-Way**

- 618 A. In addition to compliance with the requirements of this chapter, upon approval all facilities  
619 in the public right-of-way shall be subject to each of the conditions of approval set forth in section  
620 20.73.100, each of the following conditions of approval, and any modification of these conditions or  
621 additional conditions of approval deemed necessary by the reviewing authority:
- 622 1. The wireless telecommunications facility shall be subject to such conditions, changes or  
623 limitations as are from time to time deemed necessary by the City engineer for the  
624 purpose of: (a) protecting the public health, safety, and welfare, (b) preventing  
625 interference with pedestrian and vehicular traffic, and (c) preventing damage to the  
626 public right-of-way or any property adjacent to it. The City may modify the permit to  
627 reflect such conditions, changes or limitations by following the same notice and public  
628 hearing procedures as are applicable to the grant of a wireless telecommunications  
629 facility permit for similarly located facilities, except the permittee shall be given notice by

630 personal service or by registered or certified mail at the last address provided to the City  
631 by the permittee.

632 2. The permittee shall not move, alter, temporarily relocate, change, or interfere with any  
633 existing structure, improvement or property without the prior consent of the owner of  
634 that structure, improvement or property. No structure, improvement or property owned  
635 by the City shall be moved to accommodate a wireless telecommunications facility unless  
636 the City determines that such movement will not adversely affect the City or any  
637 surrounding businesses or residents, and the permittee pays all costs and expenses  
638 related to the relocation of the City's structure, improvement or property. Prior to  
639 commencement of any work pursuant to an encroachment permit issued for any facility  
640 within the public right-of-way, the permittee shall provide the City with documentation  
641 establishing to the City's satisfaction that the permittee has the legal right to use or  
642 interfere with any other structure, improvement or property within the public right-of-  
643 way to be affected by applicant's facilities.

644 3. The permittee shall assume full liability for damage or injury caused to any property or  
645 person by the facility.

646 4. The permittee shall repair, at its sole cost and expense, any damage including, but not  
647 limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to  
648 City streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals,  
649 improvements of any kind or nature, or utility lines and systems, underground utility line  
650 and systems, or sewer systems and sewer lines that result from any activities performed  
651 in connection with the installation or maintenance of a wireless telecommunications  
652 facility in the public right-of-way. The permittee shall restore such areas, structures and  
653 systems to the condition in which they existed prior to the installation or maintenance  
654 that necessitated the repairs. In the event the permittee fails to complete such repair  
655 within the number of days stated on a written notice by the zoning administrator, the  
656 zoning administrator shall cause such repair to be completed at permittee's sole cost and  
657 expense.

658 5. Prior to issuance of a building permit, the applicant shall obtain the zoning  
659 administrator's approval of a tree protection plan prepared by a certified arborist if the  
660 installation of the wireless telecommunication facility will be located within the canopy  
661 of a street tree, or a protected tree on private property, or within a ten-foot radius of the  
662 base of such a tree. Depending on site specific criteria (e.g., location of tree, size, and  
663 type of tree, etc.), a radius greater than ten feet may be required by the zoning  
664 administrator.

665 6. Should any utility company offer electrical service that does not require the use of a  
666 meter cabinet, the permittee shall at its sole cost and expense remove the meter cabinet  
667 and any related foundation within 30 days of such service being offered and reasonably  
668 restore the area to its prior condition.

- 669 7. The permittee shall modify, remove, or relocate its facility, or portion thereof, without  
670 cost or expense to City, if and when made necessary by:
- 671 a) Any public improvement project, including, but not limited to, the construction,  
672 maintenance, or operation of any underground or aboveground facilities including  
673 but not limited to sewers, storm drains, conduits, gas, water, electric or other utility  
674 systems, or pipes owned by City or any other public agency;
- 675 b) Any abandonment of any street, sidewalk, or other public facility;
- 676 c) Any change of grade, alignment or width of any street, sidewalk or other public  
677 facility; or
- 678 d) A determination by the zoning administrator that the wireless telecommunications  
679 facility has become incompatible with public health, safety or welfare or the public's  
680 use of the public right-of-way.
- 681 8. Any modification, removal, or relocation of the facility shall be completed within 90 days  
682 of written notification by City unless exigencies dictate a shorter period for removal or  
683 relocation. Modification or relocation of the facility shall require submittal, review and  
684 approval of a permit amendment pursuant to the Mill Valley Municipal Code. The  
685 permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees  
686 paid for the original permit or to a new permit, without additional fee, at a location as  
687 close to the original location as the standards set forth in the Mill Valley Municipal Code  
688 allow. In the event the facility is not modified, removed, or relocated within said period  
689 of time, the City may cause the same to be done at the sole cost and expense of  
690 permittee. Further, due to exigent circumstances as provided in the Mill Valley Municipal  
691 Code, the City may modify, remove, or relocate wireless telecommunications facilities  
692 without prior notice to permittee provided permittee is notified within a reasonable  
693 period thereafter.

694 **20.73.120 Findings**

- 695 A. Where a wireless telecommunication facility requires a conditional use permit under this  
696 chapter, the reviewing authority shall not approve any application unless, in addition to the findings  
697 generally applicable to all conditional use permits, all of the following additional findings are made:
- 698 1. The proposed facility complies with all applicable provisions of this chapter.
- 699 2. The proposed facility has been designed and located to achieve compatibility with the  
700 community to the maximum extent reasonably feasible.
- 701 3. The applicant has submitted a statement of its willingness to allow other carriers to  
702 collocate on the proposed wireless telecommunications facility wherever technically and  
703 economically feasible and where collocation would not harm community compatibility.

704 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the  
705 public health, safety, and welfare and will not exceed the standards set forth in this  
706 chapter.

707 B. In addition to the findings in paragraph (A) above, approval of a wireless telecommunications  
708 facility permit for a facility that will be located in the public right-of-way may be granted only if the  
709 following findings are made by the reviewing authority:

710 1. The applicant has provided substantial written evidence supporting the applicant's claim  
711 that it has the right to enter the public right-of-way pursuant to state or federal law, or  
712 the applicant has entered into a franchise or other agreement with the City permitting  
713 them to use the public right-of-way.

714 2. The applicant has demonstrated that the facility will not interfere with the use of the  
715 public right-of-way, existing subterranean infrastructure, or the City's plans for  
716 modification or use of such location and infrastructure.

717 **20.73.130 Exceptions**

718 A. Exceptions pertaining to any provision of this chapter, including, but not limited to,  
719 exceptions from findings that would otherwise justify denial, may be granted by the reviewing  
720 authority if the reviewing authority makes the finding that:

721 1. Denial of the facility as proposed would violate federal law, state law, or both; or

722 2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights  
723 under federal law, state law, or both.

724 B. An applicant may only request an exception at the time of applying for a wireless  
725 telecommunications facility permit. The request must include both the specific provision(s) of this  
726 chapter from which the exception is sought and the basis of the request. Any request for an  
727 exception after the City has deemed an application complete shall be treated as a new application.

728 C. Notwithstanding any other provision of this chapter, a conditional use permit shall be  
729 required for a facility when an exception is requested.

730 D. The applicant shall have the burden of proving that denial of the facility as proposed would  
731 violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant,  
732 would deprive applicant of its rights under federal law, state law, or both, using the evidentiary  
733 standards required by that law at issue. The City shall have the right to hire an independent  
734 consultant, at the applicant's expense, to evaluate the issues raised by the exception request and  
735 shall have the right to submit rebuttal evidence to refute the applicant's claim.

736 **20.73.140 Wireless Telecommunications Facilities Covered under Section 6409(a) of the Middle**  
737 **Class Tax Relief and Job Creation Act of 2012**

738 A. **Purpose.** Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L.  
739 112-96, codified in 47 U.S.C. § 1455(a), generally requires that State and local governments "may  
740 not deny, and shall approve" requests to collocate, remove or replace transmission equipment at an  
741 existing tower or base station. Federal Communication Commission regulations interpret this  
742 statute and create procedural rules for local review, which generally preempt certain subjective  
743 land-use regulations, limit permit application content requirements and provide the applicant with a  
744 potential "deemed granted" remedy when the State or local government fails to approve or deny  
745 the request within sixty (60) days after submittal (accounting for any tolling periods). Moreover,  
746 whereas Section 704 of the Telecommunications Act of 1996, Pub. L. 104-104, codified in 47 U.S.C. §  
747 332, applies to only "personal wireless service facilities" (e.g., cellular telephone towers and  
748 equipment), Section 6409(a) applies to all "wireless" facilities licensed or authorized by the FCC  
749 (e.g., cellular, Wi-Fi, satellite, microwave backhaul, etc.).

750 The overlap between wireless deployments covered under Section 6409(a) and other wireless  
751 deployments, combined with the different substantive and procedural rules applicable to such  
752 deployments, creates a potential for confusion that harms the public interest in both efficient  
753 wireless facilities deployment and carefully planned community development in accordance with  
754 local values. A separate permit application and review process specifically designed for compliance  
755 with Section 6409(a) contained in a section devoted to Section 6409(a) will mitigate such potential  
756 confusion, streamline local review and preserve the City's land-use authority to maximum extent  
757 possible.

758 B. **Applicability.** This Section applies to all collocations or modifications to an existing wireless  
759 tower or base station submitted with a written request for approval pursuant to Section 6409(a).

760 C. **Approval Required.** Any request to collocate, replace or remove transmission equipment at  
761 an existing wireless tower or base station submitted with a written request for a 6409(a) approval  
762 shall be subject to the zoning administrator's approval, conditional approval or denial without  
763 prejudice pursuant to the standards and procedures contained in this chapter.

764 D. **Other Regulatory Approvals.** No collocation or modification approved under any section  
765 6409(a) approval may occur unless the applicant also obtains all other applicable permits or  
766 regulatory approvals from the City and state or federal agencies. Furthermore, any section 6409(a)  
767 approval granted under this chapter shall remain subject to any and all lawful conditions or  
768 requirements associated with such other permits or regulatory approvals from the City and state or  
769 federal agencies.

770 E. **Application Requirement.** The City shall not approve any wireless facility subject to this  
771 chapter except upon a duly filed application consistent with this Section and any other written rules  
772 the City or the zoning administrator may establish from time to time. An application must include  
773 the information required by Section 20.73.050 and the following additional information:

774 1. A title report prepared within the six months prior to the application filing date in order  
775 for the City verify the property owner's identity. If the applicant does not own the subject  
776 property, the application must include a written authorization signed by the property  
777 owner that empowers the applicant to file the application and perform all wireless  
778 facility construction, installation, operation and maintenance to the extent described in  
779 the application.

780 2. A written statement that explains in plain factual detail whether and why Section 6409(a)  
781 and the related FCC regulations at 47 C.F.R. § 1.40001 et seq. require approval for the  
782 specific project. A complete written narrative analysis will state the applicable standard  
783 and all the facts that allow the City to conclude the standard has been met. Bare  
784 conclusions not factually supported do not constitute a complete written analysis. As  
785 part of this written statement the applicant must also include (i) whether and why the  
786 support structure qualifies as an existing tower or existing base station; and (ii) whether  
787 and why the proposed collocation or modification does not cause a substantial change in  
788 height, width, excavation, equipment cabinets, concealment or permit compliance.

789 F. **Procedures for a Duly Filed Application.** The City shall not review any application unless  
790 duly filed in accordance with this Section, as follows:

791 1. *Pre-Submittal Conference.* Before application submittal, applicants must schedule and  
792 attend a pre-application meeting with the zoning administrator for all proposed  
793 modifications submitted for approval pursuant to Section 6409(a). The pre-submittal  
794 conference is intended to streamline the review process through informal discussion that  
795 includes, without limitation, the appropriate project classification, including whether the  
796 project qualifies for Section 6409(a); any latent issues in connection with the existing  
797 tower or base station; potential concealment issues (if applicable); coordination with  
798 other City departments responsible for application review; and application completeness  
799 issues. To mitigate unnecessary delays due to application incompleteness, applicants are  
800 encouraged (but not required) to bring any draft applications or other materials so that  
801 City staff may provide informal feedback about whether such applications or other  
802 materials may be incomplete or unacceptable. The zoning administrator may, in the  
803 zoning administrator's discretion, grant a written exemption to the submittal  
804 appointment under Section 20.73.140(F)(2) or for a specific requirement for a complete  
805 application to any applicant who (i) schedules, attends and fully participates in any pre-  
806 submittal conference and (ii) shows to the zoning administrator's satisfaction that such  
807 specific requirement duplicates information already provided in other materials to be  
808 submitted or is otherwise unnecessary to the City's review under facts and circumstances  
809 in that particular case. Any written exemption will be limited to the project discussed at  
810 the pre-submittal conference and will not be extended to any other project.

811 2. *Submittal Appointment.* All applications must be filed with the City at a pre-scheduled  
812 appointment. Applicants may generally submit one application per appointment, but  
813 may schedule successive appointments for multiple applications whenever feasible and

814 not prejudicial to other applicants. Any application received without an appointment,  
815 whether delivered in-person or through any other means, will not be considered duly  
816 filed unless the applicant received a written exemption from the zoning administrator at  
817 a pre-submittal conference.

818 3. *Appointment Scheduling Procedures.* For any event in the submittal process that requires  
819 an appointment, applicants must submit a written request to the zoning administrator.  
820 The zoning administrator shall endeavor to provide applicants with an appointment as  
821 soon as reasonably feasible and within five business days after a written request is  
822 received.

823 4. *Applications Deemed Withdrawn.* To promote efficient review and timely decisions, an  
824 application will be automatically deemed withdrawn by the applicant when the applicant  
825 fails to tender a substantive response to the City within 90 calendar days after the City  
826 deems the application incomplete in a written notice to the applicant. The zoning  
827 administrator may, in the zoning administrator's discretion, grant a written extension for  
828 up to an additional 30 calendar days when the applicant submits a written request prior  
829 to the 90th day that shows good cause to grant the extension. Delays due to  
830 circumstances outside the applicant's reasonable control will be considered good cause  
831 to grant the extension.

832 5. *Departmental Forms, Rules and Other Regulations.* The City council authorizes the zoning  
833 administrator to develop and publish permit application forms, checklists, informational  
834 handouts and other related materials that the zoning administrator finds necessary,  
835 appropriate or useful for processing requests for section 6409(a) approvals. Without  
836 further authorization from the City council, the zoning administrator may from time-to-  
837 time update and alter any such permit application forms, checklists, informational  
838 handouts and other related materials as the zoning administrator deems necessary,  
839 appropriate or useful to respond to regulatory, technological or other changes related to  
840 this chapter. The City council authorizes the zoning administrator to establish other  
841 reasonable rules and regulations, which may include without limitation regular hours for  
842 appointments with applicants, as the zoning administrator deems necessary or  
843 appropriate to organize, document and manage the application intake process.

844

845 G. **Administrative Review; Decision Notices.** The zoning administrator shall administratively  
846 review an application for a section 6409(a) approval and act on such an application without prior  
847 notice or a public hearing. Within five working days after the zoning administrator conditionally  
848 approves or denies an application submitted for Section 6409(a) approval or before the FCC  
849 timeframe for review expires (whichever occurs first), the zoning administrator shall send a written  
850 notice to the applicant. In the event that the zoning administrator determines that an application  
851 submitted for approval pursuant to Section 6409(a) does not qualify for approval, the zoning  
852 administrator will send written notice to the applicant that includes the reasons to support the  
853 review authority's decision and states that the application will be automatically denied without  
854 prejudice on the 60th day after the date the application was filed unless the applicant withdraws the  
855 application.

856 H. **Required Findings for 6409(a) Approval.** The zoning administrator may approve or  
857 conditionally approve an application submitted for Section 6409(a) approval when the zoning  
858 administrator finds that the proposed project:

859 1. Involves collocation, removal or replacement of transmission equipment on an existing  
860 wireless tower or base station; and

861 2. Does not substantially change the physical dimensions of the existing wireless tower or  
862 base station.

863 I. **Criteria for Denial Without Prejudice.** Notwithstanding any other provisions in this chapter,  
864 and consistent with all applicable federal laws and regulations, the zoning administrator may deny  
865 without prejudice an application submitted for approval pursuant to Section 6409(a) when it finds  
866 that the proposed project:

867 1. Does not satisfy the criteria for approval;

868 2. Violates any legally enforceable standard or permit condition reasonably related to  
869 public health and safety then in effect; or

870 3. Involves the replacement of the entire support structure.

871 J. **Conditional 6409(a) Approvals.** Subject to any applicable limitations in federal or state law,  
872 nothing in this chapter is intended to limit the City's authority to conditionally approve an  
873 application for a section 6409(a) approval to protect and promote the public health, safety and  
874 welfare.

875 K. **Appeals.** Notwithstanding any provision of the Mill Valley Municipal Code to the contrary,  
876 including but not limited to section , an applicant may appeal a decision by the zoning administrator  
877 to deny without prejudice a Section 6409(a) application. The appeal must be filed within 10 days  
878 from the zoning administrator's decision. The appeal must state in plain terms the grounds for  
879 reversal and the facts that support those grounds. The City manager shall serve as the appellate  
880 authority for all appeals of all actions of the zoning administrator taken pursuant to this section. The

881 City shall provide notice for an administrative hearing by the City manager. The City manager shall  
882 limit its review to whether the project should be approved or denied in accordance with the  
883 provisions in paragraphs (H) and (I) of this section. The decision of the City manager shall be final  
884 and not subject to any further administrative appeals.

885 L. **Standard Conditions of Approval.** In addition to all other conditions adopted by the zoning  
886 administrator, all Section 6409(a) approvals, whether approved by the zoning administrator or  
887 deemed approved by the operation of law, shall be automatically subject to the following conditions  
888 in this Section; provided, however, that the zoning administrator shall have discretion to modify or  
889 amend these conditions on a case-by-case basis as may be necessary or appropriate under the  
890 circumstances:

891 1. *Approved Plans.* Before the permittee submits any application for a building permit or  
892 other permits required by the Mill Valley Municipal Code, the permittee must  
893 incorporate the wireless telecommunications facility permit granted under this section,  
894 all conditions associated with the wireless telecommunications facility permit and the  
895 approved plans and any photo simulations (the "Approved Plans") into the project plans.  
896 The permittee must construct, install and operate the wireless telecommunications  
897 facility in strict compliance with the Approved Plans. The permittee shall submit an as  
898 built drawing within 90 days after installation of the facility.

899 2. *Permit Term.* The City's grant or grant by operation of law of a Section 6409(a) approval  
900 constitutes a federally-mandated modification to the underlying permit or other prior  
901 regulatory authorization for the subject tower or base station. The City's grant or grant  
902 by operation of law of a section 6409(a) approval will not extend the permit term, if any,  
903 for any conditional use permit, or other underlying prior regulatory authorization.  
904 Accordingly, the term for a section 6409(a) approval shall be coterminous with the  
905 underlying permit or other prior regulatory authorization for the subject tower or base  
906 station.

907 3. *Accelerated Permit Terms Due to Invalidation.* In the event that any court of competent  
908 jurisdiction invalidates any portion of Section 6409(a) or any FCC rule that interprets  
909 Section 6409(a) such that federal law would not mandate approval for any Section  
910 6409(a) approval, such 6409(a) approvals shall automatically expire one year from the  
911 effective date of the judicial order, unless the decision would not authorize accelerated  
912 termination of previously approved section 6409(a) approvals or the zoning  
913 administrator grants an extension upon written request from the permittee that shows  
914 good cause for the extension, which includes without limitation extreme financial  
915 hardship. Notwithstanding anything in the previous sentence to the contrary, the zoning  
916 administrator may not grant a permanent exemption or indefinite extension. A permittee  
917 shall not be required to remove its improvements approved under the invalidated  
918 section 6409(a) approval when it has submitted an application for a conditional use  
919 permit for those improvements before the one-year period ends.

- 920 4. *No Waiver of Standing.* The City's grant or grant by operation of law of a Section 6409(a)  
921 approval does not waive, and shall not be construed to waive, any standing by the City to  
922 challenge Section 6409(a), any FCC rules that interpret Section 6409(a) or any section  
923 6409(a) approval.
- 924 5. *Build-out Period.* The section 6409(a) approval will automatically expire one year from  
925 the issuance date unless the permittee obtains all other permits and approvals required  
926 to install, construct and operate the approved wireless facility, which includes without  
927 limitation any permits or approvals required by the any federal, state or local public  
928 agencies with jurisdiction over the subject property, the wireless facility or its use. The  
929 zoning administrator may grant one written extension to a date certain when the  
930 permittee shows good cause to extend the limitations period in a written request for an  
931 extension submitted at least 30 days prior to the automatic expiration date in this  
932 condition. Any further extensions may be granted by the planning commission.
- 933 6. *Maintenance Obligations; Vandalism.* The permittee shall keep the site, which includes  
934 without limitation any and all improvements, equipment, structures, access routes,  
935 fences and landscape features, in a neat, clean and safe condition in accordance with the  
936 Approved Plans and all conditions in this section 6409(a) approval. The permittee shall  
937 keep the site area free from all litter and debris at all times. The permittee, at no cost to  
938 the City, shall remove and remediate any graffiti or other vandalism at the site within 48  
939 hours after the permittee receives notice or otherwise becomes aware that such graffiti  
940 or other vandalism occurred.
- 941 7. *Compliance with Laws.* The permittee shall maintain compliance at all times with all  
942 federal, state and local statutes, regulations, orders or other rules that carry the force of  
943 law ("Laws") applicable to the permittee, the subject property, the wireless facility or any  
944 use or activities in connection with the use authorized in this section 6409(a) approval.  
945 The permittee expressly acknowledges and agrees that this obligation is intended to be  
946 broadly construed and that no other specific requirements in these conditions are  
947 intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain  
948 compliance with all Laws.
- 949 8. *Adverse Impacts on Other Properties.* The permittee shall use all reasonable efforts to  
950 avoid any and all undue or unnecessary adverse impacts on nearby properties that may  
951 arise from the permittee's construction, installation, operation, modification,  
952 maintenance, repair, removal or other activities at the site. The permittee shall not  
953 perform or cause others to perform any construction, installation, operation,  
954 modification, maintenance, repair, removal or other work that involves heavy equipment  
955 or machines on any day and at any time prohibited under the Mill Valley Municipal Code.  
956 The restricted work hours in this condition will not prohibit any work required to prevent  
957 an actual, immediate harm to property or persons, or any work during an emergency  
958 declared by the City. The zoning administrator may issue a stop work order for any work  
959 that violates this condition.

960 9. *Noise Complaints.* The permittee shall conduct all activities on the site in compliance with  
961 the noise standards in the Mill Valley Municipal Code. In the event that any person files a  
962 noise complaint and the City verifies that such complaint is valid, the permittee must  
963 remedy the violation within 10 days after notice from the City, which may include a  
964 demonstration that the permittee has amended its operational guidelines in situations  
965 where the violation arises from the permittee's personnel rather than the permittee's  
966 equipment.

967 10. *Inspections; Emergencies.* The permittee expressly acknowledges and agrees that the City  
968 or its designee may enter onto the site and inspect the improvements and equipment  
969 upon reasonable prior notice to the permittee; provided, however, that the City or its  
970 designee may, but will not be obligated to, enter onto the site area without prior notice  
971 to support, repair, disable or remove any improvements or equipment in emergencies or  
972 when such improvements or equipment threatens actual, imminent harm to property or  
973 persons. The permittee will be permitted to supervise the City or its designee while such  
974 inspection or emergency access occurs.

975 11. *Contact Information.* The permittee shall furnish the City with accurate and up-to-date  
976 contact information for a person responsible for the wireless facility, which includes  
977 without limitation such person's full name, title, direct telephone number, facsimile  
978 number, mailing address and email address. The permittee shall keep such contact  
979 information up-to-date at all times.

980 12. *Indemnification.* The permittee and, if applicable, the property owner upon which the  
981 wireless facility is installed shall defend, indemnify and hold harmless the City, its agents,  
982 officers, officials, employees and volunteers from any and all (1) damages, liabilities,  
983 injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs  
984 and other actions or proceedings ("Claims") brought against the City or its agents,  
985 officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside,  
986 void or annul the City's approval of this section 6409(a) approval, and (2) other Claims  
987 any kind or form, whether for personal injury, death or property damage, that arise from  
988 or in connection with the permittee's or its agents', directors', officers', employees',  
989 contractors', subcontractors', licensees', or customers' acts or omissions in connection  
990 with this section 6409(a) approval or the wireless facility. In the event the City becomes  
991 aware any Claims, the City will use best efforts to promptly notify the permittee and the  
992 private property owner and shall reasonably cooperate in the defense. The permittee  
993 expressly acknowledges and agrees that the City shall have the right to approve, which  
994 approval shall not be unreasonably withheld, the legal counsel providing the City's  
995 defense, and the property owner or permittee (as applicable) shall promptly reimburse  
996 City for any costs and expenses directly and necessarily incurred by the City in the course  
997 of the defense. The permittee expressly acknowledges and agrees that the permittee's  
998 indemnification obligations under this condition are a material consideration that  
999 motivates the City to approve this section 6409(a) approval, and that such

1000 indemnification obligations will survive the expiration or revocation of this section  
1001 6409(a) approval.

1002 13. *Performance Bond.* Before the City issues any construction permit in connection with the  
1003 wireless facility, the permittee shall post a performance bond from a surety and in a form  
1004 acceptable to the City manager in an amount equal to or greater than a written estimate  
1005 from a qualified contractor with experience in wireless facilities removal. The written  
1006 estimate must include the cost to remove all equipment and other improvements, which  
1007 includes without limitation all antennas, radios, batteries, generators, utilities, cabinets,  
1008 mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles,  
1009 footings and foundations, whether above ground or below ground, constructed or  
1010 installed in connection with the wireless facility. In establishing or adjusting the bond  
1011 amount required under this condition, and in accordance with California Government  
1012 Code § 65964(a), the City manager shall take into consideration information provided by  
1013 the permittee regarding the cost to remove the wireless facility.

1014 14. *Record Retention.* The permittee must maintain complete and accurate copies of all  
1015 permits and other regulatory approvals issued in connection with the wireless facility,  
1016 which includes without limitation this approval, the approved plans and photo  
1017 simulations incorporated into this approval, all conditions associated with this approval  
1018 and any ministerial permits or approvals issued in connection with this approval. In the  
1019 event that the permittee does not maintain such records as required in this condition,  
1020 any ambiguities or uncertainties that would be resolved through an inspection of the  
1021 missing records will be construed against the permittee.

1022 15. *Compliance Obligations.* An applicant or permittee will not be relieved of its obligation  
1023 to comply with every applicable provision in the Mill Valley Municipal Code, any permit,  
1024 any permit condition or any applicable law or regulation by reason of any failure by the  
1025 City to timely notice, prompt or enforce compliance by the applicant or permittee.

1026 **20.73.150 Wireless Telecommunications Collocation Facilities Covered under California**  
1027 **Government Code Section 65850.6**

1028 A. **Purpose.** The purpose of this section is to comply with an application for a Wireless  
1029 Telecommunications Collocation Facility under California Government Code Section 65850.6, for  
1030 which a 6509(a) approval is not being requested. This section provides the requirements, standards  
1031 and regulations for a wireless telecommunications collocation facility for which subsequent  
1032 collocation is a permitted use pursuant to California law. Only those facilities that fully comply with  
1033 the eligibility requirements set forth in California Government Code Section 65850.6, or its  
1034 successor provision, and which strictly adhere to the requirements and regulations set forth in this  
1035 section shall qualify as a wireless telecommunications collocation facility.

1036 B. **Definitions.** For the purposes of this section, the following terms are defined as follows:

- 1037 1. **“Collocation Facility”** means the placement or installation of wireless facilities, including  
1038 antennas, and related equipment, on, or immediately adjacent to, a wireless  
1039 telecommunications collocation facility.
- 1040 2. **“Wireless Telecommunications Facility”** means equipment and network components  
1041 such as towers, utility poles, transmitters, base stations, and emergency power systems  
1042 that are integral to providing wireless telecommunications services.
- 1043 3. **“Wireless Telecommunications Collocation Facility”** means a wireless  
1044 telecommunications facility that includes collocation facilities.
- 1045 C. **Procedures.** An application for a Wireless Telecommunications Collocation Facility under  
1046 California Government Code Section 65850.6 shall be processed in the same manner as an  
1047 application for 6409(a) approval is processed, except that where the process requires justification  
1048 for the 6409(a) approval, the applicant shall instead provide the justification for a Wireless  
1049 Telecommunications Collocation Facility under California Government Code Section 65850.6.
- 1050 D. **Requirements.** All requirements, regulations, and standards set forth in this chapter for a  
1051 wireless telecommunications facility shall apply to a wireless telecommunications collocation  
1052 facility; provided, however, the following shall also apply to a wireless telecommunications  
1053 collocation facility:
- 1054 1. The applicant for a wireless telecommunications collocation facility permit shall describe  
1055 or depict:
- 1056 (a) The wireless telecommunications collocation facility as it will be initially built;  
1057 and
- 1058 (b) All collocations at full build-out, including, but not limited to, all antennas,  
1059 antenna support structures, and accessory equipment.
- 1060 2. Any collocation shall use screening methods substantially similar to those used on the  
1061 existing wireless telecommunications facilities unless other optional screening methods  
1062 are specified in the conditions of approval.
- 1063 3. A wireless telecommunications collocation facility permit shall not be approved unless an  
1064 environmental impact report, negative declaration, or mitigated negative declaration  
1065 was prepared and approved for the wireless telecommunications collocation facility.
- 1066 E. **Permitted Use.** Notwithstanding any other provision of this chapter, a subsequent  
1067 collocation on a wireless telecommunications collocation facility shall be a permitted use only if all  
1068 of the following requirements are satisfied:
- 1069 1. The wireless telecommunications collocation facility:
- 1070 (a) Was approved after January 1, 2007, by discretionary permit;

1071 (b) Was approved subject to an environmental impact report, negative  
1072 declaration, or mitigated negative declaration; and

1073 (c) Otherwise complies with the requirements of California Government Code  
1074 Section 65850.6(b), or its successor provision, for addition of a collocation  
1075 facility to a wireless telecommunications collocation facility, including, but not  
1076 limited to, compliance with all performance and maintenance requirements,  
1077 regulations and standards in this chapter and the conditions of approval in the  
1078 wireless telecommunications collocation facility permit; and

1079 2. The collocations were specifically considered when the relevant environmental  
1080 document was prepared for the wireless telecommunications collocation facility.

1081 3. Before collocation, the applicant seeking collocation shall obtain all other applicable non-  
1082 discretionary permits, as required pursuant to the Mill Valley Municipal Code.

1083 F. **New or Amended Permit.** Except as otherwise provided above, approval of a new or  
1084 amended permit shall be required when the facility is modified other than by collocation in  
1085 accordance with this section, or the proposed collocation:

1086 1. Increases the height of the existing permitted telecommunications tower or otherwise  
1087 changes the bulk, size, location, or any other physical attributes of the existing permitted  
1088 wireless telecommunications collocation facility unless specifically permitted under the  
1089 conditions of approval applicable to such wireless telecommunications collocation  
1090 facility; or

1091 2. Adds any microwave dish or other antenna not expressly permitted to be included in a  
1092 collocation facility by the conditions of approval.

1093 G. **Appeals.** Notwithstanding any provision of the Mill Valley Municipal Code to the contrary,  
1094 including but not limited to Section 20.62.060, any applicant may appeal a decision by the zoning  
1095 administrator. The appeal must be filed within 10 days from the zoning administrator's decision. The  
1096 appeal must state in plain terms the grounds for reversal and the facts that support those grounds.  
1097 The City manager shall serve as the appellate authority for all appeals of all actions of the zoning  
1098 administrator taken pursuant to this section. The City shall provide notice for an administrative  
1099 hearing by the City manager. The City manager shall limit its review to whether the project should  
1100 be approved or denied in accordance with the provisions in this section. The decision of the City  
1101 manager shall be final and not subject to any further administrative appeals.

1102 **20.73.160 Business License**

1103 A permit issued pursuant to this chapter shall not be a substitute for any business license otherwise  
1104 required under the Mill Valley Municipal Code.

1105 **20.73.170 Emergency Deployment**

1106 In the event of a declared federal, state, or local emergency, or when otherwise warranted by  
1107 conditions that the zoning administrator deems to constitute an emergency, the zoning  
1108 administrator may approve the installation and operation of a temporary wireless  
1109 telecommunications facility (e.g., a cell on wheels or "COW"), which is subject to such reasonable  
1110 conditions that the zoning administrator deems necessary.

1111 **20.73.180 Operation and Maintenance Standards**

1112 A. All wireless telecommunications facilities must comply at all times with the following  
1113 operation and maintenance standards. All necessary repairs and restoration shall be completed by  
1114 the permittee, owner, or operator within 48 hours:

1115 1. After discovery of the need by the permittee, owner, operator or any designated  
1116 maintenance agent; or

1117 2. After permittee, owner, operator, or any designated maintenance agent receives  
1118 notification from a resident or the zoning administrator.

1119 B. All facilities, including, but not limited to, telecommunication towers, poles, accessory  
1120 equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility  
1121 site shall be maintained in good condition, including ensuring the facilities are reasonably free of:

1122 1. General dirt and grease;

1123 2. Chipped, faded, peeling, and cracked paint;

1124 3. Rust and corrosion;

1125 4. Cracks, dents, and discoloration;

1126 5. Missing, discolored, or damaged artificial foliage or other camouflage;

1127 6. Graffiti, bills, stickers, advertisements, litter and debris;

1128 7. Broken and misshapen structural parts; and

1129 8. Any damage from any cause.

1130 C. All trees, foliage or other landscaping elements approved as part of the facility shall be  
1131 maintained in good condition at all times, and the permittee, owner and operator of the facility shall  
1132 be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any  
1133 approved landscaping plan may be made until it is submitted to and approved by the zoning  
1134 administrator.

1135 D. The permittee shall replace its facilities, after obtaining all required permits, if maintenance

1136 or repair is not sufficient to return the facility to the condition it was in at the time of installation.

1137 E. Each facility shall be operated and maintained at all times in compliance with applicable  
1138 federal regulations, including FCC radio frequency emissions standards.

1139 F. Each facility shall be operated and maintained to comply at all times with the noise  
1140 regulations of this chapter and shall be operated and maintained in a manner that will minimize  
1141 noise impacts to surrounding residents. Except for emergency repairs, any testing and maintenance  
1142 activities that will be audible beyond the property line shall only occur between the hours of 7:00  
1143 a.m. and 5:00 p.m. on Monday through Friday, excluding holidays, unless alternative hours are  
1144 approved by the zoning administrator. Backup generators, if permitted, shall only be operated  
1145 during periods of power outages or for testing.

1146 G. If a flagpole is used for camouflaging a wireless telecommunications facility, flags shall be  
1147 flown and shall be properly maintained at all times.

1148 H. Each owner or operator of a facility shall routinely inspect each site to ensure compliance  
1149 with the standards set forth in this section and the conditions of approval.

1150 **20.73.190 No Dangerous Conditions or Obstructions Allowed**

1151 No person shall install, use or maintain any wireless telecommunications facility which in whole or in  
1152 part rests upon, in or over any public sidewalk or parkway, when such installation, use or  
1153 maintenance endangers or is reasonably likely to endanger the safety of persons or property, or  
1154 when such site or location is used for public utility purposes, public transportation purposes or other  
1155 governmental use, or when such facility unreasonably interferes with or impedes the flow of  
1156 pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or  
1157 egress from any residence or place of business, the use of poles, posts, traffic signs or signals,  
1158 hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects  
1159 permitted at or near said location.

1160 **20.73.200 Permit Expiration**

1161 A. A permit for any wireless telecommunications facility shall be valid for a period of 10 years,  
1162 unless the Planning commission authorizes a longer period or pursuant to another provision of the  
1163 Mill Valley Municipal Code the permit lapses sooner or is revoked. At the end of such period, the  
1164 permit shall expire.

1165 B. A permittee may apply for extensions of its permit in increments of no more than ten years  
1166 and no sooner than twelve months prior to expiration of the permit.

1167 C. If a permit has not expired at the time an application is made for an extension, the zoning  
1168 administrator may administratively extend the term of the permit for subsequent ten-year terms  
1169 upon verification of continued compliance with the findings and conditions of approval under which  
1170 the application was originally approved, as well as any other applicable provisions of the Mill Valley  
1171 Municipal Code that are in effect at the time the permit extension is granted.

1172 1. At the zoning administrator's discretion, additional studies and information may be  
1173 required of the applicant.

1174 2. If the zoning administrator determines that the facility is nonconforming or that  
1175 additional conditions of approval are necessary to bring the facility into compliance with  
1176 the provisions of the Mill Valley Municipal Code that are then in effect at the time of  
1177 permit expiration, the zoning administrator shall refer the extension request to the  
1178 Planning commission.

1179 D. The request for an extension shall be decided by the Planning commission if the permit  
1180 expired before the application is made for an extension or if the zoning administrator refers the  
1181 matter to the Planning commission. After notice and a public hearing, the Planning commission may  
1182 approve, conditionally approve, or deny the extension.

1183 **20.73.210 Cessation of Use or Abandonment**

1184 A. A wireless telecommunications facility is considered abandoned and shall be promptly  
1185 removed as provided herein if it ceases to provide wireless telecommunications services for 90 or  
1186 more consecutive days. If there are two or more users of a single facility, then this provision shall  
1187 not become effective until all users cease using the facility.

1188 B. The operator of a facility shall notify the City in writing of its intent to abandon or cease use  
1189 of a permitted site or a nonconforming site (including unpermitted sites) within ten days of ceasing  
1190 or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall  
1191 provide written notice to the zoning administrator of any discontinuation of operations of 30 days  
1192 or more.

1193

1194 C. Failure to inform the zoning administrator of cessation or discontinuation of operations of  
1195 any existing facility as required by this section shall constitute a violation of any approvals and be  
1196 grounds for:

- 1197 1. Prosecution;
- 1198 2. Revocation or modification of the permit;
- 1199 3. Calling of any bond or other assurance required by this chapter or conditions of approval  
1200 of the permit;
- 1201 4. Removal of the facilities by the City in accordance with the procedures established under  
1202 the Mill Valley Municipal Code for abatement of a public nuisance at the owner's  
1203 expense; and
- 1204 5. Any other remedies permitted under the Mill Valley Municipal Code.

1205 **20.73.220 Removal and Restoration, Permit Expiration, Revocation or Abandonment**

1206 A. **Permittee's removal obligation.** Upon the expiration date of the permit, including any  
1207 extensions, earlier termination or revocation of the permit or abandonment of the facility, the  
1208 permittee, owner or operator shall remove its wireless telecommunications facility and restore the  
1209 site to its natural condition except for retaining the landscaping improvements and any other  
1210 improvements at the discretion of the City. Removal shall be in accordance with proper health and  
1211 safety requirements and all ordinances, rules, and regulations of the City. The facility shall be  
1212 removed from the property within 30 days, at no cost or expense to the City. If the facility is located  
1213 on private property, the private property owner shall also be independently responsible for the  
1214 expense of timely removal and restoration.

1215 B. **Failure to remove.** Failure of the permittee, owner, or operator to promptly remove its  
1216 facility and restore the property within 30 days after expiration, earlier termination, or revocation of  
1217 the permit, or abandonment of the facility, shall be a violation of the Mill Valley Municipal Code,  
1218 and be grounds for:

- 1219 1. Prosecution;
- 1220 2. Calling of any bond or other assurance required by this chapter or conditions of approval  
1221 of permit;
- 1222 3. Removal of the facilities by the City in accordance with the procedures established under  
1223 the Mill Valley Municipal Code for abatement of a public nuisance at the owner's  
1224 expense; or
- 1225 4. Any other remedies permitted under the Mill Valley Municipal Code.

1226

1227 C. **Summary removal.** In the event the zoning administrator determines that the condition or  
1228 placement of a wireless telecommunications facility located in the public right-of-way constitutes a  
1229 dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety,  
1230 or determines other exigent circumstances require immediate corrective action (collectively,  
1231 “exigent circumstances”), the zoning administrator may cause the facility to be removed summarily  
1232 and immediately without advance notice or a hearing. Written notice of the removal shall be served  
1233 upon the person who owns the facility within five business days of removal and all property  
1234 removed shall be preserved for the owner’s pick-up as feasible. If the owner cannot be identified  
1235 following reasonable effort or if the owner fails to pick-up the property within 60 days, the facility  
1236 shall be treated as abandoned property.

1237 D. **Removal of facilities by City.** In the event the City removes a facility in accordance with  
1238 nuisance abatement procedures or summary removal, any such removal shall be without any  
1239 liability to the City for any damage to such facility that may result from reasonable efforts of  
1240 removal. In addition to the procedures for recovering costs of nuisance abatement, the City may  
1241 collect such costs from the performance bond posted and to the extent such costs exceed the  
1242 amount of the performance bond, collect those excess costs in accordance with the Mill Valley  
1243 Municipal Code. Unless otherwise provided herein, the City has no obligation to store such facility.  
1244 Neither the permittee nor the owner nor operator shall have any claim if the City destroys any such  
1245 facility not timely removed by the permittee, owner, or operator after notice, or removed by the  
1246 City due to exigent circumstances.

1247 **20.73.230 Effect on Other Ordinances**

1248 Compliance with the provisions of this chapter shall not relieve a person from complying with any  
1249 other applicable provision of the Mill Valley Municipal Code, including but not limited to obtaining  
1250 any necessary encroachment or building permits. In the event of a conflict between any provision of  
1251 this chapter and other provisions of the Mill Valley Municipal Code, this chapter shall control.

1252 **20.73.240 Effect of State or Federal Law**

1253 In the event that state or federal law prohibits discretionary permitting requirements for certain  
1254 wireless telecommunications facilities, the permits required by this chapter for those facilities shall  
1255 be deemed to be ministerial permits. For those facilities, in lieu of a conditional use permit, a  
1256 ministerial permit shall be required prior to installation or modification of a wireless  
1257 telecommunications facility and all provisions of this chapter shall be applicable to any such facility  
1258 with the exception that the required permit shall be reviewed and administered as a ministerial  
1259 permit by the zoning administrator rather than as a discretionary permit. Any conditions of  
1260 approval set forth in this chapter or deemed necessary by the zoning administrator shall be imposed  
1261 and administered as reasonable time, place and manner rules.

**ATTACHMENT 2: Public Comments**

## Danielle Staude

---

**From:** Katharine Spencer <katharinespencer@hotmail.com>  
**Sent:** Sunday, August 26, 2018 7:02 PM  
**To:** Danielle Staude  
**Subject:** Potential 4G/5G Wireless Telecommunications Facilities

Dear Danielle Staude,

We have recently become aware of the possible arrival of 4G & 5G wireless networks in our neighborhood and we are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from these 4G and 5G Small Cell Towers.

We urge you to please prevent the installment of these dangerous antennae in the City of Mill Valley.

Yours sincerely,

David & Katharine Spencer  
138 Kipling Drive  
Mill Valley

## Danielle Staude

---

**From:** Liz Specht <liz@edliz.com>  
**Sent:** Monday, August 27, 2018 11:55 AM  
**To:** Danielle Staude  
**Subject:** Please: No small cell towers

Dear Danielle,

We are concerned about the potential adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers, as proposed by AT&T and Verizon.

Please prevent the installment of these dangerous antennae in the City of Mill Valley until conclusive data is available about health risks.

Sincerely,  
Liz and Ed Specht  
102 Nelson Avenue  
Mill Valley, CA

## Danielle Staude

---

**From:** Tracy Ferm <rtferm@comcast.net>  
**Sent:** Monday, August 27, 2018 8:34 AM  
**To:** Danielle Staude  
**Subject:** 5 G

Dear Danielle-

I am very concerned about the possible side effects of the 5 G. My husband is a cancer survivor and I have cancer at present. There are power poles right in front of our home on Montford.

PLEASE help to research this. Is there a shark in the water?

Thank-you! Tracy

## Danielle Staude

---

**From:** Lisa Salkever <lsalkever@gmail.com>  
**Sent:** Monday, August 27, 2018 7:12 AM  
**To:** Danielle Staude  
**Subject:** Please prevent installment of smAll cell phone towers in Mill Valley

Dear Danielle Staude,

I and my family are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Thank you,  
Lisa Salkever

## Danielle Staude

---

**From:** Kier Holmes <kierandmatt@gmail.com>  
**Sent:** Monday, August 27, 2018 6:28 AM  
**To:** Danielle Staude  
**Subject:** cell towers

Danielle Staude, I urge you to stop the imminent placement of dangerous 4G and 5G Small Cell Towers on telephone poles in Mill Valley. For the health of our children, please do whatever you can to stop this!

Thank you!

Kier Holmes, and family

## Danielle Staude

---

**From:** Lynne Frame <lynnef2@comcast.net>  
**Sent:** Monday, August 27, 2018 4:05 AM  
**To:** Danielle Staude  
**Subject:** small cell towers -- please no

Dear Ms. Staude,

I am writing from overseas to register my grave concern about the placement of small cell towers throughout Mill Valley in the coming months — or ever. As a person with several constitutional sensitivities, I work constantly to minimize my exposure to electromagnetic radiation and I am extremely concerned that the introduction of these towers throughout our neighborhoods and in close proximity to homes and schools will make avoiding such exposure nearly impossible for me, my family, and our community. Although we cannot be absolutely sure of the level of harm this will have on various individuals, it is a risk to at least some that is not worth the potential benefits to others.

Please count me as a community member who is strongly opposed to such installations.

Respectfully yours,  
Lynne Frame

38 Helens Lane  
Mill Valley, CA 94941

## Danielle Staude

---

**From:** Sarah Wilson <sarah@wilson.tv>  
**Sent:** Sunday, August 26, 2018 9:20 PM  
**To:** Danielle Staude  
**Subject:** 5G cell towers

Hi Danielle,

We are very concerned about the potential adverse health and environmental risks associated with the installment of 5G cell towers around Mill Valley. Please do what you can to stop the installation of these towers.

Thank you,  
Sarah & Jason Wilson

send from my iPhone

## Danielle Staude

---

**From:** Leslie Myers <lesliemyers@yahoo.com>  
**Sent:** Sunday, August 26, 2018 11:01 PM  
**To:** Danielle Staude  
**Subject:** 5G in Mill Valley - Please oppose it!

Dear Senior Planner Danielle Staude,

Regarding placement of 5G Mini Cell Towers in Mill Valley, we are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers.

We do not want high frequency energy waves pumped into our neighborhoods. The long term impact to the health of our residents is unknown.

5G is not necessary. Wired networks, both optical fiber and copper, are a much better option than the potentially harmful 5G wireless networks. Fiber optic cable is faster, more secure, more reliable, more energy efficient, more cost effective, healthier and safer than wireless networks.

Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Thank you!

Best and be well. Leslie Myers

## Danielle Staude

---

**From:** Pamela Alma Weymouth <pamelaweymouth@gmail.com>  
**Sent:** Sunday, August 26, 2018 10:29 PM  
**To:** Danielle Staude  
**Subject:** No cell towers pls!

Pls don't place cell towers on phone lines near homestead or in mill valley! Let's keep this a healthy green community with less radiation waves!! Please! Mother of twin boys, journalist. Thank you.

We should get to vote on this!

Sent from modern device while negotiating twin truces & juggling flaming knives

Read more masterpieces at:[pamela.alma.org](http://pamela.alma.org)

## Danielle Staude

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**From:** redmond@mac.com  
**Sent:** Sunday, August 26, 2018 10:16 PM  
**To:** Danielle Staude  
**Subject:** Adverse effects on humans from microwave radiation emitted from 4G and 5G Small Cell Towers

Dear Ms Staude,

We are extremely concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installation of these dangerous antennae in the City of Mill Valley and preserve our healthy environment that has made Mill Valley the wonderful place to live. I am a 40 year resident and I believe that this installation would cause me as well as many other health-conscious residents to move out.

Sincerely,  
Pamela Redmond  
290 Sycamore Av

## Danielle Staude

---

**From:** Sarab Stewart <sarabsemail@gmail.com>  
**Sent:** Sunday, August 26, 2018 9:40 PM  
**To:** Danielle Staude  
**Subject:** Please prevent Cell Tower installation in Mill Valley

Dear Ms. Staude, I have been alerted to the plan to install 4G and 5G cell towers in Mill Valley. As a resident, I am very concerned about the serious adverse health risks and environmental impacts caused by the microwave radiation emitted from these towers. Please prevent the installment of these dangerous antennae in all of the of Mill Valley area, including Strawberry. I appreciate your attention to this most serious matter.

Thank you,  
Sarab Stewart

## Danielle Staude

---

**From:** ursula1001@yahoo.com  
**Sent:** Sunday, August 26, 2018 9:14 PM  
**To:** Danielle Staude  
**Subject:** please prevent installment of 4G, 5G Small Cell Towers

Dear Danielle Staude,

I am very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.  
Sincerely,

Ursula Hanrahan

## Danielle Staude

---

**From:** Megan Mokri <megan@bytefoods.co>  
**Sent:** Sunday, August 26, 2018 8:14 PM  
**To:** Danielle Staude  
**Subject:** Small cell towers

Dear Danielle Staude,

I am very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,  
Megan Mokri

## Danielle Staude

---

**From:** Barbara <barbarabowman4@gmail.com>  
**Sent:** Sunday, August 26, 2018 7:43 PM  
**To:** Danielle Staude  
**Subject:** 5g small cell towers

Dear Danielle Staude, We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley

Barbara Bowman  
Resident of mill valley for 18 years

All thumbs  
Barbara  
Sent from my iPhone

## Danielle Staude

---

**From:** Victoria Ritchie <Victoriaauranus@aol.com>  
**Sent:** Sunday, August 26, 2018 7:06 PM  
**To:** Danielle Staude  
**Subject:** cell towers in mill valley

Dear Ms Staude,

Absolutely — Mill Valley cannot allow this threat to its residents' health. Can you please do all that you can to stop this action from going forward. I'm sure that a host of others feel the same as I do. This is just to throw my hat into the ring.

Thank you so much.

A Ritchie  
downtown mill valley resident

## Danielle Staude

---

**From:** Alice Torres <alictorres@comcast.net>  
**Sent:** Sunday, August 26, 2018 6:56 PM  
**To:** Danielle Staude  
**Subject:** 4g 5g

NO to 5G and 4G antennae's!!

Sent from my iPhone

## Danielle Staude

---

**From:** John Feeney <JFeeney@MPBF.com>  
**Sent:** Sunday, August 26, 2018 6:54 PM  
**To:** Danielle Staude  
**Subject:** 4G and 5G Cell Towers

We are opposed to their placement in our residential neighborhoods. John and Joyce Feeney



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## Danielle Staude

---

**From:** Cory Mason <corymason1220@gmail.com>  
**Sent:** Sunday, August 26, 2018 9:31 AM  
**To:** Danielle Staude  
**Subject:** 4G and 5G Small Cell Towers

Dear Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,

Cory Mason

## Danielle Staude

---

**From:** Anne Smith <anne.smith2@comcast.net>  
**Sent:** Saturday, August 25, 2018 6:39 PM  
**To:** Danielle Staude  
**Subject:** Please keep us safe and healthy

Dear Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Anne, Kelly, Will and Jim Smith  
132 Sycamore Ave

## Danielle Staude

---

**From:** Elizabeth Schumacher <lizschumacher@comcast.net>  
**Sent:** Saturday, August 25, 2018 5:38 PM  
**To:** Danielle Staude  
**Subject:** Small cell towers a health risk

“Dear Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,

Elizabeth Schumacher

schumacher interiors  
49 Loring Ave  
Mill Valley, CA 94941  
415 509 2434

## Danielle Staude

---

**From:** email4brad <email4brad@comcast.net>  
**Sent:** Saturday, August 25, 2018 10:15 AM  
**To:** Danielle Staude  
**Subject:** 4G and 5G small cell towers

lol towers"Dear Danielle Staude,

My wife and I are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,  
Brad Summers

Sent from my iPad

## Danielle Staude

---

**From:** Stephen Burger <[scburger@gmail.com](mailto:scburger@gmail.com)>  
**Sent:** Saturday, August 25, 2018 10:11 AM  
**To:** Danielle Staude  
**Subject:** Wireless Telecom Towers

Dear Ms. Staude,

I was informed that there is a proposal to install 4G and 5G towers in Mill Valley. Until the science on the health effects of these towers is better understood, I am opposed to the installation of these devices in Mill Valley

Thank you,  
Stephen Burger  
386 E Blithedale, MV

--

Stephen Burger  
[scburger@gmail.com](mailto:scburger@gmail.com)  
LinkedIn: [stephencburger](#)  
206-369-5889

## Danielle Staude

---

**From:** Mitch Wortzman <[mwortzman@yahoo.com](mailto:mwortzman@yahoo.com)>  
**Sent:** Saturday, August 25, 2018 9:36 AM  
**To:** Danielle Staude  
**Subject:** Cell Phone Towers

Hi Danielle, I just received an e-mail re: the addition of 4G and 5G cell cabling, transmitters, antennas in the City.

How can I find out exactly what is being planned, and where the antennas are being located?

I successfully led an effort years ago to stop the addition of antennas on the Sequoia theater. I recall that the cell companies may have had Federal rights to expand their antennas, but that there was local ability to protect citizens including precedent to limit towers near schools.

Thanks,

Mitch

**Mitch Wortzman**  
[mwortzman@yahoo.com](mailto:mwortzman@yahoo.com)  
415-336-4549 cell

## Danielle Staude

---

**From:** Kris\_Doug Saeltzer <dnksaeltzer@msn.com>  
**Sent:** Friday, August 24, 2018 6:21 PM  
**To:** Danielle Staude  
**Subject:** Small Cell Tower

Dear Senior Planner Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installation of these dangerous antennae in the City of Mill Valley.

Sincerely,

Kris & Doug Saeltzer

8 Meadow Ridge Drive

Corte Madera, CA 94925

Sent from my iPhone

## Danielle Staude

---

**From:** mprice@the-acorn.com  
**Sent:** Friday, August 24, 2018 1:52 AM  
**To:** Danielle Staude  
**Subject:** RE: Telecommunication: Good background material for our meeting

Hi Danielle,

Just a quick message to thank you for referring Paige and Rachel to me. I have been in email communication with them and attended their meeting tonight. On reviewing all the links they sent me I do share their concerns about the 4 and 5g wireless issue. I will send our MVCAN Eco Team background information on the issue and let them know of the Sept 6 date when the Mill Valley City Council will discuss it.

I hope all is going well for you!  
Marilyn Price  
415-381-2941

----- Original Message -----

Subject: Telecommunication: Good background material for our meeting  
From: Danielle Staude <[dstaude@cityofmillvalley.org](mailto:dstaude@cityofmillvalley.org)>  
Date: Fri, August 17, 2018 8:21 am  
To: Rachel Gaunt <[rachel@couragecorps.com](mailto:rachel@couragecorps.com)>  
Cc: Paige Hutson <[paige@hutsonconsulting.com](mailto:paige@hutsonconsulting.com)>, "[mprice@the-acorn.com](mailto:mprice@the-acorn.com)" <[mprice@the-acorn.com](mailto:mprice@the-acorn.com)>

Hi Marilyn,

I am playing matchmaker. Paige and Rachel (part of this email) are working to get The word out about their concerns about the upcoming move to 4 and 5g for wireless telecommunications and are also working on a campaign to educate the community about healthy households in terms of such issues.

Below is some information, and I know they would be most happy to attend an eco-warrior meeting to explain more.

Cheers,  
Danielle Staude

Sent from my i-phone

On Aug 10, 2018, at 4:22 PM, Rachel Gaunt  
<[rachel@couragecorps.com](mailto:rachel@couragecorps.com)><[mailto:rachel@couragecorps.com](mailto:mailto:rachel@couragecorps.com)>> wrote:

Hello Danielle

In case it's useful background, here's the one pager that we sent Kate Sears before our meeting yesterday.

From our email exchange I can tell that you are already up to speed on a lot of the information, but in case there's anything that is new and relevant, I am including it for you and Jill.

Have a great weekend!  
our best  
Rachel and Paige

Hello Kate,

We hope you are having an enjoyable weekend.

In preparation for our meeting on Thursday, we thought the following "one pager" with related backup studies and data would offer you a greater scope of the science and key issues at hand:

1. There has been an extraordinary rise in our exposure to wireless radiation over the past decade, from smart phones, Wi-Fi, cell towers, iPads and smart meters. (One scientist estimated that this is an increase of a quintillion times the amount of exposure.
2. This wireless exposure is harmful, affecting our bodies on a cellular level and causing disease of all kinds. Thousands of peer reviewed studies worldwide show clear evidence of the harm from wireless exposure, with a significant rise in brain tumors, a clear indicator of the impact.

Related studies: Experts Find "Clear Evidence" of Cancer from Cell Phone Radiation in NTP Study, April 10, 2018 <<https://www.saferemr.com/2018/01/national-toxicology-program-peer-public.html>> and Ramazzini Institute Cell Phone Radiation Study Replicates NTP Study <<https://ehtrust.org/worlds-largest-animal-study-on-cell-tower-radiation-confirms-cancer-link/>> - - March 22, 2018 and The BioInitiative Report: 2017 <<http://www.bioinitiative.org/whats-new-2/>> which offers a comprehensive overview of studies that give a rationale for biologically based exposure standards for low intensity electromagnetic radiation.

3. The wireless industry is aware of the dangers and rather than try to convince us that wireless is safe, they are using "doubt" to confuse and perpetuate the debate. Their industry funded studies are in marked contrast to independent studies which show strong evidence of harm.

Related Article, "How Big Wireless Made Us Think That Cell Phones Are Safe" <<https://www.thenation.com/article/how-big-wireless-made-us-think-that-cell-phones-are-safe-a-special-investigation/>>".

4. There is a race between wireless providers to "own" the public and private space, with Wi-Fi strong enough to stream TV shows on your phone even in the street. 5g is being heralded as the next and wonderful new era by wireless companies with deep pockets, but it represents a significant increase in wireless exposure and is untested.

Related Articles: Environmental Health Trust Fact Sheet on 5G <[https://ehtrust.org/wp-content/uploads/5G\\_What-You-Need-to-Know\\_V4-1.pdf](https://ehtrust.org/wp-content/uploads/5G_What-You-Need-to-Know_V4-1.pdf)> and Environmental Health Trust Research on 5G and Health <<https://ehtrust.org/scientific-research-on-5g-and-health/>>

5. AT&T and Verizon are keen to win back market share lost to Comcast and are now entering the Wi-Fi space using Close Proximity Microwave Radiation Antennas (CPMRA) on telephone poles to initially beam 4G DAS and then 5G into our homes, every 2 to 5 poles. They have already been stringing cable and preparing telephone poles in unincorporated Mill Valley with indication that they intend to install CPMRA's within two months, despite having no permits from the County.

Related Article, Wireless Radiation Coming to a Lamppost Near You <<https://www.westonaprice.org/health-topics/environmental-toxins/microwave-radiation-coming-lamppost-near/>>, December, 2017.

6. Firemen have been exempted from having to have these powerful Small Cells, (CPMRA's) next to their station, after a study showing that all the firemen tested had abnormal brain scans after exposure, even at low levels of radiation.

Related article, KPIX news report <[https://www.youtube.com/watch?time\\_continue=2&v=61h\\_vuBujw0](https://www.youtube.com/watch?time_continue=2&v=61h_vuBujw0)>.

7. Fiber Optic cable is a faster, more secure, more reliable, more energy efficient, healthier and

safer option for us.

- a. There is no radiation exposure
- b. There is less fire risk from overloading telephone poles
- c. There is no danger of loss of connection or communication in a fire if a 5g cell goes down
- d. .Emergency response is faster and more accurate because of better location detection
- e. And in the long run it is much cheaper

Related article, "Reinventing

Wires"<<https://www.businesswire.com/news/home/20180126005137/en/Wireless-Networks-Fast-Secure-Reliable-Energy-Efficient-Wired>>

8. Marin residents need an immediate moratorium on all CPMRA installations, (both 4g DAS and 5g) to give us time to rework and strengthen the current Country Wireless Ordinance to protect ourselves, as the cities of Petaluma and San Jose have successfully done.

We look forward to meeting you and to a productive discussion. Thank you for making the time in your busy schedule to meet with us.

Our Best,

Rachel Gaunt and Paige Hutson

Rachel Gaunt, Co-Founder

COURAGE CORPS<<http://www.couragecorps.com/>> | 415.381.8208

<[Courage\\_Corps\\_3Beliefs.png](#)>

Enlightened business, backed by science.

## Danielle Staude

---

**From:** Marin Oyster Company, Inc. <kt@marinoyster.com>  
**Sent:** Thursday, August 23, 2018 7:50 PM  
**To:** Danielle Staude  
**Subject:** Cell towers in Scott Valley

Ms. Staude, please do not approve small or any more Cellular Transmitters in Scott Valley. Phones work fine anywhere one goes, begging the question why it's being proposed. We are rational here, no tin foil hats. However, radiation from transmission equipment is a documented health problem, closer proximity being the higher risk.

My family is adamant in our opposition to the unnecessary increase in health risks to the community.  
Thank you for not approving this.

Toussaint Family  
9 Midhill Dr.  
707-338-2188 cell

Sent from my iPhone

## Danielle Staude

---

**From:** Suzanne Leon <suzannels@comcast.net>  
**Sent:** Wednesday, August 22, 2018 6:17 PM  
**To:** Danielle Staude  
**Cc:** Ms. Renee Marler; Lynne Frame; Tim Standing; Mr. & Mrs. Richard Hoskins; Madeleine Sklar; Mr. & Mrs. Scott Sklar; Raushan Akhmedyarova; Gina & Chris Cooper; Robin McKee; Linda Lukas; Cathy Down  
**Subject:** 5G is even more invasive than 4G

## San Rafael Residents Speak Out Against 5G Microwave Cell Tower Installations

<http://www.marinij.com/general-news/20180821/san-rafael-residents-take-pre-emptive-strike-against-5g-installations> By Keri Brenner, Marin Independent Journal Packed house at San Rafael City Council Monday night. Many stood and applauded in a show of support for city regulations banning 5G cellphone towers. San Rafael residents have launched a campaign to block cellphone companies from attempting to build 5G towers in Marin. The 5G towers, which would allow for faster and higher-capacity video streaming and other transmissions, could exacerbate health symptoms already suspected as a result of exposure to electromagnetic fields, Vicki Sievers, of the EMF Safety Network, told the San Rafael City Council on Monday. According to the EMF Safety Network website, those symptoms can include fatigue, headaches, sleep problems, anxiety, heart problems, learning and memory disorders, ringing in the ears and increased cancer risk. “We’ve experienced 2G, 3G, 4G and now, on the horizon, is a fifth generation called millimeter wave technology,” Sievers said after her presentation that brought standing applause from about 20 people at the packed meeting. “Around the world, doctors and scientists are gravely alarmed about the biological and physiological effects of that technology.” Sievers said no permits for 5G so-called “small cell” towers have been issued in Marin as of yet — though they have in other Bay Area cities — and she suspects they are being planned in San Rafael and Marin. “(We want) amendments to the current telecommunications ordinance — which has not been reviewed since 2004 — that protect residential areas, schools and parks through setbacks and attention to power profiles,” Sievers said in an email Tuesday. According to Sievers, San Anselmo, Fairfax and Mill Valley are working on strengthening their cell tower ordinances. “Our effort has to do with making pre-emptive strikes before Verizon, AT&T (and others) actually make formal applications to each town and city,” Sievers said. “There are no applications in San Rafael to date, but there surely have been permits granted and installations begun in other Bay Area cities.” In May, Verizon was forced to withdraw its application to build two “small cell” towers in Sebastopol after four months of heavy opposition by residents and attorneys for the EMF Safety Network. “Several of us San Rafael residents went to the (San Rafael) council on Feb. 20 (when the Sebastopol issue arose), urging them to prevent such debacles here,” Sievers said. San Rafael Mayor Gary Phillips said Tuesday he was not aware of any ongoing activity to strengthen or upgrade cell tower regulations in the city and there were no immediate plans for further discussion. “It kind of came a little bit out of the blue,” he said of Monday’s presentation. EMFs include wireless radiation emitted by cell towers, cell and cordless phones, smart meters, smart grid, Wi-Fi and computers, power lines, fluorescent lights, indoor wiring and other electronic devices, according to the EMF Safety Network. According to the U.S. Centers for Disease Control and Prevention, the jury is still out on the health risks of exposure to EMFs. “Studies have shown that some workers exposed to high magnetic fields have increased cancer rates,” the CDC reported on its website. “But such associations do not necessarily show that EMF exposures cause cancer (any more than the springtime association of robins and daffodils shows that one causes the other). Scientists have looked carefully at all the EMF evidence, but they disagree about the health effects of EMFs except to say that better information is needed.” According to the website [whatis5g.info](http://whatis5g.info), the 5G “small cell” tower “will include the higher millimeter wave frequencies never before used for internet and communications technology. These waves do not travel easily through buildings so 5G will require millions of new cell towers. The wireless telecom industry is aggressively seeking to outfit nearly every lamppost and utility pole around the country with a wireless ‘small cell’ antenna beaming hazardous radiation next to, or into our homes, 24/7.” San Rafael resident Chandu Vyas said Monday he is wary of EMFs after a health challenge about five years ago. He said he developed severe and constant headaches after a smart meter was installed at his

home. The headaches went away after he “opted out” and had the smart meter at his property removed. “I don’t want to go through the same health problem again,” he told the City Council. “I ask your help.” Kiah Bosy of Chi Home Design showed the council how her EMF meters ratcheted up to high pitch when she walked toward a TV screen in front of the council chambers. “It’s serious,” she said. “We’re microwaving each other.”

## Danielle Staude

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**From:** js <jscafidimv@aol.com>  
**Sent:** Thursday, August 23, 2018 8:57 AM  
**To:** Danielle Staude  
**Subject:** Action Alert

Danielle Staude

I feel that the 4G and 5G Small Cell Towers should NOT be installed in our community until further research is done and approved that it is 100% safe to do so.

Joe Scafidi  
Mill Valley, CA

## Danielle Staude

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**From:** holly downes <hollydownes@sbcglobal.net>  
**Sent:** Wednesday, August 22, 2018 1:15 PM  
**To:** Danielle Staude  
**Subject:** 5G towers

Dear Danielle,

Please review your findings about the micro towers and exposure to those living close to them. Scientific studies show the health risks far out weigh the benefits.

I strongly encourage you to decline their placement.

sincerely,

Dr. Holly Downes

## Danielle Staude

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**From:** Carol Lenherr <nonnamv@gmail.com>  
**Sent:** Monday, August 20, 2018 8:27 PM  
**To:** Danielle Staude  
**Subject:** NO to Wireless Telecommunications Facilities

Hello Ms. Staude,

We appreciate the work you do on behalf of the residents of Mill Valley.

Though we are unfortunately unable to make the meeting on September 6, we would like to communicate that we do not support the proposed Ordinance for Wireless Telecommunications Facilities.

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers.

Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,

Carol Lenherr  
32 Midhill Drive

## Danielle Staude

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**From:** ru4morningsun <ru4morningsun@comcast.net>  
**Sent:** Monday, August 20, 2018 5:19 PM  
**To:** Danielle Staude  
**Subject:** Stop installation of small cell towers

Dear Senior Planner Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installation of these dangerous antennae in the City of Mill Valley.

Sincerely,

Debbie Alstad  
132 Morningsun Ave  
Mill Valley

## Danielle Staude

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**From:** Suzanne Leon <suzannels@comcast.net>  
**Sent:** Monday, August 20, 2018 4:26 PM  
**To:** Danielle Staude  
**Subject:** Fwd: No on 4G and 5G cell towers around Mill Valley!!!

PS. I am a resident at 8 Lower Dr, Mill Valley

Begin forwarded message:

**From:** Suzanne Leon <[suzannels@comcast.net](mailto:suzannels@comcast.net)>  
**Subject:** No on 4G and 5G cell towers around Mill Valley!!!  
**Date:** August 19, 2018 at 10:54:03 PM PDT  
**To:** [dstaude@cityofmillvalley.org](mailto:dstaude@cityofmillvalley.org)

Dear Danielle Staude,

I am extremely opposed to the installation of 4G and 5G cell towers around Mill Valley! It's bad enough that our bodies and environment are bombarded by all the toxins and chemicals in our food supply, homes and land along with pollution from our vehicles, jet streams, water, depletion of our ozone layer....but EMFs are a serious health hazard that we haven't begun to fully understand. I was enraged that we had smart meters installed by our utility companies, and we are inundated by wifi, cell phones, etc everywhere. We turn off our wifi at night, we don't have microwaves, bluetooth headsets, smart TVs or other gadgets..... our desktop computers are ethernet connected. We have no control over the rest of the neighborhood, or the rest of society. We chose not to live near power companies or large power lines. I NEVER walk through full body scanners at the airport and always ask for a patdown.

There have been enough cancers in my extended family - do not help create more! PLEASE prevent this insanity!

Yours Truly,

Suzanne Leon

## Danielle Staude

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**From:** Gina Cooper <ginacooper06@comcast.net>  
**Sent:** Monday, August 20, 2018 3:45 PM  
**To:** Danielle Staude  
**Subject:** Small cell towers

Dear Danielle Staude,

I am very concerned about the addition of small cell phone towers around my neighborhood in Mill Valley. Please prevent the installation of these towers.

Thankyou,

Gina Cooper  
26 Somerset Lane  
Mill Valley

Sent from my iPhone

## Danielle Staude

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**From:** Graham Brandt <graham.brandt@gmail.com>  
**Sent:** Monday, August 20, 2018 3:41 PM  
**To:** Danielle Staude  
**Cc:** Talia Brandt  
**Subject:** 4G & 5G Small Cell Towers

Dear Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley until such time as they have been further studied and assurances can be made regarding their health and environmental impact.

Sincerely,  
Graham & Talia Brandt  
3 Upperhill Road

Sent from my gPad

## Danielle Staude

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**From:** drkanga@aol.com  
**Sent:** Monday, August 20, 2018 7:23 AM  
**To:** Danielle Staude  
**Subject:** cell towers in mill valley

Dear Danielle:

My family and are very concerned about serious adverse health and environmental impacts due to microwave radiation emitted from cell towers, including 4G and 5g towers. Please do not allow the installation of these dangerous antennae in the City of Mill Valley.

Sincerely,  
Benson L. Kaukonen and Family

## Danielle Staude

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**From:** Nancy <nglasenk@gmail.com>  
**Sent:** Monday, August 20, 2018 4:46 AM  
**To:** Danielle Staude  
**Subject:** Opposed to 5G Cell towers

Hello Danielle

I am extremely concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. There needs to be far more research and understanding before jumping on this corporate bandwagon.

Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely  
Nancy Glasenk  
29 Vasco Drive

## Danielle Staude

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**From:** Dorothy McQuown <dr.dorothym@yahoo.com>  
**Sent:** Monday, August 20, 2018 2:45 AM  
**To:** Danielle Staude  
**Subject:** Cell Towers

Dear Marin County Board of Supervisors,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please put this topic on your Agenda and prevent the installation of these dangerous Close Proximity Microwave Radiation Antennae in Unincorporated Marin. Please help us maintain local control in the face of corporate pressure.

Sincerely,

Dorothy MCQuown, Ph. D.

Sent from my iPad

## Danielle Staude

---

**From:** Suzanne Leon <suzannels@comcast.net>  
**Sent:** Sunday, August 19, 2018 10:54 PM  
**To:** Danielle Staude  
**Subject:** No on 4G and 5G cell towers around Mill Valley!!!

Dear Danielle Staude,

I am extremely opposed to the installation of 4G and 5G cell towers around Mill Valley! It's bad enough that our bodies and environment are bombarded by all the toxins and chemicals in our food supply, homes and land along with pollution from our vehicles, jet streams, water, depletion of our ozone layer...but EMFs are a serious health hazard that we haven't begun to fully understand. I was enraged that we had smart meters installed by our utility companies, and we are inundated by wifi, cell phones, etc everywhere. We turn off our wifi at night, we don't have microwaves, bluetooth headsets, smart TVs or other gadgets..... our desktop computers are ethernet connected. We have no control over the rest of the neighborhood, or the rest of society. We chose not to live near power companies or large power lines. I NEVER walk through full body scanners at the airport and always ask for a patdown.

There have been enough cancers in my extended family - do not help create more! PLEASE prevent this insanity!

Yours Truly,

Suzanne Leon

## Danielle Staude

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**From:** Caitlin Greene <caitlinbgreene@gmail.com>  
**Sent:** Sunday, August 19, 2018 10:28 PM  
**To:** Danielle Staude  
**Subject:** Wirelss Telecommuications Facilities

"Dear Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,  
Caitlin Greene  
415-595-6863  
26 Azalea Dr.  
Mill Valley, CA 94941

## Danielle Staude

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**From:** John Palmer <jp@montgomerypartners.net>  
**Sent:** Sunday, August 19, 2018 8:53 PM  
**To:** Danielle Staude  
**Cc:** Jim McCann  
**Subject:** Proposed plan to install 4G and 5G towers on power poles in Mill Valley

Dear Ms Staude,

My family and I are very concerned about the serious adverse health and environmental impacts caused by microwave radiation emitted from 4G and 5G Small Cell Towers.

Please do not permit the installment of these antennae, which are dangerous and unnecessary, in the City of Mill Valley.

Sincerely,

John Palmer  
Montgomery Partners  
100 Shoreline Highway Suite 160B  
Mill Valley, CA 94941  
(415) 332 4440 (O)  
(415) 272 1728 (C)

## Danielle Staude

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**From:** Deena Grady Berger <dgberger22@mindspring.com>  
**Sent:** Sunday, August 19, 2018 8:46 PM  
**To:** Danielle Staude  
**Subject:** Cell Phone 4G & 5G Towers - Mill Valley

**Importance:** High

Dear Ms. Staude,

My family is opposed to the installation of Small Cell Towers in and around Mill Valley. One of the reasons we chose to live in Mill Valley is that it is a very environmentally-aware and health-conscious community. There could be serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. We DO NOT want to be the “testing ground” or the “lab rats” for this technological advancement. We have seen no concrete evidence that these radiation-emitting towers are safe, only evidence to the contrary. Please prevent the installment of these dangerous antennae in the City of Mill Valley. Thank you!

Very truly yours,

**Deena Grady Berger, J.D.**  
District Leader Volunteer  
California Congressional District 2  
[dgberger22@mindspring.com](mailto:dgberger22@mindspring.com)  
t 415.686.8778  
[humanesociety.org](http://humanesociety.org)

*Celebrating 60 Years*



The Humane Society of the United States is the nation's largest and most effective animal protection organization. HSUS and our affiliates provide hands-on care and services to more than 100,000 animals each year. We are the leading animal advocacy organization, seeking a humane world for people and animals alike. We are driving transformational change in the U.S. and around the world by combating large-scale cruelties such as puppy mills, animal fighting, factory farming, seal slaughter, horse cruelty, captive hunts and the wildlife trade.

## Danielle Staude

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**From:** Robert Mithun <rmithun@comcast.net>  
**Sent:** Sunday, August 19, 2018 8:41 PM  
**To:** Danielle Staude  
**Cc:** Francine SF  
**Subject:** My Concern RE: 5G Small Cell Phone Towers in MV

Dear Danielle Staude,

I want you to know we are concerned about the possible adverse effects of 5G cell phone towers in Mill Valley on our MV residents as well as local animals. We expect more information about the effects of 5G microwave radiation will be available in the near future and believe a better decision can be made about this then. We understand and appreciate that you are assessing the sentiment of Mill Valley residents regarding this issue.

We do not have a concern about much lower frequency EMF radiation in general, such as AM, FM, Citizens' Band, and amateur radio or earlier generation cell phone radiation. These have been shown not to be harmful to humans in the doses we are usually currently exposed to. These new, much higher frequency, microwave radiation radiations do have very different biologic effects than those lower frequencies and we advise that we NOT act to permit the construction of these towers until we know more accurately what the risks to us would be.

Thank you for your consideration.

Robert J. Mithun, MD  
Anne K. Fukutome, MD

## Danielle Staude

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**From:** Joel Yanowitz <jyanowitz@gmail.com>  
**Sent:** Sunday, August 19, 2018 8:18 PM  
**To:** Danielle Staude  
**Subject:** 4G and 5G Small Cell Towers

Dear Danielle Staude,

I am very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Please keep me informed as to the City's actions around this issue.

Sincerely,

Joel Yanowitz  
3 Stanton Way  
Mill Valley

## Danielle Staude

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**From:** patricia lakner <pslakner@yahoo.com>  
**Sent:** Sunday, August 19, 2018 8:11 PM  
**To:** Danielle Staude  
**Subject:** Cell towers in Mill Valley

Thank you very much for upgrading the cell tower system. Please keep up the good work.

Best,  
Pat Lakner

## Danielle Staude

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**From:** Joanne Lillich <joannelillich@gmail.com>  
**Sent:** Sunday, August 19, 2018 1:12 PM  
**To:** Danielle Staude  
**Subject:** Cell Towers

Please take notice I understand that 4G and 5G cell towers near us are dangerous, if so I am certainly against it. Thank you in advance, I was made aware of this! Sincerely, Joanne Lillich

Sent from my iPhone

## Danielle Staude

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**From:** Catherine Cook MacRae <cookmacrae@comcast.net>  
**Sent:** Sunday, August 19, 2018 12:36 PM  
**To:** Danielle Staude  
**Subject:** no small cell towers please

Dear Danielle,

After reading the recent studies, my family is very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. What we currently have is working just fine and we don't need other towers.

Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,  
Catherine

Catherine Cook MacRae  
106 Ryan Ave  
Mill Valley 94941  
m 415.260.0453

## Danielle Staude

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**From:** Rachel Gaunt <rachel@couragecorps.com>  
**Sent:** Sunday, August 19, 2018 11:30 AM  
**To:** Danielle Staude  
**Cc:** Paige Hutson; Elisa Sarlatte; Jill McNeal; Stephanie Moulton-Peters; julieurban01@gmail.com  
**Subject:** A strong wireless signal is coming from the telephone pole at 400 Summit

Good morning Danielle,

At our meeting on August 13th, Elisa and Jill expressed concern about what was “happening on the streets of Mill Valley” without their knowledge and that they, understandably, had a hard time covering the office and being out in the community “policing” all the AT&T and Verizon work crews to ensure they were compliant with the permitting process. As such, they were open to our “boots on the ground” support. We mentioned the dead oak tree at 400 Summit and have done some follow-up work on it that we are very concerned about and wanted to alert you.

Yesterday, Paige and I measured the levels coming from the equipment on two telephone poles on that corner and the levels were up in the “extreme range” on our meter. The residents in the house have been experiencing significant health issues ever since AT&T put installations up on the poles a few weeks ago - headaches, brain fog, sleep issues and generally feeling ill.

This is an urgent situation and we strongly recommend The City of Mill Valley investigate this situation right away. Unlike readings elsewhere in Mill Valley, where a lot of the prep work is being conducted, these installations are “live” and emitting extreme levels of radiation.

Our questions are:

1. Which company installed the equipment, (we think it is AT&T but are not completely sure)?
2. What type of wireless equipment is it, (4G DAS, 5G, something else?)
3. Did they have permits to put this up?
4. If so, who granted the permits?
5. If not, is this illegal? Or does the current lighting pole agreements allow them to proceed unchecked.

We are deeply concerned **that the same thing could happen anywhere in Mill Valley**, especially if they were proceeding with permits, and would appreciate it if you could look into this as a matter of urgency. (If you want to meet us at the pole at 400 Summit and see the levels with our meters we are happy to meet you there.)

We look forward to hearing back from you.

Warmly,  
Rachel and Paige

Rachel Gaunt, Co-Founder  
[COURAGE CORPS](#) | 415.381.8208



*Enlightened business, backed by science.*

## Danielle Staude

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**From:** Susan Kirsch <susankirsch@hotmail.com>  
**Sent:** Sunday, August 19, 2018 11:16 AM  
**To:** Danielle Staude  
**Cc:** city council  
**Subject:** No to 5G Small Cell Towers in Mill Valley

Hi Danielle,

I'm concerned about the potential adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers, as proposed by AT&T and Verizon. Please prevent the installment of these dangerous antennae in the City of Mill Valley until conclusive data is available about health risks.

Sincerely,

Susan Kirsch  
109 Ryan Avenue  
Mill Valley, CA  
Member, Freeman Park Neighborhood Association

## Danielle Staude

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**From:** mrsstim <mrsstim@gmail.com>  
**Sent:** Saturday, August 18, 2018 2:13 PM  
**To:** Danielle Staude  
**Subject:** 4G/5G small cel

I am very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please put this topic on your Agenda and prevent the installation of these dangerous Close Proximity Microwave Radiation Antennae in Unincorporated Marin.

andrea ross  
unincorp marin

## Danielle Staude

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**From:** Joan Doc <joan235@comcast.net>  
**Sent:** Monday, August 27, 2018 12:14 PM  
**To:** Danielle Staude  
**Subject:** Small cell towers

I am opposed to the installation of small cell towers in my neighborhood.

Joan Dox

235 Marguerite Ave

Sent from my iPhone

## Danielle Staude

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**From:** Heather & Ray Keane <thekeanes@gmail.com>  
**Sent:** Monday, August 27, 2018 12:42 PM  
**To:** Danielle Staude  
**Subject:** No CELL TOWERS in MILL VALLEY PLEASE

Dear Danielle Staude, We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley. We have small children and would hate to fry their little brains. **Thank you in advance** for your consideration!

Kindly,  
Heather Keane

--

*Warmly,*

*Heather*

**Heather Keane**  
[thekeanes@gmail.com](mailto:thekeanes@gmail.com)