

ATTACHMENT 2

ORDINANCE NO. _____,

ADDING SECTION 314-91 AMENDING TABLES IN SECTIONS 314-7 AMENDING SECTIONS 314-84, 314-138, AND 314-171 OF CHAPTER 4 OF DIVISION 1 OF TITLE III OF THE HUMBOLDT COUNTY CODE, **AND**
AMENDING SECTION 411-12 OF CHAPTER 1 OF DIVISION 1 OF TITLE IV OF HUMBOLDT COUNTY CODE
ALLOWING ESTABLISHING UNIFORM REGULATIONS FOR WIRELESS COMMUNICATIONS FACILITIES

ORDINANCE REGULATING THE DEVELOPMENT OF WIRELESS TELECOMMUNICATIONS FACILITIES BY AMENDING TITLE III, DIVISION 1, CHAPTER 4

The Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. PURPOSE OF ADDITION TO THE ZONING REGULATION

Title III, Division 1, Chapter 4, ~~Inland Zoning~~ Regulations Outside the Coastal Zone, and Title IV, Division 1, Chapter 1, Encroachment Permit Regulations for the Protection of County Highways ~~are~~ hereby amended to include a uniform and comprehensive set of standards for the development of Wireless Telecommunications Facilities. This ordinance adds section 314-91.2, amends the tables in section 314-7, and amends sections 314-84, 314-138, and 314-171 in Chapter 4 of Division 1 of Title III of the County Code. This ordinance adds section 411-12 in Chapter 1 of Division 1 of Title IV of the County Code.

SECTION 2. WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE

Section 314-91.2 establishing uniform and comprehensive standards for the development of wireless telecommunications facilities in Title III, Division 1, Chapter 4 of the Humboldt County Code is hereby amended and added to as follows (amendments to the previous draft which was included in the Planning Commission packet from the meeting of February 17, 2022, are highlighted and shown in underline text, ~~strikethrough~~):

314-91.2 WIRELESS TELECOMMUNICATIONS FACILITIES

91.2.1 PURPOSE. The purpose and intent of this Section is to provide a reasonable, uniform and comprehensive set of standards and procedures for the deployment, construction, installation, co-location, modification, operation and removal of wireless telecommunications facilities within the unincorporated areas of Humboldt County, consistent with and to the extent permitted under federal and California state law. These regulations are intended to protect and promote the public health, safety and welfare of the residents of the unincorporated areas of Humboldt County, to protect aesthetic values, to achieve reliable communications, including high speed broadband, to every resident, business and institution, to encourage siting in preferred locations to help minimize visual blight and preserve the County's rural character, including the protection of scenic, natural and cultural resources, and to minimize the intrusion of these uses into residential areas.

91.2.2 APPLICABILITY. Except as expressly provided otherwise in this Section, these provisions shall be applicable to all telecommunications facilities within the county's jurisdiction.

91.2.3 DEFINITIONS.

Antenna: ~~Communications equipment that transmits and/or captures radio electromagnetic waves. The same as defined by the FCC in 47 C.F.R. § 1.6002(b), as may be amended or superseded, which defines the term as an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under part 15 of Title 47.~~

Base Station: ~~A structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communications between user equipment and a communications network.~~

Camouflage: ~~See Concealment Element.~~

Camouflaged Facilities: ~~See Stealth Facilities.~~

Co-location: ~~The same as defined in the Nationwide Programmatic Agreement, as may be amended or superseded, which defines the term as~~ Mounting or ~~installation of installing~~ an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.

Concealment Element: ~~The design features of a facility which hide that it is a wireless tower or base station. Concealment elements include but are not limited to (1) Faux tree design; (2) faux water tank design; (3) faux flagpole design; (4) facilities under cupolas; and (5) architectural addition consistent in style to existing structure, including existing wireless facilities.~~

Decorative pole: Any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public right-of-way in which the pole is located.

Eligible Facilities Request: ~~Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:~~

1. ~~co-location of new transmission equipment;~~

2. removal of transmission equipment; or
3. replacement of transmission equipment.

Equipment Building: ~~A building used to house equipment used by wireless telecommunication providers at a facility. Equipment buildings shall include, but not be limited to, cabinets and shelters.~~
See Base Station.

Facility: See Wireless Telecommunications Facility.

Faux Trees: Camouflaged monopoles made to resemble different types of trees.

FCC Shot Clock: the presumptively reasonable time frame within which the county must act on a wireless application, as defined by the Federal Communications Commission (FCC) and as may be amended from time to time.

Guyed Tower: A wireless communication mast or tower that is supported, in whole or in part, by guy wires and ground anchors.

High Visibility Facilities: Facilities that are not effectively integrated into the natural and/or built environment and would stand out to the average, untrained observer. High Visibility Facilities include, but are not limited to: (1) Lattice Tower and Guyed Towers; (2) Faux trees and monopoles that exceed the maximum height of the underlying zoning; (3) Non-stealth design facilities; (4) any facility that does not qualify as an invisible or low-visibility facility.

Invisible Facilities: Wireless telecommunication facilities including, but not limited to towers, poles, antennas, equipment buildings and any other ancillary equipment, that cannot be seen from any street nor from any adjacent properties, and that do not result in any apparent architectural changes or additions to a structure or facility. The addition of landscaping, walls, fences or grading as screening techniques does not meet the definition of invisible.

Lattice Tower: A guyed or self-supporting three or four sided, open, steel frame support structure used to support wireless communications equipment.

Low Visibility Facility: Facilities that are well-integrated into the natural and/or built environment. Low visibility facilities include but are not limited to: (1) Monopoles and faux-trees that are within 10% of the height of surrounding structures or trees and which do not exceed the maximum building height for the underlying zone; (2) facilities attached to existing structures which do not increase the

height by more than 10% and which do not exceed the maximum building height in the underlying zone; and (3) facilities that are screened or painted to match the appearance of the surrounding area.

Monopole: A wireless telecommunications facility consisting of a single pole constructed without guy wires and ground anchors.

Public Safety Communications Facilities: Wireless telecommunications facilities operated and maintained by public agencies that support Public Safety Communications Systems, which provide wireless communications to law enforcement, fire services, emergency medical services, and other public safety/service agencies. These facilities are considered Essential Services pursuant to Section 1335.

Roof Mounted Antenna: Any antenna with its support structure placed directly on the roof of any building.

Service Area: The area served by a single wireless telecommunications facility.

Service Network: The wireless communication transmission system operated by a service provider in a community or jurisdiction.

Small Cell Wireless Facility (SCWF): The same as defined in 47 C.F.R. §1.6002(l) ~~the FCC Declaratory Ruling and Third Report and Order, September 27, 2018,~~ as may be amended or superseded, which defines the term as follows:

1. The facilities—
 - a. Are mounted on structures 50 feet or less in height including their antennas as defined in section 47 C.F.R. §1.1320(d), or
 - b. Are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - c. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
2. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in section 1.1320(d)), is no more than three cubic feet in volume;
3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
4. The facilities do not require antenna structure registration under 47 C.F.R., Chapter 1 part 17 of this chapter;

5. The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
6. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

Stealth Design: ~~Designs for wireless telecommunication facilities that are not easily recognizable as such. Facilities designed to look like some feature other than a wireless tower or base station.~~ Stealth design ~~incorporates concealment elements. includes but is not limited to: (1) Faux trees; (2) faux water tanks; (3) faux flagpoles; (4) facilities under cupolas; and (5) architectural addition consistent in style to existing structure, including existing wireless facilities.~~ Stealth design facilities may be considered low visibility or high visibility depending on the height and effectiveness of the integration.

Telecommunications: The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications Tower: Any mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support Antennas.

Tower: See Telecommunications Tower

Utility Pole: Any above-ground pole used to support electrical, telephone, cable, and internet wires.

Wireless Telecommunications Facility: Any facility that provides ~~personal~~ wireless ~~telecommunications~~ services. This includes but is not limited to antennas and other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting said equipment, ~~base stations, equipment buildings,~~ parking area and other accessory development. Also known as a wireless communications facility. This definition does not apply to Amateur Radio Stations as defined by the FCC, ~~in 47 C.F.R.,~~ Part 97 of the Commission's Rules nor to TV and radio transmission facilities, nor to Public Safety Communications Facilities.

91.2.4 WIRELESS TELECOMMUNICATIONS FACILITY APPLICATION PROCESS. Applications shall be processed based upon ~~the following a~~ three-tier permitting system. ~~Applications for facilities within the right-of-way shall also require an encroachment permit from the Department of Public Works.~~

91.2.4.1 Tier 1 – No Public Hearing Required

91.2.4.1.1 Zoning Clearance Certificate Required. These facilities shall be allowed as principally permitted uses without the need for a public hearing. A facility meeting the following criteria shall be subject to a Zoning Clearance Certificate:

1. ~~Co-location of SCWF and Non-SCWF in all zones, except when the following conditions exist. Eligible Facilities Requests (co-location, removal or replacement of transmission equipment). All Eligible Facilities Requests shall be subject to the requirements of a Zoning Clearance Certificate. The following list must not be true of an Eligible Facilities Request.~~ If any of the following is true of a proposed co-located facility, the application ~~does not qualify as an Eligible Facilities Request and~~ shall require design review.

- ~~a. The proposed co-location facility would increase the height or width of the existing facility by more than 10%.~~
- ~~b. The proposed co-location facility would bring the total number of equipment cabinets on the site to more than four.~~
- ~~c. The proposed facility would result in excavation outside of the area approved for disturbance under the terms of the original permit or clearance.~~
- ~~d. The proposed facility would be co-located on a facility not subject to a discretionary permit pursuant to Government Code section 65850.6, as may be amended or superseded.~~

a. **Height: It increases the height of the structure by:**

- i. **For towers outside the right-of-way: More than the greater of (a) 10% or (b) the height of one additional antenna array, plus up to 20 feet of separation from the nearest existing array.**
- ii. **For towers inside the right-of-way and base stations: More than the greater of 10% or 10 feet.**

b. **Width: It involves adding an appurtenance to the body of the tower:**

- i. **For towers outside the right of way: That would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.**

- ii. For towers inside the right-of-way or base stations: That would protrude from the edge of the structure by more than six feet.
 - c. Cabinets: It involves installation of more than four cabinets as part of that modification.
 - i. For towers inside the right of way or base stations, it is also a substantial change if it involves installation of ground cabinets where there are none, or that are more than 10% larger in height or overall volume than any existing ground cabinets.
 - d. Site: It involves excavation or deployment outside of the current site, except for towers outside of the right-of-way, it involves excavation or deployment outside of the current site by more than 30 feet in any direction, not including any access or utility easements.
 - e. Concealment: It would defeat the concealment elements of the eligible support structure. This only applies to a structure that is designed and originally permitted to look like something other than a wireless facility.
 - f. Siting Conditions: It does not comply with the conditions in the siting approval of the eligible support structure, unless this non-compliance meets the other thresholds under Section 6409.
- 2. New Non-SCWF in Industrial and Commercial Zoning Districts (Section 314-2 and 314-3) except when the facility does not meet the height and setback requirements of the underlying zone and/or the facility is within view of a designated California State Scenic Highway.
- 3. New SCWF excepting those in:
 - a. Residential Zone Districts (Section 314-6); and
 - b. Resource Zone Districts (314-7)

91.2.4.1.2 Design Review Required. These facilities shall be allowed only if certain design criteria are met. A facility meeting the following criteria shall be subject to Telecommunications Facilities Design Review.

1. New, invisible Non-SCWF, excepting in Residential Zone Districts (Section 314-6), Agriculture Exclusive Zone (314-7.1), Timberland Production Zone (314-7.4), and Timberland Exclusive (314-7.5).
2. New SCWF in Residential Zoning Districts.
3. Co-location of SCWF and Non-SCWF that do not qualify for a Zoning Clearance Certificate. Pursuant to Government Code section 65850.6, as may be amended or superseded, this applies when a facility that does not qualify as an Eligible Facilities Request would be co-located on a facility previously approved with only a ministerial permit.

91.2.4.2 Tier 2 – Special Permit Required. Facilities meeting any of the following criteria shall require a Special Permit:

91.2.4.2.1 All SCWF & Non-SCWF that do not meet the criteria of Tier 1 or Tier 3

91.2.4.3 Tier 3 – Use Permit Required. Facilities meeting the following criteria shall require a Conditional Use Permit:

91.2.4.3.1 New, non-SCWF in Residential Zone Districts (Section 314-6).

91.2.4.3.2 All SCWF and non-SCWF in Agriculture Exclusive zone (314-7.1), Timberland Production Zone (314-7.4), and Timberland Exclusive zone (314-7.5), except those meeting the criteria for Tier 1.

91.2.4.3.3 Any Other Zoning District

1. New non-SCWF that exceed the maximum height of the underlying zone, except when meeting a criterion for Tier 1.
2. New high visibility non-SCWF facilities, except when meeting a criterion of Tier 1.
3. New non-SCWF located on ridgetops or hilltops, in all zones.

91.2.4.4 Encroachment Permit. In addition to meeting all requirements for the appropriate tier an Encroachment Permit issued pursuant to County Code Title IV, Div. 1, Chapter 1, § 411-1 et seq., is required for any facility proposed within a County maintained road right of way.

91.2.5 GENERAL REGULATIONS

91.2.5.1 Setbacks.

1. No tower or equipment buildings shall be located in a front, rear or side yard setback in any zone and no portion of any antenna array shall extend beyond the property lines.
2. Telecommunications towers located adjacent to a residential use shall be set back from the nearest residential lot line by a distance at least equal to its total height or 50 feet, whichever is greater. The setback shall be measured from that part of the tower that is closest to the neighboring property (i.e., the setback for a faux tree would be measured from the end of the branch closest to the neighboring property).

91.2.5.2 Right of way. Non-SCWF shall not be located within a County-maintained road right of way unless it can be factually established that the facilities would not incommode or inconvenience the public use thereof.

91.2.5.3 Backup Power Sources. Permanent fossil-fuel based backup power sources shall not be permitted; provided, however, that connectors or receptacles may be installed for temporary backup power generators used in an emergency declared by federal, state or local officials.

91.2.5.4 Noise. Routine noise from any equipment supporting the facility shall not exceed 50 dB or the ambient noise levels, whichever is lower. Backup generators shall be used on a temporary basis only. Noise levels from backup generators shall not exceed 60 dB. Noise-attenuating structures may be required.

91.2.5.5 Base Station Size. All equipment buildings may not exceed 10 feet in height measured from the base of the foundation unless a greater height is necessary to maximize architectural integration and shall be screened by landscaping.

91.2.5.6 Underground Utility Districts. All facilities located on a utility pole shall be promptly removed at the operator's expense prior when a utility is scheduled to be undergrounded. All facilities proposed in underground districts shall be co-located. All wireless telecommunication infrastructure, including but not limited to SCWFs, proposed in an underground utility district shall comply with all of the requirements of that district in addition to the requirements of this chapter.

91.2.5.7 Security. Equipment buildings and facilities shall be secured to prevent unauthorized access.

91.2.5.8 Hazard to Flight. SCWF shall not be installed or operated in locations where the Federal Aviation Administration (FAA) has determined that the infrastructure poses a hazard to flight.

ALTERNATIVE LANGUAGE: SCWF shall not be installed or operated within two miles of an airport runway.

91.2.5.89 Special provisions in Residential Zones (314-6)

1. Lattice towers and guyed towers are prohibited in Residential zones.
2. Noise from routine operations and from backup generators shall not exceed 50 dB or ambient, whichever is higher. This may require placement of equipment in a noise-attenuating structure.

91.2.5.910 The Planning Commission may waive or modify standards and requirements based on specific findings that demonstrate necessity and no detriment to public health safety and welfare, or based on finding that strict compliance would effectively prohibit the applicant's ability to provide personal wireless telecommunications services. The applicant must clearly and factually demonstrate that:

1. The proposed facility qualifies as a "personal wireless service facility" as defined in 47 U.S.C. Section 332(c)(7)(C)(ii), as may be amended or superseded;
2. a reasonable and clearly defined technical service coverage or capacity objective would be achieved by the proposed wireless facility;
3. the proposed wireless facility cannot be deployed in compliance with the applicable provisions in this chapter;
4. all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant or the County, public comments or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable technical service objective;
5. the proposed location and design is the least non-compliant configuration that will reasonably achieve the technical service coverage or capacity objective, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive wireless facilities dispersed throughout the intended service area, as appropriate.

91.2.5.1011 Conditional Approvals; Denials without Prejudice. Subject to any applicable federal or California laws or regulations, nothing in this chapter is intended to limit the ability of the

Planning Director, the Zoning Administrator, or the Planning Commission to conditionally approve or deny without prejudice any permit application as may be necessary or appropriate to ensure compliance with this section.

91.2.5.11 Appeals. Any decision to approve, conditionally approve or deny a Design Review or Special Permit shall be appealable to the Planning Commission. Any decision by the Planning Commission to approve, conditionally approve or deny a project shall be appealable to the Board of Supervisors. Appeals shall be filed pursuant to section 312-13.1.

91.2.6 DESIGN STANDARDS SCWF.

~~**91.2.6.1** SCWF shall not be placed on decorative poles unless they are invisible.~~

~~**91.2.6.1** SCWF shall not increase the height or width of an existing structure by more than 10%.~~

91.2.6.1 SCWF shall be invisible or **low visibility** ~~stealth design~~.

91.2.6.2 SCWF facilities within a County maintained road right of way shall comply with the following:

91.2.6.2.1 <NOT USED>

91.2.6.2.2 Accessibility. SCWF shall not be constructed to create a barrier under federal and state Americans with Disabilities Act (ADA). In addition, an unobstructed five (5) foot wide path of travel shall be provided where SCWF are constructed that would otherwise reduce the existing width of the sidewalk.

91.2.6.2.3 Prohibited Locations. SCWF shall not be mounted on any traffic control device and their appurtenances, including, but not limited to, signs, sign supports, traffic signals, and traffic signal appurtenances.

91.2.6.2.4 Future roadway improvements. SCWF constructed on a road where there is no existing sidewalk, the SCWF and appurtenances shall be positioned to accommodate the future construction of sidewalks without the need to relocate facilities. Applicant shall at no cost to the County relocate, remove, and/or adjust such facilities to accommodate County road improvement projects.

91.2.6.2.5 Underground Districts. Where an Underground District has been established pursuant to County Code Section 361-3, no new poles may be constructed. Existing poles may be replaced to accommodate SCWF.

91.2.6.2.6 Lights. SCWF shall not include any lights that would be visible from publicly accessible areas, except as may be required under Federal Aviation Administration (FAA), FCC, other applicable regulations for health and safety. All equipment with lights (such as indicator or status lights) must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas. The provisions in this subsection shall not be interpreted or applied to prohibit installations on streetlights or luminaires installed on new or replacement poles as may be required under this chapter.

91.2.6.2.7 Landscape Features. SCWF shall not displace any existing landscape features unless: (A) such displaced landscaping is replaced with native and/or drought-resistant plants, trees or other landscape features approved by the Director of Public Works and (B) the applicant submits and adheres to a landscape maintenance plan. The landscape plan must include existing vegetation, and vegetation proposed to be removed or trimmed, and the landscape plan must identify proposed landscaping by species type, size and location.

91.2.6.2.8 Site Security Measures. SCWF may incorporate reasonable and appropriate site security measures, such as locks and anti-climbing devices, to prevent unauthorized access, theft or vandalism. The Director of Public Works shall not approve any barbed wire, razor ribbon, electrified fences or any similarly dangerous security measures. All exterior surfaces on SCWF shall be constructed from or coated with graffiti-resistant materials.

91.2.6.2.9 Signage; Advertisements. All SCWF must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number, and a toll-free number to the owner/operator's network operations center. As approved by the Director of Public Works, SCWF may not bear any other signage or advertisements unless expressly approved by the Director of Public Works, required by law or recommended under FCC, OSHA or other United States governmental agencies for compliance with RF emissions regulations.

91.2.6.2.10 Compliance with Health and Safety Regulations. All SCWF shall be designed, constructed, operated, and maintained in compliance with all generally applicable health and safety regulations, which includes without limitation all applicable regulations for

human exposure to RF emissions, the Americans with Disabilities Act, California Building Standards Code and County Code.

91.2.6.2.11 Overall Height. SCWF may not exceed either (A) the minimum separation from electrical lines required by applicable safety regulations (such as CPUC General Order 95, Rules for Overhead Construction Lines), plus four feet or (B) four feet above the existing support structure. However, at no point shall an existing support structure be increased by more than 10 feet above existing height.

91.2.6.2.12 Antennas.

1. Concealment. All antennas and associated mounting equipment, hardware, cables, or other connectors must be completely concealed within an opaque antenna shroud or radome. The antenna shroud or radome must be graffiti-resistant and painted a flat, non-reflective color to match the underlying support structure.

2. Antenna Volume. Each individual antenna may not exceed three cubic feet in volume and all antennas may not exceed six cubic feet in volume.

91.2.6.2.13 Accessory Equipment.

1. Installation Preferences. All non-antenna accessory equipment shall be installed in accordance with the following preferences, ordered from most preferred to least preferred:

(i) underground;

(ii) on the pole or support structure; or

(iii) integrated into the base of the pole or support structure.

Applications that involve lesser-preferred installation locations may be approved so long as the applicant demonstrates that a more preferred installation location would be technically infeasible as supported by clear and convincing evidence in the written record.

2. Undergrounded Accessory Equipment. All undergrounded accessory equipment must be installed in an environmentally controlled vault that is load-

rated to meet the county's standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover. Vents for airflow shall be flush-to-grade when placed within the sidewalk and may not exceed two feet above grade when placed off the sidewalk. Applicants shall not be permitted to install an underground vault in a location that would cause any existing tree to be materially damaged or displaced.

3. Pole-Mounted Accessory Equipment. All pole-mounted accessory equipment must be installed at least 10 feet above grade and flush to the pole to minimize the overall visual profile. If any applicable health and safety regulations prohibit flush-mounted equipment, the maximum separation permitted between the accessory equipment and the pole shall be the minimum separation required by such regulations. All pole-mounted equipment and required or permitted signage must be placed and oriented away from adjacent sidewalks and structures. Pole-mounted equipment may be installed behind street, traffic or other signs to the extent that the installation complies with applicable public health and safety regulations. All cables, wires and other connectors must be routed through conduits within the pole, and all conduit attachments, cables, wires and other connectors must be concealed from public view. To the extent that cables, wires and other connectors cannot be routed through the pole, applicants shall route them through a single external conduit or shroud that has been finished to match the underlying support structure.

4. Base-Mounted Accessory Equipment. All base-mounted accessory equipment must be installed within a shroud, enclosure or pedestal integrated into the base of the support structure. All cables, wires and other connectors routed between the antenna and base-mounted equipment must be concealed from public view.

5. Ground-Mounted Accessory Equipment. The Director of Public Works shall not approve any ground-mounted accessory equipment including, but not limited to, any utility or transmission equipment, pedestals, cabinets, panels, or electric meters.

6. Accessory Equipment Volume. All accessory equipment associated with a SCWF installed above ground level shall not cumulatively exceed: (i) nine (9) cubic feet

in volume if installed in a residential district or within 500 feet from any structure approved for a residential use; or (ii) seventeen (17) cubic feet in volume if installed in a non-residential district. The volume calculation shall include any shroud, cabinet or other concealment device used in connection with the non-antenna accessory equipment. The volume calculation shall not include any equipment or other improvements placed underground.

91.2.6.2.14 Streetlights. Applicants that propose to install SCWF on an existing streetlight must remove and replace the existing streetlight with one substantially similar to the county's standards and specifications but designed to accommodate wireless antennas and accessory equipment, unless the existing streetlight has been designed and engineered to support a SCWF in accordance with applicable health and safety regulations. To mitigate any material changes in the streetlighting patterns, the replacement pole must:

1. be located as close to the removed pole as possible;
2. be aligned with the other existing streetlights; and
3. include a luminaire at substantially the same height and distance from the pole as the luminaire on the removed pole.

All antennas must be installed above the pole within a single, canister style shroud or radome that tapers to the pole.

91.2.6.2.15 Wood Utility Poles. Applicants that propose to install SCWF on an existing wood utility pole must install all antennas above the pole unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible as supported by clear and convincing evidence in the written record. Side-mounted antennas on a stand-off bracket or extension arm must be concealed within a shroud. All cables, wires and other connectors must be concealed within the side-arm mount or extension arm. The maximum horizontal separation between the antenna and the pole shall be the minimum separation required by applicable health and safety regulations.

91.2.6.2.16 New, Non-Replacement Poles. Applicants that propose to install SCWF on a new, non-replacement pole must demonstrate that any existing structures within 500 feet from the proposed site would be technically infeasible as supported by clear and

convincing evidence in the written record. Any new, non-replacement pole must be a new streetlight substantially similar to the county's standards and specifications but designed to accommodate wireless antennas and accessory equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity, the applicant may install a metal or composite pole capable of concealing all the accessory equipment either within the pole or within an integrated enclosure located at the base of the pole. The pole diameter shall not exceed twelve (12) inches and any base enclosure diameter shall not exceed sixteen (16) inches. All antennas, whether on a new streetlight or other new pole, must be installed above the pole within a single, canister style shroud or radome.

91.2.6.2.17 Encroachments over Private Property. SCWF may not encroach onto or over any private or other property outside the public right of ways without the property owner's express written consent.

91.2.6.2.18 Backup Power Sources. Permanent fossil-fuel based backup power sources shall not be permitted within the public right of ways; provided, however, that connectors or receptacles may be installed for temporary backup power generators used in an emergency declared by federal, state or local officials. (staff note – see General Regulations – 314-91.2.5.3)

91.2.6.2.19 Obstructions; Public Safety. SCWF and any associated equipment or improvements shall not physically interfere with or impede access to any:

1. worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors;
2. access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop;
3. worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency;
4. fire hydrant or water valve;

5. access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the right of ways; or

6. access to any fire escape.

91.2.6.2.20 Utility Connections. All cables and connectors for telephone, data backhaul, primary electric and other similar utilities must be routed underground in conduits large enough to accommodate future collocated wireless facilities. Undergrounded cables and wires must transition directly into the pole base without any external doghouse. All cables, wires and connectors between the underground conduits and the antennas and other accessory equipment shall be routed through and concealed from view within: (A) internal risers or conduits if on a concrete, composite or similar pole; or (B) a cable shroud or conduit mounted as flush to the pole as possible if on a wood pole or other pole without internal cable space. The Director of Public Works shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost.

91.2.6.2.21 Spools and Coils. To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled, or otherwise stored on the pole outside equipment cabinets or shrouds.

91.2.6.2.22 Electric Meters. SCWF shall use flat-rate electric service or other method that obviates the need for a separate above-grade electric meter. If flat-rate service is not available, applicants may install a shrouded smart meter. The Director of Public Works shall not approve a separate ground-mounted electric meter pedestal.

91.2.6.2.23 Street Trees. To preserve existing landscaping in the public right of ways, all work performed in connection with SCWF shall not cause any street trees to be trimmed, damaged, or displaced. If any street trees are damaged or displaced, the applicant shall be responsible, at its sole cost and expense, to plant and maintain replacement trees, consistent with the county's list of pre-approved street trees, at the site for the duration of the permit term.

91.2.7 DESIGN STANDARDS – NON-SCWF

The following Design Standards apply to all Wireless Telecommunication Facilities other than Small Cell Wireless Facilities

91.2.7.1 All Stealth Facilities. Stealth Facilities shall be designed to visually and operationally blend into the surrounding area in a manner consistent with current neighborhood design and existing development. The facility shall also be appropriate for the specific site (i.e., it should not “stand out” from its surrounding environment, such as a faux tree standing alone in a field or standing at a greater height [five feet or more] than other trees on the site).

91.2.7.2 Facilities on Historic Buildings or Structures. No facility shall be allowed on any building or structure, or in any district, that is listed on any Federal, State or local historical register unless it is determined that the facility will have no adverse effect on the appearance of the building or structure or its eligibility for historic designation. No change in architecture nor High Visibility facility is permitted on any such building, any such site or in any such district.

91.2.7.3 Facilities visible from Scenic Highways. In cases where the facility site is visible from an officially designated California State Scenic Highway, the facility shall be designed and located in such a manner as to avoid adverse visual impacts. Such locations shall use design methods such as, but not limited to, type of facility, stealth-design, screening and landscaping. No lattice towers or guyed towers are permitted.

91.2.7.4 Façade-mounted antennas. Façade-mounted antennas shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Façade-mounted antennas shall not extend more than 24 inches out from the building face.

91.2.7.5 Visual Impact.

91.2.7.5.1 All facilities shall be designed to minimize the visual impact to the greatest extent feasible. **This may be achieved** by means of:

1. **Antenna** placement
2. Screening
3. Landscaping with native species, ~~whenever feasible~~
4. **camouflage** **Stealth Design**
5. ~~compatible~~ **Integration** with existing architectural elements, building materials and other site characteristics.

91.2.7.5.2 Colors and materials for facilities shall be non-reflective and chosen to minimize visibility. Facilities, including equipment buildings, shall be painted or textured

using colors to match or blend with the primary background, or painted with a mural which would contribute to the vitality and attractiveness of the neighborhood.

91.2.7.5.3 Equipment buildings Base stations shall be screened from adjacent sidewalks by landscaping with native species, undergrounding or other means, excluding new walls and fences, or shall be painted with a mural which would contribute to the vitality and attractiveness of the neighborhood.

91.2.7.5.4 The use of chain link fences for security of a facility is permitted if the fence is fully screened by landscaping. No razor wire or barbed wire is shall be permitted. Slats do not satisfy the requirement for screening.

91.2.7.6 Number and configurations of antennas.

91.2.7.6.1 The applicant shall use the least visible antennas possible to accomplish the coverage objectives.

91.2.7.6.2 Roof-mounted antennas shall be constructed at the minimum height possible to serve the operator's service area and shall be set back as far from the edge of the building as possible or otherwise screened to minimize their visibility.

91.2.7.7 Lights.

91.2.7.7.1 Beacon lights shall not be included in the design of facilities unless required by the FAA and shall be included when calculating the height of the facility.

91.2.7.7.2 Site lighting shall be kept to a minimum in every instance, shall be shielded to direct the light downward, shall be controlled by a manual switch or timed switch of no greater than one hour's duration and shall not be used except when nighttime maintenance is necessary.

91.2.7.8 Public way. No High Visibility Facility, including equipment buildings, may be located between the face of a building and a public street, bikeway, trail or park.

91.2.7.9 No signs, striping, graphics or other attention getting devices are permitted on the telecommunications tower or ancillary facilities except for warning and safety signage with a surface area of no more than three square feet. Such signage shall be affixed to a fence or ancillary facility and the number of signs is limited to no more than two unless a greater number is required by law. Signage; Advertisements. All Non-SCWF must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number, and a toll-free number to the owner/operator's network operations center. Non-SCWF may not bear any other

signage or advertisements unless expressly approved by the Planning Director, the Zoning Administrator or the Planning Commission, required by law or recommended under FCC, OSHA or other United States governmental agencies for compliance with RF emissions regulations.

91.2.8 APPLICATION REQUIREMENTS. In addition to the standard application submittal requirements described in section 312-5.2, applicants for Wireless Telecommunication Facilities shall provide the supplemental information listed below.

91.2.8.1 As part of an application for any Design Review, Special Permit, or Use Permit for a Wireless Telecommunications Facility, the applicant/permittee shall indemnify and hold harmless the County of Humboldt and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties that arise from or is in any way related to permit processing and approval, including actions brought under the California Environmental Quality Act, and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the construction, maintenance and/or operation of the Wireless Telecommunications Facility.

91.2.8.2 ~~Ministerial~~ Telecommunications Facilities Zoning Clearance Certificate Planning Checklist. Applications for facilities qualified for a ~~ministerial-permitting~~ Zoning Clearance Certificate process shall include a complete ~~Ministerial~~ Telecommunications Facilities Zoning Clearance Certificate Planning Checklist, as may be amended from time to time, made available by the Planning Division.

91.2.8.3 Applications for Design Review, Tier 2 and Tier 3 facilities shall include the following components.

91.2.8.3.1 ~~Design Review~~ Telecommunications Facilities Design Review Planning Checklist. Applications for facilities qualified for a design review shall include a complete ~~Design Review~~ Telecommunications Facilities Design Review Planning Checklist, as may be amended from time to time, made available by the Planning Division. The Planning Director shall determine that the requirements of the Checklist are met.

91.2.8.3.2 ~~Geographic Service Area~~ Improvement to network. Provide a vicinity map of the geographic service area for the proposed facility, including the service area of the applicant's existing sites in the local service network ~~and the distance between the facilities associated with the gap the facility is meant to close.~~ Describe the service needs

of the company's service network **coverage or capacity demand that the facility is meant to address.**

91.2.8.3.3 Alternatives Analysis. Provide discussion of alternative sites that would accomplish the project goals. Provide specific comparative analysis of how different sites would impact aesthetic values, agricultural, timber and mineral values, and other environmental values, **as applicable.**

91.2.8.3.4 Visual Impact Analysis. Provide a visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette and proposed screening and landscaping. The analysis shall include photo simulations or a balloon test and other information as necessary to determine visual impact of the facility. The analysis shall include a map depicting where the photos were taken. **The analysis shall include Where consistent with the natural or built environment, the analysis shall include** a native vegetation landscaping plan with a discussion of how the chosen plants, at maturity, will screen the site.

91.2.8.3.5 Noise/Acoustical Information. Provide manufacturer's specifications for all equipment such as air conditioning units and back-up generators, provide a proposal for a noise-attenuating structure to maintain noise levels below 50dB, and provide a depiction of the equipment location in relation to adjoining properties.

91.2.8.3.6 Fire Hazards. **All applications for Non-SCWF shall include Provide** information on the site indicating whether it is within a fire-related special district, whether the site is within Local Responsibility Area or State Responsibility Area and identifying the Office of the State Fire Marshall Fire Hazard Severity Zone that is applied to the area; provide a map of sufficient scale showing flammable vegetations surrounding the proposed facilities and indicating how adequate defensible space is to be provided.

1. Proposed facilities located within a fire-related district, shall provide a service letter from the applicable fire-related district indicating that structural fire protection services are available to the site.
2. Proposed facilities located outside of a fire-related district shall obtain from an appropriate local fire service provider written acknowledgement of the available emergency response and fire suppression services and recommended mitigations.

3. Proposed facilities located within State Responsibility Area shall provide a letter from CAL FIRE indicating that the map showing defensible space meets the applicable state requirements.
4. Proposed facilities located within Moderate, High, or Very High Fire Hazard Severity Area shall submit a Fire Prevention Plan that recognizes and prepares for the potential for fast moving, wind driven wildfires which could burn adjacent to or through the proposed site as the result of severe fire weather conditions, wildland fuels adjacent to the site, and nearby ignition sources. The Plan shall discuss existing, proximate fire hazards, the fire risks posed by the addition of a facility at the location, proposed measures to lessen fire risks associated with the facility and an ongoing maintenance plan. A draft copy of the Plan shall be provided to the local fire service provider and CAL FIRE at least 90 days before the start of any construction activities. The final Plan shall be approved by CAL FIRE (if SRA) and the fire chief of the fire-related district, if any, at least 30 days prior to the initiation of construction activities. The applicant shall fully implement the Plan during all construction and maintenance activities.

91.2.8.3.7 Hazardous Materials. Listing of all hazardous materials to be used onsite.

91.2.8.3.8 Access Parking.

91.2.8.3.8.1 All applications for new facilities shall show adequate access, turnaround area and parking for emergency response vehicles.

91.2.8.3.8.2 For all applications for facilities located in or along a right of way, show the location of parking for maintenance personnel that does not obstruct a traffic lane or a travelled way for pedestrians, bicyclists and equestrians.

~~**91.2.8.3.9** Height Justification. Provide evidence establishing the necessity for the height of the proposed facility.~~

91.2.8.4 Applications for Tier 2 and Tier 3 facilities shall include the following components

91.2.8.4.1 Height Requirements. If the proposed facility exceeds the maximum height for the underlying zone, the applicant shall provide the following:

91.2.8.4.1.1 provide Evidence establishing the necessity of the proposed height for the facility.

91.2.8.4.1.2 ~~If the tower will exceed the maximum height limit of the underlying zone, as measured from grade,~~ A discussion of the physical constraints (topographical features, etc.) making the additional height necessary shall be required.

91.2.8.4.2 Co-location Required. Non-SCWF which exceed the maximum height of the underlying zone shall be built to accommodate future co-location of other carriers where ~~ver~~ technically and economically feasible and aesthetically desirable. The applicant shall provide a written statement allowing co-location on such facilities.

91.2.8.4.3 Applicants may be required to pay the cost of independent review to evaluate siting alternatives, the necessity of the facility based on adequacy of existing coverage, and/or the radio frequency emissions.

91.2.8.5 Notice of Final Action. Notice of final action on an application for design review, a Special Permit or a Conditional Use Permit shall be given as follows:

91.2.8.5.1 Notice shall be provided with five (5) working days of the Planning Director or Hearing Officer's action.

91.2.8.5.2 Notice shall be provided by first class mail to:

91.2.8.5.2.1 The Applicant;

91.2.8.5.2.2 Any person who specifically requested, in writing, notice of such final action

91.2.8.5.3 The notice shall include the following information:

91.2.8.5.3.1 Written findings;

91.2.8.5.3.2 Conditions of approval;

91.2.8.5.3.3 Procedures for appeal.

91.2.8.6 Applications for a SCFW in a County Maintained road right of way shall include the following:

1. **Application Form.** The applicant shall submit a complete, duly executed small cell encroachment permit application on the then-current form approved by the Director of Public Works.
2. **Application Fee.** The applicant shall submit the applicable small cell encroachment permit application fee established by Board of Supervisors resolution. Batched applications must include the applicable small cell encroachment permit application fee for each SCFW in the batch.
3. **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a California licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings must: (i) contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number and physical dimensions; (ii) identify all structures within 250 feet from the proposed project site and call out such structures' overall height above ground level; (iii) depict the applicant's plan for electric and data backhaul utilities, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; and (iv) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders; (iv) contain sightlines showing that the proposed facilities will not obstruct visibility of the road or of any existing or proposed driveway
4. **Site Survey.** For any SCWF proposed to be located within the public right of ways, the applicant shall submit a survey prepared, signed and stamped by a California licensed or registered Surveyor. The survey must identify and depict all existing boundaries, encroachments and other structures within 250 feet from the proposed project site, which includes without limitation all: (i) traffic lanes; (ii) all private properties and property lines; (iii) above and below-grade utilities and related structures and

encroachments; (iv) fire hydrants, roadside call boxes, and other public safety infrastructure; (v) streetlights, decorative poles, traffic signals, and permanent signage; (vi) sidewalks, driveways, parkways, curbs, gutters and storm drains; (vii) benches, trash cans, mailboxes, kiosks and other street furniture; and (viii) existing trees, planters, and other landscaping features.

5. **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed SCWF in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point.

6. **Fronting Landowner Consent.** The applicant shall submit a statement from the fronting landowner agreeing to the location of the proposed location of the facilities. In the case where a fronting landowner refuses to sign the statement, the applicant shall submit an affidavit detailing the outreach made to the fronting landowner. The statement or affidavit shall be made on the then-current form approved by the Director of Public Works.

7. **Location consent.** When a SCWF is proposed to be constructed on facilities not owned by the applicant or County, the applicant shall submit a statement from the facility owner agreeing to the construction. The statement shall be made on the then-current form approved by the Director of Public Works.

91.2.9 PERFORMANCE STANDARDS. All Telecommunications Facilities shall be subject to the requirements of this subsection.

91.2.9.1 Inadvertent Archaeological or Native American Remains Discoveries. All discretionary and ministerial permits shall include the condition of approval or note identified in Standard CU-S4.E of the General Plan regarding inadvertent discovery of archaeological or Native American Remains.

91.2.9.2 Notification of California Department of Fish and Wildlife (CDFW). If a bird of prey (e.g., hawk, falcon, owl, etc.) establishes a nest on a facility, the permittee shall provide written notification of the nest to the Planning and Building Department and to CDFW within 10 days of nest discovery.

91.2.9.3 Maintenance

91.2.9.3.1 All landscaping shall be maintained as shown on the approved Landscape Plan. Trees and shrubs shall be maintained to screen the site. Dead and dying landscaping shall be replaced in accordance with the approved landscape plan.

91.2.9.3.2 All Wireless Telecommunications sites shall be kept clean and free of litter.

91.2.9.3.3 All equipment buildings shall display a legible operator's contact number for reporting maintenance problems.

91.2.9.3.4 Maintenance vehicles servicing facilities located in the public or private right of way shall not park on the traveled way or in a manner that would obstruct traffic.

91.2.9.4 FCC emission compliance. Records shall be maintained which demonstrate ongoing compliance with FCC emission regulations and guidelines. Records shall be made available **timely** to County staff **within 3 business days of the upon** request.

91.2.9.5 Abandonment or discontinuation of use.

91.2.9.5.1 All operators who intend to abandon or discontinue the use of any Wireless Telecommunications facility shall notify the County of such intentions no less than 60 days prior to the final day of use.

91.2.9.5.2 Wireless Telecommunications Facilities with use discontinued shall be considered abandoned 90 days following the final day of use.

91.2.9.5.3 All abandoned facilities shall be physically removed by the facility owner no more than 90 days following the final day of use or of determination that the facility has been abandoned, whichever occurs first.

91.2.9.6 Revocation. Failure to comply with any condition of approval or standard in this ordinance shall constitute grounds for possible revocation of use pursuant to Sections 312-14 of the Zoning Ordinance.

SECTION 3. RESOURCE USE REGULATIONS

Tables in Section 314-7 regarding Resource Use Regulations in Title III, Division 1, Chapter 4 of the Humboldt County Code are amended as follows (additions are shown in underline text, deletions are shown in strikethrough text):

314-7.1

AE: AGRICULTURE EXCLUSIVE

Principal Permitted Uses

All general agricultural uses, including accessory agricultural uses and structures listed at Sections 314-43.1.3 (Permitted Agricultural Accessory Uses) and 314-69.1.1 (Permitted Agricultural Accessory Structures), except those specified in the following subsection, Uses Permitted with a Use Permit.

(Amended by Ord. 2189, Sec. 1, 2/9/99; Amended by Ord. 2214, 6/6/00)

Timber production.

Single-family residence.

Accessory dwelling unit. On lots forty (40) acres or larger in size, two (2) single detached dwellings are permitted within the same contiguous two (2) acre building envelope containing the primary residence.

(Amended by Ord. 1949, Sec. 1, 12/4/91; Amended by Ord. 2189, Sec. 1, 2/9/99)

Manufactured homes.

Uses Permitted with a Use Permit

Hog farms, turkey farms, frog farms and fur farms.

Aquaculture.

Animal feed yards and sales yards.

Agricultural and timber products processing plants.

Agriculture-related recreation, resource-related recreation.

Agriculture-related visitor-serving: cheese factories and sales rooms, wineries and wine tasting and sales rooms, produce sales, etc., which do not change the character of the principal use.

Public recreation and public access facilities.

Rental and sales of irrigation equipment and storage incidental thereto.

Animal hospitals.

Stables and kennels.

Farm employee housing, labor camps and labor supply camps (Table 4-G).

Fish and wildlife habitat management, watershed management, wetland restoration.

Utilities and energy facilities: the erection, construction, alteration, or maintenance of gas, electric, water or communications transmission facilities, and wind or hydroelectric solar or biomass generation, and other fuel or energy production facilities.

Metallic mining, surface mining.

Any use not specifically enumerated in this division, if it is similar to and compatible with the uses permitted in the AE zone.

Other Regulations

No Subdivisions

Subdivisions may only be approved by official map, record of survey or recorded subdivision, for the managed production of resources, where parcels are subject to a binding and recorded restriction prohibiting the development of residential structures or residential accessory structures.

**Agricultural Land
Conversion**

Conditionally permitted uses that would convert zoned agriculture exclusive or AE zone land to nonagricultural uses shall not be approved unless the Planning Commission makes the following findings:

A. There are no feasible alternatives that would prevent or minimize conversion;

B. The facts support an overriding public interest in the conversion; and

C. For lands outside of designated urban development boundaries, sufficient off-setting mitigation has been provided to prevent a net reduction in the agricultural land base and agricultural production. This requirement shall be known as the “no net loss” agricultural lands policy. “No net loss” mitigation is limited to one (1) or more of the following:

1. Replanning of vacant agricultural lands from a nonagricultural land use designation to an agricultural plan designation along with the recordation of a permanent conservation easement on this land for continued agricultural use; or

2. The retirement of nonagricultural uses on lands planned for agriculture and recordation of a permanent conservation easement on this land for continued agricultural use; or

3. Financial contribution to an agricultural land fund in an amount sufficient to fully offset the agricultural land conversion for those uses enumerated in subsections (C)(1) and (C)(2). The operational details of the land fund, including the process for setting the amount of the financial contribution, shall be established by ordinance.

**Conversion of Prime
Agricultural Land**

Development on agriculture exclusive or AE zone land shall be designed to the maximum extent feasible to minimize the placement of buildings, impermeable surfaces or nonagricultural uses on land as defined in Government Code Section 51201(c)(1) through (c)(5) as prime agricultural lands.

Except for the construction of the primary single-family residence or a second residence within the same contiguous two (2) acre building envelope containing the existing primary residence, prime agricultural land shall not be converted without provisions for mitigation offsets, as specified in the “no net loss” agricultural lands policy above.

Minimum Lot Area	Sixty (60) acres. Exceptions to the minimum parcel size for the purpose of historic preservation may be approved, where the following findings are made: A. The site or structure qualifies and is included on a local, State or Federal historic registry; and B. The viability of continued agricultural operations is not inhibited; and C. No additional density beyond what would be permitted as part of the existing agricultural operations is created.
Minimum Lot Width	One hundred feet (100').
Maximum Lot Depth	(None specified.)
Minimum Yard Setbacks*	
Front	Thirty feet (30');
Rear	Twenty feet (20');
Side	Ten percent (10%) of the lot width on each side but not more than twenty feet (20') shall be required.
Farm Outbuildings	Farm outbuildings shall not be less than twenty feet (20') from any dwelling on the premises.
Maximum Ground Coverage	Two (2) acres maximum.
Maximum Building Height	(None specified.)

314-7.4	TPZ: TIMBERLAND PRODUCTION
Principal Permitted Uses	
Growing and harvesting of timber and accessory uses compatible thereto.	
Accessory agricultural uses and structures listed at Sections 314-43.1.3 (Permitted Agricultural Accessory Uses) and 314-69.1.1 (Permitted Agricultural Accessory Structures). (Added by Ord. 2189, Sec. 1, 2/9/99; Amended by Ord. 2214, 6/6/00)	
Principal Permitted Uses Compatible with Timber Production	
The following accessory uses are deemed to be compatible with the growing and harvesting of timber provided they do not significantly detract from the use of the property for, or inhibit, growing and harvesting of timber: (Former Section INL#314-11)	
Management for watershed and wetland restoration.	
Management for fish and wildlife habitat.	

A use integrally related to the growing, harvesting and processing of forest products; including but not limited to roads, log landings, and log storage areas (portable chippers and portable sawmills are considered a part of “processing”).
The erection, construction, alteration, or maintenance of gas, electric, <u>or water</u> , or communication transmission facilities.
Grazing and other agricultural uses.
One (1) family dwelling or manufactured home, accessory dwelling unit, and normal accessory uses and structures for owner or caretaker subject to the special restrictions of Section 314-7.4.1.6, Special Restrictions Regarding Residences.
Temporary labor camps, less than one (1) year in duration, accessory to timber harvesting or planting operations.
Recreational use of the land by the public, with or without charge, for any of the following: walking, hiking, picnicking, swimming, boating, fishing, hunting and skiing. (Former Section INL#314-11(h); Ord. 1099, Sec. 2, 9/13/76; Amended by Ord. 1907, Sec. 2, 8/21/90)
Uses Permitted with a Use Permit
Note: Permits authorized under this section cannot be approved if such use will significantly detract from the use of the property for, or inhibit, growing and harvesting of timber. (Former Section INL#314-10(b)(1-2); Ord. 1099, Sec. 1, 9/13/76; Amended by Ord. 1842, Sec. 5, 8/16/88, Amended by Ord. 1907, Sec. 1, 8/21/90, Amended by Ord. 2166, Sec. 11, 4/7/98)
Timber production processing plants (buildings) for commercial processing of wood and wood products, including but not limited to sawmills, lumber and plywood mills, but not including a pulp mill.
Utilities and energy facilities: the erection, construction, alteration, or maintenance of wind or hydroelectric solar or biomass generation, and other fuel or energy production facilities. (Added by Ord. 2635, 8/27/19)
Public recreation and public access facilities. (Added by Ord. 2635, 8/27/19)
Oil and gas drilling and processing, metallic mining, surface mining. (Added by Ord. 2635, 8/27/19)
Incidental camping area, tent camp, temporary recreational vehicle park, special occupancy parks, and similar recreational uses. (Amended by Ord. 2166, Sec. 11, 4/7/98)
Timber-related visitor-serving: burl shops, timber museums, interpretive centers, etc., which do not change the character of the principal use. (Added by Ord. 2635, 8/27/19)
Any use not specifically enumerated in this division, if it is similar to and compatible with the uses permitted in the TPZ zone.

314-7.5	TE: TIMBERLAND EXCLUSIVE ZONE
Principal Permitted Uses	

Growing and harvesting of timber and accessory uses compatible thereto.	
Accessory agricultural uses and structures listed at Sections 314-43.1.3 (Permitted Agricultural Accessory Uses) and 314-69.1.1 (Permitted Agricultural Accessory Structures).	
One (1) family dwelling or manufactured home, accessory dwelling unit, and normal accessory uses and structures for owner or caretaker subject to the special restrictions of Section 314-7.4.1.6, Special Restrictions Regarding Residences.	
Management for watershed and wetland restoration.	
Management for fish and wildlife habitat.	
A use integrally related to the growing, harvesting and processing of forest products, including but not limited to roads, log landings, and log storage areas (portable chippers and portable sawmills are considered a part of “processing”).	
The erection, construction, alteration, or maintenance of gas, electric, <u>or water</u> , or communication transmission facilities.	
Grazing and other agricultural uses.	
Temporary labor camps, less than one (1) year in duration, accessory to timber harvesting or planting operations.	
Recreational use of the land by the public, with or without charge, for any of the following: walking, hiking, picnicking, swimming, boating, fishing, hunting and skiing.	
Cottage industry, subject to cottage industry regulations.	
Uses Permitted with a Use Permit	
Timber production processing plants (buildings) for commercial processing of wood and wood products, including but not limited to sawmills, lumber and plywood mills, but not including a pulp mill.	
Incidental camping area, tent camp, temporary recreational vehicle park, special occupancy parks, and similar recreational uses.	
Timber-related visitor-serving: burl shops, timber museums, interpretive centers, etc., which do not change the character of the principal use.	
Public recreation and public access facilities.	
Utilities and energy facilities: The erection, construction, alteration, or maintenance of gas, electric, water or communications transmission facilities, and wind or hydroelectric, solar or biomass generation, and other fuel or energy production facilities.	
Oil and gas drilling and processing, metallic mining, surface mining.	
Any use not specifically enumerated in this division, if it is similar to and compatible with the uses permitted in the TE Zone.	
Other Regulations	
Minimum Lot Area	Forty (40) acres.

Minimum Lot Width	One hundred feet (100').
Maximum Lot Depth	(None specified.)
Minimum Yard Setbacks*	
Front	Thirty feet (30');
Rear	Twenty feet (20');
Side	Ten percent (10%) of the lot width on each side but not more than twenty feet (20') shall be required.
Outbuildings	Outbuildings shall not be less than twenty feet (20') from any dwelling on the premises.
Maximum Ground Coverage	Thirty-five percent (35%).
Maximum Building Height	(None specified.)

SECTION 4. PRIVATE COMMUNICATION EQUIPMENT FACILITIES

Section 314-84.1, Private Communication Equipment Facilities, is hereby amended as follows (additions are shown in underline text, deletions are shown in strikethrough text):

~~84.1 PRIVATE COMMUNICATION EQUIPMENT FACILITIES~~

~~Private communication equipment buildings and transmission and distribution facilities shall be permitted in any zone with a Use Permit. (Former Section INL#316-15.1; Added by Ord. 1867, Sec. 1, 6/13/89)~~

SECTION 5. PUBLIC UTILITY BUILDINGS

Section 314-84.2, Public Utility Buildings, is hereby amended as follows (additions are shown in underline text, deletions are shown in ~~strikethrough~~ text):

84.2 PUBLIC UTILITY BUILDINGS

Public utility buildings including, but not limited to, ~~communication~~ equipment buildings, substations, generating plants, gasometers, and transmission and distribution facilities shall be classified as quasi-public uses. (Former Section INL#316-15; Ord. 519, Sec. 615, 5/11/65)

SECTION 6. DEFINITIONS

Section 314-138 is hereby amended and added to as follows (additions are shown in underline text, deletions are shown in ~~strikethrough~~ text):

314-138 DEFINITIONS (C)

~~**Communication Equipment Building:** Buildings housing electrical and mechanical equipment necessary for the conduct of a public utility or private communications business with or without personnel. (Former Section INL#312-21; Ord. 519, Sec. 221, 5/11/65; Amended by Ord. 1867, Sec. 2, 6/13/89)~~

SECTION 7. CIVIC USE TYPES

Section 314-171 is hereby amended and added to as follows (additions are shown in underline text, deletions are shown in ~~strikethrough~~ text):

314-171 Civic Use Types

171.7.1 The Minor Generation and Distribution Facilities Use Type includes wind generators and accessory structures; small hydroelectric generators (less than 5 megawatt) and accessory structures and utility lines; and ~~communication transmission facilities, including~~ radio and television transmission antennae, ~~communication~~ equipment installations and exchanges, and substations. (From Section CZ#A313-6(K); Added to INL by Ord. 2205, Sec. 1, 4/11/00)

SECTION 8. ENCROACHMENT PERMITS

Section 411-12 is hereby added as follows:

411-12 **Small Cell Wireless Facility Encroachment Permit.** All Small Cell Wireless Facilities (SCWF) regulated by Sections 313- 91 and 314-91 shall comply with the following:

- (1) **Application.** An application for a SCWF shall comply with Sections 313-91.2.8.6 and 314-91.2.8.6.
- (2) **Design Standards.** All small cell wireless facilities shall comply with the design standards in Sections 313-91.2.6 and 314-91.2.6
- (3) **Permit Term.** This small cell encroachment permit will automatically expire 10 years and one day from its issuance. Any other permits or approvals issued in connection with any co-location, modification, or other change to this SCWF, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law. To the extent that this small cell encroachment permit is issued in connection with any structure owned or controlled by the county and located in the public right of way, this small cell encroachment permit

shall be coterminous with the cancellation, termination, or expiration of the agreement between the applicant and the county for access to the subject county structure.

- (4) **Annual Permit Fee.** Prior to June 30th or each year, the applicant shall submit payment of the annual small cell encroachment permit fee adopted by the Board of Supervisors for that fiscal year to the Department of Public Works.
- (5) **Permit Renewal.** Not more than one year before this small cell encroachment permit expires, the permittee may apply for permit renewal. The permittee must demonstrate that the subject SCWF complies with all the conditions of approval associated with this small cell encroachment permit and all applicable provisions in the County Code and this chapter that exist at the time the decision to renew or not renew the permit is rendered. The Director may modify or amend the conditions on a case-by-case basis as may be necessary or appropriate to ensure compliance with this chapter. Upon renewal, this small cell encroachment permit will automatically expire 10 years and one day from its issuance.
- (6) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a SCWF approved or deemed-approved, the permittee shall provide the Director with documentation reasonably acceptable to the Director that the SCWF has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data, and site photographs.
- (7) **Build-Out Period.** This small cell encroachment permit will automatically expire six (6) months from the approval date (the "build-out period") unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved SCWF, which includes without limitation any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, the SCWF or its use. If this build-out period or the construction permit expires, the permit automatically terminates and the county will not extend the build-out period or the permit, but the permittee may resubmit a complete application, including all application fees, for the same or substantially similar project.
- (8) **Site Maintenance.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences, and landscape features, in a neat, clean and safe condition in accordance with the approved construction

drawings and all conditions in this small cell encroachment permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the county, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.

(9) **Compliance with Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("laws") applicable to the permittee, the subject property, the SCWF or any use or activities in connection with the use authorized in this small cell encroachment permit, which includes without limitation any laws applicable to human exposure to RF emissions. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all laws. No failure or omission by the county to timely notice, prompt or enforce compliance with any applicable provision in the County Code, this chapter, any permit, any permit condition or any applicable law or regulation, shall be deemed to relieve, waive or lessen the permittee's obligation to comply in all respects with all applicable provisions in the County Code, this chapter, any permit, any permit condition or any applicable law or regulation.

(10) **Adverse Impacts on Other Properties.** The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee or its authorized personnel's construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the County Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the county or other state or federal government agency or official with authority to declare a state of emergency within the county. The Director may issue a stop work order for any activities that violates this condition in whole or in part.

- (11) **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the county's officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee. Notwithstanding the prior sentence, the county's officers, officials, staff, agents, contractors or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe the county's officers, officials, staff or other designees while any such inspection or emergency access occurs.
- (12) **Permittee's Contact Information.** Within 10 days from the final approval of this small cell encroachment permit, the permittee shall furnish the Director with accurate and up-to-date contact information for a person responsible for the SCWF, which includes without limitation such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times and promptly provide the Director with updated contact information if either the responsible person or such person's contact information changes.
- (13) **Indemnification.** The permittee and, if applicable, the property owner (if not on county-owned infrastructure) upon which the SCWF is installed shall defend, indemnify and hold harmless the County of Humboldt, its Board of Supervisors and the county's boards, commissions, agents, officers, officials, employees and volunteers (collectively, the "indemnitees") from any and all (1) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("claims") brought against the indemnitees to challenge, attack, seek to modify, set aside, void or annul the county's approval of this small cell encroachment permit, and (2) other claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees' or customers' acts or omissions in connection with this small cell encroachment permit or the SCWF. In the event the county becomes aware of any claims, the county will use best efforts to promptly notify the permittee and the private property owner (if applicable) and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees

that the county shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the county's defense, and the property owner and/or permittee (as applicable) shall promptly reimburse the county for any costs and expenses directly and necessarily incurred by the county in the course of the defense. Within ten calendar days of the service of a claim, the permittee shall execute a letter of agreement with the county, acceptable to County Counsel, which memorializes the above obligations.

The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the county to approve this small cell encroachment permit, and that such indemnification obligations will survive the expiration, revocation or other termination of this small cell encroachment permit.

- (14) **Performance Bond.** Before the county issues any permits required to commence construction in connection with this small cell encroachment permit, the permittee shall post a performance bond from a surety and in a form acceptable to the Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the SCWF, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable laws. In establishing or adjusting the bond amount required under this condition, and in accordance with California Government Code § 65964(a), the Director shall take into consideration any information provided by the permittee regarding the cost to remove the SCWF to a standard compliant with applicable laws. The performance bond shall expressly survive the expiration, revocation or other termination of this small cell encroachment permit to the extent required to completely remove the equipment and improvements, restore the affected areas and perform all other obligations in accordance with this condition.

(15) **Permit Revocation.** Any permit granted under this chapter may be revoked in accordance with the provisions and procedures in this condition. The Director may initiate revocation proceedings when the Director has information that the facility may not be in compliance with all applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). Before the Director may conduct a public hearing to revoke any permit granted under this chapter, the Director must issue a written notice to the permittee that specifies (i) the facility; (ii) the violation(s) to be corrected; (iii) the timeframe in which the permittee must correct such violation(s); and (iv) that, in addition to all other rights and remedies the county may pursue, the county may initiate revocation proceedings for failure to timely correct such violation(s). A permit granted under this chapter may be revoked only by the Board of Supervisors after a duly notice public hearing. The Board of Supervisors may revoke a permit when it finds substantial evidence in the written record to show that the facility is not in compliance with all applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). Any decision by the Board of Supervisors to revoke or not revoke a permit shall be final and not subject to any further appeals. Within five business days after the Board of Supervisors adopts a resolution to revoke a permit, the Director shall provide the permittee with a written notice that specifies the revocation and the reasons for such revocation.

(16) **Record Retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the small cell encroachment permit application, small cell encroachment permit, RF report, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the small cell encroachment permit (collectively, "records"). If the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records will be construed against the permittee. The permittee shall protect all records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep records in an electronic format;

provided, however, that hard copies or electronic records kept in the county's regular files will control over any conflicts between such county-controlled copies or records and the permittee's electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation to create or prepare any records not otherwise required to be created or prepared by other applicable laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record-retention obligations under applicable law.

(17) **Abandoned Wireless Facilities.** The SCWF authorized under this small cell encroachment permit shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a SCWF is abandoned or deemed abandoned, the permittee and/or property owner shall completely remove the SCWF and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation the County Code. In the event that neither the permittee nor the property owner complies with the removal and restoration obligations under this condition within said 90-day period, the county shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee and property owner shall be jointly and severally liable for all costs and expenses incurred by the county in connection with such removal and/or restoration activities.

(18) **Landscaping.** The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Only workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree and consistent with the county's list of preapproved street trees. The permittee shall, at all times, be responsible to maintain any replacement landscape features.

(19) **Cost Reimbursement.** The permittee acknowledges and agrees that (i) the permittee's request for authorization to construct, install and/or operate the wireless facility will

cause the county to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the county for all costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility; (iii) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse county for all such costs 10 days after a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the county shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the county by the permittee.

- (20) **Cooperation with RF Compliance Evaluations.** At all times relevant to this permit, the permittee and the property owner shall reasonably cooperate with efforts by the county to evaluate whether the wireless facility complies with all applicable FCC rules and regulations for human exposure to RF emissions. Such cooperation shall be at no cost to the county and may include, but is not limited to: (1) furnishing the county with a written affidavit signed by an RF engineer certifying the wireless facility's compliance with applicable FCC rules and regulations; (2) providing technical data such as the frequencies in use, power output levels and antenna specifications, reasonably necessary to evaluate compliance with maximum permissible exposure levels set by the FCC; (3) allowing the county or its designee to have supervised access to the areas near the wireless facility for inspections and field measurements; and (4) promptly responding to all requests by the county or its designee for information and/or cooperation with respect to any of the foregoing. The county may conduct random tests to ensure compliance with the FCC's rules and regulations. In the event that the county determines that permittee is not in compliance with any legal requirements or conditions, the permittee shall be responsible for all costs and expenses incurred by the county in connection with the investigation, enforcement and/or remediation of such noncompliance. (Ord. _____, § _____ / 2022)

SECTION 9. EFFECTIVE DATE.

This ordinance shall become effective thirty (30) days after the date of its passage.

PASSED AND ADOPTED this _____ day of _____, 2022, on the following vote, to wit:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Virginia Bass, Chair
Board of Supervisors of the County of Humboldt,
State of California

(SEAL)

ATTEST:
Kathy Hayes
Clerk of the Board of Supervisors of the
County of Humboldt, State of California

By: _____
Ryan Sharp, Deputy Clerk

Date: