

1 **WHEREAS**, it is inferred that the City of Albany may control height, appearance,
2 location/placement, and safety issues for wireless facilities in the public right-of-way, and
3 may apply clear, feasible, and reasonable conditions of approval; and

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5 **WHEREAS**, this ruling is effective as of January 14, 2019; and

6 **WHEREAS**, the City of Albany may expect applications to place small wireless
7 facilities in the public right-of-way in the future and would benefit from having
8 regulations in place to clarify requirements and expectations for City staff, decision-
9 makers, and applicants; and

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11 **WHEREAS**, a public hearing notice was published in the West County Times
12 and posted in three public places pursuant to California Government Code Section 65090
13 on October 11, 2019 for the City Council public hearing held on October 21, 2019; and

14 **WHEREAS**, the City Council held a public hearing on October 21, 2019 and
15 continued the item to a date uncertain; and

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17 **WHEREAS**, a public hearing notice was published in the West County Times
18 and posted in three public places pursuant to California Government Code Section 65090
19 on November 8, 2019 for the City Council public hearing held on November 18, 2019;
20 and

21 **WHEREAS**, the City Council held a public hearing on November 18, 2019 and
22 considered all public comments received, the presentation by City staff, the staff report,
23 and all other pertinent documents regarding the proposed request;

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25 **NOW, THEREFORE, BE IT RESOLVED**, that the Albany City Council
26 hereby adopts the application submittal checklist (Exhibit A) and the conditions of
27 approval (Exhibit B) for small wireless facilities in the public right of way

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ROCHELLE NASON, MAYOR

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**EXHIBIT A
SMALL WIRELESS FACILITY IN PUBLIC RIGHT OF WAY
CHECKLIST
(SEPARATE PAGE)**

City of Albany



SPECIAL PROVISIONS FOR ENCROACHMENT PERMITS FOR SMALL WIRELESS FACILITIES IN THE CITY RIGHT-OF-WAY

LOCATION : _____

Applications must include the following:

- Encroachment permit application**
- Fees.** Required fee as established by the Master Fee Schedule
- Description of Job.** Written statement explaining whether and why the proposed facility qualifies as a small wireless facility, as defined by Chapter 14.7 of the Albany Municipal Code.
- Construction Plans.** Scaled plans prepared by a California licensed or registered engineer depicting the proposed improvements and the related antenna support structure. Depict the plan for electric and data backhaul utilities, including locations for conduit, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection. Include cut sheets for all existing and proposed antennas and accessory equipment.
- Site Survey.** Identify all existing boundaries, encroachments, utilities, landscaping, infrastructure, and structures within 150 feet from the proposed project site. Survey must be prepared and stamped by a licensed surveyor.
- Photo Simulations.** Submit site photographs depicting existing conditions and the proposed facility, in context, from at least three vantage points from the public street or other publicly accessible location. Provide a vicinity map that shows the proposed facility location and vantage point locations.
- Radio Frequency Compliance Report.** Provide report certifying that the proposed facility and any co-located wireless facilities comply with applicable federal radio frequency exposure standards and limits. Report must include the frequency and power levels for all existing and proposed antennas at the site and show the location and orientation of all transmitting antennas. It must include the boundaries of areas with radio frequency exposure in excess of the uncontrolled/general population limit (as defined by the FCC) and the boundaries of areas with radio frequency exposures in excess of the controlled/occupational limit. Each such boundary shall be clearly marked and identified for every transmitting antenna. Report must be prepared and stamped by an engineer acceptable to the City.

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EXHIBIT B
SMALL WIRELESS FACILITY IN PUBLIC RIGHT OF WAY
CONDITIONS OF APPROVAL
(SEPARATE PAGE)

City of Albany



SMALL WIRELESS FACILITIES IN PUBLIC RIGHT OF WAY SAMPLE CONDITIONS OF APPROVAL

****ALL FEES SHALL BE PAID AND DEPOSITS MADE PRIOR TO THE ISSUANCE OF THIS PERMIT.****

(Except Utility Companies. Utility Companies will be invoiced.)

STANDARDS/SPECIFICATION

The following conditions and provisions of the Albany Municipal Code apply to this permit. All work shall be in accordance with City Standard Specifications and Drawings.

COMMENCEMENT OF WORK

The permittee shall begin the work or use authorized by a permit issued pursuant to this chapter within ninety (90) days from the date of the issuance unless a different period is stated in the permit, or an extension of time is granted by the Director of Community Development. If the work or use is not begun accordingly, the permit shall become void.

INSPECTION

In general, inspection producers and requirements shall be as established by the Director of Community Development & Environmental Resources. Unless specifically exempted by the City Code, no encroachment work shall take place without inspection by the Director of Community Development & Environmental Resources or his/her authorized agent. Inspections by the City must be requested at least TWENTY-FOUR (24) HOURS (excluding weekends) IN ADVANCE of the work to be performed. No work shall be performed on weekends without PRIOR AUTHORIZATION of the Director of Community Development & Environmental Resources.

DISPLAY OF PERMIT

The permittee shall keep a copy of this permit at the site of the work, or in the cab of a vehicle when movement on a public street is involved. The permit shall be shown to any authorized representative of the Director of Community Development & Environmental Resources or Law Enforcement Officer on demand.

ACCEPTANCE OF PERMIT BY APPLICANT

Acceptance by the applicant of the permit shall be conclusive evidence of the reasonableness of the terms imposed and shall constitute a waiver of any right to legislative determination thereof.

City of Albany

NON-ASSIGNMENT OF PERMIT

Permits shall only be issued only to the person making application and may not be assigned to another person by the permittee. If any permittee assigns his permit to another, the permit will be revoked.

CHANGES IN PERMIT AND WORK

No work may be made in the location, dimensions, character, or duration of the encroachment or use as granted by the permit except upon written authorization of the Director of Community Development & Environmental Resources.

EXCAVATION OF PAVED STREETS

No excavations shall be permitted within the paved area of the public streets unless the applicant can prove to the satisfaction of the Director of Community Development & Environmental Resources that the following conditions exist:

1. Boring of the utility is not feasible; and
2. No reasonable alternative utility arrangement is available outside the paved street area; and
3. The cut area and an adjacent area shall be resurfaced as approved by the Director of Community Development & Environmental Resources. The limits of resurfacing shall be as determined by the Director of Community Development & Environmental Resources to insure the excavating area blends visually with the surrounding area. The applicant shall be responsible for the replacement of any and all obliterated or removed pavement markers or striping.

HOURS OF WORK

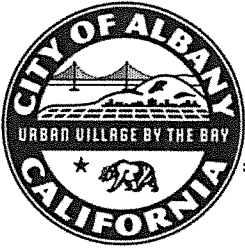
No work shall commence prior to 8:00AM and no work shall be conducted after 6:00PM Monday through Saturday and before 10:00AM or after 6:00PM on Sundays and Holidays.

COMPLETION OF WORK

The permittee must complete the work or use authorized by a permit issued pursuant to Chapter 14 within the time specified in the permit. If at any time the Director of Community Development & Environmental Resources finds that the delay in the prosecution or completion of the work or use authorized is due to lack of diligence on the part of the permittee, the permit may be revoked.

PERMITTEE LIABILITY

The permittee shall agree to hold the City, its officers, and employees harmless from any and all liability, claims, suits, or actions for any and all damages alleged to have been suffered by any person or property by reason of the permittee's installation, operation, maintenance or removal of the encroachment.



City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

RESOLUTION NO. 2019-85

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

The 18th day of November, 2019, by the following votes:

AYES: Council Members Barnes, Maass, McQuaid, Pilch and Mayor Nason

NOES: None

ABSENT: None

ABSTAINED: None

RECUSED: None

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this

19th day of November, 2019.

ANNE HSU
CITY CLERK