

Supplement to Agenda Item #17

Replacement pages for the corresponding pages of Exhibit A to the ordinance.

1106 **19.04.130 Exceptions**

1107 A. Exceptions pertaining to any provision of this chapter, including, but not limited to,
1108 exceptions from findings that would otherwise justify denial, may be granted by the
1109 reviewing authority if the reviewing authority makes the finding that a refusal to grant the
1110 exception would violate federal law, state law, or both. Such exceptions may be granted if
1111 the reviewing authority finds, without limitation, that:

1112 1. A provision of this chapter, as applied to applicant, would deprive applicant of its
1113 rights under federal law, state law, or both; and

1114 2. The proposed wireless facility qualifies as a “personal wireless service facility” as
1115 defined in 19.04.020(N), as may be amended or superseded; and

1116 3. The applicant has provided the reviewing authority with a reasonable and clearly
1117 defined technical service objective to be achieved by the proposed wireless facility;
1118 and

1119 4. The applicant has provided the reviewing authority with a written statement that
1120 contains a detailed and fact-specific explanation as to why the proposed wireless
1121 facility cannot be deployed in compliance with the applicable provisions in this
1122 Chapter, the Fairfax Municipal Code, the General Plan and/or any specific plan;
1123 and

1124 5. The applicant has provided the reviewing authority with a meaningful comparative
1125 analysis with the factual reasons why all alternative locations and/or designs
1126 identified in the administrative record (whether suggested by the applicant, the Town,
1127 public comments or any other source) are not technically feasible or potentially
1128 available to reasonably achieve the applicant’s reasonable and clearly defined
1129 technical service objective to be achieved by the proposed wireless facility; and

1130 6. The applicant has demonstrated to the reviewing authority that the proposed
1131 location and design is the least non-compliant configuration that will reasonably
1132 achieve the applicant’s reasonable and clearly defined technical service objective to
1133 be achieved by the proposed wireless facility, which includes without limitation a
1134 meaningful comparative analysis into multiple smaller or less intrusive wireless
1135 facilities dispersed throughout the intended service area; and

1136 7. The applicant has demonstrated that its proposed wireless facility will be in
1137 compliance with all applicable health, safety, and environmental regulations, which
1138 include without limitation the Americans with Disabilities Act, the Endangered Species
1139 Act, and all FCC rules and regulations for human exposure to RF emissions.

1140 B. An applicant may only request an exception at the time of applying for a wireless
1141 telecommunications facility permit. The request must include both the specific provision(s)
1142 of this chapter from which the exception is sought and the basis of the request. Any request
1143 for an exception after the Town has deemed an application complete shall be treated as a
1144 new application.

Description of Wireless Facility	Private Property			Public Right-of-Way ³
	RS, RD, RM, PDD, UR Residential Zoning Districts and CR Commercial Zoning district	OA and PD Zoning district	All Other Zoning Districts	Non-Residential Zoning Districts except for OA, PD, and CR
Roof-mounted facility, building-mounted facility, or facility mounted on an existing pole	Not Permitted	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
Facility mounted on a replacement pole or new telecommunications tower	Not Permitted	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
New wireless telecommunications collocation facility	Not Permitted	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
Eligible facilities request ¹ or application pursuant to California Government Code Section 65850.6 ²	Permitted	Not Permitted	Permitted	Permitted
¹ See requirements of section 19.04.140. ² See requirements of section 19.04.150. ³ For any public right-of-way on the boundary between zoning districts, the zone applicable to the location of a Wireless Telecommunication Facility shall be determined based upon the closest district adjacent to the facility's location. The centerline of the public right-of-way will be used as the boundary between districts.				

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291 B. **Non-exclusive grant; No warranty.** No approval granted under this chapter shall
292 confer any exclusive right, privilege, license, or franchise to occupy or use the public right-
293 of-way of the Town for delivery of telecommunications services or any other purposes.
294 Further, no approval shall be construed as any warranty of title.

<i>Description of Wireless Facility</i>	<i>Private Property</i>			<i>Public Right-of-Way³</i>
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