



**CITY OF MONTCLAIR
REAL ESTATE COMMITTEE**

AGENDA

Monday, May 17, 2021
5:30 p.m.

Zoom Link: <https://zoom.us/j/93949068629>

Dial Number: 1-(669)-900-6833

Meeting ID: 939-4906-8629

I. CALL TO ORDER

II. ROLL CALL

III. APPROVAL OF MINUTES — March 15, 2021

IV. PUBLIC COMMENT

Request to speak: <https://www.cityofmontclair.org/public-comment/>

V. DISCUSSION ITEMS

A. DEVELOPMENT PROPOSALS –

1. **9700 Central Avenue** – Proposed demolition of the existing Chevron gas station building and construction of a new facility with an Extra Mile Convenience Store and automated car wash.

B. REQUESTS – None

C. PROPOSED ORDINANCES

1. **Accessory Dwelling Unit (ADU) Ordinance** – Review revised draft ordinance to update Chapter 11.23 of the Montclair Municipal Code regarding new state requirements related to ADUs within the City.
2. **Wireless Telecommunication Facility Ordinance** – Review draft ordinance to update Chapter 11.73 of the Montclair Municipal Code regarding new wireless telecommunication facilities within the City.

VI. OTHER ITEMS

VII. ADJOURNMENT

The next meeting of the Real Estate Committee is scheduled for Monday, June 21, 2021, at 5:30 p.m.

I, Laura Embree, Administrative Secretary, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the bulletin board adjacent to the north door of Montclair City Hall on Thursday, May 13, 2021.

ORDINANCE NO. 21-996

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR, CALIFORNIA, AMENDING CHAPTERS 11.02 AND 11.23 OF THE MONTCLAIR MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS IN THE CITY

WHEREAS, the City Council finds that it is necessary and appropriate to amend Chapters 11.02 (Definitions), portions of 11.18, 11.20, 11.22, and 11.36 and replace Chapter 11.23 of the Montclair Municipal Code in order to comply with Assembly Bill 2299 and Senate Bill 1069. In approving AB 2299, the state found that accessory second dwelling units (also commonly referred to as "granny flats," in-law apartments," or "accessory units") provided an important source of affordable rental housing designed to meet the special housing needs of individuals and families, particularly those of low and moderate income; and

WHEREAS, the California Legislature adopted and Governor Newsom signed Senate Bill 13 and Assembly Bills 68 and 881 in 2019 amending California Government Code Sections 65852.2 and 65852.22, which took effect January 1, 2020, imposing new limitations on local agencies, including charter cities, ability to regulate accessory dwelling units (ADUs), and junior accessory dwelling units (JADUs); and

WHEREAS, adopting an ordinance consistent with California Government Code Sections 65852.2 and 65852.22 ensures that the character of the City is preserved to the maximum extent permitted by law and that the City's regulation of accessory dwelling units and junior accessory dwelling units continues to promote the health, safety, and welfare of the community; and

WHEREAS, allowing accessory dwelling units and junior accessory dwelling units in conjunction with existing or proposed residential development provides additional rental housing stock, some of which will satisfy the City's 6th Cycle Regional Housing Needs Assessment (RNHA) for the period covering 2021-2029; and

WHEREAS, accessory dwelling units and junior accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character; and

WHEREAS, a public hearing was held by the Planning Commission on April ____, 2021, in the Council Chambers located at 5111 Benito Street, Montclair, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing; and

WHEREAS, at the hearing, the Planning Commission adopted Resolution 21- ___ by a vote (XX ayes, XX noes) recommending to the City Council the adoption of Ordinance 21-996 ; and

WHEREAS, a public hearing was held by the City Council on XXX, XXX____, 2021, in the Council Chambers located at 5111 Benito Street, Montclair, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Montclair City Council:

SECTION I. The foregoing Recitals are adopted as findings of the City Council as though set forth in fully within the body of this ordinance.

SECTION II. The Montclair Municipal Code for the City of Montclair ("Code") shall be amended to add new definitions to Chapter 11.02 DEFINITIONS, Section 11. 02. 010 (Definitions) as follows:

Accessory Dwelling Unit means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include a permanent structure, with a permanent foundation, connection to utilities, with provisions for living, sleeping, eating, cooking, and bathroom facilities on the same parcel the main dwelling exists. The definition of accessory dwelling unit shall include the following:

- 1 An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code for occupancy by no more than two persons which have a minimum floor area of 150 square feet and shall have kitchen and bathroom facilities; and
- 2 A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

Accessory Dwelling Unit Types. For purposes of this section, there are three types of accessory dwelling units allowed, subject to the requirements of Chapter 11.23.030, and as described below:

1. **Detached Accessory Dwelling Unit.** A detached ADU is a dwelling unit with complete independent living facilities constructed as a separate structure from the main dwelling unit on the property. .
2. **Attached Accessory Dwelling Unit.** An attached ADU is a dwelling unit with complete independent living facilities that shares at

least one common wall with the existing main dwelling unit on the property.

Junior Accessory Dwelling Units (JADU). A JADU is a dwelling unit that is no more than 500 square feet in size and contained entirely within a single-family residence that provides living facilities for up to two persons. A JADU may include separate sanitation facilities or may share sanitation facilities with the existence residence.

Accessory Structure means a structure that is accessory and incidental to a dwelling located on the same lot.

Complete Independent Living Facilities means the permanent provision for living, sleeping, eating, cooking, and bathroom facilities for a main or accessory dwelling unit.

Kitchen means a room or area that is designed for and contains approved permanent cooking, refrigeration and sink facilities.

Kitchenette or Efficiency Kitchen means a small area designated for preparing food as part of a room instead of a separate room. A kitchenette or Efficiency Kitchen shall include each of the following elements:

- 1 Approved cooking, refrigeration, and sink facilities. A microwave or toaster oven shall not be considered an approved cooking appliance for purposes of determining if a room constitutes a kitchenette/efficiency kitchen.
- 2 A food preparation counter or counters that total at least 15 square feet in area; and
- 3 Food storage cabinets that total at least 30 square feet of shelf space.

Floor Area means the total floor area measured from the outside of the exterior walls of a detached ADU, or the area from the outside of the exterior walls of the ADU to the centerline of shared interior walls that separate the accessory unit and primary-unit living space. Proposed habitable space located under a sloping roof where the sloping ceiling measures less than five feet from the finished floor to the finished ceiling is not counted as floor area. Carports, covered porches (open on three sides) and patios, chimneys, stairwells and mechanical closets are not counted toward the determination of floor area of an ADU.

Habitable Floor Area means the total floor area of all habitable rooms in a dwelling unit.

Habitable Room means any finished and conditioned (heated) space or room in a dwelling unit other than a bathroom, closet, pantry, hallway, storage space, enclosed patio, laundry room, garage or carport as defined by the Building Code.

Main Dwelling Unit means the existing or proposed single-family dwelling on the lot where an ADU would be located.

Nonconforming Zoning Condition means a physical improvement on a property that does not conform to current zoning standards.

Passageway means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.

Proposed Dwelling means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

Public Transit means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

Tandem Parking means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

SECTION III. The Montclair Municipal Code for the City of Montclair (" Code") shall be amended to revise a portion of 11.18 as follows:

11.18.30 Uses Permitted

The following uses shall be permitted in the R-1 zone:

H. ~~Second Dwelling~~ Accessory Dwelling Units and Junior Accessory Dwellings Units

SECTION IV. The Montclair Municipal Code for the City of Montclair (" Code") shall be amended to revise a portion of 11.20 as follows:

11.20.20 Uses Permitted

The following uses shall be permitted in the R-2 zone:

A. Any use permitted in the R-1 zone except Junior Accessory Dwelling Units

F. Accessory Dwelling Units

SECTION V. The Montclair Municipal Code for the City of Montclair (" Code") shall be amended to revise a portion of 11.22 as follows:

11.22.20 Uses Permitted

The following uses shall be permitted in the R-3 zone

5.Accessory Dwelling Units

SECTION VI. The Montclair Municipal Code for the City of Montclair (" Code") shall be amended to revise a portion of 11.36 as follows:

11.36.40 Permitted Uses

The following uses shall be permitted in the R-3 zone

5.Accessory Dwelling Units.

SECTION VII. pursuant to Chapter 11.23 of this title and accessory buildings pursuant to Chapter 11.19 of this title or improvements incidental to any of the permitted uses in this chapter. No motor home, mobile home, tank, shipping container, trailer, business, or other vehicle or similar item shall be considered or permitted as accessory buildings.

The Montclair Municipal Code for the City of Montclair (" Code") shall be amended to repeal existing Chapter 11.23 and replace it with new Chapter 11.23 entitled " ACCESSORY DWELLING UNITS" as follows:

11.23.010 - Purpose and intent.

The purpose and intent of this chapter is to establish procedures for permitting accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) on lots zoned for residential uses, in accordance with California Government Code sections 65852.2 and 65852.22. This chapter provides standards for ADUs to minimize adverse impacts on the public health, safety, and general welfare from the establishment of accessory dwelling units.

Nothing herein shall preclude or prevent the City from undertaking any other enforcement action with respect to an accessory dwelling unit which the City is otherwise authorized under this code or applicable state or federal law, including but not limited to the abatement of public nuisances.

11.23.020 - Applicability.

- 1 This chapter shall apply to the construction of any ADU in single-family and multifamily residential districts within the City as defined herein.

- 2 The construction, establishment, alteration, enlargement, or modification of an accessory dwelling unit shall comply with the requirements of this chapter in conjunction with the issuance of necessary construction and alteration permits as may be required by adopted codes listed in Title 10 of the Montclair Municipal Code.
- 3 The provisions of this chapter shall in no way validate any existing accessory dwelling unit constructed without City approval and permits. Accessory structures erected without benefit of City approval and a building permit shall be removed upon notification or, if possible, modified to comply with the provisions of this chapter and any applicable requirements in the adopted codes listed in Title 10 of the Montclair Municipal Code.
- 4 Existing ADUs that were approved pursuant to City requirements and permits prior to the adoption of this Chapter are deemed to be lawfully permitted. Existing ADUs shall count towards the maximum number of ADUs allowed for each property. Modifications to the size of existing ADUs shall be subject to the provisions of this Chapter as modified from time to time.
- 5 ADUs are prohibited in all zones other than those zones where residential uses are permitted.
 - a. Adopted specific plans that already contain provisions for high-density residential and mixed-use development, including but not limited to the *North Montclair Downtown Specific Plan, Montclair Place District Specific Plan, and the Arrow Highway Mixed-Use District Specific Plan*.
 - b. Non-conforming residential developments on Commercial and Industrial properties.

11.23.030 - Permitted Locations and Standards.

Accessory dwelling units are allowed in all residential zones with a legally established existing, or proposed, main dwelling unit as specified in this section, and generally by means of one of the following scenarios:

- 1 In Single Family Zoned Districts (Table 1):
 - a. Conversion of existing space within the floor space of the main dwelling unit to provide a JADU. In a single family zoned districts, only one JADU shall be allowed on a single parcel.
 - b. Construction of an attached ADU or a detached ADU. In single family zoned districts only one ADU, attached or detached, shall be allowed with or without one JADU on a single parcel.

Table 1
ADU Development Standards - Single Family: R-1, R-1(SL), R-1(11), R-1(20)

Standard	JADU	Attached- ADU	Detached-ADU
Number of ADUs Allowed Per Lot ¹	Minimum of 1: JADU, or Attached- ADU, or Detached-ADU Maximum of 2: One JADU plus an Attached- ADU, or Detached-ADU		
Unit Size	Minimum 150 SF Maximum 500 SF	Minimum 150 SF Maximum 1,000 SF	150 SF 1,000 SF
Lot Coverage ² (All structures)	N/A	35 percent	35 percent Or 50 percent ³
Setbacks		Front: 25 feet Street Side: 15 feet Interior: 4 feet Rear: 4 feet	
Building Separation	N/A	N/A	6 feet
Building Height⁴	Maximum 16 feet for JADU, Attached- ADU, or Detached-ADU Exception for JADU or Attached-ADU when integrated into, or when attached to an existing two-story main dwelling unit. Maximum 35 feet or the height of the existing two-story main dwelling unit, whichever is less. Detached-ADU limited to 1-Story and maximum height of 16 feet.		
¹ Main dwelling unit required. ² Lot coverage Maximum does not applied to ADUs under 800 SF ³ Single family residential properties located in R1 zones on the official zoning map designated by the "SL" suffix ⁴ Building height measured to the peak of the structure. Minimum setback and building separation distances shall be measured from the closest points of the building or structure walls to another structure or property line, including chimneys, bay windows, or other architectural elements extending outward from the building wall plane.			

- 2 In multifamily-zoned districts and developments (Table 2) ADUs, except a JADU, are permitted and may be accommodated in one or more of the following ways:
- a. Conversion of covered or enclosed parking spaces, or
 - b. Conversion of unused or vacated non-habitable spaces such as offices, storage rooms, passageways, attics, basements, etc.; Conversion of Laundry facilities shall not be permitted unless required as part of a previously approved Precise Plan of Design and/or Conditional Use Permit for the subject property; or
 - c. Construction of detached ADUs on surplus or utilized open space area not within a required front or street side setback area;

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Table 2
ADU Development Standards - Multi-Family Zones: R-2 and R3

Standard	Attached- ADU-	Detached-ADU
Number Per Lot ¹ <i>(Includes conversion of qualifying existing space and new construction)</i>	Minimum of 1 unit (Attached or Detached ADU) or Maximum of 25 percent of the total number of existing dwelling units within in the complex ²	
Unit Size	150 SF Minimum 850 SF Maximum (One-bedroom) 1,000 SF Maximum (Two-bedroom)	
Lot Coverage ³ <i>(All structures)</i>	R-2:40 percent for structures over 800 SF R-3: Buildings and structures shall not cover more of a lot than would be permitted when satisfying all yard, open space, parking and access requirements for structures over 800 SF per MMC	
Setbacks	Front: 25 feet Street Side: 15 feet Interior: 4 feet Rear: 4 feet	
Building Separation	N/A	6 feet
Building Height ³	Attached-ADU: Maximum 16 feet or height of existing main residential building whichever is less, or Maximum height 35 feet or height of the existing two-story residential building, whichever is less. Detached-ADU: 1-Story and maximum height of 16 feet	
¹ An approved and constructed multifamily dwelling complex required. Complex is considered one property regardless of the number of parcels. ² When the calculation for maximum number of units results in a fractional number over 1 unit, it shall be rounded to the next highest whole number if the fraction is one-half or more; otherwise it shall be rounded down to the next lowest whole number. ³ Lot coverage Maximum does not applied to ADUs under 800 SF		

11.23.040 - Process and Timing.

The review of an ADU application is considered and approved ministerially, without discretionary review or a hearing. The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application, unless either:

- 1 The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
- 2 When an application to create an ADU or JADU is submitted on a vacant or partially vacant site involving new construction with a Precise Plan of Design permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the Precise Plan of Design permit application to create the new single-family dwelling, but the application to create the ADU or JADU will still be considered ministerial without discretionary review or a hearing.

11.23.050 - ADU and JADU Permit

The City may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the City's ADU ordinance. The ADU-permit processing fee is determined by the Planning Department and approved by the City Council by resolution.

11.23.060 - Parking.

One on-site uncovered parking space shall be required for each ADU, regardless of the number of bedrooms. No on-site parking shall be required for a JADU.

Parking space(s) may be provided on a paved surface within:

- 1 A front or street side setback area, provided that said space when combined with other hardscape surfaces within the setback does not exceed 50 percent of the required landscape setback area, as approved by the Community Development Director/Designee; or
- 2 As a tandem parking space on a new or existing paved driveway.
- 3 Parking space dimensions shall be at least 9 feet wide by 20 feet deep. Parking space within an enclosed garage shall have unobstructed dimensions of at least 10 feet wide by 20 feet deep.
- 4 No additional driveway approaches from public streets shall be permitted for required parking spaces for ADUs. Access to an authorized parking space may be provided from an alley.
- 5 Exception: No on-site parking space for an ADU shall be required in the following

situations:

- a. The ADU is located within one-half mile walking distance of public transit, including, without limitation, a bus stop, train station, or paratransit stop, as designated by a public agency; or
 - b. The ADU is located within an architecturally and historically significant district established by the City; or
 - c. When on-street parking permits are required but not offered to the occupant of the ADU; or
 - d. When there is an established car share vehicle stop located within one block of the ADU.
 - e. The ADU is converted as part of the proposed or existing primary residence or an accessory structure.
- 6 When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, replacement of such structures not required.

11.23.070 - Plan Review Submittal Requirements.

Proposals for an ADU or JADU shall require the preparation of professionally and accurately drawn plans for City review and subsequent approval of a building permit. Plans for an accessory dwelling unit shall be submitted to the Department of Community Development for review to determine compliance with each of the general requirements in subsection 11.23.090, prior to the submittal of an application for a building permit.

A complete set of plans, drawn in a standard architectural and/or engineering scale (e.g. ¼, ½, 1:10, 1:20, etc.) with appropriate dimensions and labels, shall include:

- 1 Site Plan. A site plan showing the entirety of the property and the location of the proposed ADUs in context with property lines, existing and/or proposed structures, and other significant features (e.g., driveways, pools, fences and walls, trees, utility poles and boxes, major slopes, etc.) on the site. Add dimensions for the site and setback distances from property lines and existing structures.
- 2 Floor Plans. Prepare a detailed and scaled floor plan for the ADU(s), identifying each room, room dimensions, and floor area calculations. Show location and size of all windows and doors. For an attached ADU or JADU provide a complete floor plan for the main dwelling unit to which they are attached.
- 3 Building Elevations. Complete set of dimensioned building elevations for detached and attached ADUs. Show all proposed openings, exterior

materials/finishes, roof pitch, and architectural details. For a JADU or Attached ADU, show proposed unit in context with the existing main dwelling unit to which it is attached.

- 4 Roof Plan. Show roof pitch, and placement of any required vents. No new or additional roof top air conditioner units or ducts shall be permitted on an attached or detached ADU, or JADU.

The review and approval of plans by Community Development Department shall be performed by the Director of Community Development or his/her designee and shall be completed within 60 days of receiving a complete application for an ADU which meets the requirements and standards of this Chapter.

11.23.080 - Building Permit Required.

Approval of an ADU application pursuant to this chapter is a ministerial action not subject to discretionary review beyond the General Requirements contained in this chapter. As such, plans receiving approval by the Community Development Department shall be submitted to the Building Division for required building permit(s). Plans shall comply with all applicable requirements of the Building Code as adopted pursuant to [Title 10](#) of the Municipal Code and enforced at the time of application.

11.23.090 - General requirements.

- 1 The property and on-site structures on which an ADU is proposed shall be in good physical condition consistent with Chapter 10.32 (Property Maintenance Code) of the Montclair Municipal Code. No building permit for an ADU or JADU shall be issued for properties having current building or zoning code violations, unpermitted construction, or code enforcement violations/liens, until such matters have been resolved.
- 2 Placement of an attached or detached ADU shall not be located on a parcel in a way that would prohibit access to a designated parking area, or impede safe ingress or egress by emergency personnel to the structure or yard areas.
- 3 A Detached-ADU may be of standard residential construction, manufactured housing, or factory-built housing placed on permanent foundations. Manufactured or factory-built housing shall be generally consistent with Design Guidelines specified in Section 11.23.100. The use of commercial storage or shipping containers for purposes of this Chapter shall not be permitted.
- 4 An Attached or Detached ADU shall contain no more than two (2) bedrooms
- 5 ADUs shall be assigned a separate address and identified by the addition of an alpha character (e.g., A, B.) to the address of the main dwelling unit on the property.
- 6 An ADU may be metered separately from the main dwelling unit for gas,

electricity, communications, water, sewer services. A JADU shall not be metered separately. The use of a sub meter for the JADU may be allowed to measure the amount of the utility (i.e., gas, electricity, and water) used by a JADU, subject to Building Code regulations.

- 7 All new utilities for a Detached-ADU shall be installed underground.
- 8 An Attached or Detached-ADU shall be constructed on a permanent foundation and connected to the public sewer.
- 9 An ADU must have a separate exterior entrance, apart from that of the main dwelling unit dwelling. The separate entrance shall be located on the side or rear of the structure and whenever possible facing interior yard areas; and
- 10 The primary and ADUs may not be sold separately and no subdivision of land or air rights shall be allowed.
- 11 Property owner shall obtain and provide to the City a Will Serve Letter from the City's authorized solid waste hauler.
- 12 Fire sprinklers shall be required in an ADU if sprinklers are required in the primary residence unless specifically exempt per Montclair City Code or State Code.
- 13 The detached ADU, and attached ADU and/or principal dwelling may be rented. Junior ADU constructed with living area of principle dwelling shall be subject to owner occupancy requirements.

11.23.100 – Standard ADU Design Guidelines.

The design of all ADUs shall be complementary or similar to the appearance of the main dwelling unit. When appropriate, the use of City pre-approved ADU designs is encouraged. In preparing plans, consideration shall be given to the following basic design elements:

- 1 Roof shape and pitch, eaves, roofing materials; and
- 2 Materials, textures, finishes and colors of the exterior walls, windows, doors, etc.; and
- 3 ADU façade elevations visible from the public right-of-way shall incorporate Windows, entries, or other architectural features that are compatible with the main dwelling unit.
 - a. Avoid locating bathroom facilities and placing related windows or vents on the street facing side of a proposed ADU.
 - b. Remove garage doors and replace with a new façade when converting a garage or carport attached to an existing main dwelling unit, or a detached garage structure. The new façade shall include windows and exhibit other

architectural features that are proportionate and compatible with the appearance of the main dwelling unit. Stucco walls devoid of compatible architectural features shall not be allowed.

- 4 No window-mounted or exposed roof-mounted HVAC equipment (e.g., air conditioners, condensers, and/or ductwork, etc.) shall be allowed. Roof mounted HVAC equipment may be proposed when fully screened from view to the street and adjoining properties by means of a mechanical well and/or parapets walls of a height proportionate and appropriate to architecture of the ADU and main dwelling unit, as approved by the Community Development Director. The use of a mini-split HVAC system that does not rely on ducts to deliver heated and cooled air is encouraged.

11.23.110 - Owner Occupancy.

An ADU and/or the main dwelling may be rented without owner occupancy requirements. ADUs can be rented for a term no fewer than 30 days for residential purposes, and cannot be used as a short-term or vacation rental (fewer than 30 days).

If there is a JADU on the property, either the JADU or Primary Dwelling shall be occupied by the owner of record, unless the property is entirely owned by another governmental agency, land trust, or housing organization.

- 1 Deed Restriction. Prior to issuance of a final inspection and release of occupancy of building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Development Services Department. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:
 - a. The ADU or JADU may not be sold separately from the main dwelling.
 - b. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - c. The deed restriction runs with the land and may be enforced against future property owners.
 - d. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request to the Community Development Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Community Development Director's determination consistent in accordance with Chapter 17.47. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining

structure and improvements must otherwise comply with applicable provisions of this Code.

- 2 The deed restriction is enforceable by the Community Development Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

11.23.120 - Reporting of Annual Rent

To facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code sections 65583.1 and 65852.2, the following requirements shall be satisfied:

- 1 With the building permit application, the applicant shall provide the City with an estimate of the projected annual rent that will be charged for the ADU or JADU.
- 2 By January 31 of each calendar year, the owner of the property containing an ADU or JADU shall report the actual rent charged for the ADU or JADU during the prior calendar year. If the City does not receive the report, the owner is in violation of this Code, and the City may send the owner a notice of violation. If the owner fails to submit the report within the time period stated in the notice of violation, the City may enforce this provision in accordance with applicable law. This condition shall be added to owner occupancy covenant,

11.23.130 - Impact Fees.

- 1 Development impact fees are required to be paid for an attached or detached ADU greater than 750 square feet. Development impact fees charged shall be charged proportionately in relation to the square footage of the primary dwelling unit.
- 2 Development impact fees are not required to be paid for construction of a JADU.

11.23.140 - Conformance.

Approved accessory dwelling units that conforms to this section shall:

- 1 Be deemed an accessory use or an accessory building; and
- 2 Be deemed a residential use that is consistent with the General Plan and the zoning designations for the lot; and
- 3 Not be considered to exceed the allowable density for the lot on which it is located and not be counted as part of the overall density allowed in the zoning district.

ORDINANCE NO. 21-998

AN ORDINANCE OF THE CITY OF MONTCLAIR CALIFORNIA REPEALING AND REPLACING CHAPTER 11.73 OF THE MONTCLAIR MUNICIPAL CODE TO UPDATE REGULATIONS AND STANDARDS FOR WIRELESS TELECOMMUNICATIONS FACILITIES ON PUBLIC AND PRIVATE PROPERTY; ADDING CHAPTER 11.77 TO THE CITY MUNICIPAL CODE TO ESTABLISH AN ADMINISTRATIVE PERMITTING PROCESS; AND AMENDING CHAPTER 11.46 TO EXEMPT CERTAIN WIRELESS TELECOMMUNICATIONS FACILITIES

WHEREAS, the City of Montclair, California (“City”) is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

WHEREAS, pursuant to the police powers delegated to it by the California Constitution, the City is authorized to enact laws which promote the public health, safety, and general welfare of its citizens; and

WHEREAS, the City currently regulates permitting of wireless telecommunications facilities on public and private property in the City pursuant to Chapter 11.73 which was adopted in 2002; and

WHEREAS, numerous new federal and state laws and regulations have come into force since that time which place restrictions on local permitting including but not limited to establishing short timelines or “shot clocks” for action on applications, establishing “deemed granted” and other remedies for failing to take final action, and preempting local authority to deny certain types of wireless telecommunications facilities applications; and

WHEREAS, the City Council deems it to be necessary and appropriate to update its standards and regulations relating to the location, placement, design, construction, and maintenance of wireless telecommunications facilities on public and private property in the City, and providing for the enforcement of said standards and regulations, consistent with federal and state law limitations on that authority; and

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Montclair City Council:

SECTION I. The foregoing Recitals are adopted as findings of the City Council as though set forth in fully within the body of this ordinance.

SECTION II. Chapter 11.73 of the Montclair Municipal Code for the City of Montclair (“Code”) shall be repealed and replaced as shown in Exhibit A.

SECTION III. Title 11, Division IV of the Code shall be amended to add new Chapter 11.77, which is contained in Exhibit B.

SECTION IV. Section 11.46.010 of the Code shall be amended to add the following:

“This Chapter 11.46 does not apply to wireless telecommunications facilities that are subject to the regulations in Chapter 11.73 of the Code.”

SECTION V. Environmental Review. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The Ordinance establishes an application process for permits to install or modify wireless telecommunications facilities on new and existing structures on public and private property in the City of Montclair. The Ordinance does not authorize any specific development or installation on any specific piece of property within the City’s boundaries. Moreover, when and if an application for installation is submitted, the City will – at that time – conduct preliminary review of the application in accordance with CEQA.

Alternatively, even if the Ordinance is a “project” within the meaning of State CEQA Guidelines section 15378, the Ordinance is exempt from CEQA on multiple grounds. First, the Ordinance is exempt from CEQA because the City Council’s adoption of the Ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, §15061(b)(3).) That is, approval of the Ordinance will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with this Ordinance, the applicant would have to submit an application for installation of the wireless facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the City will conduct preliminary review under CEQA at that time.

Moreover, in the event that the Ordinance is interpreted so as to permit installation of wireless facilities on a particular site, the installation would be exempt from CEQA review in accordance with either: (1) State CEQA Guidelines section 15302 (replacement or reconstruction) because the wireless telecommunications facility installations regulated by the Ordinance involve the replacement or modification of existing structures and facilities on private and public property in the City of Montclair where the replacement support structure will be located on the same site as the structure that it is replacing and will serve substantially the same purpose and capacity as the structure that it is replacing; and/or (2) State CEQA Guidelines section 15303 (new construction or conversion of small structures) because the wireless telecommunications facility installations regulated by the Ordinance involve new structures and/or the replacement or modification of existing structures and consist of: (a) the construction and siting of limited numbers of wireless telecommunications facilities; (b) the installation of associated equipment in ground-mounted cabinets or enclosures not exceeding 10,000 square feet in floor area on sites zoned for such use, not involving the use of significant amounts of hazardous substances; and (3) limited utility extensions to serve such facilities on public and private property where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive. None of the exceptions to the Class 2 or 3 Categorical Exemptions found in State CEQA Guidelines section 15300.2 apply because the

Ordinance does not present any unusual circumstances; would not damage scenic resources, including any resources in the area of a Scenic Highway; would not be utilized on a hazardous waste site; and would not impact historic resources of any kind. The City Council, therefore, directs that a Notice of Exemption be filed with the San Bernardino County Clerk within five working days of the passage and adoption of the Ordinance.

SECTION VI. Severability. If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Ordinance, it being the intent of the City that the remainder of the Ordinance shall be and shall remain in full force and effect, valid, and enforceable.

SECTION VII. Effective Date. That notice of passage of this Ordinance shall be posted at City Hall and the Montclair Public Library and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the City of Montclair, California.

APPROVED AND ADOPTED this __ day of _____, 2021.

Mayor

ATTEST:

City Clerk

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. __-__ of said City, which was introduced for first reading at a regular meeting of the City Council held on the __ day of _____, 2021, and was adopted at second ready at a regular meeting of the City Council held on the __ day of _____, 2021, by the following vote, to-wit:

AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Andrea M. Phillips
City Clerk

EXHIBIT A

Chapter 11.73 - WIRELESS TELECOMMUNICATIONS FACILITIES

11.73.010 - Purpose and intent.

The purpose and intent of this Chapter is to establish standards for the review, siting and development of wireless telecommunications facilities on public and private property throughout the City. A primary intent is to ensure that wireless networks are implemented with the fewest possible facilities, in the least visible manner and with the least disruptive impact on the City's neighborhoods. This shall be accomplished through allowing collocation of multiple wireless providers at approved locations, requiring creative, stealth facility designs in zones where facilities are allowed, and prohibiting facilities within, and immediately adjacent to, certain limited City zoning districts where such facilities on public and private property would be highly incompatible with the predominant existing uses in those zoning districts. The regulations set forth in this Chapter are intended to protect and promote the public health, safety and general welfare, and to promote and enhance the aesthetic qualities of the community as set forth in the goals, objectives and policies of the General Plan, while concurrently allowing for the orderly and efficient development of a wireless telecommunications infrastructure in accordance with state and federal law and Federal Communications Commission regulations.

11.73.020 - Applicability.

This Chapter applies to all wireless telecommunications facilities existing and proposed to be located within the corporate boundary of the City of Montclair, except wireless telecommunications facilities in the public right-of-way that are subject to Chapter 9.105 and antennas and satellite dish antennas that are subject to Chapter 11.46 of the City Code.

11.73.030 - Exemptions.

The following facilities are exempt from the requirements of this Chapter 11.73, and may be governed by other laws:

A. Amateur radio antennas:

- a. That are completely enclosed within a permitted building; or
- b. That consist of a single wire not exceeding one-fourth inch in diameter. Such wire antennas may be located in setback areas provided the antenna does not extend above the maximum building height in the district.
- c. That consist of a single ground-mounted vertical pole or whip antenna not exceeding the maximum building height allowable for the zone measured from finish grade at the base of the antenna, and not located in any required setback area. Support structures or masts for pole or whip antennas shall conform to standards set out in the California Building Standards Code. A building permit may be required for the support structure or mast.

- B. "Like kind" equipment meaning the replacement or changing of equipment in an existing shroud, cabinet, vault, or secured ground lease area, which was approved by an entitlement and/or permit issued by the City that is substantially similar in appearance, size, dimensions, weight, and RF emissions to the then-existing and approved equipment. This exemption does not apply to generators.

- C. The following temporary facilities that will be placed for less than seven consecutive days, provided any necessary building permit or other approval is obtained and the landowner's written consent is provided to the Director prior to installation:
 - 1. Facilities installed and operated for large-scale events; and
 - 2. Facilities needed for coverage during the temporary relocation of an existing and already-approved facility.

11.73.040 - Nonconforming Wireless Telecommunications Facilities

- A. **Legal Nonconforming Facility.** Any facility that is lawfully constructed, erected, or approved prior to the effective date of Ordinance 21-998, in compliance with applicable laws, and which facility does not conform to the requirements of this chapter shall be accepted and allowed as a legal nonconforming facility. Legal nonconforming wireless telecommunications facilities shall comply at all times with the laws, ordinances, and regulations in effect at the time that the application was granted, and any applicable federal or state laws as they may be amended or enacted from time to time, and shall at all times comply with the conditions of approval. Any legal nonconforming facility which fails to comply with applicable laws, ordinances, regulations, or conditions of approval may be required to conform to the provisions of this chapter.
- B. **Illegal Nonconforming Facility.** Any facility constructed or erected prior to the effective date of Ordinance 21-998 in violation of applicable laws, ordinances, or regulations shall be considered an Illegal Nonconforming Facility and shall be abated as a public nuisance pursuant to Chapters 1.12 and 7.24.020.H of the Montclair Municipal Code

11.73.050 - Definitions.

For the purposes of this Chapter, the following definitions shall apply:

Administrative Permit means a permit obtained pursuant to Chapter 11.77.

Alternative tower structure means clock or bell towers, steeples, spires, monoliths, light poles, artificial trees and similar alternative design mounting structures that camouflage or conceal the presence of an antenna or antenna arrays.

Antenna means any exterior transmitting or receiving device mounted on a tower, building structure, pole or alternative tower structure and used in communication that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies, wireless telecommunications signals or other communications signals.

Antenna array means a set of one or more antennas.

Applicant means the person filing an application for placement or modification of a wireless telecommunications facility on public or private property in the City of Montclair.

Building-mounted - means mounted to the side or integrated into the façade, but not the roof, of a building or another structure such as a water tank, pump station, church steeple, freestanding sign, or similar structure.

CUP means Conditional Use Permit.

City shall mean the City of Montclair, California, a municipal corporation.

Code means Montclair Municipal Code.

Collocation means (a) for the purposes of any eligible facilities request, the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(2), as may be amended, which defines that term as "[t]he mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes." As an illustration and not a limitation, the FCC's definition means to add transmission equipment to an existing facility and does not necessarily refer to two or more different facility operators in the same location; and (b) for all other purposes, the same as defined in 47 C.F.R. § 1.6002(g)(1) and (2), as may be amended, which defines "collocation" as (1) mounting or installing an antenna facility on a pre-existing structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

Director means the Director of Community of Development of the City of Montclair or his or her designee.

Eligible Facilities Request means the same as in 47 C.F.R. § 1.6100(b)(3), or any successor provision.

FCC means the Federal Communications Commission or its lawful successor.

Fall Zone - means the area on the ground within a prescribed radius from the base of a wireless telecommunications facility. The fall zone is the area within which there is a potential hazard from falling debris, collapsing material or the collapse of the tower itself.

Freestanding telecommunications tower or structure - means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, such as a monopole tower.

Height means, when referring to a tower or other structure, the vertical distance measured from the finished grade level to the highest point on the tower or other structure, even if said highest point is an antenna. The finished grade shall not be artificially or unnecessarily raised to achieve a taller height for the tower or structure.

Modification means any change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, a change in size, shape, color, visual design, or exterior material. Modification does not include repair, replacement, or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation.

Monopalm means a stealth tower structure resembling a palm tree constructed and designed for the sole purpose of supporting and concealing a wireless telecommunications antenna or antenna array.

Monopine means a stealth tower structure resembling a pine tree constructed and designed for the sole purpose of supporting and concealing a wireless telecommunications antenna or antenna array.

Monopole means a structure comprised of a single spire for the sole purpose of supporting a wireless telecommunications antenna or antenna array.

Roof-mounted means an antenna or antenna array directly attached or affixed to the roof of an existing building, tower or structure other than a lattice tower, monopole, monopalm or monopine.

Stealth means elements of the design intended to make the wireless facility look like something other than a wireless facility.

Temporary Facility means a wireless facility intended or used to provide wireless services on a temporary or emergency basis, such as a large-scale special event in which more users than usual gather in a single location or following a duly proclaimed local or state emergency as defined in California Government Code Section 8558 requiring additional service capabilities. Temporary facilities include without limitation, cells on wheels (COW), sites on wheels (SOW), cells on light trucks (COLTs), or other similar wireless facilities: (1) that will be in place for no more than six months (or such other longer time as the City may allow in light of the event or emergency); (2) for which required notice is provided to the FAA; (3) that do not require marking or lighting under FAA regulations; (4) that will be less than 200 feet in height; and (5) that will either involve no excavation or involve excavation only as required to safely anchor the facility, where the depth of previous disturbance exceeds the proposed construction depth (excluding footings and other anchoring mechanisms) by at least two feet.

Wireless telecommunications facility (or wireless facility) means antenna structures and other types of installations used for the provision of wireless services at a fixed location, including, without limitation, any associated tower, support structure(s), and base station(s). Accessory equipment associated with the installation of a wireless telecommunications facility includes, but is not limited to, cabling, generators, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers, service roads and other similar improvements.

11.73.060 - Permit required.

An Administrative Permit or Conditional Use Permit (CUP), as applicable, processed in accordance with Chapter 11.77 or Chapter 11.78 of the Montclair Municipal Code shall be required for all wireless telecommunications facilities on public and private property within the City that are not exempt pursuant to Section 11.73.030. A CUP is required for installations involving a new freestanding support structure and for certain collocations that the Director has deemed complex based on the nature of the installation. All other wireless installations on public and private property require an Administration Permit.

11.73.070 - Primary land use required.

Wireless telecommunications facility shall be permitted only as an accessory use on real property that is presently developed with a legal, conforming primary land use. Applications for facilities on undeveloped parcels shall not be considered unless the application is filed concurrently with an application for development of a conforming land use on the parcel. A variance application requesting that development of the primary land use on the parcel be permitted to deviate from any of the City's development standards solely to accommodate a wireless telecommunications facility on the same parcel shall not be considered.

11.73.080 - Application requirements.

In addition to complying with the standard application submittal requirements for an Administrative Permit or CUP as provided for in Chapters 11.77, 11.78, and 11.73 of the

Montclair Municipal Code, the applicant shall also provide all information required on a form published, and from time to time updated, by the Director.

11.73.090 - Permitted locations.

Wireless telecommunications facilities on public and private property may be located within the following zoning districts, subject to the approval of a CUP and compliance with the design standards of Section 11.73.110:

A. Wireless Telecommunication Facilities in Residential Zones

1. R-1 Zone (Single-Family Residential) - On properties two acres in size or larger where the primary use is not residential such as a religious institution, public utility facility, public park, or other similar non-residential use as determined by the Community Development Director. Qualifying properties may be comprised of one or more abutting parcels under the same ownership.
2. R-3 Zone (Multiple-Family Residential) - when integrated into the existing architectural framework of a building or structure - such as the backside of parapet walls, within towers or wall setbacks, in roof attic space, etc. - so that the presence of an antenna or antenna arrays are concealed. Ground mounted support equipment shall not be located in required parking spaces and/or required setbacks. Freestanding wireless telecommunications facilities shall be not be permitted

B. Non-Residential Zones

1. AP (Administrative Professional Zone);
2. C-3 (General Commercial Zone);
3. MIP (Manufacturing Industrial Zone);
4. M-1 (Limited Manufacturing Zone);
5. M-2 (General Manufacturing Zone).

C. Specific Plans

1. North Montclair Downtown Specific Plan (NMDSP)
2. Montclair Place District Specific Plan (MPDSP)
3. Arrow Highway Mixed-Use District (AHMUD)
4. Auto Mall," "Business Park," "Commercial," "Commercial/Office" and "Industrial" zones of the Holt Boulevard Specific Plan (HBSP).

11.73.100 - Prohibited locations.

Wireless telecommunications facilities on public and private property shall be expressly prohibited within the following zoning district designations:

1. R-1 Zone - where the primary use of the site is residential and the site does not meet the minimum parcel size requirement as identified in Section 11.73.090.A.1;
2. R-2 (Two-Family Residential);
3. C-2 (Restricted Commercial).

11.73.110 - Design and Development standards for Wireless Telecommunications Facilities on Public and Private Property.

The following development standards shall be applicable to all wireless telecommunications facilities on public and private property, to the extent allowed by applicable law:

- A. Building Permits. All improvements associated with a new wireless telecommunications facility and all modifications to existing facilities, shall require City review and the issuance of building permits.
- B. Minimal Visual Impact. All wireless telecommunications facilities shall utilize all practical means and designs to minimize the visual impact of these facilities to surrounding area in which the facility is located, including, but not limited to, the following:
 - 1. Applicants are encouraged to utilize the smallest facility components and support structure necessary to meet the applicant's defined service objectives. Stealthed and inconspicuous installations on existing structures are preferred over new freestanding structures.
 - 2. All wireless telecommunications facilities shall be stealth, or designed to employ screening and/or camouflage design techniques to ensure that the facility is as visually compatible and/or inconspicuous as feasibly possible. Proposed telecommunication facilities shall consider the surrounding context in determining the type of facility, its design, scale, colors, and materials.
 - 3. Artificial "trees." The use of an artificial monopalm or monopine design facility may be permitted in specific physical settings, but are not encouraged if other alternative stealthing methods are available. If an artificial tree is proposed, the design shall meet the following requirements:
 - a. The selection of an artificial tree style shall be compatible with existing natural trees in the immediate areas of the installation. If no natural trees exist within the immediate area, the applicant shall create a landscape setting that integrates the artificial tree with added species of a similar variety. In these cases, the City reserves the right to require the installation of live trees having a height equivalent to 75 percent of the height of the artificial "tree."
 - b. Branching patterns for "monopine" or similar shall begin a minimum of 12 feet from the base of the structure. Further, antennas and/or array of antennas shall not extend beyond in any direction from the end of branches or fronds.
 - c. Antennas, support arms, foot pegs, shrouds and other hardware elements shall be painted, coated, and/or covered in a manner to blend in with colors and finishes of the artificial tree.
 - d. Ample branch pattern and foliage shall be provided to conceal antennas from view and achieve the appearance of a natural tree or palm to the greatest extent possible, subject to the approval of the Community Development Director. If deemed necessary by the Director, an additional 5 to 10 feet in height may be granted to achieve a more natural appearing tree. The additional height shall not be utilized for increasing the height of any antenna or antenna array.
 - e. Faux bark cladding shall be provided from the ground to five feet beyond where the faux branches begin; above the faux bark shall be flat non-reflective paint to match the bark.
 - f. A maximum of nine (9) antenna panels may be installed per carrier permitted to collocate on any type of freestanding wireless telecommunication tower or structure.

4. **Building Mounted Facilities.** Building mounted wireless telecommunication facilities are preferred wherever feasible. Such installations shall be integrated architecturally with the existing building or structure and may be integrated into new or existing architectural elements such as, but not limited to, cupolas, chimneys, towers, steeples, attic spaces, behind parapet walls, or on the side wall of a building not visible to the street or adjacent properties. All building mounted installations are subject to the review of Community Development Director and may be approved upon the finding that subject proposal is exceptional in design and architecturally appropriate with the existing building or structure to which the facility is affixed.
5. **Cables and Wiring.** All cables and wiring must be within the structure, or if not feasible, within conduit on the exterior of the structure. The conduit must be a color that matches the pole and of the smallest size technically feasible.
6. **Electric.** Applicants must use flat rate electric metering, if available. In any case where a meter would be ground-mounted or pole-mounted and cannot be completely concealed within the building or proposed structure, applicant shall use the smallest form factor metering device available.

C. **Height.**

1. For Building Mounted facilities on an existing, legally permitted, building or structure, the maximum height shall not exceed the applicable height limit for structures in the applicable zone. Any increase in height of an existing structure to accommodate a building mounted facility shall be designed to be in scale and proportion to the existing building or structure as originally configured.
2. For a freestanding wireless facility the maximum height shall be as low as possible to meet the applicant's defined service objectives and shall not exceed 55 feet. The Planning Commission may consider an exception for up to an additional 15-foot increase in height provided that the applicant can demonstrate the technical necessity of such extension and provided that the performance and design standards of this chapter are met. The applicant shall pay for the City to hire an independent qualified radio frequency engineer to substantiate the applicant's claim of technical necessity.
3. No rooftop-mounted facilities shall be allowed, unless a proposed facility is designed to architecturally integrate into the existing building or structure and the antennas and support equipment are completely concealed. The use of a wood or metal screen panels are not considered to be sufficient to meet the above requirement. Equipment shall not be placed on a rooftop where the rooftop is less than 20 feet above ground level.

D. **Setbacks.** Freestanding facilities, guy wires, accessory buildings and other ancillary improvements associated with the facility shall comply with the minimum setbacks of the underlying zoning district or Specific Plan, as further clarified below:

1. No freestanding tower or ground mounted support equipment and enclosures shall be permitted in the front and/or street side setback areas.
2. In no case shall a freestanding tower, or any part thereof, be located within 25 feet of any property line of an abutting property with a residential use, including multi-family developments.

3. In addition to the aforesaid provisions, a freestanding telecommunications tower or structure allowed in the R-1 Zone shall be setback from the nearest property line(s) of a residential property the lesser distance as determined by the one of the two following methods:
 - a. A distance equal to 120 percent of the permitted height of the freestanding antenna tower or structure; or
 - b. The distance identified as the “fall zone,” an area within the prescribed radius from the base of a wireless telecommunications facility in which there is a potential hazard from falling debris, collapsing material or the collapse of the tower itself, as calculated and stamped by a California licensed structural engineer. In no case, shall the freestanding telecommunications tower or structure be located closer than 25 feet from any adjacent property lines.

E. Separation. The following separation requirements shall apply to all wireless telecommunications facilities, provided, however, that the Community Development Director or Planning Commission, as the case may be, may consider a reduction in the minimum separation requirement if: (1) the goals of this Chapter would be better served by granting such approval; or (2) doing so would prevent a violation of law.

Type of Facility	Minimum Required Separation
Freestanding → Freestanding	750 feet
Freestanding → Facade/roof-mounted	500 feet
Facade/roof-mounted → Facade/roof-mounted	500 feet

- F. Traffic Safety. All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.
- G. Parking. Placement of a wireless telecommunications facility in a parking lot or parking structure may not cause a reduction in the required parking spaces to less than the number required for the existing use(s) on the subject property.
- H. General Orders. All installations shall fully comply with the California Public Utilities Commission (“CPUC”) General Orders, including, but not limited to General Order 95 (“GO 95”). None of the design standards are meant to conflict with or cause a violation of GO 95, including, but not limited to, its standards for a safe installation on a utility pole. Accordingly, the standards can be adjusted at the City’s discretion to ensure compliance with CPUC rules on safety.
- I. Landscaping. In addition to any landscaping used for concealment or screening purposes, the applicant shall install additional landscaping to replace any existing landscaping displaced during construction or installation of the applicant’s facility, including but not limited to add, fix, and/or replace any permanent irrigation system.
 1. The applicant’s landscaping plan shall be subject to the City’s review and approval but shall, at a minimum, match the existing landscaping and foliage surrounding the installation site.
 2. All landscaping and permanent irrigation plans shall include a long-term maintenance and irrigation schedule.

3. All landscaping shall be maintained by owner of the facility in a neat, orderly, disease- and weed-free condition at all times.
- J. Signage. All wireless telecommunications facilities must include signage that accurately identifies the equipment owner/operator, the site name or identification number, and a toll-free number to the owner/operator's network operations center. Wireless telecommunications facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law, or recommended under existing and future requirements from the FCC or other United States governmental agencies for compliance with RF emissions regulations. Required signs shall be placed where appropriate, and not at pedestrian eye level, unless required by the FCC or other regulatory agencies.
- K. Security. Wireless telecommunications installations and their support facilities shall be protected by decorative security fencing or walls (e.g., masonry, wrought iron, tubular steel or similar enhanced fencing) as approved by the Director. Fence or wall enclosures shall also be:
1. Designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous situations, visual blight, or attract nuisances.
 2. Not less than six feet in height, provided, however, that the Director may require modification to this requirement as may be deemed appropriate in response to exceptional site characteristics. The use of barbed, razor, concertina or like materials shall be prohibited.
 3. Illuminated if required to enhance safety or deter unauthorized activity. If required, lighting must be kept to the minimum level necessary and all luminaires shall be 90-degree cut-off design with flat lenses. The use of unshielded wall fixtures (e.g., wall packs, barn lighters or similar) shall be expressly prohibited.
- L. Accessory Structures. Equipment buildings and structures associated with wireless telecommunications facilities shall be kept to a minimum in number none of which shall exceed 350 square feet of gross floor area nor be more than 10 feet in height. Such accessory structures shall contain an enhanced exterior design, such as walls of decorative masonry, exposed aggregate panels or stucco, and gable, hip or mansard roofs.
- M. Replacement Structures. If an applicant proposes a replacement structure to accommodate the wireless telecommunications facility, it must meet the following standards:
1. Placement. The replacement structure must be in the same place as the existing structure, or as close as is technically feasible.
 2. Design. The replacement structure should resemble and/or significantly improve the appearance, color, dimensions, height, style, and materials of the structure that it is replacing unless technically infeasible.
- N. Ground-Mounted Facilities. Outdoor ground-mounted equipment associated with support structures and base stations shall be avoided whenever feasible. In locations visible or accessible to the public, applicants shall conceal outdoor ground-mounted equipment, including ancillary power generation equipment, with opaque fences or landscape features

that mimic the adjacent structure(s) (including, but not limited to, dumpster corrals and other accessory structures).

11.73.120 - Monitoring and Maintenance

The owner of the wireless telecommunications facility shall routinely monitor the site to ensure the facility is maintained in good condition at all times in accordance with all approved plans and conditions of approval. Such maintenance shall include, but shall not be limited to, routine inspections to verify the facility and its components are structurally sound, is free of: general dirt and grease; chipped, faded, peeling or cracked paint; trash, debris, litter, graffiti and other forms of vandalism; cracks, dents, blemishes and discolorations; visible rust or corrosion on any unpainted metal areas; and, the health and operation of associated landscaping and irrigation.

The owner of the facility shall also be responsible for maintaining the integrity and appearance of their facility making sure that any deficiencies (e.g., missing or defective parts, faux branches and foliage, stealth components, etc.) are routinely replaced in a timely manner with matching material and functioning parts, with or without notification from the City.

Any damage from any cause shall be repaired by the permittee within 30 days of notice. Weathered, faded or missing parts/materials used to disguise/camouflage the facility shall be maintained and/or replaced by the permittee within 30 days of notice. All graffiti on facilities must be removed at the sole expense of the permittee within seventy two (72) hours after notification from the City. All other forms of vandalism and damage shall be removed and/or repaired within seventy two (72) hours of notice by the City.

11.73.130 - Special Standards for Temporary Facilities

- A. The proposed temporary facility must comply with all applicable laws and regulations, and submit proof of compliance, as proposed for use, with FCC regulations governing radiofrequency emissions.
- B. The proposed facility will be placed and protected to prevent hazard to the public and property, and so as not to unreasonably interfere with pedestrian vehicular traffic, and all ADA space and path of travel requirements.
- C. The proposed facility must comply with all conditions for a temporary wireless facility, and there must be an appropriate plan for removal of the facility and restoration of property affected by it.
- D. The permit is sought for the minimum period required, and no greater than the maximum period permitted by the City.
- E. Any permit issued shall identify where the temporary wireless facility will be placed, and the period for which it may remain in place.

11.73.150 - Required findings for wireless telecommunications facilities.

- A. Other than eligible facilities requests and temporary wireless facilities, the Director, City Manager, or Planning Commission, as the case may be, shall approve the installation or modification of a wireless telecommunications facilities if, on the basis of the application and other materials or evidence provided in review thereof, it finds the following: These are in addition to any applicable findings in Title 11 of the Montclair Municipal Code associated with a Conditional Use Permit, when applicable.

1. There is adequate space on the property for the wireless telecommunications facility without conflicting with existing buildings or other improvements on the property or reducing required parking or landscaping;
 2. The design and placement of the wireless telecommunications facility complies with all applicable design and location standards, and will not adversely impact the use of the property, buildings and structures located on the property, or the surrounding area or neighborhood;
 3. The wireless telecommunications facility as proposed is consistent with the provisions of this Chapter and complies with all other applicable requirements of Title 11 of the Montclair Municipal Code; and
 4. The wireless telecommunications facility meets applicable requirements and standards of state and federal law.
- B. For eligible facilities requests, the Director, City Manager, or Planning Commission, as the case may be, shall approve the installation or modification of a wireless telecommunications facilities if, on the basis of the application and other materials or evidence provided in review thereof, it finds the following:
1. The application qualifies as an eligible facilities requests subject to this Chapter.
 2. The proposed facility will comply with all generally-applicable laws.
- C. For temporary facilities not exempt pursuant to Section 11.73.030(C), the Director, City Manager, or Planning Commission, as the case may be, shall approve an application if, on the basis of the application and other materials or evidence provided in review thereof, it finds the following:
1. The facility qualifies as a temporary facility;
 2. There is an adequate need for the facility (e.g., wireless facility relocation or large-scale event);
 3. The facility is not detrimental to the public health, safety, and welfare;
 4. The facility complies with all applicable design and location standards; and
 5. The facility meets all applicable requirements of state and federal law.

11.73.140 – Exceptions.

- A. The approving authority may grant an exception to any of the requirements of this Chapter and/or the applicable design and location standards if it determines that the applicant has established that denial of an application would:
1. within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services; or
 2. otherwise violate applicable laws or regulations; or
 3. require a technically infeasible design or installation of a wireless telecommunications facility.

- B. If that determination is made, the requirements of this Chapter and/or the applicable design and location standards may be waived, but only to the minimum extent required to avoid the prohibition, violation, or technically infeasible design or installation.

11.73.150 - Conditions of approval.

- A. Conditions of approval shall be imposed by the approving authority on all permits granted pursuant to this Chapter to ensure compliance with the intent of Title 11 of the City Code, the required standards and findings, and the protection of the public health, safety, general welfare and aesthetics.
- B. In addition to any supplemental conditions imposed by the approving authority, all permits granted pursuant to this Chapter shall be subject to the following conditions, unless modified by the approving authority:
 - 1. This permit shall be valid for a period of ten (10) years, unless pursuant to another provision of the Code or these conditions, it expires sooner or is terminated. At the end of ten (10) years from the date of issuance, this permit shall automatically expire, unless an extension or renewal has been granted. A person holding this permit must either (1) remove the facility within thirty (30) days following this permit's expiration (provided that removal of any support structure owned by City, a utility, or another entity need not be removed, but must be restored to its prior condition, except as specifically permitted by the City); or (2) at least ninety (90) days prior to expiration, submit an application to renew this permit, which application must, among all other requirements, demonstrate that the impact of the wireless telecommunications facility cannot be reduced. The wireless facility must remain in place until it is acted upon by the City and all appeals from the City's decision exhausted.
 - 2. Timing of Installation. The installation and construction authorized by this permit shall begin within one (1) year after its approval, or such approval shall expire without further action by the City. The installation and construction authorized by this permit shall conclude, including any necessary post-installation repairs and/or restoration to the installation site, within thirty (30) days following the day construction commenced. If the wireless facility is to be installed adjacent to residences, construction and maintenance of the facility shall be limited to the hours of 9:00 AM to 5:00 PM, Monday through Friday. Emergency repairs of the wireless facility may occur at any time.
 - 3. The operation of the approved facility shall commence no later than one (1) month after the completion of installation, or this permit will expire without further action by the City.
 - 4. The Permittee shall submit an as-built drawing within ninety (90) days after installation of the facility, in a format acceptable to the City.
 - 5. The wireless telecommunications facility shall be constructed in substantial compliance with plans reviewed and approved by the Director.
 - 6. No advertising, signs or lighting shall be incorporated or attached to the antenna array or support facilities, except as required by the City's Building Division or federal regulations.

7. All electrical and utility connections serving the facility shall be placed underground in accordance with the requirements of the Montclair Municipal Code.
8. A back-up generator authorized by this permit must comply with City Code Chapter 6.12 - "Noise Control".
9. The permittee shall submit to the City certification of continued use of the approved facility on an annual basis at the time of business license renewal for as long as the facility remains in operation. The certification shall indicate that the facility is operating as approved and that the facility complies with the most current FCC safety standards. Facilities that are no longer in operation shall be completely removed within 90 days after the date cessation of operation.
10. If no annual certification is provided, the permit for the facility may be revoked by the Director. Prior to revoking a permit, the Director shall provide the owners of record written notice of their failure to provide the annual certification and an opportunity for a hearing.
11. Written notice of change of ownership and contact information of the facility shall be provided in writing to the Director within 30 days of said change. Failure to provide the information may cause for grounds to revoke the entitlements by the Director.
12. RF Exposure Compliance. All facilities must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards. After transmitter and antenna system optimization, but prior to unattended operations of the facility, permittee or its representative must conduct on-site post-installation RF emissions testing to demonstrate actual compliance with the FCC OET Bulletin 65 RF emissions safety rules for general population/uncontrolled RF exposure in all sectors. For this testing, the transmitter shall be operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the uncontrolled/general population limit.
13. All future changes and modifications to an approved facility shall require prior review and approval by Chapter 11.73.
14. Prior to construction of the facility, the permittee shall:
 - a. Obtain a building permit that complies with all requirements of the Building and Engineering Divisions and the Montclair Fire Department.
 - b. Remit to the City a performance bond, or other form or surety acceptable to the City in an amount to be determined by the Director for the purpose of removing the subject facility and all associated support equipment in the event the facility becomes abandoned, this permit is revoked by the Director, or the permittee does not or is unable to remove the facility.
 - c. Submit a copy of the lease with the property owner. If the lease is extended or terminated, notice and evidence thereof shall be provided to the Director. Upon termination or expiration of the lease, this permit for the facility shall become null and void and the facility shall be completely removed within 90 days.

15. Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, and removal of the facility.
16. If, as a result of the operation of the subject facility, existing or future residential, commercial or industrial properties near the site experience interference difficulties with electronic equipment (such as radios, televisions, telephones, home computers, etc.), or if public safety personnel experience interference with communications systems, the permittee shall be solely and fully responsible to correct any and all problems upon proof of such interference.
17. The site and the facility, including, but not limited to, all landscaping, fencing, and related transmission equipment, must be maintained in a neat and clean manner and in accordance with all approved plans and shall remain free of: general dirt and grease; chipped, faded, peeling or cracked paint; trash, debris, litter, graffiti and other forms of vandalism; cracks, dents, blemishes and discolorations; visible rust or corrosion on any unpainted metal areas. Any damage from any cause shall be repaired by the permittee within 30 days of notice. Weathered, faded or missing parts/materials used to disguise/camouflage the facility shall be maintained and/or replaced by the permittee within 30 days of notice. All graffiti on facilities must be removed at the sole expense of the permittee within seventy two (72) hours after notification from the City. All other forms of vandalism and damage shall be removed and/or repaired within seventy two (72) hours of notice by the City.
18. To ensure compliance with the conditions of the approval, a final inspection is required from the Building and Planning Divisions upon completion of construction and all improvements. The permittee shall contact the City to schedule an appointment for such inspections. Further, after the initial inspection, the City or its designee may enter onto the facility area to inspect the facility upon 24 hours prior notice to the permittee. The permittee shall cooperate with all inspections and may be present for any inspection of its facility by the City. The City reserves the right to enter or direct its designee to enter the facility and support, repair, disable, or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property. The City shall make an effort to contact the permittee prior to disabling or removing any facility elements, but in any case shall notify permittee within 24 hours of doing so.
19. The permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person. The FCC Antenna Structure Registration site number, City permit number, primary leaseholder's and facility manager's contact information shall be kept current and prominently displayed on the facility where it can be easily viewed from ground level.
20. Testing of any equipment shall take place on weekdays only, and only between the hours of 8:30 a.m. and 4:30 p.m., except that testing is prohibited on holidays that fall on a weekday. In addition, testing is prohibited on weekend days.
21. No possessory interest is created by this permit. However, to the extent that a possessory interest is deemed created by a governmental entity with taxation authority, Permittee acknowledges that City has given to Permittee notice

pursuant to California Revenue and Taxation Code Section 107.6 that the use or occupancy of any public property pursuant to this permit may create a possessory interest which may be subject to the payment of property taxes levied upon such interest. Permittee shall be solely liable for, and shall pay and discharge prior to delinquency, any and all possessory interact taxes or other taxes, fees, and assessments levied against Permittee's right to possession, occupancy, or use of any public property pursuant to any right of possession, occupancy, or use created by this permit.

22. The Permittee must maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition or fails to produce true and complete copies of such records within a reasonable time after a written request from the City, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.
23. The permittee shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of this approval; or in the alternative, to relinquish such approval. The permittee shall reimburse the City, its agents, officers, or employees for any court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve permittee of its obligations under this condition.
24. In the event that the City determines that it is necessary to take legal action to enforce any of these conditions, or to revoke this permit, and such legal action is taken, the Permittee shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the City should otherwise agree with Permittee to waive said fees or any part thereof. The foregoing shall not apply if the Permittee prevails in the enforcement proceeding.

11.73.160 - Eligible Facilities Requests.

- A. Eligible Facilities Requests. In addition to the conditions provided in Section 11.73.150 of this Chapter (with the exception of 11.73.150(b) which shall not apply to eligible facilities requests) and any supplemental conditions imposed by the Director or City Manager, all permits for eligible facilities requests granted pursuant to this Chapter shall be subject to the following additional conditions, unless modified by the approving authority:
 1. Permit subject to conditions of underlying permit. Any permit or wireless telecommunications facility authorization granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit;
 2. No permit term extension. The City's grant or grant by operation of law of an eligible facilities request permit constitutes a federally-mandated modification to

the underlying permit or approval for the subject tower or base station. Notwithstanding any permit duration established in another permit condition, the City's grant or grant by operation of law of a eligible facilities request permit will not extend the permit term for the underlying permit or any other underlying regulatory approval, and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.

3. No waiver of standing. The City's grant or grant by operation of law of an eligible facilities request does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a) of the Spectrum Act, any FCC rules that interpret Section 6409(a) of the Spectrum Act, or any modification to Section 6409(a) of the Spectrum Act.

EXHIBIT B

Chapter 11.77 - Administrative Permit

11.77.010 - Purpose

This chapter is intended to allow for administrative review and decisions for: (1) specific projects involving less complex installations, smaller installations, or less new construction; or (2) applications for which there is no discretion.

11.77.020 - Scope

The following permit and application types shall undergo an administrative review pursuant to this Chapter rather than requiring a Conditional Use Permit pursuant to Chapter 11.78:

- A. Applications to install or modify wireless facilities on public or private property; except for proposed installations requiring new support structures and,
- B. At the Director's discretion, certain collocations based on their complexity.

11.77.030 - Review Authority

The Director of Community Development (Director), or its designee, is responsible for administering this Chapter. As part of the administration of this Chapter, the Director may:

- A. Interpret the provisions of this Chapter and related chapters in Title XI - Zoning and Development;
- B. Develop forms and procedures for submission of applications consistent with this Chapter;
- C. Determine the amount of and collect, as a condition of the completeness of any application, any fee established by this Chapter;
- D. Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with state and federal laws and regulations;
- E. Issue any notices of incompleteness, requests for information, or conduct or commission such studies as may be required to determine whether a permit should be issued;

- F. Require, as part of, and as a condition of completeness of any application, notice to members of the public that may be affected by proposed work or project;
- G. Determine whether to approve, approve subject to conditions, or deny an application; and
- H. Take such other steps as may be required to timely act upon applications, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

11.77.040 - Appeal

- A. Any person adversely affected by the decision of the Director pursuant to this Chapter may appeal the Director's decision to the City Manager, who may decide the issues *de novo*, and whose written decision will be the final decision of the City.
- B. Where the Director grants an application based on a finding that denial would result in a prohibition or effective prohibition under applicable federal law, the decision shall be automatically appealed to the City Manager.
- C. All appeals must be filed within two (2) business days of the issuance of the written decision of the Director, unless the Director extends the time therefore. An extension may not be granted where extension would result in approval of the application by operation of law.

11.77.050 - Applications

- A. Submissions. Applicant shall submit a paper copy and an electronic copy of any application, amendments, or supplements to an application, or responses to notices of incompleteness and requests for information regarding an application to: Director of Community Development, at City Hall.
- B. Content. An applicant shall submit an application on the form approved by the Director, which may be updated from time-to-time. If no form has been approved, applications must contain all required fee(s), documents, information, and any other materials necessary to allow the Director to make required findings and ensure that the proposed project will comply with applicable federal and state law, the City Code, and will not endanger the public health, safety, or welfare (including proof of compliance with the FCC's radio frequency emissions standards, and must specify whether the applicant believes state or federal law requires action on the application within a specified time period. If applicant contends that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the application must provide all information on which the applicant relies on in support of that claim.
- C. Fees. Application fee(s) shall be required to be submitted with any application for an administrative permit. The City Council is hereby authorized to determine, or cause to be determined, the amount, type, and other terms of such fee(s) from time to time by means of resolution. Notwithstanding the foregoing, no application fee shall be refundable, in whole or in part, to an applicant for an administrative permit unless paid as a refundable deposit.
- D. Waivers. Requests for waivers from any application requirement shall be made in writing to the Director or his or her designee. The Director may grant or deny a request for a

waiver pursuant to this subsection. The Director may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of a waiver, the City will be provided all information necessary to understand the nature of the project or other activity to be conducted pursuant to the permit sought. All waivers approved pursuant to this subsection shall be (1) granted only on a case-by-case basis, and (2) narrowly-tailored to minimize deviation from the application requirements.

11.77.060 – Findings; Decisions; Consultants

- A. The findings required for approval can be found in the respective sections of the Code for each application or project type.
- B. Decisions. Decisions on an application shall be in writing and include the reasons for the decision.
- C. Independent Consultants. The Director or City Manager, as the case may be, is authorized, in its discretion, to select and retain independent consultant(s) with expertise in relevant fields in connection with the review of any application under this Chapter. Such independent consultant review may be retained on any issue that involves specialized or expert knowledge in connection with an application.

11.77.070 – Conditions of Approval

- A. The Director or City Manager, as the case may be, may impose conditions of approval on all permits granted pursuant to this Chapter.

11.77.080 – Breach; Termination of Permit

- A. An administrative permit may be revoked for failure to comply with the conditions of the permit and applicable law. Upon revocation, any construction or installations made under the permit must be removed; provided that removal of a support structure owned by a City, a utility, or another entity authorized to maintain the support structure need not be removed, but must be restored to its prior condition, except as specifically permitted by the City. All costs incurred by the City in connection with the revocation and removal shall be paid by entities who own or control any part of the project or installation.
- B. For projects or installations without a permit. Any work or installations performed without an administrative permit (except for those exempted by this Chapter or respective chapters for a specific project type) must be removed; provided that removal of support structure owned by City, a utility, or another entity authorized to maintain a support structure in the right of way need not be removed, but must be restored to its prior condition, except as specifically permitted by the City. All costs incurred by the City in connection with the revocation and removal shall be paid by entities who own or control any part of the project or installation.
- C. Municipal Infraction. Any violation of this Chapter will be subject to the penalties set forth in Chapter 1.12 of the City Code.