

Chapter 18.62 WIRELESS COMMUNICATION FACILITIES**18.62.010 Purpose.**

The purpose of this chapter is to regulate the land use zone, location, height, appearance, and placement of commercial antennas. The regulations contained herein are designed to protect and promote the public health, safety, welfare and aesthetic quality of the city.

18.62.020 Definitions.

“Antenna” means an apparatus designed for the purpose of emitting radio frequency radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the transmission of writing, signs, signals, data, images, pictures, and sounds of all kinds, including the transmitting device and any on-site equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with that antenna and added to a wireless communications facility, structure, or building as part of the original installation of the antenna. For most services, an antenna will be mounted on or in, and is distinct from, a supporting structure such as a wireless communications facility, structure or building. However, in the case of AM broadcast stations, the entire wireless communications facility or group of wireless communications facilities constitutes the antenna for that station. Antenna shall also include, but not be limited to:

1. “Dish antenna,” a dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.
2. “Panel antenna,” an antenna or array of antennas designed to concentrate a radio signal in a particular area. Panel antennae are typically flat, rectangular devices approximately six square feet in size. Also called directional antennae.
3. “Whip antenna,” an antenna that transmits signals in three hundred sixty degrees. Whip antennae are typically cylindrical in shape and are less than six inches in diameter and measure up to eighteen feet in height. Also called omnidirectional, stick, or pipe antennas.

“Base station” shall have the same meaning as set forth in Section 1.6100 of Title 47 of the Code of Federal Regulations.

“Cell site” means a geographical area with a radius of up to eight miles that contains both transmitting and receiving antennae.

“Clustering” means locating one or more providers facilities in the same geographical area.

“Co-location” or “collocation” shall have the same meaning as set forth in Section 1.6100 of Title 47 of the Code of Federal Regulations and shall include locating wireless communication equipment for more than one provider on a single site.

“Interference” means disturbances to reception caused by radio frequency waves or other electronic fields.

“Emergency standby generator” means a stationary generator used for the generation of electricity that meets the criteria set forth in paragraph (29) of subdivision (a) of Section 93115.4 of Title 17 of the California Code of Regulations.

“Macro cell tower site” shall have the meaning as set forth in Government Code § 65850.75. As of the effective date of this code section, subsection (a)(3) of that section provides: “Macro cell tower site’ means the place where wireless telecommunications equipment and network components, including towers, transmitters, base stations, and emergency powers necessary for providing wide area outdoor service, are located. A macro cell tower site does not include rooftop, small cell, or outdoor and indoor distributed antenna system sites.”

“Monopole” means a structure composed of a single spire used to support communications equipment.

“Substantial change” shall have the same meaning as set forth in Section 1.6100 of Title 47 of the Code of Federal Regulations.

“Tower” shall have the same meaning as set forth in Section 1.6100 of Title 47 of the Code of Federal Regulations.

“Wireless communications facilities” means equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems that are integral to providing wireless telecommunications services.

18.62.030 Applicability.

A. Existing Facilities. All commercial antennas for which applications were approved and/or building permits issued prior to the adoption date of this section shall not be subject to the application of these regulations and guidelines contained in this chapter, unless an alteration or intensification of use is requested in which case the provisions of this section shall apply.

B. Proposed Facilities. All commercial antennas for which applications were received by the community development department, but not approved prior to the adoption date of this section, shall be subject to the provisions of this section. (Ord.

18.62.040 Permit required.

A. The placement of all wireless communication facilities within the city shall require the approval of a conditional use permit per the procedure established in Chapter 18.66 of this title. Additionally, the applicant shall submit:

1. A copy of the appropriate portions of the lease agreement indicating that no exclusive agreements have been made to prevent future carriers to co-locate on the same site or facilities.
2. A design plan which does not preclude potential additional users.
3. A map of all their existing and proposed facilities (to the extent known) within the city and the surrounding cities indicating the type of facility, design, height, and its coverage area.
4. An additional processing fee for each additional hour of staff time expended at the hourly rate established in the adopted master fee schedule. A one thousand dollar (\$1,000.00) deposit shall be paid at the time of application to cover these additional costs. All unexpended funds will be returned to the applicant upon completion of the public hearing process.
5. Photo simulations showing the proposed completed wireless facility superimposed onto the existing property development, shown from a minimum of four angles.

6. Any other information, studies and/or other documentation determined necessary by the city engineer or the director of community and economic development, particularly when there may be the creation of radio interference with existing communications systems such as the police 800 MHz system and other emergency systems.

B. Prior to the installation of wireless communication facilities on public property, the applicant shall first obtain a permit from the city engineer.

C. Exception. The approvals provided for in subsection A of this section shall not apply to modifications of existing wireless communications facilities that is not a substantial change to the physical dimensions of the communication facility, as provided for in Section 18.62.055.

18.62.050 Location.

A. Placement. Wireless communication facilities may be located in all zones, with the exception of properties developed with a residential dwelling unit. In addition, it is preferred that these facilities be roof or wall mounted on existing structures or co-located on existing conforming facilities.

B. Views. Wireless communication facilities are to be located in a manner that preserves the view corridors of the surrounding residential and commercial developments.

C. Co-location. The applicant is to cooperate with other communication companies in co-locating additional antennas on the tops of buildings, on existing monopoles, and/or clustering facilities. If co-location or clustering is not possible in the case of a particular proposal the permittee shall provide a written explanation as to why it is not possible as part of the conditional use permit submittal package.

18.62.055 Modifications of existing wireless facilities.

A. A request for a modification of an existing wireless tower or base station for the collocation of new transmission equipment or removal or replacement of existing transmission equipment shall be approved ministerially, without the processing of a conditional use permit, provided that such modification does not a substantial change to the physical dimensions of such tower or base station from the dimensions approved as part of the original discretionary permit for the tower or base station.

B. Any modification to a wireless tower or base station which is a substantial change the physical dimensions of either the tower or base station, and any other modification to a wireless telecommunications facility that does not qualify as a wireless tower or base station (as defined in this section) shall be subject to the permits and authorizations required by this code.

18.62.060 Standards of development.

A. Height. Any proposed wireless communication facility shall not exceed the height specification established for the zone in which it is being located.

B. Setbacks. All wireless communication facilities shall meet all the front, side, and rear setback standards for the zone in which it is being located. Exception: In no case shall an undisguised monopole be located closer than one hundred feet to any residentially zoned property.

C. Design. Monopoles shall be a stealth design and disguised as an architectural or landscape feature. Examples include, but are not limited to, clock towers, steeples, palm trees, pine trees, eucalyptus trees, etc. The placement of undisguised monopoles shall require approval of a zone variance, per the procedure established in Chapter 18.74 of the La Habra Municipal Code.

D. Screening. All facilities are to be designed to be unobtrusive and shall be in context with the immediate surroundings in addition to being architecturally compatible with the existing structures on-site.

1. Base stations are to be screened from public view, to be located preferably within a building, or if located outside a building to be placed behind the structure, and screened within a landscape planter or placed underground.

2. All roof-mounted antennae are to be screened or visually neutralized with materials that are designed to blend with and/or match the existing building in type, shape, size, and color.

E. All wireless communication facilities are to be installed and maintained in compliance with the applicable sections of the city's building code, electrical code and noise ordinance.

F. In the event that a wireless communication facility is identified as causing interference or disturbance with radio or television reception of residents, or is in conflict with the city's communication system, the operator shall cease operation immediately, until the cause of the interference is eliminated. Failure to cease such operation shall result in automatic suspension of the underlying use permit.

Exception: A new facility shall be allowed a twenty-four-hour cure period.

G. All wireless communication facilities are required to operate in accordance with the current American National Standards Institute (ANSI) requirements and to meet all health standards set by applicable federal agencies.

H. The operator shall provide a "single point of contact" person in its engineering and maintenance departments to insure continuity on all interference issues. The name, telephone number, fax number and e-mail address of that person shall be provided to the police chief upon activation of the facility.

18.62.065 Emergency Standby Generators

A. General. An emergency standby generator proposed to be installed to serve a macro cell tower site shall be a permitted use and the city shall review an application to install such emergency standby generator on an administrative, nondiscretionary basis if it meets all of the following requirements:

1. The emergency standby generator is rated below 50 horsepower, compliant with applicable air quality regulations, has a double-wall storage tank, not to exceed 300 gallons, and is mounted on a concrete pad.

2. The macro cell tower site at which the emergency standby generator is proposed to be installed is an existing site that was previously permitted by the city.

3. The emergency standby generator complies with all applicable state and local laws and regulations, including building and fire safety codes.

4. The physical dimensions of the emergency standby generator and storage tank are cumulatively no more than 250 cubic feet in volume.

5. The emergency standby generator shall be located not more than 100 feet from the physical structure of the macro cell tower or base station.

B. Request. When the city receives a permit application to install an emergency standby generator that meets the requirements in Paragraph A (above), the city shall approve or deny the application within 60 days of submittal of the application, subject to both of the following:

1. If, within 10 days of submission, the city notifies the applicant in writing that the application is incomplete, then the 60-day period shall be suspended. If the application is determined not to be complete, the city's determination shall specify those parts of the application that are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. In any subsequent review of the application determined to be incomplete, the city shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. Upon receipt of any resubmittal of the application, a new 60-day period shall begin, during which the city shall determine the completeness of the application.

2. The city shall not require any new or different information for the permit applications than it routinely requires for applications for other emergency standby generators.

C. Timing

1. A completed application that the city has not approved or denied within 60 days of receiving the application or upon expiration of any tolling period shall be deemed approved.

2. This section does not prohibit the city from revoking, through the appropriate process, the permit or approval status for an emergency standby generator that is determined to violate an applicable state or local law or regulation, including building and fire safety codes, or from otherwise enforcing state and local law with respect to the emergency standby generator.

D. Multiple Permits. When the city requires more than one permit application for the installation of an emergency standby generator, all applications submitted concurrently shall be issued within the same 60-day period set forth in Paragraph C (above).

E. Authorization. The city shall not require the applicant to submit proof of consent or other authorization from an underlying property owner as part of the initial application for an emergency standby generator permit; however, the applicant shall not install the emergency standby generator until the applicant provides documentation to the city.

F. Application and Fee. The city shall process all requests for emergency standby generators via the Administrative Adjustment process, to include the payment of the related fee as per the city's Master Schedule of Fees. This process is in addition to any application or fees required by the Building and Safety Division.

18.62.070 Removal.

A. Abandonment. A facility that is inoperative or unused for a period of six continuous months shall be deemed abandoned. Written notice of the city's determination of abandonment shall be provided to the operator of the facility and the owner(s) of the premises upon which the facility is located. Such notice may be delivered in person, or mailed to the address(es) stated on the facility permit application, and shall be deemed given at the time delivered or placed in the mail. A written notice of the city's determination of abandonment shall be mailed or delivered to the operator of the facility at the address stated in the relevant permit application.

B. Removal of Abandoned Facility or Hearing. The operator of the facility and the owner(s) of the property on which it is located shall, within thirty days after notice of abandonment is given either: (1) remove the facility and restore the premises to its original condition; or (2) provide the planning department with written objection to the city's determination of abandonment and request an appeal hearing before the planning commission. If a written objection is timely received and a hearing is properly requested, the procedures for hearings, notices and related fees set forth in this code shall apply. The operator and/or owner shall be given the opportunity to provide evidence that the facility was in use during the relevant six-month period and that it is presently operational. The planning commission shall review all evidence, determine whether or not the facility was properly deemed abandoned, and provide the operator notice of its determination.

C. Removal by City. The city may remove the abandoned facility, repair any and all damage to the premises caused by such removal, and otherwise restore the premises as is appropriate to be in compliance with applicable sections of the zoning code at any time: (1) after thirty days following the notice of abandonment; or (2) following a notice of decision by the planning commission. The city may, but shall not be required to, store the removed facility (or any part thereof). The owner of the premises, upon which the abandoned facility was located, and all prior operators of the facility, shall be jointly liable for the entire cost of such removal, repair, restoration and storage, and shall remit payment to the city promptly after demand therefor is made. The city may, in lieu of storing the removed facility, convert it to the city's use, sell it, or dispose of it in any manner deemed by the city to be appropriate.

D. City Lien on Property. Until the cost of removal, repair, restoration and storage is paid in full, a lien shall be placed on the abandoned personal property and any real property on which the facility was located, for the full amount of the cost of removal, repair, restoration and storage. The planning manager shall cause the lien to be recorded in the Orange County recorder's office.