SPECIAL MEETING AGENDA
OF THE JURUPA VALLEY CITY COUNCIL
Thursday, August 29, 2019
Regular Session: 6:00 p.m.
City Council Chamber
8930 Limonite Avenue, Jurupa Valley, CA  92509

1. 6:00 PM - CALL TO ORDER AND ROLL CALL
   • Brian Berkson, Mayor
   • Anthony Kelly, Jr., Mayor Pro Tem
   • Chris Barajas, Council Member
   • Lorena Barajas, Council Member
   • Micheal Goodland, Council Member

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

4. PUBLIC APPEARANCE/COMMENTS

5. AN ORDINANCE OF THE CITY OF JURUPA VALLEY ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION AND INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES
1. Requested Action: That the City Council conduct a first reading and introduce Ordinance No. 2019-11, entitled:

AN ORDINANCE OF THE CITY OF JURUPA VALLEY, CALIFORNIA, ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION AND INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES

2. Requested Action: That the City Council by a 4/5 vote adopt Urgency Ordinance No. 2019-13, entitled:

AN URGENCY ORDINANCE OF THE CITY OF JURUPA VALLEY, CALIFORNIA, ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION AND INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES

6. CONVENE TO CLOSED SESSION

7. CLOSED SESSION

A. PUBLIC COMMENTS PERTAINING TO CLOSED SESSION ITEM

B. APPOINTMENT, EMPLOYMENT OF AN INTERIM CITY MANAGER AND CITY MANAGER. The City Council will meet in closed session pursuant to Government Code Section 54957 to consider the appointment or employment of the City Manager and pursuant to Government Code Section 94957.6 to meet with its designated representatives, Mayor Brian Berkson and City Attorney Peter Thorson, to provide direction to the designated representatives concerning the negotiation of salary, compensation and/or benefits for the unrepresented employee position of City Manager. No action will be taken on an appointment at this meeting.

8. RECONVENE IN OPEN SESSION

A. ANNOUNCEMENT OF ANY REPORTABLE ACTIONS IN CLOSED SESSION

9. ADJOURNMENT

Adjourn to the Regular Meeting of September 19, 2019 at 6:00 p.m. at the City Council Chamber, 8930 Limonite Avenue, Jurupa Valley, CA 92509.

In compliance with the Americans with Disabilities Act and Government Code Section 54954.2, if you need special assistance to participate in a meeting of the Jurupa Valley City Council or other services, please contact Jurupa Valley City Hall at (951) 332-6464. Notification at least 48 hours prior to the meeting or time when services are
needed will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service. Agendas of public meetings and any other writings distributed to all, or a majority of, Jurupa Valley City Council Members in connection with a matter subject to discussion or consideration at an open meeting of the City Council are public records. If such writing is distributed less than 72 hours prior to a public meeting, the writing will be made available for public inspection at the City of Jurupa Valley, 8930 Limonite Avenue, Jurupa Valley, CA 92509, at the time the writing is distributed to all, or a majority of, Jurupa Valley City Council Members. The City Council may also post the writing on its Internet website at www.jurupavalley.org.

Agendas and Minutes are posted on the City’s website at www.jurupavalley.org.
STAFF REPORT

DATE: AUGUST 29, 2019

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: ALAN KREIMEIER, INTERIM CITY MANAGER
      TIM JONASSON, SENIOR MANAGER

SUBJECT: AGENDA ITEM NO. 5

AN ORDINANCE OF THE CITY OF JURUPA VALLEY ESTABLISHING
REGULATIONS APPLICABLE TO THE LOCATION AND INSTALLATION OF
SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, AMENDING
THE JURUPA VALLEY MUNICIPAL CODE, AND FINDING AN EXEMPTION
FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES

RECOMMENDATION

1) That the City Council conduct a first reading and introduce Ordinance No. 2019-11, entitled:

   AN ORDINANCE OF THE CITY OF JURUPA VALLEY, CALIFORNIA,
   ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION AND
   INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-
   WAY, AMENDING THE JURUPA VALLEY MUNICIPAL CODE, AND FINDING
   AN EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA
   GUIDELINES

2) That the City Council by a 4/5 vote adopt Urgency Ordinance No. 2019-13, entitled:

   AN URGENCY ORDINANCE OF THE CITY OF JURUPA VALLEY,
   CALIFORNIA, ESTABLISHING REGULATIONS APPLICABLE TO THE
   LOCATION AND INSTALLATION OF SMALL WIRELESS FACILITIES IN
   PUBLIC RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL
   CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER SECTION
   15061(b)(3) OF THE CEQA GUIDELINES

BACKGROUND

Since 2003, cell phone use with increased data transmitting and receiving capabilities
have increased to the point that additional wireless broadband infrastructure is needed
to meet the growing demand for data capacity and speed, particularly in populous areas throughout the country. The 5th Generation (5G) broadband network will be designed for the “internet of things”, everyday objects with imbedded technologies allowing them to send and receive data that are expected to proliferate exponentially in the future due to high consumer demand. Additionally, 5G broadband technologies on the horizon will support Smart Cities technologies that will improve traffic flow, provide public safety benefits such as advanced communication with first responders, as well as provide better resident access to government and educational services all of which will require greater speed and reliability than is currently provided by 4G broadband systems. However, to create a true 5G broadband network small cell facilities, typically 3'-4' diameter antennas mounted 30' or higher from ground level with supporting network equipment in a small refrigerator size box, are required in much higher numbers and at much shorter intervals (500'-1500' apart) than existing cell towers.

The Telecommunications Act of 1996 makes it unlawful for local governments to prohibit “the provision of personal wireless service,” prevents local governments from “unreasonably discriminating among providers of functionally equivalent services” and requires that local governments “act on any authorization to place, construct or modify wireless service facilities within a reasonable period of time”. On September 27, 2018, the Federal Communications Commission (FCC) released the declaratory ruling and order titled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment” (the FCC Order). The FCC Order, which went into effect on January 14, 2019, is intended to facilitate 5G implementation in the United States by shortening review time frames, limiting cost and establishing aesthetic standards the telecom industry can rely on for locating small cell antennas necessary for the deployment of 5G technology in the public rights-of-way. The portion of the FCC Order related to aesthetic standards went into effect on April 15, 2019.

This means that under Federal Law, the City has no authority to prohibit small cell wireless facilities and very limited authority to regulate their location and aesthetics.

ANALYSIS

The FCC Order places a number of requirements on local governments including:

1. Once an applicant makes a small cell application to the City the City is required to render decision on a small wireless facility within a specified time period (60 days for installations on existing structures, and 90 days for new structures), the failure for which will be presumed to violate federal law as this would constitute both a failure to act within a reasonable period and an effective prohibition of personal wireless services.

2. All fees for permit review and inspection must be based on a reasonable approximation of the local government’s costs, which normally requires a fee study to support, or default to the FCC’s “safe harbors” rate presumed to be reasonable at $500 for a single application for up to five satellite installations, plus $100 for each additional facility and $1,000 for each new pole. Recurring
fees (i.e., rent for attaching to a public facility such as a street light) are presumed to be reasonable at $270 per facility per year. (Note: The FCC Order's restrictions on fees have been challenged by a coalition of local governments arguing that, among other things, the Order deprives local governments of just compensation in violation of the Fifth Amendment by restricting compensation for installing facilities on local governments' right-of-way and infrastructure therein. This litigation is pending in the Ninth Circuit Court of Appeals.)

3. Aesthetic standards, including undergrounding, will not be preempted if they are reasonable, no more burdensome than those applied to other types of infrastructure deployments, and objective and published in advance.

Per a previous FCC ruling in August 2018 cities are prohibited from imposing a moratorium on wireless installations to better study their existing wireless policies. Federal Law also prohibits the City from banning wireless installations all together. Therefore, it is imperative that the City revise its wireless facilities requirements to meet the FCC Order while protecting the City's interest within the new regulations.

The key elements addressed in the ordinance include:

1. Complies with new federal regulations regarding small cell facilities as outlined above;

2. Provides for development of Wireless Facilities Application Policy and Installation Guidelines to be provided by the City’s Engineering and Planning staff at a future date, however, most of the requirements for small wireless facilities are contained in Section 13.30.040 of the proposed ordinance;

3. Outlines permit and process requirements that allow the City to meet the shortened application approval time frames (i.e., “shot clock requirements”); anc,

4. Requires a City-issued Small Wireless Facility permit for small wireless facilities in the public right-of-way, and will also require an encroachment permit from Public Works. Since Southern California Edison (SCE), Jurupa Area Parks and Recreation District (JARPD) and Rubidoux Community Service District (RCSD) own most of the streetlights in the City, it is the responsibility of applicants to obtain permission from these entities to utilize their structures for attaching and operating a small cell facility.

Since the FCC Order is already in effect and staff has already received requests for these permits staff recommends adopting these provisions on an emergency basis to avoid delaying permitting of small wireless facilities in the City.

OTHER INFORMATION

from the wireless communication facilities regulations, and found that the proposed amendment was exempt from CEQA.

On August 15, 2019, the City Council adopted an urgency ordinance establishing regulations applicable to the location and installation of small wireless facilities in public rights-of-way, amending the Jurupa Valley Municipal Code, and finding an exemption from CEQA. At this meeting, Council also directed staff to prepare further regulations of small wireless facilities for Council’s consideration on August 29, 2019. The requested changes for additional siting, maintenance and removal of obsolete equipment have been added to Sections 13.30.030 (Paragraph A(1)), 13.30.040 (Paragraph D), and 13.30.040 (Paragraphs H, I and J) respectively of both ordinances for City Council’s consideration. Additionally, a new section, Section 13.30.070, has been added to both ordinances to allow the City Engineer to waive any requirements that would prohibit or effectively prohibit personal wireless service or otherwise violate applicable laws.

FINANCIAL IMPACT

None.

ALTERNATIVES

None recommended.

Prepared by:

Timothy R. Jonasson, PE
Senior Manager

Submitted by:

Alan Kreimeler
Interim City Manager

Reviewed by:

George A. Wentz
Deputy City Manager

Reviewed by:

Peter M. Thorson
City Attorney

Attachments:

1) Proposed Small Wireless Facilities Ordinance No. 2019-11
2) Proposed Small Wireless Facilities Urgency Ordinance No. 2019-13
ORDINANCE NO. 2019-11

AN ORDINANCE OF THE CITY OF JURUPA VALLEY, CALIFORNIA, ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION AND INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES

THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The City Council of the City of Jurupa Valley does hereby find, determine, and declare that:


(b) The Report and Order purports to give providers of wireless services rights to utilize public rights-of-way and to attach so-called “small wireless facilities” to public infrastructure including infrastructure of the City of Jurupa Valley, subject to payment of “presumed reasonable”, non-recurring and recurring fees. The ability of local agencies to regulate use of their rights-of-way is substantially limited under the Report and Order.

(c) Notwithstanding the limitations imposed on local regulation of small wireless facilities in public rights-of-way by the Report and Order, local agencies retain the ability to regulate the aesthetics of small wireless facilities, including location, compatibility with surrounding facilities, spacing, and overall size of the facility, provided the aesthetic requirements are: (i) “reasonable”, i.e., “technically feasible and reasonably directed to avoiding or remediying the intangible public harm or unsightly or out-of-character deployments”; (ii) “objective”, i.e., they “incorporate clearly-defined and ascertainable standards, applied in a principled manner”; and (iii) published in advance. Regulations that do not satisfy the foregoing requirements are likely to be subject to invalidation, as are any other regulations that “materially inhibit wireless service” (e.g., overly restrictive spacing requirements).

(d) Local agencies also retain the ability to regulate small wireless facilities in the public rights-of-way in order to more fully protect the public health and safety, ensure continued quality of telecommunications services, and safeguard the rights of consumers.

(e) It is the intent of the City Council in adopting this Ordinance to supersede regulations of the City that conflict with the Report and Order, and to establish consistent regulations governing deployment of small wireless facilities in the public rights-of-way, in order to more fully protect the public health, safety, and welfare. The City Council declares that it adopts this Ordinance with the understanding that the City expressly reserves all rights to re-enact and/or establish new regulations consistent with State and federal law as it existed prior to
adoption of the Report and Order in the event the Report and Order is invalidated, modified, or limited in any way.

**Section 2. Amendment to Section 9.275.020., Exclusions.** Section 9.275.020., Exclusions, of Chapter 9.275, Wireless Communication Facilities, of Title 9, Planning and Zoning, of the Jurupa Valley Municipal Code is hereby amendment to read as follows:

“Sec. 9.275.020. - Exclusions.

This chapter shall not apply to the following:

1. Any tower or antenna that is less than one hundred and five (105) feet in total height and that is owned and operated by a federally-licensed amateur radio station operator;

2. Any tower or antenna used for commercial radio or television purposes; and

3. Any small wireless facility, as defined in section 13.30.020."

**Section 3. Addition of Chapter 13.30, Regulations of Small Wireless Facilities in the Public Rights-of-Way.** A new Chapter 13.30 is hereby added to Title 13 of the Jurupa Valley Municipal Code to read as follows:

“CHAPTER 13.30
REGULATION OF SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY

Sections:

13.30.010 Purpose.
13.30.020 Definitions.
13.30.030 Installation requirements for small wireless facilities.
13.30.040 Permit required.
13.30.050 Fees.

**Sec. 13.30.010. - Purpose.**

The City Council of the City of Jurupa Valley expressly finds that the installation of small wireless facilities in City rights-of-way requires City regulation, consistent with State and federal law as it currently exists, in order to more fully protect the public health and safety, preserve and protect the City’s aesthetic interests, protect City infrastructure and other public facilities, and provide for the orderly deployment of small wireless facilities in order to ensure the continued quality of telecommunication services to the public.

The City Council further finds that regulations established herein are not intended to, nor shall they be interpreted or applied to:
(1) Prohibit or effectively prohibit any personal wireless service provider’s ability to provide personal wireless services;

(2) Prohibit or effectively prohibit any personal wireless service provider’s ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulations;

(3) Unreasonably discriminate among providers of functionally equivalent services;

(4) Deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission’s regulations concerning such emissions;

(5) Prohibit any collocation or modification that the City may not deny under federal or State law;

(6) Impose any unfair, unreasonable, discriminatory or arbitrary fees that exceed the reasonable cost to provide the services for which the fee is charged; or

(7) Otherwise authorize the City to act in conflict with any applicable federal or State law or regulation.

Sec. 13.30.020. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administrative Review* means ministerial review of an application by the City relating to the review and issuance of a permit, including review by the Planning Director and City Engineer to determine whether the issuance of a Permit is in conformity with the applicable provisions of this chapter.

*Antenna* means communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of Wireless Services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

*Applicant* means any person who submits an application under this chapter.

*Application* means a written request, on a form provided by the City, for a SWF permit.

*City* means the City of Jurupa Valley.
Collocate means to install or mount a SWF in the PROW on infrastructure, an existing support structure, an existing tower, a utility-owned structure, or an existing pole to which another SWF is attached at the time of the application. Collocation has a corresponding meaning.

Communications Facility means, collectively, the equipment at a fixed location or locations within the PROW that enables communications services, including: (i) radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A communications facility does not include the pole, tower or support structure to which the equipment is attached.

Communications Service means telecommunications service, as defined in 47 U.S.C. Section 153(53), including wireless broadband internet service.

Communications Service Provider or Provider means a provider of communications services.

Construction Codes means California Building, Fire, Electrical, Plumbing, and/or Mechanical Codes adopted by the City.

CPUC means the California Public Utilities Commission.

Discretionary Review means review of an application by the City relating to the review and issuance of a permit that is other than an administrative review.

FCC means the Federal Communications Commission.

Infrastructure means any City-owned or operated facility, equipment, pole, pipe, cabinet, or other structure located in the PROW. “Infrastructure” shall include poles, street lights, and/or other structures in the PROW owned by utilities, except to the extent any specific requirement is preempted or prohibited by State or federal law related to utility pole attachments by wireless providers.

Laws means, collectively, any and all Federal, State, or local laws, statutes, common law, codes, construction codes, rules, regulations, orders, and/or ordinances.

Master Agreement means an agreement between the City and a permittee authorizing the installation and maintenance of one of more SWFs.

Permit means a written authorization (in electronic or hard copy format) to install a SWF at a specified location(s) in the PROW. A permit may also consist of a master agreement between the applicant and City to install and maintain one or more SWFs in the PROW.

Permittee means an applicant that has received a permit under this chapter.
**Person** means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.

**Pole** means a legally constructed City or utility owned pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within the PROW. A pole does not include a tower or support structure and does not include a pole or structure that supports electric transmission lines.

**Public Rights-of-Way or PROW** means the area on, below, or above property that has been designated for use as or is used for a City-owned or controlled roadway, highway, street, sidewalk, alley or similar purpose. The term does not include a federal interstate highway or other areas that are not within the legal jurisdiction, ownership or control of the City.

**Replace or Replacement** means, in connection with an existing pole, support structure or tower, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this chapter and any other applicable Jurupa Valley Municipal Code provisions, in order to address limitations of the existing structure to structurally support collocation of a Communications Facility.

**Small Wireless Facility or SWF** means a wireless facility that meets the following qualifications: (i) each antenna could fit within an enclosure of no more than three (3) cubic feet in volume; (ii) all other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume; and (iii) the facility is the type of facility otherwise described in 47 C.F.R. Section 1.1312(e)(2).

**State** means the State of California.

**Support Structure** means a structure in the PROW other than a pole or a tower to which a wireless facility is attached at the time of the application.

**Tower** means any structure in the PROW built for the sole or primary purpose of supporting a wireless facility. A tower does not include a pole or a support structure.

**Wireless Facility** means the equipment at a fixed location or locations in the PROW that enables wireless services. The term does not include: (i) the support structure, tower or pole on, under, or within which the equipment is located or collocated; or (ii) coaxial, fiber-optic or other cabling that is between communications facilities or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. A SWF is one type of wireless facility.

**Wireless Services** means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

**Wireless Services Provider** means a person who provides wireless services.
Sec. 13.30.030. - Installation requirements for small wireless facilities.

A. Site Selection.

(1) The preferred location for SWF shall be on existing infrastructure such as utility poles or street lights in industrial and commercial areas. If a SWF is necessary in a residential area, reasonable efforts shall be made to ensure that the facility is not in direct view of residential living areas such as living rooms, bedrooms, and kitchens. The infrastructure selected should be located at street intersections and/or near property line prolongations or between buildings in multifamily areas to minimize visual impacts whenever possible. If the SWF is not able to be placed on existing infrastructure, the applicant shall provide a map of existing infrastructure in the service area and describe why each such site was not feasible.

(2) When existing infrastructure sites have been exhausted or there is no available infrastructure in the proposed location, the City will consider entering into a master agreement with an applicant on mutually agreeable terms, but which will require that the applicant dedicate new infrastructure such as a street light, on which the SWF can be installed. The installation shall be subject to any of the size, attachment, and other physical restrictions set forth in subsections B.(1) and B.(2) below, as determined necessary by the City Engineer. The City Engineer shall approve all plans and specifications, including the means of providing electrical power.

B. Existing Infrastructure Requirements.

(1) Street Light.

(a) The antenna shall be the smallest possible volume but in no case greater than three cubic feet. Antenna installations will be top of pole mount and shall not increase the height by more than ten (10) percent or ten (10) feet, whichever is greater, over other street lights in the immediate vicinity. The antenna shall be as small as technically possible, and RF screen and/or color treatment shall be utilized if possible to camouflage the installation.

(b) Equipment, other than antennas, shall be mounted as prescribed by the City Engineer in one of the manners described herein:

(i) Equipment shall be mounted in a base shroud of approved design to be retrofitted to an existing light standard. The base shroud shall be coated or painted with an approved color to match the existing pole.

(ii) Equipment shall be mounted directly to the pole a minimum of eight (8) feet above the existing grade and be coated or painted with an approved color to match the existing pole.

(iii) Equipment shall be mounted to the pole in an equipment box a minimum of eight (8) feet above the existing grade. The equipment box shall be coated or painted an approved color to match the existing pole and will be no
wider than two (2) times the diameter of the pole at the point it is mounted nor protrude from the surface of the pole by more than sixteen (16) inches. All equipment, cables and wiring shall be fully contained in the equipment box unless technically infeasible as determined by the City Engineer based on technical specifications provided by the applicant. Full containment shall not be found to be technically infeasible if an alternative equipment enclosure providing similar functionality, capable of full containment, is generally available to wireless service providers.

(c) The applicant may propose or the City may require that the existing light standard be replaced with a City-approved pole that is manufactured with a base shroud designed to accept wireless equipment.

(2) Utility Pole.

(a) The antenna shall be the smallest possible volume but in no case greater than three (3) cubic feet and shall be mounted at the top of the pole or on the side of the pole with a bracket. When mounted with a bracket, the bracket will be coated or painted to match the existing pole and may extend no more than eighteen (18) inches from the surface of the pole unless a greater distance is required by applicable laws. The antenna shall be as small as technically possible, and RF screen and/or color treatment shall be utilized if possible to camouflage the installation.

(b) Equipment, other than antennas, shall be mounted as prescribed by the Director in one of the manners described herein:

(i) Equipment shall be mounted directly to the pole a minimum of eight (8) feet above the existing grade and be coated or painted with an approved color to match the existing pole.

(ii) Equipment shall be mounted in an equipment box that is mounted directly to the pole a minimum of eight (8) feet above the existing grade. The equipment or box shall be coated or painted to match the existing pole and will be no wider than the diameter of the pole at the point it is mounted nor protrude from the surface of the pole by more than sixteen (16) inches unless a greater distance is required by applicable laws. All equipment, cables and wiring shall be fully contained in the equipment box unless technically infeasible as determined by the City Engineer based on technical specifications provided by the applicant. Full containment shall not be found to be technically infeasible if an alternative equipment enclosure providing similar functionality, capable of full containment, is generally available to wireless service providers.

(c) If the existing utility pole already has more than two (2) existing risers/drops, the pole must be replaced with a metal pole that allows the new cable and wires to be located inside the pole, in conduit. The existing drops will also be relocated inside the new pole and underground entry into the pole through the foundation is required. When the installation will result in two (2) or fewer risers/drops on the pole, the wires and cable may be installed as a riser/drop in conduit painted to match the pole,
(3) Alternative Infrastructure. The Planning Director and City Engineer shall be authorized to consider and allow use of other infrastructure not described above and not otherwise prohibited herein, when the Planning Director or City Engineer determines that the proposed alternate infrastructure: (i) is substantially similar in physical characteristics to a preferred structure; and (ii) the visual impact that would be suffered by the public is no greater than the impact if installed on a preferred structure; and (iii) the proposed alternative infrastructure can accommodate the proposed SWF without creating any risk to the public health or safety. Any approved alternate infrastructure shall be subject to all requirements for SWFs set forth in this section 13.30.030.

C. Prohibited locations. The City Engineer has determined that, in order to ensure protection of the public health and safety, no SWF may be installed or maintained (i) where any hazard to normal traffic flow could occur or exist, such as obscuring of drivers’ visibility or sight lines; or (ii) which would result in any obstruction or restriction of pedestrian movement or risk to pedestrian safety; or (iii) which would or could result in violation of any law, including any ADA standard; or (iv) which would or could result in violation of any applicable federal, State, County or local standard including standards of the American Association of State Highway and Transportation Officials.

Sec. 13.30.040. - Permit Required.

A. A SWF permit must be obtained from the City before a SWF may be installed or maintained in the PROW. A standard City of Jurupa Valley encroachment permit will also be required as a condition of SWF permit approval. A SWF permit is valid for ten (10) years. However, to ensure the greatest availability to other applicants of preferred locations for SWFs, installation of each SWF for which the permit is issued shall be completed within one (1) year of issuance. Upon a showing of good cause not based on fault of the permittee, the Planning Director may extend the time to complete the installation under a SWF permit, for an additional six (6) months. Upon a failure of a permittee to complete installation in the required period of time, the permit shall be deemed abandoned and the proposed SWF location shall be made available to other SWF applicants.

In the event that an application is deemed granted by rule of law or court decision, all conditions and design guidelines set forth in this chapter are still applicable to the installation.

An application for a permit to install a SWF shall be made in writing on such forms as detailed in the Wireless Facilities Application Policy and Installation Guidelines established pursuant to this chapter and shall comply with the following minimum requirements, in addition to all other information and documentation determined to be necessary by the Planning Director and City Engineer to effectuate the purpose and intent of this section. A review of an application for a SWF that complies in all respects with this chapter, shall be deemed an administrative review. Any proposed wireless facility not
satisfying all requirements of this chapter for SWFs, or for any kind of wireless facility that is not a SWF, shall be subject to discretionary review unless ministerial review is required by law. Any “eligible facilities request” under 47 U.S.C. Section 1455(a), shall be processed consistent with federal law and the requirements of this Code.

The application form shall specify the number, size and format of the project plans and application materials to be provided, including, but not limited to, electronic format. The City Engineer may waive certain submittal requirements or require additional information based on specific project factors. Unless an exemption or waiver applies, all applications shall include all of the following and will not be accepted if any submittal material is missing or not fully completed. An application shall not be deemed complete by the City unless all required information, submittals, and documentation has been submitted to the City as follows:

1. Complete Application. A fully completed and executed City application form for the type of approval sought, and all information, materials, fees, attachments, submittals, and proof of insurance specified in the City-approved application form, must be submitted.

2. Executed Under Penalty of Perjury. All applications shall be signed under penalty of perjury under the laws of the state of California by an authorized representative of the applicant.

3. Applicant Information. Complete legal name and contact information for the facility owner, facility operator, agent (if any), and property owner (for any collocation facility on any existing SWF), and related letter(s) of authorization if the owner is other than the City.

4. Detailed Description of the SWF. A full written description of the proposed facility, its purpose, and specifications.

   a. Distributed Antenna System. Applications for a SWF permit for a DAS shall be submitted as a single SWF application for the entire project. Each individual location within the system shall be processed and considered for approval separately. Permitting fees will be applied to each such location. Each location will be evaluated and must comply with the all design and development standards as defined by this chapter.

   b. Utility Pole Attachments. For any SWF proposed to be collocated on a pole or structure owned by a public utility such as Southern California Edison, the application shall include written evidence of the utility’s approval of applicant’s proposed attachment including any and all applicable terms and conditions, and detailed description of the approved SWF. A SWF authorized by law and approved by the utility company for attachment to a utility owned pole or structure, shall be subject to all provisions of this chapter except to the extent any such provisions are preempted by State or federal law related to utility pole attachments by wireless providers.
(5) Inventory. An inventory list and map of the applicant’s existing SWFs, including but not limited to collocations, operated by the applicant within two miles of the proposed site (“service area”), and longer range conceptual plans for a period of five (5) years shall also be provided, if available. The inventory list must include specific information as to location, height, and design of each facility. The City may share such information with other applicants seeking to locate SWFs within the service area, in order to encourage collocation.

(6) Geographic Service Area. A written description identifying the geographic service area for the subject installation, accompanied by a two-year master plan of anticipated future installations and/or modifications, including maps.

(7) Report on Alternatives. A report explaining why the SWF is needed at the requested location, including a written statement explaining the rationale for selecting the proposed site; and how the proposed SWF is the least intrusive means for the applicant to provide wireless service in the proposed service area. Such statement shall include all existing structures and/or alternative sites evaluated for potential installation of the proposed SWF and why such alternatives are not a viable option. If the City has requested that the applicant collocate its SWF on a site, the applicant shall explain why collocation is not feasible, including efforts made to develop such an alternative.

(8) SWF Plans. Detailed engineering plans of the proposed SWF showing all equipment and antennas, including height, shape, size and nature of construction in accordance with the requirements established by the City Engineer. The plans shall include, but are not limited to, a fully dimensioned diagram of the proposed SWF and antennas, including height, diameter, design, shape, size, structural integrity, power output and frequency, back-up power source (if any), nature of construction, purpose of the facility, and technical engineering specifications, economic and other pertinent factors governing selection of the proposed design, together with evidence that demonstrates that the proposed facility has been designed to the minimum height and diameter required from a technological standpoint for the proposed site. The plans for any new free-standing structure must provide sufficient detail to demonstrate that the structure will be able to accommodate at least one other similar telecommunications provider in addition to the applicant. The plans shall include a diagram showing the separation between the proposed SWF and any existing facility or facilities on the same support structure or site, if collocation is planned. In order to minimize visual impact of equipment boxes, every applicant seeking to collocate with another SWF shall utilize its best efforts to arrange with the existing SWF operator to share equipment enclosures. The collocating wireless provider shall provide a written description of its efforts made to share any equipment enclosure. If unable to achieve a sharing arrangement, the applicant’s written description shall clearly state the reasons why.

(9) Site Plans. A fully-dimensioned site/landscaping plan that includes, at a minimum, the following information: specific placement of the proposed equipment shelters, antenna(s), and any other SWF on the site; setbacks from adjacent property lines; the location of existing structures, trees, and other significant site features;
the type and locations of materials proposed to screen SWF antennas and other components, if any; the proposed materials and color(s) for the SWF; and all other information required by the Planning Director.

(10) Photographs and Visual Analysis. Photo-simulations showing views of the proposed SWF from surrounding properties and adjoining PROW at varying distances and angles with a map indicating the locations used for the analysis and their distances from the site.

(11) Documentation of Federal and State Compliance. Copies of all applicable licenses, permits, and/or other approvals required by the FCC, CPUC, and any other federal, state, and/or local agency with authority to regulate SWFs, and documentation of compliance with all conditions imposed in conjunction with such licenses or approvals. The required documentation shall include, but is expressly not limited to, the following:

(a) Engineering calculations demonstrating that the proposed SWF will comply with all applicable FCC rules, regulations, and/or specifications.

(b) Completion of the radio frequency (RF) emissions exposure guidelines checklist contained in Appendix A to the FCC’s “Local Government Official's Guide to Transmitting Antenna RF Emission Safety”, or any successor regulations, to determine whether the SWF will be “categorically excluded”, as that term is used by the FCC.

(c) For a SWF that is not categorically excluded under the FCC regulations for RF emissions, the applicant shall submit an RF exposure compliance report prepared and certified by an RF engineer acceptable to the City that certifies that the proposed SWF, as well as any SWFs that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards, exposure limits and emission levels. The RF report must include the actual frequency and power levels (in watts effective radiated power “ERP”) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

(12) Any environmental documentation required to obtain such federal and/or state license, permit or other approval.

(13) CPUC. A copy of the certificate of public convenience and necessity issued by the CPUC to the applicant, and a copy of the CPUC decision that authorizes the applicant to provide the wireless telecommunications service for which the facilities are proposed to be constructed in the PROW. Any applicant that, prior to 1996, provided telecommunications service under administratively equivalent documentation.
issued by the CPUC may submit copies of that documentation in lieu of a certificate of public convenience and necessity.

(14) Environmental compliance. A completed environmental assessment and documentation establishing that all applicable environmental mitigation measures imposed by the CPUC, City and any other federal or state environmental determinations (i) have been met, (ii) will be met as part of the proposed SWF, or (iii) are not applicable.

(15) Noise Compliance. A statement made under penalty of perjury that the level of noise to be emitted by the proposed SWF will comply with the noise standards contained in this Code.

(16) Traffic Control Plan. A traffic control plan when the proposed installation will require use of any active traffic lane on any street.

(17) Any other information, studies and/or other documentation determined necessary by the City Engineer.

B. Application of federal “shot clocks.”

Applications shall be processed in compliance with the following federally established timelines:

(1) Subject to tolling provisions in subsection B. of this section the City shall have sixty (60) days from the date of receipt of an application for a permit for a SWF to collocate one or more SWFs on infrastructure, within which to act on the application. The foregoing period shall be ninety (90) days for applications to install one or more SWFs in the PROW involving no collocation, or where SWFs identified in the application will be both collocated and not collocated.

(2) Unless otherwise agreed upon in writing by the applicant and City, for an initial application to install one or more SWFs, if the City notifies the applicant on or before the tenth (10th) day after submission that the application is materially incomplete, and identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the time for the City to act on the application is tolled, and the shot clock date calculation shall restart at zero (0) on the date on which the applicant submits all the documents and information identified by the City to render the application complete.

(3) For any resubmitted application following the City’s notice of deficiency, the time for the City to act on the application shall be tolled for the number of days from:

   (a) The day after the date when the City notifies the applicant in writing that the applicant’s supplemental submission was not sufficient to render the application complete and identifies the missing documents or information that need to be submitted based on the City’s original request under subsection B.(2), above, until;
(b) The date when the applicant submits all the documents and information identified by the City to render the application complete, provided the notice pursuant to subsection B.(3)(a), above is served on or before the tenth (10th) day after the date when the applicant makes a supplemental submission in response to the City’s request under subsection B.(2), above.

(4) The “shot clock date” or starting date for a SWF application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified in this subsection B., provided, that if the date calculated in this manner is a local, State, or federal holiday within the City or State (“legal holiday”), the shot clock date is the next business day after such date. The term “business day” means any week day that is not a legal holiday of the City or State. Note that “business day” includes any Friday when the City’s business offices are closed.

C. Construction requirements. Every permitted SWF shall be constructed/installed in strict compliance with the approved plans and specifications, provisions of this Chapter, all laws, and all written policies and direction of the City Engineer related to installation of utilities and/or other physical encroachments into the PROW. All cabling and wiring must be contained in conduit, affixed directly to the face of the pole, for as long as it is technically feasible. No exposed slack or extra cable will be allowed. No visible electrical meters will be allowed. The applicant shall negotiate directly with the electric utility to determine a flat rate for installation. The applicant is responsible for the cost of all electrical usage.

All work shall be done in accordance with latest City of Jurupa Valley Public Works, State, Caltrans, California Manual on Uniform Traffic Control Devices, Work Area Traffic Control Handbook, County and Federal Standards and Specifications or as otherwise required by the City Engineer. It is the permittee’s contractor’s responsibility to obtain the City of Jurupa Valley Engineering Standards and Specifications before starting work. Any work done without inspection or not conforming to such standards and specifications shall be subject to removal and replacement in the presence of the City Engineer or a designee.

D. Maintenance Standards.

(1) The permittee shall provide on-going maintenance of its ground mounted, at-grade or above-grade SWF, including ensuring the facilities are reasonably free of:

(a) General dirt and grease;

(b) Chipped, faded, peeling, and cracked paint, or on all visible painted areas;

(c) Visible rust or corrosion;

(d) Cracks, dents, blemishes, and discoloration;
(e) Graffiti, bills, stickers, advertisements, etc.; and

(f) Broken and misshapen structural parts.

(2) All ground-mounted, at-grade, and above-ground SWF shall be properly maintained in accordance with the following procedures:

(a) All necessary repairs, including graffiti removal, shall be completed by the applicant within 48 hours after discovery of the need for such repairs or in receiving notification from the City Engineer;

(b) The permittee shall provide routine maintenance within ten (10) working days after receiving notification from the City Engineer;

(c) The permittee shall replace ground-mounted, at-grade, and above-ground SWF, in kind, if routine or emergency maintenance is not sufficient to return the equipment to the condition at the time of installation.

E. Insurance and Indemnity. As a condition of approval of every SWF permit, and by accepting such permit, the permittee, to the fullest extent permitted by law, agrees to and shall indemnify, defend and pay reasonable attorneys’ fees and costs, and hold the City of Jurupa Valley, its elected officials, officers, employees, attorneys, contractors, agents, and volunteers harmless, with respect to any and all claims, liabilities, and legal actions, allegedly or actually arising out of or related to, the acts and/or omissions of the applicant, its owners, officers, employees, contractors, agents, and any other person or entity acting on behalf of the applicant, in the exercise of rights and/or performance of obligations, in connection with any SWF or other permit issued to the permittee pursuant to this chapter.

Prior to entering any PROW pursuant to a SWF permit, the permittee shall procure, provide satisfactory evidence of, and maintain commercial general auto liability, and workers compensation insurance in such form and with such limits as required by the City Engineer or designee or otherwise as required as a condition of the issuance of a City encroachment permit. Unless approved in writing by the City Engineer or designee, self-insurance shall not be deemed to satisfy the requirements of this chapter.

F. Written Policy and Guidelines. Due to rapidly changing technology and regulatory requirements, the City Council authorizes the Planning Director and City Engineer to establish Wireless Facilities Application Policy and Installation Guidelines to serve as further regulatory guidance and clarification concerning wireless facilities in the City. The Wireless Facilities Application Policy and Installation Guidelines shall be approved by resolution of the City Council and subsequently published in a newspaper of general circulation. The Wireless Facilities Application Policy and Installation Guidelines may be updated at the discretion of the Planning Director and City Engineer to adjust for new technologies and regulations, and following adoption and publication of the updated Wireless Facilities Application Policy and Installation Guidelines, compliance therewith is required by this chapter, and is a condition of approval in every SWF application and permit. The provisions of this chapter shall govern in the event of
any conflict or inconsistency between any of its provisions and the provisions of the most current Wireless Facilities Application Policy and Installation Guidelines.

G. Abandonment. Whenever a wireless permittee intends to abandon a wireless facility, including any SWF, the permittee must notify the City Engineer in writing of its planned abandonment. A wireless facility including SWF shall be removed within ninety (90) days of abandonment with attainment of all required permits. Any wireless facility not in use for a period of six (6) months shall be considered abandoned and shall be removed pursuant to this chapter.

H. Damage and repair. The City may require a permittee to repair all damage to the PROW caused by the activities of the permittee and return the PROW to its functional equivalence before the damage. If the permittee fails to make the repairs within 90 days after written notice, the City may affect those repairs and charge the permittee the reasonable, documented cost of such repairs.

I. Emergency removal and relocation by the City. The City retains the right and privilege to cut or move any SWF located with the PROW of the City as the City may deem necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the permittee after cutting or removing a SWF.

J. Removal of SWF for public improvement. Within 90 days following written notice from the City, a permittee shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any SWF with the PROW whenever the City has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City Improvement in or upon, or the operations of the City in or upon, the PROW.

K. Administrative Variance. An administrative variance from the strict locational or physical requirements of section 13.30.030 or section 13.30.040 may be granted at the discretion of the Planning Director, when it is shown to the satisfaction of the Planning Director and City Engineer based on substantial evidence that, because of special, unique circumstances applicable to the proposed location, the strict application of the requirements of the section would deprive the applicant of privileges enjoyed by other permittees in the vicinity operating a similar SWF. Any administrative variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other wireless providers seeking to locate any SWF in or around the proposed location.

Sec. 13.30.050. - Fees.

Each applicant/permittee shall pay one-time and recurring fees, per each SWF, in amounts (i) not less than those amounts deemed presumptively reasonable under then-in effect federal law or regulations; or (ii) established by the City by resolution as a
reasonable, non-discriminatory approximation of the City’s costs; or (iii) agreed upon by the City and a permittee in a master agreement.


The provisions of this Chapter shall govern and supersede any conflicting provisions of the Jurupa Valley Municipal Code with respect to the permitting and regulation of SWFs in PROW.

Sec. 13.30.070. - Waiver.

The City Engineer may waive any requirement of this Chapter if he or she finds that imposing that requirement on an applicant would prohibit or effectively prohibit the provision of personal wireless service or otherwise violate applicable laws.”

Section 4. CEQA Finding. The proposed Code Amendment is exempt from the requirements of the California Environmental Quality Act (“CEQA”) and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Code Amendment, establishing regulations applicable to the location and installation of small wireless facilities in the public rights-of-way, will have a significant effect on the environment. The proposed Code Amendment is an administrative process of the City that will not result in direct or indirect physical changes in the environment. The City Council has reviewed the administrative record concerning the proposed Code Amendment and the proposed CEQA exemption, and based on its own independent judgment, finds that the Code Amendment set forth in this Ordinance is exempt from the requirements of CEQA and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3).

Section 5. Future Modifications. The City Council declares that it is adopting this Ordinance in order to more fully protect and preserve the public health and safety with respect to City rights-of-way in light of the adoption of the Report and Order. Notice is hereby given to any and all wireless providers obtaining a permit pursuant to the Jurupa Valley Municipal Code chapter adopted herein, that the City expressly reserves any and all rights it possessed prior to the adoption of the Report and Order concerning its authority to regulate its public rights-of-way. In the event the Report and Order is invalidated, modified, or limited in any way, the City Council reserves the right, subject to reasonable notice and due process, to modify the terms and conditions applicable to any permit issued hereunder including, but not limited to, the term, fees charged, and scope of any future wireless deployments within the City’s rights-of-way.

Section 6. Severability. If any sections, subsections, sentence, clause, or phrase of the chapter adopted by this Ordinance is for any reason held to be invalid or unconstitutional by the decision or legislation of any court of competent jurisdiction, or by reason of preemptive legislation, such decision or legislation shall not affect the validity of the remaining portions of the chapter. The City Council declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses, or phrases thereof is declared invalid or unconstitutional.
Section 7. **Effect of Ordinance.** This Ordinance is intended to supersede any ordinance or resolution of the County of Riverside adopted by reference by the City of Jurupa Valley in conflict with the terms of this Ordinance.

Section 8. **Certification.** The City Clerk of the City of Jurupa Valley shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

Section 9. **Effective Date.** This Ordinance shall take effect on the date provided in Section 36937 of the California Government Code.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Jurupa Valley on this 19th day of September, 2019.

____________________________
Brian Berkson
Mayor

ATTEST:

________________________
Victoria Wasko, CMC
City Clerk
CERTIFICATION

STATE OF CALIFORNIA )
COUNTY OF RIVERSIDE ) ss.
CITY OF JURUPA VALLEY )

I, Victoria Wasko, CMC, City Clerk of the City of Jurupa Valley, do hereby certify that the foregoing Ordinance No. 2019-11 was regularly introduced at a regular meeting of the City Council held on the 29th day of August, 2019 and thereafter at a regular meeting held on the 19th day of September, 2019 it was duly passed and adopted by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Jurupa Valley, California, this 19th day of September, 2019.

________________________________
Victoria Wasko, CMC
City Clerk
ORDINANCE NO. 2019-13

AN URGENCY ORDINANCE OF THE CITY OF JURUPA VALLEY, CALIFORNIA, ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION AND INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES

THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The City Council of the City of Jurupa Valley does hereby find, determine, and declare that:


(b) The Report and Order purports to give providers of wireless services rights to utilize public rights-of-way and to attach so-called “small wireless facilities” to public infrastructure including infrastructure of the City of Jurupa Valley, subject to payment of “presumed reasonable”, non-recurring and recurring fees. The ability of local agencies to regulate use of their rights-of-way is substantially limited under the Report and Order.

(c) Notwithstanding the limitations imposed on local regulation of small wireless facilities in public rights-of-way by the Report and Order, local agencies retain the ability to regulate the aesthetics of small wireless facilities, including location, compatibility with surrounding facilities, spacing, and overall size of the facility, provided the aesthetic requirements are: (i) “reasonable”, i.e., “technically feasible and reasonably directed to avoiding or remedying the intangible public harm or unsightly or out-of-character deployments”; (ii) “objective”, i.e., they “incorporate clearly-defined and ascertainable standards, applied in a principled manner”; and (iii) published in advance. Regulations that do not satisfy the foregoing requirements are likely to be subject to invalidation, as are any other regulations that “materially inhibit wireless service” (e.g., overly restrictive spacing requirements).

(d) Local agencies also retain the ability to regulate small wireless facilities in the public rights-of-way in order to more fully protect the public health and safety, ensure continued quality of telecommunications services, and safeguard the rights of consumers.

(e) It is the intent of the City Council in adopting this urgency Ordinance to supersede regulations of the City that conflict with the Report and Order, and to immediately establish consistent regulations governing deployment of small wireless facilities in the public rights-of-way, in order to more fully protect the public health, safety, and welfare. The City Council declares that it adopts this Ordinance with the understanding that the City expressly reserves all rights to re-enact and/or establish new regulations consistent with State and federal
law as it existed prior to adoption of the Report and Order in the event the Report and Order is invalidated, modified, or limited in any way.

(f) The City Council finds that the public health need of the community is met by the immediate adoption of the Amendments since wireless communications facilities can be aesthetically displeasing and out of harmony with the character of this community so as to constitute visual blight which reduces the quality of life within the community to the extent that the overall public health is detrimentally affected. Given the short time the City has to process applications for small wireless communication facilities, there is an immediate need to adopt procedures and policies for the processing of small cell wireless applications. Due to the foregoing circumstances, the City Council finds and determines that the immediate preservation of the public health, safety, and welfare requires that this Urgency Ordinance be enacted as an urgency ordinance pursuant to Government Code sections 36934, 36937 and 65858, and that it take effect immediately upon adoption, and that its urgency is hereby declared.

(g) The City Council further finds that, as a result of the regulations adopted by the Federal Communications Commission effective as of January 14, 2019, as more fully described in this section, some City regulations governing third party use of its public rights-of-way will be invalidated which will result in an absence of standards designed to protect the public. Therefore, unless this Urgency Ordinance is effective and its regulations are immediately put in place, the public health, safety and welfare will be at risk. Therefore the immediate preservation of the public health, safety and welfare requires that this Urgency Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937(b) and take effect immediately upon adoption, and its urgency is hereby declared.

Section 2. Amendment to Section 9.275.020., Exclusions. Section 9.275.020., Exclusions, of Chapter 9.275, Wireless Communication Facilities, of Title 9, Planning and Zoning, of the Jurupa Valley Municipal Code is hereby amendment to read as follows:

“Sec. 9.275.020. - Exclusions.

This chapter shall not apply to the following:

(1) Any tower or antenna that is less than one hundred and five (105) feet in total height and that is owned and operated by a federally-licensed amateur radio station operator.

(2) This chapter shall also not apply to any tower or antenna used for commercial radio or television purposes; and

(3) Any small wireless facility, as defined in section 13.30.020.”

Section 3. Addition of Chapter 13.30, Regulations of Small Wireless Facilities in the Public Rights-of-Way. A new Chapter 13.30 is hereby added to Title 13 of the Jurupa Valley Municipal Code to read as follows:
“CHAPTER 13.30
REGULATION OF SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY

Sections:

13.30.010  Purpose.
13.30.020  Definitions.
13.30.030  Installation requirements for small wireless facilities.
13.30.040  Permit required.
13.30.050  Fees.

Sec. 13.30.010. - Purpose.

The City Council of the City of Jurupa Valley expressly finds that the installation of small wireless facilities in City rights-of-way requires City regulation, consistent with State and federal law as it currently exists, in order to more fully protect the public health and safety, preserve and protect the City’s aesthetic interests, protect City infrastructure and other public facilities, and provide for the orderly deployment of small wireless facilities in order to ensure the continued quality of telecommunication services to the public.

The City Council further finds that regulations established herein are not intended to, nor shall they be interpreted or applied to:

1. Prohibit or effectively prohibit any personal wireless service provider’s ability to provide personal wireless services;

2. Prohibit or effectively prohibit any personal wireless service provider’s ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulations;

3. Unreasonably discriminate among providers of functionally equivalent services;

4. Deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission’s regulations concerning such emissions;

5. Prohibit any collocation or modification that the City may not deny under federal or State law;

6. Impose any unfair, unreasonable, discriminatory or arbitrary fees that exceed the reasonable cost to provide the services for which the fee is charged; or

7. Otherwise authorize the City to act in conflict with any applicable federal or State law or regulation.
Sec. 13.30.020. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative Review means ministerial review of an application by the City relating to the review and issuance of a permit, including review by the Planning Director and City Engineer to determine whether the issuance of a Permit is in conformity with the applicable provisions of this chapter.

Antenna means communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of Wireless Services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

Applicant means any person who submits an application under this chapter.

Application means a written request, on a form provided by the City, for a SWF permit.

City means the City of Jurupa Valley.

Collocate means to install or mount a SWF in the PROW on infrastructure, an existing support structure, an existing tower, a utility-owned structure, or an existing pole to which another SWF is attached at the time of the application. Collocation has a corresponding meaning.

Communications Facility means, collectively, the equipment at a fixed location or locations within the PROW that enables communications services, including: (i) radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A communications facility does not include the pole, tower or support structure to which the equipment is attached.

Communications Service means telecommunications service, as defined in 47 U.S.C. Section 153(53), including wireless broadband internet service.

Communications Service Provider or Provider means a provider of communications services.

Construction Codes means California Building, Fire, Electrical, Plumbing, and/or Mechanical Codes adopted by the City.

CPUC means the California Public Utilities Commission.

Discretionary Review means review of an application by the City relating to the review and issuance of a permit that is other than an administrative review.
FCC means the Federal Communications Commission.

Infrastructure means any City-owned or operated facility, equipment, pole, pipe, cabinet, or other structure located in the PROW. “Infrastructure” shall include poles, street lights, and/or other structures in the PROW owned by utilities, except to the extent any specific requirement is preempted or prohibited by State or federal law related to utility pole attachments by wireless providers.

Laws means, collectively, any and all Federal, State, or local laws, statutes, common law, codes, construction codes, rules, regulations, orders, and/or ordinances.

Master Agreement means an agreement between the City and a permittee authorizing the installation and maintenance of one of more SWFs.

Permit means a written authorization (in electronic or hard copy format) to install a SWF at a specified location(s) in the PROW. A permit may also consist of a master agreement between the applicant and City to install and maintain one or more SWFs in the PROW.

Permittee means an applicant that has received a permit under this chapter.

Person means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.

Pole means a legally constructed City or utility owned pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within the PROW. A pole does not include a tower or support structure and does not include a pole or structure that supports electric transmission lines.

Public Rights-of-Way or PROW means the area on, below, or above property that has been designated for use as or is used for a City-owned or controlled roadway, highway, street, sidewalk, alley or similar purpose. The term does not include a federal interstate highway or other areas that are not within the legal jurisdiction, ownership or control of the City.

Replace or Replacement means, in connection with an existing pole, support structure or tower, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this chapter and any other applicable Jurupa Valley Municipal Code provisions, in order to address limitations of the existing structure to structurally support collocation of a Communications Facility.

Small Wireless Facility or SWF means a wireless facility that meets the following qualifications: (i) each antenna could fit within an enclosure of no more than three (3) cubic feet in volume; (ii) all other wireless equipment associated with the antenna, including the provider’s preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume; and (iii) the facility is the type of facility otherwise described in 47 C.F.R. Section 1.1312(e)(2).
State means the State of California.

Support Structure means a structure in the PROW other than a pole or a tower to which a wireless facility is attached at the time of the application.

Tower means any structure in the PROW built for the sole or primary purpose of supporting a wireless facility. A tower does not include a pole or a support structure.

Wireless Facility means the equipment at a fixed location or locations in the PROW that enables wireless services. The term does not include: (i) the support structure, tower or pole on, under, or within which the equipment is located or collocated; or (ii) coaxial, fiber-optic or other cabling that is between communications facilities or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. A SWF is one type of wireless facility.

Wireless Services means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

Wireless Services Provider means a person who provides wireless services.

Sec. 13.30.030. - Installation requirements for small wireless facilities.

A. Site Selection.

(1) The preferred location for SWF shall be on existing infrastructure such as utility poles or street lights in industrial and commercial areas. If a SWF is necessary in a residential area, reasonable efforts shall be made to ensure that the facility is not in direct view of residential living areas such as living rooms, bedrooms, and kitchens. The infrastructure selected should be located at street intersections and/or near property line prolongations or between buildings in multifamily areas to minimize visual impacts whenever possible. If the SWF is not able to be placed on existing infrastructure, the applicant shall provide a map of existing infrastructure in the service area and describe why each such site was not feasible.

(2) When existing infrastructure sites have been exhausted or there is no available infrastructure in the proposed location, the City will consider entering into a master agreement with an applicant on mutually, agreeable terms, but which will require that the applicant dedicate new infrastructure such as a street light, on which the SWF can be installed. The installation shall be subject to any of the size, attachment, and other physical restrictions set forth in subsections B.(1) and B.(2) below, as determined necessary by the City Engineer. The City Engineer shall approve all plans and specifications, including the means of providing electrical power.

B. Existing Infrastructure Requirements.

(1) Street Light.
(a) The antenna shall be the smallest possible volume but in no case greater than three cubic feet. Antenna installations will be top of pole mount and shall not increase the height by more than ten (10) percent or ten (10) feet, whichever is greater, over other street lights in the immediate vicinity. The antenna shall be as small as technically possible, and RF screen and/or color treatment shall be utilized if possible to camouflage the installation.

(b) Equipment, other than antennas, shall be mounted as prescribed by the City Engineer in one of the manners described herein:

(i) Equipment shall be mounted in a base shroud of approved design to be retrofitted to an existing light standard. The base shroud shall be coated or painted with an approved color to match the existing pole.

(ii) Equipment shall be mounted directly to the pole a minimum of eight (8) feet above the existing grade and be coated or painted with an approved color to match the existing pole.

(iii) Equipment shall be mounted to the pole in an equipment box a minimum of eight (8) feet above the existing grade. The equipment box shall be coated or painted an approved color to match the existing pole and will be no wider than two (2) times the diameter of the pole at the point it is mounted nor protrude from the surface of the pole by more than sixteen (16) inches. All equipment, cables and wiring shall be fully contained in the equipment box unless technically infeasible as determined by the City Engineer based on technical specifications provided by the applicant. Full containment shall not be found to be technically infeasible if an alternative equipment enclosure providing similar functionality, capable of full containment, is generally available to wireless service providers.

(c) The applicant may propose or the City may require that the existing light standard be replaced with a City-approved pole that is manufactured with a base shroud designed to accept wireless equipment.

(2) Utility Pole.

(a) The antenna shall be the smallest possible volume but in no case greater than three (3) cubic feet and shall be mounted at the top of the pole or on the side of the pole with a bracket. When mounted with a bracket, the bracket will be coated or painted to match the existing pole and may extend no more than eighteen (18) inches from the surface of the pole unless a greater distance is required by applicable laws. The antenna shall be as small as technically possible, and RF screen and/or color treatment shall be utilized if possible to camouflage the installation.

(b) Equipment, other than antennas, shall be mounted as prescribed by the Director in one of the manners described herein:
(i) Equipment shall be mounted directly to the pole a minimum of eight (8) feet above the existing grade and be coated or painted with an approved color to match the existing pole.

(ii) Equipment shall be mounted in an equipment box that is mounted directly to the pole a minimum of eight (8) feet above the existing grade. The equipment or box shall be coated or painted to match the existing pole and will be no wider than the diameter of the pole at the point it is mounted nor protrude from the surface of the pole by more than sixteen (16) inches unless a greater distance is required by applicable laws. All equipment, cables and wiring shall be fully contained in the equipment box unless technically infeasible as determined by the City Engineer based on technical specifications provided by the applicant. Full containment shall not be found to be technically infeasible if an alternative equipment enclosure providing similar functionality, capable of full containment, is generally available to wireless service providers.

(c) If the existing utility pole already has more than two (2) existing risers/drops, the pole must be replaced with a metal pole that allows the new cable and wires to be located inside the pole, in conduit. The existing drops will also be relocated inside the new pole and underground entry into the pole through the foundation is required. When the installation will result in two (2) or fewer risers/drops on the pole, the wires and cable may be installed as a riser/drop in conduit painted to match the pole, or as directed by the City.

(3) Alternative Infrastructure. The Planning Director and City Engineer shall be authorized to consider and allow use of other infrastructure not described above and not otherwise prohibited herein, when the Planning Director or City Engineer determines that the proposed alternate infrastructure: (i) is substantially similar in physical characteristics to a preferred structure; and (ii) the visual impact that would be suffered by the public is no greater than the impact if installed on a preferred structure; and (iii) the proposed alternative infrastructure can accommodate the proposed SWF without creating any risk to the public health or safety. Any approved alternate infrastructure shall be subject to all requirements for SWFs set forth in this section 13.30.030.

C. Prohibited locations. The City Engineer has determined that, in order to ensure protection of the public health and safety, no SWF may be installed or maintained (i) where any hazard to normal traffic flow could occur or exist, such as obscuring of drivers’ visibility or sight lines; or (ii) which would result in any obstruction or restriction of pedestrian movement or risk to pedestrian safety; or (iii) which would or could result in violation of any law, including any ADA standard; or (iv) which would or could result in violation of any applicable federal, State, County or local standard including standards of the American Association of State Highway and Transportation Officials.

Sec. 13.30.040. - Permit Required.

A. A SWF permit must be obtained from the City before a SWF may be installed or maintained in the PROW. A standard City of Jurupa Valley encroachment permit will also be required as a condition of SWF permit approval. A SWF permit is valid
for ten (10) years. However, to ensure the greatest availability to other applicants of preferred locations for SWFs, installation of each SWF for which the permit is issued shall be completed within one (1) year of issuance. Upon a showing of good cause not based on fault of the permittee, the Planning Director may extend the time to complete the installation under a SWF permit, for an additional six (6) months. Upon a failure of a permittee to complete installation in the required period of time, the permit shall be deemed abandoned and the proposed SWF location shall be made available to other SWF applicants.

In the event that an application is deemed granted by rule of law or court decision, all conditions and design guidelines set forth in this chapter are still applicable to the installation.

An application for a permit to install a SWF shall be made in writing on such forms as detailed in the Wireless Facilities Application Policy and Installation Guidelines established pursuant to this chapter and shall comply with the following minimum requirements, in addition to all other information and documentation determined to be necessary by the Planning Director and City Engineer to effectuate the purpose and intent of this section. A review of an application for a SWF that complies in all respects with this chapter, shall be deemed an administrative review. Any proposed wireless facility not satisfying all requirements of this chapter for SWFs, or for any kind of wireless facility that is not a SWF, shall be subject to discretionary review unless ministerial review is required by law. Any “eligible facilities request” under 47 U.S.C. Section 1455(a), shall be processed consistent with federal law and the requirements of this Code.

The application form shall specify the number, size and format of the project plans and application materials to be provided, including, but not limited to, electronic format. The City Engineer may waive certain submittal requirements or require additional information based on specific project factors. Unless an exemption or waiver applies, all applications shall include all of the following and will not be accepted if any submittal material is missing or not fully completed. An application shall not be deemed complete by the City unless all required information, submittals, and documentation has been submitted to the City as follows:

1. Complete Application. A fully completed and executed City application form for the type of approval sought, and all information, materials, fees, attachments, submittals, and proof of insurance specified in the City-approved application form, must be submitted.

2. Executed Under Penalty of Perjury. All applications shall be signed under penalty of perjury under the laws of the state of California by an authorized representative of the applicant.

3. Applicant Information. Complete legal name and contact information for the facility owner, facility operator, agent (if any), and property owner (for any collocation facility on any existing SWF), and related letter(s) of authorization if the owner is other than the City.
(4) Detailed Description of the SWF. A full written description of the proposed facility, its purpose, and specifications.

(a) Distributed Antenna System. Applications for a SWF permit for a DAS shall be submitted as a single SWF application for the entire project. Each individual location within the system shall be processed and considered for approval separately. Permitting fees will be applied to each such location. Each location will be evaluated and must comply with the all design and development standards as defined by this chapter.

(b) Utility Pole Attachments. For any SWF proposed to be collocated on a pole or structure owned by a public utility such as Southern California Edison, the application shall include written evidence of the utility’s approval of applicant’s proposed attachment including any and all applicable terms and conditions, and detailed description of the approved SWF. A SWF authorized by law and approved by the utility company for attachment to a utility owned pole or structure, shall be subject to all provisions of this chapter except to the extent any such provisions are preempted by State or federal law related to utility pole attachments by wireless providers.

(5) Inventory. An inventory list and map of the applicant’s existing SWFs, including but not limited to collocations, operated by the applicant within two miles of the proposed site (“service area”), and longer range conceptual plans for a period of five (5) years shall also be provided, if available. The inventory list must include specific information as to location, height, and design of each facility. The City may share such information with other applicants seeking to locate SWFs within the service area, in order to encourage collocation.

(6) Geographic Service Area. A written description identifying the geographic service area for the subject installation, accompanied by a two-year master plan of anticipated future installations and/or modifications, including maps.

(7) Report on Alternatives. A report explaining why the SWF is needed at the requested location, including a written statement explaining the rationale for selecting the proposed site; and how the proposed SWF is the least intrusive means for the applicant to provide wireless service in the proposed service area. Such statement shall include all existing structures and/or alternative sites evaluated for potential installation of the proposed SWF and why such alternatives are not a viable option. If the City has requested that the applicant collocate its SWF on a site, the applicant shall explain why collocation is not feasible, including efforts made to develop such an alternative.

(8) SWF Plans. Detailed engineering plans of the proposed SWF showing all equipment and antennas, including height, shape, size and nature of construction in accordance with the requirements established by the City Engineer. The plans shall include, but are not limited to, a fully dimensioned diagram of the proposed SWF and antennas, including height, diameter, design, shape, size, structural integrity, power output and frequency, back-up power source (if any), nature of construction, purpose of the facility, and technical engineering specifications, economic and other pertinent
factors governing selection of the proposed design, together with evidence that demonstrates that the proposed facility has been designed to the minimum height and diameter required from a technological standpoint for the proposed site. The plans for any new free-standing structure must provide sufficient detail to demonstrate that the structure will be able to accommodate at least one other similar telecommunications provider in addition to the applicant. The plans shall include a diagram showing the separation between the proposed SWF and any existing facility or facilities on the same support structure or site, if collocation is planned. In order to minimize visual impact of equipment boxes, every applicant seeking to collocate with another SWF shall utilize its best efforts to arrange with the existing SWF operator to share equipment enclosures. The collocating wireless provider shall provide a written description of its efforts made to share any equipment enclosure. If unable to achieve a sharing arrangement, the applicant’s written description shall clearly state the reasons why.

(9) Site Plans. A fully-dimensioned site/landscaping plan that includes, at a minimum, the following information: specific placement of the proposed equipment shelters, antenna(s), and any other SWF on the site; setbacks from adjacent property lines; the location of existing structures, trees, and other significant site features; the type and locations of materials proposed to screen SWF antennas and other components, if any; the proposed materials and color(s) for the SWF; and all other information required by the Planning Director.

(10) Photographs and Visual Analysis. Photo-simulations showing views of the proposed SWF from surrounding properties and adjoining PROW at varying distances and angles with a map indicating the locations used for the analysis and their distances from the site.

(11) Documentation of Federal and State Compliance. Copies of all applicable licenses, permits, and/or other approvals required by the FCC, CPUC, and any other federal, state, and/or local agency with authority to regulate SWFs, and documentation of compliance with all conditions imposed in conjunction with such licenses or approvals. The required documentation shall include, but is expressly not limited to, the following:

(a) Engineering calculations demonstrating that the proposed SWF will comply with all applicable FCC rules, regulations, and/or specifications.

(b) Completion of the radio frequency (RF) emissions exposure guidelines checklist contained in Appendix A to the FCC’s “Local Government Official's Guide to Transmitting Antenna RF Emission Safety”, or any successor regulations, to determine whether the SWF will be “categorically excluded”, as that term is used by the FCC.

(c) For a SWF that is not categorically excluded under the FCC regulations for RF emissions, the applicant shall submit an RF exposure compliance report prepared and certified by an RF engineer acceptable to the City that certifies that the proposed SWF, as well as any SWFs that contribute to the cumulative exposure in the
subject area, will comply with applicable federal RF exposure standards, exposure limits and emission levels. The RF report must include the actual frequency and power levels (in watts effective radiated power “ERP”) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

(12) Any environmental documentation required to obtain such federal and/or state license, permit or other approval.

(13) CPUC. A copy of the certificate of public convenience and necessity issued by the CPUC to the applicant, and a copy of the CPUC decision that authorizes the applicant to provide the wireless telecommunications service for which the facilities are proposed to be constructed in the PROW. Any applicant that, prior to 1996, provided telecommunications service under administratively equivalent documentation issued by the CPUC may submit copies of that documentation in lieu of a certificate of public convenience and necessity.

(14) Environmental compliance. A completed environmental assessment and documentation establishing that all applicable environmental mitigation measures imposed by the CPUC, City and any other federal or state environmental determinations (i) have been met, (ii) will be met as part of the proposed SWF, or (iii) are not applicable.

(15) Noise Compliance. A statement made under penalty of perjury that the level of noise to be emitted by the proposed SWF will comply with the noise standards contained in this Code.

(16) Traffic Control Plan. A traffic control plan when the proposed installation will require use of any active traffic lane on any street.

(17) Any other information, studies and/or other documentation determined necessary by the City Engineer.

B. Application of federal “shot clocks.”

Applications shall be processed in compliance with the following federally established timelines:

(1) Subject to tolling provisions in subsection B. of this section the City shall have sixty (60) days from the date of receipt of an application for a permit for a SWF to collocate one or more SWFs on infrastructure, within which to act on the application. The foregoing period shall be ninety (90) days for applications to install one or more SWFs in the PROW involving no collocation, or where SWFs identified in the application will be both collocated and not collocated.
(2) Unless otherwise agreed upon in writing by the applicant and City, for an initial application to install one or more SWFs, if the City notifies the applicant on or before the tenth (10th) day after submission that the application is materially incomplete, and identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the time for the City to act on the application is tolled, and the shot clock date calculation shall restart at zero (0) on the date on which the applicant submits all the documents and information identified by the City to render the application complete.

(3) For any resubmitted application following the City’s notice of deficiency, the time for the City to act on the application shall be tolled for the number of days from:

(a) The day after the date when the City notifies the applicant in writing that the applicant’s supplemental submission was not sufficient to render the application complete and identifies the missing documents or information that need to be submitted based on the City’s original request under subsection B.(2), above, until;

(b) The date when the applicant submits all the documents and information identified by the City to render the application complete, provided the notice pursuant to subsection B.(3)(a), above is served on or before the tenth (10th) day after the date when the applicant makes a supplemental submission in response to the City’s request under subsection B.(2), above.

(4) The “shot clock date” or starting date for a SWF application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified in this subsection B., provided, that if the date calculated in this manner is a local, State, or federal holiday within the City or State (“legal holiday”), the shot clock date is the next business day after such date. The term “business day” means any week day that is not a legal holiday of the City or State. Note that “business day” includes any Friday when the City’s business offices are closed.

C. Construction requirements. Every permitted SWF shall be constructed/installed in strict compliance with the approved plans and specifications, provisions of this Chapter, all laws, and all written policies and direction of the City Engineer related to installation of utilities and/or other physical encroachments into the PROW. All cabling and wiring must be contained in conduit, affixed directly to the face of the pole, for as long as it is technically feasible. No exposed slack or extra cable will be allowed. No visible electrical meters will be allowed. The applicant shall negotiate directly with the electric utility to determine a flat rate for installation. The applicant is responsible for the cost of all electrical usage.

All work shall be done in accordance with latest City of Jurupa Valley Public Works, State, Caltrans, California Manual on Uniform Traffic Control Devices, Work Area Traffic Control Handbook, County and Federal Standards and Specifications or as otherwise required by the City Engineer. It is the permittee’s contractor’s responsibility to
obtain the City of Jurupa Valley Engineering Standards and Specifications before starting work. Any work done without inspection or not conforming to such standards and specifications shall be subject to removal and replacement in the presence of the City Engineer or a designee.

D. Maintenance Standards.

(1) The permittee shall provide on-going maintenance of its ground mounted, at-grade or above-grade SWF, including ensuring the facilities are reasonably free of:

(a) General dirt and grease;
(b) Chipped, faded, peeling, and cracked paint, or on all visible painted areas;
(c) Visible rust or corrosion;
(d) Cracks, dents, blemishes, and discoloration;
(e) Graffiti, bills, stickers, advertisements, etc.; and
(f) Broken and misshapen structural parts.

(2) All ground-mounted, at-grade, and above-ground SWF shall be properly maintained in accordance with the following procedures:

(a) All necessary repairs, including graffiti removal, shall be completed by the applicant within 48 hours after discovery of the need for such repairs or in receiving notification from the City Engineer;
(b) The permittee shall provide routine maintenance within ten (10) working days after receiving notification from the City Engineer;
(c) The permittee shall replace ground-mounted, at-grade, and above-ground SWF, in kind, if routine or emergency maintenance is not sufficient to return the equipment to the condition at the time of installation.

E. Insurance and Indemnity. As a condition of approval of every SWF permit, and by accepting such permit, the permittee, to the fullest extent permitted by law, agrees to and shall indemnify, defend and pay reasonable attorneys’ fees and costs, and hold the City of Jurupa Valley, its elected officials, officers, employees, attorneys, contractors, agents, and volunteers harmless, with respect to any and all claims, liabilities, and legal actions, allegedly or actually arising out of or related to, the acts and/or omissions of the applicant, its owners, officers, employees, contractors, agents, and any other person or entity acting on behalf of the applicant, in the exercise of rights and/or performance of obligations, in connection with any SWF or other permit issued to the permittee pursuant to this chapter.
Prior to entering any PROW pursuant to a SWF permit, the permittee shall procure, provide satisfactory evidence of, and maintain commercial general auto liability, and workers compensation insurance in such form and with such limits as required by the City Engineer or designee or otherwise as required as a condition of the issuance of a City encroachment permit. Unless approved in writing by the City Engineer or designee, self-insurance shall not be deemed to satisfy the requirements of this chapter.

F. Written Policy and Guidelines. Due to rapidly changing technology and regulatory requirements, the City Council authorizes the Planning Director and City Engineer to establish Wireless Facilities Application Policy and Installation Guidelines to serve as further regulatory guidance and clarification concerning wireless facilities in the City. The Wireless Facilities Application Policy and Installation Guidelines shall be approved by resolution of the City Council and subsequently published in a newspaper of general circulation. The Wireless Facilities Application Policy and Installation Guidelines may be updated at the discretion of the Planning Director and City Engineer to adjust for new technologies and regulations, and following adoption and publication of the updated Wireless Facilities Application Policy and Installation Guidelines, compliance therewith is required by this chapter, and is a condition of approval in every SWF application and permit. The provisions of this chapter shall govern in the event of any conflict or inconsistency between any of its provisions and the provisions of the most current Wireless Facilities Application Policy and Installation Guidelines.

G. Abandonment. Whenever a wireless permittee intends to abandon a wireless facility, including any SWF, the permittee must notify the City Engineer in writing of its planned abandonment. A wireless facility including SWF shall be removed within ninety (90) days of abandonment with attainment of all required permits. Any wireless facility not in use for a period of six (6) months shall be considered abandoned and shall be removed pursuant to this chapter.

H. Damage and repair. The City may require a permittee to repair all damage to the PROW caused by the activities of the permittee and return the PROW to its functional equivalence before the damage. If the permittee fails to make the repairs within 90 days after written notice, the City may affect those repairs and charge the permittee the reasonable, documented cost of such repairs.

I. Emergency removal and relocation by the City. The City retains the right and privilege to cut or move any SWF located with the PROW of the City as the City may deem necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the permittee after cutting or removing a SWF.

J. Removal of SWF for public improvement. Within 90 days following written notice from the City, a permittee shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any SWF with the PROW whenever the City has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City Improvement in or upon, or the operations of the City in or upon, the PROW.
K. Administrative Variance. An administrative variance from the strict locational or physical requirements of section 13.30.030 or section 13.30.040 may be granted at the discretion of the Planning Director, when it is shown to the satisfaction of the Planning Director and City Engineer based on substantial evidence that, because of special, unique circumstances applicable to the proposed location, the strict application of the requirements of the section would deprive the applicant of privileges enjoyed by other permittees in the vicinity operating a similar SWF. Any administrative variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other wireless providers seeking to locate any SWF in or around the proposed location.

Sec. 13.30.050. - Fees.

Each applicant/permittee shall pay one-time and recurring fees, per each SWF, in amounts (i) not less than those amounts deemed presumptively reasonable under then-in effect federal law or regulations; or (ii) established by the City by resolution as a reasonable, non-discriminatory approximation of the City’s costs; or (iii) agreed upon by the City and a permittee in a master agreement.


The provisions of this Chapter shall govern and supersede any conflicting provisions of the Jurupa Valley Municipal Code with respect to the permitting and regulation of SWFs in PROW.

Sec. 13.30.070. - Waiver.

The City Engineer may waive any requirement of this Chapter if he or she finds that imposing that requirement on an applicant would prohibit or effectively prohibit the provision of personal wireless service or otherwise violate applicable laws.”

Section 4. CEQA Finding. The proposed Code Amendment is exempt from the requirements of the California Environmental Quality Act (“CEQA”) and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Code Amendment, establishing regulations applicable to the location and installation of small wireless facilities in the public rights-of-way, will have a significant effect on the environment. The proposed Code Amendment is an administrative process of the City that will not result in direct or indirect physical changes in the environment. The City Council has reviewed the administrative record concerning the proposed Code Amendment and the proposed CEQA exemption, and based on its own independent judgment, finds that the Code Amendment set forth in this Ordinance is exempt from the requirements of CEQA and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3).

Section 5. Future Modifications. The City Council declares that it is adopting this Ordinance in order to more fully protect and preserve the public health and safety with respect to City rights-of-way in light of the adoption of the Report and Order. Notice is hereby given to any and all wireless providers obtaining a permit pursuant to the Jurupa Valley Municipal Code chapter
adopted herein, that the City expressly reserves any and all rights it possessed prior to the adoption of the Report and Order concerning its authority to regulate its public rights-of-way. In the event the Report and Order is invalidated, modified, or limited in any way, the City Council reserves the right, subject to reasonable notice and due process, to modify the terms and conditions applicable to any permit issued hereunder including, but not limited to, the term, fees charged, and scope of any future wireless deployments within the City’s rights-of-way.

Section 6. Severability. If any sections, subsections, sentence, clause, or phrase of the chapter adopted by this Ordinance is for any reason held to be invalid or unconstitutional by the decision or legislation of any court of competent jurisdiction, or by reason of preemptive legislation, such decision or legislation shall not affect the validity of the remaining portions of the chapter. The City Council declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses, or phrases thereof is declared invalid or unconstitutional.

Section 7. Effect of Ordinance. This Ordinance is intended to supersede any ordinance or resolution of the County of Riverside adopted by reference by the City of Jurupa Valley in conflict with the terms of this Ordinance.

Section 8. Certification. The City Clerk of the City of Jurupa Valley shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

Section 9. Effective Date. Based upon the findings contained in Section 1 of this Ordinance, this Ordinance shall take effect immediately upon adoption pursuant to Government Code Sections 36937(b) and 36934.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Jurupa Valley on this 29th day of August, 2019

______________________________
Brian Berkson
Mayor

ATTEST:

______________________________
Victoria Wasko, CMC
City Clerk
CERTIFICATION

STATE OF CALIFORNIA )
COUNTY OF RIVERSIDE ) ss.
CITY OF JURUPA VALLEY )

I, Victoria Wasko, CMC, City Clerk of the City of Jurupa Valley, do hereby certify that the foregoing Urgency Ordinance No. 2019-13 was duly adopted at a meeting of the City Council of the City of Jurupa Valley on the 29th day of August, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Jurupa Valley, California, this 29th day of August, 2019.

________________________________
Victoria Wasko, CMC
City Clerk