Chapter 23C.17
WIRELESS TELECOMMUNICATION FACILITIES

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Section 23C.17.010 Applicability of Regulations

The regulations contained in this chapter shall apply to all wireless telecommunications facilities for personal wireless services on property other than the public right of way in the City of Berkeley.

Section 23C.17.020 Purpose

A. The purpose of this chapter is to provide a uniform and comprehensive set of standards for the development, siting, installation, and operation of wireless telecommunications antennas and related facilities (“wireless telecommunications facilities”) for personal wireless services. These regulations are designed to protect and promote public safety, community welfare and the aesthetic quality of the city consistent with the goals, objectives and policies of the Berkeley Master Plan, while at the same time providing for managed development of wireless telecommunications infrastructure in accordance with the Telecommunications Act of 1996.

B. The objectives of this chapter include but are not limited to the following:

1. Foster an aesthetically pleasing urban environment, prevent visual blight, protect and preserve public safety and general welfare, and maintain the character of residential areas, including those adjacent to commercial areas and neighborhood commercial areas, consistent with the adopted General Plan and Area Plans and in compliance with applicable state and federal legislation;

2. Because wireless telecommunications antennas and related facilities for cellular and mobile phones and personal communications systems are a commercial use that is usually separate from and is rarely accessory to the primary use of a parcel, to prevent the location of such facilities in residentially zoned districts
unless (a) the City is required to permit them in such locations in order to avoid violating the Telecommunications Act of 1996 and (b) the wireless telecommunications facilities are designed to interfere as little as possible with the character of the neighborhood;

3. Establish and maintain telecommunications facilities that are components of a wireless telecommunications infrastructure designed to enhance the city’s emergency response network and do not interfere with such emergency systems in violation of applicable federal or state regulations;

4. Establish a process for obtaining necessary permits for wireless telecommunications facilities that provides greater certainty to both applicants and interested members of the public while ensuring compliance with all applicable zoning requirements;

5. Provide opportunities for further reduction in potential aesthetic or land use impacts of wireless telecommunications facilities as changes in technology occur; and

6. Support the use of personal wireless services to enhance personal and public health and safety as well as the public welfare of the City of Berkeley.

Section 23C.17.030 General Requirements

In addition to any other requirements imposed by this chapter, all wireless telecommunications facilities on property other than the public right of way in the City of Berkeley shall be consistent with:

A. The Berkeley General Plan, adopted Area Plans, and all other applicable provisions of the Zoning Ordinance.

B. Applicable regulations and standards of any other governmental agency with jurisdiction over the installation or operation of wireless telecommunications facilities including, but not limited to, the Federal Communications Commission, the Federal Aviation Administration, and the California Public Utilities Commission.

C. Any applicable discretionary permits affecting the subject property except to the extent the Zoning Officer or the Zoning Adjustments Board may modify such requirements.

Section 23C.17.040 Minimum Application Requirements

A. Purpose. This Section establishes limited additional application submittal requirements for wireless telecommunications facilities. Such additional application requirements are necessary because wireless telecommunications facilities are distinct from the vast majority of other types of land use applications under this Title in that although they are by nature incidental to existing uses and structures, they are distinct from other incidental uses because they result in impacts beyond those normally associated with the primary use of the property. The purpose of these additional application requirements is to ensure that the purposes of this Chapter are implemented to the extent permitted by the Telecommunications Act of 1996.
B. In addition to meeting the standard application submittal requirements for permits specified in Chapter 23B.24, applications for wireless telecommunication facilities pursuant to this chapter, shall include the information set forth in this Section.

C. Coverage map and general information.
   1. A narrative description and map showing the coverage area of the provider’s existing facilities that serve customers in Berkeley and the specific site that is the subject of the application.
   2. A statement of the telecommunications objectives sought for the proposed location, whether the proposed facility is necessary to prevent or fill a significant gap or capacity shortfall in the applicant’s service area, whether it is the least intrusive means of doing so, and whether there are any alternative sites that would have fewer aesthetic impacts while providing comparable service. Applications for Administrative Use Permits need not include information as to whether the proposed facility is necessary to prevent or fill a significant gap or capacity shortfall in the applicant’s service area.

D. Technical information.
   1. Copies of, or a sworn statement by an authorized representative that applicant holds, all applicable licenses or other approvals required by the Federal Communications Commission (FCC), the California Public Utilities Commission (PUC), and any other agency of the Federal or State government with authority to regulate telecommunications facilities that are required in order for the applicant to construct the proposed facility.
   2. Documentation of, or a sworn statement by an authorized representative that applicant is in, compliance with all conditions imposed in conjunction with such licenses or approvals, a description of the number, type, power rating, frequency range, and dimensions of antennas, equipment cabinets, and related wireless telecommunications facilities proposed to be installed, and engineering calculations demonstrating that the proposed facility will comply with all applicable FCC requirements and standards.

E. Visibility.
   1. A site plan, plans, and elevations drawn to scale. Plans shall include microcell, façade- or roof-mounted antennas and all related equipment. Elevations shall include all structures on which facilities are proposed to be located.
   2. A description of the proposed approach for screening or camouflaging all facilities from public view including plans for installation and maintenance of landscaping, sample exterior materials and colors, and an explanation of the measures by which the proposed facility will be camouflaged or rendered not readily visible. Where any part of the proposed facility would be readily visible, the application shall include an explanation as to why it cannot be rendered not readily visible.
   3. A visual impact analysis including scaled elevation diagrams within the context of the building, before and after-photo simulations, and a map depicting where the
photos were taken. The Zoning Officer may require the submission of photo overlays, scaled models, renderings, or mockups to document the effectiveness of techniques proposed to minimize visibility.

4. If a ground-mounted or freestanding tower is proposed, the application must include an explanation as to why other facility types are not feasible.

F. Peer review.

1. The application shall include sufficient information for an approved radio frequency engineer or licensed electrical engineer specializing in EMF or RFR studies (hereinafter, “an approved engineer”) retained by the City to peer review the information provided in response to subdivisions C and D of this Section.

2. The application shall also include an agreement to pay the reasonable actual cost and a reasonable administrative fee for hiring an approved engineer to provide peer review.

3. Any proprietary information disclosed to the city or its engineer the consultant in confidence shall not be a public record and shall remain confidential and not be disclosed to any third party without the express consent of the applicant. The City and/or its engineer shall return all proprietary information to the applicant and not retain any copies of such information once its decision is final.

G. Monitoring. An agreement to pay a reasonable one-time or annual fee for independent monitoring as required by this Chapter.

H. A statement that prior to obtaining a building permit to erect or install the proposed facility, the applicant shall either secure a bond or provide financial assurances, in a form acceptable to the City Manager, for the removal of the facility in the event that its use is abandoned or the approval is otherwise terminated.

I. The Zoning Officer may require information concerning noise that might be generated by equipment associated with a wireless telecommunication facility, such as air conditioning equipment, if the physical circumstances of the proposed facility suggest that such noise may be detrimental.

Section 23C.17.050 Locational Requirements

A. Reserved.

B. No wireless communications facilities shall be sited on or above a ridgeline or at any other location readily visible from a public park, unless the Zoning Adjustments Board, makes the applicable findings required in Section 23C.17.100.

C. No new freestanding facility, including towers, lattice towers and monopoles, shall be located within 1,000 feet of another freestanding facility, unless appropriate stealth techniques have been used to minimize the visual impact of the facility to the extent feasible, and mounting on a building or co-location on an existing pole or tower is not feasible.

D. The Zoning Officer may approve minor modifications and aesthetic upgrades that do not increase the size or visibility of any legally established wireless
telecommunication facilities without notice or hearing, subject to compliance with all existing conditions of approval.

Section 23C.17.060 Height Requirements

A. The height of a telecommunications tower shall be measured from existing grade below the center of the base of the tower to the top of the tower itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto. The height of building-mounted antennas shall include the height of that portion of the building on which the antenna is mounted. In the case of “crank-up” or similar towers whose height is adjustable, the height of the tower shall be the maximum height to which it is capable of being raised.

B. No antenna telecommunications tower or façade-mounted antenna shall exceed or project above the height limits specified for the district in which the antenna is located.

C. Roof-mounted antennas affixed to an existing or proposed tower or pole shall not extend or project more than 15 feet above the height limit of the district.

D. Roof-mounted or façade-mounted antennas proposed on an existing building, tower, or pole that is legal non-conforming in terms of height shall not extend or project more than 15 feet above the existing height of the building or structure.

Section 23C.17.070 Design Requirements

In addition to all other requirements set forth in this chapter, all wireless telecommunication facilities shall meet the following design requirements:

A. Based on potential aesthetic impact, the order of preference for facility type is: microcell, façade-mounted, roof-mounted, ground-mounted, and freestanding tower.

B. All facilities shall be designed and located to minimize their visibility to the greatest extent feasible, considering technological requirements, by means of placement, screening, and camouflage. The applicant shall use the smallest and least visible antennas feasible to accomplish the owner/operator’s coverage or capacity objectives. All wireless telecommunications facilities proposed for locations where they would be readily visible from the public right-of-way or from the habitable living areas of residential units within 100 feet shall incorporate appropriate techniques to camouflage or disguise the facility, and/or blend it into the surrounding environment, to the greatest extent feasible. Facilities shall be compatible in scale and integrated architecturally with the design of surrounding buildings or the natural setting.

C. No readily visible antenna shall be placed at a location where it would impair a significant or sensitive view corridor except as provided in subsection 1, below.

1. Roof-mounted antennas shall be located in an area of the roof where the visual impact is minimized. Roof-mounted and ground-mounted antennas shall not be placed in direct line of sight of significant or sensitive view corridors or where they adversely affect scenic vistas unless the Zoning Officer or the Zoning Adjustments Board finds that the facility incorporates appropriate, creative stealth techniques to camouflage, disguise, and/or blend into the surrounding environment.
environment to the extent possible. Roof mounted antennas shall be designed and sited to minimize their visibility and shall be no taller than necessary to meet the operator’s service requirements. Where roof-mounted antennas are readily visible, confirmation of necessary height for service requirements, at the Zoning Officer’s discretion, shall be based on independent analysis by an approved engineer retained by the City.

2. Satellite dish or parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function. When screened from pedestrian-level view from the public right-of-way and not readily visible from any property that contains a legally-established residential use, such antennas may be located in any required yard subject to the approval of a Use Permit under Section 23D.08.060.B. No such antenna may exceed 39 inches in diameter unless the Zoning Officer or the Zoning Adjustments Board finds that a smaller antenna cannot feasibly accomplish the provider’s technical objectives. The Zoning Officer may require that this determination be based on independent technical analysis by an approved engineer.

3. All monopoles and lattice towers shall be designed to be the minimum functional height and width required to support the proposed antenna installation unless a higher monopole or lattice tower will facilitate co-location or other objectives of this Chapter.

D. Colors and materials for facilities shall be chosen to minimize visibility. All visible exterior surfaces shall be constructed of non-reflective materials. Facilities shall be painted or textured using colors to match or blend with the primary background.

E. Facility lighting shall be designed to meet but not exceed minimum requirements for security, safety or FAA regulations, and in all instances shall be designed to avoid glare and minimize illumination on adjacent properties. Lightning arresters and beacon lights shall not be included in the design of facilities unless required by the FAA. Lightning arresters and beacons shall be included when calculating the height of facilities such as towers, lattice towers and monopoles.

F. No advertising shall be placed on telecommunications antennas or other equipment.

G. All facilities shall be designed to be resistant to and minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous conditions, visual blight, or attractive nuisances. The Zoning Officer or Zoning Adjustments Board may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, antenna facilities have the potential to become an attractive nuisance. The design of the fencing and other access control devices shall be subject to design review.

H. Where appropriate and directly related to the applicant’s placement, construction, or modification of wireless telecommunications facilities, the applicant shall maintain and enhance existing landscaping on the site, including trees, foliage and shrubs, when used for screening unless the Design Review Planner or Design Review Committee approves appropriate replacement landscaping. Additional landscaping
shall be planted as needed to minimize the visual impact of the facility and, when feasible, to block the line of sight between facilities and adjacent residential uses and residually zoned properties. The Design Review Planner or Design Review Committee shall determine the appropriate minimum size of new trees and shrubs.

I. Façade-mounted equipment, not including any required screening, shall not project more than 18 inches from the face of the building or other support structure unless specifically authorized by the Zoning Officer or the Zoning Adjustments Board.

J. In order of preference, ancillary support equipment for facilities shall be located either within a building or structure, on a screened roof top area or structure, or in a rear yard if not readily visible from surrounding properties and the public right of way, unless the Zoning Officer or Zoning Adjustments Board finds that another location is preferable under the circumstances of the application.

K. Above ground and partially buried ancillary equipment, including support pads, cabinets, shelters, and buildings, shall be located where they will be the least visible from surrounding properties and the public right of way and shall be designed to be architecturally compatible with surrounding structures and/or screened using appropriate techniques to camouflage, disguise, and/or blend into the environment including landscaping, color, and other techniques to minimize their visual impact. If the Zoning Officer determines that an equipment cabinet is not or can not be adequately screened from surrounding properties or from public view or architecturally treated to blend in with the environment, the equipment cabinet shall be placed underground or inside the existing building where the antenna is located unless the Zoning Officer or Zoning Adjustments Board finds that such placement is not feasible or consistent with the objectives of this Chapter and other applicable requirements.

L. No telecommunications antenna or ancillary support equipment shall be located within any setback or between the face of a building and a public right of way without approval of a Use Permit except for facilities that are completely subterranean or Microcell facilities, the latter of which may be approved with an Administrative Use Permit.

M. When antennas are co-located, the City may limit the number of antennas with related equipment and providers to be located at any site and adjacent sites in order to prevent negative visual impacts associated with multiple facilities. Architectural and other camouflaging treatment shall be coordinated between all users on each site.

N. At the time of modification or upgrade of facilities, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual and noise impacts as feasible.

O. Proposed facilities shall not reduce the number of available parking spaces below the amount required pursuant to the Zoning Ordinance.

Section 23C.17.080 Operation and Maintenance Standards
All wireless telecommunication facilities shall at all times comply with the following operation and maintenance standards. Failure to comply shall be considered a violation of conditions of approval subject to enforcement pursuant to provisions of this Chapter.

A. Each owner or operator of a wireless telecommunications facility shall provide signage identifying the name and phone number of a party to contact in event of an emergency. The design, materials, colors, and location of signs shall be subject to design review. Contact information shall be kept current.

B. Wireless telecommunications facilities and related equipment, including lighting, fences, shields, cabinets, and poles, shall be maintained in good repair, free from trash, debris, litter and graffiti and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility or equipment as soon as practicable, and in no instance more than forty-eight (48) hours from the time of notification by the city.

C. The owner or operator of a wireless telecommunications facility shall be responsible for maintaining landscaping in accordance with the approved landscape plan and for replacing any damaged or dead trees, foliage, or other landscaping elements shown on the approved plan. Amendments or modifications to the landscape plan shall be submitted to the Zoning Officer for approval.

D. Each wireless telecommunications facility shall be operated in a manner that will minimize noise impacts to surrounding residents and persons using nearby parks, trails, and similar recreation areas. Except for emergency repairs, testing and maintenance activities that will be audible beyond the property line shall only occur between the hours of 8:00 a.m. and 7:00 p.m. on Monday through Friday, excluding holidays. All air conditioning units and any other equipment that may emit noise that would be audible from beyond the property line shall be enclosed or equipped with noise attenuation devices to the extent necessary to ensure compliance with applicable noise limitations under Chapter 13.40. Backup generators shall only be operated during periods of power outages or for testing. At no time shall equipment noise from any source exceed the standards specified in the Berkeley Community Noise Ordinance (BMC Chapter 13.40).

E. All wireless telecommunications facilities providing service to the government or the general public shall be designed to meet the following requirements:

1. The exterior walls and roof covering of all above ground equipment shelters and cabinets shall be constructed of materials rated as nonflammable in the Berkeley Building Code.

2. Openings in all above ground equipment shelters and cabinets shall be protected against penetration by fire and windblown embers to the greatest extent feasible.

3. Material used as supports for antennas shall be fire resistant, termite proof, and subject to all applicable requirements of the Uniform Building Code.

4. Telecommunications antenna towers shall be designed to withstand forces expected during earthquakes to the extent feasible building-mounted facilities shall be anchored so that a quake does not dislodge them or tip them over.
equipment mounting racks and attached equipment shall be anchored so that a quake would not tip them over, throw equipment off its shelves, or otherwise damage equipment.

5. All connections between various components of the wireless telecommunications facility and necessary power and telephone lines shall, to the greatest extent feasible, be protected against damage by fire, flooding, and earthquake. Reasonable measures shall be taken to keep wireless telecommunications facilities in operation in the event of a natural disaster.

F. Vehicle and personnel access to sites for maintenance and repairs shall not be from residential streets or adjacent residential properties to the maximum extent possible.

Section 23C.17.085 Public Information Requirements

A. The Planning and Development Department shall maintain a map and inventory of all existing and proposed wireless telecommunication sites, which shall be available to members of the public and other interested parties for inspection.

B. The inventory shall, at a minimum, include the following information:

1. Address of site;
2. Number, type, power rating, and frequency range of all antennas at the site;
3. Name of telecommunications carrier owning, operating, or leasing each antenna at the site;
4. Date of most recent certification.

Section 23C.17.090 Requirement for Certification of Facilities

A. No wireless telecommunications facility or combination of facilities shall at any time produce power densities that exceed the FCC’s limits for electric and magnetic field strength and power density for transmitters. In order to ensure continuing compliance with all applicable emission standards, all wireless telecommunications facilities shall submit reports as required by this section. The City may require, at the operator’s expense, independent verification of the results of any analysis. If an operator of a telecommunications facility fails to supply the required reports or fails to correct a violation of the Federal Communications Commission standard following notification, the Use Permit is subject to modification or revocation by the Zoning Adjustments Board following a public hearing.

1. Within forty five (45) days of initial operation or modification of a telecommunications facility and every three years thereafter, the operator of each telecommunications antenna shall submit to the Zoning Officer written certification by an approved engineer that the facility’s radio frequency emissions are in compliance with the approved application and any required conditions. The engineer shall measure the radio frequency radiation of the approved facility and determine if it meets the FCC requirements. A report of these measurements and the engineer’s findings with respect to compliance with the FCC’s Maximum Permissible Exposure (MPE) limits shall be submitted to the Zoning Officer. If the
report shows that the facility does not comply with applicable FCC requirements, the owner or operator shall cease operation of the facility until the facility complies with, or has been modified to comply with, this standard. Proof of compliance shall be a certification provided by the engineer who prepared the original report. The City may require, at the applicant's expense, independent verification of the results of the analysis.

2. Prior to January 31 of every year, an authorized representative for each wireless carrier providing service in the City of Berkeley shall provide written certification to the City that each facility is being operated in accordance with the approved local and federal permits and shall provide the current contact information.

2-3. Once every two years, at the operator's expense, the City may conduct, or retain an approved engineer to conduct, an unannounced spot check of the facility's compliance with applicable FCC radio frequency standards.

3.4. In the event of a change in the FCC’s Maximum Permissible Exposure (MPE) limits for electric and magnetic field strength and power density for transmitters, the operator of each wireless telecommunications facility shall be required to submit to the Zoning Officer written certification by an approved engineer of compliance with applicable FCC radio frequency standards within 90 days of any change in applicable FCC radio frequency standards or of any modification of the facility requiring a new submission to the FCC to determine compliance with emission standards. If calculated levels exceed 50% of the FCC’s MPE limits, the operator of the facility shall hire an approved engineer to measure the actual exposure levels. If calculated levels are not in compliance with the FCC’s MPE limit, the operator shall cease operation of the facility until the facility is brought into compliance with the FCC’s standards and all other applicable requirements. A report of these calculations, required measurements, if any, and the engineer's findings with respect to compliance with the current MPE limits shall be submitted to the Zoning Officer.

4.5. If the Zoning Officer at any time finds that there is good cause to believe that a telecommunications antenna is not in compliance with applicable FCC radio frequency standards, he/she may require the operator to submit written certification that the facility is in compliance with such FCC standards.

B. The owner or operator of any wireless telecommunications facility that was approved by the City before January 17, 2002 shall submit to the Zoning Officer, within six (6) months from the date of notification, written certification by an approved engineer that the facility’s radio frequency emissions are in compliance with the approved application and any required conditions. The engineer shall measure the radio frequency radiation of the approved facility and determine if it meets the FCC requirements. If the report shows that the facility does not comply with applicable FCC requirements, the owner or operator shall cease operation of the facility until the facility is brought into compliance. In order to assure the objectivity of the analysis, the City may require, at the applicant's expense, independent verification of the results of the analysis.
C. Any facility that was approved by the City prior to January 17, 2002, and which does not comply with this chapter on the date of its adoption shall be considered a lawful non-conforming use provided that the owner or operator submits the information required in subsection B of this section. A lawful non-conforming personal wireless service facility shall be subject to the requirements of Chapter 23C.04 except to the extent that they are modified herein.

D. Failure to submit the information required in this section will be considered a violation of the Zoning Ordinance. Any facility found in violation may be ordered to terminate operations by the Zoning Adjustments Board following a duly noticed public hearing.

Section 23C.17.100 Findings Required for Approval

A. No wireless telecommunications facilities shall be located in any zoning district unless the Zoning Adjustments Board or the Zoning Officer approves a Use Permit or Administrative Use Permit pursuant to the findings set forth in this Section and in Sections 23B.28.050.A and 23B.32.040.A, as applicable. However, a finding under Sections 23B.28.050.A and 23B.32.040.A shall not be based on aesthetic impacts if the proposed facility would not be readily visible, or on any other matter that the City is prohibited from considering by the Telecommunications Act of 1996.

1. The Zoning Officer may approve an Administrative Use Permit for microcell facilities in any zoning district and for new wireless telecommunications facilities in the C-2, MU-LI, M or MM districts, and additions or modifications to existing sites in non-residential zoning districts.

2. All other new or modified wireless telecommunications facilities shall require the approval of a Use Permit by the Zoning Adjustments Board except as provided in Section 23.17.050D.

Notwithstanding anything to the contrary in this Title, the findings required by Sections 23B.28.050.A and 23B.32.040.A are not required for wireless telecommunication facilities.

B. In order to approve any Use Permit or Administrative Use Permit under this chapter, the Zoning Adjustments Board or the Zoning Officer must make the following findings:

1. that the proposed project is consistent with the general requirements of this chapter and any specific requirements applicable to the proposed facility;

2. that the proposed antenna or related facility, operating alone and in conjunction with other telecommunications facilities will comply with all applicable state and federal standards and requirements; and either

a. will not be readily visible; or

b. will be readily visible, but it is not feasible to incorporate additional measures that would make the facility not readily visible.
To approve a Use Permit to allow establishment of a wireless telecommunication facility in a district other than the C-2, MU-LI, M or MM districts, the Zoning Adjustments Board must find:

3. that the facility is necessary to prevent or fill a significant gap in coverage or capacity shortfall in the applicant’s service area, and is the least intrusive means of doing so. The findings in this subsection are not required for microcell facilities.

4. that the wireless carrier is in compliance with Section 23C.17.090 A1 and 2 of this ordinance.

D.C. The Zoning Adjustments Board or the Zoning Officer may approve establishment of a satellite dish or parabolic antenna exceeding 39 inches in diameter, only after finding that a smaller or different antenna cannot feasibly accomplish the provider’s technical objectives and that the facility will not be readily visible.

E.D. All findings must be based on substantial information in the record such as, where required, technical analysis by an approved radio frequency engineer, calculations by a State-licensed structural engineer, or other evidence.

Section 23C.17.105 Appeals

Notwithstanding anything to the contrary in Chapter 23B.32, when a decision or action of the Zoning Adjustment Board under this Chapter is appealed to the City Council, the Council may affirm the decision or set it for hearing before the Council, but may not remand it back to the Board more than one time.

Section 23C.17.110 Cessation of Operations

A. Within thirty (30) days of cessation of operations of any wireless telecommunications facility approved pursuant to this chapter, the operator shall notify the Zoning Officer in writing. The permit for said wireless telecommunications facility shall be deemed lapsed and of no further effect six (6) months thereafter unless:

1. The Zoning Officer has determined that the same operator resumed operation within six (6) months of the notice; or

2. The City has received an application to transfer the permit to another operator.

B. No later than thirty (30) days after a permit has lapsed under the preceding subsection, the operator shall remove all wireless telecommunication facilities from the site. If the operator fails to do so, the property owner shall be responsible for removal, and may use any bond or other assurances provided by the operator pursuant to the requirements of Section 23C.17.050 to do so. If such facilities are not removed, the site shall be deemed to be a nuisance pursuant to Section 23B.64 and the City may call the bond to pay for removal.

C. Failure to inform the Zoning Officer of cessation of operations of any existing facility shall constitute a violation of the Zoning Ordinance and be grounds for:

1. Prosecution;

2. Revocation or modification of the permit;
3. Calling of any bond or other assurance secured by the operator pursuant to the requirements of Section 23C.17.050; and/or

4. Removal of the facilities.

D. Any FCC-licensed telecommunications carrier that is buying, leasing, or considering a transfer of ownership of an already approved facility, shall provide written notification to the Zoning Officer and request transfer of the existing Use Permit. The Zoning Officer may require submission of any supporting materials or documentation necessary to determine that the proposed use is in compliance with the existing Use Permit and all of its conditions including, but not limited to, statements, photographs, plans, drawings, models, and analysis by a State-licensed radio frequency engineer demonstrating compliance with all applicable regulations and standards of the Federal Communications Commission and the California Public Utilities Commission. If the Zoning Officer determines that the proposed operation is not consistent with the existing Use Permit, he/she shall notify the applicant who may revise the application or apply for modification to the Use Permit pursuant to the requirements of Section 23B.56.

Section 23C.17.120 Violations

Notwithstanding anything to the contrary in this Code a violation of this Chapter shall not be charged as a misdemeanor or an infraction, but shall be subject only to administrative citation under Chapter 1.28 or revocation or nuisance abatement under Chapter 23B.60 or 23B.64.