TOWN OF SAN ANSELMO
COUNCIL POLICY

**TITLE**: WIRELESS COMMUNICATIONS FACILITIES

**PAGE**: 1 of 100

**POLICY NUMBER**: 6-1

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**SPECIFIC SUBJECT**: Procedures and Standards for Wireless Telecommunication Facilities including Macro Wireless Facilities (Part IV), Small Wireless Facilities (Part V), Eligible Facilities Requests (Part VI) and Emergency Standby Generators for Macro Cell Tower Sites (Part IX)

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This policy replaces policies and regulations for wireless facilities that were previously found in Town Municipal Code Article 28 Wireless Telecommunications Facilities and Resolution 3688.

Since the initial adoption of this Policy, the wireless telecommunications industry has expressed interest in submitting applications for the installation of “small cell” wireless telecommunications facilities in the Town’s public rights-of-way. Other California cities have already received applications for small cells to be located within the public right-of-way.
Installation of small cell and other wireless telecommunications facilities within the public right-of-way can pose a threat to the public health, safety and welfare, including disturbance to the right-of-way through the installation and maintenance of wireless facilities; traffic and pedestrian safety hazards due to the unsafe location of wireless facilities; impacts to trees where proximity conflicts may require unnecessary trimming of branches or require removal of roots due to related undergrounding of equipment or connection lines; land use conflicts and incompatibilities including excessive height or poles and towers; creation of visual and aesthetic blights and potential safety concerns arising from excessive size, heights, noise or lack of camouflaging of wireless facilities including the associated pedestals, meters, equipment and power generators; and the creation of unnecessary visual and aesthetic blight by failing to utilize less intrusive alternatives or capitalizing on collocation opportunities which may negatively impact the unique quality and character of the Town.

Most of the Town is in a Wildland Urban Interface Zone. Northern California is experiencing an unprecedented increase in the number and intensity of wildfires. Power lines and electrical equipment failures are a common cause of California wildfires. Overburdened utility poles can present a hazard of collapsing and failing. As demonstrated by the 2007 Malibu Canyon fires, wireless facilities on utility poles in the public rights-of-way may present an electrical hazard and/or increase the risk of electrical fires if not properly regulated, installed and monitored. Installation of wireless facilities near trees may require adjacent trees to be significantly trimmed or removed to maintain fire safety.

The public right-of-way in the Town is a uniquely valuable public resource, closely linked with the Town’s natural beauty including views of the hills and mature tree canopy. Reasonable regulation and orderly deployment of wireless telecommunications facilities in the public right-of-way is desirable; unregulated or disorderly deployment poses an ever-increasing and true threat to the health, welfare and safety of the community.

A personal residence is for most homeowners their single greatest financial asset. The property values in the Town are enhanced by views of natural hillsides, open spaces, trees and vegetation. The Town seeks to protect property values and natural aesthetics by regulating the aesthetics of wireless facilities to prevent unsightly installations and other adverse impacts, such as tree removal and/or mutilation.

The regulation of wireless installations in the public right-of-way are necessary to protect and preserve the aesthetics in the community, as well as the values of properties within the Town, and to ensure that all wireless telecommunications facilities are installed using the least intrusive means possible. The Town recognizes its responsibilities under federal and state law and believes that it is acting consistent with the current state of the law in ensuring that irreversible development activity does not occur that would harm the public health, safety or welfare.
PART II. PURPOSE AND INTENT

The purpose of this Policy is to guide review of wireless facility requests, as set forth below.

(A) In accordance with San Anselmo Municipal Code ("SAMC") Title 10, Chapter 3, Article 28, the Town of San Anselmo intends this Town Council Policy No. 6-1 to establish reasonable, uniform and comprehensive standards and procedures for wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the Town’s territorial and jurisdictional boundaries, consistent with and to the extent permitted under federal and California state law. The standards and procedures contained in this Policy are intended to, and should be applied to, protect and promote public health, safety and welfare, and also balance the benefits that flow from robust, advanced wireless services with the Town’s local values, which include without limitation the natural, residential and unique aesthetic character of the Town, its neighborhoods and community. The purpose of the Policy is also to protect the citizens and visitors of San Anselmo from adverse health effects associated with exposure to non-ionizing electromagnetic radiation that exceed maximum permissible exposure levels by raising public awareness and ensuring compliance with all applicable laws. This Policy is also intended to reflect and promote the community interest in public notice and an opportunity to be heard to (1) ensure that the balance between public and private interest is maintained on a case-by-case basis; (2) protect the Town’s visual character from potential adverse impacts or visual blight created or exacerbated by telecommunications infrastructure; (3) protect and preserve the Town’s environmental resources; and (4) promote access to high-quality, advanced telecommunication services for the Town’s residents, businesses and visitors.

(B) This Policy is not intended to, nor shall it 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 entity’s ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (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 wireless facilities comply with the FCC’s regulations concerning such emissions; (5) prohibit any collocation or modification that the Town may not deny under federal or California state law; (6) impose any unfair, unreasonable, discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (7) otherwise authorize the Town to preempt any applicable federal or California law.

(C) This Policy is not intended to limit or prejudice any individual’s ability to seek a reasonable accommodation under the Americans with Disabilities Act, the Fair Housing Act
Amendments of 1988, or any other similar federal or state law due to electromagnetic sensitivity or symptoms based on exposure to radio frequency emissions.

PART III. GENERAL DEFINITIONS

The abbreviations, phrases, terms and words used in this Town Council Policy No. 6-1 will have the following meanings assigned to them or, as may be appropriate, in SAMC, Title 10, Chapter 3, Article 17 (Definitions), as may be amended from time to time, unless context indicates otherwise. Undefined phrases, terms or words in this section will have the meanings assigned to them in 47 U.S.C. § 702, as may be amended from time to time, and, if not defined therein, will have their ordinary meanings. The definitions in this Policy shall control over conflicting definitions for the same or similar abbreviations, phrases, terms or words as may be defined in SAMC, Title 10, Chapter 3, Article 17 (Definitions), as may be amended from time to time. However, if any definition assigned to any phrase, term or word in this policy conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.

(1) “accessory equipment” means any equipment associated with the installation of a wireless telecommunications facility, including but not limited to cabling, generators, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers.

(2) “antenna” means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals or electromagnetic waves for the provision of services, including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such devices include, but are not limited to, directional antennas, such as panel antenna, microwave dishes, and satellite dishes; omnidirectional antennas; wireless access points (Wi-Fi); and strand-mounted wireless access points. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or OTARDs (as defined in this Policy).

(3) “approval authority” means the commission, board or official responsible for review of permit applications and vested with the authority to approve or deny such applications. The approval authority for a use permit is the Planning Commission or, on appeal, the Town Council. The approval authority for a temporary use permit is the Director or, on appeal, the Town Manager. The approval authority for a project that requires a Section 6409 approval or an emergency standby generator approval (“ESG approval”) (as defined in this Policy) refers to the Director or, on appeal, the Town Manager.

(4) “building-mounted” means mounted to the side or façade, but not the roof, of a building or another structure such as a water tank, pump station, church steeple, freestanding sign, or similar structure.

(5) “CPUC” means the California Public Utilities Commission established in the California Constitution, Article XII, § 5, or its duly appointed successor agency.

(6) “Director” means the Director of the Planning Department of the Town of San Anselmo, or the Director’s designee.
“FCC” means the Federal Communications Commission or its duly appointed successor agency.

“FCC shot clock” means the time frame within which the Town generally must act on a given wireless application, as defined by the FCC and as may be amended from time-to-time.

“macro wireless facility” means a wireless telecommunications facility other than a small wireless facility.

“monopole” means a structure consisting of a single pole used to support antennas or related equipment and includes, without limitation, a monopine, monoredwood and similar freestanding structures designed or camouflaged to resemble trees or other objects.

“OTARD” means any over-the-air reception device subject to 47 C.F.R. §§ 1.4000 et seq., as may be amended, and which includes satellite television dishes not greater than one meter in diameter.

“personal wireless services” means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.

“personal wireless service facilities” means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended, which defines the term as facilities that provide personal wireless services.

“public right-of-way or “right-of-way” means any public street, public way, public alley or public place, laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, under the jurisdiction of the Town dedicated or granted for the purpose of public travel.

“RF” means radio frequency or electromagnetic waves.

“Section 6409” means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended.

“shroud” or “radome” is a screen or enclosure that conceals antenna electronic equipment from view.

“small wireless facility” or “small wireless facilities” means the same as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded.

“temporary wireless facilities” means portable wireless facilities intended or used to provide personal wireless services on a temporary or emergency basis, such as a large-scale special event in which more users than usual gather in a confined location or when a disaster disables permanent wireless facilities. Temporary wireless facilities include, without limitation, cells-on-wheels (“COWs”), sites-on-wheels (“SOWs”), cells-on-light-trucks (“COLTs”) or other similarly portable wireless facilities not permanently affixed to site on which is located.

“Town Manager” means the Town Manager of the Town of San Anselmo, or the Town Manager’s designee.

“wireless services” means any FCC-licensed or authorized wireless communication service transmitted over frequencies in the electromagnetic spectrum.
"wireless telecommunications facility" means any facility constructed, installed, or operated for wireless service. “Wireless telecommunications facility” includes, but is not limited to, antennas or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development.

PART IV. MACRO WIRELESS FACILITIES

(A) APPLICABILITY

(1) Applicable Wireless Facilities. This Part IV applies to all existing macro wireless facilities within the Town and all applications and requests for approval to construct, install, modify, collocate, relocate or otherwise deploy macro wireless facilities in the Town unless exempted under Section IV(A)(2) (Exempt Wireless Facilities) or governed under Town Council Policy No. 6-1 Part VI (Eligible Facilities Requests).

(2) Exempt Wireless Facilities. Notwithstanding the provisions in Section IV(A)(1) (Applicable Wireless Facilities), the provisions in this Part IV will not be applicable to: (a) wireless facilities owned and operated by the Town for public purposes; (b) antennas and related communications equipment used in connection with a duly authorized amateur station; (c) OTARD antennas; (d) wireless facilities installed completely indoors and intended to extend signals for personal wireless services in a personal residence or a business (such as a femtocell or indoor distributed antenna system); and (e) wireless facilities or other communications equipment owned and operated by CPUC-regulated electric companies for use in connection with electrical power generation, transmission and distribution facilities subject to CPUC General Order 131-D.

(3) Request for Approval Pursuant to Section 6409. Any requests for approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to Section 6409 will be first reviewed under Town Council Policy No. 6-1 Part VI (Eligible Facilities Requests).

(B) PRIOR APPROVALS REQUIRED

(1) Use Permit. A use permit and design review approval, subject to the Planning Commission’s prior review and approval in accordance with the procedures and standards in SAMC, Title 10, Chapter 3, Article 13 (Conditional Use Permit) and Article 15 (Design Review) is required for all new and substantially changed wireless facilities.

(2) Temporary Use Permit. A temporary use permit, subject to the Director’s prior review and approval in accordance with the procedures and standards in Section VII (Temporary Wireless Facilities) is required for any temporary wireless facility, unless deployed in connection with an emergency pursuant to Section VII(B) (Temporary Wireless Facilities for Emergencies).
(3) **Other Permits and Regulatory Approvals.** In addition to any use permit, temporary use permit or other permit or approval required under this Part IV, the applicant must obtain all other permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes without limitation any other ministerial permits and/or regulatory approvals issued by other departments or divisions within the Town. All applications for ministerial permits submitted in connection with a proposed wireless facility must contain a valid use permit (or temporary use permit) issued by the Town for the proposed wireless facility. Any application for any ministerial permit(s) submitted without such use permit may be denied without prejudice. Any permit or approval granted under this Part IV or deemed granted or deemed approved by law shall remain subject to any and all lawful conditions and/or legal requirements associated with such other permits or regulatory approvals. Furthermore, and to avoid potential confusion, an exemption from the use permit requirement under Section IV(A)(2) (Exempt Wireless Facilities) does not exempt the same wireless facilities or other infrastructure deployments from any other permits or approvals, which includes without limitation any ministerial permits from the Town.

(C) **APPLICATION REQUIREMENTS**

(1) **Application Required.** The approval authority shall not approve any request for a use permit except upon a complete and duly filed application consistent with this Section IV and any other written rules or requirements the Town or the Director may establish from time to time in any publicly-stated format.

(2) **Application Content.** All applications for a use permit must include all the content, information and materials required by the Director for the application. The Town Council authorizes the Director to develop, publish and from time-to-time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Director finds necessary, appropriate or useful for processing any application governed under this Part IV. All applications shall require the applicant to demonstrate that the proposed project will be in planned compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes and all FCC rules for human exposure to RF emissions. The Town Council further authorizes the Director to establish other reasonable rules and regulations, which may include without limitation regular hours for appointments with applicants, as the Director deems necessary or appropriate to organize, document and manage the application intake process. All such rules and regulations must be in written form and publicly stated to provide applicants with prior notice.

(a) **Application Form.** The applicant shall submit a complete, duly executed use permit application for a macro wireless facility on the then-current form prepared by the Town. The applicant shall state which FCC shot clock it asserts will apply to the proposed project and explain the basis for its assertion.
(b) **Application Fee.** The applicant shall submit the applicable use permit application fee for a macro wireless facility adopted by Town Council resolution. If no use permit application fee has been adopted, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to submit a deposit estimated by the Director to reimburse the Town for its reasonable costs incurred in connection with the application. Should the deposit be inadequate an additional deposit shall be required. If the deposit exceeds the actual costs, the difference will be returned to the applicant.

(c) **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a California licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape or hardscape features. The construction drawings must: (i) contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number, weight and physical dimensions; (ii) identify all structures within 500 feet from the proposed project site and call out such structures’ overall height above ground level; (iii) depict the applicant’s plan for electric and data backhaul utilities, either as approved by the applicable utility company or in a preliminary form if an approved plans is not yet available, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; and (iv) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.

(d) **Title Report and Property Owner’s Authorization.** For any wireless facility proposed to be installed on any private property not owned or controlled by the Town, the applicant must submit: (i) a title report issued within 30 days from the date the applicant filed the application; and (ii) if the applicant is not the property owner, a written authorization signed by the property owner identified in the title report that authorizes the applicant to submit and accept a permit in connection with the subject property.

(e) **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed wireless facility in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point. At least one simulation must depict the wireless facility from a vantage point approximately 50 feet from the proposed support structure or location.
(f) **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed wireless facility meets each required finding for a permit as provided in Section IV(E)(1).

(g) **RF Compliance Report.** The applicant shall submit an RF exposure compliance report that certifies that the proposed wireless facility, as well as any collocated wireless facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer acceptable to the Town. The RF report must include the actual frequency and sustained and maximum power levels (in watts effective radiated power) 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.

(h) **Regulatory Authorization.** The applicant shall submit evidence of the applicant’s regulatory status under federal and California law to provide the services and construct the wireless facility proposed in the application. The applicant shall also submit copies of any other permits or approvals obtained for the wireless facility prior to the submission of the application for a permit.

(i) **Acoustic Analysis.** The applicant shall submit an acoustic analysis prepared and certified by an engineer licensed by the State of California for the proposed wireless facility and all associated equipment including all environmental control units, sump pumps, temporary backup power generators and permanent backup power generators demonstrating compliance with the Town’s noise regulations. The acoustic analysis must also include an analysis of the manufacturers’ specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of an acoustic analysis, the applicant may submit evidence from the equipment manufacturer(s) that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable noise limits.

(j) **Structural Analysis.** The applicant shall submit a report prepared and certified by an engineer licensed by the State of California (or other qualified personnel acceptable to the Town) that evaluates whether the underlying support structure has the structural integrity to support all the proposed equipment and attachments. At a minimum, the analysis must be consistent with all applicable requirements in CPUC General Order 95 (including, but not limited to, load and pole overturning calculations), the National Electric Safety Code, the standards and practices required for an ANSI/TIA-222 Maintenance and Conditions Assessment (under the most current revision at the time of submittal) and any safety and construction standards required by law and the utility provider. The
Wireless facilities must be designed to remain resilient during outages, earthquakes, flooding and extreme weather events. Applicants shall (1) provide a certificate from a structural engineer licensed by the State, or other appropriate licensed professional acceptable to the Director, that (i), when fully loaded with antennas, transmitters, and other equipment and camouflaging the facility is designed to withstand the forces expected during the maximum credible earthquake and maximum credible wind speeds, and (ii) components, and the all connections between various components of the facility and with necessary power and utility lines, are designed to be protected against damage by “100-year” flooding, historical maximum ambient temperature sustained over the maximum credible duration, area maximum credible high wind, maximum credible earthquake, lightning strike and power surge events; (2) provide a diagram detailing buildings and other features located in fall zones or launch distances of components in the event of facility failure due to high wind or ground movement; (3) detailed description of measures taken on a network-wide basis, including backup power coverage for a portion of regional macro facilities, to ensure that basic communication service is available in the event of a disaster or power loss; (4) detailed description of the failure or outage history of facility components or similar systems (such as during PG&E power shutoffs in October and November 2019) operated by the operator on whose behalf the application is submitted; and (5) detailed description of hazards posed by the facility in the event of failure due to flood, high wind, high heat, earthquake, outage, lightning strike or wildfire.

(k) **Underground Service Alert Membership.** The applicant shall submit evidence that applicant is a member in good standing with the Underground Service Alert of Northern California and Nevada (“DigAlert”).

(l) **Environmental Impact Assessment.** The applicant shall submit an environmental impact assessment on the then-current form prepared by the Town to determine whether the proposed project is categorically exempt under Article 19 of the CEQA Guidelines, or whether the proposed project will require a Negative Declaration, Mitigated Negative Declaration or an Environmental Impact Report.

(m) **Compliance with NEPA.** All applications shall include confirmation that an environmental assessment, or other application determination, has been completed by or on behalf of the FCC for any facility proposed in a location identified in 47 C.F.R. 1.307 (including a floodplain) or as otherwise required by National Environmental Policy Act.

(n) **Hazards Assessment.** A full assessment of the hazards posed by the wireless facility in the event of failure due to flood, high wind, high heat, outage, lightning strike or fire must be conducted that includes the presence of nearby vegetation.
and structures at applicant’s cost. All materials in the facilities must be disclosed, including hazardous materials in any and all equipment. The assessment must identify if any tree removal or tree trimming is required or necessary in order to reduce fire hazard.

(o) **Truth and Accuracy Statement.** Any application submitted pursuant to this Policy shall be signed by the applicant, or a person knowledgeable about the proposed facility and authorized to act on the applicant’s behalf, attesting, that under penalty of perjury, that all information, representations and disclosures in the application are true, correct and complete.

(p) **Exception Request.** Any application that involves a request for an exception pursuant to Part VIII of this Policy shall include a written statement in a separate document that includes all the following information: (i) whether the applicant seeks an exception pursuant to Sections VIII(2)(a), VIII(2)(b) or both; (ii) the specific provision(s) and/or requirement(s) in this Policy from which the applicant seeks an exception; (iii) the specific provision(s) of federal or state law under which the applicant seeks an exception; (iv) the standard of evidence applicable to each specific provision(s) of federal or state law under which the applicant seeks an exception; (v) a statement of the factual evidence that supports the findings for the exception requested; (vi) a statement that describes the extent of the exception required and the factual evidence to show the exception would be narrowly tailored in compliance with Section VIII(3); and (vii) any other information the applicant believes relevant to the issues raised in the exception request. Given the short timeframe in which the Town must review the application and the deployment volume anticipated by both the FCC and wireless industry, this written statement must be included with the initial submittal to afford Town staff a reasonable time to act on the application. Any request by the applicant to consider an exception after the initial submittal shall be treated as a new application.

(3) **Procedures for a Community Meeting/Notice.** Prior to applying for a use permit, the applicant must conduct a noticed community meeting. The community meeting is intended to provide residents information about a potential application for a wireless facility and streamline the review process by providing applicants an opportunity to consider residents’ suggestions prior to a public hearing before the Planning Commission. Applicants are encouraged (but not required) to bring preliminary drawings or other materials that may assist the residents’ understanding of the project. The applicant must provide notice in accordance with SAMC Article 16 (Noticing: Public Hearings: Zoning Applications), except as modified in this subsection, to all property owners and legal occupants of parcels within 500 feet of the boundaries of the subject parcel on which the applicant intends to propose the facility or modification (or 500 feet of any proposed location within a right-of-way that is not on a parcel). The notice shall include a copy of the photo simulations, a copy of the RF compliance report, and a contact phone number that property owners may call with any questions. The outside of the mailed envelope must indicate, “Notice of a nearby cellular antenna(s) proposal.” No general circulation
or posted notice is required. Such community meetings must be held on a weekday evening starting no later than 7:00 p.m. on a date that is not a Town holiday in a location and conducted in a manner conducive to public interaction and conversation.

(4) Procedures for a Duly Filed Application. Any application for a use permit will not be considered duly filed unless submitted in accordance with the procedures in this Subsection (4).

(a) Pre-Submittal Conference. Pre-submittal conferences for all proposed projects are strongly encouraged but not required. The pre-submittal conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification and review process, any latent issues in connection with the proposed or existing wireless tower or base station, including compliance with generally applicable rules for public health and safety; potential stealth or concealment issues or concerns (if applicable); coordination with other Town departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that Town staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The Director shall use reasonable efforts to provide the applicant with an appointment within five working days after the Director receives a written request and any applicable fee or deposit to reimburse the Town for its reasonable costs to provide the services rendered in the pre-submittal conference.

(b) Submittal Appointment. All applications must be submitted to the Town at a pre-scheduled appointment with the Director. Applicants may generally submit one application per appointment but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. The Planning Department shall use reasonable efforts to provide the applicant with an appointment within five working days after the Planning Department receives a written request and, if applicable, confirms that the applicant complied with the pre-submittal conference requirement. Any application received without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed unless the applicant received a written exemption from the Director at a pre-submittal conference.

(5) Applications Deemed Withdrawn. To promote efficient review and timely decisions, and in accordance with SAMC Section 10-3.1604 (Expiration of Applications), any application governed under this Part IV will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the Planning Department within 90 calendar days after the Planning Department deems the application incomplete in a written notice to the applicant. The Director may, in the Director’s discretion, grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension. Good
cause for an extension shall include, without limitation, delays due to circumstances outside the applicant’s reasonable control.

(6) **Peer and Independent Consultant Review.**

(a) **Authorization.** The Town Council authorizes the Director to, in the Director’s discretion, select and retain an independent consultant with specialized training, experience and/or expertise in telecommunications issues satisfactory to the Director in connection with any permit application.

(b) **Scope.** The Director may request an independent consultant review on any issue that involves specialized or expert knowledge in connection with wireless facilities deployment or permit applications for wireless facilities, which includes without limitation: (i) permit application completeness and/or accuracy; (ii) pre-construction planned compliance with applicable regulations for human exposure to RF emissions; (iii) post-construction, actual compliance with applicable regulations for human exposure to RF emissions; (iv) whether and to what extent a proposed project will address a gap in the applicant’s wireless services; (v) whether and to what extent the applicant’s ability to provide services would be materially inhibited without the proposed facility or equivalent facility(ies) in different locations/designs with the same technologies; (vi) whether and to what extent any technically feasible and/or potentially available alternative sites or stealth techniques may exist; (vii) the applicability, reliability and/or sufficiency of any information, analyses or methodologies used by the applicant to reach any conclusions about any issue with the Town’s discretion to review; and (viii) any other issue identified by the Director that requires expert or specialized knowledge. The Director may request that the independent consultant prepare written reports, testify at public meetings, hearings and/or appeals and attend meetings with Town staff and/or the applicant.

(c) **Consultant Fees; Deposits.** In the event that the Director elects to retain an independent consultant in connection with any permit application, the applicant shall be responsible for the reasonable costs in connection with the services provided to the maximum extent permitted by applicable law, which may include without limitation any costs incurred by the independent consultant to attend and participate in any meetings or hearings. Before the independent consultant may perform any services, the applicant shall tender to the Town a deposit in an amount equal to the estimated cost for the services to be provided, as determined by the Director. The Director may request additional deposits as reasonably necessary to ensure sufficient funds are available to cover the reasonable costs in connection with the independent consultant’s services. If the deposit exceeds the total costs for consultant’s services, the Director shall promptly return any unused funds to the applicant after the wireless facility has been installed and passes a final inspection by the Building Official or his or her designee. In the event that the reasonable costs for the independent consultant’s services exceed the deposit, the Director shall invoice the applicant for the balance. The Town shall not issue
any construction or grading permit to any applicant with any unpaid deposit requests or invoices.

(D) NOTICE

(1) **General Notice Requirements.** Public notice in accordance with the provisions in SAMC Article 16 (Noticing: Public Hearings: Zoning Applications) except as modified in this subsection, to all property owners and legal occupants of parcels within 500 feet of the boundaries of the subject parcel on which the applicant intends to propose the facility or modification (or 500 feet of any proposed location within a right-of-way that is not on a parcel), shall be required for all use permit applications.

(2) **Deemed-Approval Notice.** Not more than 30 days before the applicable FCC timeframe for review expires, and in addition to the public notice required in Section IV(D)(1) (General Notice Requirements), an applicant for a use permit must provide a posted notice at the project site that states the project will be automatically deemed approved pursuant to California Government Code § 65964.1 unless the Town approves or denies the application or the applicant tolls the timeframe for review within the next 30 days. The posted notice must be compliant with all applicable provisions in SAMC Article 16 (Noticing: Public Hearings: Zoning Applications). The public notice required under this Section IV(D)(1) will be deemed given when the applicant delivers written notice to the Director that shows the appropriate notice has been posted at the project site. Notwithstanding anything to the contrary in this Part IV, the approval authority shall be permitted to act on an application at any time so long as the public notice required in Section IV(D)(1) (General Notice Requirements) has occurred.

(3) **Decision Notices.** Within five days after the approval authority acts on an application for a use permit or before the FCC shot clock expires (whichever occurs first), the approval authority or its designee shall send a written notice to the applicant. In the event that the approval authority denies the application (with or without prejudice), the written notice to the applicant must contain (a) the reasons for the decision and (b) instructions for how and when to file an appeal if the applicant so chooses.

(E) DECISIONS; LIMITED EXEMPTIONS; APPEALS

(1) **Required Findings for Approval.** The approval authority may approve or conditionally approve an application for a use permit submitted under this Part IV when the approval authority finds all of the following:

   (a) the proposed wireless facility complies with all required findings for use permit approval in SAMC Section 10-3.1305 (Required Findings for Use Permit), or qualifies for a limited exception pursuant to Part VIII (Special Exceptions for Federal or State Preemption); and

   (b) the proposed wireless facility complies with all required findings for design review approval in SAMC Section 10-3.1505 (Required Findings for Design Review), or
(c) the applicant has demonstrated that its proposed wireless facility will be in compliance with all applicable health and safety regulations, which include without limitation the Americans with Disabilities Act and all FCC rules and regulations for human exposure to RF emissions; and

(d) the applicant has demonstrated a good-faith effort to identify and evaluate preferred alternative locations and potentially less-intrusive alternative designs for the proposed wireless facility; and

(e) the applicant has provided the approval authority with a meaningful comparative analysis that shows all preferred alternative locations and less-intrusive alternative designs identified in the administrative record are either technically infeasible or unavailable.

(2) **Conditional Approvals; Denials Without Prejudice.** Subject to any applicable limitations in federal or state law, nothing in this Part IV is intended to limit the approval authority’s ability to conditionally approve or deny without prejudice any application for a use permit as may be necessary or appropriate to protect and promote the public health, safety and welfare, and to advance the goals or policies in this Part IV, the San Anselmo Municipal Code or the General Plan.

(3) **Limited Exceptions.** In the event that an applicant requests an exception due to preemption by federal or state law, the approval authority may grant a limited exception from such requirements to the extent necessary to avoid conflict with applicable federal or state law pursuant to Part VIII (Special Exceptions for Federal or State Preemption). The applicant shall have the burden to demonstrate to the approval authority that an exception is required due to federal or state preemption.

(4) **Appeals.** Any interested person or entity may appeal any decision by the approval authority in accordance with the standards and procedures in SAMC Section 10-1.06 (Appeals and Reviews of Planning Commission Decisions), except as modified in this Section IV(E)(4). On the next available meeting date after the appeal period lapses, or as soon as reasonably feasible thereafter, the appellate body shall hold a *de novo* public hearing to consider and act on the application in accordance with the applicable provisions in the General Plan, any applicable specific plan and all applicable provision in the San Anselmo Municipal Code. Appeals from an approval will not be permitted to the extent that the appeal is based on reasons otherwise compliant under this Part IV, including appeals based on the environmental effects from RF emissions that comply with all applicable FCC regulations.

(F) **STANDARD CONDITIONS OF APPROVAL**

(1) Except as may be authorized in Section (F)(2) below, all use permits, whether approved by the approval authority or deemed approved by the operation of law, shall be automatically subject to the conditions in this Section F in addition to all other conditions adopted by the approval authority.
(a) **Permit Term.** This permit will automatically expire 10 years and one day from its issuance, except when California Government Code § 65964(b), as may be amended or superseded in the future, authorizes the Town to establish a shorter term for public safety or substantial land use reasons. Any other permits or approvals issued in connection with any collocation, modification or other change to this wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law.

(b) **Permit Renewal.** The permittee may apply for permit renewal not more than one year before this permit expires. The permittee must demonstrate that the wireless facility complies with all the conditions of approval associated with this permit and all applicable provisions in the San Anselmo Municipal Code and this policy that exist at the time the decision to renew or not renew is rendered. The approval authority may modify or amend the conditions on a case-by-case basis as may be necessary or appropriate to ensure compliance with the San Anselmo Municipal Code, this Policy, or other applicable law. Upon renewal, this permit will automatically expire 10 years and one day from its issuance. Additional permit renewals shall be subject to the procedures in this condition.

(c) **Strict Compliance with Approved Plans.** Any construction plans submitted to the Building Department shall incorporate the permit, together with all conditions of approval and the photo simulations associated with the permit (collectively, the “Approved Plans”). The permittee must construct, install and operate the wireless facility in strict compliance with the Approved Plans. Any alterations, modifications or other changes to the Approved Plans, whether requested by the permittee or required by other departments or public agencies with jurisdiction over the wireless facility, must be submitted in a written request subject to the Director’s prior review and approval. After the Director receives a written request to approve an alteration, modification or other change to the approved plans, the Director may refer the request to the Planning Commission, or to the Town Council if the final decision was made by the Town Council, if the Director finds that it substantially deviates from the Approved Plans or implicates a significant or substantial land-use concern.

(d) **GO 159A Certification.** Within 15 business days after the Town issues a permit, the permittee shall serve copies of California Public Utility Commission notification letters to Town Clerk, Director and Town Manager, as required by CPUC General Order No. 159A.

(e) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a wireless facility approved or deemed-approved, the permittee shall provide the Director with documentation reasonably acceptable to the director that the wireless facility has been installed and/or constructed in strict compliance with the Approved Plans. Such
documentation shall include without limitation as-built drawings and site photographs.

(f) **Build-Out Period.** This permit will automatically expire one (1) year from the approval date (the “build-out period”) unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved wireless facility, which includes without limitation any permits or approvals required by any federal, state or local public agencies with jurisdiction over the subject property, support structure or the wireless facility or its use. The permittee may request in writing, and the Town may grant in writing, one six-month extension if the permittee submits substantial and reliable written evidence demonstrating justifiable cause for a six-month extension. If the build-out period and any extension finally expire, the permit shall be automatically void but the permittee may resubmit a complete application, including all application fees, for the same or substantially similar project.

(g) **Site Maintenance.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences, hardscape and landscape features, in a neat, clean and safe condition in accordance with the Approved Plans and all conditions in this permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee shall regularly inspect the wireless facility to determine whether any maintenance is needed. The permittee, at no cost to the Town, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.

(h) **Compliance with Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law (“Laws”) applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this permit, which includes without limitation any Laws applicable to human exposure to RF emissions and any standards, specifications or other requirements identified by the Director (such as, without limitation, those requirements affixed to an encroachment permit). The Director may order the facility to be powered down if, based on objective evidence, the Director finds that the facility is in fact not in compliance with any Laws applicable to human exposure to RF emissions until such time that the permittee demonstrates actual compliance with such laws. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee’s obligations to maintain compliance with all Laws. No failure or omission by the Town to timely notice, prompt or enforce compliance with any applicable provision in the San Anselmo Municipal Code, this Policy, any permit, any permit condition or any applicable law or regulation, shall be deemed to relieve, waive or lessen the permittee’s obligation to comply in all respects with all applicable
provisions in the San Anselmo Municipal Code, this Policy, any permit, any permit
condition or any applicable law or regulation.

(i) **Cooperation with RF Compliance Evaluations.** At all times relevant to this permit,
the permittee and the property owner shall reasonably cooperate with efforts by
the Town to evaluate whether the wireless facility complies with all applicable FCC
rules and regulations for human exposure to RF emissions. Such cooperation shall
be at no cost to the Town and may include, but is not limited to: (1) furnishing the
Town with a written affidavit signed by an RF engineer certifying the wireless
facility’s compliance with applicable FCC rules and regulations; (2) providing
technical data such as the frequencies in use, sustained and maximum power
output levels specified in both specific absorption rate and maximum permissible
exposure and antenna specifications, reasonably necessary to evaluate
compliance with maximum permissible exposure levels set by the FCC; (3) allowing
the Town or its designee to have supervised access to the areas near the wireless
facility for inspections and field measurements; and (4) promptly responding to all
requests by the Town or its designee for information and/or cooperation with
respect to any of the foregoing. The Town may conduct random tests to ensure
compliance with the FCC’s rules and regulations. In the event that the Town
determines that permittee is not in compliance with any legal requirements or
conditions, the permittee shall be responsible for all costs and expenses incurred
by the Town in connection with the investigation, enforcement and/or
remediation of such noncompliance.

(j) **Affirmation of Radio Frequency Standards Compliance.** Following installation of
the facility, on or before January 30th in each calendar year, the permittee
acknowledges and agrees that the permittee shall submit: (1) an affirmation,
under penalty of perjury, that the proposed installation will be FCC compliant,
because it will not cause members of the general public to be exposed to RF levels
that exceed the maximum permission exposure levels deemed safe by the FCC; (2)
a copy of the fully completed FCC form “A Local Government Official's Guide to
Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical
Guidance: Appendix A” titled “Optional Checklist for Determination of Whether a
Facility is Categorically Excluded” for each frequency band of RF emissions to be
transmitted from the proposed facility upon the approval of the application. All
planned radio frequency emissions on all frequency bands must be shown on the
Appendix A form(s) attached to the application. All planned radio frequency
emissions are to be entered on each Appendix A form only in wattage units of
“effective radiated power”.

(k) **Adverse Impacts on Other Properties.** The permittee shall use all reasonable
efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts
on nearby properties that may arise from the permittee’s or its authorized
personnel’s construction, installation, operation, modification, maintenance,
repair, removal and/or other activities on or about the site. The permittee shall
not perform or cause others to perform any construction, installation, operation,
modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the San Anselmo Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the Town or other state or federal government agency or official with authority to declare an emergency within the Town. The Director or the Director’s designee may issue a stop work order for any activities that violate this condition in whole or in part. If the Director or the Director’s designee finds good cause to believe that ambient noise from a facility, including any generators approved with the facility, violates applicable provisions under the San Anselmo Municipal Code, the Director or the Director’s designee, in addition to any other actions or remedies authorized by the permit, the San Anselmo Municipal Code or other applicable laws, may require the permittee to commission a noise study by a qualified professional to evaluate the facility’s compliance. The permittee shall, at its sole cost and expense, repair and restore any and all damages to public and private properties that result from any activities performed in connection with the installation or maintenance of a wireless facility. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within the number of days stated on a written notice by the Director or the Director’s designee, the Director or the Director’s designee may cause such repair to be completed at permittee’s sole cost and expense.

(l) **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the Town’s officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee or at any time during an emergency. Notwithstanding the previous sentence, the Town’s officers, officials, staff, agents, contractors or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe the Town’s officers, officials or other designees while any such inspection or emergency access occurs.

(m) **Permittee’s Contact Information.** Prior to final inspection and at all times relevant to this permit, the permittee shall keep on file with the Director basic contact and site information. This information shall include, but is not limited to, the following: (A) the name, physical address, notice address (if different), direct telephone number and email address for (i) the permittee and, if different from the permittee, the (ii) site operator, (ii) equipment owner, (iii) site manager and (iv) agent for service of process; (B) the regulatory authorizations held by the permittee and, to the extent applicable, site operator, equipment owner and site manager as may be necessary for the facility’s continued operation; (C) the
facility’s site identification number and/or name used by the permittee and, to the extent applicable, site operator, equipment owner and site manager; and (D) a toll-free telephone number to the facility’s network operations center where a live person with power-down control over the facility is available 24 hours-per-day, seven days-per-week. Within 30 days after any change to the foregoing information, permittee shall furnish the Town with an updated form that includes all the most-current information described in this condition. Within 10 business days after a written request by the Town, the permittee shall furnish the Town with an updated form that includes all the most-current information described in this condition.

(n) **Indemnification.** The permittee and, if applicable, the property owner upon which the wireless facility is installed shall defend, indemnify and hold harmless the Town, Town Council and Town boards, commissions, agents, officers, officials, employees and volunteers (collectively, the “Indemnitees”) from any and all (i) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings (“Claims”) brought against the Indemnitees to challenge, attack, seek to modify, set aside, void or annul the Town’s approval of this permit, and (ii) other Claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee’s or its agents’, directors’, officers’, employees’, contractors’, subcontractors’, licensees’, or customers’ acts or omissions in connection with this permit or the wireless facility. In the event the Town becomes aware of any Claims, the Town will use best efforts to promptly notify the permittee and the private property owner (if applicable) and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the Town shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the Town’s defense, and the property owner and/or permittee (as applicable) shall promptly reimburse Town for any costs and expenses directly and necessarily incurred by the Town in the course of the defense. The permittee expressly acknowledges and agrees that the permittee’s indemnification obligations under this condition are a material consideration that motivates the Town to approve this permit, and that such indemnification obligations will survive the expiration, revocation or other termination of this permit.

(o) **Insurance.** At all times relevant to this permit, the permittee shall obtain and maintain insurance policies as follows:

i. **Commercial General Liability.** Insurance Services Office Form CG 00 01 covering Commercial General Liability (“CGL”) on an “occurrence” basis, with limits not less than $1,000,000 per occurrence or $2,000,000 in the aggregate. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CGL insurance must include coverage for the following: Bodily Injury and Property
Damage; Personal Injury/Advertising Injury; Premises/Operations Liability; Products/Completed Operations Liability; Aggregate Limits that Apply per Project; Explosion, Collapse and Underground (“UCX”) exclusion deleted; Contractual Liability with respect to the permit; Broad Form Property Damage; and Independent Consultants Coverage. The policy shall contain no endorsements or provisions limiting coverage for (i) contractual liability; (ii) cross liability exclusion for claims or suits by one insured against another; (iii) products/completed operations liability; or (iv) contain any other exclusion contrary to the conditions in this permit.

ii. **Automotive Insurance.** Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if permittee has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than $1,000,000 per accident for bodily injury and property damage.

iii. **Workers’ Compensation.** The permittee shall certify that it is aware of the provisions of California Labor Code § 3700, which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and further certifies that the permittee will comply with such provisions before commencing work under this permit. To the extent the permittee has employees at any time during the term of this permit, at all times during the performance of the work under this permit the permittee shall maintain insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

iv. **Errors and Omissions Policy.** The permittee shall maintain Professional Liability (Errors and Omissions) Insurance appropriate to the permittee’s profession, with limit no less than $1,000,000 per occurrence or claim. This insurance shall be endorsed to include contractual liability applicable to this permit and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the permittee. “Covered Professional Services” as designed in the policy must specifically include work performed under this permit.

v. **Umbrella Policy.** If an umbrella or excess liability insurance policy is used to satisfy the minimum requirements for CGL or Automobile Liability insurance coverage listed above, the umbrella or excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be “pay on behalf,” with defense costs payable in addition to policy limits. Permittee shall provide a “follow form” endorsement or schedule of underlying coverage satisfactory to the Town indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.
vi. **Endorsements.** The relevant policy(ies) shall name the Town of San Anselmo, its elected/appointed officials, commission members, officers, representatives, agents, volunteers and employees as additional insureds. The permittee shall use its best efforts to provide thirty (30) calendar days’ prior written notice to the Town of the cancellation or material modification of any applicable insurance policy; provided, however, that in no event shall the permittee fail to provide written notice to the Town within 10 calendar days after the cancellation or material modification of any applicable insurance policy.

vii. **Certificates.** Before the Town issues any permit, the permittee shall deliver to the Director insurance certificates, in a form satisfactory to the Director, that evidence all the coverage required above. In addition, the permittee shall promptly deliver complete copies of all insurance policies upon a written request by the Town.

(p) **Performance Bond.** Before the Building Department issues any permits required to commence construction in connection with this permit, the permittee shall post a performance bond from a surety and in a form acceptable to the Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable laws. In establishing or adjusting the bond amount required under this condition, the Director shall take into consideration any information provided by the permittee regarding the cost to remove the wireless facility and restore any areas affected by the removal work to a standard compliant with applicable laws. The Director may also consider any other pertinent information, which includes written estimates from contractors with experience in wireless facilities removal and/or site restoration. The performance bond shall expressly survive the duration of the permit term to the extent required to effectuate a complete removal of the subject wireless facility in accordance with this condition.

(q) **Recall to Approval Authority; Permit Revocation.** Any permit granted under this policy or deemed approved by the operation of law may be revoked in accordance with SAMC Section 10-3.1909 (Revocation of a Discretionary Permit) as further modified by the provisions and procedures in this condition. The Director may initiate revocation proceedings when the Director has information that the facility may not be in compliance with all applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions
with such permit(s). A permit granted under this policy or deemed approved by
the operation of law may be revoked only by the Town Council after a duly notice
public hearing. Before any public hearing to revoke a permit granted under this
policy or deemed approved by the operation of law, the Director must issue a
written notice to the permittee that specifies (A) the facility; (B) the violation(s) to
be corrected; (C) the timeframe in which the permittee must correct such
violation(s); and (D) that, in addition to all other rights and remedies the Town
may pursue, the Town may initiate revocation proceedings for failure to correct
such violation(s). The Town Council may revoke a permit when it finds substantial
evidence in the written record to show that the facility is not in compliance with
any applicable laws, which includes without limitation, any permit in connection
with the facility and any associated conditions with such permit(s). Any decision
by the Town Council to revoke or not revoke a permit shall be final and not subject
to any further appeals. Within five business days after the Town Council adopts a
resolution to revoke a permit, the Director shall provide the permittee with a
written notice that specifies the revocation and the reasons for such revocation.

(r) **Record Retention.** Throughout the permit term, the permittee must maintain a
complete and accurate copy of the written administrative record, which includes
without limitation the permit application, the permit, the Approved Plans and
photo simulations incorporated into this approval, all conditions associated with
this approval, any ministerial permits or approvals issued in connection with this
approval, and any records, memoranda, documents, papers and other
correspondence entered into the public record in connection with the permit
(collectively, “records”). If the permittee does not maintain such records as
required in this condition, any ambiguities or uncertainties that would be resolved
by inspecting the missing records will be construed against the permittee. The
permittee shall protect all records from damage from fires, floods and other
hazards that may cause deterioration. The permittee may keep records in an
electronic format; provided, however, that hard copies or electronic records kept
in the Town’s regular files will control over any conflicts between such Town-
controlled copies or records and the permittee’s electronic copies, and complete
originals will control over all other copies in any form. The requirements in this
condition shall not be construed to create any obligation to create or prepare any
records not otherwise required to be created or prepared by other applicable
laws. Compliance with the requirements in this condition shall not excuse the
permittee from any other similar record-retention obligations under applicable
law.

(s) **Existing Performance Agreements.** To the extent that the permittee has an
existing Performance Agreement with the Town in connection with the subject
wireless facility, the standard conditions in Town Council Policy No. 6-1 Section
IV(F) will control to the extent that the requirements are more stringent or
advantageous to the Town. The Town Attorney shall have authority to interpret
and resolve any conflicts or ambiguities between the provisions in any
Performance Agreement and the provisions in Town Council Policy No. 6-1 Section IV(F).

(t) **Abandoned Facilities.** The wireless facility authorized under this permit shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a wireless facility is abandoned or deemed abandoned, the permittee, property owner and/or structure owner shall completely remove the wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable Laws, which includes without limitation the San Anselmo Municipal Code. If neither the permittee, the property owner nor the structure owner complies with the removal and restoration obligations under this condition within said 90-day period, the Town shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee, property owner and structure owner shall be jointly and severally liable for all costs and expenses incurred by the Town in connection with such removal and/or restoration activities.

(u) **Landscaping.** The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee’s direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select plant and maintain replacement landscaping in an appropriate location for the species. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree or as otherwise approved by the Town. The permittee shall, at all times, be responsible to maintain any replacement landscape features.

(v) **Cost Reimbursement.** The permittee acknowledges and agrees that (i) the permittee’s request for authorization to construct, install and/or operate the wireless facility will cause the Town to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the Town for all costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility; (iii) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse the Town for all such costs 10 days after a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the Town shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the Town by the permittee.

(w) **Safety Hazard Protocols.** If the Ross Valley Fire Department Fire Chief (or his or her designee) finds good cause to believe that the facility (including, without limitation, its accessory equipment, antenna and/or base station) presents a fire
risk, electrical hazard or other immediate threat to public health and safety in violation of any applicable law, such officials may order the facility to be shut down and powered off until such time as the fire risk or electrical hazard has been mitigated. Any mitigations required shall be at the permittee’s sole cost and expense.

(x) **Truthful and Accurate Statements.** The permittee acknowledges that the Town's approval relies on the written and/or oral statements by permittee and/or persons authorized to act on permittee’s behalf. In any matter before the Town in connection with the use permit or the wireless facility or other infrastructure approved under the use permit, neither the permittee nor any person authorized to act on permittee’s behalf shall, in any written or oral statement, intentionally provide material factual information that is incorrect or misleading or intentionally omit any material information necessary to prevent any material factual statement from being incorrect or misleading.

(y) **Successors and Assigns.** The conditions, covenants, promises and terms contained in this use permit will bind and inure to the benefit of the Town and permittee and their respective successors and assigns.

(z) **Severability of Conditions.** If any provision in these conditions or such provision’s application to any person, entity or circumstances is or held by any court with competent jurisdiction to be invalid or unenforceable: (1) such provision or its application to such person, entity or circumstance will be deemed severed from this permit; (2) all other provisions in this use permit or their application to any person, entity or circumstance will not be affected; and (3) all other provisions in this use permit or their application to any person, entity or circumstance will be valid and enforceable to the fullest extent permitted by law.

(aa) **Town’s Standing Reserved.** The Town’s grant or grant by operation of law of a use permit pursuant to this Policy does not waive, and shall not be construed to waive, any standing by the Town to challenge any FCC rules that interpret the Telecommunications Act, the Spectrum Act or any use permit issued pursuant to this Policy.

(2) **Modified Conditions.** The Town Council authorizes the Director to modify, add or remove conditions to any use permit as the Director deems necessary or appropriate to: (i) protect and/or promote the public health, safety and welfare; (ii) tailor the standard conditions in subsection (1) to the particular facts and circumstances associated with the deployment; and/or (iii) memorialize any changes to the proposed deployment need for compliance with the San Anselmo Municipal Code, this Policy, generally applicable health and safety requirements and/or any other applicable laws. To the extent required by applicable FCC regulations, the Director shall take care to ensure that any different conditions applied to wireless facilities are no more burdensome than those applied to other infrastructure deployments.

(G) **SITE LOCATION GUIDELINES**
(1) **Locations Outside the Public Rights-of-Way.** All applicants must, to the extent feasible, propose new wireless facilities in locations according to the following preferences, ordered from most preferred to least preferred:
   (a) Town-owned property or structures outside the public rights-of-way;
   (b) commercial zones;
   (c) open spaces;
   (d) locations where the facility would protrude above any ridgelines.

(2) **Preferred Support Structures.** In addition to the preferred locations described in Section (G)(1) (Locations Outside the Public Rights-of-Way), the Town also expresses its preference for installations on certain support structures. The approval authority will consider whether any more preferred support structures are technically feasible and potentially available. The Town’s preferred support structures are as follows, ordered from most preferred to least preferred:
   (a) collocations with existing building-mounted wireless facilities, which includes above-ground water tanks;
   (b) collocations with existing wireless facilities on electric transmission towers;
   (c) collocations with existing freestanding wireless facilities;
   (d) new installations on existing buildings, which includes above-ground water tanks;
   (e) new installations on existing electric transmission towers; and
   (f) new freestanding wireless towers.

(3) **Additional Analysis for Discouraged Locations or Structures.** Applications that involve lesser-preferred locations or structures may be approved so long as the applicant demonstrates that either (1) no more preferred locations or structures exist within 500 feet from the proposed site; or (2) any more preferred locations or structures within 500 feet from the proposed site would be technically infeasible as supported by clear and convincing evidence in the written record.

(H) **DEVELOPMENT STANDARDS**

(1) **Generally Applicable Development Standards.** All new wireless facilities and substantial changes to existing wireless facilities not covered under Section 6409 must conform to the generally applicable development standards in this Section (H)(1).
   (a) **Stealth/Concealment.** All wireless facilities must be stealth to the maximum extent feasible with concealment elements, measures and techniques that blend the equipment and other improvements into the natural and/or built environment in a manner consistent and/or compatible with the uses germane to the underlying zoning district and existing in the immediate vicinity. As an illustration and not a limitation, a wireless facility designed to mimic a native tree species or a rock outcrop may be appropriate in an open space or hillside location where other natural elements exist to provide effective camouflaging and/or concealment.
   (b) **Overall Height.** No antenna may extend more than five feet above the support structure, plus any minimum separation between the antenna and other pole
attachments required by applicable health and safety regulations, or the maximum height permitted for structures in the applicable zoning district (whichever is less).

(c) **Setbacks.** Wireless facilities may not encroach into any applicable setback for structures in the subject zoning district.

(d) **Noise.** Wireless facilities and all accessory equipment, including any proposed generators, and communications equipment must comply with all SAMC, Title 4, Chapter 7 (Loud Noises), and shall not exceed, either individually or cumulatively, the applicable ambient noise limit in the subject zoning district. The approval authority may require the applicant to incorporate appropriate noise-baffling materials and/or strategies whenever necessary to avoid any ambient noise from equipment reasonably likely to exceed the applicable limit.

(e) **Landscaping.** All wireless facilities must include landscape and/or hardscape features and a landscape plan when proposed to be placed in a landscaped area. The landscape plan must include existing vegetation, and vegetation proposed to be removed or trimmed, and the landscape plan must identify proposed landscaping by species type, size and location. Landscape maintenance must be performed in accordance with SAMC Section 10-3.604 (Landscape maintenance). The approval authority may require additional landscape or hardscape features to screen the wireless facility from public view, avoid or mitigate potential adverse impacts on adjacent properties or otherwise enhance the stealth techniques required under this Part IV. The approval authority may also require a tree protection plan to maintain existing heritage, protected or sensitive tree species. All plants proposed or required under this Part IV must be fire safe and native and/or drought-resistant.

(f) **Site Security Measures.** Wireless facilities may incorporate reasonable and appropriate site security measures, such as fences, walls and anti-climbing devices to prevent unauthorized access, theft or vandalism. Site security measures must be designed to enhance stealth techniques to the maximum extent possible, such as installing equipment within an enclosure designed to mimic a trash-can corral rather than within a chain link fence. The approval authority may require additional stealth elements as the approval authority finds necessary to blend the security measures and other improvements into the natural and/or build environment. The approval authority shall not approve barbed wire, razor ribbon, electrified fences or any similar security measures.

(g) **Backup Power Sources.** The approval authority may approve permanent backup power sources and/or generators on a case-by-case basis. The Town strongly disfavors backup power sources mounted on the ground or on poles within the public rights-of-way. The approval authority shall not approve any diesel generators or other similarly noisy or noxious generators in or within 250 feet from any residence; provided, however, the approval authority may approve sockets or other connections used for temporary backup generators. Storage of
Class I, Class II and Class III liquids in outside above-ground tanks is prohibited in certain areas pursuant to SAMC Section 3-3.804.

(h) **Lights.** Wireless facilities may not include exterior lights other than (a) as may be required under Federal Aviation Administration, FCC or other applicable governmental regulations; and (b) timed or motion-sensitive lights for security and/or worker safety. All exterior lights permitted or required to be installed must be installed in locations and within enclosures that mitigates illumination impacts on other properties to the maximum extent feasible.

(i) **Signage; Advertisements.** All wireless facilities must include signage that accurately identifies the equipment owner/operator, the owner/operator’s site name or identification number and a toll-free number to the owner/operator’s network operations center. Wireless facilities may not bear any other signage or advertisements unless expressly approved by the Town, required by law or recommended under FCC or other United States governmental agencies for compliance with RF emissions regulations.

(j) **Future Collocations and Equipment.** To the extent feasible and aesthetically desirable, all new wireless facilities should be designed and sited in a manner that accommodates potential future collocations and equipment installations that can be integrated into the proposed wireless facility or its associated structures with no or negligible visual changes to the outward appearance.

(k) **Utilities.** All cables and connectors for telephone, primary electric and other similar utilities must be routed underground to the extent feasible in conduits large enough to accommodate future collocated wireless facilities. Meters, panels, disconnect switches and other associated improvements must be placed in inconspicuous locations to the extent possible. The approval authority shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost.

(l) **Parking; Access.** Any equipment or improvements constructed or installed in connection with any wireless facilities must not reduce any parking spaces below the minimum requirement for the subject property. Whenever feasible, wireless facilities should use existing parking and access rather than construct new parking or access improvements. Any new parking or access improvements should be the minimum size necessary to reasonably accommodate the proposed use. New parking or access improvements shall be prohibited in areas zoned Open Space.

(m) **Compliance with Laws.** All wireless facilities must be designed and sited in compliance with all applicable federal, state and local laws, regulations, rules, restrictions and conditions, which include without limitation the Americans with Disabilities Act, California Building Standards Code, General Plan and any applicable specific plan, the San Anselmo Municipal Code and any conditions or restrictions in any permit or other governmental approval issued by any public agency with jurisdiction over the facility.

(n) **Flood Damage Prevention.** All wireless facilities must be anchored, elevated above the Base Flood Elevation on the adopted Flood Insurance Rate Maps, or
floodproofed to comply with the requirements for new or substantially improved structures under SAMC Title 7, Chapter 11, (Protection of Flood Hazard Areas).

(o) **Fire Resistance.** All wireless facilities must be installed using fire-resistant materials and in a manner that does not overload any support structure.

(2) **Freestanding Wireless Facilities.** In addition to the requirements in Section (H)(1) (Generally Applicable Development Standards), all new and substantially changed freestanding wireless facilities not covered under Section 6409 must conform to the requirements in this Section (H)(2).

(a) **Tower-Mounted Equipment.** All tower-mounted equipment must be mounted as close to the vertical support structure as possible to reduce its overall visual profile. Applicants must mount non-antenna, tower-mounted equipment (including, but not limited to, remote radio units/heads, surge suppressors and utility demarcation boxes) directly behind the antennas to the maximum extent feasible. All tower-mounted equipment, cables and hardware must be painted with flat colors subject to the approval authority’s prior approval.

(b) **Ground-Mounted Equipment; Shelters.** All ground-mounted equipment must be concealed underground or within an existing or new structure, opaque fences or other enclosures subject to the approval authority’s prior approval. The approval authority may require additional stealth elements as the approval authority finds necessary to blend the ground-mounted equipment and other improvements into the natural and/or built environment.

(c) **Monopoles.** The approval authority shall not approve any non-stealth, unconcealed monopoles on private property within the Town’s jurisdictional limits.

(3) **Building-Mounted Wireless Facilities.** In addition to the requirements in Section (H)(1) (Generally Applicable Development Standards), all new and substantially changed building-mounted wireless facilities not covered under Section 6409 must conform to the requirements in this Section (H)(3).

(a) **Preferred Stealth/Concealment Techniques.** All applicants should, to the extent feasible, propose new non-tower wireless facilities that are stealth, completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials). Alternatively, when integration with existing building features is not feasible, the applicant should propose stealth, completely concealed new structures or appurtenances designed to mimic the support structure’s original architecture and proportions (examples include, but are not limited to, cupolas, steeples, chimneys and water tanks). Facilities must be located behind existing parapet walls or other existing screening elements to the maximum extent feasible.

(b) **Facade-Mounted Equipment.** When wireless facilities cannot be placed behind existing parapet walls or other existing screening elements, the approval authority
may approve facade-mounted equipment in accordance with this section. All facade-mounted equipment must be stealth and concealed behind screen walls and mounted as flush to the facade as practicable. The approval authority may not approve “pop-out” screen boxes unless the design is architecturally consistent with the original building or support structure. The approval authority may not approve any exposed facade-mounted antennas, including but not limited to exposed antennas painted to match the facade. To the extent feasible, facade-mounted equipment must be installed on the facade(s) along the building frontage that is the least prominent or publicly visible.

(c) **Rooftop-Mounted Equipment.** All rooftop-mounted equipment must be screened from public view with stealth techniques and concealment measures that match the underlying structure in proportion, quality, architectural style and finish. The approval authority may approve unscreened rooftop equipment only when it expressly finds that such equipment is effectively concealed due to its low height and/or setback from the roofline.

(d) **Ground-Mounted Equipment; Shelters.** All ground-mounted equipment must be concealed underground or within an existing or new structure, opaque fences, building interior equipment room, or other enclosures subject to the approval authority’s prior approval. The approval authority may require additional stealth elements as the approval authority finds necessary to blend the ground-mounted equipment and other improvements into the natural and/or built environment.

(4) **Administrative Design Guidelines.** The Director may develop and from time-to-time amend design guidelines, consistent with the generally applicable development standards and any facility-specific development standards, to clarify the aesthetic goals and standards in this Part IV for Town staff, applicants and the public. In the event that a conflict arises between the development standards adopted under Sections IV(H) and the design guidelines adopted under this Section IV(H)(4), the development standards adopted under Sections IV(H) shall control.

(I) **AMORTIZATION OF NONCONFORMING WIRELESS FACILITIES**

Any non-conforming wireless facilities in existence at the time this Part IV becomes effective must be brought into conformance with this Part IV in accordance with the amortization schedule in this Section IV(I). As used in this section, the “fair market value” will be the construction costs listed on the building permit application for the subject wireless facility and the “minimum years” allowed will be measured from the date on which this Part IV becomes effective.

<table>
<thead>
<tr>
<th>Fair Market Value on Effective Date</th>
<th>Minimum Years Allowed</th>
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<tr>
<td>Less than $50,000.</td>
<td>5</td>
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<tr>
<td>$50,000 to $500,000.</td>
<td>10</td>
</tr>
<tr>
<td>Greater than $500,000.</td>
<td>15</td>
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The Director may grant a written extension to a date certain when the wireless facility owner shows (1) a good faith effort to cure non-conformance; (2) the application of this section would violate applicable laws; or (3) extreme economic hardship would result from strict compliance with the amortization schedule. Any extension must be the minimum time period necessary to avoid such extreme economic hardship. The Director may not grant any permanent exemption from this section.

Nothing in this section is intended to limit any permit term to less than 10 years. In the event that the amortization required in this section would reduce the permit term to less than 10 years for any permit granted on or after January 1, 2007, then the minimum years allowed will be automatically extended by the difference between 10 years and the number of years since the Town granted such permit. Nothing in this section is intended or may be applied to prohibit any collocation or modification covered under 47 U.S.C. § 1455(a) on the basis that the subject wireless facility is a legal nonconforming wireless facility.

PART V. SMALL WIRELESS FACILITIES

(A) APPLICABILITY

(1) Applicable Wireless Facilities. This Part V applies to all existing small wireless facilities within the Town and all applications and requests for approval to construct, install, modify, collocate, relocate or otherwise deploy small wireless facilities in the Town, whether located or proposed to be located on private property or in the public right-of-way, unless exempted under Section V(A)(2) (Exempt Wireless Facilities) or governed under Town Council Policy No. 6-1 Part VI (Eligible Facilities Requests).

(2) Exempt Wireless Facilities. Notwithstanding the provisions in Section V(A)(1) (Applicable Wireless Facilities), the provisions in this Part V will not be applicable to: (a) wireless facilities owned and operated by the Town for public purposes; (b) antennas and related communications equipment used in connection with a duly authorized amateur station; (c) OTARD antennas; (d) wireless facilities installed completely indoors and intended to extend signals for personal wireless services in a personal residence or a business (such as a femtocell or indoor distributed antenna system); and (e) wireless facilities or other communications equipment owned and operated by CPUC-regulated electric companies for use in connection with electrical power generation, transmission and distribution facilities subject to CPUC General Order 131-D.

(3) Request for Approval Pursuant to Section 6409. Any requests for approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to Section 6409 will be first reviewed under Town Council Policy No. 6-1 Part VI (Eligible Facilities Requests).

(B) PRIOR APPROVALS REQUIRED
(1) **Use Permit.** A use permit and design review approval, subject to the Planning Commission’s prior review and approval in accordance with the procedures and standards in SAMC, Title 10, Chapter 3, Article 13 (Conditional Use Permit) and Article 15 (Design Review) is required for all new and substantially changed small wireless facilities.

(2) **Temporary Use Permit.** A temporary use permit, subject to the Director’s prior review and approval in accordance with the procedures and standards in Section VII(A) (Temporary Wireless Facilities) is required for any temporary wireless facility, unless deployed in connection with an emergency pursuant to Section VII(B) (Temporary Wireless Facilities for Emergencies).

(3) **Other Permits and Regulatory Approvals.** In addition to any use permit, temporary use permit or other permit or approval required under this Part V, the applicant must obtain all other permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes without limitation any other ministerial permits and/or regulatory approvals issued by other departments or divisions within the Town. All applications for ministerial permits submitted in connection with a proposed small wireless facility must contain a valid use permit (or temporary use permit) issued by the Town for the proposed small wireless facility. Any application for any ministerial permit(s) submitted without such use permit may be denied without prejudice. Any permit or approval granted under this Part V or deemed granted or deemed approved by law shall remain subject to any and all lawful conditions and/or legal requirements associated with such other permits or regulatory approvals. Furthermore, and to avoid potential confusion, an exemption from the use permit requirement under Section V(A)(2) (Exempt Wireless Facilities) does not exempt the same wireless facilities or other infrastructure deployments from any other permits or approvals, which includes without limitation any ministerial permits from the Town.

(C) **APPLICATION REQUIREMENTS**

(1) **Application Required.** The approval authority shall not approve any request for a use permit except upon a complete and duly filed application consistent with this Section V(C) and any other written rules or requirements the Town or the Director may establish from time to time in any publicly-stated format.

(2) **Application Content.** All applications for a use permit must include all the content, information and materials required by the Director for the application. The Town Council authorizes the Director to develop, publish and from time-to-time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Director finds necessary, appropriate or useful for processing any application governed under this Part V. All applications shall require the applicant to demonstrate that the proposed project will be in planned compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes and all FCC rules for human exposure to RF emissions. The Town Council further authorizes the Director to establish other reasonable rules and regulations, which may include without limitation regular hours for
appointments with applicants, as the Director deems necessary or appropriate to organize, document and manage the application intake process. All such rules and regulations must be in written form and publicly stated to provide applicants with prior notice.

(a) **Application Form.** The applicant shall submit a complete, duly executed use permit application for a small wireless facility on the then-current form prepared by the Town. The applicant shall state which FCC shot clock it asserts will apply to the proposed project and explain the basis for its assertion.

(b) **Application Fee.** The applicant shall submit the applicable use permit application fee for a small wireless facility adopted by Town Council resolution. Batched applications must include the applicable use permit application fee for each small wireless facility in the batch. If no use permit application fee has been adopted, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to submit a deposit estimated by the Director to reimburse the Town for its reasonable costs incurred in connection with the application. Should the deposit be inadequate an additional deposit shall be required. If the deposit exceeds the actual costs, the difference will be returned to the applicant.

(c) **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a California licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape or hardscape features. The construction drawings must: (i) contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number, weight and physical dimensions; (ii) identify all structures within 500 feet from the proposed project site and call out such structures’ overall height above ground level; (iii) depict the applicant’s plan for electric and data backhaul utilities, either as approved by the applicable utility company or in a preliminary form if an approved plans is not yet available, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; and (iv) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.

(d) **Site Survey.** For any small wireless facility proposed to be located within the public rights-of-way, the applicant shall submit a survey prepared, signed and stamped by a California licensed or registered engineer. The survey must identify and depict all existing boundaries, encroachments and other structures within 50 feet from the proposed project site, which includes without limitation all: (i) traffic lanes; (ii)
all private properties and property lines; (iii) above and below-grade utilities and related structures and encroachments; (iv) fire hydrants, roadside call boxes and other public safety infrastructure; (v) streetlights, decorative poles, traffic signals and permanent signage; (vi) sidewalks, driveways, parkways, curbs, gutters and storm drains; (vii) benches, trash cans, mailboxes, kiosks and other street furniture; and (viii) existing trees, planters and other landscaping or hardscaping features. Site surveys that are more than a year old require an updated survey certification.

(e) **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed small wireless facility in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point. At least one simulation must depict the small wireless facility from a vantage point approximately 50 feet from the proposed support structure or location.

(f) **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed wireless facility qualifies as a “small wireless facility” as defined by the FCC in 47 C.F.R. § 1.6002(l). A complete written narrative analysis will state the applicable standard and all the facts that allow the Town to conclude the standard has been met—bare conclusions not factually supported do not constitute a complete written analysis. As part of the written statement the applicant must also include (i) whether and why the proposed support is a “structure” as defined by the FCC in 47 C.F.R. § 1.6002(m); and (ii) whether and why the proposed wireless facility meets each required finding for a permit as provided in Section V(E)(1).

(g) **RF Compliance Report.** The applicant shall submit an RF exposure compliance report that certifies that the proposed small wireless facility, as well as any collocated wireless facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer acceptable to the Town. The RF report must include the actual frequency and sustained and maximum power levels (in watts effective radiated power) 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.

(h) **Regulatory Authorization.** The applicant shall submit evidence of the applicant’s regulatory status under federal and California law to provide the services and construct the small wireless facility proposed in the application. The applicant shall also submit copies of any other permits or approvals obtained for the small
wireless facility prior to the submission of the application for a permit, including but not limited to any Marin General Services Authority pole licenses.

(i) **Acoustic Analysis.** The applicant shall submit an acoustic analysis prepared and certified by an engineer licensed by the State of California for the proposed small wireless facility and all associated equipment including all environmental control units, sump pumps, temporary backup power generators and permanent backup power generators demonstrating compliance with the Town’s noise regulations. The acoustic analysis must also include an analysis of the manufacturers’ specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of an acoustic analysis, the applicant may submit evidence from the equipment manufacturer(s) that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable noise limits.

(j) **Structural Analysis.** The applicant shall submit a report prepared and certified by an engineer licensed by the State of California (or other qualified personnel acceptable to the Town) that evaluates whether the underlying pole or support structure has the structural integrity to support all the proposed equipment and attachments. At a minimum, the analysis must be consistent with all applicable requirements in CPUC General Order 95 (including, but not limited to, load and pole overturning calculations), the National Electric Safety Code, the standards and practices required for an ANSI/TIA-222 Maintenance and Conditions Assessment (under the most current revision at the time of submittal) and any safety and construction standards required by law and the utility provider. The report shall contain tolerances including but not limited to guy tensions if applicable, plumb, twist, slip splices and take-up devices.

1. Wireless facilities must be designed to remain resilient during outages, earthquakes, flooding and extreme weather events. Applicants shall (1) provide a certificate from a structural engineer licensed by the State, or other appropriate licensed professional acceptable to the Director, that (i), when fully loaded with antennas, transmitters, and other equipment and camouflaging the facility is designed to withstand the forces expected during the maximum credible earthquake and maximum credible wind speeds, and (ii) components, and the all connections between various components of the facility and with necessary power and utility lines, are designed to be protected against damage by “100-year” flooding, historical maximum ambient temperature sustained over the maximum credible duration, area maximum credible high wind, maximum credible earthquake, lightning strike and power surge events; (2) provide a diagram detailing buildings and other features located in fall zones or launch distances of components in the event of facility failure due to high wind or ground movement; (3) detailed description of measures taken on a network-wide basis, including backup power coverage for a portion of regional macro facilities, to ensure that basic communication service is
available in the event of a disaster or power loss; (4) detailed description of the failure or outage history of facility components or similar systems (such as during PG&E power shutoffs in October and November 2019) operated by the operator on whose behalf the application is submitted; and (5) detailed description of hazards posed by the facility in the event of failure due to flood, high wind, high heat, earthquake, outage, lightning strike or wildfire.

(k) **Underground Service Alert Membership.** The applicant shall submit evidence that applicant is a member in good standing with the Underground Service Alert of Northern California and Nevada (“DigAlert”).

(l) **Environmental Impact Assessment.** The applicant shall submit an environmental impact assessment on the then-current form prepared by the Town to determine whether the proposed project is categorically exempt under Article 19 of the CEQA Guidelines, or whether the proposed project will require a Negative Declaration, Mitigated Negative Declaration or an Environmental Impact Report.

(m) **Compliance with NEPA.** All applications shall include confirmation that an environmental assessment, or other application determination, has been completed by or on behalf of the FCC for any facility proposed in a location identified in 47 C.F.R. 1.307 (including a floodplain) or as otherwise required by National Environmental Policy Act.

(n) **Hazards Assessment.** A full assessment of the hazards posed by the wireless facility in the event of failure due to flood, high wind, high heat, outage, lightning strike or fire must be conducted that includes the presence of nearby vegetation and structures at applicant’s cost. All materials in the facilities must be disclosed, including hazardous materials in any and all equipment. The assessment must identify if any tree removal or tree trimming is required or necessary in order to reduce fire hazard.

(o) **Truth and Accuracy Statement.** Any application submitted pursuant to this Policy shall be signed by the applicant, or a person knowledgeable about the proposed facility and authorized to act on the applicant’s behalf, attesting, that under penalty of perjury, that all information, representations and disclosures in the application are true, correct and complete.

(p) **Exception Request.** Any application that involves a request for an exception pursuant to Part VIII of this Policy shall include a written statement in a separate document that includes all the following information: (i) whether the applicant seeks an exception pursuant to Sections VIII(2)(a), VIII(2)(b) or both; (ii) the specific provision(s) and/or requirement(s) in this Policy from which the applicant seeks an exception; (iii) the specific provision(s) of federal or state law under which the applicant seeks an exception; (iv) the standard of evidence applicable to each specific provision(s) of federal or state law under which the applicant seeks an exception; (v) a statement of the factual evidence that supports the findings for the exception requested; (vi) a statement that describes the extent of the exception required and the factual evidence to show the exception would be
narrowly tailored in compliance with Section VIII(3); and (vii) any other information the applicant believes relevant to the issues raised in the exception request. Given the short timeframe in which the Town must review the application and the deployment volume anticipated by both the FCC and wireless industry, this written statement must be included with the initial submittal to afford Town staff a reasonable time to act on the application. Any request by the applicant to consider an exception after the initial submittal shall be treated as a new application.

(3) **Procedures for a Community Meeting/Notice.** Prior to applying for a use permit for a small wireless facility, the applicant is strongly encouraged to conduct a noticed community meeting. The community meeting is intended to provide residents information about a potential application for a small wireless facility and streamline the review process by providing applicants an opportunity to consider residents’ suggestions prior to a public hearing before the Planning Commission. Applicants are encouraged (but not required) to bring preliminary drawings or other materials that may assist the residents’ understanding of the project. If the applicant chooses to voluntarily conduct such a community meeting, the applicant should provide notice in accordance with SAMC Article 16 (Noticing: Public Hearings: Zoning Applications), except as modified in this subsection, to all property owners and legal occupants of parcels within 500 feet of the boundaries of the subject parcel on which the applicant intends to propose the facility or modification (or 500 feet of any proposed location within a right-of-way that is not on a parcel). The notice should include a copy of the photo simulations, a copy of the RF compliance report, and a contact phone number that property owners may call with any questions. The outside of the mailed envelope should indicate, “Notice of a nearby cellular antenna(s) proposal.” No general circulation or posted notice is required. Such community meetings must be held on a weekday evening starting no later than 7:00 p.m. on a date that is not a Town holiday in a location and conducted in a manner conducive to public interaction and conversation.

(4) **Procedures for a Duly Filed Application.** Any application for a use permit will not be considered duly filed unless submitted in accordance with the procedures in this Subsection (4).

(a) **Pre-Submittal Conference.** Pre-submittal conferences for all proposed projects are strongly encouraged but not required. The pre-submittal conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification and review process, any latent issues in connection with the proposed or existing wireless tower or base station, including compliance with generally applicable rules for public health and safety; potential stealth or concealment issues or concerns (if applicable); coordination with other Town departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that Town staff may provide informal feedback and guidance about whether such applications or other
materials may be incomplete or unacceptable. The Director shall use reasonable efforts to provide the applicant with an appointment within five working days after the Director receives a written request and any applicable fee or deposit to reimburse the Town for its reasonable costs to provide the services rendered in the pre-submittal conference.

(b) **Submittal Appointment.** All applications must be submitted to the Town at a pre-scheduled appointment with the Director. Applicants may generally submit one application per appointment, but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. The Planning Department shall use reasonable efforts to provide the applicant with an appointment within five working days after the Planning Department receives a written request and, if applicable, confirms that the applicant complied with the pre-submittal conference requirement. Any application received without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed unless the applicant received a written exemption from the Director at a pre-submittal conference.

(5) **On-Site Inspection.** A physical inspection by Town staff or the Town’s designee may be required for any application that involves: (i) a new small wireless facility on a new or replacement structure; (ii) any modification to an existing small wireless facility if no physical inspection has occurred in the last 12-month period; (iii) any request for an exception pursuant to Part VIII of this Policy. This paragraph does not limit the Town’s ability to conduct inspections at the Director’s discretion.

(6) **Applications Deemed Withdrawn.** To promote efficient review and timely decisions, and in accordance with SAMC Section 10-3.1604 (Expiration of Applications), any application governed under this Part V will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the Planning Department within 90 calendar days after the Planning Department deems the application incomplete in a written notice to the applicant. The Director may, in the Director’s discretion, grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension. Good cause for an extension shall include, without limitation, delays due to circumstances outside the applicant’s reasonable control.

(7) **Batched Applications.** Applicants may submit up to five individual applications for a permit in a “batch” to be reviewed together at the same time; provided, however, that (a) all small wireless facilities in a batch must be proposed with substantially the same equipment in the same configuration on the same support structure type; and (b) each application in a batch must meet all the requirements for a complete application, which includes without limitation the application fee for each application in the batch.

(8) **Peer and Independent Consultant Review.**

(a) **Authorization.** The Town Council authorizes the Director to, in the Director’s discretion, select and retain an independent consultant with specialized training, experience and/or expertise in telecommunications issues satisfactory to the Director in connection with any permit application.
(b) Scope. The Director may request an independent consultant review on any issue that involves specialized or expert knowledge in connection with wireless facilities deployment or permit applications for wireless facilities, which includes without limitation: (i) permit application completeness and/or accuracy; (ii) pre-construction planned compliance with applicable regulations for human exposure to RF emissions; (iii) post-construction actual compliance with applicable regulations for human exposure to RF emissions; (iv) whether and to what extent a proposed project will address a gap in the applicant’s wireless services; (v) whether and to what extent the applicant’s ability to provide services would be materially inhibited without the proposed facility or equivalent facility(ies) in different locations/designs with the same technologies; (vi) whether and to what extent any technically feasible and/or potentially available alternative sites or stealth techniques may exist; (vii) the applicability, reliability and/or sufficiency of any information, analyses or methodologies used by the applicant to reach any conclusions about any issue with the Town’s discretion to review; and (viii) any other issue identified by the Director that requires expert or specialized knowledge. The Director may request that the independent consultant prepare written reports, testify at public meetings, hearings and/or appeals and attend meetings with Town staff and/or the applicant.

(c) Consultant Fees; Deposits. In the event that the Director elects to retain an independent consultant in connection with any permit application, the applicant shall be responsible for the reasonable costs in connection with the services provided to the maximum extent permitted by applicable law, which may include without limitation any costs incurred by the independent consultant to attend and participate in any meetings or hearings. Before the independent consultant may perform any services, the applicant shall tender to the Town a deposit in an amount equal to the estimated cost for the services to be provided, as determined by the Director. The Director may request additional deposits as reasonably necessary to ensure sufficient funds are available to cover the reasonable costs in connection with the independent consultant’s services. If the deposit exceeds the total costs for consultant’s services, the Director shall promptly return any unused funds to the applicant after the wireless facility has been installed and passes a final inspection by the Building Official or his or her designee. In the event that the reasonable costs for the independent consultant’s services exceed the deposit, the Director shall invoice the applicant for the balance. The Town shall not issue any construction or grading permit to any applicant with any unpaid deposit requests or invoices.

(D) NOTICE

(1) General Notice Requirements. Public notice in accordance with the provisions in SAMC Article 16 (Noticing: Public Hearings: Zoning Applications) except as modified in this subsection, to all property owners and legal occupants of parcels within 500 feet of the
boundaries of the subject parcel on which the applicant intends to propose the facility or modification (or 500 feet of any proposed location within a right-of-way that is not on a parcel), shall be required for all use permit applications for small wireless facilities.

(2) **Decision Notices.** Within five days after the approval authority acts on an application for a use permit or before the FCC shot clock expires (whichever occurs first), the approval authority or its designee shall send a written notice to the applicant. In the event that the approval authority denies the application (with or without prejudice), the written notice to the applicant must contain (a) the reasons for the decision and (b) instructions for how and when to file an appeal if the applicant so chooses.

(E) **DECISIONS; LIMITED EXEMPTIONS; APPEALS**

(1) **Required Findings for Approval.** The approval authority may approve or conditionally approve an application for a use permit submitted under this Part V when the approval authority finds all of the following:

(a) the proposed small wireless facility complies with all required findings for use permit approval in SAMC Section 10-3.1305 (Required Findings for Use Permit), or qualifies for a limited exception pursuant to Part VIII (Special Exceptions for Federal or State Preemption); and

(b) the proposed small wireless facility complies with all required findings for design review approval in SAMC Section 10-3.1506 (Required Findings for Design Review), or qualifies for a limited exception pursuant to Part VIII (Special Exceptions for Federal or State Preemption); and

(c) the applicant has demonstrated that its proposed small wireless facility will be in compliance with all applicable health and safety regulations, which include without limitation the Americans with Disabilities Act and all FCC rules and regulations for human exposure to RF emissions; and

(d) the applicant has shown that it can obtain any wireline communications and electrical service connections necessary to operate the small wireless facility and the project plans show the proposed route for all such connections between their source and the small wireless facility; and

(e) the applicant has demonstrated a good-faith effort to identify and evaluate preferred alternative locations and potentially less-intrusive alternative designs for the proposed small wireless facility; and

(f) the applicant has provided the approval authority with a meaningful comparative analysis that shows all preferred alternative locations and less-intrusive alternative designs identified in the administrative record are either technically infeasible or unavailable.

(2) **Conditional Approvals; Denials Without Prejudice.** Subject to any applicable limitations in federal or state law, nothing in this Part V is intended to limit the approval authority’s ability to conditionally approve or deny without prejudice any application for a use permit as may be necessary or appropriate to protect and promote the public health, safety and
welfare, and to advance the goals or policies in this Part V, the San Anselmo Municipal Code or the General Plan.

(3) **Limited Exceptions.** In the event that an applicant requests an exception due to preemption by federal or state law, the approval authority may grant a limited exception from such requirements to the extent necessary to avoid conflict with applicable federal or state law pursuant to Part VIII (Special Exceptions for Federal or State Preemption). The applicant shall have the burden to demonstrate to the approval authority that an exception is required due to federal or state preemption.

(4) **Appeals.** Any interested person or entity may appeal any decision by the approval authority to the Town Council. Appeals from an approval will not be permitted to the extent that the appeal is based on reasons otherwise compliant under this Part V, including appeals based on the environmental effects from RF emissions that comply with all applicable FCC regulations. An appeal notice must be filed within seven calendar days after the date on the approval authority’s decision notice. The notice must contain a short and plain statement about the basis for the appeal, which may be supplemented after the notice period has expired but before the appeal hearing. The Town Council shall hear appeals *de novo* and issue the applicant and any person entitled to notice a written decision within five calendar days after the appeal hearing. If the Town Council denies the application on appeal (whether by affirmation or reversal), the written notice shall contain the reasons for the decision. The Town Council’s decision shall be final and not subject to any further appeals or petitions for reconsideration.

(F) **STANDARD CONDITIONS OF APPROVAL**

(1) Except as may be authorized in Section (H)(2) below, all use permits, whether approved by the approval authority or deemed approved by the operation of law, shall be automatically subject to the conditions in this Section H in addition to all other conditions adopted by the approval authority.

(a) **Permit Term.** This permit will automatically expire 10 years and one day from its issuance, except when California Government Code § 65964(b), as may be amended or superseded in the future, authorizes the Town to establish a shorter term for public safety or substantial land use reasons. Any other permits or approvals issued in connection with any collocation, modification or other change to this small wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law.

(b) **Permit Renewal.** The permittee may apply for permit renewal not more than one year before this permit expires. The permittee must demonstrate that the small wireless facility complies with all the conditions of approval associated with this permit and all applicable provisions in the San Anselmo Municipal Code and this policy that exist at the time the decision to renew or not renew is rendered. The approval authority may modify or amend the conditions on a case-by-case basis
as may be necessary or appropriate to ensure compliance with the San Anselmo Municipal Code, this Policy, or other applicable law. Upon renewal, this permit will automatically expire 10 years and one day from its issuance. Additional permit renewals shall be subject to the procedures in this condition.

(c) **Strict Compliance with Approved Plans.** Any construction plans submitted to the Building Department shall incorporate the permit, together with all conditions of approval and the photo simulations associated with the permit (collectively, the "**Approved Plans**"). The permittee must construct, install and operate the small wireless facility in strict compliance with the Approved Plans. Any alterations, modifications or other changes to the Approved Plans, whether requested by the permittee or required by other departments or public agencies with jurisdiction over the small wireless facility, must be submitted in a written request subject to the Director’s prior review and approval. After the Director receives a written request to approve an alteration, modification or other change to the approved plans, the Director may refer the request to the Planning Commission, or to the Town Council if the final decision was made by the Town Council, if the Director finds that it substantially deviates from the Approved Plans or implicates a significant or substantial land-use concern.

(d) **GO 159A Certification.** Within 15 business days after the Town issues a permit, the permittee shall serve copies of California Public Utility Commission notification letters to Town Clerk, Director and Town Manager, as required by CPUC General Order No. 159A.

(e) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a small wireless facility approved or deemed-approved, the permittee shall provide the Director with documentation reasonably acceptable to the director that the small wireless facility has been installed and/or constructed in strict compliance with the Approved Plans. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.

(f) **Build-Out Period.** This permit will automatically expire one (1) year from the approval date (the "**build-out period**") unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved small wireless facility, which includes without limitation any permits or approvals required by any federal, state or local public agencies with jurisdiction over the subject property, support structure or the small wireless facility or its use. The permittee may request in writing, and the Town may grant in writing, one six-month extension if the permittee submits substantial and reliable written evidence demonstrating justifiable cause for a six-month extension. If the build-out period and any extension finally expire, the permit shall be automatically void but the permittee may resubmit a complete application, including all application fees, for the same or substantially similar project.

(g) **Site Maintenance.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences,
hardscape and landscape features, in a neat, clean and safe condition in accordance with the Approved Plans and all conditions in this permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee shall regularly inspect the small wireless facility to determine whether any maintenance is needed. The permittee, at no cost to the Town, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.

(h) Compliance with Laws. The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law (“Laws”) applicable to the permittee, the subject property, the small wireless facility or any use or activities in connection with the use authorized in this permit, which includes without limitation any Laws applicable to human exposure to RF emissions and any standards, specifications or other requirements identified by the Director (such as, without limitation, those requirements affixed to an encroachment permit). The Director may order the facility to be powered down if, based on objective evidence, the Director finds that the facility is in fact not in compliance with any Laws applicable to human exposure to RF emissions until such time that the permittee demonstrates actual compliance with such laws. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee’s obligations to maintain compliance with all Laws. No failure or omission by the Town to timely notice, prompt or enforce compliance with any applicable provision in the San Anselmo Municipal Code, this Policy, any permit, any permit condition or any applicable law or regulation, shall be deemed to relieve, waive or lessen the permittee’s obligation to comply in all respects with all applicable provisions in the San Anselmo Municipal Code, this Policy, any permit, any permit condition or any applicable law or regulation.

(i) Cooperation with RF Compliance Evaluations. At all times relevant to this permit, the permittee and the property owner shall reasonably cooperate with efforts by the Town to evaluate whether the wireless facility complies with all applicable FCC rules and regulations for human exposure to RF emissions. Such cooperation shall be at no cost to the Town and may include, but is not limited to: (1) furnishing the Town with a written affidavit signed by an RF engineer certifying the wireless facility’s compliance with applicable FCC rules and regulations; (2) providing technical data such as the frequencies in use, sustained and maximum power output levels specified in both specific absorption rate and maximum permissible exposure and antenna specifications, reasonably necessary to evaluate compliance with maximum permissible exposure levels set by the FCC; (3) allowing the Town or its designee to have supervised access to the areas near the wireless facility for inspections and field measurements; and (4) promptly responding to all requests by the Town or its designee for information and/or cooperation with
respect to any of the foregoing. The Town may conduct random tests to ensure compliance with the FCC’s rules and regulations. In the event that the Town determines that permittee is not in compliance with any legal requirements or conditions, the permittee shall be responsible for all costs and expenses incurred by the Town in connection with the investigation, enforcement and/or remediation of such noncompliance.

(j) **Affirmation of Radio Frequency Standards Compliance.** Following installation of the facility, on or before January 30th in each calendar year, the permittee acknowledges and agrees that the permittee shall submit: (1) an affirmation, under penalty of perjury, that the proposed installation will be FCC compliant, because it will not cause members of the general public to be exposed to RF levels that exceed the maximum permission exposure levels deemed safe by the FCC; (2) a copy of the fully completed FCC form “A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance: Appendix A” titled “Optional Checklist for Determination of Whether a Facility is Categorically Excluded” for each frequency band of RF emissions to be transmitted from the proposed facility upon the approval of the application. All planned radio frequency emissions on all frequency bands must be shown on the Appendix A form(s) attached to the application. All planned radio frequency emissions are to be entered on each Appendix A form only in wattage units of “effective radiated power”.

(k) **Adverse Impacts on Other Properties.** The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee’s or its authorized personnel’s construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the San Anselmo Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the Town or other state or federal government agency or official with authority to declare an emergency within the Town. The Director or the Director’s designee may issue a stop work order for any activities that violate this condition in whole or in part. If the Director or the Director’s designee finds good cause to believe that ambient noise from a facility, including any generators approved with the facility, violates applicable provisions under the San Anselmo Municipal Code, the Director or the Director’s designee, in addition to any other actions or remedies authorized by the permit, the San Anselmo Municipal Code or other applicable laws, may require the permittee to commission a noise study by a qualified professional to evaluate the facility’s compliance. The permittee shall, at its sole cost and expense, repair and restore any and all damages to public and private properties that result from any
activities performed in connection with the installation or maintenance of a small wireless facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within the number of days stated on a written notice by the Director or the Director’s designee, the Director or the Director’s designee may cause such repair to be completed at permittee’s sole cost and expense.

(l) **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the Town’s officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee or at any time during an emergency. Notwithstanding the previous sentence, the Town’s officers, officials, staff, agents, contractors or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe the Town’s officers, officials, staff or other designees while any such inspection or emergency access occurs.

(m) **Permittee’s Contact Information.** Prior to final inspection and at all times relevant to this permit, the permittee shall keep on file with the Director basic contact and site information. This information shall include, but is not limited to, the following: (A) the name, physical address, notice address (if different), direct telephone number and email address for (i) the permittee and, if different from the permittee, the (ii) site operator, (iii) equipment owner, (iv) site manager and (v) agent for service of process; (B) the regulatory authorizations held by the permittee and, to the extent applicable, site operator, equipment owner and site manager as may be necessary for the facility’s continued operation; (C) the facility’s site identification number and/or name used by the permittee and, to the extent applicable, site operator, equipment owner and site manager; and (D) a toll-free telephone number to the facility’s network operations center where a live person with power-down control over the facility is available 24 hours-per-day, seven days-per-week. Within 30 days after any change to the foregoing information, permittee shall furnish the Town with an updated form that includes all the most-current information described in this condition. Within 10 business days after a written request by the Town, the permittee shall furnish the Town with an updated form that includes all the most-current information described in this condition.

(n) **Indemnification.** The permittee and, if applicable, the property owner upon which the small wireless facility is installed shall defend, indemnify and hold harmless the Town, Town Council and Town boards, commissions, agents, officers, officials, employees and volunteers (collectively, the “**Indemnitees**”) from any and all (i) damages, liabilities, injuries, losses, costs and expenses and from any and all
claims, demands, law suits, writs and other actions or proceedings ("Claims") brought against the Indemnitees to challenge, attack, seek to modify, set aside, void or annul the Town’s approval of this permit, and (ii) other Claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee’s or its agents’, directors’, officers’, employees’, contractors’, subcontractors’, licensees’, or customers’ acts or omissions in connection with this permit or the small wireless facility. In the event the Town becomes aware of any Claims, the Town will use best efforts to promptly notify the permittee and the private property owner (if applicable) and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the Town shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the Town’s defense, and the property owner and/or permittee (as applicable) shall promptly reimburse Town for any costs and expenses directly and necessarily incurred by the Town in the course of the defense. The permittee expressly acknowledges and agrees that the permittee’s indemnification obligations under this condition are a material consideration that motivates the Town to approve this permit, and that such indemnification obligations will survive the expiration, revocation or other termination of this permit.

(o) **Insurance.** At all times relevant to this permit, the permittee shall obtain and maintain insurance policies as follows:

i. **Commercial General Liability.** Insurance Services Office Form CG 00 01 covering Commercial General Liability ("CGL") on an “occurrence” basis, with limits not less than $1,000,000 per occurrence or $2,000,000 in the aggregate. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CGL insurance must include coverage for the following: Bodily Injury and Property Damage; Personal Injury/Advertising Injury; Premises/Operations Liability; Products/Completed Operations Liability; Aggregate Limits that Apply per Project; Explosion, Collapse and Underground ("UCX") exclusion deleted; Contractual Liability with respect to the permit; Broad Form Property Damage; and Independent Consultants Coverage. The policy shall contain no endorsements or provisions limiting coverage for (i) contractual liability; (ii) cross liability exclusion for claims or suits by one insured against another; (iii) products/completed operations liability; or (iv) contain any other exclusion contrary to the conditions in this permit.

ii. **Automotive Insurance.** Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if permittee has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than $1,000,000 per accident for bodily injury and property damage.

iii. **Workers’ Compensation.** The permittee shall certify that it is aware of the provisions of California Labor Code § 3700, which requires every employer
to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and further certifies that the permittee will comply with such provisions before commencing work under this permit. To the extent the permittee has employees at any time during the term of this permit, at all times during the performance of the work under this permit the permittee shall maintain insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

iv. **Errors and Omissions Policy.** The permittee shall maintain Professional Liability (Errors and Omissions) Insurance appropriate to the permittee’s profession, with limit no less than $1,000,000 per occurrence or claim. This insurance shall be endorsed to include contractual liability applicable to this permit and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the permittee. “Covered Professional Services” as designed in the policy must specifically include work performed under this permit.

v. **Umbrella Policy.** If an umbrella or excess liability insurance policy is used to satisfy the minimum requirements for CGL or Automobile Liability insurance coverage listed above, the umbrella or excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be “pay on behalf,” with defense costs payable in addition to policy limits. Permittee shall provide a “follow form” endorsement or schedule of underlying coverage satisfactory to the Town indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

vi. **Endorsements.** The relevant policy(ies) shall name the Town of San Anselmo, its elected/appointed officials, commission members, officers, representatives, agents, volunteers and employees as additional insureds. The permittee shall use its best efforts to provide thirty (30) calendar days’ prior written notice to the Town of the cancellation or material modification of any applicable insurance policy; provided, however, that in no event shall the permittee fail to provide written notice to the Town within 10 calendar days after the cancellation or material modification of any applicable insurance policy.

vii. **Certificates.** Before the Town issues any permit, the permittee shall deliver to the Director insurance certificates, in a form satisfactory to the Director, that evidence all the coverage required above. In addition, the permittee shall promptly deliver complete copies of all insurance policies upon a written request by the Town.

(p) **Performance Bond.** Before the Building Department issues any permits required to commence construction in connection with this permit, the permittee shall post
a performance bond from a surety and in a form acceptable to the Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable laws. In establishing or adjusting the bond amount required under this condition, the Director shall take into consideration any information provided by the permittee regarding the cost to remove the small wireless facility and restore any areas affected by the removal work to a standard compliant with applicable laws. The Director may also consider any other pertinent information, which includes written estimates from contractors with experience in wireless facilities removal and/or site restoration. The performance bond shall expressly survive the duration of the permit term to the extent required to effectuate a complete removal of the subject small wireless facility in accordance with this condition.

(q) Recalls to Approval Authority; Permit Revocation. Any permit granted under this policy or deemed approved by the operation of law may be revoked in accordance with SAMC Section 10-3.1909 (Revocation of a Discretionary Permit) as further modified by the provisions and procedures in this condition. The Director may initiate revocation proceedings when the Director has information that the facility may not be in compliance with all applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). A permit granted under this policy or deemed approved by the operation of law may be revoked only by the Town Council after a duly notice public hearing. Before any public hearing to revoke a permit granted under this policy or deemed approved by the operation of law, the Director must issue a written notice to the permittee that specifies (A) the facility; (B) the violation(s) to be corrected; (C) the timeframe in which the permittee must correct such violation(s); and (D) that, in addition to all other rights and remedies the Town may pursue, the Town may initiate revocation proceedings for failure to correct such violation(s). The Town Council may revoke a permit when it finds substantial evidence in the written record to show that the facility is not in compliance with any applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). Any decision by the Town Council to revoke or not revoke a permit shall be final and not subject to any further appeals. Within five business days after the Town Council adopts a resolution to revoke a permit, the Director shall provide the permittee with a written notice that specifies the revocation and the reasons for such revocation.
(r) **Record Retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the permit application, the permit, the Approved Plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval, and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the permit (collectively, “records”). If the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records will be construed against the permittee. The permittee shall protect all records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep records in an electronic format; provided, however, that hard copies or electronic records kept in the Town’s regular files will control over any conflicts between such Town-controlled copies or records and the permittee’s electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation to create or prepare any records not otherwise required to be created or prepared by other applicable laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record-retention obligations under applicable law.

(s) **Existing Performance Agreements.** To the extent that the permittee has an existing Performance Agreement with the Town in connection with the subject small wireless facility, the standard conditions in Town Council Policy No. 6-1 Section V(F) will control to the extent that the requirements are more stringent or advantageous to the Town. The Town Attorney shall have authority to interpret and resolve any conflicts or ambiguities between the provisions in any Performance Agreement and the provisions in Town Council Policy No. 6-1 Section V(F).

(t) **Abandoned Facilities.** The small wireless facility authorized under this permit shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a small wireless facility is abandoned or deemed abandoned, the permittee, property owner and/or structure owner shall completely remove the small wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable Laws, which includes without limitation the San Anselmo Municipal Code. If neither the permittee, the property owner nor the structure owner complies with the removal and restoration obligations under this condition within said 90-day period, the Town shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee, property owner and structure owner shall be jointly and severally liable for all costs and expenses incurred by the Town in connection with such removal and/or restoration activities.
(u) Landscaping. The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee’s direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select plant and maintain replacement landscaping in an appropriate location for the species. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree or as otherwise approved by the Town. The permittee shall, at all times, be responsible to maintain any replacement landscape features.

(v) Cost Reimbursement. The permittee acknowledges and agrees that (i) the permittee’s request for authorization to construct, install and/or operate the small wireless facility will cause the Town to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the Town for all costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the small wireless facility; (iii) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse the Town for all such costs 10 days after a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the Town shall have the right to withhold any permits or other approvals in connection with the small wireless facility until and unless any outstanding costs have been reimbursed to the Town by the permittee.

(w) Future Undergrounding Programs. Notwithstanding any term remaining on any use permit, if other utilities or communications providers in the public rights-of-way underground their facilities in the segment of the public rights-of-way where the permittee’s small wireless facility is located, the permittee must also underground its equipment, except the antennas and any approved electric meter, at approximately the same time. Accessory equipment such as radios and computers that require an environmentally controlled underground vault to function shall not be exempt from this condition. Small wireless facilities installed on wood utility poles that will be removed pursuant to the undergrounding program may be reinstalled on a streetlight that complies with the Town's standards and specifications. Such undergrounding shall occur at the permittee’s sole cost and expense except as may be reimbursed through tariffs approved by the state public utilities commission for undergrounding costs.

(x) Electric Meter Upgrades. If the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee on its own initiative and at its sole cost and expense shall remove the separate or ground-mounted electric meter and enclosure. Prior to removing the electric meter, the permittee shall apply for any
encroachment and/or other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.

(y) **Rearrangement and Relocation.** The permittee acknowledges that the Town, in its sole discretion and at any time, may: (i) change any street grade, width or location; (ii) add, remove or otherwise change any improvements in, on, under or along any street owned by the Town or any other public agency, which includes without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles and utility systems for gas, water, electric or telecommunications; and/or (iii) perform any other work deemed necessary, useful or desirable by the Town (collectively, “Town work”). The Town reserves the rights to do any and all Town work without any admission on its part that the Town would not have such rights without the express reservation in this use permit. If the Director determines that any Town work will require the permittee’s small wireless facility located in the public rights-of-way to be rearranged and/or relocated, the permittee shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation. If the permittee fails or refuses to either permanently or temporarily rearrange and/or relocate the permittee’s small wireless facility within a reasonable time after the Director’s notice, the Town may (but will not be obligated to) cause the rearrangement or relocation to be performed at the permittee’s sole cost and expense. The Town may exercise its rights to rearrange or relocate the permittee’s small wireless facility without prior notice to permittee when the Director determines that Town work is immediately necessary to protect public health or safety. The permittee shall reimburse the Town for all costs and expenses in connection with such work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs. Except as may be expressly permitted otherwise, nothing in a use permit issued pursuant to this Policy will be construed to require the Town or authorize the permittee to change any street grade, width or location, or add, remove or otherwise change any improvements owned by the Town or any other public agency located in, on, under or along the site area or any portion of the public rights-of-way, which includes without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles and utility systems for gas, water, electric or telecommunications, for the permittee’s or any third party’s convenience or necessity.

(z) **Safety Hazard Protocols.** If the Ross Valley Fire Department Fire Chief (or his or her designee) finds good cause to believe that the facility (including, without limitation, its accessory equipment, antenna and/or base station) presents a fire risk, electrical hazard or other immediate threat to public health and safety in violation of any applicable law, such officials may order the facility to be shut down and powered off until such time as the fire risk or electrical hazard has been mitigated. Any mitigations required shall be at the permittee’s sole cost and expense.
(aa) **Truthful and Accurate Statements.** The permittee acknowledges that the Town’s approval relies on the written and/or oral statements by permittee and/or persons authorized to act on permittee’s behalf. In any matter before the Town in connection with the use permit or the small wireless facility or other infrastructure approved under the use permit, neither the permittee nor any person authorized to act on permittee’s behalf shall, in any written or oral statement, intentionally provide material factual information that is incorrect or misleading or intentionally omit any material information necessary to prevent any material factual statement from being incorrect or misleading.

(bb) **Successors and Assigns.** The conditions, covenants, promises and terms contained in this use permit will bind and inure to the benefit of the Town and permittee and their respective successors and assigns.

(cc) **Severability of Conditions.** If any provision in these conditions or such provision’s application to any person, entity or circumstances is or held by any court with competent jurisdiction to be invalid or unenforceable: (1) such provision or its application to such person, entity or circumstance will be deemed severed from this permit; (2) all other provisions in this use permit or their application to any person, entity or circumstance will not be affected; and (3) all other provisions in this use permit or their application to any person, entity or circumstance will be valid and enforceable to the fullest extent permitted by law.

(dd) **Town’s Standing Reserved.** The Town’s grant or grant by operation of law of a use permit pursuant to this Policy does not waive, and shall not be construed to waive, any standing by the Town to challenge any FCC rules that interpret the Telecommunications Act, the Spectrum Act or any use permit issued pursuant to this Policy.

(B) **Modified Conditions.** The Town Council authorizes the Director to modify, add or remove conditions to any use permit as the Director deems necessary or appropriate to: (i) protect and/or promote the public health, safety and welfare; (ii) tailor the standard conditions in subsection (1) to the particular facts and circumstances associated with the deployment; and/or (iii) memorialize any changes to the proposed deployment need for compliance with the San Anselmo Municipal Code, this Policy, generally applicable health and safety requirements and/or any other applicable laws. To the extent required by applicable FCC regulations, the Director shall take care to ensure that any different conditions applied to small wireless facilities are no more burdensome than those applied to other infrastructure deployments.

(G) **SITE LOCATION GUIDELINES**

(1) **Locations Within the Public Rights-of-Way.** The Town prefers small wireless facilities in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

(a) locations within commercial districts on or along arterial roads;

(b) locations within commercial districts on or along collector roads;
(c) locations within commercial districts on or along local roads;
(d) locations within professional districts on or along arterial roads;
(e) locations within professional districts on or along collector roads;
(f) locations within professional districts on or along local roads;
(g) any location within 500 feet from an existing/proposed small wireless facility;
(h) any location within a High Fire Hazard Severity Zone;
(i) any location within a Very High Fire Hazard Severity Zone;
(j) any location within an open space district or private open space area;
(k) locations within residential districts on or along arterial roads;
(l) locations within residential districts on or along collector roads;
(m) any location in any district within 500 feet from any structure approved for a residential use;
(n) any location within 500 feet from a daycare facility, tutoring center or school;

(2) **Preferred Support Structures.** In addition to the preferred locations described in Section V(G)(1) (Locations within the Public Rights-of-Way), the Town also expresses its preference for installations on certain support structures. The approval authority will consider whether any more preferred support structures are technically feasible and potentially available. The Town’s preferred support structures are as follows, ordered from most preferred to least preferred:

(a) collocations on existing streetlighting poles;
(b) collocations on existing utility poles; and
(c) new installations on new, nonreplacement poles.

(3) **Additional Location Standards.** In addition to all other standards in this Section V(G), small wireless facilities and all associated antennas, accessory equipment or improvements shall:

(a) be placed as close as possible to alignment with the property line that divides two parcels abutting the public rights-of-way;
(b) not be placed directly in front of any ground-level door;
(c) not be placed directly in front of any first- or second-story window;
(d) on arterials, be placed as close to mid-block as technically feasible and consistent with the other location requirements in this Policy;
(e) not be placed within any clear zone at any intersections;
(f) not be placed within any visibility triangle area that crosses a front property line and blocks visibility above 42 inches from grade level;
(g) not be placed in any location that obstructs view lines for traveling vehicles, bicycles and pedestrian;
(h) not be placed in any location that obstructs views of any traffic signs or signals;
(i) not be placed in any location that obstructs illumination patterns for existing streetlights; and
(j) for new, nonreplacement poles, be placed at least 50 feet from any streetlight, utility pole or other similar support structure.

(4) **Additional Analysis for Discouraged Locations or Structures.** Applications that involve lesser-preferred locations or structures may be approved so long as the applicant
demonstrates that either (1) no more preferred locations or structures exist within 500 feet from the proposed site; or (2) any more preferred locations or structures within 500 feet from the proposed site would be technically infeasible as supported by clear and convincing evidence in the written record.

(H) DEVELOPMENT STANDARDS

(1) Generally Applicable Development Standards. All new small wireless facilities and substantial changes to existing small wireless facilities not covered under Section 6409 must conform to the generally applicable development standards in this Section V(H)(1).

(a) Stealth/Concealment. All small wireless facilities must be stealth to the maximum extent feasible with concealment elements, measures and techniques that blend the equipment and other improvements into the natural and/or built environment in a manner consistent and/or compatible with the uses germane to the underlying zoning district and existing in the immediate vicinity.

(b) Overall Height. No small wireless facility may extend more than five feet above the support structure, plus any minimum separation between the antenna and other pole attachments required by applicable health and safety regulations, or the maximum height permitted for structures in the applicable zoning district (whichever is less).

(c) Noise. Small wireless facilities and all accessory equipment and communications equipment must comply with all SAMC, Title 4, Chapter 7 (Loud Noises), and shall not exceed, either individually or cumulatively, the applicable ambient noise limit in the subject zoning district. The approval authority may require the applicant to incorporate appropriate noise-baffling materials and/or strategies whenever necessary to avoid any ambient noise from equipment reasonably likely to exceed the applicable limit.

(d) Landscaping. All small wireless facilities must include landscape and/or hardscape features and a landscape plan when proposed to be placed in a landscaped area. The landscape plan must include existing vegetation, and vegetation proposed to be removed or trimmed, and the landscape plan must identify proposed landscaping by species type, size and location. Landscape maintenance must be performed in accordance with SAMC Section 10-3.604 (Landscape maintenance). The approval authority may require additional landscape or hardscape features to screen the small wireless facility from public view, avoid or mitigate potential adverse impacts on adjacent properties or otherwise enhance the stealth techniques required under this Part V. The approval authority may also require a tree protection plan to maintain existing heritage, protected or sensitive tree species. All plants proposed or required under this Part V must be fire safe and native and/or drought-resistant.

(e) Site Security Measures. Small wireless facilities may incorporate reasonable and appropriate site security measures, such as locks and anti-climbing devices to prevent unauthorized access, theft or vandalism. Site security measures must be
designed to enhance stealth techniques to the maximum extent possible. The approval authority may require additional stealth elements as the approval authority finds necessary to blend the security measures and other improvements into the natural and/or build environment. The approval authority shall not approve barbed wire, razor ribbon, electrified fences or any similar security measures.

(f) **Backup Power Sources.** The approval authority may approve permanent backup power sources and/or generators on a case-by-case basis. The Town strongly disfavors backup power sources mounted on the ground or on poles within the public rights-of-way. The approval authority shall not approve any diesel generators or other similarly noisy or noxious generators in or within 250 feet from any residence; provided, however, the approval authority may approve sockets or other connections used for temporary backup generators. Storage of Class I, Class II and Class III liquids in outside above-ground tanks is prohibited in certain areas pursuant to SAMC Section 3-3.804.

(g) **Lights.** Small wireless facilities may not include exterior lights other than (a) as may be required under Federal Aviation Administration, FCC or other applicable governmental regulations; and (b) timed or motion-sensitive lights for security and/or worker safety. All exterior lights permitted or required to be installed must be installed in locations and within enclosures that mitigates illumination impacts on other properties to the maximum extent feasible.

(h) **Signage; Advertisements.** All small wireless facilities must include signage that accurately identifies the equipment owner/operator, the owner/operator’s site name or identification number and a toll-free number to the owner/operator’s network operations center. Small wireless facilities may not bear any other signage or advertisements unless expressly approved by the Town, required by law or recommended under FCC or other United States governmental agencies for compliance with RF emissions regulations.

(i) **Future Collocations and Equipment.** To the extent feasible and aesthetically desirable, all new small wireless facilities should be designed and sited in a manner that accommodates potential future collocations and equipment installations that can be integrated into the proposed small wireless facility or its associated structures with no or negligible visual changes to the outward appearance.

(j) **Utilities.** All cables and connectors for telephone, primary electric and other similar utilities must be routed underground to the extent feasible in conduits large enough to accommodate future collocated small wireless facilities. Meters, panels, disconnect switches and other associated improvements must be placed in inconspicuous locations to the extent possible. The approval authority shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost.

(k) **Parking.** Any equipment or improvements constructed or installed in connection with any small wireless facilities must not reduce any adjacent public parking spaces on the public rights-of-way.
Compliance with Laws. All small wireless facilities must be designed and sited in compliance with all applicable federal, state and local laws, regulations, rules, restrictions and conditions, which include without limitation the Americans with Disabilities Act, California Building Standards Code, General Plan and any applicable specific plan, the San Anselmo Municipal Code and any conditions or restrictions in any permit or other governmental approval issued by any public agency with jurisdiction over the facility.

Fire Resistance. All small wireless facilities must be installed using fire-resistant materials and in a manner that does not overload any support structure.

RIGHT-OF-WAY SMALL WIRELESS FACILITIES STANDARDS

Right-of-Way Wireless Facilities. In addition to the requirements in Section V(H)(1) (Generally Applicable Development Standards), all new and substantially changed right-of-way small wireless facilities not covered under Section 6409 must conform to the requirements in this Section V(I)(1).

(a) Stealth/Concealment. All small wireless facilities in the right-of-way must be stealth to the maximum extent feasible with concealment elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses. In addition, small wireless facilities in the rights-of-way may not unreasonably subject the public use, for any purpose including expressive or aesthetic purposes, to inconvenience, discomfort, trouble, annoyance, hindrance, impediment or obstruction.

(b) Support Structures. All small wireless facilities in the public right-of-way must be installed on existing above-ground structures (such as light standards or utility poles) whenever possible and aesthetically desirable. Existing above-ground structures may be replaced with hardened support structures so long as the replacement structure is substantially similar to the existing structure to be replaced. The approval authority shall not approve any new, non-replacement support structures unless: (a) the applicant demonstrates that above-ground support structures near the project site either do not exist or are not potentially available to the applicant; or (b) the approval authority specifically finds that a new, non-replacement support structure would be more aesthetically desirable and consistent with the objectives in this Part V than installations on existing structures near the project site.

(c) Accessory Equipment.

i. Undergrounded Equipment. To conceal the equipment to the maximum degree feasible, applicants must install all equipment (other than the antenna and any electric meter) underground in any area in which the existing utilities are primarily located underground. In all other areas, applicants shall install all equipment (other than the antenna and any electric meter) underground when the approval authority finds that the above-ground equipment would unreasonably interfere with (a) the
public’s ability to use the right-of-way for travel; or (b) a specific viewshed or other visual resource seen from within the public rights-of-way. Mere additional expense to install and maintain an underground equipment enclosure does not exempt an applicant from this requirement.

ii. **Pole-Mounted Equipment.** All pole-mounted equipment must be installed at least 18 feet above ground level unless technically infeasible as supported by clear and convincing evidence in the written record. All pole-mounted equipment must be installed as close to the pole as technically and legally feasible to minimize the overall visual profile. All pole-mounted equipment and required or permitted signage must face toward the street or otherwise placed to minimize visibility from adjacent sidewalks and structures. All cables, wires and other connectors must be routed through conduits within pole whenever possible, and all external conduits, conduit attachments, cables, wires and other connectors must be concealed from public view to the extent feasible.

iii. **Ground-Mounted Equipment.** To the extent that the equipment cannot be placed underground as required, applicants may be permitted to install ground-mounted equipment in a location that does not obstruct pedestrian or vehicular traffic. All ground-mounted equipment must be placed in the least conspicuous location available within a reasonable distance from the pole. The approval authority may condition approval on new or enhanced landscaping or hardscaping to conceal ground-mounted equipment.

iv. **Volume.** All above-ground accessory equipment associated with a small wireless facility in the public right-of-way shall not cumulatively exceed: (i) nine cubic feet in volume if installed in a residential district; or (ii) 17 cubic feet in volume if installed in a non-residential district. The volume calculation shall include any shroud, cabinet or other stealth or concealment device used in connection with the non-antenna accessory equipment. The volume calculation shall not include any equipment or other improvements placed underground.

(d) **Antennas.** All antennas and associated mounting equipment, hardware, cables or other connectors must be completely concealed within an opaque antenna shroud or radome unless technically infeasible, in which case the Town may approve an alternate concealment. The antenna shroud or radome must be painted a flat, non-reflective color to match the underlying support structure. Each individual antenna may not exceed three cubic feet in volume and all antennas may not exceed six cubic feet in volume.

(e) **Streetlights.** Applicants that propose to install small wireless facilities on an existing streetlight must remove and replace the existing streetlight with one substantially similar to the Town’s standards and specifications but designed to accommodate wireless antennas and accessory equipment. To mitigate any material changes in the streetlighting patterns, the replacement pole must:
located as close to the removed pole as possible; (B) be aligned with the other existing streetlights; and (C) include a luminaire at substantially the same height and distance from the pole as the luminaire on the removed pole. All antennas must be installed above the pole within a single, canister style shroud or radome that tapers to the pole. The approval authority may reject an installation on a streetlight if the Town would have to maintain additional infrastructure or incur different or additional costs.

(f) **Wood Utility Poles.** Applicants that propose to install small wireless facilities on an existing wood utility pole must install all antennas above the pole unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible as supported by clear and convincing evidence in the written record. Side-mounted antennas on a stand-off bracket or extension arm must be concealed within a shroud. All cables, wires and other connectors must be concealed within the side-arm mount or extension arm. The maximum horizontal separation between the antenna and the pole shall be the minimum separation required by applicable health and safety regulations.

(g) **New, Nonreplacement Poles.** Applicants that propose to install small wireless facilities on a new, non-replacement pole must install a new streetlight substantially similar to the Town’s standards and specifications but designed to accommodate wireless antennas and accessory equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity, the applicant may install a metal or composite pole capable of concealing all the accessory equipment either within the pole or within an integrated enclosure located at the base of the pole. The pole diameter shall not exceed twelve (12) inches and any base enclosure diameter shall not exceed sixteen (16) inches. All antennas, whether on a new streetlight or other new pole, must be installed above the pole within a single, canister style shroud or radome. The approval authority may reject an installation on a streetlight if the Town would have to maintain additional infrastructure or incur different or additional costs unless the applicant agrees to maintain any additional infrastructure and pay for any different or additional costs.

(h) **Encroachments Over Private Property.** Small wireless facilities may not encroach onto or over any private or other property outside the public rights-of-way without the property owner’s express written consent.

(i) **Public Safety.** Small wireless facilities and any associated equipment or improvements shall not physically interfere with or impede access to any: (A) worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors; (B) access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop; (C) worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency; (D) fire hydrant or water valve;
(E) access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the rights-of-way; or (F) access to any fire escape.

(j) **Spools and Coils Prohibited.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.

(k) **Street Trees.** To preserve existing landscaping in the public rights-of-way, all work performed in connection with small wireless facilities shall not cause any street trees to be trimmed, damaged or displaced and small wireless facilities shall not be installed (in whole or in part) within any street tree drip line. If any street trees are damaged or displaced, the applicant shall be responsible, at its sole cost and expense, to plant and maintain replacement trees at the site, at least 36-inch box size and a species approved by the Director of Public Works, for the duration of the permit term.

(2) **Administrative Design Guidelines.** The Director may develop and from time-to-time amend design guidelines, consistent with the generally applicable development standards and any facility-specific development standards, to clarify the aesthetic goals and standards in this Part V for Town staff, applicants and the public. In the event that a conflict arises between the development standards adopted under Sections V(H)-(I)(1) and the design guidelines adopted under this Section V(I)(2), the development standards adopted under Sections V(H)-(I) shall control.

**PART VI. ELIGIBLE FACILITIES REQUESTS**

(A) **PURPOSE AND INTENT**

(1) **Background.** Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, codified as 47 U.S.C. § 1455(a) ("Section 6409"), generally requires that State and local governments “may not deny, and shall approve” requests to collocate, remove or replace transmission equipment at an existing tower or base station. Federal Communication Commission ("FCC") regulations interpret this statute and establish procedural rules for local review, which generally preempt certain subjective land-use regulations, limit permit application content requirements and provide the applicant with a potential “deemed granted” remedy when the State or local government fails to approve or deny the request within 60 days after submittal (accounting for any tolling periods). Moreover, whereas Section 704 of the Telecommunications Act of 1996, Pub. L. 104-104, codified as 47 U.S.C. § 332, applies to only “personal wireless service facilities” (e.g., cellular telephone towers and equipment), Section 6409(a) applies to all “wireless” facilities licensed or authorized by the FCC (e.g., cellular, Wi-Fi, satellite, microwave backhaul, etc.).

(2) **Findings.** The Town Council finds that the overlap between wireless deployments covered under Section 6409 and other wireless deployments, combined with the different substantive and procedural rules applicable to such deployments, creates a potential for
confusion that harms the public interest in both efficient wireless facilities deployment and carefully planned community development in accordance with local values. The Town Council further finds that a separate permit application and review process specifically designed for compliance with Section 6409 contained in a policy devoted to Section 6409 will mitigate such potential confusion, streamline local review and preserve the Town’s land-use authority to maximum extent possible.

(3) **Intent.** In accordance with San Anselmo Municipal Code (“SAMC”) Title 10, Chapter 3, Article 28, the Town intends this Town Council Policy No. 6-1 Part VI (“Part VI”) to establish reasonable and uniform standards and procedures in a manner that protects and promotes the public health, safety and welfare, consistent with and subject to federal and California law, for wireless facilities collocations and modifications pursuant to Section 6409 and related FCC regulations codified in 47 C.F.R. §§ 1.6100 et seq. The intent of this Part VI is also to protect the citizens and visitors of San Anselmo from adverse health effects associated with exposure to non-ionizing electromagnetic radiation that exceed maximum permissible exposure levels by raising public awareness and ensuring compliance with all applicable laws. This Part VI is not intended to, nor shall it be interpreted or applied to: (a) prohibit or effectively prohibit any personal wireless service provider’s ability to provide personal wireless services; (b) prohibit or effectively prohibit any entity’s ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (c) unreasonably discriminate among providers of functionally equivalent services; (d) 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 wireless facilities comply with the FCC’s regulations concerning such emissions; (e) prohibit any collocation or modification that the Town may not deny under federal or California state law; (f) impose any unfair, unreasonable, discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (g) otherwise authorize the Town to preempt any applicable federal or California state law.

(B) **DEFINITIONS**

The abbreviations, phrases, terms and words used in this Part VI will have the meanings assigned to them in this Section VI(B) or, as may be appropriate, in Part III or SAMC, Title 10, Chapter 3, Article 17 (Definitions), as may be amended from time to time, unless context indicates otherwise. Undefined phrases, terms or words in this section will have the meanings assigned to them in 47 U.S.C. § 702, as may be amended from time to time, and, if not defined therein, will have their ordinary meanings. In the event that any definition assigned to any phrase, term or word in this Part VI conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.
“base station” means the same as defined by the FCC in 47 C.F.R. § 1.6100 (b)(1), as may be amended, which defines that term as a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. § 1.6100(b)(9) or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks). The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in 47 C.F.R. § 1.6100(b)(1)(i)-(ii) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in 47 C.F.R. § 1.6100(b)(1)(i)-(ii).

“collocation” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(2), as may be amended, which defines that term as the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes. As an illustration and not a limitation, the FCC’s definition effectively means “to add” and does not necessarily refer to more than one wireless facility installed at a single site.

“eligible facilities request” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(3), as may be amended, which defines that term as any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

“eligible support structure” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(4), as may be amended, which defines that term as any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the State or local government under this section.

“existing” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(4), as may be amended, which provides that a constructed tower or base station is existing for purposes of the FCC’s Section 6409 regulations if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.
(6) “site” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(6), as may be amended, which provides that for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a State or local government if the approval of the modification occurred prior to the Spectrum Act or otherwise outside of the Section 6409(a) process.

(7) “substantial change” or “substantially change” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(7), as may be amended, which defines that term differently based on the particular wireless facility type (tower or base station) and location (in or outside the public right-of-way). For clarity, this definition organizes the FCC’s criteria and thresholds for a substantial change according to the wireless facility type and location.

(a) For towers outside the public rights-of-way, a substantial change occurs when:
   i. the proposed collocation or modification increases the overall height more than 10% or the height of one additional antenna array with separation from the nearest antenna not to exceed 20 feet (whichever is greater); or
   ii. the proposed collocation or modification increases the width more than 20 feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or
   iii. the proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or
   iv. the proposed collocation or modification involves excavation or deployment outside the current boundaries of the leased or owned property surrounding the wireless tower by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site.

(b) For towers in the public rights-of-way and for all base stations, a substantial change occurs when:
   i. the proposed collocation or modification increases the overall height more than 10% or 10 feet (whichever is greater); or
   ii. the proposed collocation or modification increases the width more than 6 feet from the edge of the wireless tower or base station; or
   iii. the proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or
   iv. the proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are ten percent (10%) larger in height or volume than any existing ground-mounted equipment cabinets; or
v. the proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.

(c) In addition, for all towers and base stations wherever located, a substantial change occurs when:
   i. the proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the Director; or
   ii. the proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this section.

(2) “tower” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(9), as may be amended, which defines that term as any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. Examples include, but are not limited to, monopoles (i.e., a bare, non-stealth, unconcealed pole solely intended to support wireless transmission equipment), mono-trees and lattice towers.

(3) “transmission equipment” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(8), as may be amended, which defines that term as equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(C) APPLICABILITY

This Part VI applies to all requests for approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to Section 6409. However, the applicant may voluntarily elect to seek a use permit under Town Council Policy No. 6-1 Part IV (Macro Wireless Facilities) or Part V (Small Wireless Facilities).

(D) PRIOR APPROVALS REQUIRED

(1) Section 6409 Approval. Any request to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted with a written request for approval under Section 6409 shall require an amendment to the underlying use permit
for the tower or base station (each amendment a “Section 6409 approval”) subject to the Director’s approval, conditional approval or denial without prejudice pursuant to the standards and procedures contained in this Part VI.

(2) **Other Permits and Regulatory Approvals.** No collocation or modification approved pursuant to this Part VI may occur unless the applicant also obtains all other permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes without limitation any other ministerial permits and/or regulatory approvals issued by other departments or divisions within the Town. All applications for ministerial permits submitted in connection with a proposed Section 6409 approval must contain a valid Section 6409 approval issued by the Town for the proposed wireless facility. Any application for any ministerial permit(s) submitted without such Section 6409 approval may be denied without prejudice. Furthermore, any Section 6409 approval granted under this Part VI shall remain subject to any and all lawful conditions and/or legal requirements associated with such other permits or regulatory approvals.

(E) **APPLICATION REQUIREMENTS**

(1) **Application Required.** The Director shall not approve any request for a collocation or modification submitted for approval pursuant to Section 6409 except upon a complete and duly filed application consistent with this Section VI(E) and any other written rules or requirements the Town or the Director may establish from time to time in any publicly-stated format.

(2) **Application Content.** All applications for a Section 6409 approval must include all the content, information and materials required by the Director for the application. The Town Council authorizes the Director to develop, publish and from time-to-time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Director finds necessary, appropriate or useful for processing requests for Section 6409 approvals. All applications shall require the applicant to demonstrate that the proposed project will be in planned compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes and all FCC rules for human exposure to RF emissions. The Town Council further authorizes the Director to establish other reasonable rules and regulations, which may include without limitation regular hours for appointments with applicants, as the Director deems necessary or appropriate to organize, document and manage the application intake process. All such rules and regulations must be in written form and publicly stated to provide applicants with prior notice.

(a) **Application Form.** The applicant shall submit a complete, duly executed application for a Section 6409 approval on the then-current form prepared by the Town. The applicant shall state which FCC shot clock it asserts will apply to the proposed project and explain the basis for its assertion.

(b) **Application Fee.** The applicant shall submit the applicable Section 6409 approval application fee adopted by Town Council resolution. If no Section 6409 approval
application fee has been adopted, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to submit a deposit estimated by the Director to reimburse the Town for its reasonable costs incurred in connection with the application. Should the deposit be inadequate an additional deposit shall be required. If the deposit exceeds the actual costs, the difference will be returned to the applicant.

(c) **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a California licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape or hardscape features. The construction drawings must: (i) contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number, weight and physical dimensions; (ii) identify all structures within 500 feet from the proposed project site and call out such structures' overall height above ground level; (iii) depict the applicant’s plan for electric and data backhaul utilities, either as approved by the applicable utility company or in a preliminary form if an approved plans is not yet available, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; and (iv) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.

(d) **Title Report and Property Owner’s Authorization.** For any wireless facility proposed to be installed on any private property not owned or controlled by the Town, the applicant must submit: (i) a title report issued within 30 days from the date the applicant filed the application; and (ii) if the applicant is not the property owner, a written authorization signed by the property owner identified in the title report that authorizes the applicant to submit and accept a permit in connection with the subject property.

(e) **Site Survey.** For any small wireless facility proposed to be located within the public rights-of-way, the applicant shall submit a survey prepared, signed and stamped by a California licensed or registered engineer. The survey must identify and depict all existing boundaries, encroachments and other structures within 50 feet from the proposed project site, which includes without limitation all: (i) traffic lanes; (ii) all private properties and property lines; (iii) above and below-grade utilities and related structures and encroachments; (iv) fire hydrants, roadside call boxes and other public safety infrastructure; (v) streetlights, decorative poles, traffic signals and permanent signage; (vi) sidewalks, driveways, parkways, curbs, gutters and storm drains; (vii) benches, trash cans, mailboxes, kiosks and other street
furniture; and (viii) existing trees, planters and other landscaping or hardscaping features. Site surveys that are more than a year old require an updated survey certification.

(f) **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed wireless facility in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point. At least one simulation must depict the wireless facility from a vantage point approximately 50 feet from the proposed support structure or location.

(g) **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed wireless facility meets each required finding for a permit as provided in Section IV(E)(1).

(h) **RF Compliance Report.** The applicant shall submit an RF exposure compliance report that certifies that the proposed wireless facility, as well as any collocated wireless facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer acceptable to the Town. The RF report must include the actual frequency and sustained and maximum power levels (in watts effective radiated power) 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.

(i) **Regulatory Authorization.** The applicant shall submit evidence of the applicant’s regulatory status under federal and California law to provide the services and construct the wireless facility proposed in the application. The applicant shall also submit copies of any other permits or approvals obtained for the wireless facility prior to the submission of the application for a permit, including but not limited to any Marin General Services Authority pole licenses.

(j) **Acoustic Analysis.** The applicant shall submit an acoustic analysis prepared and certified by an engineer licensed by the State of California for the proposed wireless facility and all associated equipment including all environmental control units, sump pumps, temporary backup power generators and permanent backup power generators demonstrating compliance with the Town’s noise regulations. The acoustic analysis must also include an analysis of the manufacturers’ specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of an acoustic analysis, the applicant may submit evidence from the equipment manufacturer(s) that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable noise limits.
(k) **Structural Analysis.** The applicant shall submit a report prepared and certified by an engineer licensed by the State of California (or other qualified personnel acceptable to the Town) that evaluates whether the underlying pole or support structure has the structural integrity to support all the proposed equipment and attachments. At a minimum, the analysis must be consistent with all applicable requirements in CPUC General Order 95 (including, but not limited to, load and pole overturning calculations), the National Electric Safety Code, the standards and practices required for an ANSI/TIA-222 Maintenance and Conditions Assessment (under the most current revision at the time of submittal) and any safety and construction standards required by law and the utility provider. The report shall contain tolerances including but not limited to guy tensions if applicable, plumb, twist, slip splices and take-up devices.

1. Wireless facilities must be designed to remain resilient during outages, earthquakes, flooding and extreme weather events. Applicants shall (1) provide a certificate from a structural engineer licensed by the State, or other appropriate licensed professional acceptable to the Director, that (i), when fully loaded with antennas, transmitters, and other equipment and camouflaging the facility is designed to withstand the forces expected during the maximum credible earthquake and maximum credible wind speeds, and (ii) components, and the all connections between various components of the facility and with necessary power and utility lines, are designed to be protected against damage by “100-year” flooding, historical maximum ambient temperature sustained over the maximum credible duration, area maximum credible high wind, maximum credible earthquake, lightning strike and power surge events; (2) provide a diagram detailing buildings and other features located in fall zones or launch distances of components in the event of facility failure due to high wind or ground movement; (3) detailed description of measures taken on a network-wide basis, including backup power coverage for a portion of regional macro facilities, to ensure that basic communication service is available in the event of a disaster or power loss; (4) detailed description of the failure or outage history of facility components or similar systems (such as during PG&E power shutoffs in October and November 2019) operated by the operator on whose behalf the application is submitted; and (5) detailed description of hazards posed by the facility in the event of failure due to flood, high wind, high heat, earthquake, outage, lightning strike or wildfire.

(I) **Underground Service Alert Membership.** The applicant shall submit evidence that applicant is a member in good standing with the Underground Service Alert of Northern California and Nevada (“DigAlert”).

(m) **Environmental Impact Assessment.** The applicant shall submit an environmental impact assessment on the then-current form prepared by the Town to determine whether the proposed project is categorically exempt under Article 19 of the CEQA
Guidelines, or whether the proposed project will require a Negative Declaration, Mitigated Negative Declaration or an Environmental Impact Report.

(n) **Compliance with NEPA.** All applications shall include confirmation that an environmental assessment, or other application determination, has been completed by or on behalf of the FCC for any facility proposed in a location identified in 47 C.F.R. 1.307 (including a floodplain) or as otherwise required by National Environmental Policy Act.

(o) **Hazards Assessment.** A full assessment of the hazards posed by the wireless facility in the event of failure due to flood, high wind, high heat, outage, lightning strike or fire must be conducted that includes the presence of nearby vegetation and structures at applicant’s cost. All materials in the facilities must be disclosed, including hazardous materials in any and all equipment. The assessment must identify if any tree removal or tree trimming is required or necessary in order to reduce fire hazard.

(p) **Truth and Accuracy Statement.** Any application submitted pursuant to this Policy shall be signed by the applicant, or a person knowledgeable about the proposed facility and authorized to act on the applicant’s behalf, attesting, that under penalty of perjury, that all information, representations and disclosures in the application are true, correct and complete.

(3) **Procedures for a Duly Filed Application.** Any application for a Section 6409 approval will not be considered duly filed unless submitted in accordance with the procedures in this Subsection (3).

(a) **Pre-Submittal Conference.** Before application submittal, the applicant must schedule and attend a pre-submittal conference with the Director for all proposed collocations or modifications to any stealth, concealed or camouflaged wireless tower or base station. Pre-submittal conferences for all other proposed collocations or modifications are strongly encouraged but not required. The pre-submittal conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification and review process, including whether the project qualifies for approval pursuant to Section 6409 or not; any latent issues in connection with the existing wireless tower or base station, including compliance with generally applicable rules for public health and safety; potential stealth or concealment issues or concerns (if applicable); coordination with other Town departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that Town staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The Director shall use reasonable efforts to provide the applicant with an appointment within five working days after the Director receives a written request and any applicable fee or deposit to reimburse the Town for its reasonable costs to provide the services rendered in the pre-submittal conference.
(b) **Submittal Appointment.** All applications must be submitted to the Town at a pre-scheduled appointment with the Director. Applicants may generally submit one application per appointment, but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. The Planning Department shall use reasonable efforts to provide the applicant with an appointment within five working days after the Planning Department receives a written request and, if applicable, confirms that the applicant complied with the pre-submittal conference requirement. Any application received without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed unless the applicant received a written exemption from the Director at a pre-submittal conference.

(4) **Applications Deemed Withdrawn.** To promote efficient review and timely decisions, and in accordance with SAMC Section 10-3.1604 (Expiration of Applications), any application governed under this Part VI will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the Planning Department within 90 calendar days after the Planning Department deems the application incomplete in a written notice to the applicant. The Director may, in the Director’s discretion, grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension. Good cause for an extension shall include, without limitation, delays due to circumstances outside the applicant’s reasonable control.

(5) **Peer and Independent Consultant Review.**

(a) **Authorization.** The Town Council authorizes the Director to, in the Director’s discretion, select and retain an independent consultant with specialized training, experience and/or expertise in telecommunications issues satisfactory to the Director in connection any request for a Section 6409 approval.

(b) **Scope.** The Director may request an independent consultant review on any issue that involves specialized or expert knowledge in connection with wireless facilities deployment or permit applications for wireless facilities, which includes without limitation: (i) permit application completeness and/or accuracy; (ii) pre-construction planned compliance with applicable regulations for human exposure to RF emissions; (iii) post-construction actual compliance with applicable regulations for human exposure to RF emissions; (iv) whether and to what extent a proposed project qualifies for approval under applicable standards and regulations; (v) the applicability, reliability and/or sufficiency of any information, analyses or methodologies used by the applicant to reach any conclusions about any issue with the Town’s discretion to review; and (vi) any other issue identified by the Director that requires expert or specialized knowledge. The Director may request that the independent consultant prepare written reports, testify at public meetings, hearings and/or appeals and attend meetings with Town staff and/or the applicant.

(c) **Consultant Fees; Deposits.** In the event that the Director elects to retain an independent consultant in connection with any permit application, the applicant
shall be responsible for the reasonable costs in connection with the services provided to the maximum extent permitted by applicable law, which may include without limitation any costs incurred by the independent consultant to attend and participate in any meetings or hearings. Before the independent consultant may perform any services, the applicant shall tender to the Town a deposit in an amount equal to the estimated cost for the services to be provided, as determined by the Director. The Director may request additional deposits as reasonably necessary to ensure sufficient funds are available to cover the reasonable costs in connection with the independent consultant’s services. If the deposit exceeds the total costs for consultant’s services, the Director shall promptly return any unused funds to the applicant after the wireless facility has been installed and passes a final inspection by the Building Official or his or her designee. In the event that the reasonable costs for the independent consultant’s services exceed the deposit, the Director shall invoice the applicant for the balance. The Town shall not issue any construction or grading permit to any applicant with any unpaid deposit requests or invoices.

(F) DECISIONS; APPEALS

(1) Administrative Review. The Director shall administratively review a complete and duly filed application for a Section 6409 approval, and may act on such application without prior notice or a public hearing.

(2) Decision Notices. Within five days after the Director acts on an application for a Section 6409 approval or before the FCC shot clock expires (whichever occurs first), the Director shall send a written notice to the applicant. In the event that the Director denies the application, the written notice to the applicant must contain (a) the reasons for the decision; (b) a statement that denial will be without prejudice; and (c) instructions for how and when to file an appeal if the applicant so chooses.

(3) Required Findings for Approval. The Director may approve or conditionally approve an application for a Section 6409 approval when the Director finds that the proposed project:

(a) involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and

(b) does not substantially change the physical dimensions of the existing wireless tower or base station.

(4) Criteria for Denial Without Prejudice. Notwithstanding any other provision in this Part VI, and consistent with all applicable federal laws and regulations, the Director may deny without prejudice any application for a Section 6409 approval when the Director finds that the proposed project:

(a) does not meet the findings required in Section VI(F)(3) (Required Findings for Approval);

(b) involves the replacement of the entire support structure; or

(c) violates any legally enforceable law, regulation, rule, standard or permit condition reasonably related to public health or safety.
(5) **Conditional Approvals.** Subject to any applicable limitations in federal or state law, nothing in this Part VI is intended to limit the Director’s authority to conditionally approve an application for a Section 6409 approval to protect and promote the public health, safety and welfare.

(6) **Appeals.** Any applicant may appeal the Director’s written decision to deny without prejudice an application for Section 6409 approval. The written appeal together with any applicable appeal fee must be tendered to the Town within 10 days from the Director’s written decision, and must state in plain terms the grounds for reversal and the facts that support those grounds. The Town Manager shall be the appellate authority for all appeals from the Director’s written decision to deny without prejudice an application for Section 6409 approval. The Town Manager shall review the application *de novo*; provided, however, that the Town Manager’s decision shall be limited to only whether the application should be approved or denied in accordance with the provisions in this Part VI and any other applicable laws. The Town Manager shall issue a written decision that contains the reasons for the decision, and such decision shall be final and not subject to any further administrative appeals. There is no right under SAMC Title 1, Chapter 4 (Appeals and Official Reviews of Administrative Decisions) to appeal the Director’s decision or the Town Manager’s decision.

(G) **STANDARD CONDITIONS OF APPROVAL**

In addition to all other conditions adopted by the approval authority, all Section 6409 approvals, whether approved by the approval authority or deemed approved by the operation of law, shall be automatically subject to the conditions in this Section VI(G). The Director (or the Town Manager in the Town Manager’s capacity as the appellate authority) shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances to protect public health and safety or allow for the proper operation of the approved facility consistent with the goals of this Part VI.

(1) **Permit Term.** The Town’s grant or any approval deemed granted by operation of law of a Section 6409 approval constitutes a federally-mandated modification to the underlying permit or other prior regulatory authorization for the subject tower or base station, and will be regarded as a modification to the underlying approval for the subject tower or base station. The Town’s grant or any approval deemed granted by operation of law of this Section 6409 approval will not extend the permit term, if any, for any underlying permit or other underlying prior regulatory authorization in connection with the wireless tower or base station to be modified. Accordingly, the term for this Section 6409 approval shall be coterminous with the underlying permit or other prior regulatory authorization for the subject tower or base station, and any renewals thereof.

(2) **Compliance Obligations Due to Invalidation.** In the event that any court of competent jurisdiction invalidates all or any portion of Section 6409 or any FCC rule that interprets Section 6409 such that federal law would not mandate approval for any Section 6409 approval(s), such approval(s) shall automatically expire one year from the effective date.
of the judicial order, unless the decision would not authorize accelerated termination of previously approved Section 6409 approvals or the Director grants an extension upon written request from the permittee that shows good cause for the extension, which includes without limitation extreme financial hardship. Notwithstanding anything in the previous sentence to the contrary, the Director may not grant a permanent exemption or indefinite extension. A permittee shall not be required to remove its improvements approved under the invalidated Section 6409 approval when it has obtained the applicable permit(s) or applied for such permit(s) before the one-year period ends.

(3) **Town’s Standing Reserved.** The Town’s grant or any approval deemed granted by operation of law of a Section 6409 approval does not waive, and shall not be construed to waive, any standing by the Town to challenge Section 6409, any FCC rules that interpret Section 6409 or any Section 6409 approval.

(4) **Strict Compliance with Approved Plans.** Before the permittee submits any applications to the Building Department, the permittee must incorporate this Section 6409 approval, all conditions associated with this Section 6409 approval and the approved photo simulations into the project plans (the “Approved Plans”). The permittee must construct, install and operate the wireless facility in strict compliance with the Approved Plans. Any alterations, modifications or other changes to the Approved Plans, whether requested by the permittee or required by other departments or public agencies with jurisdiction over the wireless facility, must be submitted in a written request subject to the Director’s prior review and approval. The Director may revoke the Section 6409 approval if s/he finds that the requested alteration, modification or other change may cause a substantial change as that term is defined by the FCC in 47 C.F.R. § 6100(b)(7), as may be amended.

(5) **Build-Out Period.** This Section 6409 approval will automatically expire one (1) year from the approval or deemed-granted date unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved wireless facility, which includes without limitation any permits or approvals required by any federal, state or local public agencies with jurisdiction over the subject property, the wireless facility or its use. The Director may grant one written extension to a date certain, but not to exceed to one (1) additional year, when the permittee shows good cause to extend the limitations period in a written request for an extension submitted at least 30 days prior to the automatic expiration date in this condition.

(6) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a wireless facility approved or deemed-approved, the permittee shall provide the Director with documentation reasonably acceptable to the Director that the wireless facility has been installed and/or constructed in strict compliance with the Approved Plans. Such documentation shall include without limitation as-built drawings and site photographs.

(7) **Maintenance Obligations; Vandalism.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences, hardscape and landscape features, in a neat, clean and safe condition in accordance with the Approved Plans and all conditions in this Section 6409 approval. The permittee shall keep the site area free from all litter and debris at all times. The permittee
shall regularly inspect the wireless facility to determine whether any maintenance is
needed. The permittee, at no cost to the Town, shall remove and remediate any graffiti
or other vandalism at the site within 48 hours after the permittee receives notice or
otherwise becomes aware that such graffiti or other vandalism occurred.

(8) **Compliance with Laws.** The permittee shall maintain compliance at all times with all
federal, state and local statutes, regulations, orders or other rules that carry the force of
law ("Laws") applicable to the permittee, the subject property, the wireless facility or any
use or activities in connection with the use authorized in this Section 6409 approval,
which includes without limitation any Laws applicable to human exposure to RF emissions
and any standards, specifications or other requirements identified by the Director (such
as, without limitation, those requirements affixed to an encroachment permit). The
Director may order the facility to be powered down if, based on objective evidence, the
Director finds that the facility is in fact not in compliance with any Laws applicable to
human exposure to RF emissions until such time that the permittee demonstrates actual
compliance with such laws. The permittee expressly acknowledges and agrees that this
obligation is intended to be broadly construed and that no other specific requirements in
these conditions are intended to reduce, relieve or otherwise lessen the permittee’s
obligations to maintain compliance with all Laws. No failure or omission by the Town to
timely notice, prompt or enforce compliance with any applicable provision in the San
Anselmo Municipal Code, this Policy, any permit, any permit condition or any applicable
law or regulation, shall be deemed to relieve, waive or lessen the permittee’s
obligation to comply in all respects with all applicable provisions in the San Anselmo Municipal Code,
this Policy, any permit, any permit condition or any applicable law or regulation.

(9) **Cooperation with RF Compliance Evaluations.** At all times relevant to this permit, the
permittee and the property owner shall reasonably cooperate with efforts by the Town
to evaluate whether the wireless facility complies with all applicable FCC rules and
regulations for human exposure to RF emissions. Such cooperation shall be at no cost to
the Town and may include, but is not limited to: (1) furnishing the Town with a written
affidavit signed by an RF engineer certifying the wireless facility’s compliance with
applicable FCC rules and regulations; (2) providing technical data such as the frequencies
in use, sustained and maximum power output levels specified in both specific absorption
rate and maximum permissible exposure and antenna specifications, reasonably
necessary to evaluate compliance with maximum permissible exposure levels set by the
FCC; (3) allowing the Town or its designee to have supervised access to the areas near the
wireless facility for inspections and field measurements; and (4) promptly responding to
all requests by the Town or its designee for information and/or cooperation with respect
to any of the foregoing. The Town may conduct random tests to ensure compliance with
the FCC’s rules and regulations. In the event that the Town determines that permittee is
not in compliance with any legal requirements or conditions, the permittee shall be
responsible for all costs and expenses incurred by the Town in connection with the
investigation, enforcement and/or remediation of such noncompliance.

(10) **Affirmation of Radio Frequency Standards Compliance.** Following installation of the
facility pursuant to the Section 6409 approval, on or before January 30th in each calendar
year, the permittee acknowledges and agrees that the permittee shall submit: (1) an affirmation, under penalty of perjury, that the proposed installation will be FCC compliant, because it will not cause members of the general public to be exposed to RF levels that exceed the maximum permission exposure levels deemed safe by the FCC; (2) a copy of the fully completed FCC form “A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance: Appendix A” titled “Optional Checklist for Determination of Whether a Facility is Categorically Excluded” for each frequency band of RF emissions to be transmitted from the proposed facility upon the approval of the application. All planned radio frequency emissions on all frequency bands must be shown on the Appendix A form(s) attached to the application. All planned radio frequency emissions are to be entered on each Appendix A form only in wattage units of “effective radiated power”.

(11) **Adverse Impacts on Other Properties.** The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee’s or its authorized personnel’s construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the San Anselmo Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the Town or other state or federal government agency or official with authority to declare an emergency within the Town. The Director or the Director’s designee may issue a stop work order for any activities that violate this condition in whole or in part. If the Director or the Director’s designee finds good cause to believe that ambient noise from a facility, including any generators approved with the facility, violates applicable provisions under the San Anselmo Municipal Code, the Director or the Director’s designee, in addition to any other actions or remedies authorized by the permit, the San Anselmo Municipal Code or other applicable laws, may require the permittee to commission a noise study by a qualified professional to evaluate the facility’s compliance. The permittee shall, at its sole cost and expense, repair and restore any and all damages to public and private properties that result from any activities performed in connection with the installation or maintenance of a wireless facility. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within the number of days stated on a written notice by the Director or the Director’s designee, the Director or the Director’s designee may cause such repair to be completed at permittee’s sole cost and expense.

(12) **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the Town’s officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee or at any time during an emergency. Notwithstanding the previous sentence,
the Town’s officers, officials, staff, agents, contractors or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe the Town’s officers, officials, staff or other designees while any such inspection or emergency access occurs.

(13) **Permittee’s Contact Information.** Prior to final inspection and at all times relevant to this Section 6409 approval, the permittee shall keep on file with the Director basic contact and site information. This information shall include, but is not limited to, the following: (A) the name, physical address, notice address (if different), direct telephone number and email address for (i) the permittee and, if different from the permittee, the (ii) site operator, (iii) equipment owner, (iv) site manager and (iv) agent for service of process; (B) the regulatory authorizations held by the permittee and, to the extent applicable, site operator, equipment owner and site manager as may be necessary for the facility’s continued operation; (C) the facility’s site identification number and/or name used by the permittee and, to the extent applicable, site operator, equipment owner and site manager; and (D) a toll-free telephone number to the facility’s network operations center where a live person with power-down control over the facility is available 24 hours-per-day, seven days-per-week. Within 30 days after any change to the foregoing information, permittee shall furnish the Town with an updated form that includes all the most-current information described in this condition. Within 10 business days after a written request by the Town, the permittee shall furnish the Town with an updated form that includes all the most-current information described in this condition.

(14) **Indemnification.** The permittee and, if applicable, the property owner upon which the wireless facility is installed shall defend, indemnify and hold harmless the Town, Town Council and Town boards, commissions, agents, officers, officials, employees and volunteers (collectively, the “Indemnitees”) from any and all (i) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings (“Claims”) brought against the Indemnitees to challenge, attack, seek to modify, set aside, void or annul the Town’s approval of this Section 6409 approval, and (ii) other Claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee’s or its agents’, directors’, officers’, employees’, contractors’, subcontractors’, licensees’, or customers’ acts or omissions in connection with this Section 6409 approval or the wireless facility. In the event the Town becomes aware of any Claims, the Town will use best efforts to promptly notify the permittee and the private property owner (if applicable) and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the Town shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the Town’s defense, and the property owner and/or permittee (as applicable) shall promptly reimburse Town for any costs and expenses directly and necessarily incurred by the Town in the course of the defense. The permittee expressly acknowledges and agrees that the permittee’s indemnification obligations under this condition are a material consideration that
(15) **Insurance.** At all times relevant to this permit, the permittee shall obtain and maintain insurance policies as follows:

(a) **Commercial General Liability.** Insurance Services Office Form CG 00 01 covering Commercial General Liability ("CGL") on an “occurrence” basis, with limits not less than $1,000,000 per occurrence or $2,000,000 in the aggregate. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CGL insurance must include coverage for the following: Bodily Injury and Property Damage; Personal Injury/Advertising Injury; Premises/Operations Liability; Products/Completed Operations Liability; Aggregate Limits that Apply per Project; Explosion, Collapse and Underground ("UCX") exclusion deleted; Contractual Liability with respect to the permit; Broad Form Property Damage; and Independent Consultants Coverage. The policy shall contain no endorsements or provisions limiting coverage for (i) contractual liability; (ii) cross liability exclusion for claims or suits by one insured against another; (iii) products/completed operations liability; or (iv) contain any other exclusion contrary to the conditions in this permit.

(b) **Automotive Insurance.** Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if permittee has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than $1,000,000 per accident for bodily injury and property damage.

(c) **Workers’ Compensation.** The permittee shall certify that it is aware of the provisions of California Labor Code § 3700, which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and further certifies that the permittee will comply with such provisions before commencing work under this permit. To the extent the permittee has employees at any time during the term of this permit, at all times during the performance of the work under this permit the permittee shall maintain insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

(d) **Errors and Omissions Policy.** The permittee shall maintain Professional Liability (Errors and Omissions) Insurance appropriate to the permittee’s profession, with limit no less than $1,000,000 per occurrence or claim. This insurance shall be endorsed to include contractual liability applicable to this permit and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the permittee. “Covered Professional Services” as designed in the policy must specifically include work performed under this permit.

(e) **Umbrella Policy.** If an umbrella or excess liability insurance policy is used to satisfy the minimum requirements for CGL or Automobile Liability insurance coverage
listed above, the umbrella or excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be “pay on behalf,” with defense costs payable in addition to policy limits. Permittee shall provide a “follow form” endorsement or schedule of underlying coverage satisfactory to the Town indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

(f) **Endorsements.** The relevant policy(ies) shall name the Town of San Anselmo, its elected/appointed officials, commission members, officers, representatives, agents, volunteers and employees as additional insureds. The permittee shall use its best efforts to provide thirty (30) calendar days’ prior written notice to the Town of the cancellation or material modification of any applicable insurance policy; provided, however, that in no event shall the permittee fail to provide written notice to the Town within 10 calendar days after the cancellation or material modification of any applicable insurance policy.

(g) **Certificates.** Before the Town issues any permit, the permittee shall deliver to the Director insurance certificates, in a form satisfactory to the Director, that evidence all the coverage required above. In addition, the permittee shall promptly deliver complete copies of all insurance policies upon a written request by the Town.

(16) **Performance Bond.** Before the Building Department issues any permits required to commence construction in connection with this Section 6409 approval, the permittee shall post a performance bond from a surety and in a form acceptable to the Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable laws. The performance bond shall be valid for at least 10 years or the term of the underlying permit or other prior regulatory authorization for the subject tower or base station (whichever is greater). In establishing or adjusting the bond amount required under this condition, the Director shall take into consideration any information provided by the permittee regarding the cost to remove the wireless facility and restore any areas affected by the removal work to a standard compliant with applicable laws. The Director may also consider any other pertinent information, which includes written estimates from contractors with experience in wireless facilities removal and/or site restoration. The performance bond shall expressly survive the duration of the underlying permit term to the extent required to effectuate a complete removal of the subject wireless facility in accordance with this condition.

(17) **Recall to Approval Authority; Permit Revocation.** In accordance with SAMC Section 10-3.1909 (Revocation of a Discretionary Permit), the approval authority may recall this
Section 6409 approval for review at any time due to complaints about noncompliance with applicable laws or any approval conditions attached to this Section 6409 approval. At a duly noticed public hearing and in accordance with all applicable laws, the approval authority may revoke this Section 6409 approval or amend these conditions as the approval authority deems necessary or appropriate to correct any such noncompliance.

(18) **Record Retention.** Throughout the permit term underlying this Section 6409 approval, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the permit application, the permit, the Approved Plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval, and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the permit (collectively, “records”). If the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records will be construed against the permittee. The permittee shall protect all records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep records in an electronic format; provided, however, that hard copies or electronic records kept in the Town’s regular files will control over any conflicts between such Town-controlled copies or records and the permittee’s electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation to create or prepare any records not otherwise required to be created or prepared by other applicable laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record-retention obligations under applicable law.

(19) **Existing Performance Agreements.** To the extent that the permittee has an existing Performance Agreement with the Town in connection with the subject wireless facility, the standard conditions in Town Council Policy No. 6-1 Section VI(G) will control to the extent that the requirements are more stringent or advantageous to the Town. The Town Attorney shall have authority to interpret and resolve any conflicts or ambiguities between the provisions in any Performance Agreement and the provisions in Town Council Policy No. 6-1 Part VI(G).

(20) **Abandoned Wireless Facilities.** The transmission equipment authorized under Section 6409 approval shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after the transmission equipment is abandoned or deemed abandoned, the permittee, property owner and/or structure owner shall completely remove such abandoned transmission equipment and all related improvements and shall restore all affected areas to a condition compliant with all applicable Laws, which includes without limitation the San Anselmo Municipal Code. If neither the permittee, the property owner nor the structure owner complies with the removal and restoration obligations under this condition within said 90-day period, the Town shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee, property owner and structure owner shall be jointly and severally liable for all
costs and expenses incurred by the Town in connection with such removal and/or restoration activities.

(21) **Landscaping.** The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee’s direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select plant and maintain replacement landscaping in an appropriate location for the species. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree or as otherwise approved by the Town. The permittee shall, at all times, be responsible to maintain any replacement landscape features.

(22) **Cost Reimbursement.** The permittee acknowledges and agrees that (i) the permittee’s request for authorization to construct, install and/or operate the wireless facility will cause the Town to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the Town for all costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility; (iii) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse the Town for all such costs 10 days after a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the Town shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the Town by the permittee.

(23) **Safety Hazard Protocols.** If the Ross Valley Fire Department Fire Chief (or his or her designee) finds good cause to believe that the facility (including, without limitation, its accessory equipment, antenna and/or base station) presents a fire risk, electrical hazard or other immediate threat to public health and safety in violation of any applicable law, such officials may order the facility to be shut down and powered off until such time as the fire risk or electrical hazard has been mitigated. Any mitigations required shall be at the permittee’s sole cost and expense.

(24) **Truthful and Accurate Statements.** The permittee acknowledges that the Town's approval relies on the written and/or oral statements by permittee and/or persons authorized to act on permittee’s behalf. In any matter before the Town in connection with the Section 6409 approval or the collocation or other modification authorized under the Section 6409 approval, neither the permittee nor any person authorized to act on permittee’s behalf shall, in any written or oral statement, intentionally provide material factual information that is incorrect or misleading or intentionally omit any material information necessary to prevent any material factual statement from being incorrect or misleading.
(25) **Successors and Assigns.** The conditions, covenants, promises and terms contained in this Section 6409 approval and the underlying use permit will bind and inure to the benefit of the Town and permittee and their respective successors and assigns.

(26) **Severability of Conditions.** If any provision in these conditions or such provision’s application to any person, entity or circumstances is or held by any court with competent jurisdiction to be invalid or unenforceable: (a) such provision or its application to such person, entity or circumstance will be deemed severed from this Section 6409 approval; (b) all other provisions in this Section 6409 approval or their application to any person, entity or circumstance will not be affected; and (c) all other provisions in this Section 6409 approval or their application to any person, entity or circumstance will be valid and enforceable to the fullest extent permitted by law.

(27) **Town’s Standing Reserved.** The Town’s grant or any approval deemed granted by operation of law of a Section 6409 approval pursuant to this Policy does not waive, and shall not be construed to waive, any standing by the Town to challenge any FCC rules that interpret the Telecommunications Act, the Spectrum Act or any Section 6409 approval issued pursuant to this Policy.

**PART VII. TEMPORARY WIRELESS FACILITIES**

(A) **GENERAL REQUIREMENTS FOR TEMPORARY WIRELESS FACILITIES**

Except as provided in Section VII(B) (Temporary Wireless Facilities for Emergencies), the requirements, procedures and standards in this section shall be applicable to all applications for a temporary use permit for a temporary wireless facility.

(1) **Applications for Temporary Wireless Facilities.** The Director shall not approve any temporary wireless facility subject to a temporary use permit except upon a complete and duly filed application consistent with this Section VII(A)(1) and any other written application requirements or procedures the Director may publish in any publicly-stated format. Applicants for a temporary use permit must submit, at a minimum: (a) a temporary use permit application on the most current form prepared by the Planning Department; (b) the applicable fee for the application; (c) a site plan that shows the proposed temporary wireless facility and its equipment, physical dimensions and placement on the proposed site relative to property lines and existing structures; (d) an RF compliance report in accordance with the Town’s requirements; and (e) an insurance certificate for general commercial liability that names the Town as an additional insured, includes coverage for the time period in which the temporary wireless facility will be placed and carries at least $1,000,000 in coverage per occurrence. Applications must be submitted in person to the Director unless the Director grants written consent to receive an application by mail or electronic means. No pre-submittal conference or appointment is required for a temporary use permit application.

(2) **Administrative Review for Temporary Wireless Facilities.** After the Director receives a duly filed application for a temporary use permit, the Director shall review the application
for completeness. After the Director deems the application complete, the Director shall
review the application for conformance with the required findings in Section VII(A)(3)
(Required Findings for Temporary Wireless Facilities) and render a written decision to the
applicant. Any denials must include the reasons for the denial. The review shall be
administrative in nature and shall not require notice or a public hearing.

(3) **Required Findings for Temporary Wireless Facilities.** The Director may approve or
conditionally approve a temporary use permit for a temporary wireless facility only when
the Director finds all of the following:

(a) the proposed temporary wireless facility will not exceed 50 feet in overall height
above ground level; and

(b) the proposed temporary wireless facility will be placed as far away from adjacent
property lines as possible, or otherwise in a location that will be least likely to
cause adverse impacts on adjacent properties; and

(c) any excavation or ground disturbance associated with the temporary facility will
not exceed two feet below grade; and

(d) the proposed temporary wireless facility will be compliant with all generally
applicable public health and safety laws and regulations, which includes without
limitation compliance with maximum permissible exposure limits for human
exposure to RF emissions established by the FCC; and

(e) the proposed temporary wireless facility will not create any nuisance or violate
any noise limits applicable to the proposed location; and

(f) the proposed temporary wireless facility will be identified with a sign that clearly
identifies the (I) site operator, (II) the operator’s site identification name or
number and (III) a working telephone number answered 24 hours per day, seven
days per week by a live person who can exert power-down control over the
antennas; and

(g) the proposed temporary wireless facility will be removed within 30 days after the
Director grants the temporary use permit, or such longer time as the Director finds
reasonably related to the applicant’s need or purpose for the temporary wireless
facility (but in no case longer than 90 days); and

(h) the applicant has not been denied a use permit for any permanent wireless facility
in the same or substantially the same location within the previous 365 days.

(4) **Appeals for Temporary Wireless Facilities.** Any applicant may appeal the Director’s
written decision to deny an application for a temporary use permit. The written appeal
together with any applicable appeal fee must be tendered to the Town within 10 days
from the Director’s written decision, and must state in plain terms the grounds for
reversal and the facts that support those grounds. The Town Manager shall be the
appellate authority for all appeals from the Director’s written decision to deny a
temporary use permit. The Town Manager shall review the application de novo; provided,
however, that the Town Manager’s decision shall be limited to only whether the
application should be approved or denied in accordance with the provisions in this Part
VII and any other applicable laws. The Town Manager shall issue a written decision that
contains the reasons for the decision, and such decision shall be final and not subject to
any further administrative appeals. There is no right under SAMC Title 1, Chapter 4 (Appeals and Official Reviews of Administrative Decisions) to appeal the Director’s decision or the Town Manager’s decision.

(B) TEMPORARY WIRELESS FACILITIES FOR EMERGENCIES

Temporary wireless facilities may be placed and operated within the Town without a temporary use permit only when a duly authorized federal, state, county or Town official declares an emergency within a region that includes the Town in whole or in part. Any temporary wireless facilities placed pursuant to this Section VII(B) must be removed within 15 days after the date the emergency is lifted. Any person or entity that places temporary wireless facilities pursuant to this section must send a written notice that identifies the site location and person responsible for its operation to the Director as soon as reasonably practicable.

PART VIII. SPECIAL EXCEPTIONS FOR FEDERAL OR STATE PREEMPTION

(1) Preface. The provisions in this section establish a procedure by which the Town may grant an exception to the standards in this Policy but only to the extent necessary to avoid conflict with applicable federal or state law. When the applicant requests an exception, the applicable approval authority shall consider the findings in subsection (2) below in addition to the findings required within the applicable section(s) of this Policy. Each exception is specific to the facts and circumstances in connection with each application. An exception granted in one instance shall not be deemed to create a presumption or expectation that an exception will be granted in any other instance.

(2) Required Findings. The approval authority shall not grant any limited exception pursuant to this section unless the approval authority finds all the following:

(a) the applicant has provided the approval authority with a reasonable and clearly defined technical service objective to be achieved by the proposed project, except for an exemption request under Part VI or Part IX;

(b) the applicant has provided the approval authority with a detailed written statement that explains why: (i) a denial based on the application’s noncompliance with a specific provision or requirement would violate federal law, state law or both; or (ii) a provision in this Policy, as applied to the applicant, would violate any rights or privileges conferred on the applicant by federal or state law;

(c) the applicant has provided the approval authority with a written statement that contains a detailed and fact-specific explanation as to why the proposed project cannot be deployed in compliance with the applicable provisions in this Policy, the Code, the General Plan and/or any specific plan;

(d) the applicant has provided the approval authority with a meaningful comparative analysis with the factual reasons why all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the Town, public comments or any other source) are not technically feasible or potentially available to reasonably achieve the applicant’s reasonable and clearly
defined technical service objective to be achieved by the proposed small wireless facility, except for an exemption request under Part VI or Part IX;

(e) the applicant has demonstrated that the proposed location and design is the least non-compliant configuration that will reasonably achieve the applicant’s reasonable and clearly defined technical service objective for the proposed project, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive facilities dispersed throughout the intended service area, except for an exemption request under Part VI or Part IX;

(f) the exception requested by the applicant does not compromise or excuse compliance any fire safety or other public safety standard; and

(g) the exception is narrowly tailored such that any deviation from this Policy is only to extent necessary for compliance with federal or state law.

(3) **Evidentiary Standard.** The applicant shall have the burden to prove to the approval authority that an exception should be granted pursuant to this section. The standard of evidence shall be the same as required by applicable federal or state law for the issue raised in the applicant’s request for an exception.

(4) **Expert Review.** Independent expert and/or consultant review will generally be appropriate when considering an exception request.

(5) **Legal Review.** Any exception request shall require the consultation of the Town Attorney as to the validity and legal justification for the exception.

PART IX. **EMERGENCY STANDBY GENERATORS FOR MACRO CELL TOWER SITES**

(A) **PURPOSE AND INTENT**

(1) **Background.** On September 29, 2020, Governor Gavin Newsom signed into law Assembly Bill 2421, codified at California Government Code Section 65850.75, which provides temporary regulations concerning how cities and counties permit emergency standby generators for certain wireless communication facilities. These temporary regulations went into effect on January 1, 2021 and have a sunset clause for automatic repeal on January 1, 2024. The legislature’s purpose in enacting these regulations is to allow wireless carriers to install emergency standby generators to maintain cellular communications during wildfire events and associated power shutoffs. Local agencies are required to make the installation of an emergency standby generator to serve a qualifying, previously permitted “macro cell tower site,” as defined, a permitted use and must review an application for installation on an administrative, nondiscretionary basis. A “macro cell tower site” does not include rooftop, so-called small cell, or outdoor and indoor distributed antenna system sites. The regulations also impose a 60-day decision period for local agencies to approve or deny applications for an emergency standby generator.

(2) **Intent.** The Town Council intends this Town Council Policy No. 6-1 Part IX (“Part IX”) to establish reasonable, uniform and comprehensive standards and procedures for emergency standby generators for macro cell tower sites proposed within the Town’s
territorial and jurisdictional boundaries, consistent with and to the extent permitted under California state law. The standards and procedures contained in this Part IX are intended to, and should be applied to, protect and promote public health, safety and welfare and balance the benefits that flow from robust, advanced wireless services provided by the macro cell tower sites during wildfires and other emergency situations that result in power shutoffs. This policy is not intended to, nor shall it be interpreted or applied to: (a) prohibit or effectively prohibit any personal wireless service provider’s ability to provide personal wireless services; (b) prohibit or effectively prohibit any entity’s ability to provide any telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (c) unreasonably discriminate among providers of functionally equivalent personal wireless services; (d) prohibit any emergency standby generators for macro cell tower sites that the Town may not deny under federal or California state law; or (e) otherwise authorize the Town to preempt any applicable federal or California state law.

(B) DEFINITIONS

The abbreviations, phrases, terms and words used in this Part IX will have the meanings assigned to them in this Section IX(B) or, as may be appropriate, in Part III or SAMC, Title 10, Chapter 3, Article 17 (Definitions), as may be amended from time to time, unless context indicates otherwise. Undefined phrases, terms or words in this section will have the meanings assigned to them in 47 U.S.C. § 702, as may be amended from time to time, and, if not defined therein, will have their ordinary meanings. In the event that any definition assigned to any phrase, term or word in this Part IX conflicts with any applicable federal or state-mandated definition, the federal or state-mandated definition will control.

(1) “emergency standby generator” means the same as defined in Cal. Gov. Code § 65850.75(a)(1), which defines the term as “a stationary generator used for the generation of electricity that meets the criteria set forth in paragraph (29) of subdivision (a) of Section 93115.4 of Title 17 of the California Code of Regulations.”

(2) “macro cell tower site” means same as defined in Cal. Gov. Code § 65850.75(a)(3), which defines the term as “the place where wireless telecommunications equipment and network components, including towers, transmitters, base stations, and emergency powers necessary for providing wide area outdoor service, are located. A macro cell tower site does not include rooftop, small cell, or outdoor and indoor distributed antenna system sites.”

(C) APPLICABILITY

(1) In General. This Part IX applies to all applications for authorization to install, modify, replace or remove an emergency standby generator at an existing macro cell tower site,
within the Town’s territorial or jurisdictional limits, whether on private property or in the public rights-of-way, submitted for approval pursuant to Cal. Gov. Code § 65850.75.

(2) **Repeal.** Consistent with Cal. Gov. Code § 65850.75(h), this Part IX shall remain in effect until January 1, 2024, and as of that date, is automatically repealed without any further action required by Town Council. From and after January 1, 2024, any application for an emergency standby generator at an existing macro cell tower site shall be processed in accordance with all applicable regulations within this Policy and/or the San Anselmo Municipal Code.

(D) **PRIOR APPROVALS REQUIRED**

(1) **Emergency Standby Generator Approval.** No person or entity may install, modify, replace or remove an emergency standby generator at a macro cell tower site without an “ESG approval” issued by the Director pursuant to this Part IX. The purpose of an ESG approval is to confirm that a proposed installation or other modification meets the criteria for mandatory approval under applicable state regulations. Each ESG approval shall be deemed to be an amendment to the underlying permit that authorizes the existing macro cell tower site to be modified.

(2) **Other Permits and Regulatory Approvals.** In addition to an ESG approval required under this Part IX, no person or entity may install, modify, replace or remove an emergency standby generator at a macro cell tower site without first obtaining all other permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes without limitation any ministerial health and safety permits and/or regulatory approvals issued by other departments or divisions within the Town, such as encroachment permits for work or facilities in the public right-of-way. Furthermore, any ESG approval granted under this Part IX or deemed approved by law shall remain subject to any and all lawful conditions and/or legal requirements associated with such other permits or regulatory approvals.

(E) **APPLICATION REQUIREMENTS**

(1) **Application Required.** The Director shall not approve any request for an emergency standby generator for a macro cell tower site except upon a complete and duly filed application consistent with this Section IX(E) and any other written rules or requirements the Town or the Director may establish from time to time in any publicly-stated format.

(2) **Application Content.** All applications for an ESG approval must include all the content, information and materials required by the Director for the application. The Town Council authorizes the Director to develop, publish and from time to time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Director finds necessary, appropriate or useful for processing requests for ESG approvals. The Town Council further authorizes the Director to establish other reasonable rules and regulations, which may include without limitation regular hours for appointments with applicants, as the Director deems necessary or
appropriate to organize, document and manage the application intake process. All such rules and regulations must be in written form and publicly stated to provide applicants with prior notice.

(a) **Application Form.** The applicant shall submit a complete, duly executed application for an ESG approval on the then-current form prepared by the Town.

(b) **Application Fee.** The applicant shall submit the applicable ESG approval application fee adopted by Town Council resolution. If no ESG approval application fee has been adopted, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to submit a deposit estimated by the Director to reimburse the Town for its reasonable costs incurred in connection with the application. Should the deposit be inadequate an additional deposit shall be required. If the deposit exceeds the actual costs, the difference will be returned to the applicant.

(c) **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a California licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape or hardscape features. The construction drawings must: (i) contain cut sheets that contain the technical specifications for all existing and proposed equipment and accessory equipment, which includes without limitation the manufacturer, model number, weight and physical dimensions; (ii) identify all structures within 500 feet from the proposed project site and call out such structures’ overall height above ground level; (iii) depict the applicant’s plan for any utilities for the proposed project, either as approved by the applicable utility company or in a preliminary form if an approved plans is not yet available, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; and (iv) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.

(d) **Title Report; Property Owner Notification.** The applicant must submit: (i) a title report issued within 30 days from the date the applicant filed the application to verify the identity of the property owner; and (ii) if the applicant is not the property owner, a copy of written notice of this application for an emergency standby generator to the property owner and evidence of transmittal of such notice to the property owner.

(e) **Site Survey.** For any emergency standby generator proposed to be located within the public rights-of-way, the applicant shall submit a survey prepared, signed and stamped by a California licensed or registered engineer. The survey must identify and depict all existing boundaries, encroachments and other structures within 50
feet from the proposed project site, which includes without limitation all: (i) traffic lanes; (ii) all private properties and property lines; (iii) above and below-grade utilities and related structures and encroachments; (iv) fire hydrants, roadside call boxes and other public safety infrastructure; (v) streetlights, decorative poles, traffic signals and permanent signage; (vi) sidewalks, driveways, parkways, curbs, gutters and storm drains; (vii) benches, trash cans, mailboxes, kiosks and other street furniture; and (viii) existing trees, planters and other landscaping or hardscaping features. Site surveys that are more than a year old require an updated survey certification.

(f) **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed wireless facility meets each required finding for an ESG approval as provided in Section IX(F)(3).

(g) **Regulatory Authorization.** The applicant shall submit copies of any and all permits or approvals obtained for the wireless facility prior to the submission of the application for an ESG approval.

(h) **Underground Service Alert Membership.** The applicant shall submit evidence that applicant is a member in good standing with the Underground Service Alert of Northern California and Nevada ("DigAlert").

(i) **Environmental Impact Assessment.** The applicant shall submit an environmental impact assessment on the then-current form prepared by the Town to determine whether the proposed project is categorically exempt under Article 19 of the CEQA Guidelines, or whether the proposed project will require a Negative Declaration, Mitigated Negative Declaration or an Environmental Impact Report.

(j) **Compliance with NEPA.** All applications shall include confirmation that an environmental assessment, or other application determination, has been completed by or on behalf of the FCC for any emergency standby generator proposed in a location identified in 47 C.F.R. 1.307 (including a floodplain) or as otherwise required by National Environmental Policy Act.

(k) **Hazards Assessment.** A full assessment of the hazards posed by the emergency standby generator in the event of failure due to flood, high wind, high heat, outage, lightning strike or fire must be conducted that includes the presence of nearby vegetation and structures at applicant’s cost. All materials in the emergency standby generator must be disclosed, including hazardous materials in any and all equipment. The assessment must identify if any tree removal or tree trimming is required or necessary in order to reduce fire hazard.

(l) **Truth and Accuracy Statement.** Any application submitted pursuant to this Policy shall be signed by the applicant, or a person knowledgeable about the proposed facility and authorized to act on the applicant’s behalf, attesting, that under penalty of perjury, that all information, representations and disclosures in the application are true, correct and complete.

(3) **Requirements for a Duly Filed Application.** Any application for an ESG approval will not be considered duly filed unless submitted in accordance with the requirements in this subsection (2).
(a) **Submittal Appointment.** All applications must be submitted to the Town at a pre-scheduled appointment with the Director. Applicants may generally submit one application per appointment. Applicants may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. The Planning Department shall use reasonable efforts to provide the applicant with an appointment within five working days after the Planning Department receives a written request. Any application received without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed.

(b) **Optional Pre-Application Conference.** The Town strongly encourages, but does not require, applicants to schedule and attend a pre-application conference with the Director for all emergency standby generators for an existing macro cell tower site. This voluntary pre-application conference does not cause the 60-day decision period specified at Cal. Gov. Code § 65850.75(c)-(e), as may be amended or superseded, to begin and is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification and review process; any latent issues in connection with the proposed project, including compliance with generally applicable rules for public health and safety; potential stealth or concealment issues or concerns (if applicable); coordination with other Town departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that Town staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The Planning Department shall use reasonable efforts to provide the applicant with an appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the Town for its reasonable costs to provide the services rendered in the pre-application conference.

(4) **Applications Deemed Withdrawn.** To promote efficient review and timely decisions, and in accordance with SAMC Section 10-3.1604 (Expiration of Applications), any application governed under this Part VI shall be automatically deemed withdrawn by the applicant when the applicant fails to submit a substantive response to the Planning Department within 60 calendar days after the Planning Department deems the application incomplete by written notice. As used in this subsection (4), a “substantive response” must include, at a minimum, the complete materials identified as incomplete in the written incomplete notice.

(5) **Authorization to Adopt Additional Application Requirements and Review Procedures.** The Town Council authorizes the Director to develop, publish and from time to time update or amend ESG approval application requirements, forms, checklists, guidelines, informational handouts and other related materials that the approval authority finds necessary, appropriate or useful for processing any application governed under this section. All applications shall, at a minimum, require the applicant to demonstrate that
the proposed project will be in planned compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes and electric codes. The Town Council further authorizes the Director to establish other reasonable rules and regulations for duly filed applications, which may include without limitation regular hours for submittal appointments with applicants, as the approval authority deems necessary or appropriate to organize, document and manage the application intake process. All such requirements, materials, rules and regulations must be in written form and publicly stated to provide all interested parties with prior notice.

(6) **Peer and Independent Consultant Review.**

(a) **Authorization.** The Town Council authorizes the Director to, in the Director’s discretion, select and retain an independent consultant with specialized training, experience and/or expertise in telecommunications issues satisfactory to the Director in connection with any request for an ESG approval.

(b) **Scope.** The Director may request an independent consultant review on any issue that involves specialized or expert knowledge in connection with wireless facilities deployment and/or generator deployment, permit applications for wireless facilities or generators, or ESG approval applications which include without limitation: (1) ESG approval application completeness and/or accuracy; (2) whether and to what extent a proposed project will comply with applicable laws; (3) the applicability, reliability and/or sufficiency of any information, analyses or methodologies used by the applicant to reach any conclusions about any issue with the Town’s discretion to review; and (4) any other issue identified by the Director that requires expert or specialized knowledge. The Director may request that the independent consultant prepare written reports, testify at public meetings, hearings and/or appeals and attend meetings with Town staff and/or the applicant.

(c) **Consultant Fees; Deposits.** Subject to applicable law, in the event that the Director elects to retain an independent consultant in connection with any ESG approval application, the applicant shall be responsible for the actual and reasonable costs in connection with the services provided, which may include actual and reasonable costs incurred by the independent consultant to attend and participate in any meetings or hearings directly related to the ESG approval application. The Director may also recover the actual and reasonable costs incurred to administer the consultant contract. Before the independent consultant may perform any services, the applicant shall tender to the Town a deposit in an amount equal to the estimated actual and reasonable cost for the services to be provided, as determined by the Director until the Town adopts the initial required deposit by fee schedule. The Director may request additional deposits as reasonably necessary to ensure sufficient funds are available to cover the reasonable costs in connection with the independent consultant’s services. In the event that the deposit exceeds the total costs for consultant’s services, the Director shall promptly return any unused funds to the applicant after the emergency standby generator for a macro cell tower site has been installed and
passes a final inspection by the Director. If the reasonable costs for the independent consultant’s services exceed the deposit, the Director shall invoice the applicant for the balance. The Town shall not issue any construction, grading or encroachment permit to any applicant with any unpaid deposit requests or invoices.

(F) NOTICE; DECISIONS; APPEALS

(1) Administrative Review. The Director shall administratively review a complete and duly filed application for an ESG approval and may act on such application without prior notice or a public hearing.

(2) Decision Notices. Within five days after the Director acts on an application for an ESG approval, the Director shall send a written notice to the applicant. If the Director denies the application, the written notice to the applicant must contain (1) the reasons for the decision; (2) a statement that denial will be without prejudice; and (3) instructions for how and when to file an appeal if the applicant so chooses.

(3) Required Findings for Approval. The Director may approve or conditionally approve an application for an ESG approval when the Director finds that the proposed project:
   (a) involves installation, modification, replacement or removal of an emergency standby generator at a macro cell tower site where such macro cell tower site is an existing site that was previously permitted by the Town; and
   (b) the emergency standby generator:
      i. is located not more than 100 feet from the physical structure of the macro cell tower or base station;
      ii. is mounted on a concrete pad;
      iii. is rated below 50 horsepower;
      iv. has a double-wall storage tank that does not exceed 300 gallons;
      v. has physical dimensions no more than 250 cubic feet in volume, including the storage tank; and
      vi. complies with all applicable state and local laws and regulations, including but not limited to air quality regulations and building and fire safety codes.

(4) Criteria for Denial Without Prejudice. Notwithstanding any other provision in this Part IX, and consistent with all applicable federal laws and regulations, the Director may deny without prejudice any application for an ESG approval when the Director finds that the proposed project:
   (a) does not meet the findings required in Section IX(F)(3); or
   (b) violates any legally enforceable law, regulation, rule, standard or permit condition reasonably related to public health or safety.

(5) Conditional Approvals. Subject to any applicable limitations in federal or state law, nothing in this Part IX is intended to limit the Director’s authority to conditionally approve an application for an ESG approval to protect and promote the public health and safety.
(6) **Appeals.** Any applicant may appeal the Director’s written decision to deny without prejudice an application for ESG approval. The written appeal together with any applicable appeal fee must be tendered to the Town within ten calendar days from the Director’s written decision and must state in plain terms the grounds for reversal and the facts that support those grounds. The Town Manager shall be the appellate authority for all appeals from the Director’s written decision to deny without prejudice an application for ESG approval. The Town Manager shall review the application de novo without notice or a public hearing; provided, however, that the Town Manager’s decision shall be limited to only whether the application should be approved or denied in accordance with the provisions in this section and any other applicable laws. The Town Manager shall issue a written decision that contains the reasons for the decision, and such decision shall be final and not subject to any further administrative appeals. There is no right under SAMC Title 1, Chapter 4 (Appeals and Official Reviews of Administrative Decisions) to additionally appeal the Director’s decision or the Town Manager’s decision.

(G) **STANDARD CONDITIONS OF APPROVAL**

In addition to all other conditions adopted by the Director, all ESG approvals, whether approved by the Director or deemed approved by the operation of law, shall be automatically subject to the conditions in this Part IX(G). The Director (or the appellate authority) shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances to protect public health and safety or allow for the proper operation of the approved facility consistent with the goals of this Part IX.

(1) **Permit Term.** The Town’s grant or any approval deemed approved by operation of law of an ESG approval constitutes a state-mandated modification to the underlying permit or other prior regulatory authorization for the subject macro cell tower site, and will be regarded as a modification to the underlying approval for the macro cell tower site. The Town’s grant or any approval deemed approved by operation of law of this ESG approval will not extend the permit term, if any, for any underlying permit or other underlying prior regulatory authorization in connection with the macro cell tower site to be modified. Accordingly, the term for this ESG approval shall be coterminous with the underlying permit or other prior regulatory authorization for the subject macro cell tower site, and any renewals thereof. This condition shall not be applied or interpreted in any way that would cause the term of the underlying permit for the modified facility to be less than 10 years in total length.

(2) **Compliance Obligations Due to Invalidation.** In the event that any court of competent jurisdiction invalidates all or any portion of Cal. Gov. Code § 65850.75 such that state law would not mandate approval for any emergency standby generators for macro cell tower sites, such approval(s) shall automatically expire one year from the effective date of the judicial order, unless the decision would not authorize accelerated termination of previously approved emergency standby generators for macro cell tower sites or the Director grants an extension upon written request from the permittee that shows good
cause for the extension, which includes without limitation extreme financial hardship. Notwithstanding anything in the previous sentence to the contrary, the Director may not grant a permanent exemption or indefinite extension. A permittee shall not be required to remove its improvements approved under the invalidated emergency standby generator for a macro cell tower site when it has obtained the applicable permit(s) or applied for such permit(s) before the one-year period ends.

(3) **Town’s Standing Reserved.** The Town’s grant or any approval deemed approved by operation of law of an ESG approval does not waive, and shall not be construed to waive, any standing by the Town to challenge Cal. Gov. Code § 65850.75 or any emergency standby generator for a macro cell tower site.

(4) **Strict Compliance with Approved Plans.** Before the permittee submits any applications to the Building Department, the permittee must incorporate this ESG approval, all conditions associated with this ESG approval into the project plans (the “Approved Plans”). The permittee must construct, install and operate the emergency standby generator in strict compliance with the Approved Plans. Any alterations, modifications or other changes to the Approved Plans, whether requested by the permittee or required by other departments or public agencies with jurisdiction over the emergency standby generator, must be submitted in a written request subject to the Director’s prior review and approval. The Director may revoke the ESG approval if s/he finds that the requested alteration, modification or other change may cause the emergency standby generator to no longer meet the requirements of Cal. Gov. Code § 65850.75.

(5) **Build-Out Period.** This ESG approval will automatically expire one (1) year from the approval or deemed-granted date unless the permittee obtains all other permits and approvals required to install, construct and/or operate the emergency standby generator for a macro cell tower site, which includes without limitation any permits or approvals required by any federal, state or local public agencies with jurisdiction over the subject property, the emergency standby generator for a macro cell tower site or its use. The Director may grant one written extension to a date certain, but not to exceed one (1) additional year, when the permittee shows good cause to extend the limitations period in a written request for an extension submitted at least 30 days prior to the automatic expiration date in this condition.

(6) **Pre-Installation Property Owner Authorization.** Within 15 calendar days after the Town’s grant or any approval deemed approved by operation of law of an ESG approval, the permittee shall submit proof of consent or other authorization from the underlying property owner for the permittee’s installation of the emergency standby generator for a macro cell tower site to the Director. In no event shall the permittee begin any installation, construction and/or operation of the emergency standby generator for a macro cell tower site until the permittee provides such consent or other authorization documentation from the underlying property owner to the Director.

(7) **Post-Installation Certification.** Within 60 calendar days after the permittee completes installation of the emergency standby generator for a macro cell tower site approved or deemed-approved, the permittee shall provide the Director with documentation reasonably acceptable to the Director that the emergency standby generator for a macro
cell tower site has been installed and/or constructed in strict compliance with the Approved Plans. Such documentation shall include without limitation as built drawings and site photographs.

(8) **Maintenance Obligations; Vandalism.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences, hardscape and landscape features, in a neat, clean and safe condition in accordance with the Approved Plans and all conditions in this ESG approval. The permittee shall keep the site area free from all litter and debris at all times. The permittee shall regularly inspect the site to determine whether any maintenance is needed. The permittee, at no cost to the Town, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.

(9) **Compliance with Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law, including those of the applicable regional Air Quality Management District, ("Laws") applicable to the permittee, the subject property, the emergency standby generator for a macro cell tower site or any use or activities in connection with the use authorized in this ESG approval. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee’s obligations to maintain compliance with all Laws. No failure or omission by the Town to timely notice, prompt or promptly enforce compliance with any applicable provision in this policy, the San Anselmo Municipal Code, any permit, any permit condition or any other applicable Law, the permittee will not be relieved from its obligation to comply in all respects with all applicable provisions in this policy, the San Anselmo Municipal Code, any permit, any permit condition or any other applicable Law.

(10) **Adverse Impacts on Other Properties.** The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee’s or its authorized personnel’s construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the San Anselmo Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the Town or other state or federal government agency or official with authority to declare a state of emergency within the Town. The Director may issue a stop work order for any activities that violates this condition in whole or in part. The permittee shall, at its sole cost and expense, repair and restore any and all damages to public and private properties that result from any activities performed in connection with the installation or maintenance of an emergency standby generator for a macro cell tower site. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to
the installation or maintenance that necessitated the repairs. If the permittee fails to 
complete such repair within the number of days stated on a written notice by the Director 
may cause such repair to be completed at permittee’s sole cost and expense.

(11) Inspections; Emergencies. The permittee expressly acknowledges and agrees that the 
Town’s officers, officials, staff or other designee may enter onto the site and inspect the 
improvements and emergency standby generator for a macro cell tower site upon 
reasonable prior notice to the permittee, or at any time during an emergency. The Town’s 
officers, officials, staff, agents or other designees may, but will not be obligated to, enter 
onto the site area without prior notice to support, repair, disable or remove any 
improvements or emergency standby generator for a macro cell tower site in 
emergencies or when such improvements or equipment threatens actual, imminent harm 
to property or persons. The permittee and/or its authorized personnel, if present, may 
observe the Town’s officers, officials, staff, agents or other designee while any such 
inspection or emergency access occurs.

(12) Permittee’s Contact Information. Prior to final inspection and at all times relevant to this 
ESG approval, the permittee shall keep on file with the Director basic contact and site 
information. This information shall include, but is not limited to, the following:

(a) the name, physical address, notice address (if different from physical 
address), direct telephone number and email address for (a) the permittee 
and, if different from the permittee, the (b) property owner, (c) structure 
owner, (d) site operator, (e) equipment owner, (f) site manager and (g) 
agent for service of process;

(b) the regulatory authorizations held by the permittee and, to the extent 
applicable, property owner, structure owner, site operator, equipment 
owner and site manager as may be necessary for the facility’s continued 
operation;

(c) the facility’s site identification number and/or name used by the permittee 
and, to the extent applicable, property owner, structure owner, site 
operator, equipment owner and site manager; and

(d) a toll-free telephone number to the facility’s network operations center 
where a live person with power-down control over the facility is available 
24 hours-per-day, seven days-per-week.

The Town may develop a form in connection with such disclosures and, if so, the 
permittee shall be required to use such form. Within 10 business days after a 
written request by the Town, the permittee shall furnish the Town with an 
updated form that includes all the most-current information described in this 
condition. Any notices from the Town to the permittee shall be deemed given 
when delivered to the most current address(es) for the permittee on file with the 
Town.

(13) Indemnification. The permittee and, if applicable, the owners of the property and 
structure upon which the emergency standby generator for a macro cell tower site is 
installed, shall defend, indemnify and hold harmless the Town, Town Council and the 
Town’s boards, board members, commissions, commissioners, agents, officers, officials,
employees and volunteers (collectively, “Town Indemnites”) from any and all (1) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings (“Claims”) brought against the Town or any Town Indemnites to challenge, attack, seek to modify, set aside, void or annul this ESG approval, the Town’s granting of this ESG approval or the granting of this ESG approval by the operation of law, and (2) other Claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee’s or its agents’, directors’, officers’, employees’, contractors’, subcontractors’, licensees’, or customers’ acts or omissions in connection with this ESG approval, the Town’s granting of this ESG approval, the granting of this ESG approval by the operation of law, the emergency standby generator or the wireless facility. If the Town becomes aware of any Claims, the Town will use best efforts to promptly notify the permittee and the private property owner and shall reasonably cooperate in the defense. The permittee, property owner and structure owner expressly acknowledges and agrees that the Town shall have the right to approve, which approval shall not be unreasonably withheld, conditioned or delayed, the legal counsel providing the Town’s defense, and the permittee, property owner and/or structure owner shall promptly reimburse Town for any costs and expenses directly and necessarily incurred by the Town in the course of the defense. The permittee, property owner and structure owner expressly acknowledges and agrees that the permittee’s indemnification obligations under this condition are a material consideration that motivates the Town to approve this ESG approval, and that such indemnification obligations will survive the expiration or revocation of this ESG approval.

(14) **Insurance.** At all times relevant to this permit, the permittee shall obtain and maintain insurance policies as follows:

(a) **Commercial General Liability.** Insurance Services Office Form CG 00 01 covering Commercial General Liability (“CGL”) on an “occurrence” basis, with limits not less than $1,000,000 per occurrence or $2,000,000 in the aggregate. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CGL insurance must include coverage for the following: Bodily Injury and Property Damage; Personal Injury/Advertising Injury; Premises/Operations Liability; Products/Completed Operations Liability; Aggregate Limits that Apply per Project; Explosion, Collapse and Underground (“UCX”) exclusion deleted; Contractual Liability with respect to the permit; Broad Form Property Damage; and Independent Consultants Coverage. The policy shall contain no endorsements or provisions limiting coverage for (i) contractual liability; (ii) cross liability exclusion for claims or suits by one insured against another; (iii) products/completed operations liability; or (iv) contain any other exclusion contrary to the conditions in this permit.

(b) **Automotive Insurance.** Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if permittee has no owned autos, Code 8 (hired) and 9 (non-
owned), with limit no less than $1,000,000 per accident for bodily injury and property damage.

(c) **Workers’ Compensation.** The permittee shall certify that it is aware of the provisions of California Labor Code § 3700, which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and further certifies that the permittee will comply with such provisions before commencing work under this permit. To the extent the permittee has employees at any time during the term of this permit, at all times during the performance of the work under this permit the permittee shall maintain insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

(d) **Errors and Omissions Policy.** The permittee shall maintain Professional Liability (Errors and Omissions) Insurance appropriate to the permittee’s profession, with limit no less than $1,000,000 per occurrence or claim. This insurance shall be endorsed to include contractual liability applicable to this permit and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the permittee. “Covered Professional Services” as designed in the policy must specifically include work performed under this permit.

(e) **Umbrella Policy.** If an umbrella or excess liability insurance policy is used to satisfy the minimum requirements for CGL or Automobile Liability insurance coverage listed above, the umbrella or excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be “pay on behalf,” with defense costs payable in addition to policy limits. Permittee shall provide a “follow form” endorsement or schedule of underlying coverage satisfactory to the Town indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

(f) **Endorsements.** The relevant policy(ies) shall name the Town of San Anselmo, its elected/appointed officials, commission members, officers, representatives, agents, volunteers and employees as additional insureds. The permittee shall use its best efforts to provide thirty (30) calendar days’ prior written notice to the Town of the cancellation or material modification of any applicable insurance policy; provided, however, that in no event shall the permittee fail to provide written notice to the Town within 10 calendar days after the cancellation or material modification of any applicable insurance policy.

(g) **Certificates.** Before the Town issues any permit, the permittee shall deliver to the Director insurance certificates, in a form satisfactory to the Director, that evidence all the coverage required above. In addition, the permittee shall promptly deliver complete copies of all insurance policies upon a written request by the Town.

(15) **Performance Bond.** Before the building official issues any permits required to commence construction, installation or other work in connection with this ESG approval, the permittee shall post a performance bond from a surety and in a form acceptable to the
Director. The bond amount shall be the amount reasonably necessary to cover the cost
to remove all emergency standby generator equipment and related improvements
authorized by the ESG approval, whether above ground or below ground, constructed or
installed in connection with the emergency standby generator, plus the cost to
completely restore any areas affected by the removal work to a standard compliant with
applicable laws. The performance bond shall be valid for at least 10 years or the term of
the underlying permit or other prior regulatory authorization for the subject macro cell
tower site (whichever is greater). In establishing or adjusting the bond amount required
under this condition, and in accordance with California Government Code § 65964(a), the
Director shall take into consideration any information provided by the permittee
regarding the cost to remove the emergency standby generator for a macro cell tower
site to a standard compliant with applicable laws. The Director may also consider any
other pertinent information, which includes written estimates from contractors with
experience in wireless facilities removal and/or site restoration. The performance bond
shall expressly survive the duration of the permit term to the extent required to
effectuate a complete removal of the subject emergency standby generator in
accordance with this condition.

(16) Permit Revocation. In accordance with SAMC Section 10-3.1909 (Revocation of a
Discretionary Permit), the approval authority may recall this ESG approval for review at
any time due to complaints about noncompliance with applicable laws or any approval
conditions attached to this ESG approval. At a duly noticed public hearing and in
accordance with all applicable laws, the approval authority may revoke this ESG approval
or amend these conditions as the approval authority deems necessary or appropriate to
correct any such noncompliance.

(17) Record Retention. Throughout the ESG approval term, permittee must maintain a
complete and accurate copy of the written administrative record, which includes without
limitation the ESG approval application, ESG approval, the Approved Plans and photo
simulations incorporated into this ESG approval, all conditions associated with this ESG
approval, any ministerial permits or approvals issued in connection with this ESG approval
and any records, memoranda, documents, papers and other correspondence entered into
the public record in connection with the ESG approval (collectively, “Records”). If the
permittee does not maintain such Records as required in this condition, any ambiguities
or uncertainties that would be resolved by inspecting the missing Records will be
construed against the permittee. The permittee shall protect all Records from damage
from fires, floods and other hazards that may cause deterioration. The permittee may
keep Records in an electronic format; provided, however, that hard copies or electronic
Records kept in the Town’s regular files will control over any conflicts between such
Town-controlled copies or Records and the permittee’s electronic copies, and complete
originals will control over all other copies in any form. The requirements in this condition
shall not be construed to create any obligation to create or prepare any Records not
otherwise required to be created or prepared by this policy, the San Anselmo Municipal
Code or any other applicable Laws. Compliance with the requirements in this condition
shall not excuse the permittee from any other similar record-retention obligations under applicable Law.

(18) **Existing Performance Agreements.** To the extent that the permittee has an existing Performance Agreement with the Town in connection with the subject wireless facility, the standard conditions in Town Council Policy No. 6-1 Section VI(G) will control to the extent that the requirements are more stringent or advantageous to the Town. The Town Attorney shall have authority to interpret and resolve any conflicts or ambiguities between the provisions in any Performance Agreement and the provisions in Town Council Policy No. 6-1 Part VI(G).

(19) **Abandoned Emergency Standby Generator.** The permittee shall notify the Director when the permittee intends to abandon or decommission the emergency standby generator for a macro cell tower site authorized under this ESG approval. In addition, the emergency standby generator for a macro cell tower site authorized under this ESG approval shall be deemed abandoned if the macro cell tower site is not operated for any continuous six-month period. Within 90 days after the emergency standby generator is abandoned or deemed abandoned, the permittee, property owner and/or structure owner shall completely remove emergency standby generator and all related improvements and shall restore all affected areas to a condition compliant with all applicable Laws, which includes without limitation the San Anselmo Municipal Code. The permittee, property owner and/or structure owner may request an extension to complete restoration to 90 days after the emergency standby generator authorized under this ESG approval is abandoned or deemed abandoned, which the Director may grant if the permittee, property owner or structure owner presents evidence of good cause for the extension. If neither the permittee, the property owner nor the structure owner complies with the removal and restoration obligations under this condition within said 90-day period, the Town shall have the right (but not the obligation) to perform such removal and restoration activities.

(20) **Landscaping.** The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee’s direction. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Any replacement tree must be substantially the same size as the damaged tree. The permittee shall, at all times, be responsible to maintain any replacement landscape features.

(21) **Cost Reimbursement.** The permittee acknowledges and agrees that (1) the permittee’s request for authorization to construct, install and/or operate the emergency standby generator for a macro cell tower site will cause the Town to incur costs and expenses; (2) the permittee shall be responsible to reimburse the Town for all costs incurred in connection with the ESG approval, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate
the emergency standby generator for a macro cell tower site; (3) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse the Town for all such costs 30 days after a written demand for reimbursement and reasonable documentation to support such costs; and (4) the Town shall have the right to withhold any permits or other approvals in connection with the emergency standby generator for a macro cell tower site until and unless any outstanding costs have been reimbursed to the Town by the permittee.

(22) **Safety Hazard Protocols.** If the Ross Valley Fire Department Fire Chief (or his or her designee) finds good cause to believe that the emergency standby generator (including, without limitation, its associated improvements) presents a fire risk, electrical hazard or other immediate threat to public health and safety in violation of any applicable law, such officials may order the facility to be shut down and powered off until such time as the fire risk or electrical hazard has been mitigated. Any mitigations required shall be at the permittee’s sole cost and expense.

(23) **Truthful and Accurate Statements.** The permittee acknowledges that the Town’s approval relies on the written and/or oral statements by permittee and/or persons authorized to act on permittee’s behalf. In any matter before the Town in connection with the ESG approval or the collocation or other modification authorized under the ESG approval, neither the permittee nor any person authorized to act on permittee’s behalf shall, in any written or oral statement, intentionally provide material factual information that is incorrect or misleading or intentionally omit any material information necessary to prevent any material factual statement from being incorrect or misleading.

(24) **Successors and Assigns.** The conditions, covenants, promises and terms contained in this ESG approval and the underlying use permit will bind and inure to the benefit of the Town and permittee and their respective successors and assigns.

(25) **Severability of Conditions.** If any provision in these conditions or such provision’s application to any person, entity or circumstances is or held by any court with competent jurisdiction to be invalid or unenforceable: (a) such provision or its application to such person, entity or circumstance will be deemed severed from this ESG approval; (b) all other provisions in this permit or their application to any person, entity or circumstance will not be affected; and (c) all other provisions in this ESG approval or their application to any person, entity or circumstance will be valid and enforceable to the fullest extent permitted by law.