

STAFF REPORT TO THE PLANNING AND ZONING COMMISSION
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY PLANNING DIVISION
CASE TYPE – TEXT AMENDMENT
CASE PLANNER: BOB BLEVINS

Hearing Date: March 12, 2018

Case Number: ZONE-20543-2017

This case was originally heard by the Planning & Zoning Commission at its January 22, 2018 meeting. It is being presented again to ensure the placement and numbering of the Sections, Illustrative Examples and Table of Uses are shown in a clear and more understandable sequence. No changes to the ordinance wording have been made.

Project Description: This is a request by the City of Yuma for a Zoning Code Text Amendment to amend Title 15, Chapter 154, Section 19 to include guidelines and development standards for personal wireless communication facilities in the Public Right-of-Way.

Staff recommendation: Staff recommends **APPROVAL** of the request to amend the City of Yuma Zoning Code, Title 15, Chapter 154, Section 19.

Suggested Motion: Move to **APPROVE** the request by the City of Yuma for a Zoning Code Text Amendment to amend Title 15, Chapter 154, Section 19 to include guidelines and development standards for personal wireless communication facilities in the Public Right-of-Way.

Staff Analysis: This Text Amendment is an update to Chapter 154, Section 19: the Personal Wireless Communication Facilities Code (Code). As technology has changed and the ability to transmit and receive “cell phone calls”, “Wi-Fi” and other streaming data by wireless means has increased, new equipment has been developed to allow smaller antennas, amplifiers, and ground-based stations. This broadens opportunities to place such “small cell” equipment in compact physical locations not possible in the past. Incorporating such uses on poles in the right-of-way is an example.

The existing Code does allow such uses in the right-of-way. However, technological advances, modern development standards, and terminology has expanded to a point where the Code needs to be updated to comply with changes in federal and state laws and regulations so as to guide and protect the public safety and welfare of the citizens of Yuma.

1. Does the proposed amendment implement the goals, objectives and policies of the General Plan?

Yes. The General Plan has goals of: developing transportation corridors that are attractive; having reduced visual clutter and obstructions; providing convenient and efficient services and resources that protect the community’s infrastructure investment; and to promote a high quality of life and provide for future needs.

The General Plan states that the City should minimize the negative visual impacts from a proliferation of antennas through guidelines for cellular tower placement and to provide additional capacity within existing and new rights-of-way.

2. Does the proposed amendment fit the overall purpose and intent of the zoning ordinance?

Yes. The Code is in place to lessen the congestion of streets, prevent overcrowding of land, and to facilitate the adequate provision of communication services for the citizens while preserving the health, safety, welfare and aesthetic values of the community.

3. Will the proposed amendment change the range of uses identified in the zoning code? If so, how?

No. The range of uses remains the same.

4. Will the proposed text amendment change the development standards of the zoning or subdivision ordinances? If so, how?

Yes. This amendment will clarify development standards, and add definitions to bring the Code up-to-date with current state and federal standards.

5. What are the potential impacts of the proposed amendment?

Positive impacts include: clear definitions and development standards to meet modern technology, and to provide guidelines to ensure staff meets present day state and Federal codes.

6. Does the proposed amendment fit the overall purpose and intent of the subdivision ordinance?

N/A

7. Does the proposed amendment conform to prior City Council actions regarding this issue?

Yes. The City Council approved a Strategic Joint Development Agreement with anyCOMM Holdings Corporation on August 16, 2017 to build a citywide mesh network "to address significant municipal concerns such as: building a digitally connected community; to drive economic development; improving public safety and transportation; to assist and support national security; providing a citywide gigabit speed wireless mesh network for smart cities; and to address the digital divide by providing an advanced high-speed, high-capacity network for the citizens and guests of Yuma."

This text amendment would assist in implementing the goals of the Strategic Joint Development Agreement by providing guidelines, processes, and definitions for small cell deployment in the right-of-way, especially for locations with limited space.

Public Comments Received: None Received.

External Agency Comments: None Received.

Neighborhood Meeting Comments: No Meeting Required.

Proposed conditions delivered to applicant on: N/A

Final staff report delivered to applicant on: N/A

<input checked="checked" type="checkbox"/>	No Conditions of Approval
<input type="checkbox"/>	Applicant did not agree with the following conditions of approval: (list #'s)
<input type="checkbox"/>	If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.

Attachments:

A	B
Draft Text	Staff Research

Prepared By: 
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Date: 2/20/18
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Reviewed By: 
Alyssa Linville, Principal Planner

Date: 02/20/18

Approved By: 
Dan Symer, AICP,
Assistant Director Community Development

Date: 2/20/18

Approved By: 
Laurie L. Lineberry, AICP,
Community Development Director

Date: 2-20-18

ATTACHMENT A
DRAFT TEXT

SECTION 1: Yuma City Code, Title 15, Chapter 154, Article 19, Section 19.02 is amended to delete the following crossed-out text and add the following underlined text:

Section 154-19.02. General Application Requirements.

(A) All applications, unless specifically stated ~~herein~~ in this Article, are required to include:

...

SECTION 2: Table No. 9 – *Distance and Output (MCAS)*, in the Yuma City Code, Title 15, Chapter 154, Article 19, Section 19.02 is amended to read as follows:

<i>Table No. 9 - Distance and Output (MCAS)</i>	
Distance to MCAS	Maximum Power Output
1.5 miles or less	2.5 watts or less
10 miles or less	2.5 watts to 5 watts
20 miles or less	5 watts to 25 watts
More than 20 miles	25 watts or greater

SECTION 3: Yuma City Code, Title 15, Chapter 154, Article 19, Section 19.03 is amended to delete the following crossed-out text and add the following underlined text:

Section 154-19.03. General Development Standards.

(C) All personal wireless communications facilities must be setback equal to the setback of the principal building on the site or 20 feet from the proposed right-of-way line (as defined by the Major Roadways Plan), whichever is greater, ~~except those antennas located within the public right-of-way by encroachment permit.~~

...

(N) Co-location on public facilities cannot interfere with public safety transmission purposes or diminish the security of public assets.

SECTION 4: Yuma City Code, Title 15, Chapter 154, Article 19, Section 19.09 is deleted in its entirety and replaced with the following:

Section 154.19-09. Personal Wireless Communication Facilities, Wi-Fi Radio Equipment, Microcell Equipment, and Small Cells on Public Rights-of-Way.

(A) Definitions. For the purposes of this Section, the following definitions apply:

“Affiliate” means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with a cable operator or a telecommunications corporation.

“Allowed Wi-Fi Radio Equipment” means radio equipment that uses only unlicensed radio spectrum and that enables wireless communication with a communications network for unlicensed services such as Wi-Fi service.

“Cable Operator” means a person that is issued a license by the City pursuant to City of Yuma Ordinance O95-077 to construct, operate, and maintain a cable television system in public streets, roads and alleys.

“Microcell Equipment” means devices that are connected to the aerial facilities of a person specified in subsection (C) of this Section and that are used solely for

transmitting, processing and receiving voice and data wireless telecommunications services. Microcell equipment does not include any ground-based equipment.

"Provider" has the same meaning as defined in Section 92-02 of the City Code.

"Public Highway" has the same meaning as defined in Section 92-02 of the City Code.

"Qualified Service Provider" means a person that has all applicable authorizations required to provide commercial mobile radio service using microcell equipment.

"Small Cell" means a personal wireless communication facility that meets both of the following qualifications:

(a) Each individual antenna, excluding the associated equipment (as defined below) that is part of the facility must fit within an enclosure (or if the antenna is exposed, within an imaginary enclosure, i.e., one that would be the correct size to contain the equipment) that is individually no more than three cubic feet in volume, and all antennas on the pole are located inside an enclosure (or if the antennas are exposed, within an imaginary enclosure, i.e., one that would be the correct size to contain the equipment) of not more than six (6) cubic feet in volume; and

(b) All other wireless equipment associated with the facility is cumulatively not more than twenty-one (21) cubic feet in volume. Vertical cable runs for the connection of power and other services are the only types of associated equipment that are not included in the calculation of equipment volume for purposes of this definition.

"Telecommunications Corporation" has the same meaning as defined in Section 92-02 of the City Code.

"Utility Pole" means a pole or similar structure and attached appurtenances, including strand, that is designed for telecommunications, cable, data, or electric functions.

(B) Antennas and Personal Wireless Communications Facilities. No antennas or personal wireless communications facilities are allowed in public highways, public streets, roads or alleys in the city, except for the following facilities:

(1) allowed Wi-Fi radio equipment;

(2) microcell equipment;

(3) small cells;

(4) facilities that meet the requirements of eligible facilities requests;

(5) facilities that are granted waiver requests.

(C) The persons listed in paragraphs (1) and (2) of this subsection (C) may install, operate and maintain allowed Wi-Fi radio equipment with approval of an application if they satisfy the conditions in paragraph (3) and (4) of this subsection (C) below:

(1) a cable operator or its affiliate may attach allowed Wi-Fi radio equipment to its cable television system in public streets, roads and alleys in the city; and

(2) a provider that holds a wireless facilities license from the city may attach allowed Wi-Fi radio equipment to existing facilities in the public highways in the City to the extent allowed by the provider's wireless facilities license.

(3) All of the allowed Wi-Fi radio equipment at a single location shall fit within a fifteen-by-fifteen-by-fifteen-inch (15"x15"x15") cube; and shall also meet at least one of the following conditions:

(i) be contained entirely within a ground-mounted pedestal otherwise allowed by the license; or

(ii) be connected directly to and mounted at the same height as one of the provider's or cable operator's aerial horizontal conductors otherwise allowed by the license; or

(iii) be connected directly to and co-located by the provider on the provider's existing utility pole or similar structure otherwise allowed by the license; or

(iv) be connected directly to and mounted on an existing utility pole or similar structure that is used in whole or in part for communications services, electric distribution, lighting or traffic signals; or

(v) be contained entirely within a ground-mounted pedestal, with the authorization of the pole or pedestal owner.

(4) Other Development Standards. The allowed Wi-Fi radio equipment must comply with general development standards in (G).

(D) The persons listed in paragraphs (1), (2) and (3) of this subsection (D) and their affiliates may install, operate, and maintain microcell equipment in the city's public highways with approval of an application, if they satisfy the conditions in paragraphs (4), (5) and (6) of this subsection (D) below:

(1) A telecommunications corporation;

(2) A telecommunications corporation described in Subsection 92-15(B) of the City Code; and

(3) A cable operator.

(4) The person's microcell equipment at each site is limited to:

(i) Not more than two strand-mounted antennas and radio pairs that are owned by a person specified in subsection (C) of this Section or a qualified service provider and that are used to provide commercial mobile radio service.

(ii) Related devices that are owned by a person specified in subsection (C) of this Section and that are mounted on strand between utility poles, including power supplies, housings, cables and similar supporting furnishings and improvements.

(5) Only a qualified service provider may use microcell equipment to provide commercial mobile radio service.

(6) Other Development Standards. The microcell equipment must comply with the general development standards in (G).

(E) A small cell may be installed, operated, and maintained in the public highways in the city with approval of an application, if the small cell satisfies the following conditions:

(1) it is installed only on an existing utility poles or similar structure that is used in whole or in part for communications services, electric distribution, lighting or traffic signals.

(2) no new monopoles or replacement poles are proposed;

(3) there is no more than one small cell per pole;

(4) there is a minimum separation between small cells of 500 feet;

(5) all associated equipment is installed in an underground vault;

(6) it complies with the general development standards in (G).

(F) Application Requirements

(1) Applications for allowed Wi-Fi radio equipment must include:

(i) make, model, dimensions, color, weight and technical information of the proposed radio equipment;

(ii) specific information on the proposed location of the installation (including nearest street address or intersection);

(iii) photo simulations and site plans drawn to 20:1 scale depicting the proposed installation;

(iv) evidence that the radio equipment complies with FCC radio frequency emissions standards;

(v) evidence the applicant meets the qualifications in subsections (C)(1) or (2) of this Section;

(vi) a sworn statement that the radio equipment will use only unlicensed radio spectrum;

(vii) a sworn statement describing the services that will be provided using the radio equipment;

(viii) evidence of authorization of the affected strand/pole/pedestal owner, if the applicant is not the owner;

(ix) the information required by Section 154-19.02(1), (5), (6), and (7); and

(x) if the applicant intends to make the same installation at multiple locations within the same zoning district, the applicant may submit a single application for up to 10 locations, provided that the information required by (ii), (iii) and (viii) is submitted for each location.

(2) Applications for microcell equipment must include:

- (i) make, model, dimensions, color, weight and technical information of proposed microcell equipment specified in subsection (D)(4) of this Section;
- (ii) specific information on the proposed location of the installation (including nearest street address or intersection);
- (iii) photo simulations and site plans drawn to 20:1 scale depicting the proposed installation;
- (iv) evidence that the microcell equipment complies with FCC radio frequency emissions standards;
- (v) evidence the applicant meets the qualifications in subsections (D)(1), (2) or (3) of this Section and has license or other authorization to use the city's public highways for the proposed installation;
- (vi) a sworn statement that the microcell equipment will be used by a qualified service provider solely for transmitting, processing, and receiving voice and data wireless telecommunications services that are commercial mobile radio services, and identifying such qualified service provider(s);
- (vii) identify the owner of the microcell equipment. If the owner is not the applicant, provide evidence that the owner is a qualified service provider;
- (viii) evidence of authorization of the affected strand/pole/pedestal owner, if the applicant is not the owner;
- (ix) the information required by Section 154-19.02(1), (5), (6), and (7); and
- (x) if the applicant intends to make the same installation at multiple locations within the same zoning district, the applicant may submit a single application for up to 10 locations, provided that the information required by (ii), (iii) and (viii) is submitted for each location.

(3) Applications for a small cell must include:

- (i) make, model, dimensions, color, weight and technical information of proposed small cell and associated equipment specified in subsection (E) of this Section;
- (ii) specific information on the proposed location of the installation (including nearest street address or intersection);
- (iii) photo simulations and site plans drawn to 20:1 scale depicting the proposed installation;
- (iv) evidence that the small cell complies with FCC radio frequency emissions standards;
- (v) a sworn statement that the small cell equipment will be used by a qualified service provider solely for transmitting, processing, and receiving voice and data wireless telecommunications services that are commercial mobile radio services, and identifying such qualified service provider(s);
- (vi) identify the owner of the small cell. If the owner is not the applicant, provide evidence that the owner is a qualified service provider;
- (vii) evidence the applicant has pertinent licensing and/or certification required by federal and state licensing authorities, which are required for said operators of small cells and to use the city's public highways for the proposed installation;
- (viii) evidence of authorization of the affected pole owner, if the applicant is not the owner; and
- (ix) the information required by Section 154-19.02(1), (5), (6), and (7).

(G) General Development Standards Applicable to All Personal Wireless Communications Facilities in Public Highways

(1) No personal wireless communication facilities are permitted on public highways facing any building designated as an individual landmark or located within a historic district unless such personal wireless communication facilities are approved through the Design and Historic Review Commission.

(2) No personal wireless communication facilities are permitted on public highways facing any building within an Aesthetic Overlay (AO) Designation unless such personal wireless communication facilities are approved through the Design and Historic Review Commission.

(3) No signage, other than required identification and safety signage, is permitted on any personal wireless communication facilities on public highways.

(4) Lighting of any personal wireless communication facility on public highways is prohibited unless required by another public agency.

(5) The owner of any personal wireless communication facility must provide the city with a copy of any notice to the FCC of intent to cease operations. Any personal wireless communication facilities and all associated materials not in use for one year must be removed by the owner and the site must be returned to a state compatible with the surrounding vegetation and/or structure at the owner's expense.

(6) The owner of any personal wireless communications facility shall notify the city of the change of ownership for any personal wireless communications facility and the notice must include the contact name, address and phone number of the new owner.

(7) Unless specifically stated, all personal wireless communications facilities on public highways are limited to lesser of either:

(a) ten feet in height above the tallest utility pole, other than a utility pole supporting only wireless facilities, that is in place as of January 1, 2018, that is located within three-hundred feet of the proposed location, and that is in the same right-of-way; or

(b) the height limitations of the zoning district in which the public highway is located.

(8) All personal wireless communications facilities on public highways must meet all applicable laws, codes, local code provisions and regulations that concern public safety and accessibility.

(9) All personal wireless communications facilities on public highways must be disguised and concealed to blend into the existing environment to the greatest degree possible.

(10) All personal wireless communications facilities on public highways must have a license to use the public highways.

(H) Waiver. A waiver from the restrictions or requirements in this Section may be granted by the city, upon the request of the applicant, where the applicant demonstrates that such restriction or requirement unreasonably discriminates among providers of functionally equivalent services pursuant to the United States Telecommunications Act of 1996 (47 U.S.C. §332(c)(7)(B)(i)(I)) or prohibits or has the effect of prohibiting the provision of wireless communications services pursuant to the United States Telecommunications Act of 1996 (47 U.S.C. §332(c)(7)(B)(i)(II)) or otherwise violates state law.

SECTION 5: Yuma City Code, Title 15, Chapter 154, Article 19 is amended to add Section 19.11, Eligible Facilities Requests:

Section 154.19-11 Eligible Facilities Requests.

(A) Notwithstanding anything to the contrary in this Article, eligible facilities requests, as defined in the Federal Communications regulation 47 C.F.R. § 1.40001 (b) (3), as amended, implementing federal law 47 U.S.C. § 1455(a), as amended, shall be processed according to

the requirements of 47 C.F.R. § 1.40001, as amended, and this Section. The definitions in 47 C.F.R. §1.40001, as amended, apply to this Section.

(1) Application requirements. An application shall be submitted for approval of eligible facilities requests containing at least the following:

i) A completed application form signed by the applicant, and identifying a person who may be contacted regarding the application, and that person's mail and email addresses and telephone number.

ii) A clear statement that the request is being made as an eligible facilities request pursuant to this ordinance and complies with all requirements set forth therein.

iii) A clear description of the work proposed, including but not limited to, a description of the excavation that may be associated with the work, and a description of the base station elements or wireless support structure elements that may be modified, and the modifications that will be made; and the date(s) and time(s) during which the work will take place.

iv) Photographs and scale drawings showing the dimensions and location of the base station, wireless support structure and accessory facilities prior to performance of the work proposed, and photo simulations and scale drawings showing the dimensions and locations of the same after the work is performed. The drawings should include drawings of the wireless support structure and base station as approved by the city (or as the facility existed on February 1, 2012, if approved prior to that date); and detailed drawings of the modifications proposed to the wireless support structure or base station.

v) A statement certifying that, before commencing, during performance of, and upon completion of the work proposed, the permitted wireless facility will comply with all applicable laws, regulations, practices or other requirements under federal, state or local law, including but not limited to, building and electrical codes.

vi) Written certification from a licensed professional engineer certifying that the host wireless support structure or structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas and other equipment, extensions and appurtenances associated with the modification, and that the modification will not cause the facility to violate existing fall zone requirements.

(2) Action Upon Receipt.

i) Review. Upon receipt of an application for approval of an eligible facilities request, the city shall review such application to determine whether the application qualifies as an eligible facilities request and is complete, and shall promptly notify the applicant if the application is incomplete or is not an eligible facilities request within the time frames specified in 47 C.F.R. §1.40001, as amended. An application is incomplete if it omits or withholds any required information, or fails to provide information in sufficient detail to determine whether the application is for an eligible facilities request, or to determine whether the work will be performed in

accordance with, and will result in a wireless facility that complies with applicable safety codes.

ii) Approval. If the application is an eligible facilities request and the application is complete, it shall be approved subject to this Section. This Section shall be operative, and any approval issued pursuant to this Section shall remain in effect only so long as federal law, 47 U.S.C. § 1455, and implementing Federal Communications Commission regulations, 47 C. F. R. §1.40001 regulations, require approval of an eligible facilities request as defined herein. By approval, the city solely intends to comply with a requirement of federal law and not to grant any property rights or interests except as compelled by federal law.

iii) Denial. If the application does not satisfy requirements for an eligible facilities request, or if the applicant fails to submit a complete application after being notified that the application is incomplete by a time specified by the city; or the application would otherwise result in a wireless facility that does not comply with applicable federal state or local laws, the application shall be denied within sixty (60) days of receipt unless the city and the applicant agree to a different date for action on the application.

iv) Exceptions; Effect of Approval. The city may except particular applications from approval, or may condition approval as appropriate consistent with federal law. Without limitation, approval does not exempt applicant from, or prevent city from opposing a proposed modification that is subject to compliance under the National Historic Preservation Act or the National Environmental Protection Act.

ATTACHMENT B
STAFF RESEARCH

SECTION 2: Table No. 9 – *Distance and Output (MCAS)*, in the Yuma City Code, Title 15, Chapter 154, Article 19, Section 19.02 is amended to read as follows:

Table No. 9 - Distance and Output (MCAS)	
Distance to MCAS	Maximum Power Output
1.5 miles or less	2.5 watts or less
10 miles or less	2.5 watts to 5 watts
20 miles or less	5 watts to 25 watts
More than 20 miles	25 watts or greater

SECTION 3: Yuma City Code, Title 15, Chapter 154, Article 19, Section 19.03 is amended to delete the following crossed-out text and add the following underlined text:

Section 154-19.03. General Development Standards.

(C) All personal wireless communications facilities must be setback equal to the setback of the principal building on the site or 20 feet from the proposed right-of-way line (as defined by the Major Roadways Plan), whichever is greater, ~~except those antennas located within the public right-of-way by encroachment permit.~~

...

(N) Co-location on public facilities cannot interfere with public safety transmission purposes or diminish the security of public assets.

SECTION 4: Yuma City Code, Title 15, Chapter 154, Article 19, Section 19.09 is deleted in its entirety and replaced with the following:

Section 154.19-09. Personal Wireless Communication Facilities, Wi-Fi Radio Equipment, Microcell Equipment, and Small Cells on Public Rights-of-Way.

(A) Definitions. For the purposes of this Section, the following definitions apply:

"Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with a cable operator or a telecommunications corporation.

"Allowed Wi-Fi Radio Equipment" means radio equipment that uses only unlicensed radio spectrum and that enables wireless communication with a communications network for unlicensed services such as Wi-Fi service.

"Cable Operator" means a person that is issued a license by the City pursuant to City of Yuma Ordinance O95-077 to construct, operate, and maintain a cable television system in public streets, roads and alleys.

"Microcell Equipment" means devices that are connected to the aerial facilities of a person specified in subsection (C) of this Section and that are used solely for transmitting, processing and receiving voice and data wireless telecommunications services. Microcell equipment does not include any ground-based equipment.

"Provider" has the same meaning as defined in Section 92-02 of the City Code.

"Public Highway" has the same meaning as defined in Section 92-02 of the City Code.

"Qualified Service Provider" means a person that has all applicable authorizations required to provide commercial mobile radio service using microcell equipment.

"Small Cell" means a personal wireless communication facility that meets both of the following qualifications:

(a) Each individual antenna, excluding the associated equipment (as defined below) that is part of the facility must fit within an enclosure (or if the

antenna is exposed, within an imaginary enclosure, i.e., one that would be the correct size to contain the equipment) that is individually no more than three cubic feet in volume, and all antennas on the pole are located inside an enclosure (or if the antennas are exposed, within an imaginary enclosure, i.e., one that would be the correct size to contain the equipment) of not more than six (6) cubic feet in volume; and

(b) All other wireless equipment associated with the facility is cumulatively not more than twenty-one (21) cubic feet in volume. Vertical cable runs for the connection of power and other services are the only types of associated equipment that are not included in the calculation of equipment volume for purposes of this definition.

“Telecommunications Corporation” has the same meaning as defined in Section 92-02 of the City Code.

“Utility Pole” means a pole or similar structure and attached appurtenances, including strand, that is designed for telecommunications, cable, data, or electric functions.

(B) Antennas and Personal Wireless Communications Facilities. No antennas or personal wireless communications facilities are allowed in public highways, public streets, roads or alleys in the city, except for the following facilities:

(1) allowed Wi-Fi radio equipment;

(2) microcell equipment;

(3) small cells;

(4) facilities that meet the requirements of eligible facilities requests;

(5) facilities that are granted waiver requests.

(C) The persons listed in paragraphs (1) and (2) of this subsection (C) may install, operate and maintain allowed Wi-Fi radio equipment with approval of an application if they satisfy the conditions in paragraph (3) and (4) of this subsection (C) below:

(1) a cable operator or its affiliate may attach allowed Wi-Fi radio equipment to its cable television system in public streets, roads and alleys in the city; and

(2) a provider that holds a wireless facilities license from the city may attach allowed Wi-Fi radio equipment to existing facilities in the public highways in the City to the extent allowed by the provider's wireless facilities license.

(3) All of the allowed Wi-Fi radio equipment at a single location shall fit within a fifteen-by-fifteen-by-fifteen-inch (15"x15"x15") cube; and shall also meet at least one of the following conditions:

(i) be contained entirely within a ground-mounted pedestal otherwise allowed by the license; or

(ii) be connected directly to and mounted at the same height as one of the provider's or cable operator's aerial horizontal conductors otherwise allowed by the license; or

(iii) be connected directly to and co-located by the provider on the provider's existing utility pole or similar structure otherwise allowed by the license; or

(iv) be connected directly to and mounted on an existing utility pole or similar structure that is used in whole or in part for communications services, electric distribution, lighting or traffic signals; or

(v) be contained entirely within a ground-mounted pedestal, with the authorization of the pole or pedestal owner.

(4) Other Development Standards. The allowed Wi-Fi radio equipment must comply with general development standards in (G).

(D) The persons listed in paragraphs (1), (2) and (3) of this subsection (D) and their affiliates may install, operate, and maintain microcell equipment in the city's public highways with approval of an application, if they satisfy the conditions in paragraphs (4), (5) and (6) of this subsection (D) below:

(1) A telecommunications corporation;

- (2) A telecommunications corporation described in Subsection 92-15(B) of the City Code; and
- (3) A cable operator.
- (4) The person's microcell equipment at each site is limited to:
 - (i) Not more than two strand-mounted antennas and radio pairs that are owned by a person specified in subsection (C) of this Section or a qualified service provider and that are used to provide commercial mobile radio service.
 - (ii) Related devices that are owned by a person specified in subsection (C) of this Section and that are mounted on strand between utility poles, including power supplies, housings, cables and similar supporting furnishings and improvements.
- (5) Only a qualified service provider may use microcell equipment to provide commercial mobile radio service.
- (6) Other Development Standards. The microcell equipment must comply with the general development standards in (G).
- (E) A small cell may be installed, operated, and maintained in the public highways in the city with approval of an application, if the small cell satisfies the following conditions:
 - (1) it is installed only on an existing utility poles or similar structure that is used in whole or in part for communications services, electric distribution, lighting or traffic signals.
 - (2) no new monopoles or replacement poles are proposed;
 - (3) there is no more than one small cell per pole;
 - (4) there is a minimum separation between small cells of 500 feet;
 - (5) all associated equipment is installed in an underground vault;
 - (6) it complies with the general development standards in (G).
- (F) Application Requirements
 - (1) Applications for allowed Wi-Fi radio equipment must include:
 - (i) make, model, dimensions, color, weight and technical information of the proposed radio equipment;
 - (ii) specific information on the proposed location of the installation (including nearest street address or intersection);
 - (iii) photo simulations and site plans drawn to 20:1 scale depicting the proposed installation;
 - (iv) evidence that the radio equipment complies with FCC radio frequency emissions standards;
 - (v) evidence the applicant meets the qualifications in subsections (C)(1) or (2) of this Section;
 - (vi) a sworn statement that the radio equipment will use only unlicensed radio spectrum;
 - (vii) a sworn statement describing the services that will be provided using the radio equipment;
 - (viii) evidence of authorization of the affected strand/pole/pedestal owner, if the applicant is not the owner;
 - (ix) the information required by Section 154-19.02(1), (5), (6), and (7); and
 - (x) if the applicant intends to make the same installation at multiple locations within the same zoning district, the applicant may submit a single application for up to 10 locations, provided that the information required by (ii), (iii) and (viii) is submitted for each location.
 - (2) Applications for microcell equipment must include:
 - (i) make, model, dimensions, color, weight and technical information of proposed microcell equipment specified in subsection (D)(4) of this Section;
 - (ii) specific information on the proposed location of the installation (including nearest street address or intersection);

- (iii) photo simulations and site plans drawn to 20:1 scale depicting the proposed installation;
- (iv) evidence that the microcell equipment complies with FCC radio frequency emissions standards;
- (v) evidence the applicant meets the qualifications in subsections (D)(1), (2) or (3) of this Section and has license or other authorization to use the city's public highways for the proposed installation;
- (vi) a sworn statement that the microcell equipment will be used by a qualified service provider solely for transmitting, processing, and receiving voice and data wireless telecommunications services that are commercial mobile radio services, and identifying such qualified service provider(s);
- (vii) identify the owner of the microcell equipment. If the owner is not the applicant, provide evidence that the owner is a qualified service provider;
- (viii) evidence of authorization of the affected strand/pole/pedestal owner, if the applicant is not the owner;
- (ix) the information required by Section 154-19.02(1), (5), (6), and (7); and
- (x) if the applicant intends to make the same installation at multiple locations within the same zoning district, the applicant may submit a single application for up to 10 locations, provided that the information required by (ii), (iii) and (viii) is submitted for each location.

(3) Applications for a small cell must include:

- (i) make, model, dimensions, color, weight and technical information of proposed small cell and associated equipment specified in subsection (E) of this Section;
- (ii) specific information on the proposed location of the installation (including nearest street address or intersection);
- (iii) photo simulations and site plans drawn to 20:1 scale depicting the proposed installation;
- (iv) evidence that the small cell complies with FCC radio frequency emissions standards;
- (v) a sworn statement that the small cell equipment will be used by a qualified service provider solely for transmitting, processing, and receiving voice and data wireless telecommunications services that are commercial mobile radio services, and identifying such qualified service provider(s);
- (vi) identify the owner of the small cell. If the owner is not the applicant, provide evidence that the owner is a qualified service provider;
- (vii) evidence the applicant has pertinent licensing and/or certification required by federal and state licensing authorities, which are required for said operators of small cells and to use the city's public highways for the proposed installation;
- (viii) evidence of authorization of the affected pole owner, if the applicant is not the owner; and
- (ix) the information required by Section 154-19.02(1), (5), (6), and (7).

(G) General Development Standards Applicable to All Personal Wireless Communications Facilities in Public Highways

- (1) No personal wireless communication facilities are permitted on public highways facing any building designated as an individual landmark or located within a historic district unless such personal wireless communication facilities are approved through the Design and Historic Review Commission.
- (2) No personal wireless communication facilities are permitted on public highways facing any building within an Aesthetic Overlay (AO) Designation unless such personal wireless communication facilities are approved through the Design and Historic Review Commission.

- (3) No signage, other than required identification and safety signage, is permitted on any personal wireless communication facilities on public highways.
- (4) Lighting of any personal wireless communication facility on public highways is prohibited unless required by another public agency.
- (5) The owner of any personal wireless communication facility must provide the city with a copy of any notice to the FCC of intent to cease operations. Any personal wireless communication facilities and all associated materials not in use for one year must be removed by the owner and the site must be returned to a state compatible with the surrounding vegetation and/or structure at the owner's expense.
- (6) The owner of any personal wireless communications facility shall notify the city of the change of ownership for any personal wireless communications facility and the notice must include the contact name, address and phone number of the new owner.
- (7) Unless specifically stated, all personal wireless communications facilities on public highways are limited to lesser of either:
- (a) ten feet in height above the tallest utility pole, other than a utility pole supporting only wireless facilities, that is in place as of January 1, 2018, that is located within three-hundred feet of the proposed location, and that is in the same right-of-way; or
 - (b) the height limitations of the zoning district in which the public highway is located.
- (8) All personal wireless communications facilities on public highways must meet all applicable laws, codes, local code provisions and regulations that concern public safety and accessibility.
- (9) All personal wireless communications facilities on public highways must be disguised and concealed to blend into the existing environment to the greatest degree possible.
- (10) All personal wireless communications facilities on public highways must have a license to use the public highways.
- (H) Waiver. A waiver from the restrictions or requirements in this Section may be granted by the city, upon the request of the applicant, where the applicant demonstrates that such restriction or requirement unreasonably discriminates among providers of functionally equivalent services pursuant to the United States Telecommunications Act of 1996 (47 U.S.C. §332(c)(7)(B)(i)(I)) or prohibits or has the effect of prohibiting the provision of wireless communications services pursuant to the United States Telecommunications Act of 1996 (47 U.S.C. §332(c)(7)(B)(i)(II)) or otherwise violates state law.

SECTION 5: Yuma City Code, Title 15, Chapter 154, Article 19 is amended to add Section 19.11, Eligible Facilities Requests:

Section 154.19-11 Eligible Facilities Requests.

- (A) Notwithstanding anything to the contrary in this Article, eligible facilities requests, as defined in the Federal Communications regulation 47 C.F.R. § 1.40001 (b) (3), as amended, implementing federal law 47 U.S.C. § 1455(a), as amended, shall be processed according to the requirements of 47 C.F.R. § 1.40001, as amended, and this Section. The definitions in 47 C.F.R. §1.40001, as amended, apply to this Section.
- (1) Application requirements. An application shall be submitted for approval of eligible facilities requests containing at least the following:

- i) A completed application form signed by the applicant, and identifying a person who may be contacted regarding the application, and that person's mail and email addresses and telephone number.
- ii) A clear statement that the request is being made as an eligible facilities request pursuant to this ordinance and complies with all requirements set forth therein.
- iii) A clear description of the work proposed, including but not limited to, a description of the excavation that may be associated with the work, and a description of the base station elements or wireless support structure elements that may be modified, and the modifications that will be made; and the date(s) and time(s) during which the work will take place.
- iv) Photographs and scale drawings showing the dimensions and location of the base station, wireless support structure and accessory facilities prior to performance of the work proposed, and photo simulations and scale drawings showing the dimensions and locations of the same after the work is performed. The drawings should include drawings of the wireless support structure and base station as approved by the city (or as the facility existed on February 1, 2012, if approved prior to that date); and detailed drawings of the modifications proposed to the wireless support structure or base station.
- v) A statement certifying that, before commencing, during performance of, and upon completion of the work proposed, the permitted wireless facility will comply with all applicable laws, regulations, practices or other requirements under federal, state or local law, including but not limited to, building and electrical codes.
- vi) Written certification from a licensed professional engineer certifying that the host wireless support structure or structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas and other equipment, extensions and appurtenances associated with the modification, and that the modification will not cause the facility to violate existing fall zone requirements.

(2) Action Upon Receipt.

- i) Review. Upon receipt of an application for approval of an eligible facilities request, the city shall review such application to determine whether the application qualifies as an eligible facilities request and is complete, and shall promptly notify the applicant if the application is incomplete or is not an eligible facilities request within the time frames specified in 47 C.F.R. §1.40001, as amended. An application is incomplete if it omits or withholds any required information, or fails to provide information in sufficient detail to determine whether the application is for an eligible facilities request, or to determine whether the work will be performed in accordance with, and will result in a wireless facility that complies with applicable safety codes.
- ii) Approval. If the application is an eligible facilities request and the application is complete, it shall be approved subject to this Section. This Section shall be operative, and any approval issued pursuant to this Section shall remain in effect only so long as federal law, 47 U.S.C. § 1455, and implementing Federal

Communications Commission regulations, 47 C. F. R. §1.40001 regulations, require approval of an eligible facilities request as defined herein. By approval, the city solely intends to comply with a requirement of federal law and not to grant any property rights or interests except as compelled by federal law.

iii) Denial. If the application does not satisfy requirements for an eligible facilities request, or if the applicant fails to submit a complete application after being notified that the application is incomplete by a time specified by the city; or the application would otherwise result in a wireless facility that does not comply with applicable federal state or local laws, the application shall be denied within sixty (60) days of receipt unless the city and the applicant agree to a different date for action on the application.

iv) Exceptions; Effect of Approval. The city may except particular applications from approval, or may condition approval as appropriate consistent with federal law. Without limitation, approval does not exempt applicant from, or prevent city from opposing a proposed modification that is subject to compliance under the National Historic Preservation Act or the National Environmental Protection Act.

1) Will the proposed amendment change the range of uses identified in the zoning code? If so, how?

No. The range of uses remains the same.

2) Will the proposed text amendment change the development standards of the zoning or subdivision ordinances? If so, how?

Yes. This amendment will clarify development standards, and add definitions to bring the Code up-to-date with current state and federal standards.

3) What are the potential impacts of the proposed amendment?

Positive impacts include: clear definitions and development standards to meet modern technology, and to provide guidelines to ensure staff meets present day state and federal codes.

NOTIFICATION

- Legal Ad Published: The Sun 02/16/17
- Commenting/Reviewing Agencies noticed: 12/21/17
- Hearing Date: 03/12/18
- Comments due: 12/29/17

<i>City of Yuma Internal List (Conditions)</i>	Response Received	Date Received	“No Conditions”	Written Conditions	Comments Attached
Jeff Kramer, City Engineer	NR				
Dan White, City Attorney	NR				
Kathleen Fernandez, IT	NR				
Jay Simonton, Utilities	NR				
Joel Olea, Streets	NR				

<i>Neighborhood Meeting</i>	<i>Comments Available</i>
NONE REQUIRED	

COMMENTS RECEIVED: NONE