



**SMALL CELL TECHNOLOGY IN PUBLIC
 RIGHT-OF-WAY APPLICATION
 PLANNING DEPARTMENT
 5111 BENITO ST, MONTCLAIR, CA 91763
 (909) 625-9478**

Requests for Small Cell Facilities in the public right-of-way, including the modification, relocation, or removal of an existing Facility in the public right-of-way, shall comply with all applicable regulations and requirements as set forth in Chapter 9.105 of the Montclair Municipal Code, Design Guidelines, and other applicable Federal, State and local laws governing such a Facility. Application is required.

PERMIT NO. _____

APPLICANT INFORMATION

Applicant/Company Name:

Applicant is a:	<input type="checkbox"/> Carrier/Wireless Provider	<input type="checkbox"/> Representative:	<input type="checkbox"/> Other
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Business Address:

City:	State:	Zip Code:
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Phone:	Email:
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APPLICANT / CONTACT PERSON NAME (This person will be contacted for all issues related to inquiry)

Name:

Address:

Email:	Day Phone:	Cell:
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PROPOSED SITE LOCATION(S)

Indicate one per application of proposed small facility proposed with this application:

Indicate physical location of each proposed site (e.g., property address if applicable or address of nearest off site location. (attach additional sheets if necessary):

Closest Street Intersection(s) (Distance and Direction from):

EXISTING POLE / STRUCTURE INFORMATION

Pole/Structure Construction? (Circle One) Existing New	Pole/Structure ID Number:
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Height of Pole/Structure (feet):	Pole material (i.e., wood, metal, concrete, structure):	Pole Color:
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Identify any existing attachments (e.g., banners, light fixtures, other utility lines, etc.) on each Pole/Structure:

POLE/STRUCTURE PROPERTY OWNER INFORMATION

The applicant shall furnish a notarized written authorization from the owner of an existing pole or other structure on which a small wireless facility collocation is proposed. Has written permission been submitted by the property owner? (Circle One)
 Yes No

Owner Name:

Address:

City:	State:	ZIP Code:
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Phone:	Email:
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APPLICATION TYPE

Please check the applicable box(es) and provide the information required below as an attachment to this Application, along with a written explanation identifying the facts relied upon to support the claimed treatment.

- Eligible Facilities Requests.** Applicant asserts that the application qualifies as an “eligible facilities request” (EFR) (as defined in 47 CFR § 1.6100(b)(3), or any successor provision). Applicant shall provide a detailed explanation as to why applicant asserts that the facility constitutes an eligible facilities request, including reference to and analysis of applicable FCC rules as they pertain to the proposed facility, and submit all information and documentation required in the Application Submittal Requirements section below. *The applicable FCC shot clock is sixty (60) days.*
- Collocation – Small Cell Facility (Existing Structure).** Applicant asserts that the application is being submitted for approval of a Collocation of a Small Wireless Facility, that is, the proposed facility both meets the definition of “small wireless facility” and is a “collocation” (both as defined by 47 C.F.R. § 1.6002). Replacements of existing structures are not “collocations.” Applicant shall submit all information and documentation required in the Application Submittal Requirements section below. *The applicable FCC shot clock is ninety (90) days (sixty (60) days if application is submitted when FCC 18-133 is in effect).*
- Small Cell Facility (New Structure).** Applicant asserts that the application is being submitted for approval to deploy a Small Wireless Facility (as defined by 47 C.F.R. § 1.6002(l)) involving placement of a new structure. Replacements of existing structures are considered new structures. Applicant shall submit all information and documentation required in the Application Submittal Requirements section below. *The applicable FCC shot clock is one hundred and fifty (150) days (ninety (90) days if application is submitted when FCC 18-133 is in effect).*
- Other Wireless Facility Expressly Permitted by State or Federal Law to be in the Right-of-Way.** Applicant asserts that the application is being submitted for approval of a type of wireless services facility that applicable state or federal laws expressly permit to be in the City’s public rights-of-way. If you checked this box, please attach an explanation of the basis for your assertion, including citations to supporting law, and state what FCC shot clock you assert applies to this application, if any. Additionally, submit all information and documentation required in the Application Submittal Requirements section below.
- Permit Renewal.** Applicant asserts that the application is being submitted for a renewal of an existing wireless encroachment permit or predecessor permit. If you checked this box, please submit a copy of the original permit, any prior renewals or extensions thereof, and the information and documentation required in the Application Submittal Requirements section below.
- Waiver Request.** Applicant asserts that its application includes a waiver request. Applicant shall include a request for a waiver, as set forth in Section 9.105.50 of the Code, and any additional information and documentation required in the Application Submittal Requirements section below. A request for waiver may be submitted at a later time if it is determined that the proposed facility, as originally submitted, will not meet the requirements and restrictions of the Code.

APPLICATION SUBMITTAL REQUIREMENTS

The following items are required as part of a complete application package for each proposed small cell facility location.

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| <ul style="list-style-type: none"> <input type="checkbox"/> Complete Application completely filled out and signed. <input type="checkbox"/> Application Fee(s) <input type="checkbox"/> Notarized written authorization from owner of each pole or structure on which a small cell facility is proposed for attachment. <input type="checkbox"/> Documentation proving that the applicant has the following: (1) authorization to use the public rights-of-way; (2) licenses to provide the proposed services; and (3) authorization to use the proposed structure. <input type="checkbox"/> Surety Bond (or Letter of Credit or Funds-Set-Aside) as per 9.105.60.N. <input type="checkbox"/> Indemnification Agreement as per 9.105.60.M. <input type="checkbox"/> Valid Insurance Certificate Policy as per 9.105.60.D. <input type="checkbox"/> Annual Certification certifying compliance with FCC's safety standards as per 9.105.60.L. <input type="checkbox"/> Proposed time schedule for the commencement and completion of the proposed Small Cell facility installation. <input type="checkbox"/> Relocation Authorization Letter <input type="checkbox"/> If the application is for an eligible facilities request or if a wireless facility already exists on the site, provide the following: <ul style="list-style-type: none"> <input type="checkbox"/> A copy of all approvals and/or permits for the tower or base station that is to be modified, and any subsequent modification permits, and of any required conditions (imposed by the City and/or third party) placed on the initial or subsequent permits <input type="checkbox"/> A showing that the facility, as modified, will be in compliance with existing conditions of the underlying | <ul style="list-style-type: none"> <input type="checkbox"/> If the application is for an eligible facilities request, provide all of the following: <ul style="list-style-type: none"> <input type="checkbox"/> Description of all changes made to the facility from the date of the original installation (whether or not approved) and the a description of the changes in height from January 22, 2012. <input type="checkbox"/> Description of all changes to be made to the existing base station and/or tower, including, among other things, identifying precisely what changes will be made to the supporting structure. <input type="checkbox"/> If a collocation, a description of why this installation qualifies as a collocation within the meaning of the FCC rules. <input type="checkbox"/> For all applications, provide a description of the proposed project that includes, without limitation, the following: <ul style="list-style-type: none"> <input type="checkbox"/> Description of the proposed facilities and equipment (e.g., dimensions and weight). <input type="checkbox"/> Description of any ground disturbance necessary to complete the proposed project. <input type="checkbox"/> Construction Permit Application. Separate fee to Engineering Department. <input type="checkbox"/> Street/Lane Closure Application & Permit (Engineering Division). Separate fee to Engineering Department. <input type="checkbox"/> Encroachment Permit. Separate fee to Engineering Department. |
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<input type="checkbox"/> Five (5) sets of complete plans fully dimensioned and drawn to a standard recognized scale (11" x 17" format/size) with the following items: <ul style="list-style-type: none"> ○ Location Map (for each location proposed with this application. Precise location information is required. ○ Color photo simulations of before and after installations and date time stamped photos after installation. ○ Site Plan showing facility in context to the site's location and immediate surroundings. ○ Plan View (top view) of antenna facility with circumference measured ○ Antenna and associated equipment specifications (e.g. meters, utility boxes, shrouds, wires/conduit, support frames, or crossbars, etc.) including all pertinent details, heights, dimensions, notations, and graphics to clearly depict the proposed installation. ○ Colors and materials of proposed small cell equipment. ○ Power Source location and authorization to connect from utility agency. 	<input type="checkbox"/> Insurance Certificate (see Standard Conditions of Approval) <ul style="list-style-type: none"> ○ Electromagnetic Fields Exposure (EMF) Report with Maximum Permissible Exposure (MPE) Safety info. ○ Electronic copies of all submitted items ○ License Agreement (if applicable) <p>By checking this box and signing below, you acknowledge and agree that the wireless encroachment permit applied for is not a substitute for a license or other agreement to use the City facility and must be separately applied for; that any deadline for action on that application will not begin to run until the complete application is submitted; and that this wireless permit application will remain incomplete until and unless a complete application for a license or other agreement is submitted to the City.</p> <p>Signature: _____ Date: _____</p> <p>Important: Applications must be submitted in-person during counter hours M-Th, 7:00a.m. to 9:00a.m. & 4:00p.m. to 5:30p.m. Email applications will not be accepted.</p>
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FEES	
<p><u>Non-Recurring Fees</u></p> <ul style="list-style-type: none"> • Collocation to existing pole/structure(s) Limit one collocation per application submittal. \$500.00 • For each application above five, \$100 additional per application. \$100.00 • New Construction (new pole or structure installation), per application. \$1,000.00 <p><u>Recurring Fees</u> (for use of space on City-Owned Poles), per year \$270 per year</p>	

CANCELLATION POLICY

If an application or an approved project(s) is/are canceled in total or in part for any reason/caused by the state/federal officials, applicant shall not be entitled to refund of the non-recurring fees.

ACKNOWLEDGEMENT

I do hereby declare, under penalty of perjury under the laws of the State of California, that all of the information in this application is true and accurate to the best of my knowledge, and that I am authorized by the applicant to make this application and to bind the applicant to the conditions of approval set forth herein. I further agree on behalf of the applicant to comply with all conditions of this permit approval, all applicable provisions of the Montclair Municipal Code and all Design Guidelines. I further agree on behalf of applicant to maintain all required insurance as specified by the City Risk Manager in the attached Insurance Requirements, and to indemnify, defend and hold harmless the City of Montclair from any liability as a result of granting this permit as set forth in the attached Indemnification Agreement.

Signature: _____ Date: _____

Typed or printed name of authorized representative: _____

Title of authorized representative: _____

CITY USE ONLY		CASHIER VALIDATION		
SUBMITTAL DATE:	FILING FEE:			
<u>COMMUNITY DEVELOPMENT</u> <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED	BY:			DATE:
	BY:			DATE:
<u>PUBLIC WORKS</u> <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED	BY:	DATE:		

Standard Conditions of Approval

ORDINANCE NO. 19-980

9.105.60 Standard Conditions of Approval

All applications approved to install a small cell facility within the public right-of-way shall be subject to the following standard conditions of approval, in addition to any supplemental conditions imposed by the City and other sections of this Ordinance, unless modified by the Director:

- A. Installation Time Frame. Approved small cell facilities within the public right-of-way shall be fully complete per approved plans within 180 days from the date of approval.
1. An applicant may submit a written request for a time extension to the Community Development Director for an extended time frame not to exceed 180 days from the last day of the previous approval time frame.
 2. Requests for a time extension shall be submitted in writing to the Community Development Director at least 10 calendar days prior to the expiration date of the initial small cell facility approval date. Requests for the time frame extension shall provide a reason for the delay.
 3. Failure to complete the project within above specified periods shall deem the project approval null and void and require the removal of all work performed in the right-of-way or require the submittal of a new project application and payment of associated fees, including the cost for new building and/or public works permits.
- B. Permit Duration. A small cell permit shall be valid for a period of ten (10) years, unless pursuant to another provision of the Code or these conditions, it expires sooner or is terminated. At the end of ten (10) years from the date of issuance, such Permit shall automatically expire, unless an extension or renewal has been granted. A person holding a small cell permit must either (1) remove the small cell facility within thirty (30) days following the permit's expiration (provided that removal of support structure owned by City, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the City); or (2) at least ninety (90) days prior to expiration, submit an application to renew the small cell permit, which application must, among all other requirements, demonstrate that the impact of the small cell facility cannot be reduced. The small cell facility must remain in place until it is acted upon by the City and all appeals from the City's decision exhausted.
- C. Other Permits Required. Upon the approval a Small Cell Facility Application, and prior to the commencement of work in the public right-of-way, the applicant shall obtain all required public works and/or building permits to construct and/or install the approved Small Cell Facility and pay all applicable fees.
- D. Insurance. Permittees obtaining a permit to install a small cell facility in the public right-of-way, its successors and assigns, at its expense, and without cost to the City, shall procure and maintain a single limit commercial general liability insurance policy for bodily injury and property damage and general aggregate amount as determined by the City Risk Manager. All coverages are to be arranged on an occurrence basis and include coverage for those hazards normally identified during construction. All insurance coverage required herein shall be written in a form and by a company or companies reasonably approved by the Risk Manager of the City of Montclair and authorized to do business in the State of California. All such insurance policies shall be specifically endorsed to include all liability assumed by the Permittee hereunder and shall name the City of Montclair as an additional insured as its interest may appear under this Permit.
- E. Transferability. The approval to operate a small cell facility within the public right-of-way may be transferred to a new person upon written notice to the City if no change to the physical configuration of the approved facility is proposed. A new person seeking to make changes to the physical components of an existing approved facility and/or desiring to upgrade to new technology may be subject to the requirement of submitting a new application and review process to utilize the subject location.
- F. Emergency Contact and Access. The Permittee shall provide a contact person and phone number where a live individual can be contacted in the event of an emergency. In the event of an emergency, the City or its designee may enter onto the facility to inspect upon a 24 hours' notice to the Permittee. The permittee shall cooperate with all inspections and may be present for any inspection of its facility by the City. The City reserves the right to enter or direct its designee to enter the facility and support, repair, disable, or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.
- G. Maintenance. The Permittee shall continually maintain the appearance of all components related to the small cell facility or wireless support structure. A description of the anticipated maintenance and monitoring program for the antennae and back-up equipment, including frequency of maintenance services, back-up service plans for disruption of service due to repair, maintenance or monitoring activities shall be provided to the City and kept on file for reference at any time.
- H. Generally Applicable Health and Safety Regulations. All Small Cell Facilities shall be designed, constructed, operated, and maintained in compliance with all generally applicable federal, state, and local health and safety regulations, including, without limitation, all applicable regulations for human exposure to RF emissions.
- I. No Liability. The City shall not be liable to the Permittee by reason of inconvenience, annoyance, or injury to the Small Cell Facilities and related ground or pole-mounted equipment or activities conducted by the Permittee therefrom, arising from the necessity of repairing any portion of the public right-of-way, or from the making of any necessary alteration or improvements, in or to, any portion of the Public right-of-way, or in, or to, City's fixtures, appurtenances, or equipment.

- J. Signal Interference Prohibited. In the event that a Permittee's Small Cell Facility interferes with the public safety radio system, or the City's or State of California's traffic signal system, then the Permittee shall, at its cost, immediately cooperate with the City to either rule out Permittee as the interference source or eliminate the interference. Cooperation with the City may include, but shall not be limited to, temporarily switching the transmission equipment on and off for testing.
- K. Annual Fee for Use of City-Owned Structures. For small cell facilities installed on City-owned structures, the Permittee shall be required to pay the annual fee established in the master license agreement with the City.
- L. Annual Certification. On or before January 15th of every year after commencing operations, the Permittee shall submit written confirmation to the City that each facility is operating as approved. The certification shall indicate that the facility is operating as approved and that the facility complies with the most current FCC safety standards.
- M. Indemnification. The Permittee and, if applicable, the owner of the property on which the Small Cell Facilities or Wireless Support Structures in the Public right-of-way are installed shall indemnify, protect, defend, and hold the City and its elected officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the Permittee who owns or operates Small Cell Facilities and wireless service in the Public right-of-way, any agent, officer, director, representative, employee, affiliate, or subcontractor of the Permittee, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining facilities in the Public right-of-way.
- N. Surety Bond. All owners must procure and provide to the City a bond, or provide proof of an equivalent financial mechanism, to ensure compliance with all provisions of this Chapter. The bond must be maintained for as long as the owner has Small Cell Facilities and/or Wireless Support Structures located in the Public right-of-way. The bond or equivalent financial method must specifically cover the cost of removal of unused or Abandoned Small Cell Facilities, Wireless Support Structures, and all other related facilities and equipment, based on the greater of two contractors' quotes for removal that are provided by the Permittee, and damage to City property caused by a Permittee or its agent of each Small Cell Facility and/or Wireless Support Structure in case the City has to remove or pay for its removal. Two acceptable alternatives to a bond include a funds set-aside and a letter of credit.
- O. Priority of City Right-of-Way Improvements. All small cell facilities located and/or utilizing existing structures, within the public right-of-way are subject to modification and/or relocation as the result of right-of-way improvements due to:
1. New development on private property requiring or conditioned to underground existing overhead wires and utility poles; or
 2. Implementation of a City Council approved capital improvement project (CIP) necessitating removal or placement of existing overhead wires, utility poles, and/or other structures underground.
- P. Relocation of A Small Cell Facility. The relocation of any small cell facility shall require the submittal and approval of a new project application and payment of associated processing and permit fees.
- Q. City Removal for Safety and Imminent Danger Reasons. In the event that the installation or operation of a small cell facility is determined by the City Engineer or Building Official to pose an imminent danger to the public, health, safety, or welfare, then the City may:
1. Order the Permittee to take immediate action, at the Permittee's sole cost and expense, to remedy the dangerous condition(s), including the requirement to disconnect, remove, or relocate all, or a component of, the applicable Small Cell Facility; or
 2. Upon the failure of the Permittee to promptly remedy the dangerous condition, the City, at the Permittee's sole cost and expense, may take appropriate action to address the dangerous condition(s), including the disconnection, removal, or relocation of any component of the Small Cell.
- R. Removal/Abandonment of Facilities. Any small cell facility that ceases to be operational for a period of more than 180 days, without due cause as approved by the City, shall be considered to be abandoned. Abandoned facilities shall, at the Permittee's sole cost and expense, be removed in its entirety from the public right-of-way, with 60 days or notice from the City.
- S. Restoration. The Permittee shall repair, at its sole cost and expense, any damage to the public right-of-way, any facilities or landscaping located within the Public right-of-way, and/or the property of any third party resulting from the Permittee's installation, removal, or relocation activities (or any other of the Permittee's activities hereunder) within ten (10) calendar days following the date of such activities. Restoration of the public right-of-way and such property must be to substantially the same condition as it was immediately before the date that the Permittee was granted a Small Cell Permit for the applicable location, or did the work at such location (even if the Permittee did not first obtain a Small Cell Permit). This includes restoration or replacement of any damaged trees, shrubs, or other vegetation. Such repair, restoration, and replacement shall be subject to the approval of the Community Development Director and/or Public Works Director.
- T. Changes in State or Federal Standards and Regulations. When required by any revised applicable state or federal standards and regulations, the owners of the Small Cell Facilities governed by this chapter shall bring any facilities and/or structures into compliance with the revised standards and regulations within six months of the effective date of the standards and regulations,

unless a different compliance schedule is mandated by the regulating agency. Failure to bring Small Cell Facilities into compliance with any applicable revised standards and regulations shall constitute grounds for removal at the owner's expense.

- U. Tree and Vegetation Trimming. The Permittee and its contractors and agents shall obtain prior written permission from the City Public Works Director before removing or trimming any trees or other vegetation in the public right-of-way to install or maintain clearances for a small cell facility. When trimming trees or vegetation on private property, the Permittee and its contractors and agents shall notify the City and obtain prior written permission from the affected property owner(s). Improper pruning or "topping" of trees is prohibited and may result in fines and/or require replacement of the tree, at the Permittee's sole cost and expense, to the satisfaction of the Community Development Director. The City shall not be liable for any damages, injuries, or claims arising from the Permittee's actions under this section.
- V. Noise. The Permittee is required to incorporate ambient noise suppression measures and/or to place the equipment in locations less likely to impact adjacent residences or businesses to ensure compliance with all applicable noise regulations.
- W. Code Compliance. The Permittee shall at all times maintain compliance with all applicable federal, state, and local laws, regulations and other rules, including, without limitation, those applying to the use of public right-of-way.
- X. No waiver of standing. The city's grant of a permit for a small cell facility request does not waive, and shall not be construed to waive, any standing by the city to challenge any FCC orders or rules related to small cell facilities, or any modification to those FCC orders or rules.

9.105.70 Standard Conditions of Approval – Eligible Facilities Requests

In addition to the conditions imposed by the Director, all permits for an eligible facility requests granted pursuant to this Article shall be subject to the following additional conditions, unless modified by the Director:

1. Permit subject to conditions of underlying permit. Any permit granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit.
2. No permit term extension. The city's grant or grant by operation of law of an eligible facilities request permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. Notwithstanding any permit duration established in another permit condition, the city's grant or grant by operation of law of a eligible facilities request permit will not extend the permit term for the underlying permit or any other underlying regulatory approval, and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.
3. No waiver of standing. The city's grant or grant by operation of law of an eligible facilities request does not waive, and shall not be construed to waive, any standing by the city to challenge Section 6409(a) of the Spectrum Act, any FCC rules that interpret Section 6409(a) of the Spectrum Act, or any modification to Section 6409(a) of the Spectrum Act.