

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2011-13

3 INTRODUCED BY:

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10 AN ORDINANCE

11 REPEALING SECTION 14-6.2(E) SFCC 1987 AND CREATING A NEW SECTION 14-
12 6.2(E) SFCC 1987 REGARDING TELECOMMUNICATIONS FACILITIES OUTSIDE
13 PUBLIC RIGHTS-OF-WAY AND MAKING SUCH OTHER NECESSARY CHANGES.

14
15 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

16 Section 1. Section 14-3.1(F)(2) SFCC 1987 (being Ord. #2001-38, §2 as amended)

17 is amended to read:

18 (2) Applicability

19 Early neighborhood notification is required for:

20 (a) Certain applications heard before the Planning Commission as follows:

21 (i) Annexations;

22 (ii) Master plans;

23 (iii) Rezonings;

24 (iv) *(Reserved)

25 (v) Final development plans where a preliminary plan has not

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- previously been approved;
- (vi) Preliminary subdivision plats;
- (vii) Final subdivision plats where a preliminary plat has not previously been approved;
- (viii) Vacation and dedication of rights-of-way;
- (ix) Variances;
- (x) Amendment to any of the preceding;
- (xi) Amendments to final development plans;
- (xii) Amendments to final subdivision plats;
- (xiii) Amendments to the Future Land Use Map of the General Plan; ~~and~~
- (xiv) Escarpment overlay district appeals[-];
- (xv) Telecommunications facilities as set forth in §14-6.2(E); and
~~[(xv)](xvi)~~ Electric facilities as set forth in §14-6.2(F).
- (b) Special exceptions except those for mobile homes;
- (c) Variances heard before the Board of Adjustment, except those requesting construction or modification of an individual single family dwelling and appurtenant accessory structures or those requesting a reduction in the total parking requirements of 5 or fewer spaces;
- (d) City capital improvement projects requiring review by the Governing Body as follows:
 - (i) Facility plans for municipal facilities or services, including wastewater, solid waste, potable water, and airport facilities;
 - (ii) New projects or projects to expand or extend service to new service areas included in the capital improvement program or General Plan;

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- (iii) Any new road construction or reconstruction of an existing road that materially expands capacity; and
- (iv) Projects funded out of capital impact fee funds.
- (e) The following types of capital improvement projects shall not require early notification:
 - (i) Replacement, repair or maintenance of underground facilities where such activity does not represent a material expansion of existing facilities.
 - (ii) Road maintenance, repair, surfacing or resurfacing, striping, curb and gutter or sidewalk repair or maintenance, sign maintenance, signal repair, shoulder work, bridge or culvert maintenance work; and
 - (iii) Special assessment districts covered by state statute or City ordinance.
- (f) Development plans heard before the Business Capitol District Design Review Committee as required in §14-3.8(A) and amendments to those development plans.

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1 **Section 2. Table 14-6.1-1 SFCC 1987 “PERMITTED USES” regarding**

2 **Telecommunications shall be amended as follows:**

Category	Specific Use	R R	R 1 - R 6	R 7- R 9	R 7 (I)	R C	R M	R A C	M H P	C 1	C 2	C 4	H Z	B C D	I 1	I 2	B I P	S C 1	S C 2	S C 3	MU	Use- Specific Regs (See Section 14-6.2)
Telecom- munications	Telecom- munications facilities		S	S	S	S	S	S		P/ S	P/ S	P/ S	P/ S	P/ S	P/ S	P/ S	P/ S	S	S	S		(E)(1- 12)
Telecom- munications	Telecom- munications facilities	Permitted as set forth in §14-6.2(E) (for facilities in public rights of way see Article 27-2 SFCC 1987)																				

3
4 **Section 3. [REPEAL.] Section 14-6.2(E) SFCC 1987 (being Ord. #2001-38, §2**

5 **as amended) is repealed.**

6 **Section 4. [NEW MATERIAL.] A new Section 14-6.2(E) SFCC 1987 is ordained**

7 **to read:**

8 **(E) Telecommunications Facilities**

9 (1) Purpose

10 The purposes of §14-6.2(E) are to:

11 (a) Comply with applicable federal and state mandates regarding the provision
12 of telecommunications services;

13 (b) Create an even playing field consistent with the 1996 Telecommunications
14 Act’s “competitively neutral” mandate for local government regulation of
15 telecommunications providers;

16 (c) Promote regulatory certainty;

17 (d) Minimize adverse land use impacts of towers and antennas by:

18 (i) Encouraging the location of towers in nonresidential districts in
19 order to preserve the character of Santa Fe neighborhoods;

1 (ii) Requiring co-location of antennas, minimizing new tower sites, and
2 encouraging the use of minimally visually intrusive technology to
3 the maximum extent technically feasible; and

4 (iii) Requiring careful design, siting, landscape screening, innovative
5 camouflaging techniques (minimally visually intrusive technology),
6 consistent with applicable state and federal requirements, including
7 FAA requirements; and

8 (e) Enhance the ability of telecommunications services providers to provide
9 telecommunications services to the community quickly, effectively and
10 efficiently.

11 (2) Applicability

12 (a) §14-6.2(E) shall apply to all towers and antennas located within the City's
13 jurisdiction, whether upon private or public lands, except as provided in
14 §14-6.2(E)(2)(b).

15 (b) Except as otherwise noted, §14-6.2(E) shall not apply to the following:

16 (i) Towers and antennas located within the City's public rights-of-way
17 for which a franchise agreement is required pursuant to Article 27-
18 2;

19 (ii) Towers and antennas located on state or federal land, except to the
20 extent the City has jurisdiction over the same by law or by contract;

21 (iii) Towers under 70 feet in height used for receive-only antennas that
22 are owned and operated by a federally-licensed amateur radio
23 station operator or otherwise used exclusively for receive-only
24 antennas;

25 (iv) Towers or antennas existing prior to March 25, 1998 or for which a

1 building permit had been issued prior to March 25, 1998;

2 (v) Towers or antennas constructed or installed on City owned
3 property pursuant to a lease with the City approved by the
4 Governing Body prior to _____, 2011 (the effective date
5 of this ordinance);

6 (vi) Towers and antennas used exclusively for emergency services,
7 including police, fire and operation of the City water utility;

8 (vii) Antennas and other over-the-air receiving devices for the reception
9 of video images which do not exceed one meter in diagonal length
10 or diameter or are designed to receive television broadcast signals
11 only, provided that any such antenna located in an Historic District
12 and on residentially zoned property shall, to the maximum extent
13 technically feasible without requiring new or additional
14 construction, be screened from the view of adjacent properties and
15 public rights-of-way unless such screening would create a greater
16 visual impact than the unscreened antenna. Screening may include
17 existing parapets, walls, or similar architectural elements, provided
18 that it is painted and texturized to integrate with the architecture of
19 the building or other structure, or landscaping;

20 (viii) Maintenance, repair and replacement in kind of existing
21 telecommunications facilities and maintenance or improvements to
22 existing infrastructure, such as painting over graffiti on walls or
23 renewing landscaping; or

24 (ix) The modification of existing telecommunications facilities to the
25 extent that there is no significant visual impact.

1 (3) Administrative Approval

2 Administrative approval as set forth in this paragraph (4) is separate from and
3 required prior to the submittal of a required building permit application.

4 (a) The following shall require submittal of an application for administrative
5 review and approval.

6 (i) The addition of an antenna to an existing tower or structure;

7 (ii) Relocation of an existing tower to within 50 feet of the original
8 tower site;

9 (iii) New towers in C-2, I-1 and I-2 districts;

10 (iv) Face-mounted and roof mounted antennas, painted and texturized
11 to match the building or structure to which they are attached; and

12 (v) Tower alternatives.

13 (b) Applications for administrative approval shall comply with the
14 requirements of §14-6.2(E).

15 (c) Administrative approval shall not be granted for new antennas in the
16 historic, escarpment or south central highway corridor overlay districts.

17 (d) The following provisions shall govern administrative approvals for towers
18 and antennas:

19 (i) Applicants shall submit an application to the Land Use Department
20 providing the information required by §14-6.2(E)(6).

21 (ii) The Land Use Department shall, within 30 days of receiving a
22 complete application for administrative approval, review and
23 approve such applications if the application complies with the
24 requirements of §14-6.2(E). Denial of an application for
25 administrative approval shall be in writing and shall set forth the

1 reasons for such denial and shall constitute a final action and
2 subject to appeal pursuant to §14-3.17.

3 (4) Planning Commission and Historic Design Review Board Review Required

4 (a) Any tower or antenna that is not otherwise permitted or administratively
5 approved shall be reviewed and approved by the Planning Commission for
6 compliance with this section and all applicable City codes. In approving an
7 application, the Planning Commission shall determine that:

- 8 (i) The application is in compliance with §14-6.2(E);
- 9 (ii) The proposed telecommunications facilities are necessary in order
10 to close a demonstrated significant gap in service coverage of the
11 applicant;
- 12 (iii) The applicant has demonstrated that no other less intrusive means
13 or alternative to the proposed telecommunications facilities siting
14 and design exists;

15 (b) Any tower or antenna that is located in an Historic District and is not
16 otherwise permitted or administratively approved shall be reviewed and
17 approved by the Historic Design Review Board in accordance with such
18 requirements of §14-5.2 as may be applicable and in accordance with this
19 section as follows. In approving an application, the Historic Design Review
20 Board shall determine that:

- 21 (i) The application is in compliance with applicable requirements of
22 §14-5.2 and §14-6.2(E); and
- 23 (ii) The applicant has demonstrated that no other less intrusive means
24 or alternative to the proposed telecommunications facilities siting
25 exists.

1 (c) The Planning Commission or the Historic Design Review Board may not
2 regulate the placement of telecommunications facilities on the basis of the
3 environmental effects of radio frequency emissions where such
4 telecommunications facilities comply with 47 C.F.R. 1.1310 et seq.

5 (d) The Planning Commission or the Historic Design Review Board may place
6 conditions upon its approval of the application, but the conditions shall not
7 prohibit or have the effect of prohibiting the provision of
8 telecommunications services.

9 (e) Any denial of an application or any approval of an application with
10 conditions not approved by the applicant shall:

11 (i) Be in writing;

12 (ii) Cite to the administrative record; and

13 (iii) Shall not become final until the writing is approved by the Planning
14 Commission or Historic Design Review Board, as applicable, at its
15 next regularly scheduled meeting.

16 (d) The Planning Commission and Historic Design Review Board shall
17 conduct concurrent but not joint review of applications submitted under this
18 section.

19 (5) General Requirements

20 All towers and antennas, whether administratively approved or requiring Planning
21 Commission or Historic Design Review Board approval, shall comply with all
22 applicable City codes and with the following:

23 (a) Zoning Districts; Location

24 Telecommunications facilities are permitted in all zoning districts in
25 accordance with the requirements of §14-6.2(E). However, to the

1 maximum extent technically feasible, telecommunications facilities shall be
2 sited:

- 3 (i) On existing structures;
- 4 (ii) In nonresidential districts; and
- 5 (iii) In C-2, I-1 and I-2 districts.

6 (b) Maximum Height

7 Telecommunications facilities located on existing structures shall not
8 exceed the height of the structure upon which the facility is located unless
9 otherwise permitted under this Section. Telecommunications facilities
10 located on new structures shall not exceed the maximum height for
11 buildings otherwise permitted as set forth in this Chapter with the exception
12 that in C-2, I-1 and I-2 districts the height limit of telecommunications
13 facilities shall be 100 feet.

14 (c) Aesthetic Requirements

15 Subject to applicable federal standards and design and safety codes, the
16 following criteria shall be met:

- 17 (i) Telecommunications facilities shall be installed underground to the
18 maximum extent technically feasible.
- 19 (ii) If above ground, the telecommunications facilities shall be
20 designed, installed and maintained in such a manner as to minimize
21 the visual impact upon adjacent lands, public rights-of-way and
22 residentially zoned property. Acceptable methods to minimize
23 visual impact shall include, but not be limited to: concealment,
24 screening, camouflaging, color, materials, texture, shape, size and
25 location.

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(iii) Consideration shall be given to minimize disruption to or alteration of the natural land forms and landscape.

(iv) Permanent lighting of telecommunications facilities shall not be permitted unless there is no alternative available to comply with federal law in which case all proposed lighting shall be shown in the application. Permanent lighting shall not include equipment status indicator lights not exceeding 15 watts of power.

(d) Archeological Requirements

Compliance with §14-5.3 SFCC 1987 regarding the City's archeological review districts is required.

(e) Signs

No signs are permitted unless required for safety reasons or otherwise in compliance with federal, state or local law, or unless permitted by the City.

(f) Property Maintenance

All above ground telecommunications facilities shall be maintained so as to be safe, orderly, attractive and in conformity with all applicable City codes and regulations, including with respect to the removal of weeds, trash and graffiti. All lockable telecommunications facilities shall be kept locked when not being actively serviced. All non-lockable telecommunications facilities shall be kept closed when not being actively serviced. All telecommunication facilities shall be kept free of graffiti.

(g) Noise

All telecommunications facilities shall be designed, constructed and installed in such a manner as to minimize noise to the maximum extent feasible, but in no event shall noise exceed the standards set forth in Article

1 10-2 SFCC 1987.

2 (h) Restoration of Improvements

3 Promptly upon completion of any tower or antenna construction, all public
4 and private property improvements, landscaping, fixtures, structures and
5 facilities damaged in the course of construction shall be restored to a
6 condition not less than its condition before commencement of construction
7 or as otherwise agreed to by the applicant.

8 (i) Airport

9 Any telecommunications facilities within the Class D airspace surrounding
10 the Santa Fe airport shall be constructed in conformity with all applicable
11 FAA regulations. A copy of any submittals required to be made to the
12 FAA shall be provided to the City's airport manager at the time such
13 submittal is made to the FAA.

14 (j) Co-location Requirement

15 A telecommunication facility shall not be approved unless the applicant and
16 the telecommunications owner agree to permit on a nondiscriminatory
17 basis, to the maximum extent technically feasible, the co-location of other
18 telecommunication facilities upon commercially reasonable terms on the
19 approved telecommunications facility.

20 (k) Tower Setbacks and Separation Distances Between Towers

21 All towers shall be set back a distance equal to at least 100 percent of the
22 height of the tower from any adjoining lot line, measured from the base of
23 the tower. No tower shall be closer than 1000 linear feet from another
24 tower, measured from the base of the towers.

25 (6) Application Submittal Requirements

1 (a) All applications shall be in writing in a form prescribed and as necessary
2 updated by the Land Use Department. If an application is determined to be
3 incomplete, the Land Use Director shall provide written notice to the
4 applicant no later than 10 business days after the submittal date of missing
5 and incomplete items. Applicants submitting for Planning Commission
6 approval pursuant to Article 27-2 SFCC 1987 may, but need not, include
7 telecommunications facilities located outside the public rights-of-way in
8 that submittal.

9 (b) All applications for telecommunications facilities shall include the
10 following:

11 (i) An application letter describing the proposed telecommunications
12 facilities;

13 (ii) A scaled site plan clearly indicating the location, type and height of
14 the telecommunications facilities, on-site land uses and zoning,
15 adjacent land uses and zoning (including when adjacent to other
16 jurisdictions), adjacent roadways, proposed means of access,
17 setbacks from property lines, elevation drawings of the proposed
18 telecommunications facilities and any other structures, equipment
19 cabinets, topography, parking and other information deemed by the
20 Land Use Department to be necessary to assess compliance with
21 §14-6.2(E);

22 (iii) The setback distance between the proposed telecommunications
23 facilities and any adjacent residentially zoned property or business
24 capitol district zoned property;

25 (iv) A map and corresponding inventory of telecommunications

1 facilities owned or operated by the applicant within the City's
2 jurisdiction and three miles thereof including the location, height
3 and design type of each antenna and tower as follows:

- 4 A. Proposed telecommunications facilities for which an
5 approval is being sought;
- 6 B. Existing telecommunications facilities;
- 7 C. Approved but not yet constructed telecommunications
8 facilities; and
- 9 D. Additional telecommunications facilities proposed in the
10 12 months immediately following the application submittal
11 date.

12 (v) A radio frequency (RF) coverage map showing the level of existing
13 RF coverage and RF coverage after construction of the proposed
14 telecommunications facilities;

15 (vi) A search ring map illustrating the area within which the applicant
16 explored for potential telecommunications facilities sites;

17 (vii) An analysis assessing the feasibility of alternative sites to the one
18 proposed, including the potential for co-location, in the vicinity of
19 the proposed site, including an explanation of why other sites were
20 not selected for siting;

21 (viii) An analysis assessing the feasibility of alternative antenna
22 configurations, both at the proposed site and in the surrounding
23 vicinity, that might result in less visual impact, including an
24 explanation of why other antenna configurations were not selected;

25 (ix) Technical information supporting the proposed height of the

1 proposed antenna mount;

2 (x) Written and notarized certifications by the applicant as follows:

3 A. That co-location, to the maximum extent technically
4 feasible and upon commercially reasonable terms, will be
5 permitted if the application is approved, or an explanation
6 of why co-location is not technically feasible;

7 B. To the extent that the proposed telecommunications
8 facilities are located in the historic, escarpment or south
9 central highway corridor overlay districts or do not comply
10 with the priorities set forth in §14-6.2(E)(5)(a), that the
11 applicant has investigated alternative siting and that no
12 other practicable alternative exists;

13 C. That the proposed telecommunications facilities comply
14 with all applicable federal and state requirements,
15 including without limitation, safety standards, National
16 Historic Preservation Act requirements for the siting of
17 facilities that are listed or are eligible for listing in the
18 National Register of Historic Places and all franchises,
19 leases and other contracts, if any, for the use of real
20 property required by any regulatory body with jurisdiction,
21 for the construction and/or operation of
22 telecommunications facilities in the City have been
23 obtained;

24 D. That the proposed telecommunications facilities are
25 necessary to close a defined and significant gap in service

1 coverage and that the proposed facilities are the least
2 intrusive method to do so; and

3 E. That the applicant will remove the proposed
4 telecommunications facilities if required to pursuant to
5 §14-6.2(E)(11) and that if the applicant fails to do so, the
6 City may remove such facilities at the applicant's expense
7 and such expense, if unpaid upon demand, shall constitute
8 a lien upon the property where such facilities are located.
9 In the event that the applicant is not the owner of such
10 facilities and property, the applicant shall provide
11 certification to this effect by the owner of such facilities
12 and such property.

- 13 (xi) A traffic control plan as required by §23-2.17 SFCC 1987;
- 14 (xii) Construction drawings sealed by a licensed Professional Engineer;
- 15 (xiii) Written acknowledgment by the applicant that the application and
16 related submittals constitute a public record under the New Mexico
17 Inspection of Public Records Act and are required to be made
18 available to members of the public for inspection upon request in
19 accordance with City practice; and
- 20 (xiv) Such other information as may reasonably be required by the Land
21 Use Director.

22 (7) Fees

23 Applications shall be accompanied by a nonrefundable fee as established by
24 resolution of the Governing Body.

25 (8) Waivers

1 (a) The Planning Commission may grant a waiver of the standards set forth in
2 §14-6.2(E) or otherwise within its jurisdiction only if the Commission finds
3 that said waiver:

- 4 (i) Is in the best interest of the community as a whole;
- 5 (ii) Will expedite the approval of an antenna or tower;
- 6 (iii) Will not jeopardize the public health, safety and welfare;
- 7 (iv) Will either mitigate the adverse visual impacts of antenna and
8 tower proliferation or inhibit the construction of new towers or
9 antennas;
- 10 (v) Will better serve the purposes set forth in §14-6.2(E)(1); and
- 11 (vi) If the proposed site is located in the escarpment or south central
12 highway corridor overlay districts, that the applicant has
13 demonstrated to the satisfaction of the Planning Commission that it
14 has explored all alternatives to the proposed site and to the
15 proposed design.

16 (b) Factors to be considered in granting a waiver include:

- 17 (i) The design of the proposed telecommunications facilities, with
18 particular reference to design elements that reduce or eliminate
19 adverse visual impact including lighting;
- 20 (ii) The nature of uses on adjacent and nearby properties, including
21 proximity to residentially zoned property, the business capital
22 district and historic, escarpment and south central highway corridor
23 overlay districts;
- 24 (iii) The surrounding topography;
- 25 (iv) The surrounding vegetation;

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- (v) The availability of existing towers or other structures for co-location or of alternative antenna configurations with less visual impact;
- (vi) The proposed ingress and egress; and
- (vii) Improved telecommunications services to City residents and institutions.

(c) The Historic Design Review Board may grant a waiver of the standards set forth in §14-6.2(E) or otherwise within its jurisdiction only if the Board finds that:

- (i) The applicant has demonstrated to the satisfaction of the Board that it has explored all alternatives to the proposed site in the Historic District and to the proposed design; and
- (ii) The conditions of §14-5.2(C)(5)(c)(i)(ii)(iii) and (v) and (vi) have been met.

(9) Appeals

Appeals shall be made in accordance with §14-3.17 SFCC 1987.

(10) Notice

(a) Administrative Approvals

Applications for Administrative Approvals shall comply with the following notice requirements:

- (i) Within 24 hours of submitting an application to the Land Use Department, the applicant shall provide notification by Certificate of Mailing, proof of which is submitted to the Land Use Department to be included with the application, to all property owners and addresses within 200 feet of the proposed site,

1 exclusive of right-of-way and if the proposed site lies within the
2 boundaries of a neighborhood association that has been listed with
3 the Land Use Department, to such neighborhood association.

4 (ii) Within 24 hours of submitting an application to the Land Use
5 Department, the applicant shall post at the proposed tower or
6 antenna site a public notice poster provided for the purpose by the
7 Land Use Department. Such notice shall be prominently displayed,
8 visible from a public street. The applicant shall use its best efforts
9 to ensure that the poster remains in place until the appeal period as
10 set forth in §14-3.17 has expired.

11 (iii) The notification and poster shall describe generally the
12 telecommunications facilities proposed for the site and identify the
13 applicant, the nature of the application, the proposed tower or
14 antenna site and the contact phone number of the Land Use
15 Department.

16 (b) Early Neighborhood Notification

17 Applications for review by the Planning Commission shall comply with the
18 early neighborhood notification procedures set forth in §14-3.1(F)(2)(a).

19 (c) Public Hearings

20 Notice of public hearing shall comply with §14-3.1(H).

21 (11) Removal of Abandoned Towers and Antennas

22 (a) This paragraph shall apply to all towers and antennas regardless of the date
23 of construction.

24 (b) Any antenna or tower that is not used for the provision of
25 telecommunications services for a continuous period of six months shall be

1 deemed to be abandoned and the owner of such antenna or tower shall
2 remove the same within 90 days of receipt of notice from the City notifying
3 the owner of the telecommunications facilities and the owner of the
4 property upon which such telecommunications facilities are located.

5 (c) Failure to remove an abandoned tower or antenna within such 90 days shall
6 be grounds to remove the same at the expense of both such parties. The
7 City may file a lien on the property where such telecommunications
8 facilities are located for the expenses incurred by the City including the
9 costs associated with filing the lien.

10 (12) Enforcement

11 The Land Use Director has the authority to interpret §14-6.2(E) in accordance with
12 the purpose of §14-6.2(E) and shall administer and enforce the provisions of §14-
13 6.2(E).

14 **Section 5. Section 14-6.2(G) SFCC 1987 (being Ord. #2006-70, §1) shall be**
15 **amended to delete all references to “telecommunications”.**

16 **Section 6. [REPEAL.] The following definitions in Article 14-12 SFCC 1987**
17 **(being Ord. #2008-1, §2 as amended) shall be repealed.**

18 **CABLE OPERATOR**

19 A telecommunications owner providing or offering to provide "cable service" within the City as that
20 term is defined in the Cable Act.

21 **EXCESS CAPACITY**

22 As used in §14-6.2(E), the surplus volume or surplus space in any existing or future duct, conduit,
23 manhole, handhole, pole, tower, structure or other utility facility that is or will be available for use
24 for additional telecommunications facilities.

25 **LEASABLE CITY PROPERTY**

1 As used in §14-6.2(E), all real property owned by the City, including public rights-of-way, utility
2 easements, fee simple ownership, rented facilities, and all property held in a proprietary capacity by
3 the City, so long as said property is designated for use by telecommunications providers upon the
4 current Telecommunications Leasable Areas Map or is in fact in use by a telecommunications
5 provider for telecommunications purposes.

6 **USABLE SPACE**

7 As used in §14-6.2(E), the total existing capacity of a tower, conduit, pole, building or other
8 structure physically available for siting telecommunications facilities.

9 **Section 7. [NEW MATERIAL.] The following definition shall be added to**
10 **Article 14-12 SFCC 1987:**

11 **TELECOMMUNICATIONS**

12 (A) All transmissions between or among points specified by the user of information of
13 the user's choosing (whether voice, video, or data), without change in the form or content of the
14 information as sent and received, where such transmissions are accomplished by means of a
15 telecommunications network.

16 (B) Telecommunications shall not include the following services:

- 17 (1) Cable services as defined in Title 47, Chapter 5, Subchapter V-A of the
18 United States Code, as amended (47 USC § 521 et seq.); or
19 (2) Telecommunications services provided and used by a public utility as that
20 term is defined at § 62-3-3(G) NMSA 1978, or successor statute, for (i) the
21 utility's internal system communication needs; and (ii) provided directly or
22 indirectly to its customers, including but not limited to electronic meter
23 reading, load control, demand side management, power quality monitoring,
24 and other activities related to the delivery of electricity or natural gas or
25 water.

1 **Section 8. The following definitions in Article 14-12 SFCC 1987 (being Ord.**
2 **#2008-1, §2 as amended) are amended to read:**

3 **TELECOMMUNICATIONS FACILITIES**

4 [~~The plant, equipment and property, including but not limited to, fiber optic lines, cables, wires,~~
5 ~~conduits, ducts, pedestals, towers, antennas, electronics and other appurtenances used or to be used~~
6 ~~to transmit, receive, distribute, provide or offer telecommunications services.] The inside and
7 outside plant equipment and property, including but not limited to, fiber optic lines, cables, wires,
8 conduits, ducts, pedestals, underground vaults, towers, poles, antennas, electronics and other
9 appurtenances whatsoever used or to be used to transmit, receive, distribute, provide or offer
10 telecommunications services.~~

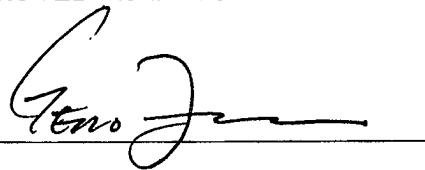
11 **TELECOMMUNICATION SERVICES**

12 [~~The providing or offering for rent, sale or lease, or in exchange for other value received, of the~~
13 ~~transmittal of voice, data, image, graphic and video programming information between or among~~
14 ~~points excluding only cable services.] The offering of telecommunications within the City's
15 jurisdiction for a fee directly to the public, or to such classes of users as to be effectively available
16 directly to the public, regardless of the facilities used.~~

17 **UTILITY PROVIDER**

18 As used in §14-6.2(G), electric[~~, telecommunication,~~] or cable service providers or their contractors
19 constructing electric, telecommunication or cable utility lines.

20 APPROVED AS TO FORM:

21 
22 _____

23 GENO ZAMORA, CITY ATTORNEY