

1 **CITY OF SANTA FE, NEW MEXICO**

2 **ORDINANCE NO. 2011-16**

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5 **AN ORDINANCE**

6 **REPEALING SECTION 14-6.2(E) SFCC 1987 AND CREATING A NEW SECTION 14-**
7 **6.2(E) SFCC 1987 REGARDING TELECOMMUNICATIONS FACILITIES OUTSIDE**
8 **PUBLIC RIGHTS-OF-WAY AND MAKING SUCH OTHER NECESSARY CHANGES.**

9
10 **BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

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

12 **is amended to read:**

13 (2) Applicability

14 Early neighborhood notification is required for:

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

16 (i) Annexations;

17 (ii) Master plans;

18 (iii) Rezoning;

19 (iv) *(Reserved)

20 (v) Final development plans where a preliminary plan has not
21 previously been approved;

22 (vi) Preliminary subdivision plats;

23 (vii) Final subdivision plats where a preliminary plat has not previously
24 been approved;

25 (viii) Vacation and dedication of rights-of-way;

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- (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;
 - (xiv) Escarpment overlay district appeals;
 - (xv) Telecommunications facilities as set forth in §14-6.2(E); and
 - (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;
 - (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.

Section 2. Table 14-6.1-1 SFCC 1987 "PERMITTED USES" regarding

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)
Telecommunications	Telecommunication facilities	Permitted as set forth in §14-6.2(E) (for facilities in public rights of way see Article 27-2 SFCC 1987)																				

Section 3. [REPEAL.] Section 14-6.2(E) SFCC 1987 (being Ord. #2001-38, §2 as amended) is repealed.

Section 4. [NEW MATERIAL.] A new Section 14-6.2(E) SFCC 1987 is ordained to read:

(E) Telecommunications Facilities

- (1) Purpose

1 The purposes of §14-6.2(E) are to:

- 2 (a) Comply with applicable federal and state mandates regarding the provision
3 of telecommunications services;
- 4 (b) Consistent with the 1996 Telecommunications Act, establish regulations
5 that do not discriminate among telecommunications providers;
- 6 (c) Promote regulatory certainty;
- 7 (d) Minimize adverse land use impacts of towers and antennas by:
- 8 (i) Encouraging the location of towers in nonresidential districts in
9 order to preserve the character of Santa Fe neighborhoods;
- 10 (ii) Requiring co-location of antennas, minimizing new tower sites, and
11 encouraging the use of minimally visually intrusive technology to
12 the maximum extent technically feasible; and
- 13 (iii) Requiring careful design, siting, landscape screening, innovative
14 camouflaging techniques, including tower alternatives, consistent
15 with applicable state and federal requirements, including FAA
16 requirements; and
- 17 (e) Enhance the ability of telecommunications services providers to provide
18 telecommunications services to the community quickly, effectively and
19 efficiently.

20 (2) Applicability

- 21 (a) §14-6.2(E) shall apply to all towers and antennas located within the City's
22 jurisdiction, whether upon private or public lands, except as provided in
23 §14-6.2(E)(2)(b).
- 24 (b) Except as otherwise noted, §14-6.2(E) shall not apply to the following:
- 25 (i) Towers and antennas located within the City's public rights-of-way

1 for which a franchise agreement is required pursuant to Article 27-
2 2;

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

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

9 (iv) Towers or antennas existing prior to March 25, 1998 or for which a
10 building permit had been issued prior to March 25, 1998, but only
11 to the extent of permits issued prior to June 11, 2011(the effective
12 date of this ordinance);

13 (v) Towers or antennas constructed or installed on City owned
14 property pursuant to a lease with the City approved by the
15 Governing Body prior to June 11, 2011 (the effective date of this
16 ordinance), but only to the extent of permits issued prior to June 11,
17 2011(the effective date of this ordinance);

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

20 (vii) Antennas and other over-the-air receiving devices for the reception
21 of video images which do not exceed one meter in diagonal length
22 or diameter or are designed to receive television broadcast signals
23 only, provided that any such antenna located in an Historic District
24 or on residentially zoned property shall, to the maximum extent
25 technically feasible without requiring new or additional

1 construction, be screened from the view of adjacent properties and
2 public rights-of-way unless such screening would create a greater
3 visual impact than the unscreened antenna. Screening may include
4 existing parapets, walls, or similar architectural elements, provided
5 that they are painted and texturized to integrate with the
6 architecture of the building or other structure, or landscaping;

7 (viii) Maintenance, repair and replacement of existing
8 telecommunications facilities to the extent that there is no
9 significant adverse visual impact and maintenance or
10 improvements to existing infrastructure, such as painting over
11 graffiti on walls or renewing landscaping; or

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

14 (c) Notwithstanding the applicability of this Section 14-6.2(E), all
15 telecommunications facilities are subject to the requirements of Chapter VII
16 SFCC 1987.

17 (3) Administrative Approval

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

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

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

23 (ii) Relocation of an existing tower to within 50 feet of the original
24 tower site for the purpose of accommodating the co-location of one
25 ore more additional antennas;

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- (iii) New towers or antennas in C-2, I-1 and I-2 districts;
 - (iv) Face-mounted and roof mounted antennas that are painted and texturized to match the building or structure to which they are attached and that do not have significant adverse visual impact; and
 - (v) Tower alternatives_outside residentially zoned districts.
- (b) Applications for administrative approval shall comply with the submittal requirements of §14-6.2(E)(6).
- (c) Administrative approval shall not be granted for new antennas in the historic, escarpment or south central highway corridor overlay districts.
- (d) The Land Use Department shall, within 45 days of receiving a complete application for administrative approval, review and approve such applications if the application complies with the requirements of §14-6.2(E). Denial of an application for administrative approval shall be in writing and shall set forth the reasons for such denial and shall constitute a final action and be subject to appeal pursuant to §14-3.17.
- (4) Planning Commission and Historic Design Review Board Review Required
- (a) Any tower or antenna that is not otherwise permitted or administratively approved shall be reviewed and approved by the Planning Commission for compliance with this section and all applicable City codes. In approving an application, the Planning Commission shall determine that:
 - (i) The application is in compliance with §14-6.2(E);
 - (ii) The proposed telecommunications facilities are necessary in order to close a demonstrated significant gap in service coverage of the applicant based upon actual signal strength data for the area where the gap is claimed and for the type of gap claimed;

1 (iii) The applicant has demonstrated that no other less intrusive means
2 or alternative to the proposed telecommunications facilities siting
3 and design is practicable;

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

10 (i) The application is in compliance with applicable requirements of
11 §14-5.2 and §14-6.2(E); and

12 (ii) The applicant has demonstrated that no other less intrusive means
13 or alternative to the proposed telecommunications facilities siting is
14 practicable.

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

19 (d) The Planning Commission or the Historic Design Review Board may place
20 conditions upon its approval of an application, but the conditions shall not
21 prohibit or have the effect of prohibiting the provision of
22 telecommunications services.

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

25 (i) Be in writing;

- (ii) Cite to the administrative record; and
- (iii) Shall not become final until the writing is approved by the Planning Commission or Historic Design Review Board, as applicable, at its next regularly scheduled meeting.

(f) The Planning Commission and Historic Design Review Board shall review applications submitted under this section as soon as reasonably practicable without regard to the other's schedule or decision.

(5) General Requirements

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

(a) Zoning Districts; Location

Telecommunications facilities are permitted in all zoning districts in accordance with the requirements of §14-6.2(E). However, to the maximum extent technically feasible, telecommunications facilities shall be sited:

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

(b) Maximum Height

Telecommunications facilities located on existing structures shall not exceed the height of the structure upon which the facility is located unless otherwise permitted under this Section. Telecommunications facilities located on new structures shall not exceed the maximum height for buildings otherwise permitted as set forth in this Chapter with the exception

1 that in C-2, I-1 and I-2 districts the height limit of telecommunications
2 facilities shall be 100 feet.

3 (c) Aesthetic Requirements

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

6 (i) Telecommunications facilities shall be installed underground to the
7 maximum extent technically feasible.

8 (ii) If above ground, the telecommunications facilities shall be
9 designed, installed and maintained in such a manner as to minimize
10 the visual impact upon adjacent lands, public rights-of-way and
11 residentially zoned property. Acceptable methods to minimize
12 visual impact shall include, but not be limited to: concealment,
13 screening, camouflaging, color, materials, texture, shape, size and
14 location.

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

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

22 (d) Archeological Requirements

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

25 (e) Signs

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

3 (f) Telecommunications Facilities Maintenance

4 All telecommunications facilities shall be maintained so as to be safe,
5 orderly, attractive and in conformity with all applicable federal, state and
6 City laws, regulations and codes. Weeds, trash and graffiti shall be
7 promptly removed. All lockable telecommunications facilities shall be kept
8 locked when not being actively serviced. All non-lockable
9 telecommunications facilities shall be kept closed when not being actively
10 serviced. All telecommunication facilities shall be kept free of graffiti.

11 (g) Noise

12 All telecommunications facilities shall be designed, constructed and
13 installed in such a manner as to minimize noise to the maximum extent
14 feasible, but in no event shall noise exceed the standards set forth in Article
15 10-2 SFCC 1987.

16 (h) Restoration of Improvements

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

22 (i) Airport

23 Any telecommunications facilities within the Class D airspace surrounding
24 the Santa Fe airport shall be constructed in conformity with all applicable
25 FAA regulations. A copy of any submittals required to be made to the

1 FAA shall be provided to the City's airport manager at the time such
2 submittal is made to the FAA.

3 (j) Co-location Requirement

4 A tower or tower alternative shall not be approved unless the applicant and
5 the telecommunications owner agree to permit on a nondiscriminatory
6 basis, to the maximum extent technically feasible, the co-location of other
7 antennas upon commercially reasonable terms on the approved tower or
8 tower alternative.

9 (k) Tower Setbacks and Separation Distances Between Towers

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

14 (l) On or before one year after the date of any final action approving an
15 application and annually thereafter, the applicant shall provide to the Land
16 Use Director the certification of qualified independent parties that based
17 upon an inspection of the approved telecommunications facilities their
18 structural integrity remains intact and they remain in compliance with the
19 radio frequency exposure limits set out in 47 C.F.R. 1.310 Table 1(A) and
20 (B).

21 (6) Application Submittal Requirements

22 (a) All applications shall be in writing in a form prescribed and as necessary
23 updated by the Land Use Department. If an application is determined to be
24 incomplete, the Land Use Director shall provide written notice to the
25 applicant no later than 15 business days after the submittal date of missing

1 and incomplete items. Applicants submitting for Planning Commission
2 approval pursuant to Article 27-2 SFCC 1987 may, but need not, include
3 telecommunications facilities located outside the public rights-of-way in
4 that submittal.

5 (b) All applications for telecommunications facilities shall include the
6 following:

7 (i) An application letter signed by an authorized representative of the
8 applicant with knowledge of its contents and attesting to its truth
9 and completeness and describing the proposed telecommunications
10 facilities;

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

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

23 (iv) A map and corresponding inventory of telecommunications
24 facilities owned or operated by the applicant within the City's
25 jurisdiction and three miles thereof including the location, height

1 and design type of each antenna and tower as follows:

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

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

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

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

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

23 (ix) Technical information supporting the proposed height of the
24 proposed antenna mount;

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

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- A. That co-location, to the maximum extent technically feasible and upon commercially reasonable terms, will be permitted on a non-discriminatory basis if the application is approved, or an explanation of why co-location is not technically feasible;
- B. To the extent that the proposed telecommunications facilities are located in the historic, escarpment or south central highway corridor overlay districts or do not comply with the priorities set forth in §14-6.2(E)(5)(a), that the applicant has investigated alternative siting and that no other practicable alternative exists;
- C. That the proposed telecommunications facilities comply with all applicable federal , state and local requirements, including without limitation, radiofrequency radiation exposure limits set out in 47 C.F.R. 1.310 Table 1(A) and (B), building codes and all other safety standards, National Historic Preservation Act requirements for the siting of facilities that are listed or are eligible for listing in the National Register of Historic Places and all franchises, leases and other contracts, if any, for the use of real property required by any regulatory body with jurisdiction, for the construction and/or operation of telecommunications facilities in the City have been obtained;
- D. That the proposed telecommunications facilities are

1 necessary to close a defined and significant gap in service
2 coverage based upon actual signal strength data for the area
3 where the gap is claimed and for the type of gap claimed
4 and that the proposed facilities are the least intrusive
5 method to do so; and

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

16 F. That the proposed telecommunications facility will be
17 completed and will be used to provide telecommunications
18 services within 180 days of the date the application is
19 finally approved, or if a building permit is required, the
20 date the building permit issues.

- 21 (xi) A traffic control plan if required by §23-2.17 SFCC 1987;
- 22 (xii) Construction drawings sealed by a licensed New Mexico
23 Professional Engineer;
- 24 (xiii) Written acknowledgment by the applicant that the application and
25 related submittals constitute a public record under the New Mexico

1 Inspection of Public Records Act and are required to be made
2 available to members of the public for inspection upon request in
3 accordance with City practice; and

4 (xiv) Such other information as may reasonably be required by the Land
5 Use Director.

6 (7) Fees

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

9 (8) Waivers

10 (a) The Planning Commission may grant a waiver of the standards set forth in
11 §14-6.2(E) or otherwise within its jurisdiction only if the Commission finds
12 that said waiver:

- 13 (i) Is in the best interest of the community as a whole;
- 14 (ii) Will expedite the approval of an antenna or tower;
- 15 (iii) Will not jeopardize the public health, safety and welfare, to the
16 extent the City has jurisdiction;
- 17 (iv) Will either mitigate the adverse visual impacts of antenna and
18 tower proliferation or limit the need for construction of new towers
19 or antennas;
- 20 (v) Will better serve the purposes set forth in §14-6.2(E)(1); and
- 21 (vi) If the proposed site is located in the escarpment or south central
22 highway corridor overlay districts, that the applicant has
23 demonstrated to the satisfaction of the Planning Commission that it
24 has explored all alternatives to the proposed site and to the
25 proposed design and that location outside those districts is not

1 practicable.

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

- 3 (i) The design of the proposed telecommunications facilities, with
4 particular reference to design elements that reduce or eliminate
5 adverse visual impact including lighting;
- 6 (ii) The nature of uses on adjacent and nearby properties, including
7 proximity to residentially zoned property, the business capital
8 district and historic, escarpment and south central highway corridor
9 overlay districts;
- 10 (iii) The surrounding topography;
- 11 (iv) The surrounding vegetation;
- 12 (v) The availability of existing towers or other structures for co-
13 location or of alternative antenna configurations with less visual
14 impact;
- 15 (vi) The proposed ingress and egress; and
- 16 (vii) Improved telecommunications services to City residents and
17 institutions.

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

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

1 (9) Appeals

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

3 (10) Notice

4 (a) Administrative Approvals

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

7 (i) Within 24 hours of submitting an application to the Land Use
8 Department, the applicant shall provide notification by Certificate
9 of Mailing, proof of which is submitted to the Land Use
10 Department to be included with the application, to all property
11 owners and addresses within 200 feet of the proposed site,
12 exclusive of right-of-way and if the proposed site lies within the
13 boundaries of a neighborhood association that has been listed with
14 the Land Use Department, to such neighborhood association.

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

22 (iii) The notification and poster shall describe generally the
23 telecommunications facilities proposed for the site and identify the
24 applicant, the nature of the application, the proposed tower or
25 antenna site and the contact phone number of the Land Use

1 Department.

2 (b) Early Neighborhood Notification

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

5 (c) Public Hearings

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

7 (11) Removal of Abandoned Towers and Antennas

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

10 (b) Any antenna or tower that is not used for the provision of
11 telecommunications services for a continuous period of six months shall be
12 deemed to be abandoned and the owner of such antenna or tower shall
13 remove the same within 90 days of receipt of notice from the City notifying
14 the owner of the telecommunications facilities and the owner of the
15 property upon which such telecommunications facilities are located.

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

21 (12) Enforcement

22 The Land Use Director has the authority to interpret §14-6.2(E) in accordance with
23 the purpose of §14-6.2(E) and shall administer and enforce the provisions of §14-
24 6.2(E).

25 **Section 5. Section 14-6.2(G) SFCC 1987 (being Ord. #2006-70, §1) shall be**

1 amended to delete all references to “telecommunications”.

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

4 **CABLE OPERATOR**

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

7 **EXCESS CAPACITY**

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

11 **LEASABLE CITY PROPERTY**

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

17 **USABLE SPACE**

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

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

22 **TELECOMMUNICATIONS**

23 (A) All transmissions between or among points specified by the user of information of
24 the user's choosing (whether voice, video, or data), without change in the form or content of the
25 information as sent and received, where such transmissions are accomplished by means of a

1 telecommunications network.

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

3 (1) Cable services as defined in Title 47, Chapter 5, Subchapter V-A of the
4 United States Code, as amended (47 USC § 521 et seq.); or

5 (2) Telecommunications services provided and used by a public utility as that
6 term is defined at § 62-3-3(G) NMSA 1978, or successor statute, for (i) the
7 utility's internal system communication needs; and (ii) provided directly or
8 indirectly to its customers, including but not limited to electronic meter
9 reading, load control, demand side management, power quality monitoring,
10 and other activities related to the delivery of electricity or natural gas or
11 water.

12 **Section 8. The following definitions in Article 14-12 SFCC 1987 (being Ord.**

13 **#2008-1, §2 as amended) are amended to read:**

14 **TELECOMMUNICATIONS FACILITIES**

15 The inside and outside plant-equipment and property, including but not limited to, fiber optic lines,
16 cables, wires, conduits, ducts, pedestals, underground vaults, towers, poles, antennas, electronics
17 and other appurtenances whatsoever used or to be used to transmit, receive, distribute, provide or
18 offer telecommunications services.

19 **TELECOMMUNICATION SERVICES**

20 The offering of telecommunications within the City's jurisdiction for a fee directly to the public, or
21 to such classes of users as to be effectively available directly to the public, regardless of the
22 facilities used.

23 **TOWER**

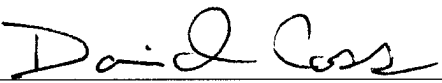
24 As used in §14-6.2(E), any structure that is designed and constructed primarily for the purpose of
25 supporting one or more antennas used for telecommunications services, including self-supporting

1 lattice towers, guyed towers, or monopole towers. The term includes radio and television
2 transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and the
3 like. The term includes the structure and any support thereto.

4 **UTILITY PROVIDER**

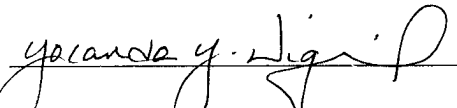
5 As used in §14-6.2(G), electric or cable service providers or their contractors constructing electric,
6 telecommunication or cable utility lines.

7 PASSED, APPROVED and ADOPTED this 25th day of May, 2011.


8 
9 _____

10 DAVID COSS, MAYOR

11 ATTEST:

12
13 
14 _____
14 YOLANDA Y. VIGIL, CITY CLERK

15 APPROVED AS TO FORM:

16
17 
18 _____
18 GENO ZAMORA, CITY ATTORNEY