



Bureau of Planning and Sustainability

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MEMO

DATE: April 22, 2014

TO: Planning and Sustainability Commission

FROM: Morgan Tracy, RICAP 6 Project Manager

SUBJECT: Amendment to Radio Frequency Transmission Facility (RF) regulations
RICAP 6 Proposed Draft

The Regulatory Improvement Code Amendment Package 6 (RICAP 6) *Proposed Draft* includes amendments to the City's Radio Frequency Transmission Facility (sometimes referred to as cell tower) regulations.

Pursuant to 47 U.S.C. §1455, local governments must approve requests to modify existing facilities when the result does not "substantially change" the physical dimensions of the tower, including tower height. The *Proposed Draft* includes new provisions to allow certain modifications of existing but did not include allowing increases to tower height.

Staff evaluated several options to translate the federal regulation into a clear and objective standard for allowing height increases, but found no clear solution. Furthermore, the Federal Communication Commission (FCC) is currently in the process of developing rules intended to clarify the regulation, and is expected to be complete by late summer.

Rather than risk adopting amendments that could either conflict, be more restrictive, or more lenient than the rules ultimately promulgated by the FCC, staff is recommending the following revisions to the *Proposed Draft*. These changes are intended to align with the federal regulation and subsequent rulemaking.



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Staff's revised proposal (April 2014):

Language to be **added** is underlined
Language to be **deleted** is shown in ~~striketrough~~
Substantive changes from the March 2014 *Proposed Draft* are **highlighted**

33.274.035 Facilities Allowed Without a Conditional Use Review

C. Other modifications of facilities that were originally approved through a conditional use, including the addition or replacement of antennas and accessory equipment, provided all modifications made over time:

1. Do not increase the footprint of equipment enclosures on the ground by more than 1,500 square feet;
2. **Do not substantially change the physical dimensions of the tower, pursuant to 47 U.S.C. §1455, including changes to tower height when accompanied by substantial evidence that the requested height is the minimum necessary to avoid interference with existing antennas. Such changes are not limited by conditions of prior land use reviews; and**
3. To the extent practicable, modifications must reasonably maintain the appearance of the original facility including, but not limited to, color, screening, landscaping, camouflage, concealment techniques, mounting configuration, or architectural treatment.

33.274.040 Development Standards

B. **When the standards apply.**

1. Unless exempted by 33.274.030, ~~above,~~ the development standards of this section apply to all Radio Frequency Transmission Facilities.
2. Applications to modify existing facilities regulated by this chapter are required to meet the development standards and applicable conditions of approval only for elements of the facility that are being modified. Any elements of the facility that have moved out of compliance with development standards that applied when the facility was approved, such as landscape materials, or applicable conditions of approval, must brought back into compliance. ~~only required to meet the standards of Paragraphs C.3, C.4, C.5, C.6, and C.9, below, in addition to any previous conditions of approval.~~ **Increasing the height of a tower is not considered modification of an existing facility.**

