

5G Free Marin Ordinance Recommendations, 1-23-19

Below please find key proposed additions that 5G Free Marin requests be included in our current Wireless Ordinance.

Referenced below are the following attachments, **which will be sent separately in a follow up document:**

Attachment #1: Peter Lacques Recommendations
Attachment #2: Property Value Reduction Information
Attachment #3: Permitting Process and Measurements/Monitoring
Attachment #4: Revised Exceptions Section
Attachment #5: San Anselmo's Purpose and Intent Section
Attachment #6: Endangered Species Map
Attachment #7: Vulnerable Communities Setbacks
Attachment #8: Letter to FCC from US Sen. Blumenthal and Rep. Eshoo
Attachment #9: Burlington, MA Applications for Wireless Installations

1) Zoning Allowances and other Prohibitions

- a) Prohibit installations in residential zoning districts, **including public rights of way and easements in residential zones.**
- b) **Eliminate the following zones** in addition to all residential zones: CC, CL, PD.
- c) Prohibit zones shown in Attachment #8, which creates buffers around child care, centers, medical facilities and schools (**Attachment 7, Vulnerable Communities Setbacks**).
- d) Allow installation only in CS and CH zones
- e) Eliminate language **“in the public right of way with the closest district being the commercial district”**.
- f) Consider allowing installation only in **Commercial Undergrounding Districts**. (see map of underground districts in your 1-16-19 Council agenda packet, Attachment D)
- g) Prohibit installation on all light and other poles owned by the Town of Fairfax.

2) Property Values

- a) Studies show that property values can drop up to 20% when a small cell antenna is nearby, and 94% of home buyers are less interested in properties in cell antenna vicinities (**see Attachment #2, Property Value Reduction Information**).
- b) Include permit application requirement of doing a property value assessment of all homes within a 500 foot radius of proposed antenna site. This would include property value assessment, and potential reduction in value based upon current studies and data of property devaluations.

3) Permitting / Public Process

- a) Require wireless facility applicant to notify all residents within 1500 feet of the proposed antenna location via the Town's website, postings, and paper mail. Public notice mailings should include information about the notification contents on the **outside of the envelope** such as, "Notice of Nearby Cell Antenna Proposal". Include public hearing information resources.
- b) Require public hearings for all applications and appeals.
- c) Require applicant to provide story pole mock-ups and photoshop graphic to demonstrate actual size and visual impact of equipment.
- d) Require a broader viewshed and aesthetic evaluation of areas where all equipment is to be installed.
- e) Include permitting language from Attachment #3, Permitting Process and Measurements (prepared by Frank Leahy, Mill Valley).
- f) Include language for Town to select and hire an outside technical expert paid for by applicant to assess and evaluate the application to determine if applicant's technical needs assessment is in fact accurate.

4) Monitoring

- a) We request that the town of Fairfax create a robust signal-monitoring plan using independent contractors chosen by the Town, not by the applicant (Verizon/ATT, etc.).
- b) Because of the complex nature of this technology, contractor should be a qualified engineer, having knowledge of current technology/5G and other antenna systems, etc.

- c) Include language that requires 24/7 monitoring equipment be installed, of which data can be accessed online. **Please do not settle for infrequent monitoring** as this does NOTHING to allow the Town to determine cause and effect of signal type and strength associated with health or environmental issues that may arise in the nearby vicinity of antennas and equipment. **See Attachment #3, which** provides more information on monitoring, including the technical aspects of how this is done, and how telecoms can remotely upgrade software without disclosure to towns, etc.

5) ADA

- a) As per staff comments Attachment D in your staff report, please add an ADA section and ADA definition that describes a disability as any physical impairment affecting a major life activity, including language from Title II, which requires public agencies to make all their services, programs, and activities ADA accessible.
- b) Include language that indicates that ADA claims can be made if some sort of discrimination (i.e., persons with disabilities are prevented from some activity) can be shown.

6) Undergrounding

- a) Require undergrounding for cables and accessory equipment in all undergrounding districts of Town.
- b) Consider undergrounding requirements for all wireless equipment, even outside undergrounding districts.
- c) **Omit “if feasible”** regarding undergrounding and **replace with “shall”** in ordinance.
- d) Include undergrounding language in Conditions of Approval section.
- e) Include language that references laws that requires cultural resources evaluation should undergrounding be done to prevent disturbance of cultural resources.

7) Exceptions Clauses

- a) Incorporate San Anselmo's Exceptions Chapter into Fairfax's Exceptions Chapter. We need to require specific criteria for claiming an exception. **(See Attachment 4- Revised Exceptions Section.)**

8) Fire Hazard and Other Hazard Potential

- a) A full fire hazard potential assessment must be conducted that includes the presence of nearby vegetation and structures.
- b) Any and all hazardous material in any equipment proposed to be installed must be disclosed in the permitting application process.
- c) Poles should have seismic and engineering assessments conducted to ensure equipment on poles do not pose a hazard should there be strong winds or earthquakes.
- d) Studies indicate that microwave radiation can cause drying and increased levels of terpenes in plants, dramatically increasing their flammability. Please include this fact in the findings and/or other appropriate section of the ordinance.
- e) Include all fire safety recommendations as per Mayor Peter Laques' recommendations (**Attachment #1, Peter Lacques Sept. 2018 Council Recommendations.**)

9) **Decorative Light Poles**

- a) Prohibit installations on all of the Town's Decorative Light Poles.

10) **Establishing setbacks and antenna intervals**

- a) Add into findings or other sections a statement that references Verizon's own public information which indicates that 5G antennas transmit signals that are strong enough to provide 1 GB/sec of data at 3000 feet.
- b) Require a minimum distance for antenna setbacks of 750 feet from all residents in both residential and commercial zones.

11) **Endangered/Threatened Species**

- a) Prohibit antenna installations within 750 feet of all know sites where endangered species are found in Fairfax and surrounding jurisdictions based upon the State of California's Natural Diversity Database. (**Attachment #6, Endangered Species Locations**)

12) **Trees**

- a) Include language that trees are a valuable resource in the Town of Fairfax and protected in our tree ordinance, and that studies show that cell towers operating in close proximity to trees can harm or kill trees.

- b) Include in the permitting documents requirements for applying for a tree permit, should an antenna facility be near any trees.
- c) Include language that makes telecoms liable for damage to nearby trees.

13) **Noise Assessment/Evaluation**

- a) Require that installed equipment will generate levels **no greater than 25db** within 10 feet of equipment or at the property line of nearby residences or businesses, which is closer.
- b) Included a requirement for sound containment should levels be found to be higher than 25db for the life of the equipment installed.

14) **Recertification Requirements**

- a) Add to ordinance the recertification language from the Burlington, Massachusetts ordinance.

15) **Purpose and Intent Section of Ordinance**

- a) Include in an initial section the language from San Anselmo's Purpose and Intent section (**Attachment #5, San Anselmo's Purpose and Intent Section**).
- b) Ensure that the section contains language that emphasizes the importance of protecting public health, safety, and welfare, preserving aesthetic character and environmental resources, while providing safe, secure telecommunications services.

16) **Security and Privacy**

- a) Include the Town of Fairfax's commitment to data privacy and that all current and new wireless technologies should comply with this commitment.
- b) Include language ensuring that all wireless technologies will provide maximum security for subscribers and non-users alike. This includes security to prevent data breaches, theft and hacking, and proof of this security measure; privacy for users, and guarantees to prevent data collection or use without consent.