Appendix

Supplemental Information

Items from Wireless Stakeholder Committee
Community Member Recommendations

January 1, 2022

Thurston County Planning Commissioners,

Below you will find details as to both what code changes are recommended and supporting information for why the change is needed. This list corresponds to the Wireless Stakeholder Committee Recommendations that has been provided to the Planning Commission by County staff.

It should be noted that these recommendations are only a portion of what the citizens on the committee had hoped to send to you. There is a range of legal interpretations which allow for maximum local control of wireless facility placement. We ask you to direct staff to integrate this list as well as including more of the original recommendations submitted to staff by the citizens on the wireless committee. We urge you to do what informed counties and cities throughout the US are doing and preserve the power of local governments, protected by Federal Law, to control placement of wireless facilities.

This list is roughly in order of priority although *all* are essential for a strong code that protects citizens from poor wireless placement and other adverse effects.

1. Setbacks

Code Recommendation: Significant setback parameters for *all* wireless facilities, particularly near dwellings. We are requesting 1000' or the maximum acceptable to legal on SWF's and WCF's; can be two separate distances if necessary.

Support: Such setbacks limit adverse aesthetic impacts, protects property values, limits safety issues such as falling towers, falling objects, ice fall, fire danger, limits potential exposure to dangerous levels of radiation from FCC non-compliant facilities. If there was a waiver or variance process a setback, no matter how large would not amount to a prohibition. Note that the "covered services" that the prohibition rules apply to (voice, text, and push to talk), have ranges of many thousands of feet if not miles, even with 5G. Non-covered services such as those used for telemetry, facial recognition, etc. have the short ranges. Therefore, a large setback of 1000 ft or more would not amount to a prohibition of covered services.

Across the entire United States, both real estate appraisers and real estate brokers have rendered professional opinions that support what common sense dictates.

When cell towers or other wireless facilities are installed unnecessarily close to residential homes, such homes suffer material losses in value, typically ranging from 5% to 20%. In the worst cases, they make homes situated within a newly installed tower's fall zone completely unsalable. (http://bridgewater.patch.com/articles/appraiser-t-mobile-cell-tower-will-affect-property-values)

In a series of three professional studies conducted between 1984 and 2004, experts determined that the installation of a Cell Tower in close proximity to a residential home reduced the value of the home by anywhere from 1% to 20%. These studies were as follows:

a. The Bond and Hue - Proximate Impact Study - Analysis of 9,514 residential home sales in 10 suburbs. The study reflected that close proximity to a Cell Tower reduced the price by 15% on average.

b. The Bond and Wang - Transaction Based Market Study - analysis of 4,283 residential home sales in 4 suburbs. The study reflected that close proximity to a Cell Tower reduced the price between 20.7% and 21%.

c. The Bond and Beamish - Opinion Survey Study - study involved surveying whether people who lived within 100' of a Cell Tower would have to reduce the sales price of their home. 38% said they would reduce the price by more than 20%, 38% said they would reduce the price by only 1%-9%, and 24% said they would reduce their sale price by 10%-19%.

2. Notice to Citizens

Code Recommendation: Notice to citizens at time of application and at approval for all wireless facilities. Notification responsibility should rest with the applicant to relieve the burden of notification on county resources. County must verify notification took place.

a. Specifically, it should require that an applicant provide the County with the names and addresses of all property owners whose property is situated within 1 mile of the facility or parcel property line on which a proposed new wireless facility is to

be located. Additionally, applicants should be required to provide all of such property owners with written notice including all of the below information by certified mail, return receipt requested.

b. Information to be included on all forms of notice should include: the type of facility, height, exact location, purpose of new facility (why it's needed), and a photo or detailed drawing of what the facility will look like. Include instructions on how to file an objection with the County providing a list of areas in which public feedback can legitimately be taken into account in considering a permit request. Include any deadlines with a reasonable time frame to respond. Information (dates, times, how to participate) on any applicable public hearings. Notice must be sent with reasonable time for residents and property owners to respond.

Support: County government has a responsibility to ensure its citizens are informed of commercial construction that could adversely impact the quality of life, property values, aesthetic values, view corridors, and safety of the ROW, streets, sidewalks, and yards. Informed citizenry is better prepared to contribute meaningfully to a well-functioning community.

3. Independent RF testing

Code Recommendation: Independent RF/EMF testing verifying that *cumulative* radiation levels (as per FCC) are within the FCC limits. Testing should be prior to final approval (see #10) and an annual random (unannounced) test. There should also be a check for unpermitted facility modifications/additions/power increases.

Measurements need to be taken in the locations where the power levels would be greatest that are also where a person might reasonably be. This is often outside a 2nd or 3rd story window as the waves propagate horizontally. It is also possible that the levels might be higher further from the new facility where the waves intersect the ground or two or more separate facilities waves intersect. Testing should be prior to final approval (see #10) and an annual random (unannounced) test. There should also be a check for unpermitted facility modifications/additions/power increases.

Support & Further Details:

a. Given the cumulative output of many types of commercial wireless facilities, and possible differences between estimated and actual output, estimates of RF output are validated with real world testing, such as with annual random testing. The County itself should test or use a 3rd party contractor, and may be able to incorporate the actual cost of this into its permit or other fee structure, as a cost of

doing business. This would serve to verify code compliance in a non-discriminatory way, much as a housing inspector verifies code compliance.

b. "Applicants seeking to install new wireless facilities invariably assert that their proposed wireless facility will be FCC compliant, meaning that it will not expose the County's residents and the general public to radiation levels that exceed the levels deemed safe by the FCC."

"In furtherance of same, they will invariably submit "FCC Compliance Reports."

"These FCC compliance reports can contain false information, which is submitted in an effort to mislead a local zoning board to falsely believe that a proposed facility will be FCC-compliant when in reality, it will expose members of the general public to radiation levels that exceed the levels deemed safe by the FCC."

"The two most common methods employed to mislead local zoning authorities into believing that a non-FCC compliant facility will be FCC-compliant are: (1) proffers of FCC compliance without stating which standard, using the "Occupational Exposure Limits" which are 400-600% higher than the "General Population Exposure Limits" which is the correct one in nearly all cases and (2) false radiation calculations based upon a false "minimum distance factor" (The closest distance a member of the public may reasonably be to the antenna enclosure)."

"The Code should mandate that any FCC compliance report submitted by any applicant disclose two (2) specific items of information <u>on the cover page</u> of any such report."

"First, the cover page of the report must specify which set of FCC standards the applicant is claiming applies to its proposed facility, those being either the General Population Exposure Limits or the Occupational Exposure Limits."

"Second, the cover page of the report must specify the minimum distance factor, measured in feet, which the applicant used to calculate the radiation emission levels to which the proposed facility would expose members of the general public or others."

"Finally, since the hearing examiner cannot surmise the potential harm to which a non FCC compliant facility may expose the general public, the Board must require that any FCC Compliance report be verified under oath by the person who prepared any such report. A sworn verification must be attached to the report." – Taken from *Ordinance Review_Thurston_Proposed Law_Final.pdf* pages 26-27, Author: Attorney Andrew Campanelli. The complete document was provided to the staff/wireless committee on 10/26/21.

4. Public Comment

Code Recommendation: Process opportunity for the County to receive evidence from potentially adversely impacted property owners and residents that may need to be considered in siting of *all* facilities which can serve as "substantial evidence" within the meaning of the Telecommunications Act of 1996 (TCA) based upon which an application could be denied (if it is determined a denial would be appropriate) without violating the TCA. This process should include:

a. Formal objection & comment process through County for all facility types.

b. Public hearings are always preferable over an objection/comment process to the maximum extent possible.

c. Permit cannot be granted while any legal challenges are ongoing.

Support: It is the responsibility of government to let citizens be heard, and comments might include useful site-specific information not previously known or considered by the County that could influence its decision even for an administrative permit.

5. Modification of the "Purpose" section of the draft code.

Code Recommendation: Modification of 20.33.020 – Purpose. section to include:

a. Rename section to "Legislative Intent"

b. Include descriptive words that indicate the purpose and intent of the proposed code extends to:

    i. Serve as a "Smart Planning" provision intended to achieve the simultaneous objectives of enabling wireless carriers to provide personal wireless services within the County while minimizing the number of facilities used to provide such coverage, avoid unnecessary, redundant wireless infrastructure, and avoid to the greatest extent possible, any unnecessary adverse impacts upon residential homes and residential communities.

ii. Protect the interests of the public, property owners, communities, and the County, against significant adverse impacts caused by the irresponsible placement of wireless facilities, including, but not limited to, adverse aesthetic impacts, reductions in property values of properties situated adjacent to, across from, or in close proximity to, a site for a proposed wireless facility, the potential dangers associated within structural failures, fire, icefall and debris fall from wireless facilities, adverse impacts upon historic resources and/or scenic views, and/or the use of properties which would be incompatible with nearby properties and thus be out-of-character with same.

Support: Among the reasons why these provisions are essential are: (1) They provide guidance to the local zoning authorities as to what they must consider when deciding whether to grant or deny a wireless facility application which is before them; (2) They render the zoning authorities more capable of defending any decision wherein they decide to deny an application for a proposed wireless facility, and the applicant wants to challenge that denial by filing a federal lawsuit under the TCA, and; (3) They reduce the likelihood that such a lawsuit would be filed in the first place.

“In furtherance of such objectives, the "Purpose" section in Chapter 20.33.010 should be amended as per above to more fully describe the potential adverse impacts that the County seeks to prevent, or at least minimize, which serves as the reason why the County enacted a special use permit requirement for wireless communication facilities.”

“While several of these issues are addressed to a limited extent within Chapter 20.33, the "Purpose" provision at the beginning of Chapter 20.33.020 will be among the things a court will review and consider if, and when an applicant, whose application for a new wireless communication facility seeks to argue before a federal court that the basis of a denial was not supported by the legislative intent provision of the respective local zoning code.”

“By adding this specific language into Chapter 20.33, the Code will essentially expand the variety of considerations that the Board can consider when deciding whether to grant or deny a special permit for a proposed wireless facility.”

Taken from *Ordinance Review_Thurston_Proposed Law_Final.pdf* , Author: Attorney Andrew Campanelli.

6. Prioritized locations/zones & Least Intrusive Means Requirement

Code Recommendations: Prioritized locations/zones for WCF and SWF, with residential, schools, public parks, long-term forestry and other natural areas deemed lowest priority or preferably prohibited. Commercial, industrial and highway commercial zones prioritized for locations. When necessary to locate in a low priority zone, distance from dwellings should be prioritized. In all circumstances the installation should be require to meet the least intrusive means standard. Further, applicants should be required to submit drive tests and dropped call reports to back-up any claims that they need to locate a facility in a lower priority zone.

Support: Prioritization leads to better siting, protects the rural character of the county, and guides wireless placement decision to locations of most benefit, and mitigates facility clutter.

"The existing provisions in the draft code… (20.33.09(A)(4) & 20.33.060(E)(3) …fall short of ensuring the applicants do not take advantage of the hearing examiner's "good faith" in using the "least intrusive means necessary."

"Historically, site developers have been known to submit patently false and materially misleading information and documentation to Boards in order to ensure their permit's approval."

"In order to remedy the potential of your hearing examiner from being misled, amending the Code to include a single, more effective, and practical siting hierarchy provision, which many local governments include within their respective zoning ordinances, ensures that to the greatest extent possible, wireless facilities are sited at locations that are most compatible with surrounding properties and/or uses."

"Typically, these provisions include a ranking of potential locations for the placement of wireless facilities, from the most desirable to the least desirable, designating them from Tier 1 to Tier 5 type locations. After incorporating such a ranking system into their Code, local governments then include a provision that requires each applicant who seeks to install a wireless facility at a less desirable location to establish that no higher-ranking sites are available to satisfy whatever coverage needs the respective applicant is seeking to remedy." From *Ordinance Review_Thurston_Proposed Law_Final.pdf* pages 32-33, Author: Attorney Andrew Campanelli.

7. Liability Insurance Requirements

Code Recommendation: Require adequate and appropriate third party liability insurance for installers, their contractors, and the end facility users. Certificates of insurance naming the county as additional insured are to be held by the County with annual renewals filed and verified. Insurance must be held by and applicable to the actual corporate parent entity responsible for the facility (not a subsidiary company, LLC. DBA or other similar entity which does not bear direct liability.) The coverage cannot contain a pollution exclusion. Self-insurance/indemnity is not an option.

Support: Requiring pollution coverage and ensuring the correct entity is insured is good risk management and due diligence on the part of the county. In order to protect the city from liability (and bankruptcy), from harm to humans or the environment, local governments have a legitimate right to require proper health protective (e.g. pollution) insurance in the code. Without proper insurance, that does not have a pollution exclusion, local governments can be sued for damages by individuals related to such. There are companies that can cover pollution liability and this should be required.

Code Examples:
San Francisco, CA
https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_publicworks/0-0-0-5411 Wireless Facilities, Insurance Section 1526

Moreland Hills, OH
https://codelibrary.amlegal.com/codes/morelandhills/latest/morelandhills_oh/0-0-0-18756
See paragraph a.3

Petaluma, CA
https://petaluma.municipal.codes/Code/14.44.140 See paragraph C.1

Madera County, CA
https://library.municode.com/ca/madera_county/codes/code_of_ordinances?nodeId=TIT7HESA_CH7.24SOWA_ARTIGEPR_7.24.117IN

Scarsdale, NY
https://scarsdale.com/AgendaCenter/ViewFile/Agenda/_12142021-966 DRAFT Proposed Code see page 119, paragraph 8, Scarsdale New York

Bellingham, WA
https://bellingham.municipal.codes/BMC/13.15.200 See paragraph A.4

8. Substantial Written Evidence of Compliance

Code Recommendation: Require substantial written evidence of compliance with all State, Federal, and FCC requirements, licenses, and permits entered into the public record from applicants.

Support: Statements and attestations of compliance are not adequate and would never suffice for a building permit or other permit, they should not be allowed here.

9. Environmental Assessment Required on certain facilities

Code Recommendation: Code should explicitly state that proof of a completed Environmental Assessment is required if non-building-mounted antennas have height above ground level to lowest point of antenna <10 m and total power of all channels >1000 W ERP. And list the other less common circumstances an EA is required as well.

Support: This is a legal requirement of the FCC (FCC Rule §1.1307: (b)(1) Table 1) that is nearly always overlooked by local jurisdictions and therefore needs to be explicitly stated in the code. Every Wireless Telecommunications Facility (WTF or SWF) that is 1,000 Watts ERP or higher, with lowest point of its antenna 10 meters or lower to the ground, can and do emit pulsed, data-modulated, Radio-frequency Electromagnetic Microwave Radiation (RF-EMR) above the FCC Limit for some distance from the antenna covering. The FCC requires the EA is done, and that should be verified by the county by receipt of a FONSI issued by the FCC. Further all facilities that fall into this category, because of the requirement by the FCC for an EA, should be moved to a type III process.

Further background & requirement details: The applicant must file an EA, which the FCC posts for public comment. Applicant must get a FONSI ("A FONSI is a document that presents the reasons why the agency (FCC) has concluded that there are no significant environmental impacts projected to occur upon implementation of the action. ") before building. The county can and should require a copy of all documentation submitted to the FCC as well as an explanation for why they filled out the documentation the way they did. Further if the county sees a deficiency or lack of relevant information in the EA filing, it can and should supply the FCC with that information. If the applicant does not file an EA, the county can request the FCC require one and the FCC must, by law, respond to the county. Shot clocks can and should be tolled until the county receives a copy of the FONSI and verifies it's for the specific facility in question.

It should be noted that the vast majority of SWFs are between 1000 and 7000 watts and under 10m. Therefore, there must be a procedure explicitly stated in the

code to address what will be a common issue. If the county wanted to go further to ensure compliance with NEPA, and we think they should, the county could make a request to the FCC for an EA for any/all facilities applications and would be able to toll the shot clock until a response is received in each case. Again, if the county request that the FCC require an EA for a facility, the FCC must legally respond to the county, and waiting for the response is a permissible reason to toll the shot clock. This potentially gives the county staff much needed time to full consider applications, accept, review, and respond to public comment.

In order to answer "yes" or "no" on FCC forms about whether the project might have "a significant effect on the environment," the applicant must complete the regulatory checklist before certifying; height and design are not dispositive of whether a proposed structure might have a significant effect. The county can and should require a copy of this checklist.

FCC Rule § 1.1311 Environmental information to be included in the environmental assessment (EA).

(a) The applicant shall submit an EA with each application that is subject to environmental processing (see § 1.1307). The EA shall contain the following information:

(1) For antenna towers and satellite earth stations, a description of the facilities as well as supporting structures and appurtenances, and a description of the site as well as the surrounding area and uses. If high intensity white lighting is proposed or utilized within a residential area, the EA must also address the impact of this lighting upon the residents.

(2) A statement as to the zoning classification of the site, and communications with, or proceedings before and determinations (if any) made by zoning, planning, environmental or other local, state or Federal authorities on matters relating to environmental effect.

(3) A statement as to whether construction of the facilities has been a source of controversy on environmental grounds in the local community.

10. Inspections & Verification prior to Approval to Operate

Code Recommendation: Verification that the facility was built as per county approved plans, that all electrical, structural, safety, traffic sight lines, fall zone, concealment, design requirements, and other codes were met, that landscaping was completed or restored as required, and that actual RF levels are within FCC limits (including cumulative level) final to prior to authorization to operate.

Support: As with building permits, permit is granted, but occupancy is not granted until all inspections are complete and approved. Also, as with building permits these inspections are paid for by the applicant. Issuing a final approval to operate based on inspection and verification that codes were met or built as approved ensures the safety

of the public.

11. Codify specific fact-finding determinations

Code Recommendation: Codify what specific fact-finding determinations the Board/Hearing Examiner is required to make, identify the type of evidence they can require an applicant to produce to enable the Board/HE to render those determinations, and clarify how to recognize when an applicant submits evidence that is false or materially misleading.

Support: "Where a local zoning code is silent as to what types of evidence local zoning officials can require an applicant to produce, site developers and wireless carriers now argue that if a local zoning code does not *explicitly require* an applicant to produce a specific type of evidence, the Board cannot require the applicant to produce it, or deny their application because they refused to do so. Federal courts have begun ruling in favor of applicants based upon same (Orange County-Poughkeepsie Limited Partnership v. Town of East Fishkill)."

"In addition, where a local zoning code is silent as to what fact-finding determinations local zoning authorities must make, a local zoning board will often render a denial based upon a valid determination while failing to make a specific determination concerning a TCA issue."

"In such cases, although the Board had a perfectly valid legal reason for denying the application, its failure to "dot the i's and cross the t 's" rendered its decision fatally defective, and such decisions are routinely overturned in federal court in proceedings that typically last less than 120 days."

"If the Board is to exercise the power to regulate the placement of wireless facilities within the County, Chapter 20.33 must be amended to, among other things, codify: (1) what specific fact-finding determinations the Board is required to make, (2) the types of evidence they can require an applicant to produce to enable the Board to render those determinations, and (3) how to recognize when an applicant submits evidence that is false or materially misleading."

"Chapter 20.33 is deficient in describing the minimum factual determinations that the County's hearing examiner is required to make under both the Code and the TCA within the context of deciding personal wireless service facility applications under Chapter 20.33."

"Chapter 20.33 also fails to effectively specify what types of probative evidence the hearing examiner may require an applicant to produce when the Board is deciding special permit applications pertaining to new wireless facilities."

"The draft code should be amended to describe the minimum specific factual determinations which the hearing examiner should make when entertaining an application for a special use permit for a personal wireless service facility."

"These must include both: (1) local zoning determinations **and** (2) TCA determinations."

– Taken from *Ordinance Review_Thurston_Proposed Law_Final.pdf* pages 19-20.

For specific guidance on local zoning determinations, TCA determinations, and evidentiary standard that should be explicitly stated in the code please see *Ordinance Review_Thurston_Proposed Law_Final.pdf* pages 20-22.

12. Detailed Standards for Facilities in the Rights-of-way

Code Recommendation: Require detailed standards for any facilities in the rights-of-way.

a. Provide design standards in the code instead of franchise agreements.

b. Provide standards that would prohibit facilities in the middle of a view window, prohibit removing vegetation, and require offsets from driveways, maximizing distance from homes, and requiring siting meet the least intrusive means test in all circumstances for all facility types.

c. Design guidelines should align with maximum setbacks from dwellings from item #1. above.

d. These standards should be applied to all facilities in the ROW.

Support: Facilities in the right of way are highly intrusive to our daily lives. Having the potential to impact access to roads, parking, ingress and egress from cars and buildings, views, noise levels, and other adverse consequences. In cities throughout the country where wireless facilities in the right of way have become much more prevalent over a very short period of time emergency ordinances are regularly being passed to re-write their wireless code to put more controls on these facilities. Thurston County will inevitably have to do the same after we learn what

we overlooked or did not consider. We must start on the best possible footing with detailed rules in the code where the public can review and comment on it.

13. Largest Possible Spacing & Least Intrusive Means

Code Recommendation: Largest possible spacing between all facilities, *not just towers*, while encouraging collocation and least intrusive means of providing the facility.

Support: This is to prevent facility clutter with antenna attachments, power/equipment boxes (up to 4 large boxes for every facility), etc. randomly placed without consideration. Requirements for facility spacing promote the least intrusive means of satisfying the necessary service. Again, note that the "covered services", those which the anti-prohibition rule protect, have minimum ranges of many thousands of feet, typically miles, even with 5G. Therefore, large spacing requirements of 1000 ft or more would not amount to a prohibition of covered services.

In cities throughout the US that are that are further along in the 5G rollout than Washington, emergency ordinances are being passed in significant number to stop further installations of wireless facilities in residential neighborhoods until codes can be rewritten with much more stringent controls on facility location and equipment box location and design; many wishing to ban further installations from residential neighborhoods completely due to the incredible public outcry from residents over inconsiderate and intrusive siting, siting too close to homes, equipment boxes blocking street/vehicle access and cluttering rights of way, etc.

14. Prohibit new macro facilities in the ROW

Code Recommendation: Prohibit new macro facilities in the ROW, as in the initial draft code.

Support: Macro facilities are significantly more aesthetically displeasing and create a larger safety hazard on a number of fronts over SWF's including more significant arc flash hazard, fire hazard, falling debris, ice fall, etc. If facilities are allowed in the right of way, they should only be small wireless facilities.

15. Explicitly state the requirements for review under Section 6409

Code Recommendation: In section 20.33.060 B.1 - clarify "detailed explanations" in the application requirements to explicitly state the requirements for review under Section 6409 of the Spectrum Act, 47 U.S.C §?1455(a), and 47 C.F.R. § 1.6100.

Support: Explicitly stated detailed requirements assist staff and hearing examiners in make quicker and more accurate determinations and assist applicants in determining whether to claim applicability.

16. Prohibit "wireless transmitted over power lines".

Code Recommendation: Prohibit what is known as "wireless transmitted over powerlines".

Support: This technology turns all power lines connected to the emitting device, even those inside the home connected through the power grid, into wireless transmitters. Allowing this would be a violation of their property rights as their internal privately owned power lines would be used to broadcast a commercial signal without consent.

17. Correct the Definition of "Wireless service"

Code Recommendation: It appears that the definition of Telecommunications service was incorrectly used for the definition of Wireless service; these are not interchangeable. Wireless service involves a physically intangible connection, but the definition in the code includes wire and optic cable. Since "Wireless service" is used throughout the code, it's extremely important that the definition be correct. The current definition in the draft code potentially allows for wired service providers to have access to these "wireless" rules.

Current Code Definition:

146.3 "Wireless service" means the transmission of information by **wire**, radio, **optic cable**, electromagnetic, or similar means for hire, sale or resale to the general public. For the purpose of this subsection, "information" means knowledge or intelligence

represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For the purpose of this chapter, "wireless service" excludes the over-the-air transmission of broadcast television or broadcast radio signals.

18. Wave Form Distortion

Code Recommendation: Installation of new facilities or increased power levels must not increase wave form distortion or other wired electrical interference at surrounding homes/businesses beyond the IEEE 519 standards (International electrical code). Tests must be completed for verification before final approval to operate is granted (see #10). This must be explicitly stated in the code.

Support: This is part of the international electrical code which needs to be enforced as it can and has led to problems with homes internal wiring such as tripping GFCI's, and malfunction of appliances. This requirement is nearly always overlooked by electrical inspectors yet it can have significant impact on nearby homes and businesses that are generally unaware of the source of the problem.

19. ADA and FHAA compliance language

Code Recommendation: Include language for ADA and FHAA compliance requirements including a process for ADA and FHAA issues to be identified and addressed by the applicant.

Support: Include code language to allow for ADA and FHAA compliance including accommodation for those with electromagnetic hypersensitivity, and electromagnetically sensitive medical devices. Citizens in this situation should not have to relinquish their right to the quiet enjoyment of their property due to intrusive commercial activity.-An option other than having to move needs to be available.

Both the ADA and FHAA require local governments, their agencies, and public utilities (Wireless site developers and carriers uniformly assert that they are utilities, and they are uniformly recognized as such by State Boards and Commissions charged with regulating public utilities) to make reasonable accommodations for persons who are disabled. The code must include a process for ADA and FHAA issues to be identified and addressed by the applicant. The current draft code allows for administrative approval of certain facilities without any meaningful public notice, without notice an ADA or FHAA complaint cannot be made until it's too late. In addition to public notice, the code should insure there is a fair and accessible process for addressing ADA and FHAA issues.

Electromagnetic Hypersensitivity Syndrome (EHS) has been recognized as a disability under the ADA for which disabled persons are entitled to request reasonable accommodations under the ADA (G v. Fay School Inc.), and the FHAA.

Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and public entities' services. It applies to all state and local governments, their departments, and agencies.

A provision should be added to the County Code to establish a procedure to enable disabled persons suffering from EHS to submit requests for reasonable accommodations and file grievances for lack of accommodations, to be reviewed by the County's ADA Coordinator.

The U.S. Access Board has this publication for accommodations required by employers for persons suffering EHS. https://askjan.org/publications/Disability-Downloads.cfm?pubid=226622.

20. Automatic compliance with stricter environmental, health, and/or radiation rules

Code Recommendation: Language which supports allowance in the code for automatic compliance with stricter environmental, health, and/or radiation rules implemented by state or federal government, or FCC, EPA, etc.

Support: Such language provides the best possible protections for citizens and gives definition and structure for the Wireless/Telecom companies to follow.

21. Create a County Wireless Facility Information website

Recommendation: Create a County Wireless Facility Information website to compliment written notice with educational information on Radiofrequency Emissions and information on submitting requests/potential violations to the FCC and County. Website or Geodata should include pending, approved applications, and existing wireless facilities on a map.

Support: Providing frequently asked/searched for information on proposed and existing wireless facilities allows staff to refer citizens to the website when applicable and limits the number of public inquiries to staff by those who are aware of the website.

22. Instructions & Checklist for Staff

Recommendation: Create a clear list of easily referenceable instructions and checklists for staff to review permits.

Support: Clear checklists and instructions support efficiency and provide easily referenceable documents for complex issues and decisions.