

Chapter 8

Development Standards

18.08.010 PURPOSE AND INTENT

It is the purpose and the intent of the general development standards to ensure that land uses and development will contribute to and be compatible with existing and future development in the surrounding vicinity in a manner which will enhance the quality of life for County residents, employers and visitors, and to identify land uses and activities which possess the potential to cause deleterious effects to the community in which they are located, and to subject such uses to specific regulations with the intent of minimizing, to the extent practical, these deleterious effects. It is further intended, that all proposed development subject to discretionary review is consistent with the goals, policies, objectives and implementation programs of the General Plan and that in the zone districts in which these land uses are permitted, they are conducted in a manner which is consistent with the protection of the public health, safety, and welfare. The standards contained in this Chapter apply throughout the County in each zone district and, as appropriate, for all land uses and development.

18.08.020 APPLICABILITY

The provisions of this Chapter shall apply to any land division or land use application which authorizes, or would authorize by its approval, new construction, new land uses, or the substantial modification of an existing structure or land use, unless otherwise specified by this Title. The provisions of this Chapter shall apply in addition to all applicable standards or regulations for the zone district in which the use or structure is located.

18.08.030 STATE AND FEDERAL LAWS

Nothing in this Title shall establish rules and/or regulations in conflict with State or federal law.

18.08.040 ENCROACHMENTS INTO YARDS

The following features of a building may project into a required yard to the extent specified:

1. Cornices, eaves, or other architectural features which do not increase the volume enclosed by the building may project but not to exceed two (2) feet.
2. An uncovered stair, landing, deck, balcony, or porch which does not extend above the level of the ground floor, except for a protective railing, may project not more than six (6) feet into a front or rear yard, and not more than three (3) feet into a required side yard, but shall not be less than thirty (30) inches from any side lot line.

18.08.050 ACCESSORY STRUCTURES

1. Accessory Structures within R and Open Space Zone Districts

a. Accessory Structure

Except as provided below, all accessory structures, whether attached or detached, shall meet all site development standards applicable to the main structure as required by the zone district in which the main structure is located.

b. Canopies/Patio Covers

Canopies/patio covers or roofs attached to the main building or connecting the main building to an accessory building, may extend into a required rear or interior side yard, provided that the portions of such structures extending into the yard:

- 1) Shall not exceed fifteen (15) feet in height, project closer than thirty (30) inches to an interior side lot line, project closer than thirty (30) inches to a rear lot line where the rear yard setback is five (5) feet, or project closer than five (5) feet to a rear lot line where the rear yard setback is in excess of five (5) feet.
- 2) Shall be entirely open on at least three (3) sides excluding the necessary supporting columns, except that a roof connecting a main building and an accessory building shall be open on two (2) sides.

c. Ground Mounted Mechanical Equipment

Ground mounted equipment, including but not limited to air conditioning compressors, evaporative coolers and pool equipment, if fully enclosed, may be permitted in any rear or interior side yard setback. If fully enclosed, said equipment may project a maximum of four (4) feet into the required rear yard setback, and a maximum of two (2) feet into the required interior side yard setback, but shall be prohibited from projecting into the required front or street side yard setbacks. Propane tanks and wells may be located in any required yard subject to building code and environmental health requirements, provided they are screened from public rights-of-way.

d. Roof Mounted Mechanical Equipment

All roof mounted mechanical equipment, including but not limited to air conditioning compressors, evaporative coolers and pool equipment shall be located, when practical, on the rear portion of the roof ridgeline in such a manner as to be screened from public streets.

e. Detached Accessory Structures

- 1) A detached accessory structure may be located within an interior side yard or rear yard, provided that when such a structure is located closer than five (5) feet to an interior side or rear lot line, appropriate fire walls shall be installed if required by the Building Official. In no case, however, shall an accessory structure be located closer than thirty (30) inches to an interior side property line or to a rear property line.
- 2) Accessory buildings shall have a maximum height of twenty (20) feet, unless another height is specified elsewhere in this Title.

f. Projections into Yards

Porches, steps, and other architectural features, such as eaves, awnings, fireplaces, chimneys, balconies, stairways, wing walls, and bay windows may project a maximum of thirty (30) inches into any required front, rear, or side setback area.

2. Accessory Structures in Other Districts

- a. Accessory structures shall not be located within the "Front Yard," as defined in Section [REDACTED] of this Title.
- b. In any nonresidential District, accessory structures shall meet all of the setback requirements for the associated main buildings.
- c. Eaves, roof projections, awnings, and similar adjacent architectural features may project into the County or Caltrans right-of-way subject to receiving an approved encroachment permit from the County Public Works Director or Caltrans.
- d. Fireplaces, chimneys, bay windows, balconies, fire escapes, exterior stairs and landings, and similar architectural features may project into required building setback areas a maximum distance of thirty (30) inches, provided that all such features in any one setback shall not occupy more than twenty five (25) square feet of that required building setback area.
- e. Flues, chimneys, antennas, elevators and other mechanical equipment, spires, bell towers, or similar architectural, utility, or mechanical features may exceed the height limit of the land use district in which it is located by not more than twenty five (25) percent, provided that such feature shall not be used for habitable space and appropriate screening is provided for mechanical equipment when possible.
- f. Ground and wall mounted equipment incidental to industrial, commercial, or office development shall be appropriately screened with walls, fencing, landscaping, and/or other appropriate materials to obscure views of the equipment from public rights-of-way. Such equipment shall not be located in front of a

building and any screening provided shall be architecturally compatible with adjacent architecture and materials.

- g. Roof-mounted equipment shall be used only for the building upon which it is mounted.
- h. Roof-mounted equipment shall be screened from public view to the extent practicable, as follows:
 - 1) All roof screens must be solid and continuous. Equipment may be covered by continuous grills or louvers provided such grills or louvers are architecturally compatible with the proposed or existing building.
 - 2) Roof screens shall be sheathed in a matching or complimentary material to the exterior building material and may include metal panels, aluminum, copper, ceramic tile, or other surface as approved by the Technical Advisory Committee.
 - 3) Mechanical plants and distribution networks shall be located in a manner that is compatible with the affected building.

3. Swimming Pools

A swimming pool is a permitted accessory use in any zone district; provided, however, that no swimming pool shall be located in a required front yard, or be nearer than three (3) feet to any fence or building wall.

18.08.060 FENCES AND WALLS

1. Residential and Open Space Districts

- a. In any required front yard or street side yard of a reversed corner lot, a wall or fence shall not exceed four (4) feet in height.
- b. A wall or fence not more than six (6) feet in height, as measured from the adjacent grade on the same parcel may be maintained elsewhere on the lot.

2. Other Districts

- a. Within any required front building setback area, wall or fences shall not exceed four (4) feet in height. However, walls or fences may be permitted up to a maximum height of five (5) feet provided that the portion of the fence or wall above forty (40) inches in height is ninety (90) percent light-emitting wrought iron or other similar material.

- b. Walls and fences shall not exceed six (6) feet in height elsewhere except with an approved conditional use permit.
 - c. Walls for the purpose of screening commercial and industrial activities from more sensitive land uses, and for sound attenuation, may be required by the Planning Director as a condition of approval for commercial or industrial development. The height, placement and design of such walls shall be determined based on the required sound attenuation and/or need for visual screening to ensure consistency with General Plan policies and performance standards. In some instances, site specific conditions may require maximum fence and/or wall height requirements above these standards in order to meet the provisions of this paragraph.
3. The limitations of this section shall not apply where a greater height is required by any other ordinance. A protective fence enclosing any public property or an open area for a swimming pool shall not be subject to said limitation, if constructed of wire or steel mesh capable of transmitting at least ninety (90) percent light.

18.08.070 EXCEPTIONS TO HEIGHT LIMITATIONS

The height limitations of this Title shall not apply to chimneys, church spires, flag poles, or amateur radio antennae.

18.08.080 LIGHTING

Outdoor lighting shall be directed downward and utilize low-energy, shielded light fixtures. Limited upward lighting of flags may be permitted, provided that the lighting is shielded and of sufficiently low-intensity to minimize light overspill.

18.08.090 NOISE HAZARDS

1. Loud and unreasonable noise between the hours of 10:00 p.m. and 6:00 a.m. generated from any R zone district shall not result in disturbance in any R zone district.
2. Construction activities within 500 feet of any R zone district shall be limited to the hours of 6:00 a.m. to 10:00 p.m. Owners and occupants performing work on their property and agricultural activities are exempt from these requirements.

18.08.100 REFLECTIVE MATERIAL

Roofing materials which will be visible to the public from adjacent streets or property shall be of a non-reflective composition, unless approved by a conditional use permit.

18.08.110 TRASH SCREENING REQUIREMENTS IN R-3, C, AND M ZONE DISTRICTS

Outdoor trash receptacles in R-3, C, and M zone districts shall be of sufficient size to accommodate the trash generated by the uses on the parcel(s) being served. All outdoor storage of trash, garbage, refuse, recyclables, and other items or material intended for discarding or collection shall be screened from public view.

18.08.120 STORAGE

The following outdoor storage regulations shall apply in addition to any other standards and requirements of the various districts established by this Title:

1. No sales, rentals, repair work, dismantling, or servicing of any motor vehicle, trailer, airplane, boat, loose rubbish, garbage, junk, or building materials shall be permitted in any front or street side yard of any property in any R zone district for more than 30 days.
2. In any R zone district, no portion of any vacant or undeveloped parcel, or a parcel where no primary use exists, shall be used for storage of the items listed above for more than 90 days.
3. Building materials for use on the same parcel or building site may be stored on the parcel or building site during the time for construction on the premises.
4. Except in recreational vehicle parks or as otherwise authorized, no habitation of recreational vehicles is permitted. One recreational vehicle at a time may be kept onsite on a temporary basis by visitors to a permitted and/or conditionally permitted use, provided that the recreational vehicle may not be kept onsite for more than 14 days in any one-year period.

18.08.130 DESIGN REVIEW APPROVAL FOR MOBILEHOMES

Prior to the issuance of any building permits for the installation of a mobilehome or for any structural addition to an existing mobilehome in any R zone district which requires compliance with this section and is not subject to the MH (mobilehome) overlay zone, a plot plan and architectural elevations drawn to scale with sufficient detailing of exterior materials shall be submitted to the Planning Director for review and approval. In approving the plans, the planning director shall insure that the mobilehome or structural addition complies with the following minimum standards to ensure architectural compatibility with other residential structures in the area.

1. The mobilehome shall be installed on a permanent foundation and satisfy all requirements of the Inyo County Building Official.

2. The mobilehome shall comply with all requirements of Chapter 14.12 of this code, the mobilehome code.
3. The mobilehome shall have a minimum three-to-twelve (3:12) pitch roof and a minimum eaves overhang of twelve (12) inches. A six (6) -inch minimum width fascia board shall run along the top of all roof gables.
4. Roof materials shall consist of either composite shingles, pressure-treated wood shake shingles, clay tile, or an equivalent material as determined by the Planning Director.
5. Siding materials of all exposed facades shall consist of a textured material such as stucco, brick or wood or an equivalent material as determined by the Planning Director.

18.08.140 RIGHT-TO-FARM PROVISIONS

1. Intent

It is the intent of this Section to conserve, protect, and encourage the development, improvement, and continued viability of agricultural land and industries for the long-term production of food and other agricultural products; support the economic well-being of the County's residents; balance the rights of farmers to produce food and other agricultural products with the rights of non-farmers who own, occupy, or use land within or adjacent to agricultural areas; and reduce the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to constitute a nuisance.

2. Applicability

All agricultural activities, operations, facilities, or appurtenances thereof shall comply with the provisions of this Chapter and with the applicable provisions of the zone district in which the land use is located.

3. Protection from Nuisance

- a. No agricultural activity, operation, facility, or appurtenances thereof shall be, or become a nuisance if the following standards are met:
 - 1) The agricultural use is conducted or maintained for commercial purposes; and
 - 2) The agricultural use is conducted in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations in the same locality; and

- 3) The agricultural use has been in operation for more than three (3) years and was not a nuisance at the time it began.
- b. This Section shall not invalidate any provision contained in the Government Code of the State of California associated with agricultural activities, if such activities, operation, facility, or appurtenances thereof, constitutes a nuisance, public or private, as specifically defined or described in any such provision.
- c. This Section is not to be construed to modify or abridge State law, as set out in the California Civil Code relative to nuisances, but rather to be utilized in the interpretation and enforcement of the provisions of County ordinances and regulations.

18.08.150 MAINTENANCE OF ANIMALS

1. The maintenance of animals in R-1, R-2, and R-3 zone districts on lots of one-half (½) acre or more, and in all other zone districts regardless of lot size, shall be permitted as an accessory use so long as such use complies with all other State and County requirements and ordinances.
2. The maintenance of animals in R-1, R-2, and R-3 zone district less than one-half (½) acre is permitted as an accessory use subject to the following conditions:
 - a. Breeding, training, and keeping of up to four (4) adult domestic pets such as dogs and cats is permitted.
 - b. Except as specified in Section [REDACTED], no animals of any kind shall be bred, raised, maintained or slaughtered for any commercial purpose.
 - c. No large livestock or large farm animals, such as horses, mules, donkeys, or cattle, shall be bred, raised, maintained or slaughtered for any purpose.
 - d. Small livestock or small farm animals such as pigs, goats, llamas, alpacas, sheep, pigeons, poultry and rabbits may be bred, raised or maintained for domestic or educational purposes subject to the following restrictions:
 - i. Pigs, goats, sheep, llamas, alpacas and similar animals shall not exceed two (2) in number;
 - ii. Pigeons, poultry, rabbits, and similar animals, including breeding and egg production from such animals, shall not exceed twenty-five (25) in number;
 - iii. No structure or shelter for animals shall be located closer than five (5) feet to any property line;

- iv. No structure or shelter for animals shall be closer than two-hundred (200) feet or one-half (1/2) the distance between the primary on-site structure and any primary structure(s) on (a) nearby parcel(s), whichever is less, provided that this distance requirement may be reduced through issuance of a Conditional Use Permit;
- v. Maximum height of any structure or shelter for animals shall be fifteen (15) feet.
- e. In the R-3 zone district where there are more than one (1) dwelling unit on a property, only domestic pets such as cats and dogs shall be permitted unless otherwise specified by a conditional use permit.
- f. The breeding, raising, maintenance of animals allowed by this subsection shall comply with all other State and County requirements and ordinances.

18.08.160 HOME OCCUPATIONS

No home occupation shall be deemed to be or be permitted as an accessory use in any R or OS district which involves or requires any of the following:

1. The employment of more than one full time or one full time equivalent employee that is not a resident family or household member.
2. Any alteration in the residential character of the premises.
3. Any outdoor storage or display of equipment, appliances, materials or supplies.
4. Maintenance on the premises of any stock of goods for sale or rental which are not homemade.
5. Generation of vehicular traffic that exceeds 15 round trips per day to the Home Occupation and any hours of operation that are not between 7:00 a.m. and 8:00 p.m., or activities that generate objectionable noise, glare, vibration, odor or electrical disturbance.
6. Use of rooms that are not directly needed for the preparation, packaging, storage or handling of products and related ingredients or equipment, or both, or rooms within the home that are not used exclusively for storage for the specific Home Occupation;
7. Advertisement of the address of the property to attract customers, clients or the public to the premises.

**18.08.170 SHORT-TERM RENTALS IN R-1, R-2, R-3, AND RR-0.5-STARLITE
ESTATES ZONE DISTRICTS**

Residential rentals of less than thirty (30) days in the R-1, R-2, R-3 and RR-0.5-Starlite Estates zone districts are prohibited.

18.08.180 SECOND DWELLING UNITS

Second dwelling units are permitted in areas within the OS, RR, RR-0.5-Starlite Estates, and R-1 zone districts in accordance with the following:

1. The lot upon which the second dwelling unit is to be constructed or established contains an existing single-family dwelling.
2. The second dwelling unit is or will be constructed or established such that it is or will be attached to the existing dwelling and located within the living area of that dwelling or is or will be detached from the existing dwelling, but located entirely on the same lot as the existing dwelling;
3. In the case of a second dwelling unit to be served by a private well and/or sewage system, written approval of the construction or establishment of the second dwelling unit must be obtained from the Inyo County Department of Environmental Health Services.
4. The second dwelling unit shall not be offered for sale; rental of the unit shall be permitted.
5. In the case of a second unit attached, or to be attached, to an existing single-family residence, the increase in the floor area occasioned by the construction or establishment of the second unit shall not exceed thirty (30) percent of the existing living area of the single-family residence.
6. In the case of a second dwelling unit detached, or to be detached, from an existing single-family residence, the total area of the floor space of the second dwelling unit shall not exceed twelve hundred (1,200) square feet.
7. The second dwelling unit, and any construction associated with the second dwelling unit, shall conform to the height, setback, lot coverage, architectural review, and site-plan review requirements, and all other zoning requirements, applicable generally to residential construction in the zone in which the property is located and that all fees and charges associated with those reviews and requirements shall be paid by the applicant.
8. The second dwelling unit, and any construction associated with the second dwelling unit, shall meet all applicable building code requirements.

9. At least two (2) on-site, off-street parking spaces shall be designated and provided, in addition to any parking spaces required due to the presence of the existing single-family dwelling.

18.18.190 POLLUTION PROHIBITED

Any use which pollutes any human or natural resource is prohibited in all zoning designations.

18.08.195 EMERGENCY SHELTER

In addition to other relevant development standards and regulations, the following standards shall apply to emergency shelters.

1. No more than ten (10) occupants are permitted at any one time.
2. On-site management and security shall be required at all times that the shelter is operating.

18.08.200 SMALL WIND ENERGY CONVERSION SYSTEMS

1. Purpose and Authority
 - a. The purpose of this Chapter is to provide a uniform, comprehensive set of standards, conditions, and procedures for the placement of noncommercial small wind energy conversion systems (SWECS) and temporary meteorological towers needed prior to the installation of small wind energy conversion systems on property within the County. Such facilities are to be used for the production of electricity to be used on-site, as a means of supplementing electrical power supplied by more traditional sources, such as utility companies.
 - b. This Chapter is enacted pursuant to the authority given the Board of Supervisors by Section 7 of Article XI of the California Constitution, California Government Code Sect. 65892.13 (Wind Energy), California Government code Sect. 65000 et seq., and with respect to lands owned by the United States, by the authority of local governments to apply and enforce environmental laws thereon as recognized by the United States Supreme Court in *California Coastal Commission v. Granite Rock Company*, 480 U.S. 572 (1987).
2. Scope and Applicability
 - a. Any person or entity, including local, state and federal government agencies, who proposes to construct, install, establish, modify, or expand a SWECS in the unincorporated part of the County shall be subject to and comply with all applicable provisions of this Chapter.

- b. The provision of this Chapter shall apply to, and be met by, the proponent of any application or proposal for the modification, expansion, installation, or construction of a SWECS on land in the unincorporated part of the County owned by the United States but, by such declaration of applicability, the County asserts only environmental review authority, and not land-use authority over such lands.

3. Conditional Use Permits

Any applicant desiring to modify, install or construct a SWECS in the unincorporated portion of the County shall first procure a conditional use permit in accordance with this Chapter, consistent with Section [REDACTED] of this Title.

4. Application Requirements

The applicant shall provide the following materials to the Planning Department as part of any conditional use permit application for a SWECS.

- a. Standard County planning application, to include owner information, site information, fees, and mailing labels for public noticing purposes.
- b. Scaled drawings of the proposed system, to include the tower, base, generator, blades, guy wires, and any associated equipment.
- c. Copies of the proposed site plan, along with elevation drawings and other materials as required by the Planning Director, to include information on security fencing, guy wires, and whether a temporary meteorological tower will be constructed preliminary to constructing the SWECS.
- d. Standard drawings and an engineering analysis of the system's tower, showing compliance with the California Building Code, or the California Building Standards Code and certification by a professional mechanical, structural or civil engineer licensed by the State of California. However, a wet stamp shall not be required, provided that the application demonstrates that the system is designed to meet the most stringent wind requirement (California Building Code, Wind Exposure D), the requirements for the worst seismic class (Seismic 4), and the weakest soil class, with a soil strength of not more than one thousand pounds per square foot, or other relevant conditions normally required by a local agency.
- e. Evidence satisfactory to the Planning Director that the proposed system meets the following standards:
 - 1) The wind turbine generator design and operation is certified by a qualified licensed engineer as meeting the requirements of wind turbine-specific safety and performance standards adopted by a national or international

standards-setting body including, but not limited to IEC (International Electric Code) standard 61400-2.

- 2) A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the California Electric Code.
 - 3) The wind turbine generator has a manufacture's warranty with at least five (5) years remaining from the date the application is filed.
 - 4) The model/design of equipment proposed has a documented record of at least one (1) year of reliable operation at a site with average wind speeds of at least twelve (12) miles per hour.
- f. Information demonstrating that the system will be used primarily to reduce off-site consumption of electricity.
- g. Where modification of any development standards specified is requested, the applicant shall identify the requested modifications and provide substantiation to the satisfaction of the Planning Director that strict compliance with all required development standards would substantially and unreasonably interfere with establishment of the proposed system/tower on the proposed site.

6. Notice of Hearing

Notice of the public hearing a SWECS shall be as set forth in Section [REDACTED] of this Title.

7. Review and Approval Factors

- a. Site Restrictions/Visual Effects: Any system shall be assessed specifically for its visual effects and those systems which unreasonably detract from surrounding view sheds may be prohibited or conditioned due to the negative visual impacts. Negative visual impacts, in themselves, may cause detriment to the public welfare and mitigate against the desirability and necessity of the system. The Planning Commission shall consider the following factors in determining whether to approve, conditionally approve, or deny an application for a conditional use permit:
- 1) The height of the proposed facility and its proportionality to and compatibility with the existing structures;
 - 2) The proximity of the proposed facility to any residences and/or residential district boundaries;
 - 3) The zoning and nature of existing uses on adjacent and nearby properties;

- 4) The nature, type, and extent of surrounding tree coverage, foliage, and other landscape features;
 - 5) The design of the facility, with particular regard for design characteristics that will reduce or eliminate its conspicuousness and/or obtrusiveness;
 - 6) The proposed ingress and egress to the site of the facility;
 - 7) The availability and suitability of alternative sites which are available to the applicant as well as efforts made by the applicant to mitigate any negative visual impact from the system;
 - 8) Whether the small wind energy conversion system will create a silhouette against the skyline above surrounding mountain ridgelines;
 - 9) The proximity of the system to an existing transportation corridor, whereby view sheds would be affected by the system tower;
 - 10) The proximity of the system to an existing ecological, historical, or cultural resource, whereby view sheds would be affected by the system/tower.
- b. A SWECS shall not be allowed where otherwise prohibited by any of the following:
- 1) The Alquist-Priolo Earthquake Fault Zoning Act;
 - 2) A local agency to protect the scenic appearance of a scenic highway corridor designated pursuant to Article 2.5 (commencing with Sect. 260) of Chapter 2 of Division 1 of the Streets and Highways Code;
 - 3) The listing of the proposed site in the National Register of Historic Places or the California Register of Historical Resources;
 - 4) A comprehensive land use plan and any implementing regulations adopted by an airport land use commission pursuant to Article 3.5 (commencing with Sect. 21670) of chapter 4 of division 9 of Part 1 of the Public Utilities Code;
 - 5) Any restricted military airspace without first coordinating with the governing authority of that airspace;

8. Required Findings

To approve an application for a conditional use permit for a SWECS and, if necessary, a temporary meteorological tower, the Planning Commission shall make the following findings:

- a) The proposed use is consistent with the County General Plan.
- b) All requirements of the California Environmental Quality Act have been met.
- c) The proposed SWECS complies with all applicable development standards specified in this Chapter.
- d) The SWECS is a desirable and necessary use, particularly considering the review and approval factors of this Chapter.
- e) The proposed use is properly related to other uses and transportation and service facilities in the vicinity.
- f) the proposed use would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity, or be materially or detrimental to the public welfare.

9. General Requirements

The following standards, as they may be deemed applicable by the Planning Director, shall be met with respect to any SWECS that is modified, expanded, installed, operated, or constructed in the unincorporated part of the County and shall be include conditions of approval for any permit issued by the County with respect to any such facility.

- a) Allowable Zone Districts: SWECS are allowed as a conditional use in all zone districts.
- b) Minimum Lot Size: One (1) acre.
- c) Maximum Allowed Tower Height:
 - 1) Parcel size of five (5) acres or less – sixty-five (65) feet.
 - 2) Parcel size more than five (5) acres – eighty (80) feet.
 - 3) Tower heights shall not exceed the height recommendation of the manufacture or distributor of the system.
- d) Setback Requirements from Lot Lines: Equal to the system height or fire setback requirements pursuant to Public Resources Code Section 4290, whichever is greater.

- e) Aesthetic Design Requirements:
 - 1) Color: Colors of all surfaces shall be muted neutral or earth tones, in a manner compatible with the surrounding environment with surfaces to be matte and not highly reflective.
 - 2) Noise: any noise resulting from the system SWECS shall not exceed sixty dBA at, but outside of the closest neighboring inhabited dwelling. Noise limits may exceed these limits during temporary, short-terms events, such as wind storms and utility outages.
 - 3) Lighting: No lighting is permitted on any structure unless required by the FAA or other statutory or regulatory standards. Any such required lighting shall be downward-facing and shielded from adjacent properties when those standards allow. Emergency lighting shall be manually operated and is to be operated only for specific emergency situations.
 - 4) Signage: signage is prohibited, except for a single sign (two feet by two feet maximum) which may warn of high voltage, prohibit trespassing, and provide emergency contact information.
- f. Engineering Design Requirements: The SWECS's turbine must have been approved by the California Energy Commission as qualifying under the Emerging Renewables fund of the Commission's Renewables Investment Plan or certified by a national program recognized and approved by the California Energy Commission.
- g. The system shall comply with all applicable Federal Aviation Administration requirements, including Subpart B (commencing with Section 77.11) of Part 77 of title 14 of the Code of Federal Regulations regarding installations close to airports and the State Aeronautics Act (Part 1 commencing with Section 21001) of division 9 of the Public Utilities Code).
- h. Meteorological towers shall not be allowed for time periods in excess of a year, and shall be removed prior to installation of the wind energy conversion system for which they are measuring. A request to install a meteorological tower shall be included in the application to install a small wind energy conversion system.

10. Abandoned Facilities

Any SWECS that is not operated on a functional basis for a period of six consecutive months shall be deemed abandoned and the applicant shall remove same within ninety days of receipt of notification of the Planning director's determination that the facility has been abandoned. Failure to remove equipment will constitute a public nuisance and the

County may cause the SWECS to be removed, with all costs borne by the applicant or property owner.

11. Responsibility for Inspection Costs

The applicant of the SWECS shall be responsible for the payment of all reasonable costs associated with necessary inspections associated with the conditional use permit including cost incurred by the Planning Department, Public Works Department, or any other County department.

18.08.210 WIRELESS COMMUNICATIONS FACILITIES

1. Findings – in enacting this subsection, the Inyo County Board of Supervisors made the following findings:

- a. The scenic beauty of Inyo County is a resource that benefits both those who reside in the county as well as those who visit it, and that aesthetic beauty and the benefits it provides can and will be diminished by the unregulated placement of wireless communications facilities in the county.
- b. The unregulated placement of wireless communications facilities in the unincorporated part of the county may result in incompatible land uses and may cause a threat to the health, safety, and welfare of county residents.
- c. The unregulated placement of wireless communications facilities in the unincorporated part of Inyo County may impede and pose a hazard to general aviation airports in the county as well as to the missions of the various U. S. Department of Defense facilities within and adjacent to the county; specifically, the United States Air Force’s Flight Test Center at Edwards Air Force Base, the Department of the Navy’s Naval Air Warfare Center Weapons Division at China Lake, and the Army’s Bicycle Lake Army Airfield at Fort Irwin, as well as to those of the California Institute of Technology’s Owens Valley Radio Observatory.
- d. County-wide wireless communications coverage and capability is and will be beneficial to the health, welfare, safety, and convenience of Inyo County residents as well as to those who visit or do business in the county.
- e. For these reasons, this section of the Inyo County Code is necessary to establish and provide County policies, procedures, and standards to govern the location, construction, appearance, modification, and removal of wireless communications facilities and their ancillary facilities in the unincorporated part of Inyo County.

2. Purpose and Authority

- a. The purpose of this chapter is to facilitate the provision of County-wide wireless communications while addressing the concerns set forth in Section [REDACTED]; specifically, to:
- 1) Ensure that sufficient wireless communications facilities are established to allow for Countywide wireless communications for the safety and convenience of the public;
 - 2) Implement Inyo County's goals of supporting and expanding tourism while maintaining the County's natural environment and rural quality of life;
 - 3) Require that those who intend to construct or operate wireless communications facilities in Inyo County to submit plans concerning those facilities to the county prior to the construction thereof;
 - 4) Avoid the over-concentration of wireless communications facilities on the limited amount of privately owned open space, residential, and commercial land in Inyo County;
 - 5) Enhance the ability of providers of wireless communications services to provide such services in an efficient manner, with minimal adverse impact to the visual and economic character of the county;
 - 6) Protect residential areas and residential land uses from any adverse impacts of wireless communications facilities and the other structures and construction that support those facilities;
 - 7) Avoid damage and injury to persons and property that could result from the structural failure of wireless communications facilities and/or supporting structures, through the careful engineering and siting of such facilities and structures;
 - 8) Minimize the number of wireless communications facilities, support structures, and ancillary facilities in the County;
 - 9) Ensure that, to the extent feasible, all wireless communications facilities and ancillary facilities in Inyo County are located and designed in a manner that minimizes their visual impact through careful design, siting, landscaping, and the use of alternative designs and camouflaging;
 - 10) Encourage the placement and joint use or "co-location" of wireless communications facilities on existing structures, as opposed to the construction of new structures and facilities;

- 11) Avoid any incompatibility between wireless communication facility-generated radio emissions and the United States military's operations and test programs at Edwards Air Force Base, China Lake Naval Air Weapons Station, and the Fort Irwin National Training Center and the civilian radio astronomy operations of the California Institute of Technology at the Owens Valley Radio Observatory;
 - 12) Avoid the blight of abandoned wireless communications facilities by ensuring that those who construct or install such facilities post adequate financial mechanisms to assure that such facilities, if abandoned, can be removed and the affected sites reclaimed;
 - 13) Minimize light pollution from wireless communications facilities.
3. This chapter is enacted pursuant to the authority given the board of supervisors by Section 7 of article XI of the California Constitution, Section 704 of the Telecommunications Act of 1996 (47 U.S.C. § 332(c)(7)), the Planning and Zoning Law of California (Government Code § 65000 et seq.), and, with respect to lands owned by the United States, by the authority of local governments to apply and enforce environmental laws thereon as recognized by the U.S. Supreme Court in *California Coastal Commission v Granite Rock Company*, 480 U.S. 572 (1987).
4. Scope and applicability.
- a. Any person who proposes to construct, install, establish, modify, or expand a wireless communications facility in the unincorporated part of Inyo County shall be subject to and comply with all applicable provisions of this chapter.
 - b. Any telecommunications facility existing in the unincorporated part of Inyo County on the effective date of the ordinance enacting this chapter shall, to the extent it is not in compliance with the provisions of this chapter, be considered and treated as a nonconforming use; and on that date the owner or operator of, and any other person responsible for, any such facility shall be subject to and comply with this chapter including, without limit, the requirement for submission and approval of a wireless communications plan in accordance with Section [REDACTED].
 - c. The provisions of this Chapter shall apply to, and be met by the proponent of, any application or proposal for the modification, expansion, installation, or construction of a wireless communications facility submitted to the Inyo County Planning Department during the time that the interim urgency ordinances enacted by Inyo County concerning such facilities were in effect.
 - d. The provisions of this Chapter shall apply to, and be met by the proponent of, any application or proposal for the modification, expansion, installation, or

construction of a wireless communications facility on land in the unincorporated part of the county owned by the United States but, by such declaration of applicability, the county of Inyo asserts only environmental-review authority, and not land-use authority, over such lands.

- e. Exemptions. Persons who own, operate, or are responsible for the communications facilities listed below shall be exempt from the provisions of this chapter:
 - 1) Any facility used, exclusively, for public safety purposes by a Public Safety Network or for non-commercial governmental purposes by a public entity;
 - 2) Any facility used exclusively for the transmission of television and/or radio broadcasts;
 - 3) Any tower antenna that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas;
 - 4) Any parabolic dish antenna used exclusively for transmission or reception of radio signals associated with satellites.

5. Wireless Communications Plans and Subsequent Applications

- a. Any person wishing to construct, install, expand, or modify any wireless telecommunications facility in the unincorporated part of Inyo County shall, prior to such activity, apply for and gain approval by the Inyo County Planning Commission of a wireless communications plan in accordance with this Chapter.
- b. To be considered by the Planning Commission, a proposed wireless service plan shall include, at a minimum, the following:
 - 1) A detailed description of the applicant's existing wireless communications facilities in Inyo County, by size, type, frequency range, configuration design, coverage area, and relationship to other such facilities;
 - 2) A detailed description of the applicant's plans with respect to wireless communications facilities in Inyo County including the types, configurations, locations, and coverage areas of the facilities it intends to modify, expand, install, construct, operate, lease, or deploy, and the present or anticipated commitments received by the applicant from wireless communications service providers with respect to the use of such facilities;

- 3) The applicant's commitment to and its methods for meeting, to the maximum extent feasible, the standards and measures in this chapter concerning the design, location, configuration, deployment, and removal of wireless communications facilities in Inyo County, as well as the remediation of former facility sites, and a description of its policies and practices for doing so, all on both a county-wide and facility-specific basis;
 - 4) The applicant's certification that it has provided a copy of its proposed plan to the Department of Defense installations listed below, to the Owens Valley Radio Observatory, and to the operator of every general aviation airport in Inyo County, and a description or copy of any response:
 - i. Air Force Flight Center at Edwards Air Force Base,
 - ii. China Lake Naval Air Weapons Station,
 - iii. Bicycle Lake Army Airfield at Fort Irwin.
 - 5) The name and address of the applicant's agent for the receipt of correspondence and notices from Inyo County pursuant to this Chapter.
- c. Information in an applicant's proposed or approved wireless communications service plan that is either proprietary or a trade secret shall be clearly designated as such by the applicant and shall not be disclosed by the county to third parties unless authorized in writing by the applicant or required by law.
- d. Upon a determination by the Planning Director that an applicant's proposed wireless communications plan is complete, the Planning Commission shall hold a public hearing to consider whether to approve the plan; the planning commission shall be the decision-making body with respect to that act, and its consideration of the plan shall be a discretionary act under CEQA.
- e. After discharging its duties as the environmental review board in accordance with Section [REDACTED], the planning commission shall approve the wireless communications plan if it finds:
- 1) That the plan is in substantial compliance with the requirements of this Chapter;
 - 2) That the applicant has made a good faith effort and commitment to meeting the standards and goals of this Chapter;
 - 3) That none of the entities listed in subsection b.4. have interposed an objection to the plan; and

- 4) That execution of the plan will not pose or create a threat to the health, safety, or welfare of the public.
- f. Following approval by the Planning Commission of an applicant's wireless communications facilities plan, the applicant may submit to the Inyo County Planning Director applications for the modification, expansion, installation, or construction of wireless communications facilities in the unincorporated part of Inyo County in accordance with Section [REDACTED].
- g. The Planning Director shall review the application and determine whether the activity proposed will require a conditional use permit pursuant to this chapter and/or a variance pursuant to Chapter 18.81; if it does, the application will be processed accordingly, unless the applicant modifies the application to eliminate that requirement.
- h. If the Planning Director determines that the activity proposed does not require a conditional use permit or a variance and that it is or will be in substantial conformance with the applicant's approved wireless communications plan, the Director shall, except as provided in subsection j., approve and issue a permit for that activity; otherwise the director shall deny the application; in either case the director's decision shall be a ministerial act under CEQA.
- i. In order to provide notice to the public and to commence the period for filing any appeal, the Planning Director shall post notice of the Director's approval of any application pursuant to this chapter in a manner similar to that followed with respect to the notice of exemption filed under CEQA.
- j. If the Planning Director determines that extraordinary or unique circumstances attend an application for an activity not requiring a conditional use permit or variance, the director shall forward the application for consideration by the Planning Commission at a public hearing; in that case the Planning Commission's consideration of the application shall be a discretionary act under CEQA and, in making its decision on the application, the Commission shall apply the standards and be guided by the factors set forth in Section [REDACTED] concerning conditional use permits; for purposes of this section, any application which proposes the construction of a road or substantial new construction shall be considered to be an application to which extraordinary circumstances attend.
- k. Once approved, a wireless communications plan may be amended only upon application to, and approval by, the Planning Commission; in considering whether to approve such an amendment, the Planning Commission shall be guided by the relevant portions of this Chapter.

6. Conditional Use Permits

Any person desiring to modify, expand, install, or construct a wireless communications facility in the unincorporated portion of Inyo County that will be either:

- a. Located within, or within three hundred feet of, any R zone district; or
- b. Located within an OS, C-1, C-2, C-5, M-1, or M-2 zone district and which, if constructed, will exceed the maximum height allowed in that district for principal permitted uses, shall first procure a conditional use permit in accordance with this chapter and Chapter 18.81; no conditional use permit may be sought unless the applicant has a Planning Commission-approved wireless communications plan on file with the Planning Department.

7. Application requirements.

- a. Any person wishing to modify, expand, install, or construct a wireless communications facility in the unincorporated portion of Inyo County shall, pursuant to Section [REDACTED], and regardless of the type of approval sought, provide the following to the Inyo County Planning Department:
 - 1) A reference to the portion of the applicant's approved wireless communications plan in which the proposed activity is described and a statement as to how the desired activity or facility is consistent with that plan, as well as a map showing how the proposed facility relates to the applicant's network, if any, of existing and/or proposed facilities sites as described in that plan;
 - 2) Site plans for the proposed activity or facility, drawn to scale, including any landscaping plans;
 - 3) A statement that the applicant owns the site or has permission from the landowner to engage in the activity or construct the facility applied for;
 - 4) A description of all easements on the affected property;
 - 5) A U.S. Geological Survey topographic map or other similarly-detailed survey, showing topographic contours, the proposed facility and any existing at the site, and all existing and proposed ancillary facilities, roads, fencing, etc.; the map shall depict the site upon which the construction or activity is proposed to be located or occur and the area within a minimum of three hundred (300) feet in all directions thereof;
 - 6) A description of the number, type, dimensions, and radio frequencies of all antennas and equipment cabinets/structures present or proposed for use by the applicant at or near the site;

- 7) A map depicting all existing wireless communications facilities within two (2) miles of the proposed facility or site;
- 8) A statement as to whether the proposed wireless communications facility is intended to increase the quality or capacity of wireless communications service in an area to which such service has already been extended, or to extend wireless communication service to an unserved area and, in the case of an application for approval of a new wireless communications facility, a certification or other proof that the facility will forthwith be utilized to provide wireless communications service; such other proof shall consist of a lease for the use of the facility, or a letter of intent to enter into such a lease, executed by a provider of wireless communications services;
- 9) A statement as to whether and, if so, how the facility is or will be designed to allow for co-location, as well as a description of how or to what extent the facility and the site upon which it is proposed to be located will meet the General Requirements set forth in Section 18.76.100 including, to the extent relevant:
 - i. A description of how the proposed facility has been designed and/or will be installed or constructed so as to be as inconspicuous as possible, including landscaping plans,
 - ii. Sample exterior materials and colors of the proposed facility and any ancillary facilities and associated structures such as equipment cabinets and fences,
 - iii. Visual impact demonstrations including before and after photo-simulations showing the height, location, and appearance of the proposed facility, as viewed from residences and public thoroughfares and places in the vicinity both at night and during the day.
- 10) A statement describing the applicant's site selection process and explaining why the applicant is seeking to locate the facility on the site proposed;
- 11) For applications for facilities intended to extend wireless communications services to an unserved area, a map based on either radio frequency propagation or similar engineering data, or drive tests at the proposed site and its vicinity, showing estimated coverage of the proposed facility;

- 12) A statement verifying that the radio-frequency radiation and electromagnetic field emissions of or associated with the proposed facility will, when operating at full strength and capacity, fall within the applicable standards adopted by the Federal Communications Commission and, if the proposed facility is to be co-located with other wireless communications facilities, a similar verification with respect to the cumulative emissions from those facilities;
 - 13) The applicant's certification that it has provided notice of the application to the Department of Defense installations listed below, to the Owens Valley Radio Observatory, and to the operators of all general aviation airports within five miles of the site of the proposed facility or activity and a description or copy of any response:
 - i. Air Force Flight Test Center at Edwards Air Force Base,
 - ii. China Lake Naval Air Weapons Station,
 - ii. Bicycle Lake Army Airfield at Fort Irwin.
 - 14) A plan for the removal of the facility and reclamation of the site upon which it is or will be located, including a time frame for doing so;
 - 15) In the case of a facility proposed to be located on land owned by the United States, either written approval of the facility from an authorized representative of the federal agency that administers that land, or a statement from that agency stating that it will not consider the proposal until the applicant has first obtained approval thereof from Inyo County pursuant to this Chapter.
 - b. An applicant may combine or consolidate the maps, data, statements, and other items required by this section as long as that information is fully and clearly provided.
 - c. In addition to the above requirements, if an applicant is proposing to place or construct a wireless communications facility on or within three hundred (300) feet of an R zone district, the Planning Director may, prior to formal acceptance of the application for the facility, convene a "Pre-Development Meeting" concerning the proposed facility among the applicant, members of the Planning Department and other affected County departments, and representatives of other interested public agencies to address any special or unique concerns posed by the application.
8. Review and Approval Factors – Conditional Use Permits

- a. In addition to the considerations in Section [REDACTED], the Inyo County Planning Commission shall consider the following factors in determining whether to approve an application for a conditional use permit for a wireless communications facility:
 - 1) The height of the proposed wireless communications facility, and its proportionality to and compatibility with existing structures;
 - 2) The proximity of the proposed facility to any residences and/or residential district boundaries;
 - 3) The zoning and the nature of existing uses on adjacent and nearby properties;
 - 4) The nature, type, and extent of surrounding tree coverage, foliage, and other landscape features;
 - 5) The design of the facility, with particular regard for design characteristics that will reduce or eliminate its conspicuousness and/or obtrusiveness;
 - 6) The proposed ingress and egress to the site of the facility;
 - 7) The availability and suitability of existing facilities and structures, especially whether suitable alternative sites, for which a conditional use permit would not be required, are available to the applicant.
 - b. The Planning Commission shall not approve a conditional use permit for the modification, expansion, installation, or construction of a wireless communications facility unless it finds, in addition to the determinations required by Section [REDACTED], that the applicant has, to the maximum extent feasible, designed and configured the facility to meet the requirements and standards set forth in Section [REDACTED] and, in the case of a facility to be installed or constructed in a residential zoning district, that the location of the facility in that district is necessary to provide wireless communications services in that area.
9. Term, Expiration, and Renewal of Conditional Use Permits.
- a. Conditional use permits for wireless communications facilities issued pursuant to this Chapter shall expire ten years after their issuance unless the Planning Commission specifies a lesser period when it approves the permit.
 - b. Conditional use permits for such facilities may be renewed by the Planning Commission for additional periods if it finds either that:

- 1) The facility has not had and will not have a significant adverse effect on surrounding land uses or the public; or
 - 2) Despite its adverse effects, replacement or modification of the facility to remove its deleterious effects is not reasonably feasible and removal of the facility would result in a significant and irreplaceable loss of wireless communication coverage.
- c. Notwithstanding the forgoing in this section, the planning commission shall renew a conditional use permit when it is shown to the satisfaction of the commission that failure to do so would deprive the owner, operator, or other responsible person of a reasonable return on the investment made by that person in the permitted facility and in reliance on the conditional use permit; however, any such renewal shall be for the minimum period necessary for the owner, operator, or other responsible person to recoup that investment.

10. General Requirements

Regardless of the type of County approval required, the following standards, as they may be deemed applicable by the Planning Department, shall be met with respect to any wireless communications facility that is modified, expanded, installed, operated, or constructed in the unincorporated part of Inyo County, and shall be conditions of approval in any permit issued by the county with respect to any such facility:

- a. **Separation from Residential Use:** No wireless communications facility that is designed to be taller than the maximum height allowed for principal permitted uses in the zoning district in which the facility is to be located shall be placed or erected closer than a distance equal to one hundred ten percent of the height of the facility from any residence.
- b. **Minimization of Visual Impact:** All wireless communications facilities governed by this chapter shall be designed, configured, installed, and constructed so as to minimize their visibility. To this end, the applicant for a county permit for any such activity and the owner or operator of, or other person responsible for, any such facility shall, to the maximum extent reasonably feasible, observe and implement the following measures with respect thereto:
 - 1) **Co-location/Alternative Design of Facilities:** The applicant shall co-locate facilities when it is feasible to do so and when it will mitigate or minimize the adverse effects of the facility on land use compatibility, visual resources, public safety, and/or other environmental factors. Co-location is not required when it will create or increase such adverse effects or technical evidence demonstrates to the satisfaction of the Planning Director or the Planning Commission, as the case may be, that it is not feasible due to physical, spatial, or technological limitations. Fiscal

constraints or competitive conflicts are not considered justifiable reasons for not co-locating a new facility. No new wireless communications facility may be installed on an undeveloped site unless the facility will blend in with the surrounding natural and/or manmade environment in such a manner so as to be effectively unnoticeable, unless reliable evidence demonstrating all of the following is provided to the planning director or the Planning Commission, as the case may be:

- i. A clear and convincing need for the facility;
 - ii. The infeasibility or undesirability of co-locating the facility; and
 - iii. The inability to develop an alternative design for the facility.
- 2) **Ridgeline Sites:** Wireless communications facilities shall be sited below ridgeline and be designed to minimize their profile, e.g. screened, depressed, or located behind berms that match the landscape at the site.
 - 3) **Alternative-Design/Use of Camouflage:** Wireless communications facilities and all ancillary facilities shall be designed and constructed or installed using such alternative-design techniques, architectural treatments, and/or camouflaging or screening as will, to the greatest extent possible, minimize their visual impact and allow them to blend in with the existing landscape.
 - 4) **Colors/Painting:** The paint or other finish applied to wireless communications facilities and ancillary facilities, and to all buildings, poles, towers, antenna supports, antennas, fencing, equipment, gates, and other components associated with a wireless communications facility and/or the site upon which it is located and/or the materials out of which they are made, shall be of such non-reflective colors as will, to the greatest extent possible, minimize their visual impact and allow them to blend in with the existing landscape.
 - 5) **Support Facilities:** Freestanding, above-ground wireless communications support facilities including equipment shelters shall be no taller than one (1) story and shall be designed and constructed to resemble a structure or facility typically found in the area, or to otherwise blend in with the surroundings; the design must be approved by the Inyo County Planning Director before a building permit for the structure may be issued.
 - 6) **Lighting:** Outside lighting is prohibited on wireless communications facilities, ancillary facilities, and supporting structures, and at the site upon which those facilities and structures are located except, and only, to the extent required by the Federal Aviation Administration, the Federal

Communications Commission, the Department of Defense, or the Uniform Building Code; to the extent such lighting is required by any of these entities or by the Uniform Building Code, it shall, to the maximum extent feasible, be directed towards the ground and neither cast glare onto adjacent properties, nor disperse into the night sky, nor be a hazard to birds. If necessary, any such required lighting shall be shielded or placed within cowling to prevent it from causing these effects.

- 7) Dish Design: Open-mesh design shall be utilized for microwave dishes whenever possible.
 - 8) Area Disturbance/Landscaping: Disturbance of/to the landscape and terrain shall be avoided, minimized, and mitigated to the degree feasible in the construction, installation, use, and maintenance of any facility governed by this chapter. All applicants and permit holders shall reclaim disturbed landscape areas immediately following construction of the facility. Disturbance of areas surrounding the site shall be avoided or minimized by utilizing existing disturbed areas for the storage of construction materials and equipment, flagging boundaries of the construction area, and notifying workers of these boundaries and other limits of construction and the need to minimize site damage and disturbance.
 - 9) Vegetation: Wireless communications facilities shall be constructed and installed in such a manner as to maintain and enhance vegetation at the site and existing vegetation shall, to the degree reasonably feasible, be used to screen the facilities. Native and/or fire-resistant, noninvasive adapted vegetation shall be planted and maintained around the facility, in the vicinity of the project site, and along access roads in appropriate situations, when necessary or desirable to provide screening for the facilities and/or to prevent erosion.
 - 10) Facade-Mounted Facilities: Facade-mounted wireless communications facilities shall be camouflaged or incorporated into the building upon which it is placed as part of the dominant design element of the building.
 - 11) Building-Mounted Facilities: Facilities attached to buildings or structures shall be painted to match the existing structure, unless they are used as a design element consistently throughout the building and will add visual interest to the building. When used as a design element, dummy elements may be required to be installed in order to retain the architectural continuity of the building.
- c. Compatibility with Military Operations: Any applicant proposing to install or construct a wireless communications facility that will exceed eighty-five feet in

height shall, before submitting an application for approval of such facility to Inyo County, notify the Air Force Flight Test Center at Edwards Air Force Base, the Frequency Management Office at the China Lake Naval Air Weapons Station, and the National Training Center and Aviation Air Traffic Control Office at the Bicycle Lake Army Airfield at Fort Irwin of the application and receive written approval thereof from each of those installations.

If an applicant provides such notification but receives no response within forty-five (45) days thereof, Inyo County shall deem the application approved by the military installation failing to respond.

- d. **Harm to Animals:** All wireless communications facilities, and all ancillary facilities and other structures associated with or auxiliary to such facilities shall be designed, configured, located, installed, and constructed so as to minimize their deleterious effects on birds and other animals to the greatest extent possible.
- e. **Security:** Ground-mounted wireless communications facilities shall have appropriate security fencing, gates, and locks. In the instance of a proposed siting on school grounds, day care facility grounds, or in a park or recreational facility, the wireless communications facility, including vehicular ingress and egress shall be as isolated from, and as minimally intrusive on, those facilities as possible.
- f. **Roads:** Existing roads shall be utilized for the construction of wireless communications facilities and, once a facility is constructed, for access to the facility for any reason; if no roads exist, they shall be designed and constructed so as to minimize their visibility and erosion-causing effects.
- g. **County Zoning Preferences:** The County has determined that wireless communications facilities are more compatible with certain land uses than with others, and therefore establishes the following preferential hierarchy to be followed by an applicant, to the extent feasible, when selecting sites for the location of such facilities: the applicant shall attempt first to select sites in the P zone district, then those in an M zone district, then those in a C zone district, and lastly those in the OS zone district; sites within a R zone district are disfavored.
- h. **County Mounting-Style Preferences:** The County has determined that certain types of wireless communications facility mountings have less visual impact than others, and therefore establishes the following preferential hierarchy to be followed by an applicant, to the extent feasible, when designing or selecting among mounts for such facilities: the applicant shall attempt first to use a facade mount, then a roof mount, then a ground mount, and lastly a free-standing monopole.

- i. Construction Standards: The design, construction, modification, installation, and expansion of any wireless communication facility or ancillary facility governed by this chapter shall be in conformance with the Uniform Building Code.
- j. Conflict with Federal Law: An applicant need not comply with the requirements of this section to the extent they are preempted by federal law.

11. Financial Assurances

- a. The Planning Director or the Planning Commission, as the case may be, shall, as a condition of approval of any permit issued pursuant to this Section for the installation or construction of any wireless communications facility, require the applicant to post a financial assurance mechanism to assure the removal of the facility and reclamation of the site upon which it is located in the event the facility becomes abandoned.
- b. The financial assurance mechanism shall be held until the wireless communications facility is removed, and shall be made payable to the Inyo County Planning Department, which shall use the mechanism solely for the purposes described in subsection a.
- c. The financial assurance may take the form of a surety bond, an irrevocable letter of credit, a certificate of deposit, cash, or such other form as the Planning Director determines is adequate; in any event, the mechanism shall meet the applicable financial assurance guidelines and regulations developed and promulgated under the Surface Mining and Reclamation Act of 1975 (Public Resources Code § 2710 et seq.).
- d. The amount of the financial assurance mechanism shall be calculated based on the reasonably-anticipated cost to remove the facility and to reclaim the site upon which it is located; the amount of the mechanism may be adjusted in the event the facility is modified, a portion thereof is removed, the site upon which it is located is partially reclaimed, or for any other legitimate reason.
- e. No wireless communications facility shall be installed, constructed, or operated unless the financial assurance mechanism required to be posted in connection with that facility is in full force and effect.

12. Notification of Transfer of Ownership

Any person to whom a permit has been issued pursuant to this Section shall notify the Planning Department in writing of the particulars of any purchase, sale, transfer, merger, acquisition, or other event affecting ownership of the entitlements and privileges associated with or arising from that permit; such notification shall be provided within six months of the ownership-affecting event.

13. Abandoned Facilities

Any wireless communications facility that is not operated on a functional basis for a period of twelve (12) consecutive months shall be deemed abandoned, and the owner or operator of, or other person responsible for, the facility shall remove same within ninety (90) days of its receipt of notification of the Planning Director's determination that the facility has been abandoned. Failure of owner, operator, or other responsible person to timely remove the facility following its receipt of such notice of abandonment shall result in the institution of proceedings for forfeiture of the financial assurance mechanism posted in connection with the facility.

14. Modification and Revocation of Permits

If the Inyo County Planning Commission finds, following a public hearing, that the conditions of approval of any conditional use permit or other permit or authorization issued pursuant to this section have not been fulfilled, or that the use or uses allowed by any such permit has or have resulted in a substantial adverse effect on the general welfare of the public or any persons owning, occupying, or using property adjacent or proximate to the site of the permitted activity, or is detrimental to the provision of public facilities or services, the commission may modify or revoke the permit. If the permit is revoked, the owner or operator of, or other person responsible for, the subject facility shall promptly remove same and reclaim the site upon which it was located to the satisfaction of the Inyo County Planning Director.

15. Responsibility for Inspection Costs

The owner or operator of, or other person responsible for, a wireless communications facility authorized by a permit issued pursuant to this section shall be responsible to the County of Inyo for the payment of all reasonable costs associated with the necessary inspections of the conditions of approval associated with the permit, including costs incurred by the Inyo County Planning Department, the Inyo County Public Works Department, and any other department of Inyo County.

18.08.220 REGULATION OF WATER TRANSFERS UNDERTAKEN PURSUANT TO WATER CODE SECTION 1810, SALES OF SURFACE WATER OR GROUNDWATER BY THE CITY OF LOS ANGELES, AND THE TRANSFER OR TRANSPORT OF WATER FROM GROUNDWATER BASINS LOCATED IN WHOLE OR IN PART WITHIN THE BOUNDARIES OF INYO COUNTY

1. Declarations and Findings

- a. Importance of Water. Adequate supplies of water are vital to the economy and environment of Inyo County and the health, safety and welfare of its citizens.

- b. Water Exports. The city of Los Angeles, with significant environmental, economic and social consequences, has exported substantial amounts of surface water and groundwater from Inyo County.
- c. Proposed Water Transfers. In addition to water exports by Los Angeles, proposals have been made that involve the export of groundwater from Inyo County via the Los Angeles Aqueduct under Water Code Section 1810, the sale of groundwater extracted from Inyo County to the city of Los Angeles, the extraction and export of groundwater from a groundwater basin located in whole or in part in Inyo County, and the transfer or transport of groundwater extracted from within Inyo County from a groundwater basin located in part in Inyo County for use in an area within the same basin, but outside the boundaries of the county.
- d. Importance of Groundwater. Groundwater underlying Inyo County has been and will continue to be an important source of water for agricultural, domestic, municipal, environmental and other purposes.
- e. Water Code Section 1810 Transfers. It is the policy of the state of California to facilitate the voluntary transfer of water and water rights where consistent with the public welfare of the place of export and the place of import. Under California Water Code (hereafter Water Code) Section 1810 et seq., neither the State, nor any regional or local public agency may deny a bona fide transferor of water, as defined, the use of a water conveyance facility which has unused capacity, as defined, for the period of time for which that capacity is available, if fair compensation as specified, is paid for that use, subject to conditions specified in Water Code Section 1810 (a), (b), (c), and (d). Water Code Section 1810(d) provides that such a transfer of water may be denied if the use of a water conveyance facility will injure any legal user of water, or will unreasonably affect fish, wildlife, or other instream beneficial uses or will unreasonably affect the overall economy or the environment of the county from which the water is being transferred. Transfers of water from Inyo County undertaken pursuant to Water Code Section 1810 et seq., have the potential to affect the overall economy and/or the environment of Inyo County.
- f. Inyo County/Los Angeles Water Agreement. In 1997, an agreement between the County of Inyo and the City of Los Angeles, which provides for management of the city of Los Angeles' water gathering activities (including groundwater extraction and surface water diversion) within Inyo County, was entered as a final order in Inyo County superior court, Case Number 12908. (Hereinafter, "Inyo/Los Angeles Water Agreement.") The Inyo/Los Angeles Water Agreement provides for cooperative management of Los Angeles' water gathering activities by the county of Inyo and the city of Los Angeles in a manner that protects the environment of Inyo County.

- g. Water Sales to Los Angeles. In January 1998, the city of Los Angeles and the County of Inyo (through the Inyo County/Los Angeles Standing Committee) agreed that “[T]he City of Los Angeles will not enter into any agreement to purchase or otherwise acquire water extracted or diverted from within Inyo County unless it has been first informed by the county that the County and the seller have entered into an agreement which provides for the management of the extraction or diversion of the water in a manner that insures the protection of the County’s environment and economy. If after such notification, the city of Los Angeles enters into an agreement with the seller to purchase water, the purchase agreement will specifically require, as a continuing condition of the purchase of any water, that the seller be in full compliance with the provisions of the agreement with the County.
- h. Groundwater Transfers. A transfer or transport of groundwater from a groundwater basin located in whole or in part within Inyo County to an area outside of the groundwater basin, and a transfer or transport of groundwater extracted from within Inyo County from a groundwater basin located partially within Inyo County for use in an area within the same basin, but outside the boundaries of Inyo County, have the potential to adversely affect the economy and environment of Inyo County.
- i. Authority to Regulate. Existing law provides the County with authority to protect the health, safety and welfare of its citizens, through the regulation of the extraction of groundwater from groundwater basins within Inyo County.
- j. Need for Regulation. It is essential for the protection of the health, safety and welfare of the citizens of Inyo County, and the public benefit of the state, that a transfer of water undertaken pursuant to Water Code 1810, a sale of surface or groundwater to the city of Los Angeles, a transfer or transport of groundwater extracted and exported from a groundwater basin located in whole or in part within the boundaries of Inyo County, and a transfer or transport of groundwater extracted from within Inyo County from a groundwater basin partially located within Inyo County, for use in an area within the same basin, but outside the boundaries of Inyo County be regulated in a manner that provides for the protection of the overall environment and economy of Inyo County.

2. Purpose and Intent

It is the purpose and intent of this Section to establish an effective County policy that will assure that the overall economy and the environment of Inyo County are protected from the impacts of:

- a. A water transfer from the unincorporated area of Inyo County undertaken pursuant to Water Code Section 1810 et seq.;

- b. A sale to the city of Los Angeles, or an acquisition by the city of Los Angeles by means other than a sale, of surface water or groundwater extracted or diverted from within Inyo County;
- c. A transfer or transport of groundwater extracted from a groundwater basin located in whole or in part within the boundaries of Inyo County, for use in an area outside of the groundwater basin; and
- d. A transfer or transport of groundwater extracted from within Inyo County from a groundwater basin partially located within Inyo County, for use in an area within the same basin, but outside the boundaries of Inyo County.

3. Scope

- a. Application. Any person who proposes a transfer or transport of water described in subsections (a)(1) through (4) of this section shall be subject to the provisions of this chapter:
 - 1) A water transfer from the unincorporated area of Inyo County undertaken pursuant to Water Code Section 1810 et seq.
 - 2) As set forth in the agreement described in Section [REDACTED] a sale to the city of Los Angeles, or an acquisition by the city of Los Angeles by means other than a sale, of surface water or groundwater extracted or diverted from within Inyo County.
 - 3) A transfer or transport of groundwater extracted from a groundwater basin located in whole or in part within the boundaries of Inyo County, for use in an area outside of the groundwater basin.
 - 4) A transfer or transport of groundwater extracted from within Inyo County from a groundwater basin partially located within Inyo County, for use in an area within the same basin, but outside the boundaries of Inyo County.
- b. Exemptions. Water transferred or transported as described below shall be exempt from the application of this Section:
 - 1) A transfer or transport of water by the city of Los Angeles from Inyo County, and an extraction of groundwater or a diversion of surface water from within Inyo County by the city of Los Angeles, that is not a purchase or acquisition of water subject to the agreement described in Section [REDACTED]
 - 2) A transfer or transport of water during periods of emergency declared pursuant to California Government Code Section 8558 that is directly

related to the reason or basis for the declaration of the emergency, and that is undertaken in order to prevent or mitigate injury to people, or the flooding or damaging of property.

- 3) A transfer or transport of water in the form of manufactured or processed goods or products, agricultural products, or in bottles or any other portable containers including tanker trucks, provided the total transfer or transport via tanker truck or trucks does not exceed one acre foot during a one-year period.
 - 4) A transfer or transport of water over which the County lacks the legal authority or jurisdiction to regulate, including a transfer or transport of water extracted or diverted from outside of the boundaries of Inyo County.
4. Nonconforming Uses. A transfer or transport of water which occurs after the effective date of the ordinance codified in this chapter shall be considered a nonconforming use as set forth in Section [REDACTED] of this code if the transfer or transport meets all of the following criteria:
- a. The transfer or transport is substantially similar to a transfer or transport that occurred during the one year period immediately prior to the effective date of said ordinance;
 - b. The transfer or transport is accomplished by means of substantially the same conveyance facility as was used during the one-year period immediately prior to the effective date of said ordinance;
 - c. The transfer or transport is from substantially the same geographical area of the groundwater basin as during the one-year period immediately prior to the effective date of said ordinance;
 - d. The transfer or transport does not exceed either the highest instantaneous rate, or the highest annual total quantity, of water that was transferred or transported within the twenty-year period immediately prior to the effective date of said ordinance; and
 - e. The transfer or transport will result in the use of the transferred or transported water in substantially the same manner and in substantially the same area as it was used during the one-year period immediately prior to the effective date of said ordinance.

A transfer or transport of water which does not meet all of the criteria described in subsections (3)(a) through (e) of this section (including a water transfer or transport which once met, but no longer meets all of the criteria) shall not be considered a nonconforming use, and shall be subject to the provisions of this section.

5. Conditional Use Permit Requirement

Any person who proposes a transfer or transport of water described in Section [REDACTED]. A. shall, prior to the commencement of the water transfer or transport, first apply for and obtain from the County Planning Commission a conditional use permit as provided in Chapter 18.81 of this Code.

6. Applications

An application for a conditional use permit shall be made on forms provided by the County Planning Department. The application shall be filed in accord with this Chapter, Chapter 18.81, other relevant chapters of this code, and with procedures established by the county Planning Commission.

7. Application Processing and Fees

- a. Applications. An application for a conditional use permit for a water transfer described in Section [REDACTED] shall be processed in the same manner as other conditional use permit applications submitted to the County; however, the Inyo County Water Department and the Inyo County Water Commission (Water Commission) shall evaluate the hydrogeological and related environmental impacts, and based on its evaluation, shall identify and develop associated mitigation measures, proposed project conditions, the monitoring, groundwater management and/or reporting program, and proposed findings. The Water Commission shall submit its recommendations to the County Planning Commission.
- b. Fees. At the time of the filing of the application for a water transfer pursuant to this chapter, a fee, as established by Section [REDACTED] of this code, shall be paid to the County Planning Department.

8. Required Findings

- a. Findings. A conditional use permit for a transfer or transport of water described in Section [REDACTED] shall be approved only if the County Planning Commission, in consideration of the recommendations submitted by the Water Commission, finds that the proposed water transfer to be undertaken (subject to proposed conditions to be placed upon the transfer) will not unreasonably affect the overall economy of Inyo County and will not unreasonably affect the environment of Inyo County.
- b. Adverse Effect on the Economy or Environment. A proposed water transfer shall be found by the Planning Commission to unreasonably affect the overall economy of Inyo County or to unreasonably affect the environment of Inyo County if the

Commission finds, based on the relevant recommendations submitted by the Water Commission, that the proposed water transfer including all proposed conditions and mitigation measures, will cause a significant adverse effect or effects on the overall economy or the environment of the county. A determination of whether or not the proposed water transfer will have a significant adverse effect, or whether a mitigation measure or measures will reduce such a significant effect to a less than a significant level, shall be made by reference to the analytical model of the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.), its guidelines and relevant case law.

- c. **Economy.** In determining whether a proposed water transfer will unreasonably affect the overall economy of Inyo County, all relevant factors shall be considered, including, but not limited to, potential injuries to legal users of water in the groundwater basin and the county, direct or indirect economic impacts to suppliers, service providers and others in the county, impacts to the tax base of the county, and the cumulative effects of the proposed water transfer when considered together with the effects of past water transfers, past surface and groundwater exports, proposed economic mitigation measures, as well as the effects of approved or anticipated future water transfers and exports, on the county's overall economy.
 - d. **Environment.** In determining whether a proposed water transfer will unreasonably affect the environment of Inyo County, all relevant factors shall be considered, including, but not limited to, effects on fish, wildlife, and other instream uses, effects on water levels in wells, effects on springs and seeps, effects on riparian and groundwater dependent vegetation, effects on rare or endangered plant or animal species, effects on surface water features, recharge to the groundwater basin, effects on the groundwater storage capacity of the basin, potential for overdraft, potential for subsidence, effects on water quality, the capability of the proposed monitoring, groundwater management and/or reporting program to detect and avoid significant adverse impacts and the cumulative effects of the proposed water transfer within the affected groundwater basin, when considered together with the effects of past water transfers, past transfers and water exports, as well as approved and anticipated future water transfers, and water exports from the affected groundwater basin, on the environment.
 - e. **Evidence.** Each finding required to be made by the County Planning Commission pursuant to this Section shall be based upon substantial evidence and shall contain a description of the evidence that supports the finding.
9. **Monitoring, Groundwater Management and Reporting**

The County Planning Commission, in consideration of the relevant recommendations submitted by the Water Commission, shall approve and incorporate, as appropriate, a monitoring, groundwater management and/or reporting program into each conditional use

permit it grants for a transfer or transport of water described in Section [REDACTED]. The monitoring, groundwater management and/or reporting program shall be of such scope and extent as the commission finds to be necessary to ensure that the proposed water transfer will not unreasonably affect the overall economy or the environment of the county. In determining the scope of a monitoring, groundwater management and/or reporting program, the ability of the proposed program to detect and avoid potential significant adverse effects before such effects occur shall be considered. The monitoring and/or reporting portion of the program shall be in compliance with Chapter 15.44 of this code. The groundwater management and/or reporting program may include, but shall not be limited to, instream flow measurements, reports of the amounts of surface water diverted and/or amounts of groundwater pumped, monitoring of wells, monitoring of groundwater levels, monitoring of spring and seeps, monitoring of vegetation, wildlife, fish and economic effects and thresholds and/or trigger points which, if reached, will control the extraction of groundwater.

10. Procedures

Upon completion of the environmental review process and the filing of all required documents, a noticed public hearing will be scheduled and conducted by the County planning commission to consider issuance of any conditional use permit for a water transfer or transport described in Section [REDACTED]. Such a hearing will be scheduled and conducted in accordance with this chapter and Chapter 18.81 of this code.

11. Modifications and Revocation

- a. Modification by Request. Any person who has been granted a conditional use permit for a water transfer or transport pursuant to this chapter may submit an application for a modification of the permit. Any such application shall be submitted and processed as provided in Section [REDACTED] et seq. of this code.
- b. Modification for Cause. In the event that evidence obtained through the monitoring and/or reporting program, or other evidence, indicates that a water transfer subject to a conditional use permit has unreasonably affected, or has the potential to unreasonably affect, the overall economy or the environment of the county, or that there has been a failure to comply with the provisions of the permit, the County Planning Commission shall conduct a noticed public hearing into the matter. If at the conclusion of the hearing, the Commission finds that an existing water transfer, if continued, would cause an unreasonable effect on the overall economy or the environment of the county, the Commission shall modify the provisions of the conditional use permit to the extent that it finds to be necessary to avoid the occurrence of such an effect. If the Commission finds that a water transfer, subject to a conditional use permit has unreasonably affected the overall economy or the environment of the county, the Commission shall order the implementation of such mitigation measures as it finds to be necessary to reduce the level of the effect to less than significant; in addition, the commission

may modify the conditional use permit to the extent that it finds to be necessary to avoid the occurrence of such unreasonable effects in the future.

- c. **Revocation.** At the conclusion of the public hearing described in subsection (B) of this section, the Commission may revoke a conditional use permit granted pursuant to this section if it finds that the water transfer cannot be continued without causing an unreasonable effect on the overall economy or environment of Inyo County, or if the Commission finds that there has been a failure to reasonably comply with the terms of the permit. In the event that the Commission revokes a permit, the Commission may order the former permittee to implement such work as the Commission finds is necessary to mitigate any significant adverse effects caused by the water transfer or transport undertaken by the former permittee.

12. Term of Permit

Each applicant for a conditional use permit pursuant to this Section shall specify in the application the duration or term of the permit requested. The County Planning Commission, in consideration of the relationship of the term of the permit to the potential for the water transfer to unreasonably affect the overall economy or environment of Inyo County, shall, in accordance with Section [REDACTED] of this code, determine the term of the permit.

13. Challenge to Water Transfers and Transport

- a. **Existing Conditional Use Permit.** Any interested party may challenge the ongoing transfer or transport of water subject to an approved permit during the term of the permit based on allegations that one or more of the following circumstances exists:
 - 1) There has been or is an ongoing violation of one or more conditions of an approved permit; or
 - 2) The transfer or transport of water pursuant subject to a conditional use permit has unreasonably affected the overall economy or the environment of the county.
- b. **No Existing Conditional Use Permit.** Any interested party may challenge a transfer or transport of water that is not being undertaken pursuant to an approved conditional use permit based on an allegation that a conditional use permit for the transfer or transport of water is required pursuant to this chapter.
- c. **Process.** A challenge pursuant to this section shall be commenced by filing with the planning commission a signed written statement setting forth the challenge on a form prescribed by the commission. The statement shall allege circumstances

specified in subsections (a) or (b) of this section, and shall generally describe facts in support of those alleged circumstances. Within ten (10) days of receipt of a challenge in compliance with the foregoing requirements, the Planning Department shall give notice of the challenge to the person undertaking the transfer or transport of water, the challenging party, all affected agencies, and any interested party that has requested such notice. Within forty-five (45) days of the receipt of the challenge, the Planning Department shall complete a review of the facts alleged in the challenge, and based upon this review, shall make a determination whether sufficient evidence has been presented to warrant a hearing by the commission on the challenge. A notice of this determination, together with the date and time of public hearing by the commission on the challenge, if applicable, shall be provided to the person undertaking the transfer or transport of water, the challenging party, all affected agencies, and any interested party that has requested such notice. Any public hearing on the challenge shall be conducted as provided in this title.

- 1) If the challenge pertains to a transfer or transport of water undertaken pursuant to a conditional use permit, the Commission's review shall be as set forth in Section [REDACTED].
 - 2) If the challenge pertains to a transfer or transport of water that is not undertaken pursuant to this chapter, the Commission shall determine whether such a permit is required. If the Commission finds that the transfer or transport requires, and/or previously required, a conditional use permit, and if the Commission finds that the transfer or transport of water caused an unreasonable effect on the overall economy or environment of Inyo County, in addition to any other penalties that may be imposed for violation of this code, the commission may order the person who undertook the transfer or transport to implement such work as the commission finds is necessary to mitigate any significant adverse effects caused by the water transfer or transport undertaken by the person.
- d. Standard of Proof. The standard for proof in any such challenge proceeding shall be substantial evidence. The burden of proof shall be upon the person undertaking the transfer or transport of water.
- e. Appeals. Appeals of a determination by the Planning Department or of a Planning Commission decision may be made as provided in this Title.