

Memorandum

To: Honorable Mayor Price and Members of the City Council;
City Manager Brenda Fischer

From: Brent Billingsley, Development Services Director

Date: October 30, 2012

RE: **Text Amendment (TXT) 11-01:** A request to review and approve the proposed text amendment article for Wireless Communication Facilities. A text amendment to the City of Maricopa Zoning Ordinance creating a new Chapter, Article 36, titled Wireless Communication Facilities, **DISCUSSION AND POSSIBLE ACTION.**

Text Amendment 11-01: A request for review and approval of the proposed text amendment (Draft#4) to Article 36 “Wireless Communication Facilities” of the City of Maricopa Zoning Ordinance, and as recommended by the Planning and Zoning Commission in their last meeting on October 8, 2012. Since the initiation of this text amendment in November 2011, staff has presented the draft ordinance to the Planning and Zoning Commission on five (5) separate occasions and discussed the proposed amendment with various stakeholders to meet specific direction given by the Planning and Zoning Commission.

Staff has incorporated changes to the text amendment as directed by the Planning and Zoning Commission, including changes resulting from the September 19 special meeting with wireless communication industry stakeholders. The Planning and Zoning Commission is satisfied with the final draft and unanimously recommends the City Council for approval.

Pursuant to Arizona Revised Statutes Title 9: Article 9-462.03 Amendment Procedure; and Article 9-461.02 Planning Commission; creation; limitations, the review of this text amendment by the Planning and Zoning Commission and subsequent public hearings for adoption of the code both by the Commission and the City Council will meet the procedural requirements of the law. Further, the proposed text amendment meets the Goals and Objectives outlined in the City of Maricopa General Plan Chapter II, (A) Land Use Element; Goal 4: Objective e: “Update and consistently enforce the community’s development codes, including zoning, subdivision, and related regulations.”

As part of an extensive public outreach, staff has received comments from Homeowners Associations, the representatives from the wireless industry and residents alike (Exhibit C). As mentioned above, staff received substantial review comments from the members of the Planning and Zoning Commission, which has also been integrated in the text amendment. Following the Planning and Zoning Commission meeting on September 10, staff met again with telecommunications industry stakeholders on September 19, 2012. Accordingly, staff

has considered all of the industry comments and incorporated the changes to the text without substantially rewriting the draft ordinance. The revised final draft is attached for review. The following is a bulleted list of the major changes proposed from the previous draft

1. From the stakeholder meeting, the following was recommended:

- a. **Sec E:** Any proposed wireless communication facility located within an Industrial Zoning District and is setback more than 300 feet from a residential lot line, should be allowed by right without a Conditional Use Permit.
 - i. Staff comment: Staff has considered this request and is reflective in the proposed text amendment.
- b. **Sec. E:** Increasing the height allowed by right from 35 feet to 65 feet when the facility is located in an industrial zoning district.
 - i. Staff comment: Staff has considered this request and is reflective in the proposed text amendment.
- c. **Sec. F, 2G:** Revise the radius for the applicant to provide of existing wireless communication facilities from 1 mile of the boundary of the city limits to 5 miles of the propose wireless communication facility.
 - i. Staff comment: Staff has considered this request and is reflective in the proposed text amendment.
- d. **Sec. F, 5, Table A:** Reduced the distance requirement from residential properties for free standing monopoles that exceed 35' in height.
 - i. Staff comment: Staff has considered this request and is reflective in the proposed text amendment by amending the setback table requiring monopoles to setback a minimum of 400' to a residential use. The Planning and Zoning Commission expressed a similar concern that the initial proposed setbacks from residential properties were too restrictive. Staff has amended all of the minimum setbacks to reflect conservative regional industry practices. For instance, the City of Chandler has one of the more restrictive wireless ordinances relative to protecting the visual impacts from residential properties. Generally speaking, the City of Chandler only requires use permits if an antenna is proposed within 300' of a residence.

- e. **General Comment:** The proposed text amendment should address how existing approved Conditional Use Permits are regulated once the term of the permit is exhausted. Recommend that if no change in height or increase of square footage to the antenna is made then the tower should be allowed to be renewed through an administrative process.
 - i. Staff comment: Staff has considered this request and is reflective in the proposed text amendment.

Recommendation

This case was presented on October 8 to the Planning and Zoning Commission and it was unanimously voted for approval. Staff is requesting approval of text amendment Article 36-Wireless Communication Facilities (TXT11-01, as recommended by the Planning and Zoning Commission, and adoption of Resolution 12-XX and Ordinance 12-XX.

Exhibit A – Draft #4 Wireless Communication Facilities Ordinance
Exhibit B – Staff analysis
Exhibit C – Public comments
Exhibit D – Timeline and stakeholder list