

ORDINANCE NO. _____

An ordinance amending Sections 62.00, 62.08, 62.09 and 62.10 of the Los Angeles Municipal Code to revise the specifications and procedures for the installation of Above Ground Facilities in the Public Right-of-Way.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. The following definitions are added to Section 62.00 of the Los Angeles Municipal Code in appropriate alphabetical order:

“Above Ground Facility” or “AGF” shall mean any structure, monopole, antenna, cabinet, electric power meter, and any other appurtenance intended for wireless communications, video franchise, telecommunications, or utility purposes and intended to be installed above surrounding grade in the Public Right-of-Way. For the purposes of reviewing an AGF installation application, any structure, cabinet, electric power meter, and any other appurtenance that shares a common structural foundation shall be defined as one AGF installation. Any structure, cabinet, electric power meter, and any other appurtenance required to operate a facility, but that does not share a common structural foundation, shall be considered a separate AGF installation. The number of separate AGF installations shall be based on the number of separate structural foundations installed when the facility is fully operational.

“ADA” shall mean the Americans With Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990), as amended from time to time.

“Avenue” shall mean any street designated as an avenue on the Mobility Plan 2035 element of the General Plan of the City.

“Board” shall mean the Board of Public Works.

“Boulevard” shall mean any street designated as a boulevard on the Mobility Plan 2035 element of the General Plan of the City.

“City Block” shall mean the Public Right-of-Way area between two adjacent intersections of two sets of intersecting streets, provided that the end of a street that does not intersect with another street shall be considered an intersection for this purpose.

“Design Review Board” shall mean the board appointed to review proposed project plans in a City Specific Plan pursuant to Section 16.50 of the Los Angeles Municipal Code.

“Least Intrusive Means” shall mean the least amount of physical or aesthetic intrusion into the Public Right-of-Way, taking into account the physical characteristics of an AGF, including, but not limited to, size, shape, height, volume, color, noise, camouflaging and screening.

“Public Right-of-Way” shall mean land that is dedicated for public use, including, but not limited to, improved public streets, sidewalks, curbs, gutters, public utility easements, and parkways, as well as dedicated unimproved areas.

“Small Cell” shall mean a Utility Pole-mounted antenna or group of antennas with a total cumulative volume of not more than 3.0 cubic feet excluding cable and conduit. The installation of a Small Cell shall utilize supporting elements that allow for no more than a six-inch extension (stand-off) from the Utility Pole, except when additional stand-off is required to comply with applicable health or safety regulations. The installation of a Small Cell shall not be more than 6 feet above the highest transmission lines on a Utility Pole.

“Street” shall include any street, highway, avenue, lane, alley, court, place, square, curb or other public way in this City which has been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.

“Utility Pole” A Utility Pole is defined as any pole which is used to support power, telephone, cable television, or other suspended telecommunications wires, and shall not include a monopole or antenna. For purposes of this section, a guy pole associated with a Utility Pole shall be considered to be a Utility Pole.

Sec. 2. Section 62.08 of the Los Angeles Municipal Code is hereby amended in its entirety to read as follows:

SEC. 62.08. SPECIFICATIONS AND PROCEDURES FOR ABOVE GROUND FACILITY INSTALLATIONS.

The following specifications and procedures shall govern the approval process for the installation of Above Ground Facilities in the Public Right-of-Way.

I. General Restrictions:

A. Below Grade Requirement: Any AGF shall be installed below surrounding grade in each of the following areas:

1. City Specific Plans (SP) as defined in LAMC Section 11.5.7, unless specifically exempted by the Board.
2. Historical Preservation Overlay Zones (HPOZ) as defined in LAMC Section 12.20.3.

3. An area adjoining a site that has been designated as a historically significant Historic-Cultural Monument pursuant to LAMC Section 22.171.10, or listed in, or formally determined eligible for listing in, the California Register of Historical Resources, or listed in, or formally determined eligible for listing in, the National Register of Historic Places.

4. An area adjoining an Open Space (OS) Zone as defined in LAMC Section 12.04.05.

5. Along a Scenic Highway as designated in the Transportation Element of the General Plan.

6. Pedestrian Oriented District (POD) as defined in LAMC Section 13.07.

7. Community Design Overlay District (CDO) as defined in LAMC Section 13.08.

8. An area that has been designated by the Board, upon the recommendation of the City Council, as an "underground AGF area." The Board may make this designation only in an area where all existing AGFs are currently underground or are required to be installed underground by law or contract.

The below grade requirements of this subsection shall not apply to an electric power meter.

B. Camouflage Requirement: An AGF installation shall be designed to be the Least Intrusive Means of providing service, including use of camouflaging, screening or best available technology, in order to conceal or minimize the visual impact of the AGF in each of the following instances:

1. A Public Right-of-Way location along streets where the adjoining land use is primarily residential.

2. Any area subject to the below grade requirement of Subsection I.A for which the Board has granted a hardship waiver pursuant to this section.

3. Any AGF installation for which the Board has granted a variance to the AGF volume and height limits pursuant to Subsection IV.C.

The camouflage requirement of this subsection shall not apply to a Utility Pole-mounted antenna; however, a Utility Pole-mounted antenna subject to the provision of this section may be required to be painted to match the Utility Pole in order to conceal or minimize the visual impact of the antenna.

C. Hardship Waiver: The provisions of this section requiring installation of an AGF below grade may only be waived if the Board finds that a hardship would result from the imposition of this requirement. A hardship occurs when placing the AGF below grade is technically or financially infeasible and all reasonable alternatives have been exhausted. The Bureau of Engineering shall process a request for a hardship waiver in an AGF application within 60 days of submission. The 60-day process deadline shall commence when the Bureau of Engineering verifies the AGF application (including the hardship waiver request) is accurate and complete.

If a proposed AGF installation is located within a SP, HPOZ, POD or CDO that includes an applicable Design Review Board, the AGF applicant shall first submit a request to the City of Los Angeles Planning Department for recommendation on the proposed AGF installation. The Planning Department recommendation shall be based on the recommendations or comments of the applicable Design Review Board or HPOZ Board, and must be obtained prior to submittal of the AGF application with a hardship waiver request to the Bureau of Engineering.

D. Written Report on Hardship Waiver Request: The Bureau of Engineering shall prepare a written report regarding the application for a hardship waiver for consideration by the Board. The report shall include all of the following:

1. If the AGF applicant alleges technical infeasibility as a basis for a hardship waiver, a report prepared by the AGF applicant detailing the technical infeasibility of complying with the below grade requirement of this section.

2. If the AGF applicant alleges financial infeasibility as a basis for a hardship waiver, a report prepared by the AGF applicant detailing the financial infeasibility of complying with the below grade requirement of this section, including details on the estimated comparative cost of constructing the AGF above ground and below grade, and the expected return on investment or cost recovery time for the AGF.

3. A detailed summary documenting any comments received by the Bureau of Engineering from any party notified about the AGF application pursuant to Subsection VII.D.

4. A report prepared by the AGF applicant containing evidence of the investigation of any reasonable technological or site alternative, including a location on private property as well as any other location in the Public Right-of-Way, and justification for not selecting any alternative. At least two private property alternatives must be documented to satisfy this requirement.

5. A report prepared by the AGF applicant demonstrating that the proposed AGF satisfies the camouflage requirement of Subsection I.B.

6. A statement by Bureau of Engineering that the AGF applicant has completed all other requirements of this section, including copies of any report or comment from the Planning Department.

E. Above Ground Allowance: The AGF may be located above surrounding grade in the Public Right-of-Way in any location not falling under the restrictions of Subsection I.A. Any AGF application for a location outside the below grade areas in Subsection 1.A shall be subject to all other applicable requirements of this section.

II. Permit Requirements for AGF Installations:

A. Permit for AGF Installations Required: Any AGF installation in the Public Right-of-Way must be pursuant to a permit issued by the Bureau of Engineering in accordance with the requirements of this section and all other applicable provisions of this Code.

B. Requirements for Utilities: Any excavation in and adjacent to a street requires an Excavation Permit per LAMC Section 62.02. An entity that has the authority to occupy the Public Right-of-Way by virtue of a state granted certificate of Public Convenience and Necessity shall comply with the requirements of this section and shall obtain a Utility Permit prior to the start of any AGF installation work. Compliance with the requirements of this section shall be a condition of approval of any Utility Permit that includes an AGF installation.

C. Requirements for Non-Utilities: An entity that does not have state authority to occupy the Public Right-of-Way shall comply with the requirements of this section and shall require a franchise agreement with the City and an Excavation Permit from the Bureau of Engineering prior to the start of any AGF installation work. Compliance with the requirements of this section shall be a condition of approval of any Excavation Permit that includes an AGF installation.

D. AGF Application Requirements: An AGF applicant may apply for one AGF installation, including any appurtenance, per Utility Permit or Excavation Permit application. An application for an AGF installation permit shall be deemed complete upon submission of all of the following by the AGF applicant:

1. Site and landscaping plans to scale, elevation drawings, before installation photographs showing the location of the proposed AGF installation, renderings of the installed AGF with appurtenances, including, but not limited to, power meter boxes, vent stacks, utility poles and

surrounding landscaping elements. Also required are specifications and dimensions pertaining to existing street improvements, parkway alignment, proximity to buildings, view corridors, potential noise levels of all AGF equipment, and details necessary to determine compliance with the aesthetic (Subsection IV) and public safety (Subsection V) requirements of this section.

2. Identification of any structure, cabinet, electric power meter, or any other appurtenance proposed to be installed above the existing surrounding grade.

3. Proof of mailing of notice of the AGF application to any person and organization listed in Subsection VII.D, including a listing of any notifications sent. Proof of mailing shall consist of one or more of the following: postal service receipts, certification from a mailing service, or certification from the Applicant.

4. Any applicable City zoning regulation of adjoining lots and the number and location of any existing AGF on both sides of the street on the City Block in which the AGF installation is proposed.

5. Documentation showing that the AGF design has been approved by the Cultural Affairs Commission pursuant to Subsection IV.A.

6. The name, address, and contact phone number of the AGF applicant, as well as the address of the proposed AGF installation.

7. An irrigation plan, if applicable, as defined in Subsection IV.F.

8. A Graffiti Mitigation Plan as defined in Subsection IV.G.

9. A certification from the AGF applicant that any wireless transmission facility that is included in the AGF installation will comply with all applicable FCC requirements, as amended from time to time.

10. If the proposed AGF installation is along a street where the adjoining land use is primarily residential, or will require either a hardship waiver of the below grade requirement pursuant to Subsection I.C or a variance from the AGF volume and height limitations pursuant to Subsection IV.C, then the AGF applicant also must demonstrate that the proposed AGF satisfies the camouflage requirement of Subsection I.B.

11. Any applicable AGF applicant report required for any hardship waiver and variance request if a hardship waiver or variance will be necessary for the proposed AGF installation.

12. Documentation showing the recommendation of the Planning Department, if applicable, for any proposed AGF installation located in an SP, HPOZ, POD or CDO.

13. Any applicable permit fee deposit and hardship waiver and variance request deposit.

III. Permit Fees:

A. Deposit: In addition to any other applicable permit fees, an initial deposit in the amount of \$1,000 per AGF application shall be made by the AGF applicant to cover the cost of processing the AGF application. If charges by the Bureau of Engineering exceed the initial deposit amount, the AGF applicant shall be required promptly to deposit additional funds to continue permit processing and to avoid abandonment of the AGF application. Failure promptly to deposit additional funds may result in the denial of the AGF application.

B. Hardship Waiver and Variance Request Deposit: Due to the additional time and effort required to review a hardship waiver request and a variance request, an additional \$1,000 initial deposit shall be submitted for each hardship waiver or variance request.

C. Charges: Pursuant to LAMC 62.05(a)(2), City staff time used to process a permit application containing an AGF installation, hardship waiver request, variance request and AGF mapping shall be charged to the AGF applicant.

IV. Aesthetic Requirements:

A. Cultural Affairs Commission Approval of AGF design: Any AGF exterior design shall be approved by the Cultural Affairs Commission prior to submission of an AGF application to the Bureau of Engineering. Once an AGF exterior design has been approved by the Cultural Affairs Commission, that design shall be deemed approved for purposes of any new AGF application, unless the Cultural Affairs Commission later revokes its previously granted approval. Approval authority of the location and placement of an AGF installation using a Cultural Affairs Commission approved AGF design shall remain with the Bureau of Engineering and the Board pursuant to the provisions of this section. A Utility Pole-mounted antenna shall not be subject to the Cultural Affairs Commission approval requirement of this subsection.

B. Visual Impact: The AGF applicant shall demonstrate that the proposed AGF installation site meets the aesthetic requirements of this section, as well as the camouflage requirement of Subsection I.B, if applicable. The AGF installation may not unreasonably interfere with any streetscape view, view corridor existing within the Public Right-of-Way, view from any neighboring lot, view from any residential lot, or view from the Public Right-of-Way.

C. AGF Volume Threshold and Height Limits: The AGF shall have a maximum volume of 36 cubic feet. The AGF volume shall include the combined volume of any cabinet enclosure that shares a common foundation or platform. The AGF volume shall not include the volume of the foundation or platform supporting the cabinet that is above the existing, surrounding grade. The maximum AGF height shall be five and one-half feet. The minimum AGF height shall be two and one half feet. The maximum AGF height limit in this subsection shall not apply to any Utility Pole-mounted antenna. The Board may grant a variance from the AGF volume and height limitation if both of the following conditions exist:

1. Suitable measures consistent with the aesthetic requirements of this section and the camouflage requirement of Subsection I.B are sufficient to mitigate the excessive AGF volume or height.
2. The AGF applicant demonstrates that no financially or technically acceptable alternative exists that complies with the height and volume limits of Subsection IV.C.

D. Written Report on Variance Request for Volume Threshold and Height Limits: The Bureau of Engineering shall process a request for a variance in an AGF application within 60 days of submission. The 60-day deadline shall commence when Bureau of Engineering verifies the AGF application (including the variance request) is accurate and complete. The Bureau of Engineering shall prepare a written report regarding the application for a variance for consideration by the Board. The report shall include all of the following:

1. If the AGF applicant alleges technical infeasibility as a basis for a variance, a report prepared by the AGF applicant detailing the technical infeasibility of complying with the height and volume limits of Subsection IV.C.
2. If the AGF applicant alleges financial infeasibility as a basis for a variance, a report prepared by the AGF applicant detailing the financial infeasibility of complying with the height and volume limits of Subsection IV.C, including details on the estimated comparative cost of complying with the height and volume limits, and the expected return on investment or cost recovery time for the AGF.
3. A detailed summary documenting any comment received by the Bureau of Engineering from any party notified about the AGF application pursuant to Subsection VII.D.
4. A report prepared by the AGF applicant demonstrating that the proposed AGF satisfies the camouflage requirement of Subsection I.B.

5. A statement by Bureau of Engineering that the AGF applicant has completed all other requirements of this section.

E. Parkway Alignment: Any AGF installation should be placed in proximity to, and in line with, any existing utility pole, street light pole, street sign and any other structure within the parkway to minimize the obstruction of views. An AGF installation should not be placed in such an alignment if the installation blocks the line of sight for vehicles exiting any driveway or adjacent street or alley intersection.

F. Landscape Considerations: For any AGF installed in a parkway, the AGF owner shall install landscaping immediately surrounding the AGF installation or restore any landscaping disturbed by the AGF installation. The installed or restored landscaping shall be consistent with the existing landscaping in the parkway. For any AGF installed in an area where no sidewalk exists, the AGF owner shall install landscaping immediately surrounding the AGF installation, and shall restore any landscaping disturbed by the AGF installation. All new landscaping shall be installed and maintained for the purpose of screening the AGF, and to create an aesthetically pleasing appearance to minimize the visual impact of the AGF installation. An automatic irrigation system shall be installed or modified to sustain landscaping, when necessary, at the AGF owner's expense. If an automatic irrigation system is not feasible, the AGF applicant must submit an irrigation plan with the AGF application. The irrigation plan shall include manual watering intervals and a requirement to replace any landscaping that does not survive. All landscaping shall be installed and maintained in conformance with pedestrian passage requirements of this section. At the City's discretion, the Bureau of Engineering may waive the landscaping requirement for an AGF installation located in an existing full-width sidewalk, or if landscaping otherwise would be inconsistent with the surrounding area or would not serve to conceal or camouflage the AGF installation.

G. AGF Treatment and Graffiti Mitigation: Any AGF cabinet shall be a color similar to the existing surrounding landscape. The exterior of any AGF installation shall resist graffiti or be painted with anti-graffiti paint and be maintained in a "like-new" condition at all times. The AGF applicant shall submit a Graffiti Mitigation Plan detailing how the AGF owner will maintain the AGF installation free from graffiti and other defacements (i.e., stickers, posters). The Graffiti Mitigation Plan shall require AGF inspection at a minimum of four times each year and include identification of the resources dedicated to mitigating graffiti. Additionally, the Graffiti Mitigation Plan shall provide the name, mailing address, phone number, and E-mail address for a single point of contact responsible to resolve graffiti issues. The Graffiti Mitigation Plan shall clearly state that AGF surfaces shall be restored to their original exterior appearance.

H. AGF Installation Identifiers: For the purpose of active monitoring by City personnel, residents and other telecommunications companies, the following information shall be clearly indicated on any AGF:

1. A toll-free telephone number for the AGF owner.
2. The AGF registration number issued by the Bureau of Engineering pursuant to Subsection IX.F.

I. AGF Cabinet Foundations: Concrete pads for any AGF cabinet installation shall be a color that is consistent with adjacent surrounding sidewalks. Any concrete pad installed in a full-width sidewalk shall be constructed pursuant to a design plan and shall join to the nearest score line of the existing concrete pavement. For any installation where there is no existing sidewalk, any concrete pad shall be an earth-tone color that is consistent with existing surrounding earth. Any slough wall constructed to protect an AGF installation shall be an earth-tone color consistent with the existing surrounding soil.

J. Density Threshold: The maximum number of AGF installations in the Public Right-of-Way per City Block shall be as follows:

1. For any City Block in which the two adjacent intersections are less than 1,000 feet apart, the threshold is three.
2. For any City Block in which the two adjacent intersections are equal to or greater than 1,000 feet apart, the threshold is three, plus a maximum of one additional AGF installation for every additional 250 feet of adjacent intersection separation.
3. In any Parking zone (LAMC 12.12.1) and Industrial zone (LAMC 12.17.5 - 12.20), there is no AGF threshold per City Block.

Any facility that is exempt from the requirements of this section shall not be counted in the number of AGF installations per City Block.

The Board may grant a variance from the AGF density threshold per City Block at its discretion when the threshold is reached and when measures consistent with this section mitigate the excessive number of AGF installations. AGF co-location may be required as a mitigation measure. The Bureau of Engineering shall prepare a variance report for consideration of the AGF applicant's variance request by the Board. The Bureau of Engineering shall process an application for the variance request within 60 days of submission. The 60-day deadline shall commence when Bureau of Engineering verifies that the AGF application and the variance request are accurate and complete.

V. Public Safety Requirements:

A. Boulevard and Avenue Pedestrian Passage: Any proposed AGF to be installed at a location along a Boulevard or Avenue that includes an existing sidewalk shall be installed in the sidewalk or parkway such that there is a minimum six feet unobstructed distance between the edge of the AGF and the edge of the sidewalk, or between the edge of the AGF and the property line for pedestrian and wheelchair passage. If the paved sidewalk is less than six feet wide, additional concrete sidewalk shall be constructed to provide a minimum six feet wide paved sidewalk between the edge of the AGF and the edge of the sidewalk, or between the edge of the AGF and the property line.

B. Non-Boulevard and Non-Avenue Pedestrian Passage: Any proposed AGF to be installed at a location along a street other than a Boulevard or Avenue that includes an existing sidewalk shall be installed in the sidewalk or parkway such that there is a minimum four feet unobstructed distance between the edge of the AGF and the edge of the sidewalk, or between the edge of the AGF and the property line for pedestrian and wheelchair passage. If the paved sidewalk is less than four feet wide, additional concrete sidewalk shall be constructed to provide a minimum four feet wide paved sidewalk between the edge of the AGF and the edge of the sidewalk, or between the edge of the AGF and the property line.

C. Pedestrian Passage Distances: Any proposed AGF to be installed at a location with no existing sidewalk pavement shall be installed in the parkway such that a four feet unobstructed distance is provided for pedestrian passage by one of the following:

1. When there is no curb face, a minimum four feet unobstructed distance between the edge of the AGF and the edge of the roadway, or a minimum four feet unobstructed distance between the edge of AGF and the property line; or

2. When there is a curb face, a minimum four feet unobstructed distance between the edge of the AGF and the curb face, or a minimum four feet unobstructed distance between the edge of AGF and the property line.

D. Minimum Curb Face Distances: Any AGF installation shall have a minimum 18 inches unobstructed distance between the edge of the AGF and the curb face.

E. Vehicular Line of Sight and Sight Distance: No AGF installation shall be located in the "visibility triangle," defined as that portion of both Public Right-of-Way and private property located at any corner and bounded by the curb line or edge of the roadway of the intersecting streets and a line joining the points

on the curb or edge of roadway 45 feet from the point of intersection of the extended curb lines or edges of roadway. No AGF shall be located adjacent to a driveway or alley intersection where the AGF would reduce the sight distance for exiting vehicular traffic to less than 200 feet.

F. Proximity to Buildings, Houses and Structures: No AGF installation shall be located immediately in front of a building, house, structure or public stairs such that the AGF causes a violation of ADA guidelines for pedestrian passage. An AGF installation shall not obstruct pedestrian passage from private property to the Public Right-of-Way.

VI. Future Street Improvement Requirements: The AGF owner shall be responsible for the cost of relocation of any AGF installation and appurtenant facility in conflict with any future street improvement, street lighting change or driveway installation initiated by the City, unless the improvement is required as a condition of a permit issued to a developer. Any AGF installation also shall be subject to the requirements of LAMC 62.01.

VII. Permit Processing Requirements and Procedures:

A. Field Investigation Requirement: The Bureau of Engineering, in its discretion, may conduct a field investigation of any proposed AGF installation. The purpose of the field investigation shall be to determine whether a proposed AGF installation is consistent with the requirements of this section, to consider the feasibility of locating the proposed AGF on private property, and to consider the feasibility of locating the AGF below surrounding grade.

B. Joint-Trenching Review Requirement: Any AGF that requires trenching for the installation of substructure components shall be subject to joint trenching following a Utility Permit Joint-Trenching Review process:

1. Where the City or the AGF applicant becomes aware that two or more applicants propose construction in the same City Block, this requirement will be reviewed and evaluated by the Bureau of Engineering and modified based on Public Right-of-Way conditions.

2. Any AGF installation that qualifies for joint-trenching shall be subject to modification of its substructure designs to accommodate the trench alignment selected by the Bureau of Engineering.

C. Bureau of Engineering Approval: The Bureau of Engineering shall approve the AGF installation permit if the following conditions have been met: The Field Investigation Requirement and the Joint Trenching Review Requirement (if applicable) have been satisfied; the Board has approved any applicable variance; the Board has granted any applicable hardship waiver; and the AGF application is in compliance with all other provisions of this section.

D. Notification of AGF Installation: For any proposed AGF installation, the AGF applicant shall notify, by mail, the following persons and organizations:

1. For any AGF installation that exceeds the height limit set forth in Subsection IV.C and for any Utility Pole-mounted antenna subject to the requirements of this section:

a. Any owner of any lot within a radius of 250 feet from the proposed AGF location.

b. Any resident of any lot within a radius of 250 feet from the proposed AGF location.

c. Any Neighborhood Council whose boundary encompasses a lot within 250 feet from the proposed AGF location.

d. Any City Council Office for any Council District whose boundary encompasses a lot within 250 feet from the proposed AGF location.

e. Any homeowners' and residents' associations when, to the reasonable knowledge of the AGF applicant, the proposed location of the AGF installation falls within the boundary of the homeowners' or residents' association. In order to determine whether any homeowners' or residents' association is entitled to receive notice hereunder, the AGF applicant shall request information regarding homeowners' and residents' associations from the applicable Council Office.

2. For any other AGF installation:

a. Any owner of any adjoining lot and abutting lot, on both sides of the street, to where the AGF is proposed to be located.

b. Any residents of any adjoining lot and abutting lot, on both sides of the street, to where the AGF is proposed to be located.

c. Any Neighborhood Council whose boundary encompasses an adjoining lot or abutting lot, on both sides of the street, to where the AGF is proposed to be located.

d. Any City Council Office for any Council District whose boundary encompasses an adjoining lot or abutting lot, on both sides of the street, to where the AGF is proposed to be located.

e. Any homeowners' and residents' associations when, to the reasonable knowledge of the AGF applicant, the proposed location of the AGF installation falls within the boundary of the homeowners' or residents' association. In order to determine whether any homeowners' or residents' association is entitled to receive notice hereunder, the AGF applicant shall request information regarding homeowners' and residents' associations from the applicable Council Office.

The notification shall include the location of the proposed AGF installation, and shall identify any variance or hardship waiver the AGF applicant is requesting under this section. The notification also shall include information regarding the proposed AGF installation, including before and after photographs or renderings showing the proposed AGF installation with any appurtenances, including, but not limited to, any electric power meter, any vent stack, any utility pole and any surrounding landscaping element. A contact person and phone number for the AGF applicant shall also be listed. If the AGF applicant is requesting a hardship waiver or a variance, the notification shall also include the name, phone number and address for the Bureau of Engineering.

Within three calendar days of the AGF applicant being notified by the Bureau of Engineering that the Bureau of Engineering has accepted the AGF application as complete and meeting the requirements of this section, the AGF applicant shall notify any person and organization listed in Subsection VII.D of the determination of acceptance. This second notification also shall provide the name, phone number and E-mail address of the Bureau of Engineering and information detailing the AGF appeal process. This notification also shall clearly state that any appeal must be received by the Bureau of Engineering within 14 calendar days from the date of notification. Within three calendar days of the AGF applicant providing this second notification, the AGF applicant shall submit proof of mailing of notice to the Bureau of Engineering in accordance with Subsection II.D.3. Failure by the AGF applicant to timely provide notice under this subsection may result in the denial of the AGF application.

E. Appeal of a Bureau of Engineering Determination to the Board:
The Bureau of Engineering determination shall be subject to appeal by the AGF applicant and by any person and organization specified in Subsection VII.D.1.a, b and e, and VII.D.2.a, b and e pursuant to the procedures established in LAMC Section 62.10. If no appeal is received by the Bureau of Engineering within 14 calendar days of the date of the second notification, the Bureau of Engineering determination shall be final. Otherwise, any appeal of a Bureau of Engineering determination shall be heard by the Board. The Board shall determine whether the AGF application complies with the requirements of this section. Subject to the City Council's right of review under Charter Section 245, the determination by the Board shall be final.

F. AGF Mapping: To facilitate the goals of this section, the City shall make available information on any SP, HPOZ, HS, OS Zone, POD, CDO and Scenic Highway. The City also shall make available online information showing available information concerning any existing AGF installation, AGF registration number assigned to AGF installation, and any other pertinent data. The area of mapping shall be limited to the boundaries of the City of Los Angeles.

G. Removal of Facilities: Any AGF which has not served a customer for 90 days shall be deemed unused and removed by the AGF owner in no more than 30 days. The cost of removal of an AGF installation shall be the responsibility of the AGF owner.

H. Expiration of AGF Approval: Any AGF approval under this section shall remain valid for two years. An AGF applicant must obtain the applicable Utility Permit or Excavation Permit within two years of the AGF approval. Failure to obtain the permit within two years shall cause the AGF approval to expire. Installation of an AGF approved under this section shall commence within six months of the issuance of the applicable Utility Permit or Excavation Permit.

VIII. Exemptions from the AGF Application Requirement:

A. Installations on Private Property: Any facility not installed in the Public Right-of-Way is not subject to the requirements of this section.

B. Installations Below Existing Grade: Any facility installed in the Public Right-of-Way that does not have a structure, cabinet, electric power meter or other appurtenance above the existing surrounding grade shall be exempt from the requirements of this section. Any facility installed below existing surrounding grade in the Public Right-of-Way shall be subject to all other applicable Utility or Excavation Permit requirements.

C. Pole-Mounted and Public Facilities: The following shall not be subject to the requirements of this section, but shall be subject to all other applicable requirements of law: any street light pole and street light pole-mounted facility; fire hydrant; air/vacuum valve; traffic and pedestrian control fixture; Small Cell; Utility Pole and Utility Pole-mounted facility other than an antenna, Utility Pole-mounted antenna located in a commercial (CR and higher) or manufacturing (MR1 and higher) zone, unless the Utility-Pole is in an area subject to the below grade requirement of Subsection I.A or where the lot adjoining the Utility Pole has residential use, and electric power meter associated with a Small Cell or exempt Utility Pole-mounted facility. Except as provided herein, any electric power meter and installation of an antenna on a Utility Pole is not exempt and shall be subject to the requirements of this section.

D. Other: Any power utility service antenna integrated into an electric power device (including, but not limited to, any switch, transformer, fault locator,

capacitor, reactor, meter, re-closer, circuit breaker, and fuse), water service AGF, sampling tap, dissipater, water control appurtenance associated with water regulator station, water flow meter of all types, water valve, gas meter, bollard associated with an AGF-exempt structure, and vent stack related to a maintenance hole or underground vault shall not be subject to the requirements of this section, except for the pedestrian passage retrofit requirements in Subsection IX.B. These facilities shall be subject to other City permit requirements.

IX. Applicability to Existing AGF Installations:

A. Upgrade or Repair of Existing AGFs: Any upgrade or repair to an existing AGF that was installed pursuant to a City-issued permit shall not be subject to the requirements of this section if the upgrade or repair causes the AGF volume or height to increase by not more than ten percent of the originally permitted installation. In addition, any upgrade or repair to an existing AGF that was installed pursuant to a City-issued permit that qualifies as an Eligible Facilities Requests pursuant to 47 U.S.C. 1455 and applicable federal regulations shall not be subject to the requirements of this section, provided that the upgrade or repair does not defeat any camouflage element of the previously permitted AGF installation.

B. Pedestrian Passage Retrofit Requirement: Any existing AGF shall be modified, retrofitted or relocated to provide a minimum three feet of unobstructed distance for pedestrian and wheelchair passage except in the following areas:

1. A Public Right-of-Way area adjacent to MR1, M1, MR2, M2 and M3, as defined in LAMC Section 12.04.
2. A Public Right-of-Way area with no existing sidewalk pavement, or where the slope of the existing sidewalk is five percent or greater.
3. A Hillside Area, as defined by LAMC Section 12.03.

E. Graffiti Mitigation and Cabinet Identification: Any existing AGF shall be subject to all requirements stated in Subsections IV.G and IV.H.

F. AGF Locations: The owner of any existing AGF shall submit to the Bureau of Engineering a geographic location identifier (geocode) for any existing AGF installation within the City of Los Angeles. The Bureau of Engineering will issue a registration number for each such AGF. Compliance with the requirements of this subsection shall be required no later than December 31, 2016. Any new AGF will be assigned a registration number at the time the AGF installation permit is issued.

Sec. 3. Section 62.09 of the Los Angeles Municipal Code is hereby amended in its entirety to read as follows:

SEC. 62.09. FINE FOR NONCOMPLIANCE.

A. Any person who violates LAMC Section 62.08 shall be subject to the monetary fines established by this section, in addition to all other remedies available under the LAMC.

B. Failure to Comply: The AGF owner shall be provided written notice that contains the location of the AGF installation, a description of the noncompliance and a demand to comply within 14 calendar days of the written notice.

Failure by an AGF owner to take corrective action or respond within 14 calendar days shall result in the imposition of the fine for noncompliance. The following specific requirements of LAMC Section 62.08 shall be subject to the fine:

1. Failure to obtain a valid permit prior to the installation of an AGF pursuant to LAMC Section 62.08.II.A.
2. Failure properly to maintain landscaping designed to screen the AGF installation pursuant to LAMC Section 62.08.IV.D.
3. Failure to remove graffiti and posters from AGF cabinets pursuant to LAMC Section 62.08.IV.F.
4. Failure properly to maintain AGF cabinet paint or surface treatment pursuant to LAMC Section 62.08.IV.F.
5. Failure to remove an unused AGF installation pursuant to LAMC Section 62.08.VII.G.
6. Failure to modify, retrofit or relocate an AGF installation that violates pedestrian passage requirements pursuant to LAMC Section IX.B.

An AGF owner shall be subject to a fine of \$500 per day every calendar day for each AGF installation found to be in noncompliance with LAMC Section 62.08. The maximum cumulative fine for noncompliance shall be \$10,000 per AGF installation.

C. Excessive Noncompliance: In any case where a specific AGF installation is found to be noncompliant more than three times in a one year period, the AGF installation may be deemed in excessive noncompliance. This determination shall result in the placement of a hold on any current and future Utility and Excavation Permit issued to the AGF owner until corrective action is taken and a revised mitigation plan is

approved by the Board. The Board may also revoke the applicable Utility or Excavation Permit associated with the noncompliant AGF installation.

Sec. 4. Section 62.10 of the Los Angeles Municipal Code is hereby amended in its entirety to read as follows:

SEC. 62.10. APPEAL FOR VIOLATION OF LAMC SECTION 62.08.

A. Pursuant to LAMC Section 62.08.VII.E, any AGF owner, applicant and person or organizations specified in Subsection VII.D.1, 2 and 5 may appeal a Bureau of Engineering recommendation or determination regarding a proposed AGF installation. Such an appeal shall be filed with Bureau of Engineering, in writing, within 14 calendar days of the mailing date of the notification pursuant to LAMC Section 62.08.VII.D regarding the installation of an AGF. A fee of \$100 is required to pay for the administrative costs required by the filing of the appeal.

B. Noncompliance Appeal: Any AGF owner cited for noncompliance may appeal the determination to the Board. Any such appeal must be submitted in writing within ten calendar days of the written notice of noncompliance. No fee shall be charged to appeal a notice of noncompliance. If the maximum \$10,000 noncompliance fine is imposed and the AGF owner fails to comply with the written notice of noncompliance, the noncompliant AGF installation shall be subject to further action. Further action may include the immediate removal of the noncompliant AGF installation by the City at the direction of the Board. All costs incurred by City for such removal shall be reimbursed by the noncompliant AGF owner.

Sec. 5. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY L. WOLCOTT, City Clerk

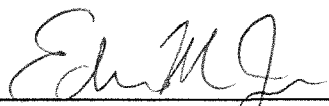
By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  _____
EDWARD M. JORDAN
Assistant City Attorney

Date 12/4/2015

File No. CF 09-2645