

**ATTACHMENT 10a: MONTECITO LUDC ORDINANCE AMENDMENT –
MPC RECOMMENDED LANGUAGE**

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 35-1, THE MONTECITO COUNTY LAND USE AND DEVELOPMENT CODE (MLUDC), OF CHAPTER 35, ZONING, OF THE SANTA BARBARA COUNTY CODE, TO AMEND THE MLUDC TO INCLUDE PERMIT REQUIREMENTS AND DEVELOPMENT STANDARDS FOR TELECOMMUNICATIONS FACILITIES APPURTENANT TO NATURAL GAS DISTRIBUTION FACILITIES AND TO MAKE OTHER MINOR ADDITIONS, CORRECTIONS, AND REVISIONS BY AMENDING: DIVISION 35.2, MONTECITO ZONES AND ALLOWABLE USES, DIVISION 35.4 MONTECITO STANDARDS FOR SPECIFIC LAND USES, AND DIVISION 35.10, GLOSSARY.

Case No. 18ORD-00000-00016

The Board of Supervisors of the County of Santa Barbara, State of California, ordains as follows:

SECTION 1:

DIVISION 35.2, Montecito Zones and Allowable Land Uses, of the MLUDC, Section 35.420.040, Exemptions from Planning Permit Requirements, is hereby amended to state “other than those facilities defined as natural gas wireless telecommunications facilities in compliance with Section 35.444.030.”

26. Utility facilities. Poles, wires, underground gas pipelines less than 12 inches in diameter, and similar installations erected, installed, or maintained by a public agency or public service or utility district or company, other than those facilities defined as natural gas telecommunications facilities in compliance with Section 33.444.030.

SECTION 2:

DIVISION 35.10, Glossary Subsection 35.500, Definitions, of the MLUDC is hereby amended to add the definition of Natural Gas Telecommunications Facilities as applies to Section 35.444.030 as well as an adjustment to the definition of a Ridgeline as it applies to Section 35.444.010 and Section 35.444.030 to read as follows:

Natural Gas Telecommunications Facilities. Natural gas telecommunications facilities includes, but is not limited to, new utility poles, solar panels, antennas, wireless signal transmitting and/or receiving devices, or other telecommunications facilities that are designed for the purpose of natural gas pipeline safety and operations.

Ridgeline. When used within Section 35.444.010 (Commercial Telecommunication Facilities) and Section 35.444.030 (Telecommunications Facilities Appurtenant to Natural Gas Distribution Facilities), ridgeline shall mean a visually prominent, relatively narrow strip or crest of land, which includes the highest points of elevation within a watershed, that separates one drainage basin from another.

SECTION 3:

DIVISION 35.4, Montecito Standards for Specific Land Uses, of the MLUDC, is hereby amended to revise Section 35.444.010.B.1, Affected facilities and equipment, of Section 35.444.010, Commercial Telecommunication Facilities, of Chapter 35.444, Telecommunications Facilities, to read as follows:

B. Applicability.

1. **Affected facilities and equipment.** The provisions of this Section shall apply to commercial telecommunication facilities that transmit or receive electromagnetic signals (e.g., radio, television, and wireless communication services including personal communication, cellular, and paging). This Section shall not be construed to apply to handheld, vehicular, or other portable transmitters or transceivers, including cellular phones, CB radios, emergency services radio, and other similar devices, or to wireless telecommunications facilities appurtenant to natural gas distribution facilities regulated by the California Public Utilities Commission, allowed within all zone districts, that are consistent with the standards set forth in Section 35.444.030 (Natural Gas Telecommunications Facilities).

SECTION 4:

DIVISION 35.4, Montecito Standards for Specific Land Uses, of the MLUDC, is hereby amended to add a new section, 35.444.030, titled “Telecommunication Facilities Appurtenant to Natural Gas Distribution Facilities,” of Chapter 35.444, Telecommunications Facilities, to read as follows:

35.444.030 - Telecommunications Facilities Appurtenant to Natural Gas Distribution Facilities

- A. **Purpose and intent.** This Section establishes the development standards for the siting and construction of wireless telecommunications facilities appurtenant to natural gas transmission and distribution facilities (natural gas telecommunications facilities). The intent is to promote the orderly development of natural gas telecommunications facilities and protect public safety as well as visual, biological, and other environmental resources.
- B. **Applicability.** The provisions of this Section shall apply to natural gas telecommunications facilities.
- C. **Processing.** The following information provides permit requirements and development standards for natural gas telecommunications facilities.
 1. **Permit requirements and Design Review.** Prior to the construction or use of a natural gas telecommunication facility, the applicant shall obtain a Zoning Clearance in compliance with Section 35.472.190 (Zoning Clearances) and Subsection C.1.a (Zoning Clearance), below. If the proposed natural gas telecommunication facility does not meet the requirements for a Zoning Clearance, the applicant shall obtain a Land Use Permit in compliance with Section 35.472.110 (Land Use Permit).
 - a. **Zoning Clearance.** Natural gas telecommunications facilities must meet the following requirements to be eligible for a Zoning Clearance:
 - (1) An application for a Zoning Clearance shall be submitted in compliance with Chapter 35.470 (Permit Application Filing and Processing).
 - (2) The development standards of Subsection D (Requirements for Zoning Clearance issuance), below, and the requirements of Section 35.472.190 (Zoning Clearances) shall be met. Natural gas telecommunications facilities that meet all requirements in Subsection D, below, (Requirements for Zoning Clearance issuance), shall be exempt from Design Review, in compliance with Section 35.472.070 (Design Review).
 - b. **Land Use Permit.** If the proposed natural gas telecommunication facilities do not meet the requirements for a Zoning Clearance, the applicant shall obtain a Land Use Permit, subject to the following:
 - (1) An application for a Land Use Permit shall be submitted in compliance with Section 35.470.030 (Application Preparation and Filing).
 - (2) The proposed natural gas telecommunication facility shall be in compliance with Section

35.472.110 (Land Use Permits).

D. Requirements for Zoning Clearance issuance. Natural gas telecommunications facilities shall comply with the following standards to be eligible for a Zoning Clearance in compliance with Section 35.472.210 (Zoning Clearance).

1. Development standards.

a. Setbacks. Natural gas telecommunications facilities shall be exempt from any and all setback requirements of this MLUDC, except those required by this Section.

b. Size limits.

(1) **New utility pole.** New natural gas telecommunication facility poles shall have a height no greater than 35 feet and a diameter no greater than 12 inches. Pole heights shall be measured from the existing grade to the top of the pole. Notwithstanding the foregoing, an existing, operational public utility pole or similar support structure (e.g., street light pole) that is reconstructed to its pre-existing height and diameter for mounting of natural gas telecommunications facilities using the same or substantially similar materials shall not be considered a new pole and may be reconstructed to its pre-existing height and diameter.

(2) **Wireless signal transmitting and/or receiving devices.** All wireless signal transmitting and/or receiving devices that are mounted on a new pole or collocated on an existing pole, shall be enclosed in a container that has a height no greater than 24 inches, a width no greater than 24 inches, a depth no greater than 18 inches, and the container is mounted no more than 12 inches from the utility pole. Wireless signal transmitting and/or receiving devices that are installed at heights equal to or less than 15 feet from ground level shall be enclosed in a container that has a height no greater than 35 inches, a width no greater than 18 inches, and a depth no greater than 16 inches.

(3) **Solar panel.** Solar panels shall have a height no greater than 30 inches, a width no greater than 35 inches, and mounted no more than 15 inches from the utility pole.

(4) **Antennas.** Antennas shall have a height no greater than 29 inches. The primary lateral antenna support beam structure shall have a maximum length no greater than 4 feet. The combined height of the pole and antenna shall be no greater than 35 feet.

c. Collocation. New wireless signal transmitting and/or receiving devices shall be collocated on an existing utility pole or other support structure (e.g., streetlight, public building, transmission tower, or water tower), including use of existing electric and/or telephone pedestals, unless:

(1) The applicant, as part of its application, provides a signed statement and supporting evidence (e.g., photos, technical specifications, correspondences) to the Department supporting that collocation is infeasible due to one or more of the following reasons:

(a) There are no existing support structures within 500 feet of the proposed natural gas telecommunications facilities.

(b) The applicant has been unable to secure a service agreement with the owner of existing utility poles within 500 feet of the proposed location on terms acceptable to the applicant.

(c) The existing support structures within 500 feet of the proposed location do not provide adequate line-of-sight for the wireless signal transmitting and/or receiving devices.

(d) The existing support structures within 500 feet of the proposed location do not allow for required physical distancing of wireless signal transmitting and/or receiving devices.

- (e) The existing support structures within 500 feet would not be close enough to existing utility equipment to achieve the desired wireless signal transmitting and/or receiving coverage.
 - (f) The existing support structures within 500 feet of the proposed location cannot be utilized in a safe manner.
- d. Lighting.** New natural gas telecommunications facilities shall be unlit. Natural gas telecommunications facilities may be collocated on an existing lit operational public utility pole, provided the natural gas telecommunications facility does not include any additional lighting.
- e. Construction.**
 - (1) No more than four cubic yards of soil shall be excavated for the installation of a new pole.
 - (2) No new poles shall be located on existing slopes exceeding 20 percent grade.
 - (3) Project construction shall not be conducted within the critical root zone of any native or non-native tree of more than six inches in diameter measured four feet above existing grade, or more than six feet in height. The critical root zone is defined as a circle around a tree trunk with a radius equivalent to one (1) foot for each one (1) inch diameter of the tree at 4.5 feet above grade.
- f. Signage.** No signs shall be installed for natural gas telecommunications facilities, except for signs or labels required for internal utility identification or operations, or required, by agencies with regulatory authority, including but not limited to the California Public Utilities Commission (CPUC) or Federal Communications Commission (FCC).
- g. Fencing.** No permanent fencing shall be installed for the natural gas telecommunications facilities.
- h. Pole steps.** No pole steps shall be installed on utility poles.
- i. Location.** The applicant shall provide photo simulations, site plans, aerial imagery, or other materials necessary to depict the following, as applicable:
 - (1) Natural gas telecommunication facilities shall not be sited within a scenic highway corridor, defined here as the corridor of land that extends 2,000 feet outward from the right-of-way lines of any state scenic highway, unless the natural gas telecommunication facilities are: (i) collocated on an existing utility pole or similar support structure; or (ii) located within 500 feet of existing utility poles on public right-of-way that has previously been graded, compacted, graveled, cleared, sealed, or paved.
 - (2) Natural gas telecommunications facilities installed on new poles shall not be installed on a ridgeline that is visible from a public viewing area (e.g., public roads trails, recreation areas).
 - (3) Natural gas telecommunications facilities shall not be located within Environmentally Sensitive Habitat (ESH) or within 200 feet of the boundaries of ESH, except for facilities that meet the requirements of Subsection (b) below.
 - (a) The applicant shall retain a Department-approved biologist to confirm that the proposed natural gas telecommunication facilities will be located at least 200 feet outside of the boundaries of ESH.
 - (b) Natural gas telecommunications facilities may be collocated on existing utility poles or other support structures, or installed within public right-of-way that has been previously graded, compacted, graveled, cleared, sealed, or paved, in areas located outside ESH but within 200 feet of the boundaries of ESH, provided that:

- (i) All installation and maintenance equipment can be staged at least 200 feet outside the boundaries of ESH, and
 - (ii) The natural gas telecommunication facilities can be installed using a boom lift or similar device located at least 200 feet outside the boundaries of ESH, or with equipment entirely located on an existing graded, compacted, graveled, cleared, sealed, or paved surface located outside ESH but within 200 feet of the boundaries of ESH.
- (4) Natural gas telecommunications facilities on new poles shall not be located within 500 feet of historic-period architectural resources that may meet the definition of “historical resources” in CEQA Guidelines Section 15064.5(a).
 - (a) The applicant shall provide a written assessment from a Department-approved historian confirming that the proposed facility shall be in conformance with this requirement. At a minimum, the letter shall include the results of a records search through the Central California Information Center (CCIC), review of the County Historic Landmarks Advisory Commission lists of Historic Landmarks and Places of Historic Merit, and consultation with the local historical society (e.g., Carpinteria, Santa Ynez, and Lompoc historical societies).
- (5) Natural gas telecommunications facilities shall not be located within 200 feet of known archaeological resources that may meet the definition of “historical resources” in CEQA Guidelines Section 15064.5(a) or tribal cultural resources that may meet the definition of “tribal cultural resources” in Public Resources Code Section 21074.
 - (a) The applicant shall provide a written assessment from a Department-approved archaeologist confirming that the proposed facility shall be in conformance with this requirement. At a minimum, the letter shall include the results of a records search through the Central California Information Center (CCIC).
- (6) Natural gas telecommunications facilities shall not be located on a site that is included on any list of hazardous waste facilities, disposal sites, and similar sites compiled pursuant to Section 65962.5 of the Government Code.
- (7) Natural gas telecommunications facilities on new poles shall not be located in a manner that blocks or ~~impedes~~ encroaches upon public access walkways, including but not limited to public trails, and shall be located at least 100 feet from the trails or walkways.
- (8) Natural gas telecommunications facilities on new poles shall be located in areas partially or fully screened with existing vegetation that would minimize their visibility from public roads and public viewing areas, unless:
 - (a) The applicant, as part of its application, submits a signed statement and supporting evidence (e.g., photos, technical specifications, correspondences) to the Department supporting that it is infeasible to locate the new poles and wireless signal transmitting and/or receiving device in areas with existing vegetation due to one or more of the following reasons:
 - (i) No vegetation of sufficient height exists in the proposed location to partially or fully screen the new pole and facilities.
 - (ii) The existing vegetation that would screen the new pole and facilities would obstruct the required line-of-sight for the wireless signal transmitting and/or receiving device.
 - (iii) The existing vegetation that would screen the new pole and facilities would prevent the solar panel from receiving direct sunlight.
- (9) Natural gas telecommunications facilities on new poles shall be clustered with existing

utility poles, unless:

- (a) The applicant, as part of its application, submits a signed statement and supporting evidence (e.g. photos, technical specifications, correspondences) to the Department supporting that it is infeasible to locate the new pole within 500 feet of existing poles due to one or more of the following reasons:
 - (i) There is insufficient physical space for a new pole near existing utility poles.
 - (ii) If located near existing utility poles, the required line-of-sight for the wireless signal transmitting and/or receiving device on the new pole will be obstructed.
 - (iii) The applicant has been unable to obtain an agreement from the landowner near existing utility poles to install a new pole on terms acceptable to the applicant.
 - (iv) The site would not be close enough to existing utility customers to achieve the desired wireless signal transmitting and/or receiving coverage.
 - (v) If located near existing utility poles, the natural gas telecommunications facility cannot be constructed or operated in a safe manner.
 - j. Access roads and parking areas.** Natural gas telecommunications facilities shall be served by existing roads and parking areas. They shall not include new roads or parking areas.
 - k. Non-reflective surfaces.** Exterior surfaces of all poles and wireless signal transmitting and/or receiving devices and antennas shall be of non-reflective material.
 - l. Landscaping.** Natural gas telecommunications facilities shall be constructed to maintain and enhance existing vegetation, through the implementation of the following measures:
 - (1) Existing trees shall not be removed or damaged as part of installation.
 - (2) Where otherwise not already restricted in Section 35.444.030, landscaping vegetation that screens the natural gas telecommunications facility as seen from public viewing places shall not be removed as part of installation, except where necessary to avoid signal interference or to accommodate solar charging to and from the approved natural gas telecommunications facility.
2. **Project installation and post installation provisions.**
- a. **FCC and CPUC Compliance.** Natural gas telecommunications facilities shall be operated in strict conformance with: (i) all rules, regulations, standards and guidance published by the FCC and CPUC, including but not limited to, safety signage, Maximum Permissible Exposure (MPE) Limits, and any other similar requirements to ensure public protection; and (ii) all other legally binding, more restrictive standards subsequently adopted by federal agencies having jurisdiction.
 - b. **Demonstration of compliance.** Compliance with all applicable standards shall be demonstrated with a report prepared by a qualified professional to submit a radiofrequency (RF) report demonstrating compliance with current federally established MPE standards. Compliance shall be demonstrated as needed to address changes in setting, technology, and FCC and CPUC regulations.

SECTION 5:

APPENDIX A, Table of Ordinances Amending this Land Use and Development Code of the MLUDC is hereby amended to include Ordinance 18ORD-00000-00016 of the Board of Supervisors Adoption Date and amended Divisions 35.2, 35.4, and 35.10.

SECTION 6:

All existing indices, section references and numbering, and figure and table numbers contained in the MLUDC are hereby revised and renumbered as appropriate to reflect the revisions enumerated above.

SECTION 7:

Except as amended by this Ordinance, the MLUDC shall remain unchanged and shall continue in full force and effect.

SECTION 8:

This ordinance shall take effect and be in force 30 days from the date of its passage and before the expiration of 15 days after its passage a summary of it shall be published once together with the names of the members of the Board of Supervisors voting for and against the same in the *Montecito Journal*, a newspaper of general circulation published in Montecito.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

GREGG HART, CHAIR
BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

ATTEST:

MONA MIYASATO, COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy Clerk

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: _____
Deputy County Counsel