

CITY OF MONTEREY PARK
PLANNING COMMISSION AGENDA

REGULAR MEETING

**Monterey Park City Hall – Council Chambers
320 West Newmark Avenue
Monterey Park, CA 91754**

**TUESDAY
SEPTEMBER 13, 2016
7:00 PM**

MISSION STATEMENT

**The mission of the City of Monterey Park is to provide excellent services
to enhance the quality of life for our entire community.**

Staff reports, writings, or other materials related to an item on this Agenda, which are distributed to the Planning Commission less than 72 hours before this scheduled meeting are available for public inspection in the City Clerk's Office located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours. Such staff reports, writings, or other materials are also on the City's website subject to staff's ability to post the materials before the meeting. The City's website is located at <http://ci.monterey-park.ca.us/home/index.asp>. Copies of staff reports and/or written documents pertaining to any item on the Agenda are on file in the Community and Economic Development Department – Planning Division and are available for public inspection during regular business hours.

PUBLIC COMMENTS ON AGENDA ITEMS

For members of the public wishing to address the Planning Commission regarding any item on this Agenda, including Oral Communications, please fill out a speaker card and return it to Planning staff before the announcement of the Agenda Item.

Speakers are provided five (5) minutes per individual on each published agenda item. Individual speakers may consolidate time with another speaker's time; the total consolidated time cannot exceed two (2) minutes per speaker giving up time. However in the interest of ensuring that all members of the Public have an equal opportunity to participate, a single speaker cannot speak for more than ten (10) minutes on an individual Agenda item. If there are a large number of speakers on a particular agenda item, the Chairperson, as confirmed by the Planning Commission, may reduce the amount of time allotted to each speaker or limit the total amount time allowed for speakers to address the agenda item. At the conclusion of that period of time, the speaker will be asked to please conclude their remarks so that the next speaker may begin their comments.

In accordance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call City Hall, (626) 307-1359. Please notify the Community and Economic Development Department twenty-four hours prior to the meeting so that reasonable arrangements can be made to ensure availability of audio equipment for the hearing impaired. Council Chambers are wheelchair accessible.

CALL TO ORDER – Chairperson Choi

PLEDGE OF ALLEGIANCE

ROLL CALL – Commissioners Sullivan, Leung, Amador, and Robinson

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

ORAL AND WRITTEN COMMUNICATIONS

MINUTES – July 12, 2016, July 26, 2016, August 9, 2016

[1.] CONSENT CALENDAR – None

[2.] UNFINISHED BUSINESS – None

[3.] NEW BUSINESS (PUBLIC HEARING)

3-A. CODE AMENDMENT – AMENDING TITLE 21 (ZONING REGULATIONS) OF THE MONTEREY PARK MUNICIPAL CODE RELATING TO ASSEMBLY USES, NONCONFORMING USES, AND WIRELESS TELECOMMUNICATION FACILITIES

The City is proposing to amend various zoning regulations in the Monterey Park Municipal Code affecting various matters including, without limitation, assembly uses, nonconforming uses, and wireless telecommunication facilities. These proposed code amendments are intended to address specific concerns thereby preserving and protecting the public health, safety, and welfare of the community.

The consideration of the recommendations to the City Council for amending the Monterey Park Municipal Code is exempt from the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the “CEQA Guidelines”), and the City’s Environmental Guidelines.

It is recommended that the Planning Commission consider taking the following actions:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) Adopting Resolutions Recommending Approval of proposed Code Amendments; and
- (5) Taking such additional, related, action that may be desirable.

[4.] COMMISSION COMMUNICATIONS

[5.] FUTURE AGENDA ITEMS AS DIRECTED BY THE COMMISSION

[6.] STAFF UPDATES

[7.] CLOSED SESSION

ADJOURN

To the next regularly scheduled meeting on September 27, 2016

APPROVED BY:

MICHAEL A. HUNTLEY	
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Planning Commission Staff Report

DATE: September 13, 2016

AGENDA ITEM NO: 3-A

TO: The Planning Commission
FROM: Michael A. Huntley, Director of Community and Economic Development
SUBJECT: Consider the adoption of Resolutions recommending that the City Council amend specific sections of Title 21 (zoning regulations) of the Monterey Park Municipal Code relating to Assembly Uses, Nonconforming Uses, and Wireless Telecommunication Facilities.

RECOMMENDATION:

It is recommended that the Planning Commission:

- (1) Open the public hearing and, after considering the evidence presented during the public hearing, adopt a Resolution recommending that the City Council adopt an ordinance amending specific sections of Title 21 (zoning regulations) of the Monterey Park Municipal Code relating to Assembly Uses, Nonconforming Uses, and Wireless Telecommunication Facilities; and
- (2) Take such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

There are a number of municipal code amendments being proposed that implement changes required by federal and state laws. These amendments are specifically related to the City's wireless telecommunication facility and assembly use regulations. Additionally, the City Council directed that all decisions regarding telecommunications facilities be rendered by the City Council. A staff initiated change to the City's nonconforming regulations is also desirable.

ANALYSIS:

Chapter 21.04 Definitions and Chapter 21.34 Wireless Telecommunication Facilities

On May 4, 2016, the Council directed staff to prepare a code amendment to modify the Wireless Telecommunication Facility Chapter of the Monterey Park Municipal Code ("MPMC"). Specifically, the Council requested that all wireless telecommunication facility applications that are currently reviewed by the Planning Commission to be considered instead by the City Council. Accordingly, as shown in the table below, the proposed code amendment would modify references to the Planning Commission as the reviewing authority to the City Council.

Monterey Park Antenna Classes and Approval Authority

(MPMC Sections 21.04.074, 21.34.010)

	Current Code	Proposed Ordinance
Class 1 Antenna mounted on building, behind screen	<i>Residential zones:</i> Reviewed by Planning Commission	Reviewed by City Council
	<i>Non-residential zones:</i> Reviewed by Planner	No change
Class 2 Collocated on an approved existing wireless telecommunication facility	Reviewed by same body that approved underlying facility	Reviewed by either Planner or City Council, depending on whether use is "by right" or discretionary
Class 3 Temporary antenna	Reviewed by Planner	No change
Class 4 Monopole antenna mounted on an existing light, tower	<i>Residential zones:</i> Reviewed by Planning Commission	Reviewed by City Council
	<i>Non-residential zones:</i> Reviewed by Planner	No change
Class 5 Within cylinder or flagpole	Reviewed by Planning Commission	Reviewed by City Council
Class 6 Partially visible antennas mounted on building	Reviewed by Planning Commission	Reviewed by City Council
Class 7 Antenna inside freestanding structure built to house wireless telecommunication facility	Reviewed by Planning Commission	Reviewed by City Council

In addition to the requested amendment to the wireless telecommunication facility by the City Council, there have also been changes to both state and federal regulations that must be incorporated into this amendment. These changes add regulations regarding 'shot clock' requirements and new definitions. This will be discussed more in depth below.

Background regarding Wireless Telecommunication Facilities.

Wireless Telecommunications facilities are regulated by federal, state, and local laws. Federal law significantly restricts the City's ability to regulate wireless telecommunications facilities. Under federal law, a local agency's decision cannot have the effect of prohibiting the provision of wireless service or unreasonably discriminating among wireless service providers. Also, under federal law, the City may not regulate the placement, construction or modification of wireless telecommunications facilities on the

basis of the environmental effects of radio frequency (RF) emissions, as long as the facilities comply with the FCC regulations concerning such emissions.

Despite federal limitations, cities historically have retained the ability to regulate aesthetics issues related to telecommunications facilities, including factors such as height and property line setbacks. However, federal law continues to erode that ability.

Since 1990, wireless telecommunication facilities were allowed in Monterey Park subject to a conditional use permit. Between 1990 and 1996, the City granted seven permits. In 1996, the wireless telecommunication industry was growing tremendously due to the consumer demand for wireless communications devices. Proportionately, there was such an increase in the number of wireless telecommunication facility (cell sites) applications that on August 7, 1996, the City Council adopted Urgency Ordinance No. 1911 establishing a moratorium on the granting of approvals and directed staff to develop guidelines or regulations for the review of wireless telecommunication facilities. On November 6, 1996, the City Council approved Resolution No. 10106 establishing guidelines for the review of wireless telecommunication facilities.

Until 2013, the criteria for reviewing and approving wireless telecommunication facilities were merely guidelines. As part of the 2013 Zoning Ordinance Update, Chapter 21.34 Wireless Telecommunications Facilities was established to provide regulations for the wireless telecommunications facilities and to have the City's zoning regulations be in compliance with federal and state laws.

Since 1990, the establishment of a wireless telecommunication facility requires the review and approval of a permit by the Planning Commission. Pursuant to Chapter 21.34, the Planning Commission is the approving authority of certain applications for wireless telecommunication facilities and the Planning Commission's decision on such applications is final unless it is appealed to the City Council. However, per City Council direction, the proposed code amendment being considered by the Planning Commission would amend the Code so that the City Council would review such applications.

Federal and State Laws – ‘Shot Clock.’

The proposed Ordinance also acknowledges legal developments relating to the City's deadlines for reviewing wireless telecommunications facilities applications.

Federal law governing wireless telecommunication facilities was adopted in 2012 as part of the 2012 Middle Class Tax Act. This federal legislation includes 112 P.L. 96, Section 6409 (codified at 47 U.S.C. § 1455), which was intended to facilitate the telecommunication industry's rapid deployment of wireless infrastructure by requiring local government to approve any application that seeks to modify an existing wireless telecommunication facility that does not substantially alter the existing facility.

Section 6409 provides that the City “may not deny, and shall approve any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.”

Section 6409 defines “eligible facilities request” as “any request for modification of an existing wireless tower or base station that involves:

- (a) Collocation of new transmission equipment;
- (b) Removal of transmission equipment; or
- (c) Replacement of transmission equipment.”

If the project falls within the definition of an eligible facilities request, the City must act on it within 60 days from the date an application is submitted, unless the City determines the request is not covered by the Spectrum Act. The 60-day time frame may be tolled by the City for incomplete applications, within 30 days of submittal. The timeframe begins again when the applicant resubmits materials and the City then has 10 days to respond. Failure of the City to act within the allowed timeframe results in the automatic approval of such applications.

The proposed ordinance amends the MPMC to implement the time limitations upon wireless facility applications and provides that the City Council may adopt a resolution confirming such deadlines.

Chapters 21.10 Commercial Zones and 21.22 Off-Street Parking Regulations

The Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) protects religious institutions against unduly burdensome and discriminatory land use regulations. It can be described as having three basic components. First, RLUIPA prohibits the government from imposing or implementing a land use regulation that imposes a “substantial burden” on religious exercise unless the government demonstrates that it furthers a compelling governmental interest through the least restrictive means.¹

Second, the Act forbids the government from imposing or implementing a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.² This so-called “equal terms” provision is violated when the government treats a religious use on “less than equal terms with a secular comparator similarly situated with respect to accepted zoning criteria.”³

Third, RLUIPA includes a blanket nondiscrimination provision that prohibits the government from imposing or implementing a land use regulation that discriminates

¹ 42 U.S.C. § 2000cc(a)(1).

² 42 U.S.C. § 2000cc(b)(1).

³ A religious institution cannot be treated less than equally compared to a nonreligious institution if the two institutions cannot be distinguished on the basis of accepted zoning criteria that define the zone. Accepted zoning criteria are the objective characteristics of a particular use that determine whether a use should be excluded from a zone, given the purpose for which the zone was established. Courts considering “equal terms” challenges under RLUIPA ask what characteristics the underlying zone is meant to preserve and what characteristic of the use would justify its exclusion from the zone. RLUIPA requires the courts to compare the excluded use with any secular comparator permitted in the zone, not excluded from the zone. *Centro Familiar Cristiano Buenas Nuevas v. City of Yuma* (9th Cir. 2011) 651 F.3d 1163, 1169, 1173.

against any assembly or institution on the basis of religion or religious denomination.⁴ The nondiscrimination provision also expressly forbids the government from imposing or implementing a land use regulation that (a) totally excludes religious assemblies from a jurisdiction, or (b) unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.⁵

Most local zoning schemes in existence predate RLUIPA and very few of them treat all types of public assembly uses (whether religious or secular) identically. Rather, religious uses are generally listed separately and afforded differing treatment in various zones. In some zones, religious uses are given preferential treatment as compared to other, secular, public assembly uses. In other zones, secular uses tend to be preferred. While RLUIPA does not prohibit the government from treating religious assembly uses *better* than secular assembly uses, it will not allow religious uses to be treated on less than equal terms with comparable secular uses unless the government can demonstrate that the disparate terms are on account of a legitimate regulatory purpose (e.g., a neutral restriction on the size of an assembly use may be justified by a parking concern).

The proposed code amendments will update Table 21.10(A) in MPMC Chapter 21.10 Commercial Zones and Table 21.22(C) in MPMC Chapter 21.22 Off-Street Parking Regulations to allow religious institutions similar to other comparable land uses, such as assembly halls, and the parking requirements to be similar to other comparable land uses.

Chapters 21.30 Nonconforming Uses

In the day-to-day implementation of the MPMC, staff discovered that a section of Chapter 21.30 (Nonconforming Uses, Buildings and Structures) was not clear and readily understandable. Specifically, Section 21.30.050 (A) relates to the change of one nonconforming use to another nonconforming use. Generally speaking, it is the intent of the zoning regulations to facilitate abatement of nonconforming uses thereby minimizing or reducing the effects that such use may have on the surrounding area. Although in theory that may be the intent, there may be special circumstances that would warrant a nonconforming use or similar nonconforming use to remain since such effects may be minimal to its surroundings. As such, it would be appropriate to allow a change from one nonconforming use to another, subject to the review and approval of the Planning Commission.

ENVIRONMENTAL:

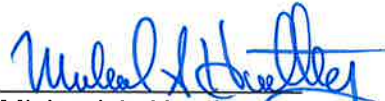
The proposed resolutions and ordinances are exempt from further environmental review under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA”) and CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*) because the ordinances being recommended by the resolutions constitute only minor revisions and clarifications to existing regulations and specification of procedures related thereto; and consists of actions taken to assure the maintenance, protection and enhancement of the environment. The resolutions and ordinances, therefore, do not

⁴ 42 U.S.C. § 2000cc(b)(2).

⁵ 42 U.S.C. § 2000cc(b)(3).

have the potential to cause significant effects on the environment. Consequently, they are categorically exempt from further CEQA review under 14 California Code Regulations §§ 15301, 15305, and 15308.

Respectfully submitted,



Michael A. Huntley
Community and Economic
Development Director

Prepared by:



Samantha Tewasart
Senior Planner

Reviewed by:



Karl H. Berger for
Assistant City Attorney

Attachments:

- A. Resolutions recommending adoption of the ordinances
- B. Draft ordinances

EXHIBIT A

Resolution recommending adoption of the ordinance

RESOLUTION NO.

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE ("MPMC") CHAPTER 21.34 REGARDING REGULATION OF WIRELESS TELECOMMUNICATION FACILITIES.

The Planning Commission of the City of Monterey Park does resolve as follows:

SECTION 1: The Planning Commission finds and declares that:

- A. A review of the Monterey Park Municipal Code ("MPMC") suggests that amendments are needed to improve the City's regulations of wireless telecommunication facilities;
- B. On May 4, 2016, the Council directed staff to prepare a code amendment to modify the Wireless Telecommunication Facility Chapter of the Monterey Park Municipal Code. Thereafter, the regulations were reviewed by the Community and Economic Development Department for, in part, consistency with the General Plan and conformity with the MPMC;
- C. The City reviewed the project's environmental impacts under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the "CEQA Guidelines"), and the City's Environmental Guidelines;
- D. The Community and Economic Development Department completed its review and scheduled the public hearing regarding the application before the Planning Commission for September 13, 2016;
- E. On September 13, 2016, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the draft Ordinance attached as Exhibit "A," and incorporated by reference, including, without limitation, information provided to the Planning Commission by City staff and public testimony; and
- F. This Resolution and its findings are made based upon the evidence presented to the Commission at its September 13, 2016, hearing including, without limitation, the staff report submitted by the Community and Economic Development Department.

SECTION 2: *Environmental Assessment.* Because of the facts set forth in Section 2, the proposed Ordinance is exempt from further environmental review under the

**PLANNING COMMISSION
RESOLUTION NO.
PAGE 2 OF 3**

California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*) because the proposed Ordinance constitutes only minor revisions and clarifications to existing regulations and specification of procedures related thereto; and consists of actions taken to assure the maintenance, protection and enhancement of the environment. The Ordinance, therefore, does not have the potential to cause significant effects on the environment. Consequently, it is categorically exempt from further CEQA review under 14 California Code Regulations §§ 15301, 15305, and 15308.

SECTION 3: General Plan Findings. As required under Government Code § 65860 the MPMC amendments proposed by the Ordinance are consistent with the Monterey Park General Plan. It is a goal of the Land Use Element of the General Plan to maintain the quality and character of Monterey Park's commercial districts. The proposed code amendments are minor changes intended to ensure that the wireless telecommunication facilities regulations are consistent with federal and state laws. The proposed code amendment is intended to clarify existing definitions and code provisions relative to wireless telecommunication facilities.

SECTION 4: Recommendations. The Planning Commission recommends that the City Council adopt the draft ordinance set forth in attached Exhibit "A," which is incorporated into this resolution by reference.

SECTION 5: Reliance On Record. Each and every one of the findings and determination in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 6: Limitations. The Planning Commission's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the Planning Commission's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the city's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 7: This Resolution will remain effective until superseded by a subsequent resolution.

SECTION 8: The Commission secretary is directed to mail a copy of this Resolution to any person requesting a copy.

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PAGE 3 OF 3**

SECTION 9: This Resolution may be appealed within nineteen (19) calendar days after its adoption. All appeals must be in writing and filed with the City Clerk within this time period. Failure to file a timely written appeal will constitute a waiver of any right of appeal.

PASSED AND ADOPTED this 13th day of September 2016.

I hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Monterey Park at the regular meeting held on the 13th day of September 2016, by the following vote of the Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

Ricky Choi, Chairperson
City of Monterey Park Planning Commission

ATTEST:

Michael Huntley, Secretary

APPROVED AS TO FORM:
Mark D. Hensley, City Attorney

By:  for
Karl H. Berger, Assistant City Attorney

RESOLUTION NO.

A RESOLUTION RECOMMENDING THAT CITY COUNCIL ADOPT AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE ("MPMC") CHAPTERS 21.10 AND 21.22 REGARDING REGULATION OF ASSEMBLY USES.

The Planning Commission of the City of Monterey Park does resolve as follows:

SECTION 1: The Planning Commission finds and declares that:

- A. A review of the Monterey Park Municipal Code ("MPMC") suggests that amendments are needed to improve the City's regulations governing, among other things, the regulation of assembly uses;
- B. On September 13, 2016, Community and Economic Development Department presented draft regulations to the Planning Commission for consideration. The Planning Commission provided direction for improving the regulations. Thereafter, the regulations were reviewed by the Community and Economic Development Department for, in part, consistency with the General Plan and conformity with the MPMC;
- C. The City reviewed the project's environmental impacts under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the "CEQA Guidelines"), and the City's Environmental Guidelines;
- D. The Community and Economic Development Department completed its review and scheduled the public hearing regarding the application before the Planning Commission for September 13, 2016;
- E. On September 13, 2016, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the draft Ordinance attached as Exhibit "A," and incorporated by reference, including, without limitation, information provided to the Planning Commission by City staff and public testimony; and
- F. This Resolution and its findings are made based upon the evidence presented to the Commission at its September 13, 2016, hearing including, without limitation, the staff report submitted by the Community and Economic Development Department.

SECTION 2: *Environmental Assessment.* Because of the facts set forth in Section 2, the proposed Ordinance is exempt from further environmental review under the

**PLANNING COMMISSION
RESOLUTION NO.
PAGE 2 OF 3**

California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA”) and CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*) because the proposed Ordinance constitutes only minor revisions and clarifications to existing regulations and specification of procedures related thereto; and consists of actions taken to assure the maintenance, protection and enhancement of the environment. The Ordinance, therefore, does not have the potential to cause significant effects on the environment. Consequently, it is categorically exempt from further CEQA review under 14 California Code Regulations §§ 15301, 15305, and 15308.

SECTION 3: General Plan Findings. As required under Government Code § 65860 the MPMC amendments proposed by the Ordinance are consistent with the Monterey Park General Plan. According to the General Plan Land Use Element, religious institutions are considered appropriate uses in the mixed-use I and II areas. The proposed code amendments are minor changes intended to ensure that the religious institution regulations are consistent with federal and state laws. The proposed code amendment is intended to clarify existing definitions and code provisions relative to assembly uses.

SECTION 4: Recommendations. The Planning Commission recommends that the City Council adopt the draft ordinance set forth in attached Exhibit “A,” which is incorporated into this resolution by reference.

SECTION 5: Reliance On Record. Each and every one of the findings and determination in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

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AYES:
NOES:
ABSTAIN:
ABSENT:

Ricky Choi, Chairperson
City of Monterey Park Planning Commission

ATTEST:

Michael Huntley, Secretary

APPROVED AS TO FORM:
Mark D. Hensley, City Attorney

By:  for
Karl H. Berger, Assistant City Attorney

EXHIBIT A

Table 21.10(A)

Permitted Uses in Commercial Zones

Legend:

A	As an accessory use only
C	Permitted subject to approval of a conditional use permit
L	Permitted subject to limitations or special standards as described in Section 21.10.040
P	Permitted
S	Permitted only on second floor or above
X	Expressly prohibited

Land Uses						
Retail	N-S	S-C	C-B	R-S	C-S	C-P
Appliance or Electronics Sale and Repair	P	P	P	P	P	X
Art Gallery	P	X	P	P	P	X
Art Supplies Store	P	P	P	P	P	X
Auto Parts Store, retail only	P	P	X	P	P	X
Auto Sales – New	X	P	X	L	P	X
Auto Sales – Used	X	P	X	L	P	X
Bakery, Retail Sales Only	P	P	P	P	P	X
Beauty Supplies Store	X	P	P	P	P	X
Boat, Trailer, Motorcycle, Motor Scooter Sales	X	X	X	L	P	X
Book Store, including Newsstand	P	P	P	P	P	P
Catering Service, Food (not truck catering)	X	X	X	A	A	X
Cellular Phone Store, including Accessories	P	P	P	P	P	P
Clothing/Shoe Retail and Service	P	P	P	P	P	P
Commercial Shopping Facility (5 or more units OR more than 1 acre)	C	C	C	C	C	C
Drugstore/Pharmacy	P	P	P	P	P	L
Florist	P	P	P	P	P	P
Furniture Store	X	P	P	P	P	X
Grocery/Food Store/Supermarket	P	P	P	P	P	L
Hardware/Home Improvement Store (less than or equal to 10,000 sq. ft.)	P	P	P	P	P	X
Hardware/Home Improvement Store (more than 10,000 sq. ft.)	X	P	X	P	P	X
Hobby/Specialty Store	P	P	P	P	P	X
Jewelry Store	X	P	P	P	P	P
Medical Equipment and Supplies (sales and service)	X	P	X	P	P	P
Medical Marijuana Dispensaries	X	X	X	X	X	X
Music Store (sales, service and instruction)	X	P	X	P	P	X
Music Store (retail sales only with service and instruction expressly prohibited)	X	P	P	P	P	X
Music/Movie Sale and Rental	P	P	P	X	P	P
Office Supply Store (less than or equal to 10,000 sq. ft.)	X	P	P	P	P	P
Office Supply Store (more than 10,000 sq. ft.)	X	P	X	P	P	P
Pet Store and Supplies	P	P	P	P	P	X
Photo Processing Shop (contained within automated equipment only)	X	P	P	P	P	X
Plant Nursery	X	X	X	X	P	X
Retail, General (≤10,000 sq. ft.)	P	P	P	P	P	X
Retail, General (large) (>10,000 sq. ft.)	X	P	P	P	P	X
Specialty Retail	P	P	P	P	P	P

Sporting Goods Store	X	P	P	P	P	X
Swap Meet	X	X	X	X	X	X
Swimming Pool Sales and Service	X	X	X	P	P	X
Service Business	N-S	S-C	C-B	R-S	C-S	C-P
Adult Care Facility	X	X	X	X	C	C
Animal Grooming	P	P	P	P	P	X
Animal Hospital	X	C	X	X	P	X
Animal Shelter	X	X	X	X	X	X
Auto Detailing	X	X	X	X	X	X
Auto Dismantling	X	X	X	X	X	X
Auto Rental	X	X	X	L	L	X
Auto Repair	X	X	X	X	X	X
Auto Salvage and Wrecking	X	X	X	X	X	X
Barber Shop	P	P	P	P	P	P
Beauty Salon	P	P	P	P	P	P
Car Wash	C	X	X	X	C	X
Cemetery	X	X	X	X	X	X
Check Cashing Facility	X	X	X	X	C	X
Collection Facility	C	C	X	C	C	X
Community Care Facility	X	X	X	X	C	C
Copy Center	P	P	P	P	P	P
Day Care Center	C	C	C	X	C	C
Day Health Spa (excluding massage)	P	P	P	P	P	P
Dry Cleaning (including laundry)	X	P	X	P	P	X
Dry Cleaning (including laundry less than or equal to 2,000 sq. ft.)	P	P	P	P	P	P
Service Business (cont'd)	N-S	S-C	C-B	R-S	C-S	C-P
Employer-Sponsored Child Care	L	L	L	L	L	L
Extended Lodging Facility	X	X	X	L	L	L
Fitness Center (less than or equal to 5,000 sq. ft.)	L	L	L	L	L	L
Fitness Center (more than 5,000 sq. ft.)	C	C	C	C	C	C
Gunsmith	X	X	P	P	P	X
Hotel	X	X	L	L	L	L
Kennel/Animal Boarding	X	X	X	X	X	X
Laundromat	P	P	P	X	X	X
Locksmith/Keys	P	P	X	P	P	X
Mail Boxes (accessory to parcel service or contract postal station only)	A	A	A	A	A	A
Massage Establishment	L	L	L	L	L	L
Money Transfer Facility	X	X	X	X	C	X
Mortuary/Funeral Home	X	X	X	C	C	C
Motel	X	X	X	L	L	X
Parcel Service/Contract Postal Station	P	P	P	P	P	P
Photo Processing Shop	P	P	P	P	P	P
Photocopying/Reproduction	X	P	P	P	P	P
Picture Framing as Accessory to Art Supplies Store and/or Art Gallery	A	A	A	A	A	X
Printing and Publishing	X	X	X	P	P	X
Public Storage (Mini-Storage)	X	X	X	X	C	X
Salvage Yard	X	X	X	X	X	X
Service Station	C	C	X	C	C	X
Studio (Martial Arts/Dance/Photo/Music)	X	L	L	L	L	L
Tailor	P	P	P	P	P	X
Tattoo Parlors and Body Piercing Shops	X	X	X	X	X	X
Tutoring	L	X	X	L	L	X
Veterinary Services, Domestic	X	C	X	X	P	X
Eating & Drinking Establishment	N-S	S-C	C-B	R-S	C-S	C-P
Alcohol Sales (on-sale and off-sale)	L	L	L	L	L	L

Bar, Tavern or Cocktail Lounge	X	X	L	L	X	X
Outdoor Dining	A	A	A	A	A	A
Restaurant	P	P	P	P	P	P
Retail Eating Establishment	P	P	P	P	P	P
Entertainment/Cultural	N-S	S-C	C-B	R-S	C-S	C-P
Adult Oriented Business	X	X	X	X	X	X
Amusement or Game Arcade	X	C	C	C	C	X
Auditorium, including Performing Arts Center	X	X	X	C	C	A
Concert Hall	X	C	C	C	X	X
Comedy Club	X	C	C	C	X	X
Commercial Recreation – Indoor	C	C	C	C	C	C
Commercial Recreation– Outdoor	X	C	C	C	C	X
Community Center	X	C	C	C	X	X
Cultural Institution	X	X	X	P	P	P
Fortunetelling	X	X	X	X	L	X
Golf Driving Range	X	X	X	X	C	X
Internet Arcade	X	L	X	X	L	X
Library	X	X	X	P	P	P
Lodge/Meeting Hall	X	X	P	P	P	X
Miniature Golf	X	C	X	C	C	X
Museum	X	X	P	P	P	X
Theater (theatrical and motion picture)	X	C	C	C	X	X
Office	N-S	S-C	C-B	R-S	C-S	C-P
Bank/Financial Institution (retail)	C	C	C	C	C	P
Data/Cash Processing Office	X	X	X	X	X	P
Financial Institution/ Corporate Office	X	X	X	X	X	C
Notary Public	S	S	S	S	S	P
Office, Administrative	S	S	S	S	S	P
Office, Professional	S	S	S	S	S	P
Office, Service	P	S	S	P	P	P
Stockbroker/Trader	X	X	S	X	X	P
Medical Uses	N-S	S-C	C-B	R-S	C-S	C-P
Acupuncture or Acupressure Clinic/Office	X	X	X	X	L	L
Alcoholism Hospital	X	X	X	X	C	C
Ambulance Service	X	X	X	X	C	P
Clinic (including medical, dental, psychologist, social work)	X	X	X	X	P	P
Day Treatment Hospital	X	X	X	X	C	C
Hospital (including psychiatric)	X	X	X	X	C	P
Long-Term Facility	X	X	X	X	C	C
Medical or Dental Laboratories	X	X	X	X	L	L
Nursing and Convalescent Hospital	X	X	X	X	C	L
Optometrist/Ophthalmologist	X	X	X	P	P	P
Out-Patient Facility (Drug and Alcohol)	X	X	X	X	L	L
Educational Institutions	N-S	S-C	C-B	R-S	C-S	C-P
Business College (Office or Medical/Dental)	X	X	X	X	X	C
School, Commercial	X	X	X	X	X	C
School, Driving/Traffic (passenger vehicles and motorcycles)	X	X	X	X	C	C
School, Accessory Use to Church	X	C	C	X	X	X
School, Private	C	X	X	C	C	X
School, Public	P	P	P	P	P	P
School, Vocational or Trade School	C, S	X	C, S	X	C	C, S
Swimming Pool School	P	X	X	X	X	X
Additional/Accessory Uses	N-S	S-C	C-B	R-S	C-S	C-P
Alcohol Sales	A	A	A	A	A	A
Assembly Hall	P	X	P	X	P	P
ATM Kiosk	L	L	L	L	L	L

Boarding House (see also Section 21.04.075)	X	X	X	C	C	C
Buildings Exceeding Height Limit	X	X	X	X	X	L
Community Facility	X	C	C	C	X	X
Drive-Through Business	L	L	X	L	L	X
Dump, Inert Solid	X	X	X	X	X	X
Dump, Rubbish and Refuse	X	X	X	X	X	X
General Research and Development Facility	X	X	X	L	L	L
Government or Public Facility	C	C	C	C	C	C
Government or Public Facility (owned or operated by the City of Monterey Park)	P	P	P	P	P	P
Live/Work Unit	L	X	L	L	L	X
Manufacturing, Heavy or Light	X	X	X	X	X	X
Mixed Uses (Residential & Commercial)	L	X	L	L	L	X
Parking Lot/Structure	X	X	A	A	A	A
Private Club	X	X	C	C	C	X
Public Utility Office	C	C	X	C	C	C
Public Utility Substation	X	X	X	P	P	X
Quarry	X	X	X	X	X	X
Recycling Center	X	C	X	X	C	X
Refuse Collection	X	X	X	X	X	X
Rehabilitation Facility	X	X	X	X	C	C
Religious Institution (Church/Temple/Mosque)	X	L	L	L	C	P
Single Room Occupancy	X	X	X	L	L	L
Supportive Housing	X	X	X	X	C	C
Transitional Housing	X	X	X	X	C	C
Transfer Station	X	X	X	X	X	X
Warehouse	X	X	X	X	X	X
Warehouse and Sales Outlet	X	X	X	X	X	X
Wireless Communications & Telecommunications Facility	L	L	L	L	L	L
Wholesale/Distribution	X	X	X	X	X	X

Table 21.22(C)

Nonresidential Parking Standards

Uses	Minimum Required Number of Stalls Per Gross Floor Area
Retail	
Auto Sales (New and Used)	1 space per 2,500 sq. ft. of gross site area, but not less than 8
Boat, Trailer, Motorcycle, Motor Scooter Sales	1 space per 2,500 sq. ft. of gross site area, but not less than 8
General (up to 20,000 SF)	4 spaces per 1,000 sq. ft.
Large (over 20,000 SF)	5 spaces per 1,000 sq. ft. (Parking may be determined by a parking study if mixed occupancies are included)
Plant Nursery and Garden Supply Store	1 per 1,000 sq. ft. of display area plus 1 per 500 sq. ft. of indoor display area
Service	
Adult Care Facility	1 per bed
Animal Hospital	4 per 1,000 sq. ft.
Animal Shelter	2 per 1,000 sq. ft.
Animal Grooming	4 per 1,000 sq. ft.
Appliance Repair	4 per 1,000 sq. ft.
Auto Detailing	4 spaces/service bay or 1 space per 200 sq. ft. whichever is greater
Auto Rental	4 per 1,000 sq. ft. plus 1 per rental car
Auto Repair	4 spaces/service bay or 1 space per 200 sq. ft. whichever is greater
Barber Shop & Beauty Salon	4 per 1,000 sq. ft.
Car Wash, automated	1 space for self-drying after wash tunnel
Car Wash, full service	10 spaces not counting the wash queuing area before the wash tunnel; plus a stacking area after the wash tunnel equal to five times the capacity of the tunnel
Check Cashing Facility	4 per 1,000 sq. ft.
Collection Facility	1 per 500 sq. ft.
Uses	Minimum Required Number of Stalls Per Gross Floor Area
Service (cont'd)	

Community Care Facility	As determined by a parking study
Copy Center	4 per 1,000 sq. ft.
Day Care	1 space per employee (minimum 3 spaces); plus 1 space per 10 children
Day Health Spa (excluding massage)	4 per 1,000 sq. ft.
Dry Cleaning/Laundromat	4 per 1,000 sq. ft.
Emergency Shelter	1 per 10 adult beds; plus 1 per employee on the largest shift
Extended Lodging Facility	1 per room (w/o facilities)
	1.5 per room (w/facilities)
Fitness Center	4 per 1,000 sq. ft.
Gunsmith	4 per 1,000 sq. ft.
Kennel/Animal Boarding	1 per 500 sq. ft.
Hotels	1 per room (w/o kitchen facilities)
	1.5 per room (w/kitchen facilities)
Locksmith/Keys	4 per 1,000 sq. ft.
Massage Establishment	5 per 1,000 sq. ft.
Mortuary/Funeral Home	1 space per 4 fixed seats, or 20 spaces per 1,000 sq. ft. of seating area if there are no fixed seats.
Motel	1 space per room
Parcel Service/Contract Postal Station	4 per 1,000 sq. ft.
Photo Processing Shop	4 per 1,000 sq. ft.
Photocopying/Reproduction	4 per 1,000 sq. ft.
Printing, Publishing, Bookbinding	2 per 1,000 sq. ft.
Service Station	4 spaces plus the spaces required for any fast food, convenience store, or other accessory use
Studio (Martial Arts/Dance/ Photo/Music)	5.5 per 1,000 sq. ft.
Tattoo Parlors & Body Piercing Shops	4 per 1,000 sq. ft.
Tutoring	4 per 1,000 sq. ft.
Veterinary Services, Domestic	4 per 1,000 sq. ft.
Eating & Drinking	
Bar, Tavern or Cocktail Lounge	10 spaces per 1,000 sq. ft.
Restaurant	10 spaces per 1,000 sq. ft.
Retail Eating Establishment—Large (dining area maximum is limited to 10% of gross floor area)	5.5 per 1,000 sq. ft.

Retail Eating Establishment—Small (less than or equal to 1,500 sq. ft. with dining area less than 50% of gross floor area)	5.5 per 1,000 sq. ft.
Entertainment/Cultural	
Adult Oriented Business	As specified by a parking study
Amusement or Game Arcade	5 per 1,000 sq. ft.
Auditorium, including Performing Arts and Gymnasium	1 per 3 seats or 1 space per every 35 sq. ft. of seating area where there are no fixed seats OR as specified by a parking study
Billiards	5 per 1,000 sq. ft.
Bowling Alley	3 per lane; plus the spaces required for restaurant and bar area and other uses on premises
Concert Hall	1 per 3 seats or 1 space per every 35 sq. ft. of seating area where there are no fixed seats OR as specified by a parking study
Comedy Club	1 per 3 seats or 1 per every 35 sq. ft. of seating area where there are no fixed seats OR as specified by a parking study
Commercial Recreation—Indoor or Outdoor	1 space per 4 guests based on maximum capacity, plus bus and drop-off spaces as determined for each use by the CUP
Community Center, including Senior Citizen Center	10 per 1,000 sq. ft.
Cultural Institution	As specified by a parking study
Fortunetelling	4 per 1,000 sq. ft.
Golf Course—Regulation	5 per hole; plus the spaces required for other uses on site
Golf Course—Miniature	3 per hole; plus the spaces required for other uses on site
Golf Driving Range	1 space per tee; plus the spaces required for other uses on site
Internet Arcade	5 per 1,000 sq. ft.
Library	4 per 1,000 sq. ft.
Lodge/Meeting Hall, including Clubs, Lodges, Union Halls and Similar Uses	10 spaces per 1,000 sq. ft.
Museum	4 per 1,000 sq. ft.
Outdoor Amphitheater and Stadiums	1 per 3 seats, or 1 space per every 35 sq. ft. of seating area where there are no fixed seats
Theater—Single Screen	1 space per 3 fixed seats
Theater—Multi Screen	1 space per 5 fixed seats

Office	
1-3 Story Building	4 spaces per 1,000 sq. ft. (minimum 3 spaces per office unit)
4+ Story Building	3 spaces per 1,000 sq. ft.
Bank/Financial Institution (retail)	5 spaces per 1,000 sq. ft. (w/drive-in/ 6 spaces per 1,000 sq. ft.)
Data/Cash Processing Office	4 per 1,000 sq. ft.
Financial Institution/Corporate Office	4 per 1,000 sq. ft.
Notary Public	4 per 1,000 sq. ft.
Office, Administrative	4 per 1,000 sq. ft.
Office, Professional	4 per 1,000 sq. ft.
Office, Service	4 per 1,000 sq. ft.
Stock Broker/Trader	4 per 1,000 sq. ft.
Medical	
Alcoholism Hospital	3 spaces per bed (licensed bed as determined by the State)
Ambulance Service	4 per 1,000 sq. ft. plus a designated space for each ambulance
Clinic	5.5 spaces per 1,000 sq. ft.
Day Treatment Hospital	5.5 per 1,000 sq. ft.
Medical/Dental Laboratories	4 per 1,000 sq. ft.
Laboratories, wet or dry	4 per 1,000 sq. ft.
Office	5.5 spaces per 1,000 sq. ft.
Hospitals	3 spaces per bed (licensed bed as determined by the State)
Nursing/Convalescent Home	1 space per bed (licensed bed as determined by the State)
Optometrist /Ophthalmologist	4 per 1,000 sq. ft.
Optometrist w/retail	5.5 per 1,000 sq. ft.
Out-Patient Facility (Drug & Alcohol)	5.5 per 1,000 sq. ft.
Sanitariums	1 space per bed
Educational Institution	
Elementary School (Private or Parochial)	1.5 spaces per classroom; plus 1 space for every 2 employees and faculty members
Uses	Minimum Required Number of Stalls Per Gross Floor Area

Educational Institution (cont'd)	
High School (Private or Parochial)	1.5 spaces per classroom; plus 1 space for every 2 employees and faculty members; plus 1 space for every 6 students based on maximum capacity
Vocational or Trade School	3.5 spaces per 1,000 sq. ft.; plus 3 drop-off spaces
College (Private)	3 spaces per 1,000 sq. ft.
Additional Uses	
Assembly Hall	1 per 3 seats or 1 space per every 35 sq. ft. of seating area where there are no fixed seats OR as specified by a parking study
Boarding House	1 per sleeping room
General Research and Development Facility	4 per 1,000 sq. ft.
Public Utility Substation	1 per employee; plus 1 space for vehicle used in connection with the facility
Emergency Shelter	1 space per 4 beds; plus 1 space for each staff member
Government or Public Facility	4 per 1,000 sq. ft. OR as determined by a parking study
Government or Public Facility (owned or operated by the City of Monterey Park)	As determined by a parking study
Light Manufacturing	2.5 spaces per 1,000 sq. ft., minimum 3 spaces per unit
Live/Work Unit	2 spaces per unit in a garage; plus the spaces required for nonresidential uses
Mixed Uses (Residential & Commercial)	2 covered spaces per unit, which may be in tandem; plus .5 guest spaces per unit
Private Club	10 per 1,000 sq. ft.
Religious Institution	1 space per 4 fixed seats, or 20 spaces per 1,000 sq. ft. of seating area if there are no fixed seats.
Research and Development	1 space per 400 sq. ft.
Public-Storage (Mini-Storage)	1 space per 4,000 sq. ft. of leasable area
<i>Supportive Housing</i>	
(3 or fewer bedrooms)	2 enclosed garage spaces, plus 1 guest space per 2 dwelling units or 0.3 spaces per bed in dormitory housing
4 or more bedrooms	2 enclosed garage spaces, plus 1 guest space per 1 dwelling unit or 0.3 spaces per bed in dormitory housing
Swimming Pool (School)	1 space per 1,000 sq. ft. + 0.5 space per employee OR 1 space per 100 sq. ft. of water surface area, whichever is greater
<i>Transitional Housing</i>	

3 or fewer bedrooms	2 enclosed garage spaces, plus 1 guest space per 2 dwelling units or 0.3 spaces per bed in dormitory housing
4 or more bedrooms	2 enclosed garage spaces, plus 1 guest space per 1 dwelling unit or 0.3 spaces per bed in dormitory housing

RESOLUTION NO.

A RESOLUTION RECOMMENDING THAT CITY COUNCIL ADOPT AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE ("MPMC") CHAPTERS 21.30 REGARDING REGULATION OF NONCONFORMING USES.

The Planning Commission of the City of Monterey Park does resolve as follows:

SECTION 1: The Planning Commission finds and declares that:

- A. A review of the Monterey Park Municipal Code ("MPMC") suggests that amendments are needed to improve the City's regulations governing, among other things, the regulation of nonconforming uses;
- B. On September 13, 2016, Community and Economic Development Department presented draft regulations to the Planning Commission for consideration. The Planning Commission provided direction for improving the regulations. Thereafter, the regulations were reviewed by the Community and Economic Development Department for, in part, consistency with the General Plan and conformity with the MPMC;
- C. The City reviewed the project's environmental impacts under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the "CEQA Guidelines"), and the City's Environmental Guidelines;
- D. The Community and Economic Development Department completed its review and scheduled the public hearing regarding the application before the Planning Commission for September 13, 2016;
- E. On September 13, 2016, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the draft Ordinance attached as Exhibit "A," and incorporated by reference, including, without limitation, information provided to the Planning Commission by City staff and public testimony; and
- F. This Resolution and its findings are made based upon the evidence presented to the Commission at its September 13, 2016, hearing including, without limitation, the staff report submitted by the Community and Economic Development Department.

SECTION 2: *Environmental Assessment.* Because of the facts set forth in Section 2, the proposed Ordinance is exempt from further environmental review under the

**PLANNING COMMISSION
RESOLUTION NO.
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California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*) because the proposed Ordinance constitutes only minor revisions and clarifications to existing regulations and specification of procedures related thereto; and consists of actions taken to assure the maintenance, protection and enhancement of the environment. The Ordinance, therefore, does not have the potential to cause significant effects on the environment. Consequently, it is categorically exempt from further CEQA review under 14 California Code Regulations §§ 15301, 15305, and 15308.

SECTION 3: *General Plan Findings.* As required under Government Code § 65860 the MPMC amendments proposed by the Ordinance are consistent with the Monterey Park General Plan. According to the General Plan Land Use Element, religious institutions are considered appropriate uses in the mixed-use I and II areas. The proposed code amendments are minor changes intended to ensure that the religious institution regulations are consistent with federal and state laws. The proposed code amendment is intended to clarify existing definitions and code provisions relative to assembly uses.

SECTION 4: *Recommendations.* The Planning Commission recommends that the City Council adopt the draft ordinance set forth in attached Exhibit "A," which is incorporated into this resolution by reference.

SECTION 5: *Reliance On Record.* Each and every one of the findings and determination in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 6: *Limitations.* The Planning Commission's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the Planning Commission's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the city's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 7: This Resolution will remain effective until superseded by a subsequent resolution.

SECTION 8: The Commission secretary is directed to mail a copy of this Resolution to any person requesting a copy.

**PLANNING COMMISSION
RESOLUTION NO.
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SECTION 9: This Resolution may be appealed within nineteen (19) calendar days after its adoption. All appeals must be in writing and filed with the City Clerk within this time period. Failure to file a timely written appeal will constitute a waiver of any right of appeal.

PASSED AND ADOPTED this 13th day of September 2016.

I hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Monterey Park at the regular meeting held on the 13th day of September 2016, by the following vote of the Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

Ricky Choi, Chairperson
City of Monterey Park Planning Commission

ATTEST:

Michael Huntley, Secretary

APPROVED AS TO FORM:
Mark D. Hensley, City Attorney

By:  for _____
Karl H. Berger, Assistant City Attorney

EXHIBIT A

Chapter 21.30 NONCONFORMING USES, BUILDINGS AND STRUCTURES

21.30.010 Purpose.

This chapter establishes regulations for legal nonconforming land uses, structures, and parcels. These are land uses, structures, and parcels within the City that were lawfully established, constructed, or subdivided before the adoption or amendment of this code, but which would be prohibited, regulated, or restricted differently under the current terms of this code or its amendments. This chapter is intended to encourage the City's continuing improvement by limiting the extent to which nonconforming structures and uses may continue to be used, expanded, or replaced, while improving the health, safety, and welfare of all residents without creating an economic hardship for individual property owners or business owners. (Ord. 2097 § 3, 2013)

21.30.020 Establishment of Nonconforming Status.

(A) Applicability. Nonconforming uses, structures and lots within the City may continue to be used, and may be maintained, altered, expanded, reconstructed, or replaced only as allowed by this chapter.

(B) This chapter does not apply to any nonconforming structures owned in whole or part by the City. Nothing in this chapter is intended to, nor can it, require the City to remove a publicly owned nonconforming structure or use.

(C) Legal Nonconforming Use. An existing use, structure, or lot is deemed to be "legal nonconforming" if, prior to its establishment, such use, structure, or lot was established or created in full conformance with applicable regulations in effect at the time of such establishment or creation.

(D) Restrictions and conditions affecting nonconforming uses, structures, and lots apply to that use, building, and structures, and are not affected by ownership changes. (Ord. 2097 § 3, 2013)

21.30.030 Continued Use After Damage or Destruction.

(A) Unless otherwise provided by applicable law, a nonconforming residential use occupying a structure that is damaged or destroyed by fire, earthquake, or other calamity beyond the property owner's control may be reestablished.

(B) Unless otherwise provided by applicable law, a nonconforming nonresidential use occupying a structure that is damaged or destroyed by fire, earthquake, or other calamity beyond the property owner's control may be reestablished with a conditional use permit. (Ord. 2097 § 3, 2013)

21.30.040 Voluntary Demolition of Structure.

A nonconforming use which occupies a structure that is voluntarily demolished or demolished because of a maintenance failure or other neglect can be replaced only with a use that fully complies with all applicable provisions of this code. (Ord. 2097 § 3, 2013)

21.30.050 Conditional Use Permit.

(A) A ~~use that is~~ nonconforming use may not be altered or enlarged unless a conditional use permit is first obtained. ~~because it lacks a conditional use permit may continue only to the extent that it previously existed. Any change to such use requires a conditional use permit.~~ There shall be no expansion of a nonconforming use or the building that houses a nonconforming use onto an adjacent or abutting lot or parcel of land.

(B) A nonconforming use previously allowed by a conditional use permit but is no longer permitted by this code within the applicable zoning district can continue in operation, but only in compliance with all provisions of the original conditional use permit. (Ord. 2097 § 3, 2013)

21.30.060 Continuation and Maintenance.

A nonconforming nonresidential use, structure, or lot may continue to be used provided no alterations, expansions, or intensification of uses are made, except as permitted by Sections 21.30.070 through 21.30.110. (Ord. 2097 § 3, 2013)

21.30.070 Allowable Changes.

(A) Enlargement or Expansion. A nonconforming use cannot be expanded or increased to occupy a greater floor area or portion of the site that it lawfully occupied before becoming a nonconforming use. Alterations which do not increase or expand a nonconforming use may be approved.

(B) Extended Hours. The hours of business for a nonconforming use may be expanded to operate under extended business hours with a conditional use permit.

(C) No nonconforming use can be changed to a less restrictive nonconforming use. (Ord. 2097 § 3, 2013)

21.30.080 Abandonment.

A nonconforming use that is voluntarily discontinued or ceases operations for a continuous period of twelve (12) months or more cannot be reestablished on the site. Any further use of an existing structure onsite must be used in conformity with all applicable provisions of this code. (Ord. 2097 § 3, 2013)

21.30.090 Nonconforming Structure.

(A) Expansions. A nonconforming structure cannot be expanded, except as required by law, unless such expansion results in elimination of the nonconformity.

(B) Maintenance, Repair, and Alterations. A nonconforming structure may be regularly maintained and repaired. Alterations without expansion are permitted if they improve the appearance or stability of the structure.

(C) A building or structure which does not conform to the yard regulations applicable to the zone in which the building or structure is located may be structurally altered when:

(1) The alteration causes the building or structure to conform to the applicable yard regulations;

(2) The alteration or expansion does not project into any required yard; or

(3) The alteration or expansion is an extension of that portion of the existing building or structure that encroaches into a required yard; however, the alteration or expansion cannot extend into the required yard farther than the existing portion and cannot have an area greater than fifty (50) percent of the area of the existing portion within the required yard. This allowance may only be utilized once on a property; future alterations or expansions after the initial fifty (50) percent allowance has been used on a property may not further encroach into the required yard. (Ord. 2097 § 3, 2013)

21.30.100 Reconstruction of Multifamily Residential Structures.

Except as otherwise provided by applicable law, a residential nonconforming structure containing two or more dwelling units that is damaged or destroyed by fire, earthquake, or other calamity beyond the property owner's control may be reconstructed in compliance with this code as follows:

(A) The replacement structure contains at most the same number of dwelling units and floor area as the damaged structure;

(B) The replacement structure complies with all other applicable provisions of this code to the maximum extent feasible;

(C) Reconstruction or rebuilding of the structure will not be detrimental or injurious to the health, safety, or general welfare of the persons residing or working in the neighborhood, and will not be detrimental or injurious to the property and improvements in the neighborhood; and

(D) A complete application for reconstruction is submitted within twelve (12) months of the date of the damage, and reconstruction is commenced within one hundred and eighty (180) days of land use permit approval. (Ord. 2097 § 3, 2013)

21.30.110 Reconstruction of Single-Family Dwellings and Nonresidential Structures.

Except as otherwise provided by applicable law, a damaged single-family dwelling or nonresidential structure that is damaged or destroyed by fire, earthquake, or other calamity beyond the property owner's control may be reconstructed in compliance with this code as follows:

(A) Less Than Fifty (50) Percent Destruction. A structure with less than fifty (50) percent or more of the total length of its original exterior walls remaining in place after the damaging event, requiring no replacement, may be reconstructed provided that:

(1) The reconstructed structure occupies the same footprint or decreases the nonconformity of the structure, and is of no greater height than the original structure; and

(2) A complete application for reconstruction is submitted within twelve (12) months of the date of the damage, and reconstruction is commenced within one hundred and eighty (180) days of land use permit approval.

(B) More Than Fifty (50) Percent Destruction. A structure that is damaged so that more than fifty (50) percent of the total length of its original exterior walls must be replaced may be reconstructed provided that:

(1) The structure must be rebuilt to comply with the City's design standards to the extent feasible; and

(2) The reconstructed structure must be provided at least as much parking as previously existed and as much as determined by the City Planner to be feasible.

(C) Replacement After Demolition. A nonconforming structure that is completely destroyed can be replaced only with a structure that complies with all applicable provisions of this code. (Ord. 2097 § 3, 2013)

21.30.120 Nonconforming Fences and Walls.

Nonconforming fences and walls cannot be expanded or altered unless they are altered to conform with this code. (Ord. 2097 § 3, 2013)

21.30.130 Historic Properties.

Based on substantial evidence, the Planning Commission can find that a national, State, or local designated historic use or structure is nonconforming and exempt from this chapter. (Ord. 2097 § 3, 2013)

21.30.140 Nonconforming Lot.

(A) Allowed Use of a Nonconforming Parcel. A parcel that does not comply with the applicable requirements of this code for minimum lot area, dimensions, or access, is considered

to be a legal building site for the purposes of development or the establishment of a new land use only if the parcel was previously a legal lot of record.

(B) Development and Use Standards. Any proposed development or use of a nonconforming parcel must comply with all applicable requirements of this code.

(C) Further Division Prohibited. A nonconforming parcel cannot be further subdivided. Its boundaries may be changed through a lot line adjustment only if the extent of the nonconformity remains unchanged or is reduced.

(D) This section shall supersede any prior code provisions, regulations, specific plans, or precise plans to the contrary. (Ord. 2097 § 3, 2013)

21.30.150 Abatement and Termination.

(A) Generally. Nonconforming uses, buildings or structures are subject to abatement and termination of usage, in the manner described in this section.

(B) Applicability. Whenever any of the following facts are found by the City Planner to exist in reference to a nonconforming use, building or structure, the same is automatically deemed abated and any such use must be terminated, except as expressly provided in this chapter.

(1) Violation of any applicable law;

(2) A change from a nonconforming use to another nonconforming use, unless a conditional use permit allowed for the change of such nonconforming use;

(3) An increase or expansion of the area, space or volume of the building, structure, or land occupied by, or devoted to a nonconforming use, except as otherwise permitted by this chapter;

(4) Abandonment of a nonconforming use pursuant to Section 21.30.080 subsection (A) of this section are found to exist by the City Planner, the City Planner must give notice of the abatement to the owner setting out the facts supporting such abatement and making an order as necessary to cause the building or use to become immediately conforming. For purposes of this chapter, an owner means the owner, as shown on the last equalized assessment rolls, and the occupant of the building. The order is final and conclusive, and must be complied with, within thirty (30) days after the mailing, in the absence of an appeal, as provided in subsection (C) of this section.

(C) Public Hearing. An appeal may be filed with the secretary of the Planning Commission within thirty (30) days after the mailing of such order by the City Planner. Any person who is the owner or has possession of the property to which such order relates may file an appeal on an application form provided by the City Planner. Each such appeal application must be accompanied by a filing and processing fee in the amount set by resolution of the City

Council. Upon receipt of an appeal, the Planning Commission will conduct a public hearing thereon. Notice thereof must be given in the manner prescribed in Section 21.32.070. At the time and place set for the hearing, the Planning Commission must give the appellant a reasonable opportunity to be heard. In making its determination, the Planning Commission shall consider the date the buildings or structures were constructed or use commenced; the original cost thereof; whether such cost has been, or could have been, recovered by the owner under generally accepted accounting practices; and whether it is feasible to relocate such buildings or structures. Based upon such evidence, the Planning Commission will determine whether such nonconforming use, structure, or building should be abated. The Planning Commission may also, at its discretion, grant an extension of time for the abatement of a nonconformity where it finds that an unreasonable hardship would otherwise be imposed on the property owner. The Planning Commission's decision shall be final and conclusive in the absence of an appeal to the City Council in the time and manner set forth Chapter 21.32.

(D) Findings and Decisions. The decision of the Planning Commission and the findings in support of the decision must be in the form of a written order and must be delivered to the appellant pursuant to Section 21.32.100. (Ord. 2097 § 3, 2013)

21.30.160 City Removal.

If removal of a nonconforming use, structure, or building is not performed by the date specified in the order issued by the City Planner, Planning Commission, or City Council, as the case may be, the City may remove the nonconforming use, structure or building and charge the property owner or record a lien on the subject property for the cost of the removal. (Ord. 2097 § 3, 2013)

21.30.170 Public Utilities Exempted.

The foregoing provisions of this chapter concerning the required removal of nonconforming buildings and structures and uses, and the reconstruction of nonconforming buildings and structures partially destroyed, shall not apply to public utility buildings and structures when such buildings and structures pertain directly to the rendering of the service or distribution of a utility, such as steam electric-generating stations, electrical distribution and transmission substations, communications equipment buildings, water wells and pumps, gas storage, metering and valve control stations; nor shall any provision of this chapter be construed or applied so as to prevent the expansion, modernization or replacement of such public utility buildings, structures, equipment and facilities, as are used directly for the delivery of or distribution of the service, provided that buildings, structures or uses not immediately related to the direct service to consumers, such as warehouses and storage yards are not exempt. (Ord. 2097 § 3, 2013)

EXHIBIT B

Draft City Council Ordinance

ORDINANCE NO.

AN ORDINANCE AMENDING TITLE 21 OF THE MPMC REGARDING REGULATION OF ASSEMBLY-TYPE USES

The City Council of the city of Monterey Park does ordain as follows:

SECTION 1: The City Council finds and determines as follows:

- A. On September 22, 2010, the United States Department of Justice issued a statement summarizing the history and purpose of the land use provisions of the Religious Land Use and Institutionalized Persons Act (RLUIPA). The Statement reads, in pertinent part, as follows:

“The Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc, *et seq.*, is a civil rights law that protects individuals and religious institutions from discriminatory and unduly burdensome land use regulations. After hearings in which Congress found that religious assemblies and institutions were disproportionately affected, and in fact often were actively discriminated against, in local land use decisions, Congress passed RLUIPA unanimously in 2000. President Clinton signed RLUIPA into law on September 22, 2000.

- B. Congress found that zoning authorities were frequently placing excessive or unreasonable burdens on the ability of congregations and individuals to exercise their faith with little to no justification and in violation of the Constitution. Congress further found that religious institutions often faced both subtle and overt discrimination in zoning, particularly minority, newer, smaller, or unfamiliar religious groups and denominations.
- C. Congress also found that, as a whole, religious institutions were treated worse than comparable secular institutions by MPMCs and zoning authorities. As RLUIPA’s Senate sponsors, Senator Hatch and the late Senator Kennedy, said in their joint statement issued upon the bill’s passage: “Municipal Codes frequently exclude churches in places where they permit theaters, meetings halls, and other places where large groups of people assemble for secular purposes.... Churches have been denied the right to meet in rented storefronts, in abandoned schools, in converted funeral homes, theaters, and skating rinks—in all sorts of buildings that were permitted when they generated traffic for secular purposes.”
- D. Congress further found that zoning authorities frequently were placing

excessive burdens on the ability of congregations and individuals to exercise their faiths without sufficient justification, in violation of the Constitution.

- E. RLUIPA provides a number of important protections for the religious freedom of persons, places of worship, religious schools, and other religious assemblies and institutions, including:
1. Protection against substantial burdens on religious exercise: Section 2(a) of RLUIPA prohibits the implementation of any land use regulation that imposes a 'substantial burden' on the religious exercise of a person or institution except where justified by a 'compelling governmental interest' that the government pursues in the least restrictive way possible.
 2. Protection against unequal treatment for religious assemblies and institutions: Section 2(b)(1) of RLUIPA provides that religious assemblies and institutions must be treated at least as well as nonreligious assemblies and institutions.
 3. Protection against religious or denominational discrimination: Section 2(b)(2) of RLUIPA prohibits discrimination 'against any assembly or institution on the basis of religion or religious denomination.'
 4. Protection against total exclusion of religious assemblies: Section 2(b)(3)(A) of RLUIPA provides that governments must not totally exclude religious assemblies from a jurisdiction.
 5. Protection against unreasonable limitation of religious assemblies: Section 2(b)(3)(B) of RLUIPA provides that government must not unreasonably limit 'religious assemblies, institutions, or structures within a jurisdiction.'"
- F. Under RLUIPA, a religious assembly use cannot be treated on a less-than-equal basis as compared to a non-religious use in the same zone if the two uses cannot be distinguished on the basis of accepted zoning criteria that define the zone. Accepted zoning criteria are the objective characteristics of a particular use that determine whether a use should be excluded from a zone, given the purpose for which the zone was established.

SECTION 2: *Zoning Regulation Findings.* Based on the facts and evidence set forth herein, in the accompanying staff report, and in the record as a whole, the City Council finds as follows:

- A. In light of RLUIPA and several published judicial opinions related thereto, minor amendments to the City's zoning regulations are necessary to ensure that religious assemblies and institutions are not treated on less than equal terms with secular assemblies and institutions in the same zoning district;
- B. This proposed Ordinance will not adversely affect any property in the City as to value or precedent, and will not be detrimental to any area of the City; and
- C. This Ordinance promotes public health, safety and general welfare.

SECTION 3: Pursuant to Monterey Park Municipal Code ("MPMC") § 21.38.050, the City Council finds as follows:

- A. The proposed amendment to the MPMC is consistent with the goals, policies and objectives of the General Plan. According to the General Plan Land Use Element, religious institutions are considered appropriate uses in Mixed-Use I and II land use areas and the proposed code amendment will allow religious institutions to be treated similar to other comparable land uses allowed in the Mixed-Use I and II land use areas.
- B. The proposed amendment to the MPMC will not adversely affect surrounding properties. The proposed code amendment will allow religious institutions to be treated similar to comparable uses and not be more restrictive.
- C. The proposed amendment to the MPMC promotes public health, safety, and general welfare and serves the goals and purposes of the MPMC. As amended, the regulations set forth in the MPMC will continue to promote the public health, safety, and general welfare while serving the goals and purposes of the MPMC. The proposed code amendment is a minor update to the MPMC to treat religious institutions similar to comparable uses. The MPMC currently provides regulations for religious institutions; the proposed code amendment further clarifies the regulations for religious institutions.

SECTION 4: Table 21.10(A) (Permitted Uses in Commercial Zones) of Title 21 of the MPMC is amended in its entirety as set forth in attached Exhibit A, which is incorporated by reference.

SECTION 5: Subparagraph (CC) of section 21.10.040 of the MPMC is deleted and the remaining subparagraphs in that section are to be renumbered accordingly.

SECTION 6: Table 21.22(C) (Nonresidential Parking Standards) of Title 21 of the

MPMC is amended in its entirety as set forth in attached Exhibit A, which is incorporated by reference.

SECTION 7: *Environmental Review.* The City Council finds and determines that this ordinance is not subject to the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq. ("CEQA")) for the following reasons: (1) it will not result in a direct or reasonably foreseeable indirect physical change in the environment (14 Cal. Code Regs. § 15060(c)(2)), (2) there is no possibility that the ordinance may have a significant effect on the environment (14 Cal. Code Regs. § 15061(b)(3), and (3) the ordinance does not constitute a "project" as defined in the CEQA Guidelines (14 Cal. Code Regs. § 15378).

SECTION 8: *Construction.* This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 9: *Enforceability.* Repeal of any provision of the MPMC does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 10: *Validity of Previous Code Sections.* If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the MPMC or other city ordinance by this Ordinance will be rendered void and cause such previous MPMC provision or other the city ordinance to remain in full force and effect for all purposes.

SECTION 11: *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 12: The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the city of Monterey Park's book of original ordinances, make a note of the passage and adoption in the records of this meeting, and, within fifteen days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 13: This Ordinance will take effect on the 31st day following its final passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2016

Mitchell Ing, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM
MARK D. HENSLEY, City Attorney

By:  for
Karl H. Berger, 
Assistant City Attorney

ORDINANCE NO. _____

**AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE
CHAPTER 21.34 REGULATING WIRELESS TELECOMMUNICATIONS
FACILITIES WITHIN THE CITY OF MONTEREY PARK**

The City Council of the City of Monterey Park does ordain as follows:

SECTION 1: *Zoning Code Text Amendment Findings.* As required by Monterey Park Municipal Code ("MPMC") Section 21.38.050, the City Council finds as follows:

- A. That the proposed amendments are consistent with the goals, policies and objectives of the General Plan because it is a goal of the Land Use Element of the General Plan to maintain the quality and character of Monterey Park's commercial districts. The proposed code amendments are minor changes intended to ensure that the wireless telecommunication facilities regulations are consistent with federal and state laws. The proposed code amendment is intended to clarify existing definitions and code provisions relative to wireless telecommunication facilities;
- B. That the proposed amendments will not adversely affect surrounding properties because the proposed amendments encourages collocations and wireless facilities that blend with the existing surroundings and not adversely impact the environment, properties and other local values; and
- C. That the proposed amendments promote public health, safety and general welfare and serves the goals and purposes of the Zoning Code because the proposed amendments serve to accommodate new wireless technologies and continued improvements to existing wireless communications facilities while minimizing any visual, structural, and safety impacts.

SECTION 2: Chapter 21.34 of the MPMC is amended to add a new section, Section 21.34.015, to read as follows:

"21.34.015 Definitions.

Unless otherwise specifically defined within this chapter, the defined terms in 47 U.S.C. § 1455, 47 CFR § 1.400001(b)(5), and Government Code 65964.1, and any amendments to such sections, are used in this chapter."

SECTION 3: Section 21.34.020 of the MPMC is amended to read as follows:

"21.34.020 Wireless Telecommunications Facilities on Private Property.

(A) No person may erect, construct, install, operate, or maintain any Wireless Telecommunications Facility in, on, under, over or above private property (including public property not in the public right-of-way), except as authorized pursuant to this code.

(B) A Wireless Telecommunications Facility permit is required for any Wireless Telecommunications Facility. Consideration of a Wireless Telecommunications Facility permit application will be conducted by the City Planner or the ~~Planning Commission~~**City Council**. Wireless Telecommunications Facility permit applications will be processed based upon, and the review authority for the application based upon, the ~~classification of Antennas~~ **Classes defined in Chapter 21.04 of this code**. Although classifications are assigned at the time of submission of the application, a re-evaluation of Antenna classifications may occur at any point in the application review process, including at the time of review by the City Planner, ~~Planning Commission~~ or City Council.

(1) Residential Zones: Class 1, Class 4, Class 5, Class 6 and Class 7 Antennas, **as defined by Chapter 21.04 of this code**, must be presented to the ~~Planning Commission~~**City Council**. Class 3 Antennas, as defined, may be presented to the City Planner.

(2) Non-Residential Zones: Class 1, Class 3, and Class 4 Antennas, **as defined by Chapter 21.04 of this code**, may be presented to the City Planner. Class 5, Class 6 and Class 7 Antennas, as defined, must be presented to the ~~Planning Commission~~**City Council**.

(3) Class 2 Antennas (Co-Located Antennas), **as defined by Chapter 21.04 of this code**, must be presented to the same body that initially reviewed the underlying base Wireless Telecommunications Facility upon which the Co-Location is proposed. Co-Located facilities are deemed a permitted use if the underlying base facility was subject to a discretionary permit and was subject to either an EIR, mitigated negative declaration or a Negative Declaration **they meet all of the requirements established by pursuant to California Government Code Section 65850.6; and, as such, may be presented to the City Planner for approval. However, those Class 2 Antennas that do not meet the requirements of Government Code Section 65850.6 must be presented to the City Council.** Such Co-Located facilities require a Wireless Telecommunications Facilities permit, with modified review pursuant to this chapter.

(4) All Antenna applications requesting heights exceeding the height limitation of the requested zone must be presented to the ~~Planning Commission~~**City Council**.

(5) Antennas other than Classes 1 through 7 must be submitted to the ~~Planning Commission~~**City Council** and must obtain a Variance.

(C) The Community Development Director may approve a permit for placement of a Temporary Emergency Use Antenna. The permit must contain conditions for removal of the Temporary Emergency Use Antenna as soon as possible after the conclusion of the emergency.

(D) For Wireless Telecommunications Facilities applications subject to review by the City Planner, a Wireless Telecommunications Facility permit may be granted pursuant to the procedure provided in Section 21.32.080, so long as all application requirements have been fulfilled and all of the findings required by this chapter have been made.

(E) The review authority will consider all competent evidence presented for and against the Wireless Telecommunications Facility application. The standards required by this chapter will be imposed as conditions of approval for all Wireless Telecommunications Facility permits granted by the review authority. Further conditions of approval of Wireless Telecommunications Facility permits may be imposed as are necessary to minimize environmental, aesthetic, and public safety impacts. The review authority must make findings of fact and determinations in writing. A copy of the findings of fact and determinations must be mailed to the applicant, and any persons expressing an interest in the application who submitted their correct mailing addresses. A decision of the ~~review authority~~ **City Planner** will become final fifteen (15) days following the date of the decision, unless an appeal to the ~~Planning Commission~~ or the City Council is filed as provided in Chapter 21.32 Permit Procedures. **Any decision of the City Council is final.**

(F) Except for Class 2 Co-Located facilities on which the base facility meets the requirements of California Government Code Section 65850.6, and Class 3 Temporary Antenna Facilities, prior to the issuance of a Wireless Telecommunications Facility permit, the review authority must make all of the following findings:

- (1) To the maximum extent reasonably feasible, the proposed Wireless Telecommunications Facility has been designed to achieve compatibility with the community;
- (2) Alternative configurations will not increase community compatibility or are not reasonably feasible;
- (3) Alternative locations on the site will not increase community compatibility or are not reasonably feasible;
- (4) The location of the Wireless Telecommunications Facility on alternative sites will not increase community compatibility or is not reasonably feasible;
- (5) The facility is necessary to close a significant gap in coverage;
- (6) The applicant has submitted a statement of its willingness to allow other carriers to Co-Locate on the proposed Wireless Telecommunications

Facility wherever technically and economically feasible and where Co-Location would not harm community compatibility;

(7) Noise generated by the facility will be in compliance with Chapter 9.53; and

(8) The facility complies with all of the requirements of State and federal laws, regulations and orders.

(G) If the application is denied by the review authority, the review authority must issue a written denial to the applicant containing an explanation of reason(s) for such denial which cites to substantial evidence contained in the written record of the hearing or administrative record.

(H) Requests for Wireless Telecommunications Facilities permits must be made on forms prescribed by the City Planner and submitted to the Community Development Department. The City Planner may amend application requirements from time to time, as necessary to comply with applicable laws and regulations, or to otherwise ensure the provision of information necessary and useful to the evaluation of Wireless Telecommunications Facility permit applications. In addition to the application submittal requirements for permits set forth in this chapter, the supplemental information listed below is also required at the time a Wireless Telecommunications Facility permit application is submitted to the Community Development Department.

(1) Applications for all proposed locations must include:

(a) An accurate map, compatible with the City's latest version of GIS mapping software, indicating the proposed site and detailing existing Wireless Telecommunications Facility locations owned and operated by the applicant within the City on the date of application submittal.

(b) An engineering certification demonstrating planned compliance with all existing federal radio frequency emissions standards, and providing technical data sufficient to justify the proposed height of the proposed Wireless Telecommunication Facility.

(c) An alternative configuration analysis, as deemed necessary by the City Planner, assessing the feasibility of alternative Wireless Telecommunications Facility construction configurations, both at the proposed site and in the surrounding vicinity, which would result in a more visually compatible Antenna(s). This analysis must include an explanation of why other Wireless Telecommunications Facility construction configurations were not selected by the applicant.

(d) A projection of the applicant's anticipated future Wireless Telecommunications Facility siting needs within the City, which information may be used by the City as part of a master planning effort designed to ensure a more planned, integrated and organized approach to Wireless Telecommunications Facility siting.

(e) An identification of the geographic service area for the subject installation, including a map showing all of the applicant's existing sites in the local Service Network associated with the coverage gap the Wireless Telecommunications Facility is meant to close, and describing how the coverage gap will be filled by the proposed installation.

(f) An accurate visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette and proposed screening for the Wireless Telecommunications Facility. The analysis must include photo simulations and other information as necessary to determine the visual impact of the Wireless Telecommunications Facility. A map depicting where the photos were taken must be included. The analysis must include a written description of efforts to blend the Wireless Telecommunications Facility with the surrounding area.

(g) The height and diameter of the facility, together with evidence that demonstrates that the proposed Wireless Telecommunications Facility has been designed to the minimum height and diameter required from a technological standpoint for the proposed site. If the facility will exceed the maximum permitted height limit, a discussion of the physical constraints (topographical features, etc.) making the additional height necessary must be provided.

(h) A description of the maintenance and monitoring program for the Wireless Telecommunications Facility and associated landscaping.

(i) A written statement of the applicant's willingness to allow other carriers to Co-Locate on the proposed Wireless Telecommunications Facility wherever technically and economically feasible and aesthetically desirable.

(j) A written description of any good faith efforts to Co-Locate the proposed Wireless Telecommunications Facility on another site or building, including a GIS compatible map of the sites and engineering information or letters from the owners of the site describing why Co-Location would not be feasible.

(k) An alternative site analysis, assessing the feasibility of alternative sites, including the potential for Co-Location, in the vicinity of the proposed site, as deemed necessary by the City Planner. Said alternative site analysis must specifically include an evaluation of the availability and feasibility of potential alternative sites located outside a Residential Zone. The alternative site analysis must include a map that shows other potential stand alone locations for the proposed Wireless Telecommunications Facility that have been explored, and must describe why the proposed location is superior to other potential locations. Factors that must be considered in the alternative site analysis include, without restriction, cost, visual benefits and detriments of alternative sites, and proximity to dwellings.

(l) A written description of all Accessory Wireless Equipment for the Wireless Telecommunications Facility, including a description of the function of the accessory equipment and the need to locate the accessory equipment on or near the Wireless Telecommunications Facility.

(m) A written description of any requested exceptions to the standards set forth in this chapter, and the reasons for the request.

(n) Noise/acoustical information derived from the manufacturer's specifications for all equipment such as air conditioning units and back-up generators, and a depiction of the equipment location in relation to adjoining properties.

(o) A conceptual landscape plan as determined necessary by the City Planner. The plan must show all existing trees and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the site as determined by the City Planner.

(p) The City Planner may require additional information related to topography, including slopes, contours and proposed grading.

(q) Any other information determined necessary by the City Planner may be required through the City's Wireless Telecommunications Facility permit application form.

(2) Applications requiring ~~Planning Commission~~ **City Council** review must also include certified public notice mailing labels for all owners of real property as shown on the latest equalized assessment roll within a five hundred (500) foot radius of the exterior boundaries of the real property that is the subject of the hearing, except that if such property is owned by the applicant, the owners of contiguous real property to that owned by the applicant must also be given notice, as well as any parties who have requested notice of applications for the installation of such facilities, and such additional persons or parties as the City may determine appropriate based on the specific location and character of the proposed Wireless Telecommunications Facility. A notification, three feet in height and four feet in width, must also be posted by the applicant for thirty (30) days at the site where the Wireless Telecommunications Facility is proposed for installation and notice must be mailed to all required property owners and parties at least thirty (30) days before the hearing. A property ownership map keyed to the mailing labels must be included. If additional mailed notice is required, it is the responsibility of the applicant to provide certified public notice mailing labels for all owners of real property as shown on the latest equalized assessment roll within an area determined by the Community Development Director to be directly affected by the request and to provide a property ownership map keyed to the mailing labels.

(3) All notices must provide a brief description of the proposed Wireless Telecommunications Facility, a map indicating the proposed installation

site, information describing the Wireless Telecommunications Facility permit review process, and the name and telephone number of a person who will be available during business hours to respond to questions from the public. During the notification period, interested persons may contact the Community Development Department to review the proposed location of the facility and express any comments or concerns related to the application.

(I) If the City Planner determines the need to hire an independent, qualified consultant to evaluate technical and other aspects of the application, the applicant must provide the City with written authorization for the hiring. The authorization must include a written agreement by the applicant to advance or promptly reimburse the City for all reasonable costs associated with the consultation. In the alternative, the City Planner may require the applicant to submit a cash deposit for the estimated cost of such consultation, and to replenish the deposit if consumed by reasonable costs associated with the consultation. The consultation is intended to be a site-specific review of technical aspects of the proposed Wireless Telecommunications Facility and may address any or all of those aspects, not limited to the following:

- (1) Compliance with applicable Radio Frequency emission standards;
- (2) Height analysis;
- (3) Configuration;
- (4) The appropriateness of granting any requested exceptions;
- (5) The accuracy and completeness of submissions;
- (6) The applicability of analysis techniques and methodologies;
- (7) The validity of conclusions reached;
- (8) Any specific technical issues designated by the city.

(J) If a permittee proposes any modifications to any Wireless Telecommunications Facility permit after the permit is granted, the permittee must submit an application to the Community Development Department for consideration by the approval body specified in this chapter. The City and the approval body may not accept or process a modification application until the permittee first (i) demonstrates the existing Wireless Telecommunications Facility's compliance with all applicable local requirements; and (ii) certifies that the existing Wireless Telecommunications Facility complies with all applicable State, and federal requirements.

(K) The City Planner must approve any request for a modification of a Wireless Telecommunications Facility submitted pursuant to subsection (J) if it does not substantially change the physical dimensions of the existing Wireless Telecommunications Facility, does not increase the height or bulk of the Wireless Telecommunications Facility or Accessory

Wireless Equipment, and does not change the location of such equipment or facilities.

(L) Unless otherwise required by California Government Code section 65964(b), and as that section may be hereafter amended, a Wireless Telecommunications Facility permit may not have a duration longer than ten (10) years.

(M) In addition to any other permit fees required by this code, each applicant must pay a nonrefundable Wireless Telecommunication Facility application processing fee, in an amount set by resolution of City Council, to defray the City's direct and indirect costs for review of the application. An annual nonrefundable renewal fee will also be charged to defray associated costs of investigation, inspection and enforcement.

(N) Any Wireless Telecommunications Facility that is lawfully constructed, erected, or approved prior to the effective date of the ordinance adopting this section, in compliance with all applicable laws, and which facility conforms to the requirements of this chapter, will be accepted and allowed as a legal nonconforming use. Such facilities must comply at all times with the laws, ordinances, and regulations in effect at the time the application for the facility was deemed complete, and any applicable federal and State laws as they may be amended or enacted, and must at all times comply with any conditions of approval. Any legal nonconforming facility that fails to comply with applicable laws, ordinances, regulations, or the conditions of approval; increases or expands the use of the Wireless Telecommunications Facility; or ceases use of the Wireless Telecommunications Facility for more than ninety (90) days will become an illegal nonconforming Wireless Telecommunications Facility and will be subject removal as set forth in this code.

(O) Application Review.

(1) The timeframe for the City's review of an application begins to run when the application is submitted, but is tolled if the City finds the application incomplete and timely requests the applicant submit additional information to complete the application. The City must make such requests within 30 days of the initial submission of the application. After the applicant submits the additional information, the City will notify the applicant within 10 days of this submission if the additional information failed to complete the application, in which case, the City's timeframe for review remains tolled until the application is deemed complete.

(2) The time limits for processing Wireless Telecommunications Applications must comply with federal and state laws including, without limitation, Section 1455 of Title 47 of the U.S. Code, Section 1.40001(b)(5) of Title 47 of the Code of Federal Regulations, Chapter

1, Subchapter A, Part 1, Subpart CC, and Section 69564.1 of the Government Code. A city council resolution memorializing the processing time periods set forth in applicable law may be adopted to ensure timely compliance

(3) If the City denies a wireless telecommunication facility application, the City will notify the applicant of the denial in writing of the reasons for the denial.”

SECTION 4: *Environmental Review.* The City Council finds that this ordinance does not have the potential to cause significant effects on the environment and, therefore, the project is exempt from the California Environmental Quality Act (CEQA) pursuant to 14 Cal. Code Regs. § 15061(b)(3). The ordinance amends the Monterey Park Municipal Code to codify existing state and federal regulations relating to the processing of applications for wireless telecommunications facilities in the City. The ordinance does not portend any development or changes to the physical environment. Following an evaluation of possible adverse impacts, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment. In addition to the foregoing general exemption, the following categorical exemptions apply: 14 Cal. Code Regs. § 15307 (actions taken for protection of natural resources) and § 15308 (actions taken for protection of the environment).

SECTION 5: If any part of this ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this ordinance are severable.

SECTION 6: Repeal or amendment of any provision of the Monterey Park Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this ordinance.

SECTION 7: The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 8: This Ordinance will take effect on the 31st day following its final passage and adoption.

SIGNED AND APPROVED this ____th day of _____, 2016.

Mitchell Ing, Mayor

ATTEST:

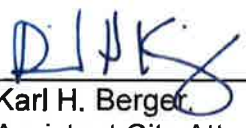
Vincent D. Chang, City Clerk

I HEREBY CERTIFY that the above and foregoing ordinance was duly passed and adopted by the Monterey Park City Council at its regular meeting held on the ____th day of _____, 2016, by the following vote, to wit:

AYES;
NOES;
ABSENT:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:
MARK D. HENSLEY, CITY ATTORNEY

By:  for _____
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