

APPENDIX A—Novato Urgency Wireless Ordinance #1654

- 1 Section 2 Applicability and Definitions. B. Applicability. 2. Special provisions for Eligible Facilities Requests. -all requests for WTFs will be reviewed consistent with the standards required by law. All determinations will be made by the Director.

WireNovato: The standards required by law are not reflective in the planner's checklist they are using to evaluate completeness of the applications. This violates ordinance 1654.

- 2 Section 3 Required Permits and Applications. B Other Permits And Approvals -"in addition to the small cell use permit, the applicant must obtain all other permits and regulatory approvals as may be required by any other federal, state or local government agencies...."

WireNovato: Compliance with National Environmental Policy Act review is a federal requirement. It is not on the checklist and there is no substantial written evidence of FCC-mandated NEPA review and therefore the processing of these applications violate Ordinance 1654.

- 3 Section 3C Application Contents 2. Application fee. "The applicant shall submit the applicable small cell permit application fee established by the City Council resolution for a Use Permit....if no small cell permit application fee has been established, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to reimburse the City for it's reasonable costs incurred in connection with the application."

WireNovato: no application fee was given nor is there record of a signed statement. This violates Ordinance 1654.

- 4 Section 3C 3. (D) -requires demonstration "that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders."

WireNovato: the Planning dept. checklist should have a full description of all such requirements for AT&T and its agents. The checklist is not requiring proof of such compliance with "all building codes, electric codes, local street standards and

specifications, and public utility regulations and orders" and therefore is in violation of Ordinance 1654.

- 5 Section 3C 6. Project Narrative and Justification. "Bare conclusions not factually supported do not constitute a complete written analysis. As part of the written statement the applicant must also include... (B) whether and why the proposed wireless facility meets each required finding for a small cell permit as provided in Section 4 (c)."

WireNovato: In none of the four applications are AT&T's project narratives site-specific; it is strictly boilerplate industry propaganda. Wireless Data service (information services) are not relevant for the City of Novato's deliberations. Therefore, their Project Narrative and Justification is null and void because it does not address the only relevant test: is there a significant gap in telecommunications coverage or not? The planning department is violating our ordinance by not requiring the applicant to provide substantial written evidence of a significant gap in coverage, such as 12 months of randomized data of all dropped calls at each of the 4 sites.

- 6 Section 3C 7. RF Compliance Report. -"The RF report must be prepared and certified by an RF engineer acceptable to the City."

WireNovato: Hammett, who completed the RF analysis for each of the four applications, on behalf of AT&T and its agents should be disqualified as Hammett is under investigation for supplying false data to the City of Palo Alto (see evidence from Apr 13 letter to Marshall in the City of Novato public record). The City risks liability for an inverse condemnation. See SF Court Case: <https://scientists4wiredtech.com/sanfrancisco/sf-appeal-18wr-0296/>

- 7 Section 3C 8. Public Notices. "The applicant shall submit a mailing list and envelopes, stamped and addressed, for all properties and record owners of properties entitle to receive notice under Section 4(A). **Insufficient postage and/or illegible addressing shall be a basis to deem the application incomplete.**"

WireNovato: This has not yet happened. Not noticing the public on the week of Feb 28 is an act of bad faith by the City of Novato (Bad faith = lack of honesty in dealing with other people). There is no good reason to hide information from the

public like this. The Council should demand public notices be sent immediately.

8 Section 3D Requirements for a Duly Filed Application. 1. Submittal Appointment.

"All applications must be submitted to the City at a prescheduled appointment with the Director.

WireNovato: There is no written evidence in the public record that such a required meeting actually happened. None of the application forms are signed or dated by any City employee. This is a violation of Ordinance 1654.

9 Section 4 Approvals and Denials: Notices A. Public Notice. "Prior to any approval, conditional approval, or denial, public notice shall be mailed to all properties and record owners and occupants of properties within a 600' radius of the project site....the notice shall [state] "for a minimum of 10 days from the date of the notice (the director will) accept written public comments that evaluate the application for compliance with the standards in this Ordinance...and that the FCC requires the City to act on small wireless facility applications, which includes any administrative appeals, within 60 days..."

WireNovato: It does NOT say that notices will be mailed 10 days prior to a decision, it says written public comment will be accepted for a minimum of 10 days. If notices are mailed 10 days prior to a decision that would not allow for the minimum 10 days of comments. Steve Marshall, in his email dated April 13, 2022 has written his intent to violate the ordinance. See Appendix B.

10 Section 4C Required Findings. "The director may approve or conditionally approve a complete and duly filed application for a small cell permit when the director finds:"

2. "The proposed project would be in the most preferred location provided in section 6B or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred location(s) within 500' would be technically infeasible."

WireNovato: What is considered clear and convincing evidence? That is not on the checklist. Are the planners informed enough to know what clear and convincing evidence is and not be confused by industry propaganda?

This is one reason why we need independent experts to review the applications.

6. “The applicant has demonstrated the proposed project will be in compliance with all applicable health and safety regulations, which include without limitation the Americans with Disabilities Act and all FCC regulations and guidelines for human exposure to RF emissions”

WireNovato: These applicable regulations and guidelines are not listed out in detail on the planning department’s checklist for application completeness, Not requiring detailed, substantial written evidence from AT&T demonstrating compliance is a **violation of ordinance 1654. *What about people with pacemakers? They haven’t been notified and possibly live in the area of a proposed installation, which would make prohibit AT&T from being issued a permit.**

11 **Section 5 Standard Conditions of Approval A. General Conditions**
7. Adverse Impacts on Other Properties.

“The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue, or unnecessary adverse impacts on nearby properties that may arise from ...installation, operation...”

WireNovato: What could be the impacts due to operation near a school or in front of a business? Since known impacts are not listed on the checklist how is the planning department going to verify that AT&T has submitted required proof that their installations won’t cause x,y,z health effects? Not outlining potential adverse impacts **violates the intention of Ordinance 1654.**

12 **Section 5A 16. Cost Reimbursement.** -...”the applicant shall be responsible to enter into a cost recovery agreement and reimburse the City for all costs incurred in connection with the permit, which includes without limitation costs related to application review...and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility of any kind or nature including engineers’, attorneys’, or technical consultants’ fees and costs incurred by the City in connection with the permittee’s request....the City shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee.

WireNovato: This should include site inspections and RF measurements of other currently operating antenna sites in Novato, which hasn't ever been done; the other sites could have RF compliance issues.

Does Novato have cost recovery agreements with AT&T for the other AT&T antennas already in use in Novato? **Need list of all AT&T antennas in Novato and have them assessed by specialist on AT&T's dime.**

-AT&T must evaluate RF microwave radiation emissions from all facilities affecting the target search ring from all providers -- need broadband measurements 100 MHz to 10,000 MHz and then a full spectrum analysis, as well for the same range, **BEFORE applications can be deemed complete.**

- 13 **Section 7 Design Standards. A. General Standards. 6. Compliance with Health and Safety Regulations.** "All sWTFs shall be designed, constructed, operated, and maintained in compliance with all generally applicable health and safety regulations, which includes without limitation all applicable regulations for human exposure to RF emissions, the Americans with Disabilities Act, California Building Standards Code and the Novato Municipal Code.

WireNovato: all of these regulations need to be detailed out so that they can be added to the checklist to verify completeness of the application. ADA enables a petition for an accommodation- people with issues like a pacemaker would be cause for denial of an application...public needs to be notified!