



City of Mill Valley Planning Department
Supplemental Application for
**Wireless Telecommunication
Permit Application**

26 Corte Madera Ave., Mill Valley, CA 94941 ▪ 415-388-4033 ▪ www.cityofmillvalley.org

Applicants: Please print or type. Attach additional sheets if necessary.

Cross-Reference Information:

Address/Location of Project Site:

Assessor's Parcel Number:

Zoning District:

Summary of Application Requirements:

- Main Application Form
- Wireless Telecommunications Permit Application Form
- Conditional Use Permit Application Form
- Application Fee (see current Planning Fee Schedule)
- Deed or Title Report
- Application Checklist – details attached.
- Plans – details attached. Five sets required.
- Meeting required to review and accept the application.

Wireless Telecommunication Type:

Check all that apply:

- New:** This request is for a NEW wireless telecommunication facility and/or site.
- Modification:** This request is to MODIFY an existing site, including those projects considered a "substantial change" as defined by FCC 47 CFR Section 1.40001(b)(7).
- Collocation:** This request is for the COLLOCATION of wireless telecommunication equipment as defined by FCC 47 CFR Section 1.40001(b)(2).
- 6409(a):** This request is associated with the Middle Class Tax Relief and Job Creation Act of 2012.
- Eligible Facilities Request:** This request is pursuant to California Government Code Section 65850.6.

Owner and Applicant Certification:

I, the undersigned owner of the subject property, have read this application for a development permit.

Owner's Signature _____ **Date:** _____

I, the undersigned applicant, have read this application and certify that the information, drawings and specifications herewith submitted are true and correct to the best of my knowledge and belief and are submitted under penalty of perjury.

Applicant's Signature _____ **Date:** _____

Site Information:			
Address of Proposed Facility:			
Size of Parcel:		Size of lease area (sq. ft.):	
Purpose of use (infill, capacity, new network, etc.):			
Wireless system proposed (IPCS, ESMR, cellular, etc.)			
If rooftop location, is antenna completed screen from view?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Will antenna screening alter the building design in any form?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Max., Height of Proposed Equipment (from natural grade):		Number of proposed antenna(s):	
Type of proposed antenna(s) (panel, dish, ship, etc.):			
Other agency permits required:			

Carrier Contact Information:			
Name of Carrier		Contact Name:	
Mailing Address			
Telephone		Email:	
Person Authorized to Sign Legal Documents			
Applicant Contact Information:			
Name of Applicant		Contact Name:	
Mailing Address			
Telephone		Email:	
Property Owner Contact Information:			
Name of Property Owner:		Contact Name:	
Mailing Address			
Telephone		Email:	
Person(s) Authorized to Sign Legal Documents			

Application Checklist

The City of Mill Valley recognizes that the provision of wireless and Distributed Antenna System (“DAS”) services are highly technical enterprises subject to various federal, state, and local regulations. This supplemental application form is designed to elicit necessary and required technical information in support of a planned Wireless Telecommunication Permit (“WTP”) application for a new or modified wireless telecommunications site project or a DAS project within the City of Mill Valley.

Completion of this supplemental application is a mandatory document for wireless and DAS projects. This form assists the City of Mill Valley to comply with its duties under its Municipal Code Chapter 20.73; Sections 253 and 704 of the Communications Act of 1934 as amended; the FCC Shot Clock Order (FCC 09-99); California Public Utilities Code Sections 7901 and 7901.1; the California Environmental Quality Act (CEQA); the provisions of California Government Code Sections 65850.6 and 65964; and other local, state, and federal laws, regulations, and court rulings. The City of Mill Valley requires that the applicant provide this information to assist it in creating a written administrative record containing substantial evidence sufficient to permit the City of Mill Valley’ informed consideration of your request, and to determine the duties, rights and obligations of the City of Mill Valley and the applicant/owner of the proposed project.

Development standards, including preferred configuration and location of wireless facilities are summarized in this handout. No application for a new wireless site or for a modification of an existing wireless site shall be considered for determination of completeness until all required responses to this supplemental application form and required Exhibits are completed and tendered to the City of Mill Valley. **Please note: You must have an appointment to submit this application package.**

If you do not believe that a specific item of information is necessary or applies to your application, mark the item on this form with the words, “Not Applicable” and attach a detailed written explanation as to the basis for your belief (e.g., “Question #2 does not apply to this application because the proposed Project has no microwave transmission element.”) An unsupported statement such as “Question #2 does not apply” is insufficient, and the determination of completeness of your application will be delayed while you provide a meaningful and detailed explanation.

Questions about this form or the information required by this form should be directed to the City of Mill Valley Director of Planning & Building or his/her designee.

Applicant Check	Application Checklist	Staff Check
	1. Property Owner's Consent to File Application	
	2. Current title report OR grant deed and a recent property tax bill	
	3. Wireless Telecommunications Permit Application & Checklist	
	4. Main application and Conditional Use Permit application	
	5. Project description, including a full written description of: <ul style="list-style-type: none"> a. the proposed project, its purpose and specifications b. the geographic service area for the subject installation, accompanied by a plan and maps showing anticipated future installations and modifications for the following two years. c. Indicate how all proposed hardware and software will be maintained and upgraded. 	
	6. Plans - 5 copies total (full size including 1 marked color copy) <ul style="list-style-type: none"> a. Existing land use of all parcels within 700 feet b. Site Plan c. Base photographs and photo simulations d. Existing and Proposed Elevations e. Existing and Proposed Sections f. Detail Plans: Identify and list all computer/telecommunication hardware items to be installed, including antennas, battery backup, smart meter, etc. For each piece of hardware provide the specifications (manufacturer, model, version), and provide maximum output levels. 	
	7. Radio frequency coverage map <ul style="list-style-type: none"> a. Existing b. Project only c. Cumulative with existing and Project 	
	8. RF exposure guidelines checklist, proof of all applicable licenses or other approvals required by the FCC and certification that proposed facility does and continues to comply with all applicable FCC and PUC requirements, per MVMC Section 20.73.	
	9. Written report analyzes the acoustic levels for the proposed project and all associated equipment including all environmental control units, sump pumps, temporary back up power generators and permanent back up power generators to demonstrate compliance with MVMC Chapter 7.16 (Noise Control). See 20.73.050(A)(8).	
	10. Fees and deposits associated with other third-party reviews as required by the City, as outlined in 20.73.050(B).	

Applicant Check	Supplemental Exhibits & Information	Staff Check
	<p>Does the Project Owner hold a California Public Utilities Commission 'Certificate of Public Convenience and Necessity' (CPCN) for any service to be provided by this project? ___ Yes ___ No</p> <ul style="list-style-type: none"> If the answer is Yes, provide a true and complete copy of Project Owner's CPCN 	
	<p>Independent studies deemed by the necessary by the Zoning Administrator to review the technical aspects of the application, per MCMC 20.73.050(B)</p>	
	<p>If the project is asserted to close a "significant gap" of coverage, include a written statement, street-level map, and collected data illustrating the gap. If the project is the least intrusive means to close the claimed "significant gap", include a written statement and information to support determination.</p>	
	<p>If Project site is proposed to be interconnected via RF to any other site(s)), include the location and technical details of interconnected sites.</p>	
	<p>If proposed in a residential zoned area: explanation why the proposed site is the one and only one location that can meet the RF objectives of the Project, and applicable supporting data.</p>	
	<p>Alternative candidate sites: address and explanation of why these sites cannot be utilized.</p>	
	<p>If the project is within the public right-of-way, the applicant shall certify that it is a telephone corporation or state the basis for its claimed right to enter the right-of-way, and provide a copy of its certificate of public convenience and necessity (CPCN), if a CPCN has been issued by the California Public Utilities Commission.</p>	
	<p>Gummed labels</p> <ol style="list-style-type: none"> Listing of names and addresses of all parcel owners within 500 feet, numbered corresponding to base map Listing of addresses of all residential, commercial, and industrial occupants/ tenants within 500 feet, numbered corresponding to base map 	
	<p>If the applicant claims it requires an exception to the requirements described in MVMC 20.73 and outlined in this application checklist, all information and studies necessary for the City to evaluate such a claim.</p>	
	<p>Additional written information provided by the Applicant, as needed.</p>	

Applicant & City Signature Page

Please read and initial the following and sign below:

_____ I have completed all portions of this application and have attached all of the items listed in the Wireless Telecommunication Permit Application Checklist, including all exhibits required in the Supplemental Application for Wireless Telecommunication Permit.

_____ I understand that the City of Mill Valley may require corrections and/or changes to the submitted plans and the submittal of revised plans prior to consideration. If it is determined that the project is subject to one or more public hearings, additional copies of the submitted plans may be required. The Applicant will be notified in writing of this determination and of the number of plan copies required in accordance with the number of applicable hearings.

_____ I understand that the City of Mill Valley may seek, in its discretion, independent, third-party consulting services in connection with the review and evaluation of the project and that the Applicant will be required to submit a deposit for said consulting services upon request by the City. Said consulting services may include, but not be limited to, architectural review, technical review of proposed antennas and support equipment, and an environmental assessment. The Applicant will be notified in writing of the amount required to be deposited for said consulting services, and the City's review of the application will resume upon receipt of the requested deposit. The Applicant shall be responsible for the full costs of such consulting services. If it is determined that the project will require the preparation of an environmental assessment, the Applicant will also be required to submit a filing fee for said assessment in accordance with the City's Fee Schedule.

Applicant signature: _____ Date: _____

SUBMITTAL PROCEDURE: *This completed application will only be accepted in person and by appointment.* Upon completing the application information above and all required supplementary information, please schedule an appointment with the Planning Department to submit this application.

(For City staff use only)

Accepted for review by:

Signature: _____ Date: _____

Printed Name: _____ Title: _____

Development Criteria

Permit Required No wireless telecommunications facility shall be located or modified within the City on any property, including the public right-of-way, without the issuance of a permit as required by this chapter as set forth in the table below. Such permit shall be in addition to any other permit required pursuant to Mill Valley Municipal Code. (MVMC 20.73.040).

Permitted Locations

Description Wireless Facility	Private Property		Public Right-of-Way ³
	RS, RSP, DR, MFR Zoning Districts	All Other Zoning Districts	Non-Residential Zoning Districts
Roof-mounted, building-mounted, or facility mounted on an existing pole	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
Mounted on a replacement pole or new telecommunications tower	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
New wireless telecommunications collocation facility	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
Eligible facilities request ¹ or application pursuant to California Government Code Section 65850.6 ²	Permitted	Permitted	Permitted

¹ See requirements of section 20.73.140.

² See requirements of section 20.73.150.

³ For any public right of way not within a zoning district, the location of a wireless telecommunication facility shall be determined based upon the closest district adjacent to the facility's location.

Location & Configuration Preferences

The City’s order of preference for the configuration or location of wireless telecommunications facilities from most preferred to least preferred is identified below. Please indicate compliance by marking the configuration and location below.

Configuration (Listed in order of City’s Preference)	Location (Listed in order of City’s Preference)
Select Configuration Below:	Select Location Below:
<input type="checkbox"/> Collocation with existing facilities	<input type="checkbox"/> C-G zoning district
<input type="checkbox"/> Roof-mounted	<input type="checkbox"/> C-N zoning district
<input type="checkbox"/> Building-mounted	<input type="checkbox"/> C-L zoning district
<input type="checkbox"/> Mounted on existing pole or utility pole	<input type="checkbox"/> C-D zoning district
<input type="checkbox"/> Mounted on new pole or utility pole that will replace an existing pole or utility pole	<input type="checkbox"/> Public right-of-way with the closest adjacent district being the C-G district
<input type="checkbox"/> Mounted on new telecommunication tower	<input type="checkbox"/> Public right-of-way with the closest adjacent district being the C-N district
	<input type="checkbox"/> Public right-of-way with the closest adjacent district being the C-L district
	<input type="checkbox"/> Public right-of-way with the closest adjacent district being the C-D district
	<input type="checkbox"/> Any public right-of-way location that abuts the property line of a structure recognized as a local, state or national historic landmark, historic district or on the register of historic places

Design & Development Standards

ALL FACILITIES

(MVMC 20.73.070)

Basic Requirements	The design and development standards set forth in this section apply to all wireless telecommunications facilities no matter where they are located. Wireless telecommunications facilities shall be designed and maintained so as to minimize visual, noise, and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with design and development standards.
No speculative facilities	It is prohibited to build a wireless telecommunications facility or tower based on speculation and for which there is no wireless tenant.
General Guidelines	Screening and camouflage design techniques shall be applied to the design and placement of wireless telecommunications facilities in order to ensure that the facility is as visually inconspicuous as possible, to prevent the facility from dominating the surrounding area and to hide the facility from predominant views from surrounding properties, all in a manner that achieves compatibility with the community.
Traffic Safety	Facilities shall be designed/located to avoid adverse impacts on traffic safety.
Antennas	The least visible antennas to accomplish the coverage objectives shall be used. Antenna elements shall be flush mounted, to the extent reasonably feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Antennas shall be situated as to reduce visual impact without compromising their function. Whip antennas need not be screened.
Landscaping	Facilities shall be installed so as to maintain and enhance existing landscaping on the site. Additional landscaping shall be required where such vegetation is deemed necessary to provide screening or to block the line of sight between facilities and adjacent uses.
Signage	Wireless facilities shall not bear any signs or advertising devices other than certification, warning or other signage required by law.
Lighting	No wireless telecommunications facility may be illuminated unless either specifically required by the Federal Aviation Administration or other government agency.

Design & Development Standards

ALL FACILITIES

(MVMC 20.73.070)

Noise	<ol style="list-style-type: none">1. Each facility shall be operated in such a manner so as to minimize any possible disruption caused by noise.2. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 5:00 p.m. and 7:00 a.m.3. At no time shall equipment noise from any facility exceed an exterior noise level of 50 dBA at the facility's property line if the facility is located in a business or commercial zone that permits those uses, provided, however, that for any such facility located within 500 feet of any property zoned residential or improved with a residential use, such equipment noise shall at no time be audible at the property line of any such residential property. For any facility located within a residential zone, such equipment noise shall at no time be audible at the property line of any residentially improved or residential zoned property.4. Any equipment, including but not limited to air conditioning units, that may emit noise that would be audible from beyond three feet from the facility in the case of a facility located in the right-of-way, or in the case of other facilities the facility's property line, shall be enclosed or equipped with noise attenuation devices to the extent necessary to ensure compliance with applicable noise limitations under the Mill Valley Municipal Code.
Security	Each wireless shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight, or attractive nuisances. The reviewing authority may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when a facility has the potential to become an attractive nuisance.
Modification	Existing equipment shall be replaced with equipment that reduces visual, noise, and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.

Additional Design and Development Standards
Facilities OUTSIDE of the Right-of-Way
(MVMC 20.73.080)

Parking Interference	In no event shall the installation of facilities replace or interfere with parking spaces that reduce the total number of parking spaces below the number that is required.
Roof-mounted Facilities	Must be fully concealed or screened in a manner compatible with the existing architecture of the building the facility is mounted to in color, texture, and type of material. Screening shall not increase the bulk of the structure nor alter the character of the structure.
Facilities Mounted to a Telecommunications Tower	<p>Must be located in close proximity to existing above-ground utilities, such as electrical towers or utility poles (which are not scheduled for removal or under grounding for at least 18 months), light poles, trees of comparable heights, and in areas where they will not detract from the appearance of the City.</p> <ul style="list-style-type: none"> • Facilities mounted to a telecommunications tower, including, but not limited to, the attached antennas, shall be designed to be the minimum functional height and width required to adequately support the proposed facility and meet FCC requirements. Facilities mounted to a telecommunications tower shall not exceed the applicable height limit for structures in the applicable Zoning District. • Aside from the antenna, no additional equipment may be visible. • Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening. • All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used. • Monopoles shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility. • If a faux tree is proposed, it shall be of a type of tree compatible with those existing in the immediate areas of the installation. If no trees exist within the immediate areas, the applicant shall create a landscape setting that integrates the faux tree with added species of a similar height and type. Additional camouflage of the faux tree may be required depending on the type/design of faux tree.

Additional Design and Development Standards
Facilities OUTSIDE of the Right-of-Way
(MVMC 20.73.080)

Accessory Equipment

Preferred placement from most preferred to least preferred is underground, within a building or structure, on a screened rooftop area or structure, or in a rear yard if not readily visible from surrounding properties and the roadway. All accessory equipment shall be fully screened or camouflaged, and located in a manner to minimize their visibility to the greatest extent possible utilizing the following methods for the type of installation:

- Accessory equipment for roof-mounted facilities shall be installed inside the building to which it is mounted or underground, if feasible. If not feasible, such accessory equipment may be located on the roof of the building that the facility is mounted on, provided that both the equipment and screening materials are painted the color of the building, roof, or surroundings. All screening materials for roof-mounted facilities shall be of a quality and design that is architecturally integrated with the design of the building or structure.
- Accessory equipment for facilities mounted to a telecommunications tower shall be visually screened by locating the equipment either within a nearby building, in an underground vault (with the exception of required electrical panels) or in another type of enclosed structure, which shall comply with the development and design standards of the zoning district in which the accessory equipment is located. Such enclosed structure shall be architecturally treated and adequately screened from view by landscape plantings, decorative walls, fencing or other appropriate means, selected so that the resulting screening will be visually integrated with the architecture and landscaping of the surroundings.

**Additional Design and Development Standards
Facilities WITHIN the Public Right-of-Way
(MVMC 20.73.090)**

Right-of-Way Authority	An encroachment permit must be obtained for any work in the public Right-of-Way. Only applicants authorized to enter the Right-of-Way shall be eligible for a permit.
Space Occupied	Facilities shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.
Location	<ul style="list-style-type: none"> • Each component shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the use of the right-of-way, or safety hazards to pedestrians and motorists. • A facility shall not interfere with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility. • Facilities mounted to a telecommunications tower, above-ground accessory equipment, or walls, fences, landscaping or other screening methods must be setback at least 18 inches from the front of a curb. • Each pole mounted wireless telecommunications facility must be separated by at least 1,500 feet. • All cables, including, but not limited to, electrical and utility cables, between the pole and any accessory equipment shall be placed underground, if feasible. <p>All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole.</p>
Antennas & Maximum Heights	<p>Utility Poles: The maximum height of any antenna mounted to an existing utility pole shall not exceed 24 inches above the height of an existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than 18 feet above any drivable road surface. All installations on utility poles shall fully comply with the California Public Utilities Commission general orders, including, but not limited to, General Order 95, as revised.</p> <p>Street Light Poles: The maximum height of any antenna mounted to a street light pole shall not exceed seven feet above the existing height of a street light pole in a location with its closest adjacent district being a commercial zoning district and shall not exceed three feet above the existing height of a street light pole in any other zoning district. Any portion of the antenna or equipment mounted on such a pole shall be no less than 18 feet above any drivable road surface.</p>

**Additional Design and Development Standards
Facilities WITHIN the Public Right-of-Way
(MVMC 20.73.090)**

<p>Poles</p>	<p>Only pole-mounted antennas shall be permitted in the right-of-way. All other telecommunications towers are prohibited, and no new poles are permitted that are not replacing an existing pole.</p> <p>Pole height and width limitations:</p> <p>a. All poles shall be designed to be the minimum functional height and width to support the proposed antenna and meet FCC requirements. Poles and antennas and similar structures shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.</p> <p>b. Notwithstanding the above, no facility shall be located on a pole that is less than 26 feet in height and no facility shall exceed 35 feet in height, including, but not limited to, the pole and any antenna that protrudes above the pole.</p> <p>c. Pole mounted equipment shall not exceed six cubic feet.</p> <p>If an applicant proposes to replace a pole in order to accommodate the facility, the pole shall match the appearance of the original pole to the extent feasible, unless another design better accomplishes the objectives of this section. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven feet.</p> <p>If an exception is granted for placement of new poles in the right-of-way, new poles shall be designed to resemble existing poles in the right-of-way, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced, unless another design better accomplishes the objectives of this section. Such new poles that are not replacement poles shall be located no closer than 90 feet to an existing pole.</p>
<p>ADA Compliance</p>	<p>All facilities shall be built in compliance with the Americans with Disabilities Act.</p>
<p>Accessory Equipment</p>	<p>With the exception of the electric meter, which shall be pole-mounted to the extent feasible, all accessory equipment shall be located underground to the extent feasible. When above-ground is the only feasible location for a particular type of accessory equipment and when such accessory equipment cannot be pole-mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of five feet and a total footprint of 15 square feet, and shall be screened and camouflaged to the fullest extent possible, including the use of landscaping or alternate screening. Required electrical meter cabinets shall be adequately screened and camouflaged.</p>

Required FINDINGS to Approve a Proposed Project (MVMC 20.73.120):

- A. The reviewing authority shall not approve any application unless, in addition to the findings generally applicable to all conditional use permits, all of the following additional findings are made:
1. The proposed facility complies with all applicable provisions of this chapter.
 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.
 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.
 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in this chapter.
- B. In addition to the findings in Section A above, approval of a wireless telecommunications facility permit for a facility that will be located in the public right-of-way may be granted only if the following findings are made by the reviewing authority:
1. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the right-of-way.
 2. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

Conditions of Approval to Operate (MVMC 20.73.100-110):

See MVMC 20.73.100-110 for conditions of required to build and operate under the conditional use permit, including annual reporting. General operation and maintenance standards are contained in MVMC 20.73.180.

Exceptions (MVMC 20.73.130):

- A. Exceptions pertaining to any provision of this chapter, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the reviewing authority if the reviewing authority makes the finding that:
1. Denial of the facility as proposed would violate federal law, state law, or both; or
 2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.
- B. An applicant may only request an exception at the time of applying for a wireless telecommunications facility permit. The request must include both the specific provision(s) of this chapter from which the exception is sought and the basis of the request. Any request for an exception after the City has deemed an application complete shall be treated as a new application.
- C. Notwithstanding any other provision of this chapter, a conditional use permit shall be required for a facility when an exception is requested.
- D. The applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue. The City shall have the right to hire an independent consultant, at the applicant's expense, to evaluate the issues raised by the exception request and shall have the right to submit rebuttal evidence to refute the applicant's claim.