

2019
9/20/19

ORDINANCE NO. 2019- 15

AN ORDINANCE AMENDING ARTICLE 13-8 OF THE ZONE DISTRICT REGULATIONS OF THE ORDINANCES OF THE CITY OF ROCK SPRINGS, ENTITLED "WIRELESS COMMUNICATIONS".

WHEREAS, after notice given in the manner and for the time required by law, the Planning and Zoning Commission of the City of Rock Springs held a public hearing on the 11th day of September, 2019, on proposed amendments to Article 13-8, Section 13-814 of the Ordinances of the City of Rock Springs; and,

WHEREAS, the Planning and Zoning Commission of the City of Rock Springs, Wyoming, voted to recommend approval of amendments to Article 13-8, Section 13-814 of the Ordinances of the City of Rock Springs as outlined below; and,

WHEREAS, notice of hearing before the Governing Body of the City of Rock Springs, Wyoming, has been given as required by law, and the Governing Body has determined that said amendments should be adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ROCK SPRINGS, STATE OF WYOMING:

Section 1. That Article 13-8, Section 13-814 of the Ordinances of the City of Rock Springs be amended as follows:

13-814 Wireless Telecommunications Communications.

A. Purpose.

The purpose of this Section is to establish regulations for the siting of wireless communications towers and antennas in order to:

- (1) protect residential areas and land uses from impacts of towers and antennas;
- (2) encourage location of antennas and towers in nonresidential areas;
- (3) encourage collocation of new and existing tower sites; and
- (4) minimize impacts of towers and antennas on the community. ~~This section shall not apply to antennas used by amateur radio operators or wireless telecommunications antennas/facilities associated with public utilities/services, which shall remain exempt.~~

B. Applicability

- (1) The requirements set forth in this section shall apply to all applications for Wireless Communication Franchises (WCFs) as defined in Subsection C and further addressed herein.
- (2) The requirements set forth in this section shall not apply to:
 - a. Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive only antennas, provided that the requirement that the height be no more than the distance from the base of the antenna to the property line is met.

- b. Miscellaneous Antennas. Antennas used for reception of television, multi-channel video programming and radio such as Over-the-Air Receiving Device (OTARD) antennas, television broadcast band antennas, and broadcast radio antennas. The City has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the City, modifications are necessary to comply with federal law.
- c. A WCF installed upon the declaration of a state of emergency by the federal, state, or local government, or a written determination of public necessity by the City.
- d. A temporary WCF installed for providing coverage of a special event such as a news coverage or sporting event.
- e. Antennas attached to existing structures (such as commercial buildings, houses or apartments) for Internet purposes and used solely by occupants of the building for which the antennas are attached as long as the height limitations of the zoning district are not exceeded, and the antenna design is satisfactory to the City.
- f. Routine maintenance and repair of WCFs.

—B.C. Definitions.

~~—Wireless telecommunications: The technology which enables information to be exchanged through the transmission of voice, video or data signals by means of electrical or electromagnetic systems and without the use of wires, cables or other similar transmission facilities.~~

~~—Wireless telecommunications, alternative design structure: An alternative design for mounting antennas on other than a monopole or lattice tower, i.e., clock tower, flag pole, artificial tree, light pole or similar feature. Said alternative design is for the purpose of making the wireless telecommunications tower blend in with the surrounding environment.~~

~~—Wireless telecommunications, antenna: Any exterior transmitting or receiving wireless communication device mounted on a tower, building or structure and used in communications which is authorized by the Federal Communications Commission. Antenna: Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services. Antennas used by amateur radio operators are excluded from this definition.~~

~~—Wireless telecommunications, antennaAntenna height: Vertical distance from the finished grade of the parcel at the base of the antenna support structure to the highest point on the structure, including the highest antenna.~~

~~—Wireless telecommunications, antenna support structure: Any building, tower or structure used to support a wireless telecommunications antenna.~~

~~—Wireless telecommunications, carrier: An entity that provides wireless telecommunications~~

~~services. This definition shall also include companies that build telecommunications towers and lease tower space to carriers. Wireless telecommunications, collocation: The use of a single wireless telecommunications antenna support structure by more than one carrier. Collocation: The use of a single Antenna Support Structure by more than one wireless communications provider.~~

~~—Wireless telecommunications, equipment shelter~~

~~—Wireless telecommunications, guyed~~

~~—Wireless telecommunications, lattice~~

~~—Wireless telecommunications, monopole: A support structure constructed of a single, self-supporting metal pole securely anchored to a foundation.~~

~~—Wireless telecommunications, tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. The term includes, but is not limited to, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and any tower support.~~

Accessory equipment: Any equipment serving or being used in conjunction with a WCF, including, but not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

Alternative tower structure: Manmade trees, clock towers, bell steeples, light poles, traffic signals, buildings, and similar alternative design mounting structures that are compatible with the natural setting and/or surrounding structures, and camouflage or conceals the presence of antennas or towers so as to make them architecturally compatible with the surrounding area. This term also includes any antenna or antenna array attached to an alternative tower structure or a stand-alone pole (including a replacement pole) in the right-of-way that accommodates small cell facilities.

Antenna: Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services. Antennas used by amateur radio operators are excluded from this definition.

Antenna height: Vertical distance from the finished grade of the parcel at the base of the antenna support structure to the highest point on the structure, including the highest antenna.

Base station: A structure or equipment at a fixed location that enables Federal Communications Commission ("FCC") licensed or authorized wireless communications between user equipment and a communications network. The definition of base station does not include or encompass a tower as defined herein or any equipment associated with a tower. Base station includes, without limitation:

(1) Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is

filed with the City pursuant to this section has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support; and

(2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks) that, at the time the relevant application is filed with the City pursuant to this section has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

Base Station does not include any structure that, at the time the relevant application is filed with the City under this section, does not support or house equipment described in sub-paragraphs 1. and 2. above.

Collocation: The use of a single Antenna Support Structure by more than one wireless communications provider.

Director: The City's planning director or such person's authorized designee.

Eligible facilities request: Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station involving: (i) colocation of new transmission equipment, (ii) removal of transmission equipment, or (iii) replacement of transmission equipment.

Eligible support structure: Any tower or base station as defined in this Chapter, provided that it is existing at the time the relevant application is filed with the City under this section.

Equipment Shelter: The structure in which the electronic receiving and relay equipment for a Wireless Communications Facility is housed.

Existing: A constructed tower or base station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an eligible facilities request, provided that a tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

Guyed tower: A tower that is supported by use of cables (guy wires) that are permanently anchored to the ground.

Lattice tower: A type of tower that is self-supporting with multiple legs and steel cross-bracing.

Monopole: A single, freestanding pole-type structure supporting one or more antennas.

Pole-mounted small cell facility: A small cell facility with antenna that are mounted and supported on an alternative tower structure, which includes a replacement pole.

Related accessory equipment: Transmission equipment customarily used with, and incidental to

WCF antennas, including by way of example, coaxial or fiber-optic cable, regular and backup power supply and remote radio units.

Replacement pole: A newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or street light pole or other similar structure of proportions and of equal height or such other height that would not constitute a substantial change to a pre-existing pole or structure in order to support a WCF or small cell facility or to accommodate collocation and remove the pre-existing pole or structure.

Right-of-way: As used within this section, the area on, below, or above a roadway, highway, street, sidewalk, alley, utility easement, or similar property, but not including a federal interstate highway, in the City.

Site: The area comprising the base of the structure and other related accessory equipment deployed on the ground.

Small cell facility: A WCF that meets each of the following conditions:

- (1) The structure on which antenna facilities are mounted –
 - a. Is 50 feet or less in height, or
 - b. Is no more than 10 percent taller than other adjacent structures, or
 - c. Is not extended to a height of more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and
- (2) Each antenna (excluding associated antenna equipment) are cumulatively no more than three cubic feet in volume; and
- (3) All antenna equipment associated with the WCF (excluding antennas) are cumulatively no more than 28 cubic feet in volume; and
- (4) The WCF does not require antenna structure registration under 47 CFR Part 17; and
- (5) The WCF is not located on Tribal lands, as defined under 36 CFR § 800.16(x); and
- (6) The WCF does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR § 1.1307(b).

Substantial change: A modification that substantially changes the physical dimensions of an eligible support structure, which meets any of the following criteria:

- (1) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;
- (2) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.
- (3) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves

adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

- (4) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- (5) It entails any excavation or deployment outside the current wireless communications facility site;
- (6) It would defeat the concealment elements of the eligible support structure; or
- (7) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided, however, that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in (1)-(4) above.

Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for wireless communications facilities including self-supporting lattice towers, guyed towers or monopole towers. The term includes, but is not limited to, radio and television transmission towers, microwave towers, common-carrier towers, wireless communications towers, alternative tower structures and any tower support.

Transmission Equipment: Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Utility pole: A pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting. Such term shall not include structures supporting only wireless facilities.

Wireless communications services: Any services, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless communications facility ("WCF"): Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small cell facilities. The term does not include the structure or improvements on, under, or within which the equipment is collocated. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code.

Wireless infrastructure provider: Any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities or wireless support structures, but that is not a wireless services provider.

Wireless provider: A wireless infrastructure provider or a wireless services provider.

Wireless services: Any services, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless services provider: A person or entity who provides wireless services.

C. General.

~~The following requirements apply to all wireless telecommunications facilities regardless of the zoning district where they are to be located. These general standards are supplemented by the specific regulations for residential and nonresidential districts, as set forth in subsections D and G of this section.~~

~~(1) Site plan required. Proposed wireless telecommunications facilities shall submit an application to the City on forms provided by the Zoning Administrator. The site plan shall include a drawing or page depicting all buildings located within 300 feet of the proposed facility, as well as an overlay of the zoning for the property and all properties located within 300 feet. The site plan shall generally comply with the requirements of 13-904 except where noted differently in this section. Property owner (landowners) signature shall be required on application form.~~

~~(2) Security fencing. Security fencing a minimum of 6 feet in height shall surround the tower, equipment shelter and any guy wires.~~

~~(3) Collocation. Applicants requesting permission to install a new tower shall provide an exhibit showing all existing towers located within 1500 feet of the proposed new tower facility. The applicant~~

~~shall inquire about potential collocation at all technically feasible locations within the 1500-foot radius and shall provide written proof of said inquiries, as well as responses received.~~

~~(4) Historic review. Any application to locate an antenna on a building or structure certified by the Certified Local Government (CLG) Committee as Historic shall be reviewed by the CLG. Said committee's recommendations will be provided to the Planning & Commission.~~

~~(5) Aesthetics. Towers shall be painted a non-contrasting gray or similar color to minimize visibility unless otherwise required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA). Applicants shall utilize alternative design structures in order to minimize impacts of new towers on existing viewsheds wherever feasible.~~

~~(6) Advertising. No advertising shall be permitted anywhere on the telecommunications facility other than identification signage.~~

~~(7)~~

D. Operational Standards

(1) Federal requirements. All WCFs shall meet the current standards and regulations of the Federal Aviation Authority ("FAA"), the FCC and any other agency of the federal government with the authority to regulate WCFs.

(2) Signal interference. All WCFs shall be designed and sited, consistent with applicable

federal regulations, so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and nonresidential properties; nor shall any such facilities interfere with any public safety communications.

(3) Operation and maintenance. To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the City concludes that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have thirty (30) days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the City's building official may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the City may remove such WCF at the owner's expense.

(4) Discontinuance of Use

- (a) Providers planning to discontinue utilizing towerWCF(s) shall provide written notification to the City Planner. Said notification shall include contact name and phone number for the party responsible for the towerWCF(s) and the date of discontinuance.
- (b) Discontinued use of towerWCF(s) for more than 180 days following notice shall result in the towerWCF(s) being officially designated as abandoned. The City Planner shall notify the owner/operator of said abandoned designation in writing. The owner/operator shall have 180 days from the date of the City Planner's notice of abandoned designation to dismantle or reactivate the towerWCF(s).
- (c) Failure to dismantle/ reactivate the towerWCF(s) within 180 days of the date of notice of abandoned designation shall be grounds for the City to dismantle the towerWCF(s). The City may assess costs associated with dismantling the towerWCF(s) to the owner/operator or other responsible party.

E. Design Standards

The requirements set forth in this section shall apply to the location and design of all WCFs governed by this section; provided, however, that the Director may waive these requirements if it determines that the goals of this section are better served thereby. To that end, WCFs shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the City, consistent with other applicable provisions of the City's ordinances.

(1) General Requirements. The following requirements shall be met by all WCFs:

a. Collocation.

- i. Applicants requesting permission to install a new tower or alternative tower structure not in the public ROW shall provide an exhibit showing all existing towers located within 1500 feet of the proposed new tower facility. The applicant shall inquire about potential collocation at all technically feasible locations within the 1500 feet radius and shall provide written proof of said inquiries, as well as responses received. This provision shall not apply to small cell facilities or towers or alternative support structures for small cell

- facilities.
- ii. Excluding alternative tower structures, monopoles, replacement poles, or utility poles for small cell facilities, WCFs shall be designed and constructed to permit the facility to accommodate WCFs from at least two wireless service providers on the same WCF unless the City approves an alternative design to the extent such design is reasonably feasible based upon construction, engineering and design standards. No WCF owner or operator shall unreasonably exclude a telecommunications competitor from using the same facility or location. Upon request by the City, the owner or operator shall provide evidence demonstrating why collocation is not possible at a particular facility or site.
 - b. Site Design.
 - i. Each WCF and its appurtenances shall be completely contained within a single recorded property boundary, lot or tract.
 - ii. WCFs shall not negatively impact other ROW uses, such as underground utilities, site lines, pedestrian and bicycle access, or create a roadside hazard, as determined by the City.
 - c. Setbacks. The following minimum setbacks shall apply to all WCFs and related accessory equipment. A WCF shall meet the greater of the following minimum setbacks from all property lines:
 - i. For WCFs located outside of the ROW:
 - 1. The setback for a principal building within the applicable zoning district.
 - 2. ~~— (8) Lighting. Towers shorter than 150 feet shall not be artificially lighted except to assure safety or as required by the FAA. Security lighting around the equipment shelter shall be permitted. Twenty-five percent (25%) of the WCF height.~~
 - 3. The Tower height, including antennas, if the Tower is in or adjacent to a residential district.
 - ii. For WCFs located inside of the ROW. WCFs shall meet all setback requirements set forth in the WYDOT Roadway Design Manual, or the AASHTO Roadside Design Guide. For facilities using existing structures or poles in ROW, such set back requirements shall apply only to the extent technically feasible.
 - d. Advertising. No advertising shall be permitted anywhere on the WCF other than identification signage.
 - e. Lighting. WCFs shall not be artificially lit, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on an Alternative Tower Structure such as a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light trespass on surrounding properties, particularly residences. Security lighting around the equipment shelter shall be permitted.

- f. —(9) Security. "No trespassing" signs shall be posted around the facility with a contact telephone number for emergencies.
- g. —(10) Access roadway. The access roadway to the ~~wireless telecommunications facility~~WCF shall be paved with asphalt or concrete unless the ~~wireless facility~~WCF is an accessory use. ~~Wireless telecommunications facilities~~WCFs that are accessory uses may have unpaved, gravel access roadways, provided the access to the facility is via a private, paved surface (not directly onto a public street). ~~(Amended Ord. 2014-03, 4/15/14)~~

—D. Commercial (B-2) & Industrial Districts (I-1 & I-2):

—~~Wireless telecommunications facilities proposed for commercial and industrial zoning districts (B-2, I-1 and I-2) shall comply with the General conditions noted in 13-814.C. as well as the following:~~

- (1) ~~A wireless telecommunications facility shall be permitted as the sole use on a lot provided:~~
 - (a) ~~The lot meets the minimum lot size requirements for the district.~~
 - (b) ~~The minimum distance to any R-E, R-1, R-2, R-3 or B-1 use or district line shall be 300 feet. The minimum distance to any R-4, R-5 or R-6 use or district line shall be 100 feet or the height of the tower, whichever is more, unless collocated on an existing tower.~~
 - (c) ~~Equipment shelter shall meet the minimum setbacks from the property lines associated with the zoning district.~~
 - (d) ~~Tower shall be setback from property lines a distance equal or greater to the total height of the tower.~~
 - (e) ~~Maximum tower height shall be 200 feet (I-2), 150 feet (I-1) and 75 feet (B-2).~~
 - (f) ~~Equipment shelter shall be no larger than 500 square feet.~~

- h. Adjacent to single family residential uses. WCFs shall be sited in a manner that considers the proximity of the facility to residential structures and residential district boundaries. When placed by residential property, the WCF shall be placed adjacent to the common side yard property line between adjoining residential properties, such that the WCF minimizes visual impacts equitably among adjacent properties. In the case of a corner lot, the WCF may be placed adjacent to the common side yard property line between adjoining residential properties, or on the corner formed by two intersecting streets. If these requirements are not reasonably feasible from a construction, engineering or design perspective, the applicant may submit a written statement to the director requesting the WCF be exempt from these requirements.

- i. —(2) A wireless telecommunications facilityWCFs as Accessory Uses. WCFs shall be permitted as an accessory use on a lot site provided:
 - i. —(a) The facilityWCF complies with 13-814.D.(1)(b) —(f) of this sectionChapter.
 - ii. —(b) The existing use on the property is a permitted, conditionally permitted or lawful nonconforming use.
 - iii. —(c) Placement of the ~~wireless telecommunications facility~~WCF shall not require the addition of an access drive onto a public street.

- iv. ~~_____~~ (d) Vehicular access to the wireless telecommunications facility WCF shall not interfere with existing parking or vehicular circulation on the site.

~~— (3) An antenna for a wireless telecommunications facility shall be attached to an existing structure or building, provided:~~

- j. Hazardous Materials. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operation of the WCF and only in accordance with all applicable laws governing such materials.
- (2) Specific Design Requirements. Additional design requirements shall be applicable to the various types of WCFs as specified below:

a. Base stations.

- i. If WCF is installed on a structure other than a tower, alternative tower structure or pole, such as a base station (including, but not limited to the antennas and accessory equipment), it shall be of a neutral, non-reflective color that is identical to, or closely compatible with, the color of the supporting structure, or uses other camouflage/concealment design techniques so as to make the antenna and related facilities as visually unobtrusive as possible, including for example, without limitation, painting the antennas and accessory equipment to match the structure.
- ii. ~~_____~~ (a) The maximum height of a WCF shall not exceed 20 feet or 20% of the existing building height ~~base station~~, whichever is greater.

(b) ~~_____~~ The equipment shelter, if not located on the building, shall comply with 13-814.D.(1)(e) and (f) of this section.

~~— E. Low/Medium Density Residential (R-1, R-2 & R-3) & Neighborhood Commercial Districts (B-1).~~

~~— Wireless telecommunications facilities proposed for low/medium density residential and neighborhood commercial districts limited to R-1, R-2, R-3 & B-1 shall comply with the General conditions noted in 13-814.C. as well as the following:~~

~~— (1) A wireless telecommunications facility shall be permitted as the sole use on a lot provided:~~

~~_____ (a) _____ The facility complies with 13-814.D.(1)(a) — (e) & (f) of this section.~~

~~_____ (b) _____ Tower shall be setback from property lines a distance equal or greater to the total height of the tower.~~

~~_____ (c) _____ Maximum tower height shall be less than 50 feet.~~

~~_____ (d) _____ Applicant submits written, notarized approval of 51% or more of the property owners owning property located within 200 feet of the boundaries of the property where the wireless telecommunications facility is proposed.~~

~~_____ (e) _____ Applicant submits written evidence indicating why it is not technically feasible to locate a wireless telecommunications facility in a commercial or industrial zone.~~

~~— (2) A wireless telecommunications facility shall be permitted as an accessory use to an existing nonresidential use in an R-1, R-2, R-3 or B-1 zoning district on a lot provided:~~

~~ > _____ (a) _____ The existing use on the property is a permitted or conditionally permitted nonresidential use, including, but not limited to, a church, a school or a public building.~~

~~_____ (b) _____ The facility complies with 13-814.D.(1)(a) — (e) of this section.~~

- ~~(c) The facility complies with 13-814.D.(2)(c) (d) of this section.~~
- ~~(d) Maximum tower height shall be less than 50 feet.~~
- ~~(3) A wireless telecommunications facility shall be permitted to be attached to an existing, nonresidential structure or building, provided:~~
 - ~~(a) The existing structure complies with 13-814.E.(2)(a).~~
 - ~~(b) The maximum height shall not exceed 20 feet.~~
 - ~~(c) The equipment shelter, if not located on the building, shall comply with 13-814.D.(1)(c) and (f) of this section.~~
- ~~F. Medium (R-4) & High Density Residential (R-5 & R-6) Districts.~~
- ~~Wireless telecommunications facilities proposed for medium and high density residential districts, limited to R-4, R-5 & R-6, shall comply with the General conditions noted in 13-814.C. as well as the following:~~
 - ~~(1) A wireless telecommunications facility shall be permitted as the sole use on a lot provided:~~
 - ~~(a) The facility complies with 13-814.E.(1)(a) (c) of this section, except that the maximum tower height may be increased to less than 75 feet.~~
 - ~~(2) A wireless telecommunications facility shall be permitted as an accessory use to a nonresidential use on a lot provided:~~
 - ~~(a) The facility complies with 13-814.E.(2)(a) (d) of this section, except that the maximum tower height may be increased to less than 75 feet.~~
 - ~~(3) A wireless telecommunications facility shall be permitted to attached to an existing structure or building, provided:~~
 - ~~(a) The existing structure or building is a permitted, conditionally permitted or lawful, nonconforming use in the zoning district.~~
 - ~~(b) The maximum height shall not exceed 20 feet.~~
 - ~~(c) The equipment shelter shall meet the requirements of 13-814.E.(3)(c) of this section.~~
- ~~G. Other Districts~~

iii. The maximum protrusion of such facilities from the building or structure face to which they are attached shall be limited to 6 feet.

iv. Roof-mounted Antennas

1. Roof-mounted whip antennas shall extend no more than twelve (12) feet above the parapet of any flat roof or ridge of a sloped roof or penthouse to which they are attached;
2. Roof-mounted panel antennas shall extend no more than ten (10) feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted; and
3. Other roof-mounted transmission equipment shall extend no more than seven (7) feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.

v. Wall mounted WCFs shall not extend above the roofline unless mounted to a penthouse.

vi. Any ground-mounted equipment shall be located, based upon the reasonable discretion of the City, in a manner necessary to address both public safety and aesthetic concerns.

vii. WCFs shall not be permitted on properties designated as single-use residential property.

b. Alternative tower structures and small cell facilities located outside of the public ROW:

- i. Shall be designed and constructed to look like a building, facility, or structure typically found in the area.
- ii. Be camouflaged/concealed consistent with other existing natural or manmade features in the immediate proximity of the location where the alternative tower structure will be located.
- iii. Height or size of the proposed alternative tower structure or small cell facility should be minimized as much as possible and shall be subject to the maximum height restrictions of the zoning district in which they are located, subject to a maximum height limit of 60 feet for alternative tower structures and 50 feet for small cell facilities.
- iv. Shall be sited in a manner that is least obtrusive to residential structures and residential district boundaries.
- v. Shall take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses.
- vi. Shall be compatible with the surrounding topography, tree coverage, and foliage.
- vii. Shall be designed utilizing design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- viii. Visual impacts of the proposed ingress and egress shall be minimized.

c. Alternative tower structures and small cell facilities located in the right-of-way

- i. Any new pole for an alternative tower structure, replacement pole, utility pole or small cell facility shall not exceed the greater of (i) ten feet in height above the tallest existing utility pole in place as of the effective date of this Chapter located within 500 feet of the new pole in the same ROW; or (ii) 50 feet above ground level.
- ii. Any new pole for an alternative tower structure, replacement pole, utility pole or small cell facility shall be separated from any other existing WCF facility by a distance of at least 200 feet, unless the new pole replaces an existing traffic signal, street light pole, or similar structure determined by the Director.
- iii. Shall be the color for the antenna and related equipment that is consistent with or most blends into the alternative tower structure, utility pole or alternative support structure on which they are installed, unless a different color is needed for public safety or service reliability reasons.
- iv. Shall to the extent feasible, be consistent with the size and shape of pole-mounted equipment installed by communications companies on utility poles near the alternative tower structure.
- v. Shall when located near a residential property, be placed in front of the common side yard property line between adjoining residential properties. In the case of a corner lot, the facility must be placed in front of the common side yard property line adjoining residential properties, or on the corner formed by two intersecting streets.
- vi. Shall be designed such that antenna installations on traffic signals are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered.

- vii. Facility antennas, mast arms, equipment, and other facilities shall be sized to minimize visual clutter.
- viii. Shall not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way and shall comply with the federal Americans with Disabilities Act and all applicable local, state, and federal law and regulations.

d. Towers

- i. Towers shall be painted a non-contrasting gray or similar color to minimize visibility unless otherwise required by the FCC or FCC. Applicants shall utilize alternative design structures in order to minimize impacts of new towers on existing viewsheds wherever feasible.
- ii. Monopole support structures shall taper from the base to the tip.
- iii. All towers, excluding alternative tower structures in right-of-way, shall be enclosed by security fencing or wall at least six feet in height and shall also be equipped with an appropriate anti-climbing device.
No security fencing or any portion thereof shall consist of barbed wire or chain link material.
- iv. Towers shall be subject to the maximum height restrictions as follows:
 - 1. I-2: 200 feet
 - 2. I-1: 150 feet
 - 3. B-2: 75 feet
 - 4. R-1, R-2, R-3 and B-1: 60 feet
 - 5. R-4, R-5 and R-6: 75 feet
 - 6. O-1: 60 feet
- v. For towers located in residential zones, the applicant shall provide written notice to all property owners located within 200 feet of the boundaries of the property where the proposed WCF will be located.
- vi. Towers should be sited in a manner that is least obtrusive to residential structures and residential district boundaries where feasible.
- vii. Towers shall be a minimum distance of the height of the tower from any residential zoned districts.
- viii. Visual impacts of the proposed ingress and egress shall be minimized.
- ix. Towers over 40 feet in height shall not be located within one-quarter mile from any existing tower that is over 40 feet in height, unless the applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.
- x. ~~—(1) Towers shall not be permitted in Central Business District (B-3)—a7, Business Residential District (B-R). Wireless telecommunications facilities shall not be permitted in the B-3 and B-R Zoning Districts unless attached to an existing structure. Said structure shall contain a permitted, conditionally permitted, or lawful non-conforming use. Proposed facilities shall meet the~~

remaining requirements of 13-814.E.(3)(b) — (c) of this section.3) or Rural Estate District (RE).

~~—(2) Rural Estate District (R-E). Wireless telecommunications facilities shall not be permitted in the R-E district.~~

~~—(3) Open Space (O-1) District. Wireless telecommunications facilities in the O-1 Zoning District shall meet the requirements of 13-814.E.
(Ord. No. 09-16, 10-6-2009)~~

- e. Related accessory equipment. Accessory equipment for all WCFs shall meet the following requirements:
 - i. All buildings, shelter, cabinets, and other accessory components shall be grouped as closely as technically possible;
 - ii. The total footprint coverage area of the WCFs accessory equipment shall not exceed 500 square feet;
 - iii. No related accessory equipment or accessory structure shall exceed 12 feet in height;
 - iv. Accessory equipment shall meet the minimum setbacks from the property lines associated with the zoning district excluding Accessory equipment for WCFs in the public ROW; and
 - v. Accessory equipment, including but not limited too remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the accessory equipment shall be camouflaged or concealed.

F. Review procedures and requirements.

- (1) No new WCF shall be constructed and no collocation or modification to any WCF may occur except after a written request from an applicant, reviewed and approved by the City in accordance with this Chapter. All WCFs shall be reviewed pursuant to the following procedures:
 - a) Administrative Review
 - i. In all zoning districts, each application for any base station, eligible facility request, alternative tower structure or small cell facility shall be reviewed and considered for approval by the Director for conformance with this Chapter.
 - ii. In industrial, commercial and business districts, each application for a tower shall be shall be reviewed and considered for approval by the Director for conformance with this Chapter.
 - iii. Applicants may appeal the Director's decision by submitting a written notice of appeal to the Mayor within ten (10) calendar days from the date of the Director's decision. The notice of appeal must specifically set forth the grounds for appeal and include all documentation the applicant deems relevant.
 - iv. The Mayor shall within ten (10) business days of receipt of the

notice of appeal and review of all documentation submitted by the applicant and the Director's decision issue a final decision which may affirm, overturn or modify the Director's decision.

b) Conditional Use Permit

i. For new towers in residential and open space districts, the applicant shall be required to file an application for a conditional use permit and follow the procedures set forth in Chapter 13-905.

c) Historic review. Any application to locate a WCF on a building or structure certified by the Certified Local Governance (CLG) Committee as Historic shall be reviewed by the CLG. Said committee's recommendations will be provided to the Planning & Commission.

(2) Submittal requirements. In addition to an application form and payment of all application and review fees, as established by resolution of City council, each applicant shall submit a scaled site plan, photo simulation, scaled elevation view and other supporting drawings, calculations, and other documentation showing the location and dimension of all improvements, including information concerning topography, radio frequency coverage, tower height, setbacks, drives, parking, fencing, landscaping, adjacent uses, drainage, and other information deemed by the Director to be necessary to assess compliance with this Chapter. Documents requiring signatures and seals by appropriate qualified professionals shall be provided by applicant after approval of the application by the Director.

(3) Review procedures for eligible facilities requests.

a) Application. In all zoning districts, eligible facilities requests shall be considered a use by right subject to administrative review. The City shall prepare, and make publicly available, an application form which shall be limited to the information necessary for the City to consider whether an application is an eligible facilities request. Such information may include, without limitation, whether the request:

i. Would result in a substantial change; or

ii. Violate a generally applicable law, regulations, or other rule codifying objective standards reasonably related to public health and safety. The application may not require the applicant to demonstrate a need or business case for the proposed modification or colocation.

b) Type of review. Upon receipt of an application for an eligible facilities request pursuant to this Chapter, the director shall review such application to determine whether the application so qualifies.

c) Timeframe for review. Subject to the tolling provisions of subparagraph d. below, within 60 days of the date on which an applicant submits an application seeking approval under this Chapter, the City shall approve the application unless it determines that the application is not covered by this subsection.

d) Tolling of the timeframe for review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the City and the applicant, or in cases where the director determines that the application is incomplete:

i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 days of receipt of the

- application, specifically delineating all missing documents or information required in the application;
- ii. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the City's notice of incompleteness; and
 - iii. Following a supplemental submission, the City will notify the applicant within ten days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in paragraph (d)(1). In the case of a second or subsequent notice of incompleteness, the City may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- e) Failure to act. In the event the City fails to act on a request seeking approval for an eligible facilities request under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant becomes effective when the applicant notifies the City in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.
- (4) Review of Small Cell Facility Applications.
- a) Application. In all zoning districts, small cell facilities shall be considered a use by right subject to administrative review. The City shall prepare, and make publicly available, an application form.
 - b) Timeframe for Review. All applications shall be processed on a nondiscriminatory basis, and the City shall approve or deny an application for: (i) collocation of Small Cell Facility on an existing structure within 60 days of receipt of the application, or (ii) within 90 days for applications to deploy a Small Cell Facility using a new structure.
 - c) Tolling of the timeframe for review. The review periods begin to run when the application is filed, and may be tolled only by mutual agreement of the City and the applicant, or in cases where the director determines that the application is incomplete:
 - i. Within ten days of receiving an initial application, the City will determine and notify the applicant whether the application is materially complete.
 - ii. If an application is materially incomplete, the City will specifically identify the missing documents or information, and the specific rule or regulation creating the obligation to submit such documents or information.
 - iii. The shot clock set forth in subsection (b) shall restart at zero on the date which the applicant submits all the documents and information identified by the City to make the application complete. If the applicant's supplemental submission fails to make the application complete, and the City notifies the applicant within 10 days of the supplemental submission and clearly and specifically identifies the missing documents or information, the applicable shot clock set

forth in subsection (b) shall be tolled until the applicant provides the missing documents and information. The shot clock resumes (the date calculation does not restart) to run on the date when the applicant submits all the documents and information identified by the City to render the application complete.

- d) Failure to Act. If the City fails to issue a decision on an application for a Small Wireless Facility within the required time periods set forth in this section, it shall constitute a "failure to act" within the meaning of 47 U.S.C. § 332(c)(7)(B).
 - e) Denial. A City may deny a proposed small wireless facility only if the proposed application:
 - i. Materially interferes with the safe operation of traffic control equipment.
 - ii. Materially interferes with sight lines or clear zones for transportation or pedestrians.
 - iii. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.
 - iv. Fails to comply with reasonable and nondiscriminatory spacing requirements that apply to other communications service providers and electric utilities in the ROW and that concern the location of ground-mounted equipment and new alternative tower structures. Such spacing requirements shall not prevent a small wireless facility from serving any location.
 - v. Fails to comply with applicable codes.
 - vi. Fails to comply with the requirements in this Chapter.
 - f) The City must document the basis for a denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant on or before the day the City denies an application. The applicant may cure the deficiencies identified by the City and resubmit the application within 30 days of the denial without paying an additional application fee. The City shall approve or deny the revised application within 30 days. Any subsequent review shall be limited to the deficiencies cited in the denial.
- (5) Review Procedure for WCFs excluding Small Wireless Facilities and Eligible Facilities Requests
- a) Application. The City shall prepare, and make publicly available, an application form for WCFs.
 - b) Timeframe for Review. All applications shall be processed on a nondiscriminatory basis, and the City shall approve or deny an application for: (i) collocation of WCF within 90 days of receipt of the application, or (ii) new WCFs within 150 of recent of the application. Upon receipt of an application for a request pursuant to this section, the City shall review such application, make its final decision to approve or disapprove the application, and advise the applicant in writing of its final decision.
 - c) Tolling of the timeframe for review. The review periods begin to run when the application is filed, and may be tolled only by mutual agreement of the

City and the applicant, or in cases where the director determines that the application is incomplete:

- i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
 - ii. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the City's notice of incompleteness.
 - iii. Following a supplemental submission, the City will notify the applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
 - d) Failure to Act. In the event the City fails to approve or deny a complete application under this section within the timeframe for review (accounting for any tolling), the applicant shall be entitled to pursue all remedies under applicable law.
- (6) Decision. Any decision to approve, approve with conditions, or deny an application for a WCF, shall be in writing and supported by substantial evidence in a written record. The applicant shall receive a copy of the decision.

PASSED AND APPROVED this _____ day of _____, 2019.

President of the Council

Mayor

Attest:

City Clerk

1st Reading: _____

2nd Reading: _____

3rd Reading: _____