

ORDINANCE NO. 011, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE FORT COLLINS LAND USE CODE TO UPDATE STANDARDS FOR
WIRELESS COMMUNICATIONS FACILITIES CONSISTENT WITH THE WIRELESS
TELECOMMUNICATIONS MASTER PLAN

WHEREAS, the City of Fort Collins, as a home-rule municipality, is authorized by Article XX, Section 6 of the Colorado Constitution, the provisions of state statutes, and its City Charter to develop and implement policies and ordinances regulating the development of land within the City; and

WHEREAS, the City Council is empowered and directed by Article II, Section 5(b) and Section 14, of the City Charter to provide for all essential administrative functions and public services related to street maintenance and provide for all licenses and permits for regulatory purposes; and

WHEREAS, on December 2, 1997, by its adoption of Ordinance No. 190, 1997, the City Council enacted the Fort Collins Land Use Code (the "Land Use Code"), including divisions applicable to wireless telecommunication facilities and equipment; and

WHEREAS, when enacting the Land Use Code, staff and the City Council anticipated that the 1997 Land Use Code would be subject to future amendments for the purpose of clarification and correction of errors, and to ensure the Land Use Code remained a dynamic document capable of responding to issues identified by staff, other land use professionals and citizens of the City; and

WHEREAS, between June 2000 and December 2017, the City Council adopted a series of amendments to the 1997 Land Use Code requirements for wireless telecommunication facilities and equipment, including in Ordinance No. 144, 2017, which conformed the City's review of applications for small cell telecommunications facilities located in public rights-of-way with statutory changes adopted by the Colorado General Assembly under HB17- 1193; and

WHEREAS, in 2017, in response to Federal Communication Commission (FCC) rulemaking and state statutory revisions enacted in 2017 and 2018 affecting local control over wireless communication facilities, the City Council adopted Ordinance No. 143, 2017, adding Chapter 23, Article VII of the City Code to create a permitting process for small cell telecommunication facilities located in public highways; and

WHEREAS, in 2018, the City Council also appropriated \$50,000 in the 2019-2020 budget to fund the completion of a Wireless Telecommunications Master Plan to establish a framework for City wireless communication land use regulations and permitting practices; and

WHEREAS, between 2018 and 2020, additional FCC rulemaking and federal appellate decisions interpreting the federal Telecommunications Act of 1996 and the Middle-Class Tax

Relief and Job Creation Act of 2012, imposed further requirements on local government review of land use applications for wireless communications facilities; and

WHEREAS, in 2020, City Planning staff began a formal process to develop a Wireless Telecommunications Master Plan, including engaging consultants and a technical advisory committee, and conducting a series of neighborhood meetings; and

WHEREAS, on October 19, 2021, the City Council adopted Ordinance No. 130, 2021, approving the Wireless Telecommunications Master Plan (the “Plan”) as an element of the City Plan to guide City land use and public highway access regulations for wireless communication facilities; and

WHEREAS, during a work session held on January 25, 2022, City Council directed staff to develop recommended ways to revise existing wireless communication facility design standards in furtherance of the Plan; and

WHEREAS, thereafter, staff reviewed existing FCC regulations, consulted with industry and community stakeholders, and identified revisions to the City Code and Land Use Code to further align City regulations with Council’s direction; and

WHEREAS, staff identified changes to City wireless communication facility regulations in the Land Use Code which are needed for the purpose of clarification and to ensure the Land Use Code remains a dynamic document capable of responding to issues identified by staff, other land use professionals and citizens of the City; and

WHEREAS, the City Manager and staff recommend to the City Council the following additions and revisions to the Land Use Code applicable to review of development applications for wireless communication facilities; and

WHEREAS, in addition to the Land Use Code amendments proposed herein, Council is concurrently considering City Code amendments regarding the review of small cell wireless communications facilities proposed to be placed in public rights-of-way; and

WHEREAS, based on the foregoing, it is the desire of the City Council to amend the Land Use Code to align wireless communication facility application review with the Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 3.4.2(B)(1)(e) of the Land Use Code is hereby amended to read as follows:

3.4.2 Air Quality

...

- (B) Setbacks From Domestic Wastewater Treatment Works to Habitable Structures.
 - (1) Unless specifically authorized pursuant to the provisions of paragraph (C) below, the minimum horizontal distances set forth in subparagraph (2) of this Subsection shall be maintained between the various kinds of wastewater treatment works listed in said subparagraph and any of the following uses:
 - ...
 - (e) any accessory/miscellaneous uses except agricultural activities, farm animals, satellite dishes (greater than thirty-nine [39] inches in diameter), and wireless communication facilities.

Section 3. That Section 3.8.13 of the Land Use Code is hereby amended to read as follows:

3.8.13 Wireless Communication

- (A) *Applicability and Exemptions.* The provisions of this Section shall apply to any Wireless Communications Facility (WCF) within the City. The requirements set forth in this Section shall not apply to:
 - (1) Antennas or towers used by FCC-licensed amateur (ham) radio operators.
 - (2) Television or radio antennas. Those antennas, including over the air reception devices, located on single family dwellings or duplexes, not exceeding one (1) meter in diameter and less than five (5) feet above the highest point of the existing principal structure, or for ground mounted antennas, the requirement that the height be no more than the distance from its base to the property line or the maximum height specified for accessory structures for that zone district, whichever is less. The Director has the authority to approve modifications to the height restriction related to over the air reception device antennas and antenna structures, if in the reasonable discretion of the City, modifications are necessary to comply with federal law.
 - (3) Government-owned facilities. City-owned communications WCFs located on City-owned property and/or public rights-of-way, and any government-owned 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.
 - (4) Over the Air Reception Devices (OTARD) antennas and associated masts. The Director may approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the Engineer, modifications are necessary to comply with federal law.

(5) A facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of this Code.

(B) **Location.** Subject to the requirements of paragraph (3) of this Section, WCFs may be attached to or mounted on any existing building or structure (or substantially similar replacement structure) located in any zone district of the city. With the exception of OTARD, and associated masts, WCFs shall not be permitted to be attached to or mounted on any residential building containing four (4) or fewer dwelling units.

(C) **Cooperative Collocation.** No WCF or equipment owner or lessee or employee thereof shall act to exclude or attempt to exclude any other wireless communication provider from using the same building, structure or location. WCF or equipment owners or lessees or employees thereof, and applicants for the approval of plans for the installation of such facilities or equipment, shall cooperate in good faith to achieve co-location of WCFs and equipment. Any application for the approval of a plan for the installation of WCFs or equipment shall include documentation of the applicant's good faith efforts toward such cooperation.

(D) **Standards.**

(1) **Setbacks.** With respect to a WCF that is a tower or a monopole, the setback of the facility from the property lines shall be one (1) foot for every foot of height. However, to the extent that it can be demonstrated that the structure will collapse rather than topple, this requirement can be waived by the Director. In addition, the setbacks for ground-mounted wireless communication equipment shall be governed by the setback criteria established in this Code.

Collocated WCFs in the R-U-L zone district shall be setback from the center line I-25 of Carpenter Road a distance of at least one thousand three hundred twenty (1,320) feet (one-quarter (¼) mile).

(2) **WCFs.** All WCFs shall be consistent with the architectural style of the surrounding architectural environment (planned or existing) considering exterior materials, roof form, scale, mass, color, texture and character. Such facilities shall also be compatible with the surrounding natural environment considering land forms, topography, and other natural features. If such facility is an accessory use to an existing use, the facility shall be constructed out of materials that are equal to or better than the materials of the principal use.

- (3) *WCFs in Residential Zone Districts.* Non-located WCFs permitted in the following zone districts: U-E, R-L, L-M-N, M-M-N, and H-M-N, as specified in Article 4 - Districts must be located on a non-residential parcel and installation must be mitigated by use of concealment design techniques and compatibility standards.
- (4) *Collocated or attached WCFs.* Collocated or attached WCFs shall be of the same color as the building or structure to which or on which such equipment is mounted.

Whenever a wireless telecommunication antenna is attached to a building roof, the height of the antenna shall not be more than fifteen (15) feet over the height of the building. All WCF equipment shall be located as far from the edge of the roof as is feasible. Even if the building is constructed at or above the building height limitations contained in other sections of this Code, the additional fifteen (15) feet is permissible.

Whenever WCFs are mounted to the wall of a building or structure, the equipment shall be mounted in a configuration as flush to the wall as feasible and shall not project above the wall on which it is mounted. Such equipment shall, to the extent feasible, also feature the smallest and most discreet components that the technology will allow so as to have the least possible impact on the architectural character and overall aesthetics of the building or structure.

Roof- and ground-mounted WCFs shall be screened by parapet walls or screen walls in a manner compatible with the building's design, color and material.

- (5) *Landscaping.* WCFs and related transmission equipment may need to be landscaped with landscaping materials that exceed the levels established in Section 3.2.1, due to the unique nature of such facilities. Landscaping may therefore be required to achieve a total screening effect at the base of such facilities or equipment to screen the mechanical characteristics. A heavy emphasis on coniferous plants for year-round screening may be required.

If a WCF and related transmission equipment has frontage on a public street, street trees shall be planted along the roadway in accordance with the policies of the City Forester.

- (6) *Fencing.* Chain link fencing shall be unacceptable to screen facilities. Fencing material shall consist of wood, masonry, stucco or other acceptable materials and be opaque. Fencing shall not exceed six (6) feet in height.
- (7) *Berming.* Berms shall be considered as an acceptable screening device. Berms shall feature slopes that allow mowing, irrigation and maintenance.

- (8) *Irrigation.* Landscaping and berming shall be equipped with automatic irrigation systems meeting the water conservation standards of the City.
- (9) *Color.* All WCFs and related transmission equipment shall be painted to match to the extent feasible the color and texture of the wall, building or surrounding built environment. Muted colors, earth tones and subdued colors shall be used.
- (10) *Lighting.* The light source for security lighting shall comply with the requirements of Subsection 3.2.4. Light fixtures, whether freestanding or tower-mounted, shall not exceed twenty-two (22) feet in height.
- (11) *Interference.* Wireless telecommunication facilities and equipment shall operate in such a manner so as not to cause interference with other electronics such as radios, televisions or computers, and otherwise in compliance with applicable federal standards for avoiding signal interference. An applicant shall provide a written statement (“Signal Interference Letter”) from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems.
- (12) *Radio frequency standards.* All WCFs shall comply with federal standards for radio frequency emissions. An applicant shall provide a written statement (“Emission Standards Letter”) from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential emissions in excess of federal radio frequency standards.
- (13) *Access Roadways.* Access roads must be capable of supporting all of the emergency response equipment of the Poudre Fire Authority.
- (14) *Foothills and Hogbacks.* Applicants for WCFs and related transmission equipment in or near the foothills bear a special responsibility for mitigating visual disruption. If such a location is selected, the applicant shall provide computerized, three-dimensional, visual simulation of the facility or equipment and other appropriate graphics to demonstrate the visual impact on the view of the city's foothills and hogbacks.
- (15) *Airports and Flight Paths.* WCFs and related transmission equipment shall comply with Federal Aviation Administration (FAA) requirements and obtain the necessary approvals from the FAA.
- (16) *Historic Sites and Structures.* WCFs and related transmission equipment shall not be located on any historic site or structure unless permission is first

obtained from the city's Historic Preservation Commission as required by Chapter 14 of the City Code.

(17) *Concealment Required.* All WCFs shall, to the extent feasible, use concealment design techniques, and when not feasible utilize camouflage design techniques.

(18) *Compatibility Required.*

(a) Purpose. The purpose of this Section is to ensure that proposed WCFs are compatible with the surrounding context by ensuring that:

1. New or existing WCFs do not adversely impact the visual character* of the community within the area of adjacency; and
2. The design of WCFs are compatible and contextually appropriate with the built or natural environment surrounding a proposed wireless communication site.

(b) To accomplish its purpose, this Section provides the standards for design compatibility of WCFs with the existing context within the delineated area of adjacency surrounding a proposed WCF site.

* For the purposes of this Section, character is defined as special physical characteristics of a structure or area that set it apart from its surroundings and contribute to its individuality. This can include but is not limited to the built environment, landscaping, natural features and open space, and types and styles of building architecture.

(c) WCF Site and Area of Adjacency.

As used in this Section, the *area of adjacency* shall mean an area measured radially from the center point of the WCF. Any element of a lot or parcel of property shall be considered within the area of adjacency if any portion of such lot or parcel is within the boundary. The limits of the boundary shall be based on the following calculation:

The overall height (from grade to highest point of the proposed facility) of the proposed WCF multiplied by five (5).

In the event that the area of adjacency is absent of an established visual character the WCF shall be designed in such a way that most closely relates to the landscape, historic, or future potential use of land.

(d) Design Standards for a Proposed WCF.

Proposed WCFs and equipment shall mimic the height and appearance of structures or natural elements appropriate to the context in a way that protects and enhances the character of the area both on the development site and within the area of adjacency. The Table 1 requirements shall apply to the development of facilities on the development site as follows:

Table 1 – Standards for Compatibility on the Development Site and Within the Area of Adjacency

Purpose	Standards for Compatibility on the Development Site and Within the Area of Adjacency
<i>Height and Mass of WCFs</i>	<p>New or modified WCFs shall use concealment, and when not feasible, camouflage that reflects the character of the area of adjacency. The overall height and mass of a facility or equipment established under these standards are the maximum height that if any greater, would otherwise defeat concealment.</p> <ol style="list-style-type: none"> 1. Height. New or modified WCFs shall not exceed 15 feet or 15%, whichever is less, of the average height of buildings or landscape within the area of adjacency. If a lot containing a residential land use falls within or abuts the area of adjacency, the maximum height of the facility shall not exceed forty-five (45) feet. 2. Massing. All WCFs shall mimic the mass (height and width) in a way that is subordinate to the natural environment or built environment found within the area of adjacency.
<i>Materials for WCFs</i>	<p>Create visual and contextual connection between WCFs colors and materials with those found in the surrounding area.</p> <p>New or modified WCFs shall utilize, to the extent feasible, the following elements found within the area of adjacency to inform their concealment techniques:</p> <ol style="list-style-type: none"> a) Architectural style b) Building materiality c) Color d) Tree species e) Structures that are related to the primary use of the site

<p><i>Technology for Facilities</i></p>	<p>To the extent feasible, new WCFs and related transmission equipment shall utilize industry best practices and the latest technology available to achieve concealment and compatibility with the context.</p> <p>Such facilities or shall feature the smallest and most discreet components that the technology will allow so as to have the least possible impact on the character and overall aesthetics of the area of adjacency.</p>
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(E) The regulations contained in this Section shall not apply to the installation, operation, maintenance, or upgrade of a small cell facility by a telecommunications provider principally located within a public highway. The regulation of such activities is addressed in Chapter 23 of the Code of the City of Fort Collins, and design standards for small cell facilities are addressed in the City’s Small Cell Handbook as may be amended from time to time.

(F) Review Procedures and Requirements.

- (1) **General.** 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 Section. All WCFs shall comply with the zone district use standards and land use application processes identified in Article 4.
- (2) **Application Requirements.** All applications for WCFs shall include:
 - (a) Application form as provided by the Director.
 - (b) If the applicant is not the owner of the property or structure to which the WCF is to be attached, an executed Letter of Authorization from the landowner.
 - (c) A report, signed and sealed by a professional engineer in the State of Colorado, or a verified statement from a qualified radio frequency engineer, demonstrating or assuring that the site will be in full compliance with federal radio-frequency emissions standards for WCFs.
 - (d) A signal interference certification bearing the seal and signature of a professional engineer in the State of Colorado, representing that all WCFs covered by the application shall be designed, sited and operated in accordance with applicable federal signal interference requirements.

- (e) Submittal fees.
 - (f) Scaled site plan, photo simulation, scaled elevation view and supporting drawings, calculations, showing the location and dimension of all improvements, including information concerning topography, tower and where applicable, structure height, setbacks, drives, parking, street trees, adjacent uses, drainage.
 - (g) Narrative detailing the rationale for the proposed location.
 - (h) Other information reasonably deemed by the Director to be necessary to assess compliance with this Section. Documents requiring signatures and seals by appropriate qualified professionals shall be provided by applicant prior to issuance of a permit under this Section.
- (3) Structural Assessment. Prior to issuance of a WCF permit for any WCF proposing a new pole or attachment to a non-City-owned structure, the applicant shall submit a stamped and signed structural assessment for each new proposed WCF host support structure conducted by a professional engineer, licensed in the State of Colorado.
- (a) When the structural assessment indicates a need for a stronger structure to address issues such as wind load factor, applicant shall provide a replacement structure at applicant's cost satisfactory to the Director in consultation with Fort Collins Utilities, as applicable.
 - (b) All costs for conducting an assessment under this subsection (3) shall be borne by the applicant, and shall be paid by the applicant prior to issuance of a permit under this Section.
- (4) New Structures. All applications for new vertical structures associated with a WCF shall demonstrate that other alternative siting options, including collocations, are not feasible. Notwithstanding anything in this Section to the contrary, all WCFs and associated vertical structures located within the City shall satisfy the location and design criteria set forth in subsections (B)-(D) above.
- (G) Timeframes for Review.
- (1) Application types. All WCFs, other than those specified below in subsection (c) shall be reviewed according to the following timeframes:
 - (a) Review of a completed application to collocate a facility other than a small cell facility on an existing tower or base station: 90 days.

- (b) Review of an application to deploy a WCF other than a small cell facility on a new structure: 150 days.
 - (c) Review of an application for a new tower, base station, or alternative tower structure that does not qualify as a small cell facility: 150 days.
- (2) Tolling the Timeframe for Review. The relevant review timeframe begins to run when the application is filed with the City, and may be tolled only by mutual agreement or where the City determines that an application is incomplete.
 - (a) To toll the timeframe for incompleteness, the City shall provide written notice to the applicant within thirty (30) calendar days of receipt of the application, specifically delineating all missing documents or information required in the application;
 - (b) Upon providing the notice of incompleteness to the applicant, the timeframe for review pauses. 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
 - (c) Following a supplemental submission, the City will notify the applicant within ten (10) business days whether 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 subparagraphs (a) and (b) of this subsection. 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.
- (3) Specific Review Procedures for Eligible Facility Requests.
 - (a) EFR standards. The City shall prepare, and from time to time revise and make available, an application form requiring the information necessary for the City to consider whether the project covered by an application would:
 - 1. result in a Substantial Change to the physical dimensions of the site; and
 - 2. violate a generally applicable law, regulation, or other rule reasonably related to public health and safety.

The application shall not require an applicant to demonstrate a need or business case for the proposed modification or collocation.

(b) Timeframe for EFR review. Subject to the tolling provisions below, an eligible facility request shall be approved within sixty (60) days of the date of the request unless it the City determines that it does not qualify as an eligible facilities request. Upon receipt of an application for an eligible facility request pursuant to this subsection, the City shall review such application to determine whether the application so qualifies.

(c) Tolling the timeframe for EFR review.

1. The sixty (60) calendar day review period begins to run when the application is filed with the City, and may be tolled only by mutual agreement or where the City determines that an application is incomplete:

a. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within thirty (30) calendar days of receipt of the application, specifically delineating all missing documents or information required in the application;

b. Upon notice of incompleteness to the applicant, the timeframe for review pauses. 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

c. Following a supplemental submission, the City will notify the applicant within ten (10) business days whether 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 subparagraphs (A) and (B) of this subsection. 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.

2. If the City fails to approve or deny an eligible facility request within the time frame for review (accounting for any tolling), the request shall be deemed granted; provided that this approval shall become effective only upon the City's receipt of written notification from the applicant after the review

period has expired (accounting for any tolling) indicating that the application has been deemed granted.

- (d) Interaction with Telecommunications Act 47 U.S.C. Section 332(c)(7). If the City determines that the applicant's request is not an eligible facilities request as delineated in this subsection, the applicant shall be advised as to the relevant provisions of the City Code that govern the process to consider the request, and whether the Code requires any additional information to be submitted in order for the request to be considered complete. If the applicant subsequently indicates an intent for the proposal to be considered under the relevant section of the City Code and submits all required information, the presumptively reasonable timeframe under Section 332(c)(7), as set forth in applicable federal and state law will begin to run from submittal of the required information under the applicable provision of this Code.

Section 4. That Section 3.9.9 of the Land Use Code is hereby amended to read as follows:

3.9.9 Wireless Telecommunication

- (A) **Location.** Wireless communication facilities shall not be permitted within one thousand four hundred forty-five (1,445) feet of the centerline of I-25.
- (B) **Height.** Wireless communication facilities shall not exceed the maximum height allowed for a structure as specified in the Land Use Standards of the underlying zone district.

Section 5. That Section 4.1(B)(1)(a)6. of the Land Use Code is hereby amended to read as follows:

Division 4.1 – Rural Lands District (R-U-L)

...

- 6. Wireless communication facilities, collocated, unless located within one thousand three hundred twenty (1,320) feet (one-quarter (1/4) mile) of the centerline of either I-25 or Carpenter Road.

Section 6. That Section 4.2(B)(1)(a)6. of the Land Use Code is hereby amended to read as follows:

Division 4.2 – Urban Estate District (U-E)

...

6. Wireless communication facilities, collocated.

Section 7. That Section 4.2(B)(3)(e) of the Land Use Code is hereby amended to read as follows:

Division 4.2 – Urban Estate District (U-E)

...

- (e) Accessory/Miscellaneous Uses:
 1. Accessory buildings containing more than two thousand five hundred (2,500) square feet or floor area.
 2. Wireless communication facilities.*

* Wireless communication facilities must be located on a non-residential parcel and installation must be mitigated by use of concealment techniques such as steeples, bell towers, grain silos, or similar means of disguising the appearance of the facilities to mitigate its visual impacts.

Section 8. That Section 4.3(B)(1)(a)5. of the Land Use Code is hereby amended to read as follows:

Division 4.3 – Residential Foothills District (R-F)

...

5. Wireless communication facilities, collocated.

Section 9. That Section 4.4(B)(1)(b)5. of the Land Use Code is hereby amended to read as follows:

Division 4.4 – Low Density Residential District (R-L)

...

5. Wireless communication facilities, collocated.

Section 10. That Section 4.4(B)(3)(e)1. of the Land Use Code is hereby amended to read as follows:

Division 4.4 – Low Density Residential District (R-L)

...

1. Wireless communication facilities.*

* Wireless communication facilities must be located on a non-residential parcel and installation must be mitigated by use of concealment techniques such as steeples, bell towers, grain silos, or similar means of disguising the appearance of the facilities to mitigate its visual impacts.

Section 11. That Section 4.4(D)(4) of the Land Use Code is hereby deleted in its entirety.

Section 12. That Section 4.5(B)(1)(a)5. of the Land Use Code is hereby amended to read as follows:

Division 4.5 – Low Density Mixed-Use Neighborhood District (L-M-N)

...

5. Wireless communication facilities, collocated.

Section 13. That Section 4.5(B)(3) of the Land Use Code is hereby amended by the addition of a new paragraph (f) which reads in its entirety as follows:

Division 4.4 – Low Density Residential District (R-L)

...

(f) **Accessory/Miscellaneous Uses:**

1. Wireless communication facilities.*

* Wireless communication facilities must be located on a non-residential parcel and installation must be mitigated by use of concealment techniques such as steeples, bell towers, grain silos, or similar means of disguising the appearance of the facilities to mitigate its visual impacts.

Section 14. That Section 4.6(B)(1)(a)5. of the Land Use Code is hereby amended to read as follows:

Division 4.6 – Medium Density Mixed-Use Neighborhood District (M-M-N)

...

5. Wireless communication facilities, collocated.

Section 15. That Section 4.6(B)(3) of the Land Use Code is hereby amended by the addition of a new paragraph (e) which reads in its entirety as follows:

Division 4.6 – Medium Density Mixed-Use Neighborhood District (M-M-N)

...

(e) **Accessory/Miscellaneous Uses:**

1. Wireless communication facilities.*

* Wireless communication facilities must be located on a non-residential parcel and installation must be mitigated by use of concealment techniques such as steeples, bell towers, grain silos, or similar means of disguising the appearance of the facilities to mitigate its visual impacts.

Section 16. That Section 4.7(B)(1)(b)6. of the Land Use Code is hereby amended to read as follows:

Division 4.7 – Neighborhood Conservation, Low Density District (N-C-L)

...

6. Wireless communication facilities, collocated.

Section 17. That Section 4.8(B)(1)(d)6. of the Land Use Code is hereby amended to read as follows:

Division 4.8 – Neighborhood Conservation, Medium Density District

...

6. Wireless communication facilities, collocated.

Section 18. That Section 4.9(B)(1)(d)6. of the Land Use Code is hereby amended to read as follows:

Division 4.9 – Neighborhood Conservation, Buffer District (N-C-B)

...

- 6. Wireless communication facilities, collocated.

Section 19. That Section 4.10(B)(1)(a)4. of the Land Use Code is hereby amended to read as follows:

Division 4.6 – Medium Density Mixed-Use Neighborhood District (M-M-N)

...

- 4. Wireless communication facilities, collocated.

Section 20. That Section 4.10 (B)(3) of the Land Use Code is hereby amended by the addition of a new paragraph (e) which reads in its entirety as follows:

Division 4.6 – Medium Density Mixed-Use Neighborhood District (M-M-N)

...

(e) **Accessory/Miscellaneous Uses:**

- 1. Wireless communication facilities.*

* Wireless communication facilities must be located on a non-residential parcel and installation must be mitigated by use of concealment techniques such as steeples, bell towers, grain silos, or similar means of disguising the appearance of the facilities to mitigate its visual impacts.

Section 21. That Section 4.11(B)(1)(b)4. of the Land Use Code is hereby amended to read as follows:

Division 4.11 – Manufactured Housing District (M-H)

...

- 4. Wireless communication facilities, collocated.

Section 22. That Section 4.13(B)(1)(a)5. of the Land Use Code is hereby amended to read as follows:

Section 26. That Section 4.18(B)(1)(a)7. of the Land Use Code is hereby amended to read as follows:

Division 4.18 – Community Commercial District (C-C)

...

- 7. Wireless communication facilities, collocated.

Section 27. That Section 4.18(B)(2)(e)2. of the Land Use Code is hereby amended to read as follows:

Division 4.18 – Community Commercial District (C-C)

...

- 2. Wireless communication facilities.

Section 28. That Section 4.19(B)(1)(a)7. of the Land Use Code is hereby amended to read as follows:

Division 4.19 – Community Commercial – North College District (C-C-N)

...

- 7. Wireless communication facilities, collocated.

Section 29. That Section 4.19(B)(2)(e)2. of the Land Use Code is hereby amended to read as follows:

Division 4.19 – Community Commercial – North College District (C-C-N)

...

- 2. Wireless communication facilities.

Section 30. That Section 4.20(B)(1)(a)7. of the Land Use Code is hereby amended to read as follows:

Division 4.20 – Community Commercial – Poudre River District (C-C-R)

...

- 7. Wireless communication facilities, collocated.

Section 31. That Section 4.20(B)(2)(e)1. of the Land Use Code is hereby amended to read as follows:

Division 4.20 – Community Commercial – Poudre River District (C-C-R)

...

1. Wireless communication facilities.

Section 32. That Section 4.21 (B)(1)(a)3. of the Land Use Code is hereby amended to read as follows:

Division 4.21 – General Commercial District (C-G)

...

3. Wireless communication facilities, collocated.

Section 33. That the table contained in Section 4.21(B)(2) of the Land Use Code is hereby amended to read as follows:

Division 4.21 – General Commercial District (C-G)

...

<i>Land Use</i>	<i>I-25/SH 392 (CAC)</i>	<i>General Commercial District (C-G)</i>
...
E. ACCESSORY – MISC.		
Wireless communication facilities, collocated	BDR	BDR
...

Section 34. That Section 4.22(B)(1)(a) of the Land Use Code is hereby amended to read as follows:

Division 4.22 – Service Commercial District (C-S)

...

...

7. Wireless communication facilities, collocated.
8. Wireless communication facilities.

Section 35. That Section 4.22(B)(2)(e)2. of the Land Use Code is hereby deleted in its entirety.

Section 36. That Section 4.23(B)(1)(a)7. of the Land Use Code is hereby amended to read as follows:

Division 4.23 – Neighborhood Commercial District (N-C)

...

- 7. Wireless communication facilities, collocated.

Section 37. That Section 4.23(B)(2)(e)2. of the Land Use Code is hereby amended to read as follows:

Division 4.23 – Neighborhood Commercial District (N-C)

...

- 2. Wireless communication facilities.

Section 38. That Section 4.24(B)(1)(a)3. of the Land Use Code is hereby amended to read as follows:

Division 4.24 – Limited Commercial District (C-L)

...

- 3. Wireless communication facilities, collocated.

Section 39. That the table contained in Section 4.24(B)(2) of the Land Use Code is hereby amended to read as follows:

Division 4.24 – Limited Commercial District (C-L)

...

<i>Land Use</i>	<i>Riverside Area</i>	<i>All Other Areas</i>
...
E. ACCESSORY – MISC.		
Wireless communication facilities, collocated	BDR	BDR
Wireless communication facilities	Type 1	Type 1
...

Section 40. That Section 4.26(B)(1)(a) of the Land Use Code is hereby amended to read as follows:

Division 4.26 – Harmony Corridor District (H-C)

...

7. Wireless communication facilities, collocated.

8. Wireless communication facilities.

Section 41. That Section 4.26(B)(2)(e)2. of the Land Use Code is hereby deleted in its entirety.

Section 42. That Section 4.27 (B)(1)(a) of the Land Use Code is hereby amended to read as follows:

Division 4.27 – Employment District (E)

...

7. Wireless communication facilities, collocated.

8. Wireless communication facilities.

Section 43. That Section 4.27(B)(2)(e)2. of the Land Use Code is hereby deleted in its entirety.

Section 44. That Section 4.28(B)(1)(a) of the Land Use Code is hereby amended to read as follows:

Division 4.28 – Industrial District (I)

...

7. Wireless communication facilities, collocated.

8. Wireless communication facilities.

Section 45. That Section 4.28(B)(2)(e)3. of the Land Use Code is hereby deleted in its entirety.

Section 46. The Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

5.1.2 - Definitions.

The following words, terms and phrases, when used in this land use code, shall have the meanings ascribed to them in this section:

...

Antenna(s) shall have the meaning set forth in § 29-27-402, Colorado Revised Statutes.

...

Base station shall mean a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network, except that a base station does not include or encompass a tower or any equipment associated with a tower, as defined herein. *Base station* does include:

(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 under this Article, 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.

(2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration that, at the time the relevant application is filed with the City under this Article, has been reviewed and approved under the applicable 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 Article, does not support or house equipment described in subparagraphs (A) and (B) above.

...

Camouflage design techniques shall mean measures used in the design and siting of wireless communications facilities with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF site utilizes camouflage design techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a flagpole, while still appearing to some extent as a WCF. This definition does not include the use of concealment design elements.

...

Collocation shall mean:

(1) For the purposes of eligible facilities requests, the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

(2) For the purposes of other WCFs subject to presumptively reasonable time frames set by the FCC, accounting for any tolling or extension, within which the City generally must act pursuant to 47 U.S.C. Section 332, i.e. “shot clocks”, attachment of facilities to existing structures, regardless of whether the structure or location has previously been zoned or otherwise approved for wireless facilities.

...

Concealment shall mean utilization of elements of stealth design in a facility so that the facility looks like something other than a wireless tower or base station. Language such as “stealth,” “camouflage,” or similar in any existing permit or other document required by the City Code is included in this definition to the extent such permit or other document reflects an intent at the time of approval to condition the site’s approval on a design that looks like something else. *Concealment* can further include a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree), or is incorporated into (including without limitation, being attached to the exterior of such facility and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not apparent. This definition does not include conditions that merely minimize visual impact but do not incorporate *concealment* design elements so that the facility looks like something other than a wireless tower or base station.

...

Eligible facilities request or *EFR* shall mean 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) collocation of new transmission equipment, (ii) removal of transmission equipment, or (iii) replacement of transmission equipment. A request for modification of an existing tower or base station that does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or does not comply with any relevant federal requirements, is not an eligible facilities request.

Eligible support structure shall mean any tower or base station as defined in this Section, provided it exists at the time the relevant application is filed with the City under this Article.

...

Engineer shall mean the City Engineer, who shall have those duties and powers as set forth in Section 24-39 of the City Code.

...

Equipment Cabinets shall mean a structure used to house equipment used by service providers at a WCF. This definition does not include relatively small electronic components, such as remote radio units, radio transceivers, amplifiers, or other devices mounted behind antennas, if they are not used as physical containers for smaller, distinct devices.

...

Exists and Existing shall mean 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 is received by the City, provided that a tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

...

FAA shall mean the United States Federal Aviation Administration.

...

FCC shall mean the United States Federal Communications Commission.

...

Major public facilities shall mean structures or facilities, such as electrical generation plants, water treatment plants, wastewater treatment plants, natural gas generation power plants, railroad depots and transportation fleet maintenance facilities, that are generally occupied by persons on a daily basis to conduct operations and that contain or involve traffic-generating activities. *Major public facilities* include outdoor storage but shall not include wireless communication facilities.

...

Minor public facilities shall mean structures or facilities, such as electrical generating and switching stations, substations, underground vaults, poles, conduits, water and sewer lines, pipes, pumping stations, natural gas pressure-reducing stations, repeaters, antennas, transmitters and receivers, valves and stormwater detention ponds, that are not occupied by persons on a daily basis except for periodic inspection and maintenance, are capable of operation without daily oversight by personnel and do not generate daily traffic. Such facilities also include similar structures for fire protection, emergency service, parks and

recreation and natural areas. *Minor public facilities* shall not include outdoor storage and wireless communication facilities.

...

Over the air reception device or *OTARD* shall mean:

- (1) An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one (1) meter or less in diameter; or
- (2) An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is one (1) meter or less in diameter or diagonal measurement; or
- (3) An antenna that is designed to receive television broadcast signals.

...

Public highway shall have the meaning set forth in § 38-5.5-102, Colorado Revised Statutes.

...

Public utility shall mean a common carrier supplying electricity, wire telephone service, natural gas, water, wastewater or stormwater service, railroads or similar public services, but shall not include mass transit or railroad depots or terminals or any similar traffic-generating activity, or any person or entity that provides communication services to the public.

...

Rights-of-way shall mean any portion of a public highway dedicated to the City. Rights-of-way shall not include (i) trails and (ii) specific-purpose utility easements, when the specific purpose of the utility easement dedication does not include communication facilities or public access.

...

Screen shall mean an opaque structure, typically located on top of, but integrated with the design of, a building that conceals mechanical, communications or other equipment from view from the surrounding rights-of-ways and properties.

...

Site, for the purposes of Section 3.8.13 only, shall mean that area comprising the base of a City-owned structure on which is mounted wireless communication equipment subject to Article 3 and to other related transmission equipment already deployed on the ground surrounding such vertical structure; regarding private property structures, the site shall include the current boundaries of the leased or owned property and any access or utility easements currently related thereto.

...

Small cell facility or SCF shall mean a WCF where each antenna is located inside an enclosure of no more than three (3) cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet, and primary equipment enclosures are not larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch. All associated equipment, even if located outside the primary equipment enclosure, shall be included within the definition of small cell facility.

...

Substantial change shall mean a modification which, after the modification of an eligible support structure, the structure meets any of the following criteria:

- (1) For towers, it increases the height of the tower by more than ten percent (10%) or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten (10) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna;
- (2) For towers, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for 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 (6) feet;
- (3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, as determined on a case-by-case basis based on the location of the eligible support structure but not to exceed four cabinets per application; or for 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 ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;

(4) It entails any excavation or deployment outside of the current site, except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than thirty (30) feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site.

(5) For any eligible support structure, it would defeat the concealment elements of the eligible support structure by causing a reasonable person to view the structure's intended stealth design as no longer effective; or

(6) For any eligible support structure, it does not comply with record evidence of conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs (1)-(4) of this definition.

For purposes of determining whether a substantial change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of approved appurtenances and any modifications that were approved prior to February 22, 2012.

...

Tower shall mean any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including private, broadcast, and public safety services, unlicensed wireless services, fixed wireless services such as microwave backhaul, and the associated site. The term includes radio and television transmission towers, self-supporting lattice towers, guy towers, monopoles, microwave towers, common carrier towers, cellular telephone towers and other similar structures, though not including utility or light poles that are less than thirty-five (35) feet in height.

...

Transmission equipment shall mean 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.

...

Wireless communications facility or *WCF* shall mean a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. 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. A WCF includes an antenna or antennas, including without limitation, directional, omni-directional and parabolic antennas, support equipment, small cell facilities, alternative tower structures, and towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or handheld radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this Section.

...

Section 47. That the definitions of “*Wireless telecommunication equipment*”, “*Wireless telecommunication facility*”, and “*Wireless telecommunication services*” contained in Section 5.1.2 of the Land Use Code are hereby deleted.

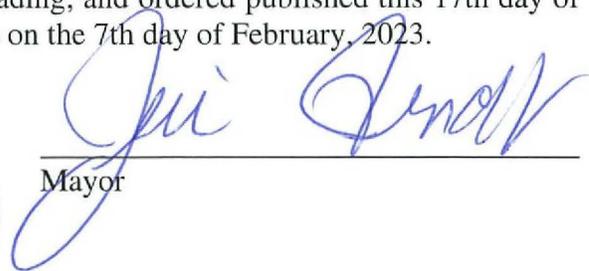
Introduced, considered favorably on first reading, and ordered published this 17th day of January, 2023, and to be presented for final passage on the 7th day of February, 2023.

ATTEST:



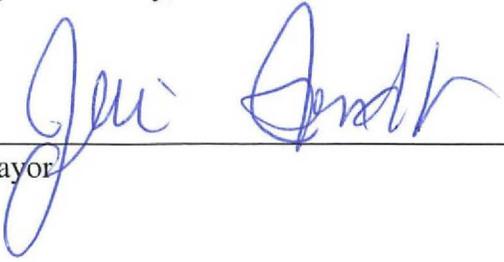
City Clerk





Mayor

Passed and adopted on final reading on the 7th day of February, 2023.



Mayor



ATTEST:



City Clerk