

**ARAPAHOE COUNTY PLANNING COMMISSION**  
**PUBLIC HEARING**  
**July 15, 2025**  
**6:30 PM**

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**SUBJECT: CASE NO. LDC24-007 - LAND DEVELOPMENT CODE AMENDMENT -  
COMMERCIAL MOBILE RADIO SERVICE (CMRS) TO WIRELESS COMMUNICATION  
FACILITIES (WCF)**

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**ERNIE ROSE, SENIOR PLANNER**

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**PURPOSE AND REQUEST**

This County-initiated project proposes modifying the Land Development Code (LDC) concerning Wireless Communication Facilities (WCF), which are currently referred to as Commercial Mobile Radio Service (CMRS) in the LDC. The proposed amendment retitles the CMRS regulations to WCF and establishes specific regulations for WCF.

**BACKGROUND**

Arapahoe County's Land Development Code establishes the guidelines for development and plays a significant role in implementing the Comprehensive Plan's goals and policies. The code should respond to changes in development patterns and resident lifestyles over time. Residents of Arapahoe County depend on various wireless communication technologies. Recent legislation, technological advancements, and the integration of multiple technologies have created a need to update the County's wireless communication code.

Arapahoe County established regulations for the construction of wireless facilities in 1999. In 2019, the County updated the wireless communication code in response to legislative action. In 2017, the General Assembly enacted HB17-1193, which allowed the installation of small wireless service infrastructure in local government-owned rights-of-way. These facilities support existing networks and enable 5G service, which requires a greater number of antennas. In September 2018, the Federal Communications Commission (FCC) issued a ruling (FCC18-133) that interpreted the Federal Telecommunications Act of 1996, placing restrictions on local governments' ability to limit small cell installations. Because of the short time frame specified under the FCC order to adopt any design standards and because these standards only applied within public rights-of-way, the County's Engineering Division adopted Small Cell regulations for Wireless Communication Facilities by adding Chapter 14 in the County's Infrastructure Designs Standards (IDCS) in 2019. In 2022, the Board of County Commissioners (BOCC) directed staff to begin amending the LDC regarding CMRS and to transition to a new code section for WCF located on private property. This update aims to ensure that the regulations remain relevant and effective in addressing advancements in communication technology while complying with legal requirements. To assist with this update, staff hired Clarion Associates, who have since developed the revised WCF code amendment.

Wireless communications facilities include cell towers, base stations, and related equipment. Commercial Mobile Radio Service (CMRS) is a type of wireless communication. Other forms of wireless communication include, but are not limited to, satellite, infrared, Wi-Fi, Wireless

Broadband (including 3G, 4G, and 5G cellular networks), and mobile communication systems, all of which enable data transmission without the need for physical wires. The proposed update is being developed to incorporate potential technological advancements across all types of wireless communications, including Cellular Mobile Radio Service (CMRS).

On January 21, 2025, the BOCC reviewed the proposed amendment at a study session and instructed staff to move forward with the LDC code update.

On March 4, 2025, the Planning Commission reviewed the proposed amendment at a study session and directed the path forward to the public hearing.

### **PROPOSED REGULATIONS SUMMARY AND ANALYSIS**

The County's current regulations for wireless communication facilities on private property are outlined in several sections of the LDC that pertain to Cellular Mobile Radio Service (CMRS). These regulations are problematic because they do not allow for minor modifications to existing facilities, encourage or mandate colocation, or provide alternative locations, such as rooftops. Additionally, the existing wireless section of the code fails to effectively communicate to the public that FCC regulations significantly constrain the County's authority to deny or impose conditions on "eligible facilities" that do not result in substantial expansion or alteration of current wireless structures. These regulations are listed as a priority to ensure compliance with federal law and to mitigate potential public misunderstanding and controversy over decisions that are, in fact, not within the County's control.

The proposed section of the WCF code is designed to comply with FCC regulations and delineates the criteria for "eligible facilities." It establishes standards on the location, design, maintenance, and removal of wireless communication facilities. This code aims to promote the collaborative use of new and existing WCF locations, thereby minimizing the necessity for multiple towers within the County. This objective is achieved by mandating the integration of facilities into existing structures and encouraging co-location among WCF providers on both new and established towers. For new tower structures, the draft code emphasizes that the applicant must demonstrate that other sites are not feasible. Furthermore, the code outlines a structured administrative process for replacing, modifying, repairing, and upgrading equipment through the building permit application system.

On May 15, 2025, the Colorado Legislature passed HB25-1056, which requires local governments to approve or deny applications for siting and constructing wireless telecommunications facilities within 90 days of submission. If a local government fails to act within this timeframe, the application is deemed automatically approved, provided the telecommunications provider has met the public notice requirements and notified the regional government of the lapse. This act was signed on June 4, 2025, and will take effect on January 1, 2026.

Staff is proposing the following changes to the LDC:

- Section 3-2.1: The Permitted Use Table for Wireless Communication Facilities (WCF) Land Use Categories will replace references to Commercial Mobile Radio Services (CMRS). Specifically, all instances of CMRS will be removed from the table and substituted with WCF.

TABLE 3-2.1 PERMITTED USE TABLE																								
P = Permitted, A = Accessory, SR = Use by Special Review, SE = Use by Special Exception, T= Temporary Use/Temporary Use Permit Required, Blank = Not Permitted																								
	Agriculture and Residential <sup>[1]</sup>												Non-Residential <sup>[1]</sup>							PUD Districts <sup>[2]</sup>	Overlay	Use Specific Standard		
	A-E	A-1	RR-A	RR-B	RR-C	R-1-A	R-1-B	R-1-C	R-1-D	R-2-A	R-2-B	R-M	B-1	B-3	B-4	B-5	I-1	I-2	F <sup>[3]</sup>	O	PUD	SBC-O	Code Section	
Telecommunications and Towers																								
Broadcast Tower Facility and Other Commercial antennas and radio towers	SE																			SE	Per Approved General, Specific, Preliminary or Final Development Plan			
Wireless Communication Facilities (WCF)																								
Attached (Structure, Roof, or Building-Mounted)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	3-3.8.A
Alternative Tower Structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	3-3.8.A
Small Cell Facilities in the ROW	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	p	P	3-3.8.A	
Tower	P	P	P										P	P	P	P	P	P	P	P			P	3-3.8.A
Temporary	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		T	3-3.8.A	
Over-height Towers	SE	SE	SE										SE	SE	SE	SE	SE	SE			Per Approved General, Specific, Preliminary or Final Development Plan	SE	3-3.8.A	
Telephone exchanges and similar buildings housing tele-communication equipment																	P	P						
Small Wind Energy Conversion System	P	P	P	P	P	P	P					SE											3-3.8.B	

- Section 3-3.9: Commercial Mobile Radio Service is now retitled Wireless Communication Facilities (WCF), formerly known as Commercial Mobile Radio Service (CMRS). Section 3-3.9 G contains WCF-related definitions and provides standards that must be complied with to gain administrative approval from the County.
- Section 5-3.8: Wireless Communication Facilities (WCF) Procedures replaces the former Commercial Mobile Radio Service (CMRS) Procedures.
- Chapter 6: Enforcement, Violations, and Nonconformities, Section 6-1 Commercial Mobile Radio Service (CMRS) replaced with Wireless Communication Facility (WCF)
- Section 6-1: New sections provide information on Abandonment and Revocation of Permits.

## **REFERRALS AND PUBLIC COMMENT**

Planning staff sent copies of the draft regulations to multiple wireless antenna carriers and consultants who process applications, and posted the draft antenna regulations on the County's website for public comment between March 31, 2025, and April 30, 2025., Staff received two comments: one from a resident of Greenwood Village expressing concern about the lack of coverage in their area, and the other was a comment letter from Verizon detailing specific changes they wanted in the language. The two comments are provided in the Attachment Public Comments. Verizon Attorney. Referral Table. County staff and Clarion reviewed the letter from Verizon and made the following changes to the draft regulations based on the feedback:

- Updated the list of preferred antenna types and removed the words “small cell” before “WCF in the right of way” in 3-3-.9.D.1.d.
- 3-3.9.E – Design Standards – Removed b. Signage and c. Accessories such as these were redundant and already included in the ground equipment standards.
- 3-3.9.E—Definitions—Staff changed the definition of “Substantial Change” to require it to meet federal law and deleted the specifics of FCC Section 6409, in case federal law changes, so we don’t have to amend the code.
- 5-3.8.B.1.e – Appeals – changed “citizen” to “party” and “resident” group, and require appeals to be filed 14 days from the issuance of the decision.
- 5-3.8.B.2.b – Review Criteria for approval of an Eligible Facilities request – deleted the last criteria and left it with the need to be an eligible facility and does not result in a substantial change.
- 6-1.2 – Revocation of Permit – Accepted the proposed change from Verizon to state that we will not revoke a permit until after we have provided the operator notice to remedy and given them at least 90 days to resolve.

### **FISCAL IMPACTS**

The proposed amendment is not anticipated to have any fiscal impact.

### **RECOMMENDATION**

The proposed amendments comply with FCC regulations and delineate the criteria for "eligible facilities," establishing standards for the location, design, maintenance, and removal of wireless communication facilities. Additionally, this code amendment promotes the collaborative use of new and existing WCF locations, thereby minimizing the necessity for multiple towers within the County. Staff recommends approval of the proposed LDC Amendment.

### **ALTERNATIVES**

The Planning Commission could take the following actions:

1. Recommend approval of the Land Development Code Amendment - Commercial Mobile Radio Service as proposed or with modifications.
2. Continue the amendment to a time and date certain for more information.
3. Recommend denial of the Land Development Code Amendment - Commercial Mobile Radio Service.

### **CONCURRENCE**

Arapahoe County Public Works and the County Attorney have reviewed the proposed regulations and recommend approval.

**PLANNING COMMISSION DRAFT MOTIONS** – LDC24-007, Land Development Amendment – Commercial Mobile Radio Service

**Recommend Approval**

In the case of LDC24-007, Land Development Code Amendment - Commercial Mobile Radio Service I have reviewed the staff report, including all exhibits and attachments, and have listened to the staff presentation and any public comment as presented at the hearing and hereby move to recommend approval of the proposed amendment of the Land Development Code as presented in the staff report, subject to the following recommended stipulation:

1. Staff is authorized to make minor corrections or revisions to the proposed language, with the approval of the County Attorney, if necessary to incorporate the approved amendment into the text of the Land Development Code.

***Staff provides the following Draft Motions listed below as general guidance in preparing an alternative motion if the Planning Commission reaches a different determination:***

**Recommended Denial**

In the case of LDC24-007, Land Development Code Amendment – Commercial Mobile Radio Service, **I present any public comment as presented at the hearing**, and hereby move to recommend denial of the proposed amendment to the Land Development Code.

1. *State new findings in support of denial as part of the motion.*

**Continue to Date Certain:**

In the case of LDC21-001, Land Development Code Amendment – Commercial Mobile Radio Service, I move to continue the hearing to [*date certain*], 6:30 p.m., to obtain additional information and to consider further the information presented.

**ATTACHMENTS**

1. Proposed LDC Amendments
2. BOCC BSR/MINUTES 1.27.2025
3. Planning Commission Minutes 03-04-2025
4. Public Comments. Verizon Attorney. Referral Table.
5. House Bill 25-1056

P = Permitted, A = Accessory, SR = Use by Special Review, SE = Use by Special Exception, T= Temporary Use/Temporary Use Permit Required, Blank = Not Permitted

[illegible]

### **3-3.9 Wireless Communication Facilities (WCF) (formerly known as CMRS)**

#### **A. INTENT**

The intent of this section is to:

1. Provide for the managed development, installation, maintenance, modification, and removal of wireless communications infrastructure in the county, that uses the fewest number of WCFs to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;
2. Accommodate the wireless communication needs of the county residents, businesses, and visitors, while protecting the public health, safety, general welfare, and visual environment of the county;
3. Enhance the ability to provide wireless services to county residents, businesses and visitors, while using performance standards and incentives to promote location of WCFs on concealed structures and existing buildings;
4. Ensure that WCFs minimize adverse visual impacts through careful design, appropriate siting, landscape screening, and innovative camouflaging techniques;
5. Encourage the joint use of new and existing WCF locations and reduce the number of towers needed to serve the county by requiring facilities to be placed on existing structures and requiring collocation of WCF providers on existing and new towers to the maximum extent possible;
6. Encourage owners and users of WCFs to locate them in areas where the adverse impact to the community is minimized to the maximum extent practicable;
7. Enhance the ability of wireless communications service providers to provide those services the community quickly, effectively, and efficiently;
8. Comply with all federal laws and regulations regarding WCFs, including but not limited to regulations related to Eligible Facilities as defined by federal regulations;
9. Effectively manage WCFs in the public right-of-way; and
10. Provide an administrative process to replace modify, repair, update equipment via the building permit application process.

#### **B. APPLICABILITY**

##### **1. General**

- a. This Section 3-3.8 shall apply to all WCFs not located in County rights-of-way and to those attached non-small cell WCF permitted in the County rights-of-way pursuant to Section 3-3.8.E.2.a.i(e).
- b. WCFs that are not located in County rights-of-way are permitted as indicated in Section 3-2, Permitted Use Table.
- c. All WCFs shall conform to the provisions of the zoning district in which the WCF is located unless otherwise provided for in this Section 3-3.8.
- d. Except as stated in Subsection h. below, all WCFs shall comply with the provisions in the approved Final Development Plan, Preliminary Development Plan, Master Development Plan, General Development Plan, or Specific Development Plan, as applicable.
- e. Except as stated in Subsection h. below, all WCFs shall comply with the provisions in the approved Location and Extent Plan, Administrative Site Plan, and Use by Special Review for the parcel, as applicable.

- f. These WCF regulations in this Section 3-3.8 shall apply where an approved Preliminary, Master, Final, General or Specific Development Plan, as applicable, does not address provisions addressed by these regulations.
  - g. The Eligible Facilities Request procedure in Section 5-3.7.B.2 shall apply to all properties in the county, including, but not limited to, those in a PUD zone district, regardless of whether such WCFs are referenced in any Preliminary, Final, Master, General, or Specific Development Plan, as applicable.
2. **Small Cell WCFs in the Right-of-Way**  
 Small Cell WCFs within County rights-of-way are subject only to the standards set forth in Section 3-3.8.C, Operational Standards, of this LDC and Chapter 14, Small Cell Wireless Communication Facility (WCF) Regulations, of the Infrastructure Design and Construction Standards.
3. **Exceptions**  
 The requirements set forth in this Section 3-3.8 shall not apply to:
- a. **Pre-Existing WCFs**
    - i. Any WCF lawfully operating on the effective date of this section that is inconsistent with the provisions of this LDC shall be deemed a nonconforming use as provided for in this LDC.
    - ii. Any WCF for which a permit has been properly issued prior to the effective date of this section and does not qualify as an Eligible Facilities Request shall not be required to comply with this Section 3-3.8 provided the proposed work is for minor repairs and/or painting that is consistent with the building or facility on which it is mounted.
    - iii. Any modifications to a pre-existing WCF that qualifies as an Eligible Facilities Request shall be evaluated under Section 5-3.7.B.2, Review Process for Eligible Facilities Requests.
  - b. **Amateur Radio Antennas**  
 Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive-only antennas, provided the antenna is no taller than the distance from the footprint of the antenna structure to the property line.
  - c. **OTARD (Over-the-Air Receiving Device) and Similar Antennas**  
 Antennas used for reception of television, multichannel video programming, and radio such as OTARD antennas, television broadcast band antennas, and broadcast radio antennas, provided that the antenna complies with all applicable standards in this Code related to accessory uses, and provided the antenna is no taller than the distance from the base to the property line. The Planning Division Manager has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures if the Planning Division Manager determines that modifications are necessary to comply with federal law.
  - d. **Emergency Antennas**  
 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 County.

## **C. OPERATIONAL STANDARDS**

### **1. Federal and State Requirements**

All WCFs shall meet the current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC) and any other agency of the federal or state government with the authority to regulate WCFs. If those standards and regulations are changed in the future, the owners of each WCF subject to this Section 3-3.8 shall bring the facility into compliance with the revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations within the required time period shall be a violation of this LDC and shall constitute grounds for the removal of the WCF by the County at the owner's expense pursuant to paragraph 5. below.

### **2. Radio Frequency Standards**

- a. All WCFs shall comply with federal standards for radio frequency emissions. If concerns regarding compliance with radio frequency emissions standards for a WCF have been made to the County, the County may request that the owner or operator of the WCF provide information demonstrating compliance. If the Planning Division Manager determines that the information suggests that the WCF may not be in compliance, the County may request the owner or operator of the WCF to submit a certification from a qualified Radio Frequency (RF) engineer that the proposed WCF complies with all applicable radio frequency emission health standards.
- b. If, upon review, the County finds that the facility does not meet Federal standards, the County may require corrective action within 30 days or a period of time agreed to between the County and the WCF operator. If noncompliance is not corrected, the WCF may be removed pursuant to paragraph 5. below. Any costs incurred by the County, including consulting costs to verify compliance with these requirements, shall be paid by the owner or operator of the WCF.

### **3. 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 used by adjacent residential and non-residential properties; and such facilities shall not interfere with any public safety communications.

### **4. 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 County building codes. If upon inspection the County concludes that a WCF fails to comply with any applicable codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall bring the WCF into compliance within 30 days from the date of notice. Upon good cause shown by the owner, the County's Chief Building Official may extend such compliance period not to exceed 90 days from the date of the notice. If the owner fails to bring such WCF into compliance within the required time period, the County may remove such WCF at the owner's expense.

### **5. Abandonment and Revocation**

All WCFs are subject to the abandonment and revocation procedures set forth in Section 6-1, Wireless Communication Facility (WCF).

**6. Hazardous Materials**

No hazardous materials, as defined in C.R.S. 25-15-101 shall be permitted in association with WCFs, except those necessary for the operations of WCF and only in accordance with all applicable laws governing such materials.

**D. PREFERRED WCF TYPE**

1. The County's preferred types of WCF are listed below in order of preference, the County's highest preference listed first. The applicant shall choose the type of facility highest in preference that provides the type of service required, to the maximum extent practicable.
  - a. Attached WCFs that qualify as an Eligible Facilities Request
  - b. Existing Alternative Tower Structures that qualify as an Eligible Facilities Request
  - c. Existing Towers that qualify as an Eligible Facilities Request
  - d. WCFs within County rights-of-way subject to Section 3-3.8.B.2.
  - e. Attached WCFs that qualify as an Eligible Facilities Request
  - f. Alternative Tower Structures that qualify as an Eligible Facilities Request
  - g. Towers that do not qualify as an Eligible Facilities Request
2. If the application proposes a WCF type other than a. above, the applicant shall provide written documentation demonstrating that each of the preferred types listed before the chosen type were not feasible and the chosen type is necessary to close a coverage gap. The County may require a third-party technical study at the expense of either or both parties to determine the feasibility of a WCF type higher on the preferred list. If a study is requested by the County, it shall be conducted at a reasonable cost and with minimum necessary effort to make a determination regarding the technical possibility of collocation.

**E. DESIGN STANDARDS**

**1. Design Standards for All WCFs**

The following design standards shall apply to all WCFs subject to this Section 3-3.8, provided, however, that the Planning Division Manager may waive any of these standards if the Manager determines that the Intent as stated in Section 3-3.8.A are better served by the waiver. WCFs shall be designed and located to minimize impact on the surrounding area and to maintain the appearance of the county, consistent with other provisions of this LDC and the following:

**a. Camouflage or Concealment Techniques**

All WCFs and any related transmission equipment shall not be visibly apparent and use design, camouflage, or concealment options that will blend the WCF to the surrounding natural setting and/or built environment. Design camouflage or concealment options shall be compatible with structures and vegetation on sites located in the right-of-way and on adjacent parcels and comply with the following:

- i. Design is of heightened importance when a WCF is within a park or open space, or near historic or aesthetically significant structures, views, and/or community features. In those instances the WCFs shall be designed to minimize the WCF profile to the maximum extent practicable.
- ii. All WCFs shall be constructed so that visible exterior surfaces are finished with non-reflective materials.

**b. Collocation**

No WCF provider shall exclude other providers from collocating on the same facility or location when collocation is structurally and technically possible, or when approval of the collocation is required by federal regulations related to Eligible Facilities Requests.

**c. Lighting**

- i. Lighting is prohibited, unless required by the FAA or other governmental authority for security or other purposes, or unless the WCF is mounted on a light pole, sports field lighting, or other similar structure primarily used for lighting purposes.
- ii. If lighting is required by a governmental authority, the County may review the available lighting alternatives and approve the design that would cause the least disturbance to surrounding views. Lighting shall be shielded or directed toward the ground to minimize glare and prevent light falling onto nearby properties, particularly residences.

**d. Noise**

- i. Any noise generated on the site shall not be measurable at any property line and shall not otherwise exceed the standards permitted by C.R.S. 25-12-103.
- ii. Subsection i above shall not prohibit:
  - (a) Noise emitted for a period of up to two hours while repairs or regular maintenance or upkeep of the WCF are completed; or
  - (b) Generators used in emergency situations where the regular power supply for a facility is temporarily interrupted.

**e. Landscaping and Screening**

- i. The siting of WCFs shall not reduce the area required to be landscaped under this LDC.
- ii. All landscaping shall comply with the applicable landscaping requirements of this LDC.
- iii. Existing vegetation, except noxious weeds, and grades on the site shall be preserved to the maximum extent practicable.
- iv. When any part of the ground equipment of a WCF is visible from the public right-of-way or adjacent properties, it shall be screened from public view in a manner consistent with the camouflage and concealment methods described in paragraph a., above. Screening may include the use of architectural elements, fencing, landscaping, or other suitable screening methods for the site.
- v. Required solid screen fences shall not exceed six feet in height and shall meet the standards of Section 4-1.3.N, Fence Regulations, except that the use of chain link fencing to screen WCFs is prohibited.
- vi. Landscaping in the ROW may require review by the Engineering Services Division and approval of any necessary license agreements.

**f. Fire Protection**

All WCFs shall be sited and built to address International Fire Code standards as adopted by the fire protection district with jurisdiction over the facility, and if in a mapped wildfire hazard area shall provide defensible space and adequate vehicle access for emergency equipment.

**g. Signs**

No signs shall be allowed on any WCF except as may be required by federal law.

## 2. Design Standards by WCF Type

### a. Attached WCFs

#### i. LOCATION

- (a) Attached WCFs shall be located on existing structures, including but not limited to buildings, water towers, broadcast towers, and related facilities.
- (b) No WCF shall be placed on buildings used for single-family residential purposes in any zone district.
- (c) In the RR-B, RR-C, R-1-A, and R-M districts, and in the residential component of PUD districts, Attached WCFs shall only be installed on lots containing allowed primary Civic, Cultural, or Public Uses, as shown in Section 3-2, Permitted Use Table.
- (d) In all agricultural and residential districts, including the residential component of PUD districts, Attached WCFs are prohibited on Accessory Dwelling Units, Live/Work, Single-Family Detached, Single-Family Detached Cluster, Townhome, Two-Family, Manufactured Home, and Mobile Home Dwellings structures, whether occupied by Household Living or Group Living uses.
- (e) Attached WCFs may be located in County rights-of-way, on a case-by-case basis and subject to review and approval from the Public Works and Development Department and the approval of a right-of-way permit. Attached WCFs may be allowed on an existing traffic signal light pole, street light standard, utility pole, or other vertical infrastructure, or on a replacement traffic signal light pole, street light standard, utility pole, or other vertical infrastructure, provided that:
  - (i) The facility is not a Small Cell Facility as defined in this LDC;
  - (ii) The owner of the vertical infrastructure approves the use;
  - (iii) The facility does not exceed the height of the existing infrastructure on which it is mounted by more than eight feet;
  - (iv) The facility meets the required setbacks for similar structures as determined by the Public Works and Development Department based on considerations of public and traffic safety requirements;
  - (v) The facility meets all applicable standards of the Infrastructure Design and Construction Standards;
  - (vi) The facility is structurally and visually similar to existing vertical infrastructure; and
  - (vii) The facility continues the function of the existing vertical infrastructure.

#### ii. HEIGHT AND SETBACKS

- (a) Attached WCFs shall be subject to the minimum building setbacks and maximum height limitations of the underlying zone district, except as follows:
  - (i) Attached WCFs and associated ground-based equipment may encroach up to 24 inches into the minimum building setbacks in the underlying zoning district but shall not extend over any property line in separate ownership.
  - (ii) Roof-mounted WCFs, including the antenna, transmission equipment, support structures and screening, may extend up to 15 feet over the height of the building or structure and may exceed the maximum height

of the underlying zoning district by up to 15 feet, subject to any FAA height restrictions if located within an Airport Influence Area (AIA).

**iii. DESIGN**

Attached WCFs shall meet the camouflage and concealment standards in Section 3-3.8.E.1.a. Antennas shall be located, painted and/or screened to be architecturally and visually similar to or minimizes the visibility of the WCF on the building or structure it is attached to unless prohibited by state or federal requirements for that type of WCF.

**b. Alternative Tower Structures**

**i. LOCATION**

- (a) An Alternative Tower Structure shall only be approved if the Planning Division Manager determines that the applicant has borne the burden of proving that there are no feasible existing structures upon which to locate an Attached WCF as described in Subsection 3-3.8.D.2.
- (b) Alternative Tower Structures are prohibited on any property containing a principal residential use in the RR-A zone district.

**ii. HEIGHT AND SETBACKS**

- (a) Alternative Tower Structures shall be subject to the maximum height limitations of the underlying zone district.
- (b) When an Alternative Tower Structure is incorporated into an overall photometric plan, such as an Alternative Tower Structure being included on a parking lot light pole or on sports field lighting, the facility height shall be consistent with the pole height used for the parking lot or sports field.
- (c) In all zone districts except the A-E and A-1 zoning districts, all Alternative Tower Structures shall be set back from each property line at least a distance equal to the tower height, or the minimum primary building setback in the underlying zoning district, whichever is greater.
- (d) As an exception to Subsection (c) above, when included as part of a public utility substation or attached to a high-tension power line tower within a utility corridor, the Alternative Tower Structure setback may be the same as the setback for the existing high-tension power line tower or substation.
- (e) An alternative setback may be approved by the Planning Division Manager, if the Manager determines that it complies with the following standards:
  - (i) The proposed Alternative Tower Structure will replace an accessory structure to an established principal use including but not limited to, signs, light poles, and flagpoles;
  - (ii) The required setback is at least 70 percent of the original required setback; and
  - (iii) The siting and location of freestanding facility substantially camouflages or conceals the presence of the Alternative Tower Structure and antennas from view and has less visual impact than would be achieved by applying the setback otherwise required by (a) through (e) above.

**iii. DESIGN**

- (a) If the applicant demonstrates that it is not feasible to locate a WCF on an existing structure, the Alternative Tower Structure shall meet the camouflage and concealment standards set forth in Section 3-3.8.E.1.a. The

structure shall be visually similar to or minimize the visibility of the WCF within the surrounding area and camouflage or conceal the presence of the Alternative Tower Structure and antennas. The structure shall be painted or coated in a color that blends with the surrounding building and natural environment, unless state or federal regulations require different colors.

- (b) If the parcel on which an Alternative Tower Structure is located has frontage on a public street, street trees shall be planted along the roadway to provide additional screening to the maximum extent practicable.

**c. Towers**

**i. LOCATION**

- (a) A new Tower shall only be approved if the Planning Division Manager determines that the applicant proved that there are no feasible existing structures upon which to locate an Attached WCF and that an Alternative Tower Structure is also not feasible as described in Subsection 3-3.8.D.2.
- (b) In the A-E, A-1, and RR-A zone districts, towers are only permitted on property containing a principal agriculture use.

**ii. HEIGHT AND SETBACKS**

- (a) Proposed towers shall be subject to the maximum height limitations of the underlying zone district, except as follows:
  - (i) Towers in the A-E, A-1 RR-A, B-1, B-3, B-4, B-5, I-1, and I-2 zone districts that exceed the maximum height limitations of the underlying zone district may apply for a Special Exception Use Permit through the Board of Adjustment.
- (b) Towers shall be setback from all property lines at least a distance equal to the Tower height or the minimum building setbacks in the underlying zone district, whichever is greater.

**d. Accessory and Transmission Equipment**

**i. LOCATION**

- (a) All transmission and accessory equipment shall be grouped as closely as technically possible.
- (b) Ground-based equipment may be located within the rights-of-way on a case-by-case basis, if the Manager of Public Works determines that the location will protect the public health, safety and welfare of persons and vehicles using the public right-of-way.

**ii. SETBACKS**

All ground-based equipment shall meet the setbacks applicable to principal structures in the underlying zone district, unless an alternative setback is established for an Alternative Tower Structure.

**iii. DESIGN**

- (a) Transmission and accessory equipment, including equipment enclosures, shall be visually similar to the surrounding building environment with consideration given to exterior materials, roof form, scale, mass, color, texture and character.
- (b) All roof-mounted equipment shall be screened from view from grade-level on each street abutting the property view.

- (c) Ground-based equipment must be constructed with materials that are visually similar to the materials of the principal use.
- (d) The maximum total footprint of each service provider's ground-based equipment storage shelter and/or cabinets shall not exceed 400 square feet and the maximum height of each equipment storage shelter and/or cabinet shall not exceed 15 feet in height. The Planning Division Manager may approve a request to increase the maximum allowable footprint of each service provider's equipment storage shelter and/or cabinets otherwise meeting the requirements of this section, provided that:
  - (i) The amount of increase in the footprint of the ground-based equipment approved by the Planning Division Manager shall not exceed 30 percent of the maximum allowable footprint area; and
  - (ii) The Planning Division Manager determines that the applicant has demonstrated that a single, larger equipment enclosure would better integrate into the architecture and site design for the property where the equipment is to be located than multiple smaller cabinets for co-located facilities; that efforts have been made to incorporate the ground-based equipment into the design of the buildings and grounds for the principal use of the property; and that landscaping or other mitigating design elements have been included to enhance the visual appearance of the property and/or mitigate negative impacts from the larger ground-based equipment enclosure.

**F. REVIEW PROCEDURES**

All WCF applications shall follow the review procedures set forth in Section 5-3.7, Wireless Communication Facilities (WCF) Procedures.

**G. WCF-RELATED DEFINITIONS**

The following terms shall have the following definitions when used in the context or regulating WCFs or applying the standards in Section 3-3.8: Wireless Communications Facilities.

**1. 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 including fences.

**2. Alternative Tower Structure**

Man-made trees, clock towers, bell steeples, light poles, traffic signals, flagpoles, artistic structures, and similar freestanding alternative design mounting structures, including attached antennas and antenna arrays. A stand-alone monopole (including a replacement pole) in the right-of-way that accommodates Small Cell Facilities is not considered an Alternative Tower Structure.

**3. Antenna**

Any device used to transmit and/or receive radio or electromagnetic waves including but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devices and configurations, and exterior

apparatus designed for telephone, radio, or television communications through the sending and/or receiving of wireless communications signals.

**4. Attached Wireless Communication Facility (WCF)**

A WCF that is affixed to an existing or proposed structure, including, but not limited to, buildings, water tanks, traffic signal light standard, utility poles, and broadcast towers.

**5. Collocation**

The mounting or installing of a WCF on a pre-existing structure and/or the modification of a structure for the purpose of mounting or installing a WCF on that structure provided that, for purposes of Eligible Facilities Requests, "collocation" means 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.

**6. Concealment Element**

Any design feature, including but not limited to painting, landscaping, shielding requirements, and restrictions on location, proportions, or physical dimensions in relation to the surrounding area or the structure which supports a wireless facility, that is intended to make a wireless facility or any supporting structure, less visible to the casual observer.

**7. Eligible Facilities Request**

Any request for modification of an existing Tower, Alternative Tower Structure, or Attached WCF that does not substantially change the physical dimensions of such Tower, Alternative Tower Structure, or Attached WCF involving: (i) collocation of new transmission equipment, (ii) removal of transmission equipment, or (iii) replacement of transmission equipment.

**8. Eligible Support Structure**

Any Tower, Alternative Tower Structure, or Attached WCF, if it is existing at the time the relevant WCF application is filed with the County under Section 5-3.7, Wireless Communication Facilities (WCF) Procedures.

**9. Existing Tower, Alternative Tower Structure, or Attached WCF**

A constructed Tower, Alternative Tower Structure, or Attached WCF that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law at the time it was built. For example, a Tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

**10. Guyed Tower**

A non-self-supported tower using a guy wire support framework under tension on a concrete base.

**11. Lattice Tower**

A multi-legged freestanding framework tower with structural support provided by the framework sections of the tower. Each leg of the lattice tower has a separate concrete foundation.

**12. Micro Wireless Facility**

A Small Cell Facility that is no larger than 24 inches long, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, no longer than 11 inches.

**13. Monopole**

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

**14. Over-The-Air-Receiving-Device (OTARD) Antenna**

- a. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or
- b. 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 meter or less in diameter or diagonal measurement; or
- c. An antenna that is designed to receive television broadcast signals.

**15. Visibly Apparent**

A WCF that the Planning Division Manager determines will be easily recognizable as a WCF to a person able to view the facility as a whole and in the context of any adjacent improvements and landscaping from publicly accessible locations, based on the Manager's review of the character, scale, and height of nearby and surrounding natural or architectural features. Due to differences in site characteristics, a determination that a particular WCF will not be visibly apparent at one location shall not establish a precedent for the same determination for a facility of the same or similar design or construction at a different location.

**16. Setback**

The distance between a property line and the nearest point on an Alternative Tower Structure or Tower, including the structural foundation, antennas, reflectors, dishes and other appurtenances.

**17. Site**

The area comprising the base of the WCF structure and related accessory equipment deployed on the ground, and including any area leased to accommodate the WCF.

**18. Small Cell Facility**

- a. A wireless service facility that meets both of the following qualifications:
  - i. Each antenna is located inside an enclosure of no more than three 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 cubic feet; and
  - ii. Primary equipment enclosures are no larger than 17 cubic feet in volume. The following associated equipment may be located outside of 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 enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch; or
- b. A Micro Wireless Facility.

**19. Substantial Change**

A modification that substantially changes the physical dimensions of an Eligible Support Structure if, after the modification, the structure meets any of the criteria as defined by federal law.

**20. Temporary Wireless Communication Facility (WCF)**

A WCF designed for use while a permanent WCF or network is being designed or built or for a special event where many people attending require wireless communications. These are sometimes referred to as Cellular on Wheels.

**21. Toll and Tolling**

Toll and tolling shall mean to delay, suspend or hold off on the imposition of a deadline, statute of limitations or time limit.

**22. Tower**

Any structure built for the sole or primary purpose of supporting one or more FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private broadcast services as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. Structures may include lattice towers, monopole towers, guyed towers, or other freestanding facilities that do not meet the definition of Alternative Tower Structure or Small Cell Facility.

**23. 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.

**24. Wireless Communications Facility (WCF)**

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. 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, Alternative Tower Structures and towers. A WCF 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. A WCF does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand-held radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this LDC.

**H. TEMPORARY WIRELESS COMMUNICATION FACILITIES (WCF)**

1. Temporary WCFs may operate for up to 180 days, after which the temporary facility must be removed. In cases where temporary facilities are necessary due to destruction or significant damage to permanent structures hosting WCFs due to causes beyond the control of an applicant, requests to renew or extend the Temporary Use Permit may be approved on a case-by-case basis if the Public Works Director determines that the extension will not create additional risks to the public health or safety or significant material impacts to surrounding properties. Unless such renewal request is granted, no other temporary facility can be built by the provider on the property after the original temporary facility is removed.
2. Temporary WCFs designed for use during a special event may operate for up to 14 days, after which they must be removed at the provider's expense. An extension of the temporary use may be approved by the Planning Division Manager to coincide with an

extended period of time for the special event and subject to conditions to mitigate impacts of the extended use on surrounding properties. Temporary facilities may be operated on a property up to four times a year.

3. Temporary WCFs shall comply with Section 3-3.8.C, Operational Standards.
4. The Planning Division Manager may require landscaping and screening requirements for temporary facilities where adjacent or nearby properties or users of public rights-of-way may be impacted.

### **5-3.8 Wireless Communication Facilities (WCF) Procedures**

#### **A. APPLICABILITY**

This section shall apply to all WCF applications, except:

1. Applications for Small Cell Facilities in the County right-of-way, which are subject to Chapter 14, Small Cell Wireless Communication Facility (WCF) Regulations, of the Infrastructure Design and Construction Standards;
2. Any maintenance or repair of an existing WCF which would not require a building permit.
3. Repainting of an existing WCF facility or existing WCF equipment provided the painting is consistent with the building or facility on which it is mounted.

#### **B. APPLICATION REVIEW**

##### **1. Review Process for WCFs (Non Eligible Facilities Requests)**

###### **a. Pre-submittal Meeting**

Prior to submitting an application, the applicant is encouraged to initiate and schedule a pre-submittal meeting. A pre-submittal meeting is not required and will only be held if the applicant requests one. By participating in the Pre-submittal meeting, the applicant agrees the mandatory review times set forth in this Section do not start until a complete application is submitted, subject to the tolling provisions in this Section.

###### **b. Administrative Review**

- i. Applications for proposed WCFs shall comply with the provisions of this Land Development Code. The time period in which the County will review and act upon applications shall be tolled for any applications that are not complete. The County shall notify an applicant of any deficiencies in its application within 30 days of filing, and/or within 30 days of submitting any additional information, to the extent that any supplemental application materials remain incomplete. If outside referrals or a neighborhood meeting is required, notification shall be provided in a manner determined by the County.
- ii. The Planning Division Manager, or designee, will make a decision to approve or deny an application that qualifies for administrative review within 90 days of the filing of a complete application for a collocation that does not meet the definition of an Eligible Facilities Request or 150 days of the filing of a complete application for any other application; provided however, that:
  - (a) If a third-party technical study (technical issues and expert review) is required, a decision to approve or deny an application may be postponed until 15 days after the study is complete; and
  - (b) The County and the applicant may always agree to extend the time in which final action on the application is required by this LDC.

- iii. Any decision to deny a request to place, construct, or modify facilities shall be in writing and include specific reasons for the action.

**c. Neighborhood Notice and Meetings**

- i. Neighborhood notice and a neighborhood meeting is required for the following applications:
  - (a) Applications for WCFs in the residential and agricultural zone districts, the residential component of mixed-use zone districts, and the residential component of PUD districts, excluding Eligible Facilities Requests and Small Cell WCFs.
  - (b) Applications for WCFs within 500 feet of a residentially zoned property and not in the rights-of-way, excluding Eligible Facilities Requests and Small Cell WCFs.
- ii. If a neighborhood meeting is required, the applicant shall schedule and conduct a neighborhood meeting to inform residents about the project. Notice for such Neighborhood meeting shall be provided in a manner determined by the County. Notice shall be sent to all property owners and Home Owners Associations within 500 feet of the site, or a larger area if the Planning Division Manager determines the facility's visual impact warrants a greater notification area. Such notice shall be sent at least 15 days prior to such scheduled meeting date.
- iii. Prior to or following the neighborhood meeting, the applicant shall distribute physical or digital copies of the following: letter of intent, site plan with underlying zoning, proposed facility height, proposed setbacks, photo-simulations, and any other information deemed necessary by the Planning Division Manager to all property owners required to be noticed in paragraph ii. A copy of the information provided and the address list shall be provided to the Planning Division.

**d. Notice of Planning Division Manager's Decision**

For a WCF proposed within 500 feet of residentially zoned property, the applicant and the adjacent neighborhood(s) will be notified of the Planning Division Manager's decision. Such notice will be provided in a manner determined by the County. For the purposes of 47 U.S.C. Sec. 332 (c)(7), the decision of the Planning Division Manager is final.

**e. Appeal of Planning Division Manager's Decision**

An applicant or an interested party or resident group may, prior to challenging the County's action in court, appeal the Planning Division Manager's decision to the Board of County Commissioners, which appeal shall be based upon the administrative record, and in accordance with the following:

- i. Such appeal shall be submitted to the Planning Division Manager in writing within 14 days of the issuance of the decision.
- ii. Such appeal may be taken to the Board of County Commissioners for consideration. A majority of the members of the Board of County Commissioners may elect to call up the appeal for a public hearing before the board.

- iii. The public hearing will proceed following the decision of the Planning Division Manager, will proceed de novo, and the final decision will be made by the Board.
- iv. If the Board of County Commissioners hears such appeal, public notice shall be provided in compliance with 5-2.2, Public Notice Requirements.
- v. The Board of County Commissioners shall decide to hear the appeal and make a decision on the appeal within 90 calendar days after first receiving the request to hear an appeal.

## **2. Review Process for Eligible Facilities Requests**

### **a. Timing**

- i. Within 60 days of the date on which an applicant submits an application seeking approval of an Eligible Facilities Request, the Planning Division Manager shall approve an application unless the Planning Division Manager determines that the application is not an Eligible Facilities Request.
- ii. The 60 -day review period begins to run when the application is filed. The Planning Division Manager and the applicant may agree to toll the review period. The 60-day review period shall also be tolled where the Planning Division Manager determines that the application is incomplete.
- iii. The Manager shall address incomplete applications pursuant to the following standards:
  - (a) Within 30 days of receipt of the application, the Planning Division Manager shall notify the applicant in writing, clearly and specifically delineating all missing documents or information required for determination of an Eligible Facilities Request
  - (b) The written incompleteness notice tolls the timeframe for review;
  - (c) The timeframe for review begins running again when the applicant makes a supplemental submission in response to the Planning Division Manager's notice of incompleteness;
  - (d) Within 10 days of the supplemental submission, the Planning Division Manager shall notify the applicant in writing that the supplemental submission did not provide the information identified in the original incompleteness notice; and
  - (e) The timeframe is tolled in the case of a second or subsequent incompleteness notice pursuant to the procedures for the first incompleteness notice. Second or subsequent incompleteness notices may not specify missing documents or information that were not delineated in the original incompleteness notice.

### **b. Review Criteria**

The Planning Division Manager shall approve an Eligible Facilities Request if the request:

- i. Is an Eligible Facilities Request for an Eligible Support Structure;
- ii. Does not result in a Substantial Change;

### **c. Decision**

- i. If the Planning Division Manager finds the review criteria are met, the Planning Division Manager shall approve the Eligible Facilities Request.

- ii. If the Planning Division Manager finds that the applicant's request does not meet the criteria, the Planning Division Manager may approve with conditions or deny the Eligible Facilities Request and provide a written disposition with the reasons for conditional approval or denial to the applicant.
- iii. The Planning Division Manager's decision shall be supported by substantial evidence in the written record.

**d. Failure to Act**

- i. In the event that the Planning Division Manager fails to act on a request seeking approval for an Eligible Facilities Request within the timeframe for review, accounting for any tolling, the request shall be deemed granted.
- ii. The effective date of a deemed-granted approval shall be the day the County receives written notice from the applicant, after the review period, accounting for any tolling, has expired, that the application has been deemed granted.

**e. Interaction with Telecommunications Act Section 332(c)(7)**

If the County determines that the applicant's request is not an Eligible Facilities Request, the presumptively reasonable timeframe under Section 332(C)(7), as prescribed by the FCC's shot clock order (90 days for collocation applications and 150 days for all other siting applications), will begin to run from the issuance of the County's decision that the application is not a covered request. To the extent such information is necessary, the County may request additional information from the applicant to evaluate the application under Section 332(C)(7) review. The County shall identify the need for any such additional information together with the notice that the request is not an Eligible Facilities Request, and if such additional information is requested, the time frame under Section 332(C)(7) will begin to run beginning on the date that such additional information is received by the County.

**f. Compliance with Other Laws**

All work done in association with the approved Eligible Facilities Request application shall be completed in accordance with all generally applicable laws, regulations or other rules reasonably related to public health and safety, including but not limited to, building and safety codes.

**g. Remedies**

The applicants and the County may bring a claim related to §6409 of the federal Spectrum Act (codified at 47 U.S.C. 1455) to any court of competent jurisdiction.

**3. Other Reviews/Permits**

**a. Technical Issues and Expert Review**

WCFs may involve complex technical issues that require review and input that is beyond the expertise of County staff. The Planning Division Manager may require the applicant to pay reasonable costs of a third-party technical study of a proposed WCF. Selection of expert(s) to review the proposal will be in the sole discretion of the County.

**b. Building Permit**

Administrative approval of WCFs is separate from the building permit review process. Building permits for the construction of WCFs cannot be issued until the facility is approved through the Administrative or Special Exception Use process, as applicable.

## **6-1 WIRELESS COMMUNICATION FACILITY (WCF)**

### **6-1.1 Abandonment**

WCFs are considered abandoned if they are unused by all providers at the facility for a period of 180 days. A copy of the notice to the Federal Communications Commission (FCC) of intent to cease operations of a subject facility shall be promptly submitted to the County. If the lot or parcel for the facility is leased, a redacted copy of the relevant portions of a signed lease, which requires the removal of the communications facility upon cessation of operations at the site, or a notarized letter with signatures from both landlord and tenant explaining such procedures, shall be submitted at the time of application or at the time of leasing, whichever is later. The Planning Division Manager will determine if a WCF has been abandoned. The Planning Division Manager has the right to request documentation from the facility owner regarding WCF usage.

- A.** Upon abandonment, the facility owner has 90 days to:
  - 1.** Reuse the facility or transfer the facility to another owner who will reuse it; or
  - 2.** Dismantle the facility. If the facility is not removed within 90 days of abandonment, the county may pursue enforcement subject to the provisions of this Land Development Code. If the facility is removed, County approval of the facility is null and void. The site must be restored at facility owner's expense.
- B.** The County is authorized to remove or cause the removal of the abandoned WCF without any liability for trespass.
- C.** All direct and indirect costs incurred by the County, including an administrative cost equal to 25 percent of all direct costs, shall be charged as a lien against such real property and the owners of the property.

### **6-1.2 Revocation of Permit**

- D.** The County's approval of a WCF may be revoked and the WCF removed at the owner's expense if:
  - 1.** The owner of an Alternative Tower Structure or Tower is not willing to provide space for other carriers at a fair market rate when it would not impair the structural integrity of the tower or cause interference;
  - 2.** The WCF owner modifies the structure in a way to make collocation impractical or impossible;
  - 3.** The WCF owner fails to maintain all landscaping, equipment shelters, buildings, cabinets, and screening and after reasonable notice of such failure is provided by the County in writing and 30 days for the owner and operator to remedy such deficiency.
- E.** The County is authorized to remove or cause the removal of the WCF without any liability for trespass.
- F.** All direct and indirect costs incurred by the County, including an administrative cost equal to 25 percent of all direct costs, shall be charged as a lien against such real property and the owners of the property.

**To:** Board of County Commissioners

**Through:** Bryan Weimer, Director, Public Works and Development

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**Prepared By:**

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Ernie Rose, Senior Planner, Public Works and Development

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**Presenter:**

Ernie Rose, Senior Planner, Public Works and Development

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LDC24-007 – Wireless Communication Facilities - Land Development Code Text Amendment

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**Purpose and Request:**

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recommended action
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Staff is seeking direction from the Board of County Commissioners to modify the Land Development Code (LDC) concerning Wireless Communication Facilities (WCF), which are currently referred to as Commercial Mobile Radio Service (CMRS) in the LDC. The proposed amendment retitles the CMRS regulations to WCF and establishes specific regulations for WCF. The proposed WCF section of the code has been reorganized and revised to simplify and modernize it, ensuring compliance with federal and state laws and current telecommunications industry standards and providing a general cross-reference to these standards. The specific sections of the LDC that will be amended include:

- Section 3-2.1: Permitted Use Table
- Section 3-3.8: Wireless Communication Facilities (WCF) Use Standards (Formerly known as Commercial Mobile Radio Service (CMRS) Use Standards
- Section 5-3.8: Wireless Communication Facilities Procedures (replaces the former CMRS Procedures)
- Section 6-1: Enforcement, Violations and Nonconformities - Wireless Communication Facility—A new section for information on Abandonment and Revocation of Permit has been added.

The Board's guidance is requested to proceed with these modifications.

**Background and Discussion:** Arapahoe County's Land Development Code provides the ground rules for development and is a significant part of implementing the Comprehensive Plan's goals and policies. The code should respond to changes in development patterns and resident lifestyles over time. Residents of Arapahoe County depend on various wireless communication technologies. Recent legislation, technological advancements, and multiple technologies have created a need to update the County's wireless communication code. In 2019, the County completed the first wireless communication code update in response to legislative action.

In 2017, the General Assembly enacted HB17-1193, allowing the installation of small wireless service infrastructure in local government-owned rights of way. These facilities support existing networks and enable 5G service, which requires more antennas. In September 2018, the Federal Communication Commission (FCC) issued a ruling (FCC18-133) that interpreted the Federal Telecommunications Act of 1996, placing restrictions on local government's ability to limit small cell installations; because of the short time frame specified under the FCC order to adopt any design standards and because these standards only applied within public rights-of-way, the County's Engineering Division adopted Small Cell regulations for Wireless Communication Facilities by adding Chapter 14 in the County's Infrastructure Designs Standards (IDCS) in 2019.

In 2022, the Board of County Commissioners (BOCC) directed staff to begin amending the Land Development Code regarding Commercial Mobile Radio Service (CMRS) and to transition to a new code section for Wireless Communication Facilities (WCF) located on private property. This update aims to ensure that the regulations remain relevant and effective in addressing advancements in communication technology while complying with legal requirements. To assist with this update, staff hired Clarion Associates, which has since developed the revised WCF code amendment.

Wireless communications facilities include cell towers, base stations, and related equipment. Commercial Mobile Radio Service (CMRS) is a type of wireless communication. Other forms of wireless communication include but are not limited to, satellite, infrared, Wi-Fi, Wireless Broadband (Cellular Networks 3G,4G,5G), and mobile communication systems, all of which allow for the transmission of data without the need for physical wires. The proposed update is being developed to incorporate potential technological advancements across all types of wireless communications, including Commercial Mobile Radio Service (CMRS).

The County's current regulations for wireless communication facilities on private property are outlined in several sections of the Land Development Code that pertain to Commercial Mobile Radio Service Facilities (CMRS). These regulations are problematic because they do not allow for minor modifications to existing facilities, encourage or mandate colocation, or provide alternative locations, such as rooftops. Additionally, the existing wireless section of the code fails to effectively communicate to the public that Federal Communications Commission (FCC) regulations significantly constrain the County's authority to deny or impose conditions on "eligible facilities" that do not result in substantial expansion or alteration of current wireless structures. These regulations are listed as a priority to ensure compliance with federal law and because of their potential to reduce public misunderstanding and controversy over decisions that are, in fact, not within the County's control.

The proposed section of the Wireless Communication Facilities (WCF) code is designed to comply with Federal Communications Commission (FCC) regulations and delineates the criteria for "eligible facilities." It establishes standards pertaining to the location, design, maintenance, and removal of wireless communication facilities. This code aims to promote the collaborative use of both new and existing WCF locations, thereby minimizing the necessity for multiple towers within the County. This objective is accomplished by mandating the integration of facilities onto existing structures and encouraging co-location among WCF providers on both new and established towers. For new tower structures, the draft code emphasizes that the applicant must demonstrate that other sites are not feasible. Furthermore, the code outlines a structured administrative process for the

replacement, modification, repair, and upgrading of equipment through the building permit application system.

**Alternatives:**

The Board has several options:

1. Direct staff to proceed with the proposed code amendment to public hearing.
2. Direct staff to consider modifications to the proposed code amendment and come back for an additional study session.
3. Direct staff to not proceed with the proposed code amendment.

**Fiscal Impact:**

The proposed amendment is not anticipated to have any fiscal impact.

**Alignment with Strategic Plan:**

- ☐ Be fiscally sustainable
- ☒ Provide essential and mandated service.
- ☒ Be community focused

**Staff Recommendation:** Staff recommends approval to move forward with proposed amendment as presented.

**Concurrence:** The Public Works and Development Department coordinated the draft changes with the County Attorney's office and Clarion Associates.



Carrie Warren-Gully, District 1  
Jessica Campbell, District 2  
Jeff Baker, Chair Pro Tem, District 3  
Leslie Summey, Chair, District 4  
Rhonda Fields, District 5

# Arapahoe County

## Board of County Commissioners Study Session

### Meeting Minute Summaries

**Monday, January 27, 2025**  
**9:00 AM**

**Administration Building**  
**5334 S. Prince St.**  
**Littleton, CO 80120**  
**West Hearing Room**

*The Arapahoe County Board of Commissioners typically holds weekly study sessions on Monday and Tuesday. Study sessions (except for executive sessions) are open to the public and agendas are available online at [arapahoe.legistar.com](http://arapahoe.legistar.com). Meetings marked with an asterisk (\*) can be attended virtually via [arapahoe.legistar.com](http://arapahoe.legistar.com) while non-asteriked (\*) sessions are open to in-person attendance only. The members of the Board of County Commissioners may choose to attend study sessions virtually.*

*The Board of County Commissioners may go into executive session during or at the conclusion of a study session or administrative meeting as necessary to receive legal advice or discuss other confidential matters, and if they do so, the public will be excluded from that portion of the meeting. The Board may alter the times of the meetings throughout the day, as well as cancel or reschedule noticed meetings. Contact the Commissioners' Office at 303 795 4630 or [kdavis2@arapahoegov.com](mailto:kdavis2@arapahoegov.com) with questions about the agenda.*

*Arapahoe County is committed to making its public meetings accessible to persons with disabilities. If you need special accommodations, please contact the Commissioners' Office at 303 795 4630 or Relay Colorado 711 at least 3 days in advance to make arrangements.*

#### **Commissioners Present**

Carrie Warren-Gully  
Jeff Baker  
Jessica Campbell  
Leslie Summey  
Rhonda Fields

#### **Others Present**

Ron Carl  
John Christofferson  
Michelle Halstead  
Cooney Sarracino  
Callie Pecore  
Ernie Rose  
Tyler Brown

**9:00 AM Calendar and Board Updates**  
**Michelle Halstead, Director, Commissioners' Office**

**12:00 PM BREAK**

Meeting went into Recess

## STUDY SESSION TOPICS

1:00 PM \*Land Development Code Update for Wireless Communication Facilities

**Attachments:** [Board Summary Report](#)  
[Presentaion](#)  
[Current Proposed Code Comparison Table](#)  
[Permitted Use Table](#)  
[HB 25-1056](#)  
[Updated Land Development Code](#)

Meeting Reconvened

The purpose of this study session was to seek direction from the Board of County Commissioners to modify the Land Development Code (LDC) concerning Wireless Communication Facilities (WCF), which are currently referred to as Commercial Mobile Radio Service (CMRS) in the LDC. The proposed amendment (LDC24-007) retitles the CMRS regulations to WCF and establishes specific regulations for WCF. The proposed WCF section of the code has been reorganized and revised to simplify and modernize it, ensuring compliance with federal and state laws and current telecommunications industry standards and providing a general cross-reference to these standards. The Board's guidance was requested to proceed with these modifications.

A PowerPoint presentation was presented, a copy of which has been retained for the record.

Staff presented background to the proposed land development text amendment.

The purpose and request were reviewed. The proposed amendment would update language regarding wireless communication to encompass more categories of communications.

Staff discussed the potential changes with associates to update. The proposed revisions were listed.

A table for permitted land use was displayed. Categories were added and updated to prior tables.

The current code and proposed amendments were reviewed.

Staff is seeking BOCC guidance and provided alternative options.

Commissioners asked staff about current state legislation and how it relates to the proposed amendments.

Recommendations were presented.

5-0 in favor to proceed with staff recommendations.

**2:00 PM Sheriff's Office Update**

**Tyler Brown, Sheriff**

**3:00 PM \*Executive Session**

**Executive Session and County Attorney Administrative Meeting [Section 24-6-402(4)(b)C.R.S.](As required by law, specific agenda topics will be announced in open meeting prior to the commencement of the closed and confidential portion of this session)**

**Ron Carl, County Attorney**

**The motion was made by Commissioner Baker and duly seconded by Commissioner Campbell that the Board go into executive session pursuant to section 24-6-402(4)(b) of the Colorado Revised Statutes, to receive legal advice regarding:**

- 1) Senate Bill 25-001, and**
- 2) Recently issued presidential executive orders.**

**The motion passed 5-0.**

**The meeting was adjourned.**

**\*Virtual/Streamed**

**MINUTES OF THE REGULAR MEETING OF THE  
ARAPAHOE COUNTY PLANNING COMMISSION  
TUESDAY, MARCH 4, 2025**

<b>ATTENDANCE</b>	<p>A regular meeting of the Arapahoe County Planning Commission (PC) was called and held in accordance with the statutes of the State of Colorado and the Arapahoe County Land Development Code.</p> <p>The following Planning Commission members were in attendance: Rodney Brockelman; Brooke Howe; Kathryn Latsis; Randall Miller; Dave Mohrhaus, Chair Pro-Tem; Richard Sall; and Lynn Sauve, Chair.</p> <p>Also, present were Matt Hader, Senior County Attorney; Ava Pecherzewski, Development Review Planning Manager (moderator); Molly Orkild-Larson, Principal Planner; Kat Hammer, Senior Planner; Sue Liu, Engineer; Ernie Rose, Senior Planner; and Kim Lynch, Planning Technician.</p>
<b>CALL TO ORDER</b>	<p>Ms. Sauve called the meeting to order at 6:30 p.m., and roll was called. The meeting was held in person and through the Granicus Live Manager platform with telephone call-in for staff members and the public.</p>
<b>GENERAL BUSINESS ITEMS:</b>	
<b>APPROVAL OF THE MINUTES</b>	<p><b>The motion was made by Ms. Latsis and duly seconded by Mr. Brockelman to accept the minutes from the <u>February 18, 2025</u>, Planning Commission meeting, as submitted.</b></p> <p><b>The vote was:</b></p> <p><b>Mr. Brockelman, Yes; Ms. Howe, Yes; Ms. Latsis, Yes; Mr. Miller, Yes; Mr. Mohrhaus, Yes; Mr. Sall, Abstain; and Ms. Sauve, Yes.</b></p>
<b>PUBLIC HEARING ITEMS:</b>	
<b>ITEM 1</b>	<p><b>CASE NO. LE24-003, RANGEVIEW BOX ELDER WELL FIELD #2 / LOCATION AND EXTENT (LE) – KAT HAMMER, SENIOR PLANNER; SUE LIU, ENGINEER – PUBLIC WORKS AND DEVELOPMENT (PWD)</b></p> <p>Ms. Sauve asked the County Attorney if the PC had jurisdiction to proceed. Mr. Hader said that Case No. LE24-003 had been properly noticed, and the PC had jurisdiction to proceed.</p> <p>Ms. Hammer said Rangeview Metropolitan District (Rangeview) was requesting approval of an LE application to construct the Box Elder Creek Well Field 2 project, which consisted of four horizontal wells, approximately five miles of 24-inch transmission pipeline, and approximately 3,800 feet of 12-inch pipeline that</p>

connected the horizontal wells to the 24-inch transmission main. She explained the horizontal wells would allow Rangeview to capture a portion of their water rights in the Box Elder Creek drainage basin and use that water for municipal use by conveying that water to the existing Lowry Ridge Storage Pond and future water treatment complex located approximately four and a half miles northwest of the horizontal wells. She stated the proposed pipeline would follow existing utility corridors from the proposed well field to the existing Lowry Ridge Storage Pond and would be constructed on a Rangeview utility easement granted by the Colorado State Land Board. She reported that no new access roads were proposed for the facilities, and construction traffic would utilize existing entrances to the parcels off East Quincy Avenue and County Line Road. She added that no above-ground structures were proposed, and all existing grades would remain the same following pipeline and well construction. She said the Staff was concurrently reviewing the associated Technical Review Amendment (Case No. AA24-014) to the Sky Ranch 1041 Permit for Water and Wastewater (Case No. ASI16-005) and had included a condition of approval requiring approval of the Technical Review Amendment. She explained that AA24-014 was required because the original 1041 application did not show the proposed extension of the water system. She reported that Colorado Parks & Wildlife had submitted recommendations that day, and these had been added to the updated conditions of approval, where Condition 3 was added. She concluded Staff had reviewed the plans, supporting documentation, referral comments, and external agency input in response to this application and based upon a review of applicable policies and goals in the Comprehensive Plan, review of the development regulations, and analysis of referral comments, Staff recommended approval of the project.

Mr. Brent Brouillard of Rangeview Metro District reiterated that significant infrastructure had been constructed by Rangeview across the central portion of Arapahoe County, roughly between S. Gun Club Road and S. Manila Road to help support the water needs of the Sky Ranch Planned Unit Development (PUD) and included the Sky Ranch Water Reclamation Facility, Sky Ranch Water Supply Facility, Box Elder Creek Well Field, Sky Ranch and Lowry Storage Ponds, and numerous groundwater wells and pipelines to meet the water needs for the initial phases of Sky Ranch through the platting of Filing 6. He stated that as the community expanded, additional infrastructure was required to meet the associated water and wastewater demands. He explained that Alluvial Well Diversion was proposed to meet these needs, and the 4 additional wells to be drilled under the ephemeral Box Elder Creek would be added to the Lowry Ridge transportation pipeline as demonstrated. He concluded that these would add a renewable water supply for current and future development in the area.

There was discussion around the following concerns:

- What was the impact of this drain on Box Elder Creek to existing wells of the rural neighbors to the development?
- How was the amount of water diversion controlled?
- Will you ask for additional wells going forward?
- How are pumps powered?

- How many more households would this system serve?

Mr. Brouillard said that existing wells in the area were pumped from the local aquifers that were much deeper than the 25-foot depth of the proposed alluvial wells and were not fed by the creek. He reported that permits would be issued for permitted well capacities and 600 acre/ft would likely be diverted annually. He explained that several thousands of acre feet of flowed annually as was known from ongoing studies. He stated additional wells would not be requested but increased diversion could be requested. He said the pumps would be powered electrically and because they were subterranean, noise would be minimal so they could not be heard unless one was in close proximity. He estimated this system would provide one-half to two-thirds of the Sky Ranch Development needs.

Ms. Sauve opened the hearing for public comments. There were 3 members of the public present who spoke and there were no callers who wished to speak. Speakers raised concerns about impacts to wildlife habitats, fire hazards, property values dropping if creek was pumped dry and whether an EPA impact report would be required. The public hearing was closed.

Mr. Brouillard reported an Environmental Report was provided with this application and addressed most of these concerns, the rest would be part of the conditional approval and water rights would be addressed with the augmentation legal process and the project proceeded.

Ms. Sauve reminded the Commissioners the PC vote in this case would approve or deny the project and it would not go on to the Board of County Commissioners (BOCC) for final approval. Mr. Miller voiced his opposition to the project and suggested there was uncertainty that water rights of rural residents were protected in this case.

**The motion was made by Mr. Mohrhaus and duly seconded by Ms. Latsis, in the case of LE24-003, Rangeview Box Elder Well Field 2- Location And Extent, I have reviewed the staff report, including all exhibits and attachments, and have listened to the applicant's presentation and any public comment as presented at the hearing and hereby move to approve this application based on the findings in the staff report, subject to the following conditions:**

- 1. Prior to signature of the final copy of these plans, the applicant must address Public Works and Development Staff comments and concerns.**
- 2. Approval of this Location and Extent is contingent upon approval of the associated Technical Review Amendment to the Sky Ranch 1041, Case Number AA24-014.**
- 3. The applicant shall use best efforts to comply with the following CPW recommendations:**
  - a. Conduct and provide to CPW the results of Burrowing Owl surveys in accordance with Colorado Parks and Wildlife's Burrowing owl survey protocol if work is to be conducted between March 15 – August 31.**

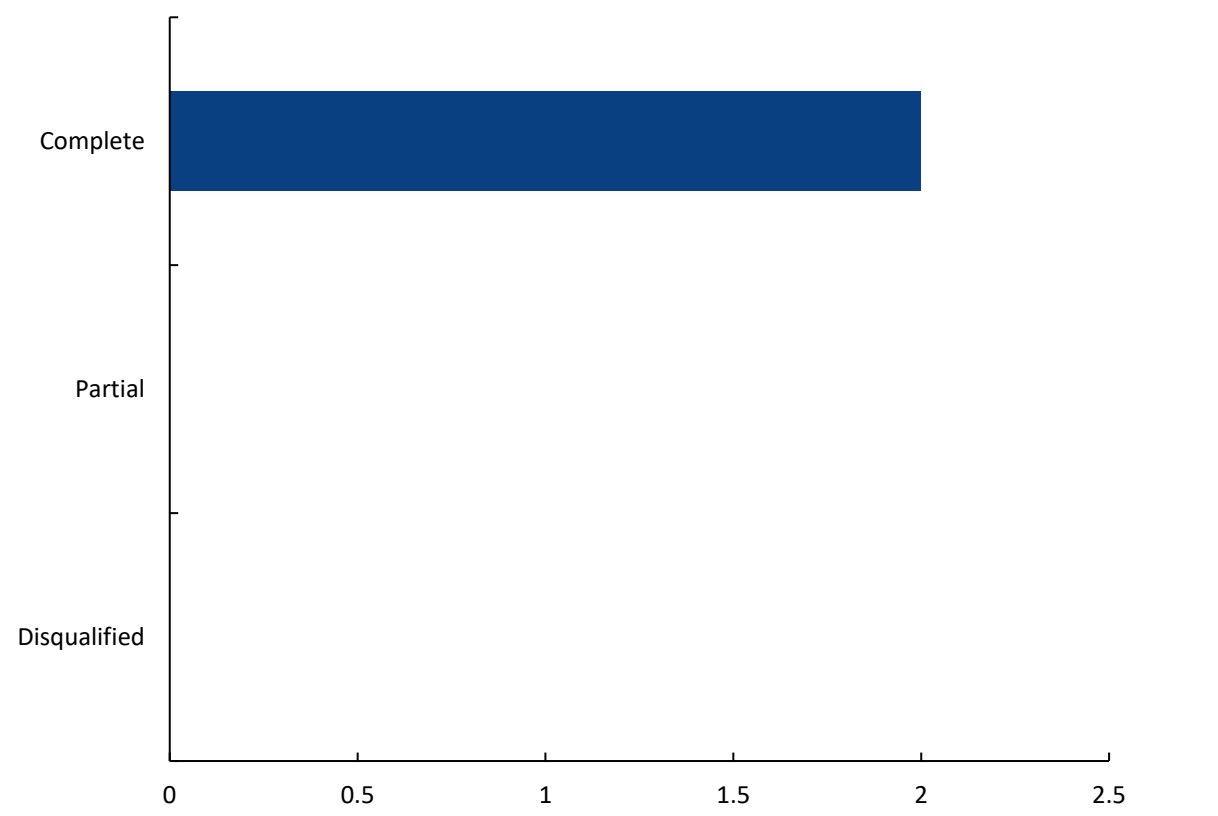
	<p>b. Conduct and provide to CPW the results of raptor nest surveys prior to construction.</p> <p>c. To the extent commercially reasonable, construction should not occur within mapped Mule Deer Migration Corridor, Mule Deer Winter Concentration Area, and Pronghorn Winter Concentration areas during the big game winter timing (December 1 – April 30).</p> <p>d. Use best management practices to avoid impacts to Box Elder Creek and follow 404 permit regulations set by the Army Corps of Engineers.</p> <p>The vote was:</p> <p>Mr. Brockelman, No; Ms. Howe, No; Ms. Latsis, Yes; Mr. Miller, No; Mr. Mohrhaus, Yes; Mr. Sall, Yes; Ms. Sauve, Yes.</p>
<p align="center"><b>STUDY SESSION ITEMS:</b></p>	
<p><b>ITEM 1</b></p>	<p><b>LAND DEVELOPMENT CODE (LDC) UPDATE - COMMERCIAL MOBILE RADIO SERVICE (CMRS) TO WIRELESS COMMUNICATION FACILITIES (WCF) - ERNIE ROSE, SENIOR PLANNER– PUBLIC WORKS AND DEVELOPMENT (PWD)</b></p> <p>Mr. Rose said this County-initiated effort proposed to modify the LDC concerning Wireless Communication Facilities (WCF), which were currently referred to as Commercial Mobile Radio Service (CMRS) throughout the document. He stated the proposed amendment would retitle the CMRS regulations to WCF and provided the ground rules for development, which was a significant part of implementing the Comprehensive Plan's goals and policies. He said this update aimed to ensure that the regulations remained relevant and effective in addressing advancements in communication technology while complying with legal requirements and noted to assist with this update, staff hired Clarion Associates, who had since developed the revised WCF code amendment to incorporate potential technological advancements across all types of wireless communications, including CMRS. He explained the County's current regulations for wireless communication facilities on private property were outlined in several sections of the LDC that pertained specifically to CMRS and these needed to be updated to account for minor modifications to existing facilities, to encourage or mandate colocation, and to provide alternative locations, such as rooftops. He added the existing wireless section of the code failed to effectively communicate to the public that Federal Communications Commission (FCC) regulations significantly constrained the County's authority to deny or impose conditions on "eligible facilities" that did not result in substantial expansion or alteration of current wireless structures which were listed as a priority to ensure compliance with federal law and because of their potential to reduce public misunderstanding and controversy over decisions that were, in fact, not within the County's control. He reported Staff was monitoring the status of House Bill 25-1056 (HB25-1056), introduced on January 8, 2025</p>

	<p>which aimed to streamline the permitting process for wireless telecommunications facilities and included direction for local governments to approve applications for new or modified wireless towers within a designated (60 day) timeframe and prohibited local governments from imposing additional permit requirements when a provider removes or replaced existing equipment, provided the provider notified the regional government in advance. He said if HB25-1056 passed, the proposed draft regulations would be adjusted accordingly. He requested PC review of the proposed new regulations and to evaluate these draft amendments to the regulations and provide feedback and recommendations before advancing this for public comments and to a public hearing before the Planning Commission.</p>
<b>ANNOUNCEMENTS</b>	<p>Ms. Orkild-Larson announced that the March 18<sup>th</sup> public hearing would be held at the 5334 S Prince St. Admin Building in the East Hearing Room to discuss a subdivision of a parcel of land to create two lots. This application is part of a development located in Jefferson County consisting of 25 lots (23 lots in Jefferson County and 2 lots in Arapahoe County). Jefferson County has approved the portion development project located in their jurisdiction. The main concerns of the public for this plat include using of W. Christensen Lane for access to this development, proposed culvert, and drainage.</p> <p>Ms. Pecherzewski said the 4-1-2025 meeting would likely be cancelled so PC Officer elections were scheduled for the 4-15-2025 Public Hearing to be held in the usual location here at Lima Plaza. She also said that a Study Session for short term rentals regulations was currently not scheduled but was under discussion.</p>
<b>ADJOURNMENT</b>	<p>There being no further business to come before the Planning Commission, the meeting was adjourned.</p>

# Report for PWD Wireless Communication Facilities

PWD Wireless Communication Facilities

Response Statistics



	Count	Percent
Complete	2	100
Partial	0	0
Disqualified	0	0
Totals	2	

**1. Please write your comments in the space provided below:**

Response ID	Response
1	Test
2	<p>The lack of cell service in the Greenwood Village area, due to a small group of activists, is a safety issue. This group has blocked the upgrades to a system installed in Orchard Park. If the county can help, residents would be very grateful. I have tried to find out why the Cherry Creek Park and Recreation district has been working against the long overdue upgrades but the board has refused to answer questions and has prevented citizens from finding out why taxpayer funds are used to hire lawyers to block the upgrades. One of the board works for a competitor in the wireless business and should recuse but instead has worked to prevent the upgrades. This situation is deeply disappointing to the many residents who have lacked wireless service for years and has led to a perception that our local representatives are using their positions for personal gain and against the wishes of residents. We need transparency and access to vital wireless service.</p>

N. ANDREW ROTENSTREICH, SHAREHOLDER  
Direct Dial: 205.250.8304  
E-Mail Address: [arotenstreich@bakerdonelson.com](mailto:arotenstreich@bakerdonelson.com)

April 30, 2025

**VIA ELECTRONIC MAIL ([jreynolds@arapahoegov.com](mailto:jreynolds@arapahoegov.com))**  
**and FEDERAL EXPRESS**

Jason Reynolds AICP  
Planning Division Manager  
Department of Public Works and Development  
Arapahoe County, CO  
6924 S. Lima Street  
Centennial, CO 80112

Re: Arapahoe County, Colorado Wireless Telecommunications Ordinance

Dear Mr. Reynolds:

Our firm represents Verizon Wireless (“Verizon”) in its efforts to enhance its cellular coverage in and around Arapahoe County, Colorado (the “County”). We appreciate the opportunity to provide comments on the County’s telecommunications zoning ordinance (the “Ordinance”). In an effort to better serve the County and ensure a collaborative approach to maintaining and enhancing telecommunications facilities in the area, we attach several of our notes to the Ordinance hereto as Exhibit A and provide the following non-exhaustive comments for ease of review:

*Section 3-3.8(C)(2) – Radio Frequency Standards*

This section contradicts 42 U.S.C. § 332(c)(7)(B)(iv), which gives the federal government the sole authority to adopt standards regarding radiofrequency (“RF”) emissions and preempts local governments from policing radio frequency emissions. We suggest limiting this provision to require only an engineer’s certification that the wireless communication facility (“WCF”) complies with applicable federal standards for RF emissions.

*Section 3-3.8(D) – Preferred WCF Type*

This section provides a waterfall list of preferred types of facilities and requires an applicant to submit “written documentation demonstrating that each of the preferred types listed before the chosen type of facility were not feasible and the chosen type is necessary to close a coverage gap.” Verizon and other telecommunications carriers commonly undertake such an analysis when choosing a site and facility type. However, the Ordinance’s language oversteps the County’s regulatory authority and is in conflict with federal law by requiring the applicant to use certain technologies (e.g., small cells). The industry generally is prepared to document its inability to use existing towers and existing rooftop sites within the documented “search ring,” but not to justify its use of macro towers over small cell technology.

Additionally, the Ordinance allows the County to request a third-party technical study to determine the feasibility of siting the WCF on a property type higher on the preference list. The study must be conducted at a “reasonable cost,” but the section provides no timeline for when this study must be completed, no cap on any costs to the applicant, and no ability for the applicant to question the qualifications of such party preparing the “technical study.” We suggest a one-week time limit, \$1,000 expense limit to the applicant, and the ability of the applicant to question the study and/or its author(s).

*Section 3-3.8(E)(1) – Design Standards for All WCFs*

a. Camouflage or Concealment Techniques

This section provides that “all WCFs and related transmission equipment *must* use design, camouflage, or concealment options that will blend the WCF to the surrounding natural setting and/or built environment.”

Many WCFs are located at sites where stealthing is unnecessary or would serve no reasonable purpose (e.g., an industrial site). Furthermore, standard stealthing techniques can prove more visually obtrusive than a standard monopole design in many locations. Subsection (i) of this section imposes a heightened concealment standard for WCFs located within a park/open space or near historic or aesthetically significant structures. Federal law provides a heightened diligence process for designated historic properties.<sup>1</sup> Referencing federal guidelines may provide additional clarity as to when and where the heightened concealment standard applies.

*Section 3-3.8(E)(1) – Design Standards for All WCFs*

g. Landscaping and Screening

This section imposes the County’s existing Fence Regulations on WCFs while prohibiting chain link fences used to screen WCFs. However, the Fence Regulations require chain

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<sup>1</sup> 47 CFR § 1.1307.

link fences in certain zones. Please provide clarification as to the use of chain link fences to screen WCF's when located in zones where chain link fences are required.

*Section 3-3.8(G) – Definitions*

During our review, the location of the definition section created some difficulty in understanding the Ordinance. For ease of reading and understanding, we suggest moving the definitions to the beginning of the Ordinance.

Alternative Tower Structures. This definition provides a seemingly non-exhaustive list of examples of Alternative Tower Structures but does not specify in Section 3-3.8(D) whether the applicant must show that each of those examples was not feasible before applying for a “less preferred” facility. Please add a clarifying statement to Section 3-3.8(D) or Section 3-3.8(E)(2)(b) because it would be overly burdensome and impractical to require providers to show that each Alternative Tower Structure type from a large, non-exhaustive list was technically infeasible before a “less preferred” facility could be deployed.

*Section 5-3.8(A) – WCF Procedures (Applicability)*

Subsection 2 of this section requires a building permit to provide maintenance to WCF facilities or minor repairs. This requirement is burdensome for carriers as a permit may be required even for routine maintenance. We suggest setting a specific threshold for the scope of work involved before a permit is required (e.g., a permit is required if the work will take longer than one week to complete).

*Section 5-3.8(B)(1)(c) – Review Process for WCFs (Neighborhood Notice and Meetings)*

Please provide clarification as to notice procedures for neighborhood meetings. While the Ordinance provides some details, it also states that the notice shall ultimately be given “in a manner determined by the County” and that the Planning Division Manager may increase the notification area. This Ordinance structure adds too much ambiguity and poses substantial compliance challenges for applicants attempting in good faith to establish plans to comply with the County's requirements.

*Section 5-3.8(B)(2)(b) – Review Process for Eligible Facilities Requests (Review Criteria)*

Subsection (iii) and (iv) of this section are duplicative and already provided for in the definition of “Substantial Change.”

We look forward to discussing this further. Please do not hesitate to contact me if you have any questions or need additional information.

April 30, 2025  
Page 4

Sincerely,

BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, PC

A handwritten signature in blue ink, reading "N. Andrew Rotenstreich". The signature is fluid and cursive, with the first name "N. Andrew" and last name "Rotenstreich" clearly visible.

N. Andrew Rotenstreich

Enclosures/Exhibits A

cc: Verizon Wireless

**EXHIBIT “A”**

**SEE ATTACHED.**

TABLE 3-2.1 PERMITTED USE TABLE																							
P = Permitted, A = Accessory, SR = Use by Special Review, SE = Use by Special Exception, T = Temporary Use/Temporary Use Permit Required, Blank = Not Permitted																							
	Agriculture and Residential <sup>[1]</sup>												Non-Residential <sup>[1]</sup>								PUD Districts <sup>[2]</sup>	Overlay	Use Specific Standard
	A-E	A-1	RR-A	RR-B	RR-C	R-1-A	R-1-B	R-1-C	R-1-D	R-2-A	R-2-B	R-M	B-1	B-3	B-4	B-5	I-1	I-2	F <sup>[3]</sup>	O	PUD	SBC-O	Code Section
Telecommunications and Towers																							
Broadcast Tower Facility and Other Commercial antennas and radio towers	SE																			SE	Per Approved General, Specific, Preliminary or Final Development Plan		
Wireless Communication Facilities (WCF)																							
Attached (Structured Roof, or Building-Mounted)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P		P	3-3.8.A
Alternative Tower Structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	3-3.8.A	
Small Cell Facilities in the ROW	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	3-3.8.A	
Tower	P	P	P										P	P	P	P	P	P			Per Approved General, Specific, Preliminary or Final Development Plan		3-3.8.A
Temporary	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		T	3-3.8.A
Over-height Towers	SE	SE	SE										SE	SE	SE	SE	SE	SE				SE	3-3.8.A
Telephone exchanges and similar buildings housing tele-communication equipment																	P	P					
Small Wind Energy Conversion System	P	P	P	P	P	P	P					SE											3-3.8.B

Field Code Changed

### 3-3.8 Wireless Communication Facilities (WCF) (formerly known as CMRS)

#### A. INTENT

The intent of this section is to:

1. Provide for the managed development, installation, maintenance, modification, and removal of wireless communications infrastructure in the county, that uses the fewest number of WCFs to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;
2. Accommodate the wireless communication needs of the county residents, businesses, and visitors, while protecting the public health, safety, general welfare, and visual environment of the county;
3. Enhance the ability to provide wireless services to county residents, businesses and visitors, while using performance standards and incentives to promote location of WCFs on concealed structures and existing buildings;
4. Ensure that WCFs minimize adverse visual impacts through careful design, appropriate siting, landscape screening, and innovative camouflaging techniques;
5. Encourage the joint use of new and existing WCF locations and reduce the number of towers needed to serve the county by requiring facilities to be placed on existing structures and requiring collocation of WCF providers on existing and new towers to the maximum extent possible;
6. Encourage owners and users of WCFs to locate them in areas where the adverse impact to the community is minimized to the maximum extent practicable;
7. Enhance the ability of wireless communications service providers to provide those services the community quickly, effectively, and efficiently;
8. Comply with all federal laws and regulations regarding WCFs, including but not limited to regulations related to Eligible Facilities as defined by federal regulations;
9. Effectively manage WCFs in the public right-of-way; and
10. Provide an administrative process to replace modify, repair, update equipment via the building permit application process.

#### B. APPLICABILITY

1. General
  - a. This Section 3-3.8 shall apply to all WCFs not located in County rights-of-way and to those attached non-small cell WCF permitted in the County rights-of-way pursuant to Section 3-3.8.E.2.a.i(e).
  - b. WCFs that are not located in County rights-of-way are permitted as indicated in Section 3-2, Permitted Use Table.
  - c. All WCFs shall conform to the provisions of the zoning district in which the WCF is located unless otherwise provided for in this Section 3-3.8.
  - d. Except as stated in Subsection h. below, all WCFs shall comply with the provisions in the approved Final Development Plan, Preliminary Development Plan, Master Development Plan, General Development Plan, or Specific Development Plan, as applicable.
  - e. Except as stated in Subsection h. below, all WCFs shall comply with the provisions in the approved Location and Extent Plan, Administrative Site Plan, and Use by Special Review for the parcel, as applicable.
  - f. These WCF regulations in this Section 3-3.8 shall apply where an approved Preliminary, Master, Final, General or Specific Development Plan, as applicable, does not address provisions addressed by these regulations.
  - g. The Eligible Facilities Request procedure in Section 5-3.7.B.2 shall apply to all properties in the county, including, but not limited to, those in a PUD zone district, regardless of whether such WCFs are referenced in any Preliminary, Final, Master, General, or Specific Development Plan, as applicable.
2. Small Cell WCFs in the Right-of-Way

Small Cell WCFs within County rights-of-way are subject only to the standards set forth in Section 3-3.8.C, Operational Standards, of this LDC and Chapter 14, Small Cell Wireless Communication Facility (WCF) Regulations, of the Infrastructure Design and Construction Standards.

Field Code Changed

3. Exceptions

The requirements set forth in this Section 3-3.8 shall not apply to:

a. Pre-Existing WCFs

- i. Any WCF lawfully operating on the effective date of this section that is inconsistent with the provisions of this LDC shall be deemed a nonconforming use as provided for in this LDC.

Any WCF for which a permit has been properly issued prior to the effective date of this section and does not qualify as an Eligible Facilities Request shall not be required to comply with this Section 3-3.8 provided the proposed work is for minor repairs and/or painting that is consistent with the building or facility on which it is mounted.

- ii. Any modifications to a pre-existing WCF that qualifies as an Eligible Facilities Request shall be evaluated under Section S-3.7.8.2, Review Process for Eligible Facilities Requests.

b. Amateur Radio Antennas

Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive-only antennas, provided the antenna is no taller than the distance from the footprint of the antenna structure to the property line.

c. OTARD (Over-the-Air Receiving Device) and Similar Antennas

Antennas used for reception of television, multichannel video programming, and radio such as OTARD antennas, television broadcast band antennas, and broadcast radio antennas, provided that the antenna complies with all applicable standards in this Code related to accessory uses, and provided the antenna is no taller than the distance from the base to the property line. The Planning Division Manager has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures if the Planning Division Manager determines that modifications are necessary to comply with federal law.

d. Emergency Antennas

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 County.

C. OPERATIONAL STANDARDS

1. Federal and State Requirements

All WCFs shall meet the current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC) and any other agency of the federal or state government with the authority to regulate WCFs. If those standards and regulations are changed in the future, the owners of each WCF subject to this Section 3-3.8 shall bring the facility into compliance with the revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations within the required time period shall be a violation of this LDC and shall constitute grounds for the removal of the WCF by the County at the owner's expense - pursuant to paragraph 5. below.

2. Radio Frequency Standards

- a. All WCFs shall comply with federal standards for radio frequency emissions. If concerns regarding compliance with radio frequency emissions standards for a WCF have been made to the County, the County may request that the owner or operator of the WCF provide information demonstrating compliance. If the Planning Division Manager determines that the information suggests that the WCF may not be in compliance, the County may request the owner or operator of the WCF to submit a certification from a qualified Radio Frequency (RF) engineer that the proposed WCF complies with all applicable radio frequency emission health standards.

- b. If, upon review, the County finds that the facility does not meet Federal standards, the County may require corrective action within 30 days or a period of time agreed to between the County and the WCF operator. If noncompliance is not corrected, the WCF may be removed pursuant to paragraph 5. below. Any costs incurred by the County, including consulting costs

Commented [NM1]: Please see Memorandum notes regarding this section

Field Code Changed

to verify compliance with these requirements, shall be paid by the owner or operator of the WCF.

3. 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 used by adjacent residential and non-residential properties; and such facilities shall not interfere with any public safety communications.

4. 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 County building codes. If upon inspection the County concludes that a WCF fails to comply with any applicable codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall bring the WCF into compliance within 30 days from the date of notice. Upon good cause shown by the owner, the County's Chief Building Official may extend such compliance period not to exceed 90 days from the date of the notice. If the owner fails to bring such WCF into compliance within the required time period, the County may remove such WCF at the owner's expense.

5. Abandonment and Revocation

All WCFs are subject to the abandonment and revocation procedures set forth in Section 6-1, Wireless Communication Facility (WCF).

6. Hazardous Materials

No hazardous materials, as defined in C.R.S. 25-15-101 shall be permitted in association with WCFs, except those necessary for the operations of WCF and only in accordance with all applicable laws governing such materials.

D. PREFERRED WCF TYPE

1. The County's preferred types of WCF are listed below in order of preference, the County's highest preference listed first. The applicant shall choose the type of facility highest in preference that provides the type of service required, to the maximum extent practicable.

- a. Attached WCFs that qualify as an Eligible Facilities Request
- b. Existing Alternative Tower Structures that qualify as an Eligible Facilities Request
- c. Existing Towers that qualify as an Eligible Facilities Request
- d. Small Cell WCFs within County rights-of-way subject to Section 3-3.8.B.2.
- e. Attached WCFs that qualify as an Eligible Facilities Request
- f. Alternative Tower Structures that qualify as an Eligible Facilities Request
- g. Towers that do not qualify as an Eligible Facilities Request

2. If the application proposes a WCF type other than a. above, the applicant shall provide written documentation demonstrating that each of the preferred types listed before the chosen type were not feasible and the chosen type is necessary to close a coverage gap. ~~The County may require a third-party technical study at the expense of either or both parties to determine the feasibility of a WCF type higher on the preferred list. If a study is requested by the County, it shall be conducted at a reasonable cost and with minimum necessary effort to make a determination regarding the technical possibility of collocation.~~

E. DESIGN STANDARDS

1. Design Standards for All WCFs

The following design standards shall apply to all WCFs subject to this Section 3-3.8, provided, however, that the Planning Division Manager may waive any of these standards if the Manager determines that the Intent ~~in as~~ stated in Section 3-3.8.A are better served by the waiver. WCFs shall be designed and located to minimize impact on the surrounding area and to maintain the appearance of the county, consistent with other provisions of this LDC and the following:

**Commented [WH2]:** County should specify who at County can request such study; parameters for cost and detail of study is too vague; per Memo, section should probably be deleted

**Field Code Changed**

a. Camouflage or Concealment Techniques

To the extent feasible, All WCFs and any related transmission equipment shall ~~not be visibly apparent and use design, camouflage or concealment options that will blend the WCF to the surrounding natural setting and/or built environment and that are customarily used in the wireless industry.~~ Design camouflage or concealment options shall be compatible with structures and vegetation on sites located in the right-of-way and on adjacent parcels and comply with the following:

**Commented [NM3]:** Please see Memorandum notes regarding this section.

- i. Design is of heightened importance when a WCF is within a park or open space, or near ~~historic or aesthetically significant structures, views, and/or community features.~~ In those instances the WCFs shall be designed to minimize the ~~WCF profile to the maximum extent practicable visual impact on park, open space, historic or aesthetically significant structures or nearby features to the extent practicable, while allowing the reasonable deployment of such services in a way customarily used in the wireless industry.~~
- ii. All WCFs shall be constructed so that visible exterior surfaces are finished with non-reflective materials.

**Commented [NM4]:** Please see Memorandum notes regarding this section.

b. Signage

~~Signage is limited to non-illuminated signs required by local, state, or federal law, not to exceed six feet in height and a maximum of six square feet in area. This does not apply to Alternative Tower Structures incorporated into freestanding signs, as otherwise permitted in this LDC.~~

**Commented [NM5]:** This section is duplicative and should be deleted in its entirety as Signage is now regulated by newly added subsection (i) below.

~~e. Accessory Uses~~

- ~~i. All accessory equipment shall be in enclosed structures.~~
- ~~ii. Accessory outdoor storage is prohibited on Alternative Tower Structure and Tower sites.~~

~~d.c.~~ Collocation

No WCF provider shall exclude other providers from collocating on the same facility or location when collocation is structurally and technically possible, or when approval of the collocation is required by federal regulations related to Eligible Facilities Requests. ~~Rent to be charged by the WCF owner shall be reasonable and customary in the wireless industry.~~

~~e.d.~~ Lighting

- i. Lighting is prohibited, unless required by the FAA or other governmental authority for security or other purposes, or unless the WCF is mounted on a light pole, sports field lighting, or other similar structure primarily used for lighting purposes.
- ii. If lighting is required by a governmental authority, the County may review the available lighting alternatives and ~~approve suggest at the~~ design that would cause the least disturbance to surrounding views. ~~Lighting shall be shielded or directed toward the ground to minimize glare and prevent light falling onto nearby properties, particularly residences.~~

~~f.e.~~ Noise

- i. Any noise generated on the site shall not ~~be measurable at any property line and shall not otherwise exceed the standards permitted by local regulation for other uses subject to such regulations.~~
- ii. Subsection i above shall not prohibit:
  - (a) Noise emitted for a period of up to two hours while repairs or regular maintenance or upkeep of the WCF are completed; or
  - (b) Generators used in emergency situations where the regular power supply for a facility is temporarily interrupted.

~~g.f.~~ Landscaping and Screening

- i. The siting of WCFs shall not reduce the area required to be landscaped under this LDC.
- ii. All landscaping shall comply with the applicable landscaping requirements of this LDC.1

**Field Code Changed**

- iii. Existing vegetation, except noxious weeds, and grades on the site shall be preserved to the maximum extent practicable.
- iv. When any part of the ground equipment of a WCF is visible from the public right-of-way or adjacent properties, it shall be screened from public view in a manner consistent with the camouflage and concealment methods described in paragraph a., above. Screening may include the use of architectural elements, fencing, landscaping, or other suitable screening methods for the site.
- v. Required solid screen fences shall not exceed six feet in height and shall meet the standards of Section 4-1.3.N, Fence Regulations, ~~except that the use of chain-link fencing to screen WCFs is prohibited.~~
- vi. Landscaping in the ROW may require review by the Engineering Services Division and approval of any necessary license agreements.

**Commented [NM6]:** Please see Memorandum notes regarding this section.

**h.g. Fire Protection**

All WCFs shall be sited and built to address International Fire Code standards as adopted by the fire protection district with jurisdiction over the facility, and if in a mapped wildfire hazard area shall provide defensible space and adequate vehicle access for emergency equipment.

- i. Signs  
No signs shall be allowed on any WCF except as may be required by federal law.

**2. Design Standards by WCF Type**

**a. Attached WCFs**

**i. LOCATION**

- (a) Attached WCFs shall be located on existing structures, including but not limited to buildings, water towers, broadcast towers, and related facilities.
- (b) No WCF shall be placed on buildings used for single-family residential purposes in any zone district.
- (c) In the RR-B, RR-C, R-1-A, and R-M districts, and in the residential component of PUD districts, Attached WCFs shall only be installed on lots containing allowed primary Civic, Cultural, or Public Uses, as shown in Section 3-2, Permitted Use Table.
- (d) In all agricultural and residential districts, including the residential component of PUD districts, Attached WCFs are prohibited on Accessory Dwelling Units, live/Work, Single-Family Detached, Single-Family Detached Cluster, Townhome, Two-Family, Manufactured Home, and Mobile Home Dwellings structures, whether occupied by Household Living or Group Living uses.
- (e) Attached WCFs may be located in County rights-of-way, on a case-by-case basis and subject to review and approval from the Public Works and Development Department and the approval of a right-of-way permit. Attached WCFs may be allowed on an existing traffic signal light pole, street light standard, utility pole, or other vertical infrastructure, or on a replacement traffic signal light pole, street light standard, utility pole, or other vertical infrastructure, provided that:
  - (i) The facility is not a Small Cell Facility as defined in this LDC;
  - (ii) The owner of the vertical infrastructure approves the use;
  - (iii) The facility does not exceed the height of the existing infrastructure on which it is mounted by more than eight feet;
  - (iv) The facility meets the required setbacks for similar structures as determined by the Public Works and Development Department based on considerations of public and traffic safety requirements;
  - (v) The facility meets all applicable standards of the Infrastructure Design and Construction Standards;
  - (vi) The facility is structurally and visually similar to existing vertical infrastructure; and
  - (vii) The facility continues the function of the existing vertical infrastructure.

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ii. HEIGHT AND SETBACKS

- (a) Attached WCFs shall be subject to the minimum building setbacks and maximum height limitations of the underlying zone district, except as follows:
  - (i) Attached WCFs and associated ground-based equipment may encroach up to 24 inches into the minimum building setbacks in the underlying zoning district but shall not extend over any property line in separate ownership.
  - (ii) Roof-mounted WCFs, including the antenna, transmission equipment, support structures and screening, may extend up to 15 feet over the height of the building or structure and may exceed the maximum height of the underlying zoning district by up to 15 feet, subject to any FAA height restrictions if located within an Airport Influence Area (AIA).

iii. DESIGN

Attached WCFs shall meet the camouflage and concealment standards in Section 3-3.8.E.1.a. Antennas shall be located, painted and/or screened to be architecturally and visually similar to or minimizes the visibility of the WCF on the building or structure it is attached to unless prohibited by state or federal requirements for that type of WCF.

b. Alternative Tower Structures

i. LOCATION

- (a) An Alternative Tower Structure shall only be approved if the Planning Division Manager determines that the applicant has born the burden of proving that there are no feasible existing structures upon which to locate an Attached WCF as described in Subsection 3-3.8.D.2.  
Alternative Tower Structures are prohibited on any property containing a principal residential use in the RR-A zone district.

ii. HEIGHT AND SETBACKS

- (a) Alternative Tower Structures shall be subject to the maximum height limitations of the underlying zone district.
- (b) When an Alternative Tower Structure is incorporated into an overall photometric plan, such as an Alternative Tower Structure being included on a parking lot light pole or on sports field lighting, the facility height shall be consistent with the pole height used for the parking lot or sports field.
- (c) In all zone districts except the A-E and A-I zoning districts, all Alternative Tower Structures shall be set back from each property line at least a distance equal to the tower height, or the minimum primary building setback in the underlying zoning district, whichever is greater. If a fall zone letter is provided by the owner or operator, such setbacks shall be reduced in accordance with the structural analysis therein.
- (d) As an exception to Subsection (c) above, when included as part of a public utility substation or attached to a high-tension power line tower within a utility corridor, the Alternative Tower Structure setback may be the same as the setback for the existing high-tension power line tower or substation.
- (e) An alternative setback may be approved by the Planning Division Manager, if the Manager determines that it complies with the following standards:
  - (i) The proposed Alternative Tower Structure will replace an accessory structure to an established principal use including but not limited to, signs, light poles, and flagpoles;
  - (ii) The required setback is at least 70 percent of the original required setback; and
  - (iii) The siting and location of freestanding facility substantially camouflages or conceals the presence of the Alternative Tower Structure and antennas from views and has less visual impact than would be achieved by applying the setback otherwise required by (a) through (c) above.

iii. DESIGN

**Commented [NM7]:** This section should include language regarding fall zone letters. If a fall zone letter is provided, the minimum set back requirement should be lowered pursuant to the structural analysis provided in the letter.

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- (a) If the applicant demonstrates that it is not feasible to locate a WCF on an existing structure, the Alternative Tower Structures shall meet the camouflage and concealment standards set forth in Section 3-3.8.E.1.a. ~~The structure shall be visually similar to or minimize the visibility of the WCF within the surrounding area and camouflage or conceal the presence of the Alternative Tower Structure and antennas. The structure shall be painted or coated in a color that blends with the surrounding building and natural environment, unless state or federal regulations require different colors.~~
- (b) ~~If the parcel on which an Alternative Tower Structure is located has frontage on a public street, street trees shall be planted along the roadway to provide additional screening to the maximum extent practicable.~~

**Commented [NM8]:** The design standard provided for in this section is subjective and overly burdensome.

**Commented [WH9]:** "Street trees" is undefined; planting standards are unspecified

**c. Towers**

**i. LOCATION**

- (a) A new Tower shall only be approved if the Planning Division Manager determines that the applicant proved that there are no feasible existing structures upon which to locate an Attached WCF and that an Alternative Tower Structure is also not feasible as described in Subsection 3-3.8.D.2.
- (b) In the A-E, A-I, and RR-A zone districts, towers are only on property containing a principal agriculture use.

**ii. HEIGHT AND SETBACKS**

- (a) Towers shall be subject to the maximum height limitations of the underlying zone district, except as follows.
  - (i) Towers in the A-E, A-1 RR-A, B-1, B-3, B-4, B-5, I-1, and I-2 zone districts that exceed the maximum height limitations of the underlying zone district may apply for a Special Exception Use Permit through the Board of Adjustment.  
Towers shall be setback from all property lines: at least a distance equal to the Tower height or the minimum building setbacks in the underlying zone district, whichever is greater. ~~Provided that, if a fall zone letter is provided by the owner or operator, the minimum building setback shall be lowered in accordance with the structural analysis therein.~~

**Commented [NM10]:** Maximum height limits vary from 35'-50', with 50' being the tallest. Essentially, all towers would either be precluded based on height or would need a Special Use Permit.

**Commented [NM11]:** The provision of a "fall zone letter" should lower this minimum set back requirement based on structural analysis.

**d. Accessory and Transmission Equipment**

**i. LOCATION**

- (a) All transmission and accessory equipment shall be ~~grouped as closely as technically possible enclosed within a secure compound area.~~
- (b) Ground-based equipment may be located within the rights-of-way on a case-by-case basis, if the Manager of Public Works determines that the location will protect the public health, safety and welfare of persons and vehicles using the public right-of-way.

**ii. SETBACKS**

All ground-based equipment shall meet the setbacks applicable to principal structures in the underlying zone district, unless an alternative setback is established for an Alternative Tower Structure.

**iii. DESIGN**

- (a) Transmission and accessory equipment, including equipment enclosures, shall be visually similar to the surrounding building environment ~~with consideration given to exterior materials, roof form, scale, mass, color, texture and character.~~
- (b) All roof-mounted equipment shall be screened from view from grade-level on each street abutting the property-view.

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- ~~(c) Ground-based equipment must be constructed with materials that are visually similar to the materials of the principal use.~~
- ~~(d) The maximum total footprint of each service provider's ground-based equipment storage shelter and/or cabinets shall not exceed 400 square feet and the maximum height of each equipment storage shelter and/or cabinet shall not exceed 15 feet in height. The Planning Division Manager may approve a request to increase the maximum allowable footprint of each service provider's equipment storage shelter and/or cabinets otherwise meeting the requirements of this section, provided that:~~
  - ~~(i) The amount of increase in the footprint of the ground-based equipment approved by the Planning Division Manager shall not exceed 30 percent of the maximum allowable footprint area; and~~
  - ~~(ii) The Planning Division Manager determines that the applicant has borne the burden of demonstrating demonstrated that a single, larger equipment enclosure would better integrate into the architecture and site design for the property where the equipment is to be located than multiple smaller cabinets for co-located facilities; that efforts have been made to incorporate the ground-based equipment into the design of the buildings and grounds for the principal use of the property; and that landscaping or other mitigating design elements have been included to enhance the visual appearance of the property and/or mitigate negative impacts from the larger ground-based equipment enclosure.~~

**Commented [NM12]:** Please see Memorandum note regarding this section.

#### F. REVIEW PROCEDURES

All WCF applications shall follow the review procedures set forth in Section 5-3.7, Wireless Communication Facilities (WCF) Procedures.

#### G. WCF-RELATED DEFINITIONS

The following terms shall have the following definitions when used in the context or regulating WCFs or applying the standards in Section 3-3.8: Wireless Communications Facilities.

**Commented [NM13]:** Please move to the beginning of this Section for clarity and ease of reading.

**Commented [NM14]:** Please see Memorandum notes regarding the Definitions.

1. 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 including fences.
2. Alternative Tower Structure  
Man-made trees, clock towers, bell steeples, light poles, traffic signals, flagpoles, artistic structures, and similar freestanding alternative design mounting structures, including attached antennas and antenna arrays. A stand-alone monopole (including a replacement pole) in the right-of-way that accommodates Small Cell Facilities is not considered an Alternative Tower Structure.
3. Antenna  
Any device used to transmit and/or receive radio or electromagnetic waves including but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devices and configurations, and exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of wireless communications signals.
4. Attached Wireless Communication Facility (WCF)  
A WCF that is affixed to an existing or proposed structure, including, but not limited to, buildings, water tanks, traffic signal light standard, utility poles, and broadcast towers.
5. Collocation  
The mounting or installing of a WCF on a pre-existing structure and/or the modification of a structure for the purpose of mounting or installing a WCF on that structure provided that, for purposes of Eligible Facilities Requests, "collocation" means the mounting or installation of

**Field Code Changed**

transmission equipment on an Eligible Support Structure for the purpose of transmitting and /or receiving radio frequency signals for communications purposes.

6. **Concealment Element**  
Any design element that ~~places a wireless communications facility out of view, hides it a wireless communications facility from being noticed,~~ blends ~~ita wireless communications facility~~ with its surroundings or otherwise minimizes the visual or aesthetic impact of the facility is a Concealment Element of an Eligible Support Structure.
7. **Eligible Facilities Request**  
Any request for modification of an existing Tower, Alternative Tower Structure, or Attached WCF that does not substantially change the physical dimensions of such Tower, Alternative Tower Structure, or Attached WCF involving: (i) collocation of new transmission equipment, (ii) removal of transmission equipment, or (iii) replacement of transmission equipment.
8. **Eligible Support Structure**  
Any Tower, Alternative Tower Structure, or Attached WCF, if it is existing at the time the relevant WCF application is filed with the County under Section 5-3.7, Wireless Communication Facilities (WCF) Procedures.
9. **Existing Tower, Alternative Tower Structure, or Attached WCF**  
A constructed Tower, Alternative Tower Structure, or Attached WCF that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law at the time it was built. For example, a Tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.
10. **Guyed Tower**  
A non-self-supported tower using a guy wire support framework under tension on a concrete base.
11. **Lattice Tower**  
A multi-legged freestanding framework tower with structural support provided by the framework sections of the tower. Each leg of the lattice tower has a separate concrete foundation.
12. **Micro Wireless Facility**  
A Small Cell Facility that is no larger than 24 inches long, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, no longer than 11 inches.
13. **Monopole**  
A single, freestanding pole-type structure supporting one or more antennas.
14. **Over-The-Air-Receiving-Device (OTARD) Antenna**
  - a. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or
  - b. 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 meter or less in diameter or diagonal measurement; or
  - c. An antenna that is designed to receive television broadcast signals.

15. **Visibly Apparent**  
~~A WCF that the Planning Division Manager determines will be easily recognizable as a WCF to a person able to view as a whole and in the context of any adjacent improvements and landscaping from publicly accessible locations, based on the Manager's review of the character, scale, and height of nearby and surrounding natural or architectural features. Due to differences in site characteristics, a determination that a particular WCF will not b visibly apparent at one location shall not establish a precedent for the same determination for a facility of the same or similar design or construction at a different location.~~

16. **Setback**  
The distance between a property line and the nearest point on an Alternative Tower Structure or Tower, including the structural foundation, antennas, reflectors, dishes and other appurtenances.

**Commented [NM15]:** This standard is nearly impossible as facilities are over 50' tall and it is unreasonable to require the facility to be "out of view."

**Commented [NM16]:** Please see Memorandum notes regarding this definition.

**Field Code Changed**

**17.16. Site**

The area comprising the base of the WCF structure and related accessory equipment deployed on the ground, and including any area leased to accommodate the WCF.

**18.17. Small Cell Facility**

- a. A wireless service facility that meets both of the following qualifications:
  - i. Each antenna is located inside an enclosure of no more than three 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 cubic feet; and
  - ii. Primary equipment enclosures are no larger than 17 cubic feet in volume. The following associated equipment may be located outside of 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 enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch; or
- b. A Micro Wireless Facility.

**19.18. Substantial Change**

~~Per the Code of Federal Regulations, AaA modification that substantially changes the physical dimensions of an Eligible Support Structure if, after the modification, the structure meets any of the following criteria as set forth in the Code of Federal Regulations:~~

- ~~a. For Towers, other than Alternative Tower Structures Towers in the public rights-of-way or other towers in the right of way, it increases the height of the tower by more than ten percent or by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other Eligible Support Structures, it increases the height of the structure by more than 10 percent or more than 10 feet, whichever is greater;~~
- ~~b. 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 tower more than 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 side of the structure by more than six feet;~~
- ~~c. 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 Attached WCFs, 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 percent larger in height or overall volume than any other ground cabinets associated with the structure;~~
- ~~d. For any Eligible Support Structure, it entails any excavation or deployment outside the current site, except that for Towers or any other Towers in the public rights of way, it entails any excavation or deployment of transmission equipment outside of the current site by more than 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;~~
- ~~e. For any Eligible Support Structure, it would defeat the Concealment Elements of the Eligible Support Structure. A change which undermines the Concealment Elements of an Eligible Support Structure will be considered to defeat the Concealment Elements; or~~
- ~~f. For any Eligible Support Structure, it does not comply with conditions associated with the siting approval of the construction or modification of the Eligible Support Structure 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 (aA.), (bB.), and (cC.), and (d.) 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 buildings' rooftops; in other circumstances, changes in height are measured from the dimensions of the Tower, Alternative Tower, or Attached WCF, inclusive of originally~~

**Commented [NM17]:** This section must mirror the Code of Federal Regulations.

**Field Code Changed**

~~approved appurtenances and any modifications that were approved prior to February 22, 2012.~~

**20.19. Temporary Wireless Communication Facility (WCF)**

A WCF designed for use while a permanent WCF or network is being designed or built or for a special event where many people attending require wireless communications. These are sometimes referred to as Cellular on Wheels.

**21.20. Toll and Tolling**

Toll and tolling shall mean to delay, suspend or hold off on the imposition of a deadline, statute of limitations or time limit.

**22.21. Tower**

Any structure built for the sole or primary purpose of supporting one or more FCC licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private broadcast services as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. Structures may include lattice towers, monopole towers, guyed towers, or other freestanding facilities that do not meet the definition of Alternative Tower Structure or Small Cell Facility.

**23.22. 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.

**24.23. Wireless Communications Facility (WCF)**

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. 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, Alternative Tower Structures and towers. A WCF 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. A WCF does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand-held radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this LDC.

**H. TEMPORARY WIRELESS COMMUNICATION FACILITIES (WCF)**

1. Temporary WCFs may operate for up to 180 days, after which the temporary facility must be removed. ~~In cases where temporary facilities are necessary due to destruction or significant damage to permanent structures hosting WCFs due to causes beyond the control of an applicant~~ However, requests to renew or extend the Temporary Use Permit may be approved on a case-by-case basis if the Public Works Director determines that the extension will not create additional risks to the public health or safety or significant material impacts to surrounding properties. Unless such renewal request is granted, no other temporary facility can be built by the provider on the property after the original temporary facility is removed.
2. Temporary WCFs designed for use during a special event may operate for up to 14 days, after which they must be removed at the provider's expense. An extension of the temporary use may be approved by the Planning Division Manager to coincide with an extended period of time for the special event and subject to conditions to mitigate impacts of the extended use on surrounding properties. Temporary facilities may be operated on a property up to four times a year.

**Commented [NM18]:** This section should be moved up to the section delineating design standards for other types of WCFs.

**Field Code Changed**

3. Temporary WCFs shall comply with Section 3-3.8.C, Operational Standards.
4. The Planning Division Manager may require landscaping and screening requirements for temporary facilities where adjacent or nearby properties or users of public rights-of-way may be impacted.

### 5-3.8 Wireless Communication Facilities (WCF) Procedures

#### A. APPLICABILITY

This section shall apply to all WCF applications, except:

1. Applications for Small Cell Facilities in the County right-of-way, which are subject to Chapter 14, Small Cell Wireless Communication Facility (WCF) Regulations, of the Infrastructure Design and Construction Standards;
2. Routine maintenance of existing WCF facilities or minor repairs, which are only required to obtain a building permit.
3. Repainting of an existing WCF facility or existing WCF equipment provided the painting is consistent with the building or facility on which it is mounted.

**Commented [NM19]:** Please see Memorandum notes regarding this section.

#### B. APPLICATION REVIEW

1. Review Process for WCFs (Non Eligible Facilities Requests)

##### a. Pre-submittal Meeting

Prior to submitting an application, the applicant is encouraged to initiate and schedule a pre-submittal meeting. A pre-submittal meeting is not required and will only be held if the applicant requests one. ~~By participating in the Pre-submittal meeting, the applicant agrees the mandatory review times set forth in this Section do not start until a complete application is submitted, subject to the tolling provisions in this Section.~~

##### b. Administrative Review

- i. Applications for proposed WCFs shall comply with the provisions of this Land Development Code. The time period in which the County will review and act upon applications shall be tolled for any applications that are not complete. The County shall notify an applicant of any deficiencies in its application within 30 days of filing, and/or within 30 days of submitting any additional information, to the extent that any supplemental application materials remain incomplete. If outside referrals or a neighborhood meeting is required, notification shall be provided in a manner determined by the County.
- ii. The Planning Division Manager, or designee, will make a decision to approve or deny an application that qualifies for administrative review within 90 days of the filing of a complete application for a collocation that does not meet the definition of an Eligible Facilities Request or 150 days of the filing of a complete application for any other application; provided however, that:
  - (a) If a third-party technical study (technical issues and expert review) is required, a decision to approve or deny an application may be postponed until 15 days after the study is complete; and
  - (b) The County and the applicant may always agree to extend the time in which final action on the application is required by this LDC.
- iii. Any decision to deny a request to place, construct, or modify facilities shall be issue, in writing, within thirty (30) days and include specific reasons for the action.

**Commented [NM20]:** Please see Memorandum notes regarding this section.

##### c. Neighborhood Notice and Meetings

- i. Neighborhood notice and a neighborhood meeting is required for the following applications:
  - (a) Applications for WCFs in the residential and agricultural zone districts, the residential component of mixed-use zone districts, and the residential component of PUD districts, excluding Eligible Facilities Requests and Small Cell WCFs.
  - (b) Applications for WCFs within 500 feet of a residentially zoned property and not in the rights-of-way, excluding Eligible Facilities Requests and Small Cell WCFs.

**Commented [NM21]:** Please see Memorandum notes regarding this section.

**Field Code Changed**

- ii. If a neighborhood meetings is required, the applicant shall schedule and conduct a neighborhood meeting to inform residents about the project. Notice for such Neighborhood meeting shall be provided in a manner determined by the County. Notice shall be sent to all property owners and Home Owners Associations within 500 feet of the site, or a larger area if the Planning Division Manager determines the facility's visual impact warrants a greater notification area. Such notice shall be sent at least 15 days prior to such scheduled meeting date.
    - iii. ~~Prior to or following the neighborhood meeting~~At the neighborhood meeting, applicant shall have available or, the applicant shall distribute physical or digital copies of the following: letter of intent, site plan with underlying zoning, proposed facility height, proposed setbacks, photo- simulations, and any other information deemed necessary by the Planning Division Manager to all property owners required to be noticed in paragraph ii. A copy of the information provided and the address list shall be provided to the Planning Division.
  - d. Notice of Planning Division Manager's Decision  
For a WCF proposed within 500 feet of residentially zoned property, the applicant and the adjacent neighborhood(s) will be notified of the Planning Division Manager's decision. Such notice will be provided in a manner determined by the County. For the purposes of 47 U.S.C. Sec. 332 (c)(7), the decision of the Planning Division Manager is final.
  - e. Appeal of Planning Division Manager's Decision  
An applicant or an interested citizen or citizen group may, prior to challenging the County's action in court, appeal the Planning Division Manager's decision to the Board of County Commissioners, which appeal shall be based upon the administrative record, and in accordance with the following:
    - i. Such appeal shall be submitted to the Planning Division Manager in writing within 14 days of the applicant's receipt of a written decision.
    - ii. Such appeal may be taken to the Board of County Commissioners for consideration. A majority of the members of the Board of County Commissioners may elect to call up the appeal for a public hearing before the board.
    - iii. The public hearing will proceed following the decision of the Planning Division Manager, will proceed de novo, and the final decision will be made by the Board.
    - iv. If the Board of County Commissioners hears such appeal, public notice shall be provided in compliance with 5-2.2, Public Notice Requirements.
    - v. The Board of County Commissioners shall decide to hear the appeal and make a decision on the appeal within 90-45 calendar days after first receiving the request to hear an appeal.
2. Review Process for Eligible Facilities Requests
- a. Timing
    - i. Within 60 days of the date on which an applicant submits an application seeking approval of an Eligible Facilities Request, the Planning Division Manager shall approve an application unless the Planning Division Manager determines that the application is not an Eligible Facilities Request.
    - ii. The 60 -day review period begins to run when the application is filed. The Planning Division Manager and the applicant may agree to toll the review period. The 60-day review period shall also be tolled where the Planning Division Manager determines that the application is incomplete.
    - iii. The Manager shall address incomplete applications pursuant to the following standards:
      - (a) Within 30 days of receipt of the application, the Planning Division Manager shall notify the applicant in writing, clearly and specifically delineating all missing documents or information required for determination of an Eligible Facilities Request
      - (b) The written incompleteness notice tolls the timeframe for review;

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- (c) The timeframe for review begins running again when the applicant makes a supplemental submission in response to the Planning Division Manager's notice of incompleteness;
  - (d) Within 10 days of the supplemental submission, the Planning Division Manager shall notify the applicant in writing that the supplemental submission did not provide the information identified in the original incompleteness notice; and
  - (e) The timeframe is tolled in the case of a second or subsequent incompleteness notice pursuant to the procedures for the first incompleteness notice. Second or subsequent incompleteness notices may not specify missing documents or information that were not delineated in the original incompleteness notice.
- b. Review Criteria**  
The Planning Division Manager shall approve an Eligible Facilities Request if the request:
- i. Is an Eligible Facilities Request for an Eligible Support Structure;
  - ii. Does not result in a Substantial Change;
  - iii. Complies with the originally approved design elements and other conditions of approval, including but not limited to colors, textures, surfaces, scale, character, mounting, projection and siting, or any approved amendments thereto, except where noncompliance with those elements or conditions is solely limited to the thresholds of increase in height, increase in width, addition of cabinets or new excavation or deployment area identified in the definition of Substantial Change; and
  - iv. Does not defeat the Concealment Elements of the Eligible Support Structure.
- c. Decision**
- i. If the Planning Division Manager finds the review criteria are met, the Planning Division Manager shall approve the Eligible Facilities Request.
  - ii. If the Planning Division Manager finds that the applicant's request does not meet the criteria, the Planning Division Manager may approve with conditions or deny the Eligible Facilities Request and provide a written disposition with the reasons for conditional approval or denial to the applicant.
  - iii. The Planning Division Manager's decision shall be supported by substantial evidence in the written record.
- d. Failure to Act**
- i. In the event that the Planning Division Manager fails to act on a request seeking approval for an Eligible Facilities Request within the timeframe for review, accounting for any tolling, the request shall be deemed granted.
  - ii. The effective date of a deemed-granted approval shall be the day the County receives written notice from the applicant, after the review period, accounting for any tolling, has expired, that the application has been deemed granted.
- e. Interaction with Telecommunications Act Section 332(c)(7)**  
If the County determines that the applicant's request is not an Eligible Facilities Request, the presumptively reasonable timeframe under Section 332(C)(7), as prescribed by the FCC's shot clock order (90 days for collocation applications and 150 days for all other siting applications), will begin to run from the issuance of the County's decision that the application is not a covered request. To the extent such information is necessary, the County may request additional information from the applicant to evaluate the application under Section 332(C)(7) review. The County shall identify the need for any such additional information together with the notice that the request is not an Eligible Facilities Request, and if such additional information is requested, the time frame under Section 332(C)(7) will begin to run beginning on the date that such additional information is received by the County.
- f. Compliance with Other Laws**  
All work done in association with the approved Eligible Facilities Request application shall be completed in accordance with all generally applicable laws, regulations or other rules

**Commented [NM22]:** Please see Memorandum notes regarding this section.

**Field Code Changed**

reasonably related to public health and safety, including but not limited to, building and safety codes.

- g. Remedies  
The applicants and the County may bring a claim related to §6409 of the federal Spectrum Act (codified at 47 U.S.C.1455) to any court of competent jurisdiction.

3. Other Reviews/Permits

- a. Technical Issues and Expert Review  
WCFs may involve complex technical issues that require review and input that is beyond the expertise of County staff. The Planning Division Manager may require the applicant to pay reasonable costs of a third-party technical study of a proposed WCF. Selection of expert(s) to review the proposal will be in the sole discretion of the County.
- b. Building Permit  
Administrative approval of WCFs is separate from the building permit review process. Building permits for the construction of WCFs cannot be issued until the facility is approved through the Administrative or Special Exception Use process, as applicable.

## 6-1 WIRELESS COMMUNICATION FACILITY (WCF)

### 6-1.1 Abandonment

WCFs are considered abandoned if they are unused by all providers at the facility for a period of 180 days. A copy of the notice to the Federal Communications Commission (FCC) of intent to cease operations of a subject facility shall be promptly submitted to the County. If the lot or parcel for the facility is leased, a redacted copy of the relevant portions of a signed lease, which requires the removal of the communications facility upon cessation of operations at the site, or a notarized letter with signatures from both landlord and tenant explaining such procedures, shall be submitted at the time of application or at the time of leasing, whichever is later.

The Planning Division Manager will determine if a WCF has been abandoned. The Planning Division Manager has the right to request documentation from the facility owner regarding WCF usage.

- A. Upon abandonment, the facility owner has 90 days to:
  - 1. Reuse the facility or transfer the facility to another owner who will reuse it; or
  - 2. Dismantle the facility. If the facility is not removed within 90 days of abandonment, the county may pursue enforcement subject to the provisions of this Land Development Code. If the facility is removed, County approval of the facility is null and void. The site must be restored at facility owner's expense.
- B. The County is authorized to remove or cause the removal of the abandoned WCF without any liability for trespass.
- C. All direct and indirect costs incurred by the County, including an administrative cost equal to 25 percent of all direct costs, shall be charged as a lien against such real property and the owners of the property.

### 6-1.2 Revocation of Permit

- D. The County's approval of a WCF may be revoked and the WCF removed at the owner's expense if:
  - 1. The owner of an Alternative Tower Structure or Tower is not willing to provide space for other carriers at a fair market rate when it would not impair the structural integrity of the tower or cause interference;
  - 2. The WCF owner modifies the structure in a way to make collocation impractical or impossible;
  - 3. The WCF owner fails to maintain all landscaping, equipment shelters, buildings, cabinets, and screening, and after reasonable notice of such failure is provided by the County in writing and 30 days for the owner or operator to remedy such deficiency.
- E. The County is authorized to remove or cause the removal of the WCF without any liability for trespass.
- F. All direct and indirect costs incurred by the County, including an administrative cost equal to 25 percent of all direct costs, shall be charged as a lien against such real property and the owners of the property.

Field Code Changed

Field Code Changed

<b>WCF Provider</b>	Contact	Email	Phone Number	Reply Y/N
<b>CSAI</b>	Ashley Christensen	<a href="mailto:achristensen@ssainet.com">achristensen@ssainet.com</a>	720-544-1848	
<b>Fullerton Engineering Consultants, LLC</b>	Nora Geci	<a href="mailto:ngeci@fullerton-us.com">ngeci@fullerton-us.com</a>	217-636-4468	
<b>Crafton Communications</b>	Kaitlin Butler	<a href="mailto:kbutler@craftongroup.com">kbutler@craftongroup.com</a>	205-545-5908	
<b>Tower Engineering Professionals</b>	Abby Porter	<a href="mailto:aporter@tepgroup.net">aporter@tepgroup.net</a>	919-703-4144	
	Kari Brown	<a href="mailto:ktbrown@tepgroup.net">ktbrown@tepgroup.net</a>	952-292-9337	
	Jeremy Underwood	<a href="mailto:junderwood@tepgroup.net">junderwood@tepgroup.net</a>	623-272-4762	
<b>Smartlink</b>	Mike Sharlow	<a href="mailto:mksharlow1@gmail.com">mksharlow1@gmail.com</a>	970-485-2996	
<b>Town Engineering Professionals</b>	Molly Gahagan	<a href="mailto:mgahagan@tepgroup.net">mgahagan@tepgroup.net</a>	720-378-2817	
<b>Mastec Network Solutions</b>	Jamie Ostenson	<a href="mailto:Jamie.ostencon@mastec.com">Jamie.ostencon@mastec.com</a>	520-338-9649	
<b>Crown Castle</b>	Zach Phillips	<a href="mailto:zach.phillips@crowncastle.com">zach.phillips@crowncastle.com</a>	503-708-9200	
	Roger Cole	<a href="mailto:Roger.cole@crowncastle.com">Roger.cole@crowncastle.com</a>	281-827-5842	
<b>Retherford Enterprises, Inc.</b>	Perry Carroll	<a href="mailto:Perry.Carroll@retherfordenterproses.com">Perry.Carroll@retherfordenterproses.com</a>	303-435-2252	
<b>Verizon Wireless c/o</b>	Mark Paiz	<a href="mailto:mark@q3consulting.com">mark@q3consulting.com</a>	303-915-3428	
<b>Castle Rock Microwave</b>	Brian Kovarik	<a href="mailto:brian@castlerockmicrowave.com">brian@castlerockmicrowave.com</a>	303-263-0235	
<b>Norris Design</b>	Bonnie Niziolek	<a href="mailto:bniziolek@norris-design.com">bniziolek@norris-design.com</a>	303-892-1166	
<b>Black &amp; Veatch</b>	Audra Kirk	<a href="mailto:kirka@bv.com">kirka@bv.com</a>	720-834-0041	
	Jeff Sigl	<a href="mailto:sigljip@bv.com">sigljip@bv.com</a>	303-256-4086	
<b>New Singular Wireless. Dba AT&amp;T</b>		<a href="mailto:nw7608@att.com">nw7608@att.com</a>	720-979-1491	
<b>WYCO Field Services</b>	Michael McCreedy	<a href="mailto:mmccreedy@wycofs.com">mmccreedy@wycofs.com</a>	303-332-1212	
	Kenneth Trujillo	<a href="mailto:ktrujillo@wycofs.com">ktrujillo@wycofs.com</a>	719-205-9370	
<b>American Tower Corp.</b>	Jason Orrick	<a href="mailto:jason.orrick@americantower.com">jason.orrick@americantower.com</a>	781-926-6892	
<b>SBA Communication. Corporation</b>	Alara Stephens	<a href="mailto:ASstephens@sbsite.com">ASstephens@sbsite.com</a>	561-226-9409	

Arapahoe County Planning Commission



**ARAPAHOE COUNTY**  
PUBLIC WORKS & DEVELOPMENT

# **LDC24-007 CMRS Land Development Code Text Amendment**

**Public Hearing  
July 15, 2025**

**Presenter: Ernie Rose, Senior Planner**



# Background

Arapahoe County established regulations for constructing wireless facilities in 1999. In 2019, the County updated part of the wireless communication code in response to legislative changes. Now, it is time to complete the update of this code. The goal of this update is to ensure that the regulations remain relevant and effective in addressing advancements in communication technology while also complying with recent state and federal regulations.



**ARAPAHOE COUNTY**  
PUBLIC WORKS & DEVELOPMENT

Satellite Communication.

Infrared Communication. ...

Broadcast Radio. ...

Microwave Communication. ...

Wi-Fi. ...

Mobile Communication Systems. ...

Bluetooth Technology.



On May 15, 2025, the Colorado Legislature passed HB25-1056, which requires local governments to approve or deny applications for siting and constructing wireless telecommunications facilities within 90 days of submission. If a local government fails to act within this timeframe, the application is deemed automatically approved, provided the telecommunications provider has met the public notice requirements and notified the regional government of the lapse. This act was signed on June 4, 2025, and will take effect on January 1, 2026.



# Purpose & Background



**ARAPAHOE COUNTY**  
PUBLIC WORKS & DEVELOPMENT

- County-initiated application to amend the LDC
- Seeking a Recommendation from the Planning Commission regarding
  - Proposed regulations
  - Proceed to adoption by Board of County Commissioners (BOCC) Public Hearing

## Alignment with Strategic Plan

- Provide essential and mandated service
- Be Community Focused

The proposed revisions:

- Re-titles the CMRS regulations to WCF and establishes specific rules for WCF.
- Incorporates potential technological advances across all types of wireless communications, including Commercial Mobile Radio Service (CMRS).
- Comply with the Federal Communication Commission (FCC) regulations.
- Delineates the criteria for “eligible facilities.”
- Promotes the collaborative use of both new and existing WCF Locations.
- The draft code emphasizes that the applicant must demonstrate that other sites are not feasible for new tower structures.
- The code outlines a structured administrative process for replacing, modifying, repairing, and upgrading equipment through the building permit application process.



# Permitted Land Use Table



**ARAPAHOE COUNTY**  
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## Updated Categories:

- Wireless Communication Facilities
- Attached structure, roof or building
- Alternative Tower Structure
- Small Cell Facilities in ROW
- Tower
- Temporary

TABLE 3-2.1 PERMITTED USE TABLE																								
P = Permitted, A = Accessory, SR = Use by Special Review, SE = Use by Special Exception, T= Temporary Use/Temporary Use Permit Required, Blank = Not Permitted																								
	Agriculture and Residential <sup>[1]</sup>												Non-Residential <sup>[1]</sup>							PUD Districts <sup>[2]</sup>	Overlay	Use Specific Standard		
	A-E	A-1	RR-A	RR-B	RR-C	R-1-A	R-1-B	R-1-C	R-1-D	R-2-A	R-2-B	R-M	B-1	B-3	B-4	B-5	I-1	I-2	F <sup>[3]</sup>	O	PUD	SBC-Q	Code Section	
Telecommunications and Towers																								
Broadcast Tower Facility and Other Commercial antennas and radio towers	SE																			SE	Per Approved General, Specific, Preliminary or Final Development Plan			
Wireless Communication Facilities (WCF)																								
Attached (Structure, Roof, or Building-Mounted)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	3-3.8.A
Alternative Tower Structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	3-3.8.A
Small Cell Facilities in the ROW	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	3-3.8.A
Tower	P	P	P										P	P	P	P	P	P	P		P	P	3-3.8.A	
Temporary	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		T	3-3.8.A	
Over-height Towers	SE	SE	SE										SE	SE	SE	SE	SE	SE			Per Approved General, Specific, Preliminary or Final Development Plan	SE	3-3.8.A	
Telephone exchanges and similar buildings housing tele-communication equipment																		P	P					
Small Wind Energy Conversion System	P	P	P	P	P	P	P					SE											3-3.8.B	





**ARAPAHOE COUNTY**  
PUBLIC WORKS & DEVELOPMENT

## Discussion

In January and February 2025, the Planning Commission and the Board of County Commissioners held study sessions and directed staff to begin the public hearing process. The first step in this process involved public outreach and soliciting feedback from wireless providers that have previously collaborated with the County.



# Outreach & Public/Referral Comments



**ARAPAHOE COUNTY**  
PUBLIC WORKS & DEVELOPMENT

On March 12, 2025, staff referred the proposed amendment to 21 wireless communication providers.

Staff posted the proposed amendments on the County website on April 1, 2025.

Notice of public hearing was also published in the June 26, 2025, 2025 edition of the Littleton Independent, the Centennial Citizen, and the Englewood Herald, and the June 26, 2025, edition of the I-70 Scout newspapers.

Staff received a comment letter from the wireless communication provider and a comment from the public.:

**An attorney on behalf of Verizon Wireless** proposed Several changes to the proposed code amendment per the letter dated April 30, 2025

One citizen expressed concerns regarding the lack of cell service in the Greenwood Village.



# Modifications:



**ARAPAHOE COUNTY**  
PUBLIC WORKS & DEVELOPMENT

- Updated the list of preferred antenna types and removed the words “small cell” before “WCF in the right of way” in 3-3-.9.D.1.d.
- 3-3.9.E – Design Standards – removed b. Signage and c. Accessory uses, as these were already redundant in the ground equipment standards.
- 3-3.9.E – Definitions – Changed definition of “Substantial Change” to state that it must meet federal law and deleted all specifics of FCC 6409, in case federal law changes, so we don’t have to amend the code.
- 5-3.8.B.1.e – Appeals – changed “citizen” to “party” and “resident” group and require appeals to be filed 14 days from the issuance of the decision.
- 5-3.8.B.2.b – Review Criteria for approval of an Eligible Facilities request – deleted the last criteria and left it with the need to be an eligible facility and does not result in a substantial change.
- 6-1.2 – Revocation of Permit – accepted the change from Verizon to state that we will not revoke a permit until after we have provided them notice to remedy and given them at least 90 days to resolve.



# Recommendation

- Staff recommends approval as presented



**ARAPAHOE COUNTY**  
PUBLIC WORKS & DEVELOPMENT



# An Act

HOUSE BILL 25-1056

BY REPRESENTATIVE(S) Lukens and Bacon, Soper, Duran, English, Marshall;  
also SENATOR(S) Roberts and Hinrichsen.

CONCERNING LOCAL GOVERNMENT PERMITTING OF WIRELESS  
TELECOMMUNICATIONS FACILITIES.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **amend** 29-27-401 as follows:

**29-27-401. Legislative declaration.** (1) The general assembly finds and declares that:

(a) The permitting, construction, modification, maintenance, and operation of broadband facilities are critical to ensuring that all citizens in the state have true access to advanced technology and information;

(b) ~~These~~ BROADBAND facilities are critical to ensuring that businesses and schools throughout the state remain competitive in the global economy; and

---

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(c) The permitting, construction, modification, maintenance, and operation of ~~these~~ BROADBAND facilities, to the extent specifically addressed in this part 4, are declared to be matters of statewide concern and interest.

(2) The general assembly further finds and declares that RELIABLE WIRELESS CONNECTIVITY THROUGHOUT THE STATE:

(a) ~~Small cell facilities often may be deployed most effectively in the public rights-of-way, and~~ IS ESSENTIAL IN SUPPORTING PUBLIC SAFETY OPERATIONS AND ENSURING THAT THE PUBLIC IS ABLE TO ACCESS LIFE-SAVING ASSISTANCE IN TIMES OF CRISIS;

(b) ~~Access to local government structures is essential to the construction and maintenance of wireless service facilities or broadband facilities~~ IS A SIGNIFICANT DRIVER OF ECONOMIC ACTIVITY AND PRODUCTIVITY FOR WORKERS AND ORGANIZATIONS;

(c) IS CRITICAL TO PROVIDING ACCESS TO INFORMATION, EDUCATIONAL RESOURCES, AND JOB OPPORTUNITIES; AND

(d) CAN HELP URBAN, HISTORICALLY UNDERSERVED, AND RURAL BUSINESSES IMPROVE WORKFLOW, WHILE ALSO AMPLIFYING VISIBILITY AND SALES FOR THOSE BUSINESSES.

(3) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE EFFICIENT PERMITTING OF WIRELESS FACILITIES BY LOCAL GOVERNMENTS:

(a) HAS A SIGNIFICANT PUBLIC SAFETY AND ECONOMIC BENEFIT TO COLORADO; AND

(b) IS A MATTER OF STATEWIDE CONCERN.

**SECTION 2.** In Colorado Revised Statutes, 29-27-402, **amend** (3) and (7); and **add** (3.1), (3.3), (3.7), and (6.2) as follows:

**29-27-402. Definitions.** As used in this part 4, unless the context otherwise requires:

(3) ~~"Collocation"~~ "COLLOCATE" means the mounting or installation of broadband service equipment on a tower, building, or structure with existing broadband service equipment for the purpose of transmitting or receiving radio frequency signals for communications purposes.

(3.1) "COLLOCATION APPLICATION" MEANS AN APPLICATION FOR A COLLOCATION THAT RESULTS IN A SUBSTANTIAL CHANGE OF AN EXISTING WIRELESS TELECOMMUNICATIONS FACILITY.

(3.3) "LOCAL GOVERNMENT" HAS THE SAME MEANING AS SET FORTH IN SECTION 29-27-102 (3).

(3.7) "SITING APPLICATION" MEANS AN APPLICATION FOR A NEW WIRELESS SERVICE FACILITY.

(6.2) "SUBSTANTIAL CHANGE" HAS THE SAME MEANING AS SET FORTH IN 47 CFR 1.6100 (b)(7), WHICH IMPLEMENTS THE FEDERAL "SPECTRUM ACT OF 2012", 47 U.S.C. SEC. 1455 (a).

(7) "Wireless service facility" OR "FACILITY" means ~~a facility for the provision of wireless services; except that "wireless service facility" does not include coaxial or fiber-optic cable that is not immediately adjacent to, or directly associated with, a particular antenna~~ EQUIPMENT AT A FIXED LOCATION THAT ENABLES WIRELESS COMMUNICATIONS BETWEEN USER EQUIPMENT AND A COMMUNICATIONS NETWORK, INCLUDING:

(a) MACRO AND SMALL CELL FACILITIES, TRANSCEIVERS, ANTENNAS, COAXIAL OR FIBER-OPTIC CABLE, REGULAR AND BACKUP POWER SUPPLIES, AND COMPARABLE EQUIPMENT, REGARDLESS OF TECHNOLOGICAL CONFIGURATION, BUT DOES NOT INCLUDE COAXIAL OR FIBER-OPTIC CABLE THAT IS NOT IMMEDIATELY ADJACENT TO, OR DIRECTLY ASSOCIATED WITH, A PARTICULAR ANTENNA; AND

(b) THE SUPPORT STRUCTURE OR IMPROVEMENTS ON, UNDER, OR WITHIN WHICH THE EQUIPMENT IS COLLOCATED.

**SECTION 3.** In Colorado Revised Statutes, **repeal and reenact, with amendments**, 29-27-403 as follows:

**29-27-403. Deemed approval of facilities.** (1) (a) A COLLOCATION

APPLICATION OR SITING APPLICATION FOR A WIRELESS SERVICE FACILITY SUBMITTED TO A LOCAL GOVERNMENT IS DEEMED APPROVED BY THE LOCAL GOVERNMENT IF:

(I) THE LOCAL GOVERNMENT HAS NOT APPROVED OR REJECTED THE APPLICATION WITHIN NINETY DAYS AFTER THE APPLICANT SUBMITS AN APPLICATION; EXCEPT THAT THE PERIOD FOR APPROVAL OR REJECTION OF A SITING APPLICATION THAT IS NOT FOR A COLLOCATION OR A SMALL CELL FACILITY IS ONE HUNDRED FIFTY DAYS AFTER THE APPLICANT SUBMITS AN APPLICATION;

(II) THE APPLICANT HAS PROVIDED ALL PUBLIC NOTICES OF THE APPLICATION REQUIRED UNDER APPLICABLE LAW; AND

(III) THE APPLICANT HAS PROVIDED NOTICE TO THE LOCAL GOVERNMENT THAT THE APPLICABLE TIME PERIOD DESCRIBED IN SUBSECTION (1)(a)(I) OF THIS SECTION HAS LAPSED AND THAT THE APPLICATION IS DEEMED APPROVED PURSUANT TO THIS SECTION.

(b) A LOCAL GOVERNMENT MAY TOLL THE APPLICABLE PERIOD DESCRIBED IN SUBSECTION (1)(a)(I) OF THIS SECTION TO ALLOW THE LOCAL GOVERNMENT TO MAKE TIMELY REQUESTS, PURSUANT TO SUBSECTION (1)(g) OF THIS SECTION, FOR INFORMATION TO COMPLETE A COLLOCATION OR SITING APPLICATION. THE APPLICABLE PERIOD DESCRIBED IN SUBSECTION (1)(a)(I) OF THIS SECTION MAY ALSO BE EXTENDED BY MUTUAL WRITTEN AGREEMENT OF THE APPLICANT AND THE LOCAL GOVERNMENT.

(c) A LOCAL GOVERNMENT MAY ALSO TOLL THE APPLICABLE PERIOD DESCRIBED IN SUBSECTION (1)(a)(I) OF THIS SECTION IF IT DETERMINES BASED ON ITS AVAILABLE RESOURCES THAT IT CANNOT REASONABLY AND ADEQUATELY REVIEW THE COLLOCATION APPLICATION OR SITING APPLICATION AS WELL AS A PREVIOUSLY SUBMITTED LAND USE APPLICATION RELATED TO HOUSING INTENDED TO PROVIDE AFFORDABLE OR ATTAINABLE HOUSING, RENEWABLE ENERGY, PROJECTS OF GOVERNMENTAL ENTITIES, OR ANY OTHER PROJECT, PROVIDED THAT A FEDERAL, STATE, OR LOCAL LAW ESTABLISHES A TIMELINE FOR REVIEW. THE PERIOD OF TOLLING SHALL OCCUR ONLY ONCE AND SHALL NOT BE LONGER THAN FORTY-FIVE DAYS TO REVIEW ALL OTHER SUCH PENDING LAND USE APPLICATIONS. THE LOCAL GOVERNMENT SHALL NOTIFY THE APPLICANT IN WRITING WITHIN THIRTY DAYS AFTER SUBMISSION OF THE COLLOCATION APPLICATION OR SITING

APPLICATION OF THE DURATION OF THE PERIOD OF TOLLING AND THE REASON FOR ITS DETERMINATION. NOTHING IN THIS SECTION RELIEVES A LOCAL GOVERNMENT OF ITS OBLIGATION TO COMPLY WITH THE TIMELINES FOR WIRELESS SERVICE FACILITY PERMITTING ESTABLISHED BY FEDERAL AND STATE LAW.

(d) IF A LOCAL GOVERNMENT REQUIRES AN APPLICANT TO OBTAIN A TRAFFIC CONTROL PLAN OR OTHER PERMIT RELATED TO OBSTRUCTION OF, OR SAFETY IN, A PUBLIC RIGHT-OF-WAY BEFORE A COLLOCATION OR SITING APPLICATION IS APPROVED, THE APPLICANT SHALL NOT COMMENCE THE CONSTRUCTION OR SUBSTANTIAL CHANGE OF A WIRELESS SERVICE FACILITY PURSUANT TO A COLLOCATION OR SITING APPLICATION DEEMED APPROVED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION UNTIL THE TRAFFIC CONTROL PLAN OR OTHER PERMIT IS OBTAINED.

(e) A LOCAL GOVERNMENT MAY SEEK JUDICIAL REVIEW OF THE DEEMED APPROVAL OF A COLLOCATION APPLICATION OR SITING APPLICATION PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION WITHIN THIRTY DAYS AFTER THE NOTICE DESCRIBED IN SUBSECTION (1)(a)(III) OF THIS SECTION IS PROVIDED TO THE LOCAL GOVERNMENT.

(f) A LOCAL GOVERNMENT SHALL NOT:

(I) UNREASONABLY WITHHOLD, CONDITION, OR DELAY APPROVAL OF THE ISSUANCE OF A TRAFFIC CONTROL PLAN OR OTHER PERMIT DESCRIBED IN SUBSECTION (1)(d) OF THIS SECTION TO DELAY THE APPROVAL OF A COLLOCATION APPLICATION OR SITING APPLICATION; OR

(II) PROHIBIT OR UNREASONABLY DISCRIMINATE IN FAVOR OF, OR AGAINST, ANY TECHNOLOGY IN TAKING ACTION ON A COLLOCATION OR SITING APPLICATION.

(g) IF A LOCAL GOVERNMENT DETERMINES THAT A COLLOCATION OR SITING APPLICATION IS INCOMPLETE, THE LOCAL GOVERNMENT SHALL NOTIFY THE APPLICANT WITHIN THIRTY DAYS AFTER THE SUBMISSION OF THE APPLICATION. THE NOTIFICATION MUST BE WRITTEN, MUST CLEARLY AND SPECIFICALLY IDENTIFY THE MISSING DOCUMENTS OR INFORMATION THAT THE APPLICANT MUST SUBMIT TO RENDER THE APPLICATION COMPLETE, AND MUST IDENTIFY THE SPECIFIC REGULATION CREATING THE REQUIREMENT TO PROVIDE THE MISSING DOCUMENTS OR INFORMATION. TOLLING OF THE

PERIOD DESCRIBED IN SUBSECTION (1)(a)(I) OF THIS SECTION BEGINS ON THE DATE THAT THE LOCAL GOVERNMENT PROVIDES THIS NOTIFICATION AND ENDS ON THE DATE THAT THE APPLICANT PROVIDES THE REQUESTED INFORMATION.

(2) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS SECTION, NOTHING IN THIS SECTION LIMITS OR AFFECTS THE AUTHORITY OF A LOCAL GOVERNMENT OVER THE PLACEMENT OR CONSTRUCTION OF A WIRELESS SERVICE FACILITY.

(3) NOTHING IN THIS SECTION SUPERSEDES, NULLIFIES, OR OTHERWISE ALTERS GENERALLY APPLICABLE AND NONDISCRIMINATORY BUILDING, ELECTRICAL, FIRE, OR OTHER SAFETY REQUIREMENTS.

(4) NOTHING IN THIS SECTION SHALL BE INTERPRETED OR IMPLEMENTED IN A WAY THAT PREVENTS A LOCAL GOVERNMENT FROM PROMPTLY ACTING ON ANY OTHER PERMIT FOR USE, OCCUPATION, INSTALLATION, MODIFICATION, REPAIR, OR OPERATION IN THE PUBLIC RIGHTS-OF-WAY, INCLUDING BUT NOT LIMITED TO PERMITS FOR BROADBAND FACILITIES.

(5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN APPLICANT SEEKING TO CONSTRUCT A FACILITY WITHIN THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION ON LAND OWNED BY THE TRIBE MUST OBTAIN THE WRITTEN CONSENT OF THE APPLICABLE TRIBAL GOVERNMENT.

**SECTION 4.** In Colorado Revised Statutes, **add** 29-27-405 as follows:

**29-27-405. Facility equipment replacement.** (1) A LOCAL GOVERNMENT SHALL NOT REQUIRE A COLLOCATION OR SITING APPLICATION, OR ADDITIONAL PERMITS FOR THE MODIFICATION, REMOVAL, DISCONTINUANCE, OR REPLACEMENT OF A WIRELESS SERVICE FACILITY, OR EQUIPMENT ASSOCIATED THEREWITH, IF:

(a) THE OWNER OR OPERATOR OF THE WIRELESS SERVICE FACILITY NOTIFIES THE LOCAL GOVERNMENT OF THE MODIFICATION, REMOVAL, DISCONTINUANCE, OR REPLACEMENT OF THE WIRELESS SERVICE FACILITY, OR EQUIPMENT ASSOCIATED WITH THE WIRELESS SERVICE FACILITY; AND

(b) THE MODIFICATION, REMOVAL, DISCONTINUANCE, OR REPLACEMENT DOES NOT AMOUNT TO A SUBSTANTIAL CHANGE TO THE WIRELESS SERVICE FACILITY.

(2) NOTHING IN THIS SECTION SUPERSEDES, NULLIFIES, OR OTHERWISE ALTERS GENERALLY APPLICABLE AND NONDISCRIMINATORY BUILDING, ELECTRICAL, FIRE, OR OTHER SAFETY REQUIREMENTS.

**SECTION 5.** In Colorado Revised Statutes, 38-5.5-104.5, **amend** (1) as follows:

**38-5.5-104.5. Use of local government entity structures.**

(1) Except as provided in subsection (2) of this section and subject to the requirements and limitations of this article 5.5, ~~sections 29-27-403 and 29-27-404~~ PART 4 OF ARTICLE 27 OF TITLE 29, and a local government entity's police powers, a telecommunications provider or a broadband provider has the right to locate or collocate small cell facilities or small cell networks on the light poles, light standards, traffic signals, or utility poles in the rights-of-way owned by the local government entity; except that a small cell facility or a small cell network shall not be located or mounted on any apparatus, pole, or signal with tolling collection or enforcement equipment attached.

**SECTION 6. Act subject to petition - effective date - applicability.** (1) This act takes effect at 12:01 a.m. on January 1, 2026; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

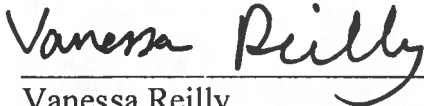
(2) This act applies to applications filed on or after the applicable effective date of this act.



Julie McCluskie  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES



James Rashad Coleman, Sr.  
PRESIDENT OF  
THE SENATE

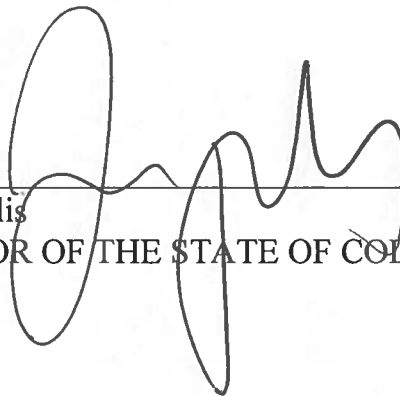


Vanessa Reilly  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES



Esther van Mourik  
SECRETARY OF  
THE SENATE

APPROVED Wednesday June 4<sup>th</sup> 2025 at 10:00 AM  
(Date and Time)



Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO