

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 ^[1]												Non-Residential ^[1]							PUD Districts ^[2]	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 ^[3]	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	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	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

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 final decision. An appeal is a separate process apart from the review and final disposition of the underlying application. An appeal to the Board of County Commissioners shall be in accordance with the following:

- i. The appeal request shall be submitted to the Planning Division Manager in writing within 14 days of the issuance of the final decision.
- ii. The appeal request will be taken to the Board of County Commissioners for consideration. Within 30 days of receiving the appeal request through the Planning Division Manager, a majority of the members of the Board of County Commissioners may elect to hear the appeal and set the same for a public hearing before the entire Board of County Commissioners.

- iii. If the Board of County Commissioners elects to hear the appeal, public notice shall be provided in compliance with 5-2.2, Public Notice Requirements.
- iv. The public hearing will be limited to the administrative record before the Planning Division Manager and will consider only whether the Planning Division Manager abused their discretion in making the final decision.
- v. If the Board of County Commissioners grants the request to hear the appeal, it shall schedule the public hearing and decide the appeal within 90 calendar days of the appeal request.
- vi. Nothing herein shall be interpreted to toll, postpone, delay, supplant, or otherwise inhibit the applicant's rights and responsibilities pursuant to federal law or regulation to seek relief from the Planning Division Manager's final decision.

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.
- iv. The Planning Division Manager's decision is the final decision on an Eligible Facilities Request.

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.

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.