**PLANNING AND DEVELOPMENT DEPARTMENT**

**MEMORANDUM 17-56**

**DATE:** December 11, 2017

**TO:** Honorable Mayor Carol Dodge and City Council Members

**FROM:** James A. Hayes, AICP, City Manager JH
Brook Svoboda, Director of Planning and Development BS
Eric Ensey, AICP, Senior Planner

**SUBJECT:** CB-1901 – Wireless Service Facilities Ordinance (Second Reading)

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## PURPOSE

Introduction and public hearing for an ordinance to repeal the city's current Commercial Mobile Radio Service (CMRS) Facilities ordinance found in Article 55 of Chapter 11 of the Municipal Code and replace it with the ordinance found in Exhibit A pertaining to Wireless Service Facilities (WSF).

## BACKGROUND

The attached Exhibit A contains an ordinance drafted by the City Attorney intended to repeal the current Article 55 of the Zoning Ordinance pertaining to Commercial Mobile Radio Service (CMRS) facilities and replace it with new regulations addressing Wireless Service Facilities (WSF). Although previously referred to as CMRS facilities in the Zoning Ordinance, new nomenclature has been adopted by state and federal legislation that calls all mobile and cell provider facilities as WSF. The proposed ordinance stipulates that all WSF are a use-by-right subject to specific design and zoning requirements, depending on the WSF type.

The proposed ordinance was drafted taking into account the following state or federal legislation:

- *Telecommunications Act of 1996*. This act provides local governments with the ability to use zoning to regulate the location of facilities for wireless service providers.
- *Middle Class Tax Relief and Job Creation Act of 2012* (commonly referred to as the Spectrum Act). Language of the Spectrum Act requires approval of applications for telecommunication towers or base stations that do not substantially change the physical dimensions of the equipment. This language was incorporated into a recent modification to the city's CMRS regulations, and is being brought forward in this proposed ordinance. Additionally, this legislation allowed for a 60 day review period for any modifications to an existing towers or base stations.
- *Colorado House Bill 17-1193 (HB 1193)*. This house bill enacted certain requirements for local governments to regulate "small cell facilities." These small cell facilities function as small cell towers that add range and capacity to a providers' network and are typically attached to existing poles and facilities. The bill establishes a 90 day period for a decision on a complete application. The bill also indicates that these facilities are permitted as a use-by-right in all zone districts. Also, small cell facilities are permitted within the right-of-way on certain structures with consent by the local government; such consent cannot be unreasonably withheld.

Proposed Ordinance:
The following is a summary of key elements of the proposed ordinance:

1. All WSF are a use-by-right in all zoned districts subject to specific design and zoning requirements based on the type of WSF proposed.
2. Co-location of WSF is encouraged, where feasible.
3. Abandoned WSF shall be removed within 180 days.
4. WSF in the public right-of-way shall be limited to 40 feet in height.
5. Building roof-mounted WSF cannot exceed the height in the underlying zone district and cannot exceed 12 feet above the height of the building.
6. Freestanding WSF must comply with the setbacks and height of the underlying zone district.
7. Language is included addressing "small cell facilities" and mirrors that language in HB 1193.
8. A consolidated application is permitted for "small cell facilities."
9. A 60 day expedited approval process has been established.
10. "Substantial Modifications" have been included for the various WSF. If an application does not substantially modify an existing facility, then the modification shall be approved.
11. If an application is denied, then the City must provide written notice of the denial and substantial evidence as to why the application was denied.

The Planning Commission reviewed the proposed ordinance at their October 17, 2017 meeting. The Commission voted unanimously to recommend approval of the ordinance, subject to one condition. A copy of the Planning Commission Resolution has been included as **Attachment 1**. The Commission's recommended condition has been incorporated in the version of the Council Bill being presented to the City Council. The City Attorney and staff has reviewed and approved the recommendation.

Additionally, **Attachment 2** includes the current Article 55 of Chapter 11 (CMRS Facilities).

**UPDATE**
CB-1901 was approved on first reading at the November 13, 2017 meeting and the second reading and public hearing was scheduled for December 11, 2017.

**BUDGET IMPLICATIONS**
This ordinance amendment request has no budgetary impacts.

**SCHEDULE/TIME IMPLICATIONS**
N/A.

**CITY COUNCIL OPTIONS**
City Council can approve, deny or table for more information CB-1901.

**STAFF RECOMMENDATION**
Staff recommends approval of CB-1901 on second reading.

**STAFF REFERENCE**
Brook Svoboda, Director of Planning and Development
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Eric Ensey, AICP, Senior Planner
eensey@northglenn.org; 303.450.8740

**ATTACHMENTS**

Attachment 1: Planning Commission Resolution 2017-24
Attachment 2: Current Article 55 of Chapter 11 (CMRS Facilities)

ATTACHMENT 1

**RESOLUTION 2017-24**
**NORTHGLENN PLANNING COMMISSION**

**A RESOLUTION RECOMMENDING AN ORDINANCE REPEALING AND REENACTING ARTICLE 55 OF CHAPTER 11 OF THE NORTHGLENN MUNICIPAL CODE CONCERNING THE REGULATION OF WIRELESS SERVICE FACILITIES.**

WHEREAS, Section 11-37-1(a) of the Northglenn Municipal Code requires that all amendments to Chapter 11 (Zoning Ordinance) shall be referred to the Planning Commission for study, consideration, and recommendation prior to final action by City Council; and

WHEREAS, the Planning Commission has reviewed and discussed the above referenced ordinance; and

WHEREAS, the Planning Commission desires to offer a formal recommendation to the City Council on said ordinance.

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The City of Northglenn Planning Commission hereby is offering a recommendation to the City Council for approval of the ordinance attached as Exhibit A to this resolution, subject to the following condition:

1. Section 11-55-5(b) be replaced with the following: "Building Roof-mounted WSFs shall be located so as to be of minimal visibility, such as being incorporated within an architectural feature such as a steeple or parapet or any architectural addition to a building or structure which is architecturally compatible with the building."

DATED this 17th day of November, 2017

Sonia Di Carlo
Planning Commission Chair

ATTEST:

Rebecca M Smith
Secretary

SPONSORED BY _____

COUNCILMAN'S BILL

No. _____
Series of 2017

ORDINANCE NO.

_____
Series of 2017

A BILL FOR AN ORDINANCE REPEALING AND REENACTING ARTICLE 55 OF CHAPTER 11 OF THE NORTHGLENN MUNICIPAL CODE CONCERNING THE REGULATION OF WIRELESS SERVICE FACILITIES

WHEREAS, pursuant to the Telecommunications Act of 1996 (the "Act"), local governments are provided authority over decisions regarding the placement, construction, and modification of personal wireless service facilities; provided that any such regulation does not unreasonably discriminate among providers of functionally equivalent services, or prohibit, or have the effect of prohibiting the provisions of personal wireless services;

WHEREAS, such regulation is also subject to Section 6409 ("Section 6409") of the Middle Class Tax Relief and Job Creation Act of 2012, which requires a local government to approve any eligible facilities request for a modification of an existing wireless tower or base station that does not "substantially change" the physical dimensions of such tower or base station;

WHEREAS, the Colorado General Assembly passed House Bill 17-1193 (C.R.S. §§ 29-27-401 – 29-27-404; 38-5.5-102 – 38-5.5-108), which also provides certain mandatory procedural requirements and regulations for installation of small cell facilities within a municipality's right-of-way; and

WHEREAS, the City Council of the City of Northglenn now wish to establish a procedure for review of applications for the installation of wireless service facilities within the City in compliance with the Act, Section 6409 and House Bill 17-1193.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Article 55 of Chapter 11 of the Northglenn Municipal Code is hereby repealed in its entirety and reenacted as follows:

CHAPTER 11
CITY OF NORTHGLENN ZONING ORDINANCE

ARTICLE 55
WIRELESS SERVICE FACILITIES

**Section 11-55-1.** Purposes.

The purposes of this Article are: to allow the location of wireless service facilities

("WSF") in the City while protecting the public health, safety, and general welfare of the community; to act on applications for the location of WSFs within a reasonable period of time; to encourage co-location of WSFs; and to prevent unreasonable discrimination among providers of functionally equivalent services.

**Section 11-55-2.** Definitions.

"Accessory equipment for a WSF" means equipment, including buildings and structures, used to protect and enable radio switching equipment, back up power and other devices incidental to a WSFs, but not including antennae.

"Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used to provide wireless service.

"Base station" means a structure or equipment, other than a tower, at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communications between user equipment and a communications network. The term includes any equipment associated with wireless communications services, including radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks). The term includes any structure, other than a tower, to which any of the equipment described hereof is attached.

"Building roof-mounted WSFs" means a WSF that is mounted and supported entirely on the roof of a legally existing building or structure.

"Eligible telecommunications facility request" means a request for approval of the modification of an existing tower or base station that involves the co-location of new transmission equipment, the removal of transmission equipment or the replacement of transmission equipment.

"Equipment storage shelter" means buildings, storage shelters, and cabinets used to house WSF equipment.

"Freestanding WSF" means a WSF that consists of a stand-alone support structure such as a tower or monopole, and antennae and accessory equipment.

"Microwave antenna" means a disk-type antenna used to link communication sites together by wireless voice or data transmission.

"Micro Wireless Facility" means a WSF that is no larger in dimensions than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and that have an exterior antenna, if any, that is no more than eleven (11) inches in length.

"Public right-of-way" means all roads, streets and alleys and all other dedicated rights-of-way, access and utility easements of the City, the state, or any district, utility or roadway.

"Small cell facility" means either a personal wireless service facility as defined by the federal Telecommunications Act of 1996, or a WSF where:

(a) Each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and

(b) Primary equipment enclosures are no larger than seventeen (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.

A small cell facility includes a micro wireless facility.

"Small cell network" means a collection of interrelated small cell facilities designed to deliver wireless service.

"Substantial change" means a modification to an existing tower or base station under the following circumstances:

(a) A substantial change in the height of an existing tower or base station occurs as follows:

(1) For a tower outside of a public right-of-way, when the height of the tower is increased by more than ten percent (10%), or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater.

(2) For a tower located in a public right-of-way or for a base station, when the height of the structure increases by more than ten percent (10%) or by more than ten (10) feet, whichever is greater.

(b) Changes in height are measured as follows:

(1) When deployments are separated horizontally, changes in

height shall be measured from the original support structure, not from the height of any existing telecommunications equipment.

(2) When deployments are separated vertically, changes in height shall be measured from the height of the tower or base station, including any appurtenances, as the tower or base station existed on February 22, 2012.

(c) A substantial change in the width of an existing tower or base station occurs as follows:

(1) For a tower outside of public rights-of-way, when the addition of an appurtenance to the body of the tower protrudes from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.

(2) For a tower in a public right-of-way or a base station, when the addition of an appurtenance to the body of the structure would protrude from the edge of the structure by more than six (6) feet.

(d) A substantial change also occurs for an existing tower in a public right-of-way or an existing base station as follows:

(1) When the change involves the installation of any new equipment cabinets on the ground, if no ground cabinets presently exist; or

(2) When the change involves the installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any existing ground cabinets.

(e) A substantial change also occurs for any existing tower or base station when any of the following are found:

(1) When the change involves installation of more than the standard number of new equipment cabinets for the technology involved, or more than four (4) new cabinets, whichever is less.

(2) When the change entails any excavation or deployment outside the current site.

(3) When the change would defeat the concealment elements of

the eligible support structure.

(4) When the change does not comply with conditions associated with the original siting approval of the construction or modification of the tower, base station or base station equipment. This limitation does not apply if 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 subsections (A) through (E)(2), hereof.

"Tower" means a structure built for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for 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, and the associated site.

"Whip antenna" means an array of antennae that is cylindrical in shape.

"Wireless service" means data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as all of these terms are defined by federal law and regulations.

"Wireless service facility" or "WSF" means a facility for the provision of wireless services, including a small cell facility; 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.

**Section 11-55-3**. Standards for all WSFs.

(a) Applicability. The standards contained in this Article apply to all applications for WSFs in the City. The applicant shall demonstrate in writing that its proposed WSF meets all applicable standards of this Article and any other required provisions of the Code.

(b) Co-Location. The City encourages co-location of WSFs when feasible to minimize the number of WSF sites. To further the goal of co-location:

(1) No WSF owner or operator shall unreasonably exclude a telecommunications competitor from using the same facility or location. Upon request by the City, the owner or operator shall provide evidence explaining why co-location is not possible at a

particular facility or site; and

(2) If a telecommunications competitor attempts to co-locate a WSF on an existing or approved WSF or location, and the parties cannot reach an agreement, the City may require a third-party technical study to be completed at the expense of either or both parties to determine the feasibility of co-location.

(c) Consent given to a telecommunications provider or broadband provider to erect or construct any poles, or to locate or co-locate communications and WSF on vertical structures in a right-of-way, does not extend to the co-location of new facilities or to the erection or construction of new poles in a right-of-way not specifically referenced in the grant of consent.

(d) Permitted zoning districts. WSFs shall be considered a permitted use in all zoning districts subject to administrative review as provided in this Article.

(e) Compliance with FCC standards. All WSFs shall meet the current standards and regulations of the FCC and any other agency of the federal government with the authority to regulate WSFs. Upon a request by the City at any time, WSF owners and operators shall verify that:

(1) The WSF complies with the current FCC regulations prohibiting localized interference with reception of television and radio broadcasts; and

(2) The WSF complies with the current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields.

(3) By adopting this Section, the City is not attempting to regulate radio frequency power densities or electromagnetic fields, which are controlled by the FCC.

(f) Abandonment. If the WSF ceases operation for any reason for one hundred eighty (180) consecutive days:

(1) The owner or operator shall remove the WSF; and

(2) Any permit issued for operation of a WSF shall expire.

(g) Height Limit. Notwithstanding any other height limitations in this Article, in no case shall a WSF located on property owned by the City or in any public right-of-way exceed forty (40) feet in height.

**Section 11-55-4**. Freestanding WSFs.

(a) The owner of real property on which a freestanding WSF is located

shall be responsible for removal of the WSF if the facility is abandoned, or unused for a period of more than one hundred eighty (180) days.

(b) Minimum setbacks. A freestanding WSF shall meet the minimum setback requirements for buildings and structures of the underlying zone district. If the freestanding WSF is located on the same property as a residence, the WSF shall also be setback from the residence by one (1) foot of distance for each foot of height of the WSF.

(c) Maximum height. A freestanding WSF, including antennae, shall not exceed the maximum structure height limit in the zone district in which the facility is located. In no case shall a freestanding WSF exceed sixty (60) feet in height.

(d) Design standards. A freestanding WSF shall meet the following design standards to minimize impacts:

(1) The facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area.

(2) Existing land forms, vegetation, and structures shall be used to screen the facility from view and blend in the facility with the surrounding environment to the extent practicable.

(3) Existing vegetation shall be preserved or enhanced.

(4) The total area of any equipment storage shelters shall not exceed four hundred (400) square feet for each WSF.

(5) Equipment storage shelters shall be grouped as closely together as technically possible.

(6) No equipment storage shelter shall exceed fifteen (15) feet in height.

(7) All freestanding WSFs shall accommodate co-location of facilities, unless co-location is technically unfeasible as set forth in section 11-55-3(b).

(8) All applicable landscape regulations shall be observed. A landscape plan prepared by a professional landscape architect may be required to demonstrate that such landscape appropriately shields the base and security fencing from

view if the base of the facility is otherwise visible from adjacent rights-of-way.

(9) Any equipment that could be dangerous to persons or wildlife shall be adequately covered or fenced.

**Section 11-55-5**. Building Roof or Wall-Mounted WSFs.

(a) A building wall-mounted WSF shall adhere to the following design standards to minimize impacts:

(1) The facility shall be screened from view and/or colored to match the building or structure to which it is attached.

(2) The mounting of antennae shall be as flush to the building wall as possible, and in no case shall the antennae extend more than three (3) feet out from the building wall.

(3) The facility shall not extend above the highest point of the roof of the building.

(b) A building roof-mounted WSF shall adhere to the following design standards to minimize impacts:

(1) A building roof-mounted WSF, including antennae, shall not exceed the maximum structure height limit in the zone district in which the facility is located and shall not extend more than twelve (12) feet above the height of the building on which the facility is mounted.

(2) The facility shall be screened from view and/or colored to match the building or structure to which it is attached.

(3) The diameter of a microwave dish antenna shall not exceed four (4) feet.

(c) Accessory equipment for a building roof or wall-mounted WSF shall be placed inside the building if feasible. All equipment storage shelters shall be grouped as closely as technically possible, and the total area of all accessory equipment, including storage shelters, shall not exceed four hundred (400) square feet per WSF.

**Section 11-55-6**. Small Cell Facilities.

(a) A telecommunications provider or broadband provider may locate or co-locate small cell facilities or small cell networks on light poles,

light standards, traffic signals, or utility polices in the right-of-way owned by the City, subject to the following:

(1) A small cell facility or a small cell network shall not be located or mounted on an apparatus, pole, or signal with tolling collection or enforcement equipment attached.

(2) The construction, installation, operation and maintenance of a small cell facility must comply with applicable federal and state law and the provisions of this Article. If upon inspection, the City concludes that a wireless service facility fails to comply with such laws and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the small cell facility, the owner shall have thirty (30) days from the date of the notice to bring such facility into compliance. Upon good cause shown by the owner, the City may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such facility into compliance within said time period, the City may remove such facility at owner's expense or prohibit future, noncompliant use of the light pole, light standard, traffic signal or utility.

(b) Micro wireless facilities. No application or permit shall be required for the installation, placement, operation, maintenance, or replacement of micro wireless facilities that are suspended on cable operator-owned cables or lines that are strung between existing utility poles in compliance with the national safety code, subject to the following:

(1) The City may require a permit for installation, placement, operation, maintenance, or replacement of micro wireless facilities where the installation, placement, operation, maintenance, or replacement of micro wireless facilities does any of the following, upon determination of the City:

i. Involves working within a highway travel lane or requires the closure of a highway travel lane;

ii. Disturbs the pavement or a shoulder, roadway, or ditch line;

iii. Includes placement on limited access rights-of-way; or

iv. Requires any specific precautions to ensure the

safety of the traveling public; the protection of public infrastructure; or the operation of public infrastructure; and such activities either were not authorized in, or will be conducted in a time, place, or manner that is inconsistent with, the approval terms of the existing permit for the facility or structure upon which the micro wireless facility is attached.

**Section 11-55-7**. Application and Approval Procedures.

(a) An application for approval of a proposed WSF shall include all information regularly required for other development applications, in addition to the following:

(1) A written, narrative statement describing in detail, how the proposed WSF will comply with each of the applicable design standards set forth in this Article.

(2) If requested by the City, photographic simulations showing the proposed facility and, if applicable, the structure on which it will be attached.

(b) Consolidated applications for small cell facilities. A telecommunications provider or broadband provider may file a consolidated application to receive a single permit for small cell networks involving multiple individual small cell facilities within the City. However, each small cell facility within the consolidated application individually remains subject to review for compliance with the requirements provided in this Article.

(c) Incomplete applications.

(1) When an application is incomplete, the City shall provide written notice to the applicant within thirty (30) days, specifically identifying all missing documents or information.

(2) If an application remains incomplete after a supplemental submission, the City shall notify the applicant within ten (10) days. Second or subsequent notices of incompleteness may not require the production of documents or information that were not requested in the original notice of incompleteness.

(d) Expedited review.

(1) An eligible WSF application, including an application for location or co-location of a small cell facility or small cell network or replacement or modification of a small cell facility or facilities or small cell network request shall be approved or denied by the City within sixty (60) days of the date of the City's receipt of the completed application. This time period may be tolled only by mutual agreement or when an application is incomplete.

(2) If the City fails to approve or deny an eligible WSF request within the sixty (60) days of the date of the City's receipt of the completed application (accounting for any tolling), the request shall be deemed granted; provided that this automatic approval shall become effective only upon the City's receipt of written notification from the applicant after the review period has expired (accounting for any tolling) indicating that the application has been deemed granted.

(e) Review.

(1) Criteria for approval or denial of application. In considering an application for location or co-location of a WSF, the City shall base the decision as to the approval or denial of the application on whether the proposed WSF meets the applicable design standards as outlined in this Article.

(2) Approval.

i. The City shall approve an eligible telecommunications request that does not substantially change the physical dimensions of a tower or base station.

ii. The City may approve an eligible telecommunications request that substantially changes the physical dimensions of a tower or base station if it complies with the remainder of this Code.

iii. The City may condition the approval of any eligible telecommunications request on compliance with generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety.

(3) Denial. A final decision by the City to deny any application

under this Article shall be in writing and supported by substantial evidence contained in a written record.

INTRODUCED, READ AND ORDERED POSTED this ____ day of _____, 2017.

_____
JOYCE DOWNING
Mayor

ATTEST:

_____
JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____, 2017.

_____
JOYCE DOWNING
Mayor

ATTEST:

_____
JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

_____
COREY Y. HOFFMANN
City Attorney

ATTACHMENT 2

CHAPTER 11
CITY OF NORTHGLENN ZONING ORDINANCE

Article 55. COMMERCIAL MOBILE RADIO SERVICE FACILITIES.

11-55-1. Purpose.

11-55-2. Definitions.

11-55-3. Standards for All CMRS Facilities.

11-55-4. Freestanding CMRS Facilities.

11-55-5. Building Roof or Wall-Mounted CMRS Facilities.

11-55-6. Pole-Mounted CMRS Facilities.

11-55-7. Application and Approval Procedures.

CHAPTER 11
CITY OF NORTHGLENN ZONING ORDINANCE

ARTICLE 55. COMMERCIAL MOBILE RADIO SERVICE FACILITIES.

Section 11-55-1. Purpose. The purposes of this Article are: to allow the location of commercial mobile radio service facilities ("CMRS facilities") in the City subject to certain standards; to act on applications for the location of CMRS facilities within a reasonable period of time; to encourage co-location of CMRS facilities; and to prevent unreasonable discrimination among providers of functionally equivalent services.

[Source: Ord. 1266, 2000]

Section 11-55-2. Definitions.

(a) **Accessory equipment for a CMRS facility**: equipment, including buildings and structures, used to protect and enable radio switching equipment, back-up power and other devices incidental to a CMRS facility, but not including antennae.

(b) **Base station**: a structure or equipment, other than a tower, at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communications between user equipment and a communications network. The term includes any equipment associated with wireless communications services, including radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks). The term includes any structure, other than a tower, to which any of the equipment described hereof is attached.

(c) **Building roof-mounted CMRS facility**: a CMRS facility that is mounted and supported entirely on the roof of a legally existing building or structure.

(d) **Building wall-mounted CMRS facility**: a CMRS facility that is mounted and supported entirely on the wall of a legally existing building or structure.

(e) **Commercial mobile radio service facility** or **CMRS facility**: an unmanned facility consisting of antennae and accessory equipment, and used for the reception, switching, transmission or receiving of wireless telecommunications operating at 1000 watts or less effective radiated power, and using frequencies authorized by the Federal Communications Commission ("FCC") including, but not limited to, paging, enhanced specialized mobile radio, personal communication systems, cellular telephone, point-to-point microwave signals, and similar technologies.

(f) **Eligible telecommunications facility request**: a request for a land use approval for the modification of an existing tower or base station that involves the collocation of new

transmission equipment, the removal of transmission equipment or the replacement of transmission equipment.

(g) **Equipment storage shelter**: buildings, storage shelters, and cabinets used to house CMRS facility equipment.

(h) **Freestanding CMRS facility**: a CMRS facility that consists of a stand-alone support structure such as a tower or monopole, and antennae and accessory equipment.

(i) **Microwave antenna**: a disk-type antenna used to link communication sites together by wireless voice or data transmission.

(j) **Pole-mounted CMRS facility**: a CMRS facility that is mounted and supported entirely on a legally existing traffic signal, utility pole, street light, flagpole, CMRS facility, electric transmission line, or other similar structure.

(k) **Public right-of-way:** all roads, streets and alleys and all other dedicated rights-of-way, access and utility easements of the City, the state, or any district, utility or railroad.

(l) **Substantial change**: a modification to an existing tower or base station under the following circumstances:

(1) A substantial change in the height of an existing tower or base station occurs as follows:

A. For a tower outside of a public right-of-way, when the height of the tower is increased by more than ten percent (10%), or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater.

B. For a tower located in a public right-of-way or for a base station, when the height of the structure increases by more than ten percent (10%) or by more than ten (10) feet, whichever is greater.

(2) Changes in height are measured as follows:

A. When deployments are separated horizontally, changes in height shall be measured from the original support structure, not from the height of any existing telecommunications equipment.

B. When deployments are separated vertically, changes in height shall be measured from the height of the tower or base station, including any appurtenances, as the tower or base station existed on February 22, 2012.

(3) A substantial change in the width of an existing tower or base station occurs as follows:

A. For a tower outside of public rights-of-way, when the addition of an appurtenance to the body of the tower protrudes from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.

B. For a tower in a public right-of-way or a base station, when the addition of an appurtenance to the body of the structure would protrude from the edge of the structure by more than six (6) feet.

(4) A substantial change also occurs for an existing tower in a public right-of-way or an existing base station as follows:

A. When the change involves the installation of any new equipment cabinets on the ground, if no ground cabinets presently exist, or

B. When the change involves the installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any existing ground cabinets.

(5) A substantial change also occurs for any existing tower or base station when any of the following are found:

A. When the change involves installation of more than the standard number of new equipment cabinets for the technology involved, or more than four (4) new cabinets, whichever is less.

B. When the change entails any excavation or deployment outside the current site.

C. When the change would defeat the concealment elements of the eligible support structure.

D. When the change does not comply with conditions associated with the original siting approval of the construction or modification of the tower, base station or base station equipment. This limitation does not apply if 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 subsections (1) through (5)(b), hereof.

(m) **Tower**: a structure built for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for 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, and the associated site.

(n) **Whip antenna**: an array of antennae that is cylindrical in shape.
[Source: Ord. 1266, 2000; 1667, 2014; 1718, 2016]

Section 11-55-3. Standards for All CMRS Facilities.

(a) Applicability. The standards contained in this Article apply to all applications for CMRS facilities proposed as a use-by-right, or as a permitted use. The applicant shall demonstrate in writing that its proposed CMRS facility meets all applicable standards and provisions of the code.

(b) Co-Location. The City encourages co-location of CMRS facilities when feasible to minimize the number of CMRS facility sites. To further the goal of co-location:

(1) No CMRS facility owner or operator shall unreasonably exclude a telecommunications competitor from using the same facility or location. Upon request by the City, the owner or operator shall provide evidence explaining why co-location is not possible at a particular facility or site; and

(2) If a telecommunications competitor attempts to co-locate a CMRS facility on an existing or approved CMRS facility or location, and the parties cannot reach an agreement, the City may require a third-party technical study to be completed at the expense of either or both parties to determine the feasibility of co-location.

(c) Compliance with FCC standards. Upon a request by the City at any time, CMRS facility owners and operators shall verify that:

(1) The CMRS facility complies with the current FCC regulations prohibiting localized interference with reception of television and radio broadcasts; and

(2) The CMRS facility complies with the current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields.

(3) By adopting this Section, the City is not attempting to regulate radio frequency power densities or electromagnetic fields, which regulation is controlled by the FCC.

(d) Abandonment. If the CMRS facility ceases operation for any reason for one hundred eighty (180) consecutive days:

(1) The owner or operator shall remove the CMRS facility; and

(2) Any conditional use site plan approval or permit shall expire.

(e) Height limit. In no case shall a CMRS facility located on property owned by the City or in any public right-of-way exceed forty (40) feet in height.

[Source: Ord. 1266, 2000; 1718, 2016]

Section 11-55-4. Freestanding CMRS Facilities.

(a) A permitted use permit pursuant to Section 11-55-7 shall be required prior to location of a freestanding CMRS facility in any residential zone district, including a residential planned unit development. In all other zone districts, freestanding CMRS facilities shall be a use-by-right subject only to administrative approval pursuant to Section 11-55-7.

(b) The owner of real property on which a freestanding CMRS facility is located shall be responsible for removal of the CMRS facility if the facility is abandoned, or unused for a period of more than one hundred eighty (180) days.

(c) Minimum setbacks for freestanding CMRS facilities: A freestanding CMRS facility shall meet the minimum setback requirements for buildings and structures of the underlying zone district. If the freestanding CMRS facility is located on the same property as a residence, the CMRS facility shall also be setback from the residence by one foot of distance for each foot of height of the CMRS facility.

(d) Maximum height for freestanding CMRS facilities: A freestanding CMRS facility, including antennae, shall not exceed the maximum structure height limit in the zone district in which the facility is located. In no case shall a freestanding CMRS facility exceed sixty (60) feet in height.

(e) Design standards for freestanding CMRS facilities: A freestanding CMRS facility shall meet the following design standards to minimize impacts:

(1) The facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area.

(2) Existing land forms, vegetation, and structures shall be used to screen the facility from view and blend in the facility with the surrounding environment.

(3) Existing vegetation shall be preserved or enhanced.

(4) The total area of any equipment storage shelters shall not exceed four hundred (400) square feet for each CMRS facility.

(5) Equipment storage shelters shall be grouped as closely together as technically possible.

(6) No equipment storage shelter shall exceed fifteen (15) feet in height.

(7) All freestanding CMRS facilities shall accommodate co-location of facilities, unless co-location is technically unfeasible.

(8) All applicable landscape regulations shall be observed.

(9) Any equipment that could be dangerous to persons or wildlife shall be adequately covered or fenced.

[Source: Ord. 1266, 2000]

Section 11-55-5. Building Roof or Wall-Mounted CMRS Facilities.

(a) A building roof or wall-mounted CMRS facility shall be a use-by-right in any zone district subject to administrative approval pursuant to Section 11-55-7.

(b) A building wall-mounted CMRS facility shall adhere to the following design standards to minimize impacts:

(1) The facility shall be screened from view and/or colored to match the building or structure to which it is attached.

(2) The mounting of antennae shall be as flush to the building wall as possible, and in no case shall the antennae extend more than three (3) feet out from the building wall.

(3) The facility shall not extend above the highest point of the roof of the building.

(c) A building roof-mounted CMRS facility shall adhere to the following design standards to minimize impacts:

(1) A building roof-mounted CMRS facility, including antennae, shall not extend more than twelve (12) feet above the height of the building on which the facility is mounted.

(2) The facility shall be screened from view and/or colored to match the building or structure to which it is attached.

(3) The diameter of a microwave dish antenna shall not exceed four (4) feet.

(d) Accessory equipment for a building roof or wall-mounted CMRS facility shall be placed inside the building if feasible. All equipment storage shelters shall be grouped as closely

as technically possible, and the total area of all accessory equipment, including storage shelters, shall not exceed four hundred (400) square feet per CMRS facility.

[Source: Ord. 1266, 2000]

Section 11-55-6. Pole-Mounted CMRS Facilities.

(a) Location of a pole-mounted CMRS facility in any residential zone district, including a residential planned unit development, shall require a permitted use permit pursuant to Section 11-55-7. A pole-mounted CMRS facility shall be a use-by-right in any other zone district subject to administrative approval pursuant to Section 11-55-7.

(b) A pole-mounted CMRS facility shall adhere to the following design standards to minimize impacts:

(1) The facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area.

(2) The facility shall be colored to match the pole to which it is attached.

(3) The total area of all accessory equipment, including equipment storage shelters, shall not exceed four hundred (400) square feet per facility.

(4) Equipment storage shelters shall be designed to be compatible with surrounding buildings and structures.

[Source: Ord. 1266, 2000]

Section 11-55-7. Application and Approval Procedures.

(a) CMRS facilities shall be permitted as provided in the following matrix:

A = use-by-right, administrative approval required

P = permitted use, permitted use permit required

| | Freestanding | Building-Mounted | Pole-Mounted |
|---|---|---|---|
| Residential, Residential PUD | P | A* | P* |
| All other zone districts | A | A | A |

(b) Except with respect to an eligible telecommunications facility request that must be approved pursuant to subsection (g) hereof, an application for approval of a proposed CMRS

facility shall include all information regularly required by the Community Development Department for other development applications, in addition to the following:

(1) A written, narrative statement describing in detail how the proposed CMRS facility will comply with each of the applicable design standards set forth in this Article.

(2) If requested by the Community Development Department, photographic simulations showing the proposed facility and, if applicable, the structure on which it will be attached.

(c) Procedure for administrative approval. Applicant shall submit a completed application to the Director of Community Development, who shall approve or deny the request within thirty (30) days of receipt of a completed application.

(d) Procedure for permitted use permit. The procedures set forth in Article 30 shall be followed.

(e) Criteria for approval or denial of application. In considering an application for location of a CMRS facility, the Director of Community Development and/or Commission shall base the decision as to the approval or denial of the application on whether the proposed CMRS facility meets the applicable design standards as outlined in this Article, rather than any criteria set forth in any other Article of this Zoning Ordinance.

(f) Application denial. A final decision by the City to deny any application under this Article shall be in writing and supported by substantial evidence contained in a written record.

(g) Eligible Telecommunications Facility Requests.

(1) Any modification to a CMRS facility that differs from the original design that was approved by the City shall require new application and approval. Notwithstanding the foregoing, the City may, in its sole discretion, waive or postpone the submittal of any application requirement detailed in this Section when considering a modification request.

(2) Application materials.

A. An applicant for an eligible telecommunications facility request shall be required to submit only such documentation and information as is reasonably necessary to determine whether a proposed modification would substantially change the physical dimensions of an eligible tower or base station.

B. The City shall make available an application form which shall be limited to the information necessary for the City to consider whether an application would substantially change the physical dimensions of an eligible

tower or base station. The application form may not require the applicant to demonstrate a need or business case for the proposed modification or collocation.

(3) Incomplete applications.

A. When an application is incomplete, the City shall provide written notice to the applicant within thirty (30) days, specifically identifying all missing documents or information.

B. If an application remains incomplete after a supplemental submission, the City shall notify the applicant within ten (10) days. Second or subsequent notices of incompleteness may not require the production of documents or information that were not requested in the original notice of incompleteness.

(4) Expedited review.

A. An eligible telecommunications facility request shall be approved or denied by the City within sixty (60) days of the date of the City's receipt of the completed application. This time period may be tolled only by mutual agreement or where an application is incomplete.

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

(5) Review.

A. The Director of Community Development or Commission shall review the application to determine whether the application qualifies as an eligible telecommunications facility request.

B. Approval.

1. The City shall approve an eligible telecommunications facility request that does not substantially change the physical dimensions of a tower or base station.

2. The City may approve an eligible telecommunications facility request that substantially changes the physical dimensions of a tower or base station if it complies with the remainder of this Code.

3. The City may condition the approval of any eligible telecommunications facility request on compliance with generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety.

C. Denial. A final decision by the City to deny an eligible telecommunications facility request under this Section shall be in writing and shall include the reason(s) for denial.

[Source: Ord. 1266, 2000; 1667, 2014; 1718, 2016]

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S BILL ORDINANCE NO.

No. CB-1901
Series of 2017 Series of 2017

A BILL FOR AN ORDINANCE REPEALING AND REENACTING ARTICLE 55 OF CHAPTER 11 OF THE NORTHGLENN MUNICIPAL CODE CONCERNING THE REGULATION OF WIRELESS SERVICE FACILITIES

WHEREAS, pursuant to the Telecommunications Act of 1996 (the "Act"), local governments are provided authority over decisions regarding the placement, construction, and modification of personal wireless service facilities; provided that any such regulation does not unreasonably discriminate among providers of functionally equivalent services, or prohibit, or have the effect of prohibiting the provisions of personal wireless services;

WHEREAS, such regulation is also subject to Section 6409 ("Section 6409") of the Middle Class Tax Relief and Job Creation Act of 2012, which requires a local government to approve any eligible facilities request for a modification of an existing wireless tower or base station that does not "substantially change" the physical dimensions of such tower or base station;

WHEREAS, the Colorado General Assembly passed House Bill 17-1193 (C.R.S. §§ 29-27-401 – 29-27-404; 38-5.5-102 – 38-5.5-108), which also provides certain mandatory procedural requirements and regulations for installation of small cell facilities within a municipality's right-of-way; and

WHEREAS, the City Council of the City of Northglenn now wish to establish a procedure for review of applications for the installation of wireless service facilities within the City in compliance with the Act, Section 6409 and House Bill 17-1193.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Article 55 of Chapter 11 of the Northglenn Municipal Code is hereby repealed in its entirety and reenacted as follows:

CHAPTER 11
CITY OF NORTHGLENN ZONING ORDINANCE

ARTICLE 55
WIRELESS SERVICE FACILITIES

**Section 11-55-1.** Purposes.

The purposes of this Article are: to allow the location of wireless service facilities ("WSF") in the City while protecting the public health, safety, and general welfare

of the community; to act on applications for the location of WSFs within a reasonable period of time; to encourage co-location of WSFs; and to prevent unreasonable discrimination among providers of functionally equivalent services.

**Section 11-55-2.** Definitions.

"Accessory equipment for a WSF" means equipment, including buildings and structures, used to protect and enable radio switching equipment, back up power and other devices incidental to a WSFs, but not including antennae.

"Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used to provide wireless service.

"Base station" means a structure or equipment, other than a tower, at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communications between user equipment and a communications network. The term includes any equipment associated with wireless communications services, including radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks). The term includes any structure, other than a tower, to which any of the equipment described hereof is attached.

"Building roof-mounted WSFs" means a WSF that is mounted and supported entirely on the roof of a legally existing building or structure.

"Eligible telecommunications facility request" means a request for approval of the modification of an existing tower or base station that involves the co-location of new transmission equipment, the removal of transmission equipment or the replacement of transmission equipment.

"Equipment storage shelter" means buildings, storage shelters, and cabinets used to house WSF equipment.

"Freestanding WSF" means a WSF that consists of a stand-alone support structure such as a tower or monopole, and antennae and accessory equipment.

"Microwave antenna" means a disk-type antenna used to link communication sites together by wireless voice or data transmission.

"Micro Wireless Facility" means a WSF that is no larger in dimensions than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and that have an exterior antenna, if any, that is no more than eleven (11) inches in length.

"Public right-of-way" means all roads, streets and alleys and all other dedicated rights-of-way, access and utility easements of the City, the state, or any district, utility or roadway.

"Small cell facility" means either a personal wireless service facility as defined by the federal Telecommunications Act of 1996, or a WSF where:

(a) Each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and

(b) Primary equipment enclosures are no larger than seventeen (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.

A small cell facility includes a micro wireless facility.

"Small cell network" means a collection of interrelated small cell facilities designed to deliver wireless service.

"Substantial change" means a modification to an existing tower or base station under the following circumstances:

(a) A substantial change in the height of an existing tower or base station occurs as follows:

(1) For a tower outside of a public right-of-way, when the height of the tower is increased by more than ten percent (10%), or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater.

(2) For a tower located in a public right-of-way or for a base station, when the height of the structure increases by more than ten percent (10%) or by more than ten (10) feet, whichever is greater.

(b) Changes in height are measured as follows:

(1) When deployments are separated horizontally, changes in height shall be measured from the original support structure, not from the height of any existing telecommunications equipment.

(2) When deployments are separated vertically, changes in height shall be measured from the height of the tower or base station, including any appurtenances, as the tower or base

station existed on February 22, 2012.

(c) A substantial change in the width of an existing tower or base station occurs as follows:

(1) For a tower outside of public rights-of-way, when the addition of an appurtenance to the body of the tower protrudes from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.

(2) For a tower in a public right-of-way or a base station, when the addition of an appurtenance to the body of the structure would protrude from the edge of the structure by more than six (6) feet.

(d) A substantial change also occurs for an existing tower in a public right-of-way or an existing base station as follows:

(1) When the change involves the installation of any new equipment cabinets on the ground, if no ground cabinets presently exist; or

(2) When the change involves the installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any existing ground cabinets.

(e) A substantial change also occurs for any existing tower or base station when any of the following are found:

(1) When the change involves installation of more than the standard number of new equipment cabinets for the technology involved, or more than four (4) new cabinets, whichever is less.

(2) When the change entails any excavation or deployment outside the current site.

(3) When the change would defeat the concealment elements of the eligible support structure.

(4) When the change does not comply with conditions associated with the original siting approval of the construction or modification of the tower, base station or base station equipment. This limitation does not apply if 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 subsections (A) through (E)(2), hereof.

"Tower" means a structure built for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for 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, and the associated site.

"Whip antenna" means an array of antennae that is cylindrical in shape.

"Wireless service" means data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as all of these terms are defined by federal law and regulations.

"Wireless service facility" or "WSF" means a facility for the provision of wireless services, including a small cell facility; 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.

**Section 11-55-3**. Standards for all WSFs.

(a) Applicability. The standards contained in this Article apply to all applications for WSFs in the City. The applicant shall demonstrate in writing that its proposed WSF meets all applicable standards of this Article and any other required provisions of the Code.

(b) Co-Location. The City encourages co-location of WSFs when feasible to minimize the number of WSF sites. To further the goal of co-location:

(1) No WSF owner or operator shall unreasonably exclude a telecommunications competitor from using the same facility or location. Upon request by the City, the owner or operator shall provide evidence explaining why co-location is not possible at a particular facility or site; and

(2) If a telecommunications competitor attempts to co-locate a WSF on an existing or approved WSF or location, and the parties cannot reach an agreement, the City may require a third-party technical study to be completed at the expense of either or both parties to determine the feasibility of co-location.

(c) Consent given to a telecommunications provider or broadband provider to erect or construct any poles, or to locate or co-locate communications and WSF on vertical structures in a right-of-way, does not extend to the co-location of new facilities or to the erection or construction of new poles in a right-of-way not specifically

referenced in the grant of consent.

(d) Permitted zoning districts. WSFs shall be considered a permitted use in all zoning districts subject to administrative review as provided in this Article.

(e) Compliance with FCC standards. All WSFs shall meet the current standards and regulations of the FCC and any other agency of the federal government with the authority to regulate WSFs. Upon a request by the City at any time, WSF owners and operators shall verify that:

(1) The WSF complies with the current FCC regulations prohibiting localized interference with reception of television and radio broadcasts; and

(2) The WSF complies with the current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields.

(3) By adopting this Section, the City is not attempting to regulate radio frequency power densities or electromagnetic fields, which are controlled by the FCC.

(f) Abandonment. If the WSF ceases operation for any reason for one hundred eighty (180) consecutive days:

(1) The owner or operator shall remove the WSF; and

(2) Any permit issued for operation of a WSF shall expire.

(g) Height Limit. Notwithstanding any other height limitations in this Article, in no case shall a WSF located on property owned by the City or in any public right-of-way exceed forty (40) feet in height.

**Section 11-55-4**. Freestanding WSFs.

(a) The owner of real property on which a freestanding WSF is located shall be responsible for removal of the WSF if the facility is abandoned, or unused for a period of more than one hundred eighty (180) days.

(b) Minimum setbacks. A freestanding WSF shall meet the minimum setback requirements for buildings and structures of the underlying zone district. If the freestanding WSF is located on the same property as a residence, the WSF shall also be setback from the

residence by one (1) foot of distance for each foot of height of the WSF.

(c) Maximum height. A freestanding WSF, including antennae, shall not exceed the maximum structure height limit in the zone district in which the facility is located. In no case shall a freestanding WSF exceed sixty (60) feet in height.

(d) Design standards. A freestanding WSF shall meet the following design standards to minimize impacts:

(1) The facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area.

(2) Existing land forms, vegetation, and structures shall be used to screen the facility from view and blend in the facility with the surrounding environment to the extent practicable.

(3) Existing vegetation shall be preserved or enhanced.

(4) The total area of any equipment storage shelters shall not exceed four hundred (400) square feet for each WSF.

(5) Equipment storage shelters shall be grouped as closely together as technically possible.

(6) No equipment storage shelter shall exceed fifteen (15) feet in height.

(7) All freestanding WSFs shall accommodate co-location of facilities, unless co-location is technically unfeasible as set forth in section 11-55-3(b).

(8) All applicable landscape regulations shall be observed. A landscape plan prepared by a professional landscape architect may be required to demonstrate that such landscape appropriately shields the base and security fencing from view if the base of the facility is otherwise visible from adjacent rights-of-way.

(9) Any equipment that could be dangerous to persons or wildlife shall be adequately covered or fenced.

**Section 11-55-5**. Building Roof or Wall-Mounted WSFs.

(a) A building wall-mounted WSF shall adhere to the following design standards to minimize impacts:

(1) The facility shall be screened from view and/or colored to

match the building or structure to which it is attached.

(2) The mounting of antennae shall be as flush to the building wall as possible, and in no case shall the antennae extend more than three (3) feet out from the building wall.

(3) The facility shall not extend above the highest point of the roof of the building.

(b) A building roof-mounted WSF shall adhere to the following design standards to minimize impacts:

(1) Building roof-mounted WSFs shall be located so as to be of minimal visibility, such as being incorporated within an architectural feature such as a steeple or parapet or any architectural addition to a building or structure which is architecturally compatible with the building.

(2) A building roof-mounted WSF, including antennae, shall not exceed the maximum structure height limit in the zone district in which the facility is located and shall not extend more than twelve (12) feet above the height of the building on which the facility is mounted.

(3) The facility shall be screened from view and/or colored to match the building or structure to which it is attached.

(4) The diameter of a microwave dish antenna shall not exceed four (4) feet.

(c) Accessory equipment for a building roof or wall-mounted WSF shall be placed inside the building if feasible. All equipment storage shelters shall be grouped as closely as technically possible, and the total area of all accessory equipment, including storage shelters, shall not exceed four hundred (400) square feet per WSF.

**Section 11-55-6**. Small Cell Facilities.

(a) A telecommunications provider or broadband provider may locate or co-locate small cell facilities or small cell networks on light poles, light standards, traffic signals, or utility poles in the right-of-way owned by the City, subject to the following:

(1) A small cell facility or a small cell network shall not be located or mounted on an apparatus, pole, or signal with tolling collection or enforcement equipment attached.

(2) The construction, installation, operation and maintenance of a small cell facility must comply with applicable federal and

state law and the provisions of this Article. If upon inspection, the City concludes that a wireless service facility fails to comply with such laws and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the small cell facility, the owner shall have thirty (30) days from the date of the notice to bring such facility into compliance. Upon good cause shown by the owner, the City may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such facility into compliance within said time period, the City may remove such facility at owner's expense or prohibit future, noncompliant use of the light pole, light standard, traffic signal or utility.

(b) Micro wireless facilities. No application or permit shall be required for the installation, placement, operation, maintenance, or replacement of micro wireless facilities that are suspended on cable operator-owned cables or lines that are strung between existing utility poles in compliance with the national safety code, subject to the following:

(1) The City may require a permit for installation, placement, operation, maintenance, or replacement of micro wireless facilities where the installation, placement, operation, maintenance, or replacement of micro wireless facilities does any of the following, upon determination of the City:

i. Involves working within a highway travel lane or requires the closure of a highway travel lane;

ii. Disturbs the pavement or a shoulder, roadway, or ditch line;

iii. Includes placement on limited access rights-of-way; or

iv. Requires any specific precautions to ensure the safety of the traveling public; the protection of public infrastructure; or the operation of public infrastructure; and such activities either were not authorized in, or will be conducted in a time, place, or manner that is inconsistent with, the approval terms of the existing permit for the facility or structure upon which the micro wireless facility is attached.

**Section 11-55-7**. Application and Approval Procedures.

(a) An application for approval of a proposed WSF shall include all

information regularly required for other development applications, in addition to the following:

(1) A written, narrative statement describing in detail, how the proposed WSF will comply with each of the applicable design standards set forth in this Article.

(2) If requested by the City, photographic simulations showing the proposed facility and, if applicable, the structure on which it will be attached.

(b) Consolidated applications for small cell facilities. A telecommunications provider or broadband provider may file a consolidated application to receive a single permit for small cell networks involving multiple individual small cell facilities within the City. However, each small cell facility within the consolidated application individually remains subject to review for compliance with the requirements provided in this Article.

(c) Incomplete applications.

(1) When an application is incomplete, the City shall provide written notice to the applicant within thirty (30) days, specifically identifying all missing documents or information.

(2) If an application remains incomplete after a supplemental submission, the City shall notify the applicant within ten (10) days. Second or subsequent notices of incompleteness may not require the production of documents or information that were not requested in the original notice of incompleteness.

(d) Expedited review.

(1) An eligible WSF application, including an application for location or co-location of a small cell facility or small cell network or replacement or modification of a small cell facility or facilities or small cell network request shall be approved or denied by the City within sixty (60) days of the date of the City's receipt of the completed application. This time period may be tolled only by mutual agreement or when an application is incomplete.

(2) If the City fails to approve or deny an eligible WSF request within the sixty (60) days of the date of the City's receipt of the completed application (accounting for any tolling), the request shall be deemed granted; provided that this automatic approval shall become effective only upon the City's receipt of written notification from the applicant after

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

(e) Review.

(1) Criteria for approval or denial of application. In considering an application for location or co-location of a WSF, the City shall base the decision as to the approval or denial of the application on whether the proposed WSF meets the applicable design standards as outlined in this Article.

(2) Approval.

i. The City shall approve an eligible telecommunications request that does not substantially change the physical dimensions of a tower or base station.

ii. The City may approve an eligible telecommunications request that substantially changes the physical dimensions of a tower or base station if it complies with the remainder of this Code.

iii. The City may condition the approval of any eligible telecommunications request on compliance with generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety.

(3) Denial. A final decision by the City to deny any application under this Article shall be in writing and supported by substantial evidence contained in a written record.

INTRODUCED, READ AND ORDERED POSTED this 13th day of November, 2017.

/s/
JOYCE DOWNING
Mayor

ATTEST:

/s/
JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____, 2017.

_____
CAROL A. DODGE
Mayor

ATTEST:

_____
JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

_____/s/_____
COREY Y. HOFFMANN
City Attorney