



# City of Littleton

Littleton Center  
2255 West Berry Avenue  
Littleton, CO 80120

## Meeting Agenda

### City Council

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Tuesday, March 21, 2017

6:30 PM

Community Room

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#### STUDY SESSION

#### **1. STUDY SESSION**

- a) [ID# 17-73](#) Unification Update and Presentation from our Fire Partners
- b) [ID# 17-72](#) Selection of City Attorney Candidates for Interviews
- c) [ID# 17-70](#) Community engagement - Downtown & Parking
- d) [ID# 17-64](#) Proposed Amendments to Commercial Mobile Radio Service Code Requirements and Expand Regulations to Include Wireless Telecommunication Facilities

**Attachments:** [Wireless Communications Facilities - Draft Code Updates](#)

#### **2. Adjournment**

The public is invited to attend all regular meetings or study sessions of the City Council or any City Board or Commission. Please call 303-795-3780 at least forty-eight (48) hours prior to the meeting if you believe you will need special assistance or any reasonable accommodation in order to be in attendance at or participate in any such meeting. For any additional information concerning City meetings, please call the above referenced number.



**Staff Communication**

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**File #:** ID# 17-73, **Version:** 1

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Agenda Date: 03/21/2017

Subject:  
Unification Update and Presentation from our Fire Partners

Presented By: Chris Armstrong, Fire Chief

**BACKGROUND:**

The Littleton Fire-Rescue Department was approached by South Metro Fire Rescue regarding a possible unification of departments. City Council and our Fire Partners agreed to enter into the discussions with South Metro.

The main purpose of this study session presentation is to allow our fire partners the opportunity to convey to council, challenges they face with either financial sustainability and/or service delivery. COL finance department will also provide information regarding the cities financial position regarding fire and EMS services.

The information is intended to frame the challenges facing LFR's fire partners which have led to our unification discussions.

**OPTIONS/ALTERNATIVES:**

Do nothing = Increases costs, service challenges, future stability, various performance standards, various costs sharing.

Contract with SMFR = Long term cost savings for COL, financial sustainability for LFPD, improved services for HRMD

**STAFF RECOMMENDATION:**

Staff recommends that council support unification discussions



**Staff Communication**

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**File #:** ID# 17-72, **Version:** 1

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Agenda Date: 03/21/2017

Subject:  
Selection of City Attorney Candidates for Interviews

Presented By: Erich WonSavage, HR Director; Chuck Rohre, Consultant

Chuck Rohre, consultant from Springsted Consulting will review City Attorney candidates with council. After review of Council ratings of the candidates, Council will provide direction on which candidates they would like to interview on March 31<sup>st</sup>.



Staff Communication

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**File #:** ID# 17-70, **Version:** 2

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Agenda Date: 03/21/2017

Subject:  
Community engagement - Downtown & Parking

Presented By: Aaron Heumann, Traffic Engineer Public Works & Ryan Thompson, Mediator Community Development
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Staff intends to discuss with city council a new approach for citizen engagement aimed at accomplishing two tasks; 1) resetting engagement with the residents in our community, and 2) developing a new strategy for managing issues in our downtown area (e.g. parking).

Last fall, city council identified citizen engagement as a priority for our community. In recent months, staff shared with council the approach of the West Mineral Avenue Transportation study where citizens were involved in the beginning of a process to assist in identifying the problem(s), then alternatives, and finally informed consent on an implementation plan for possible improvements. The success of this project (albeit, modest in scope) has provided an opportunity for developing more of a city-wide strategy for citizen engagement.

The historic downtown area is currently experiencing significant changes and continues to be a focal point both of the Littleton community and visitors to our city. Many of those changes include:

- New restaurants, such as the *View House* and *The Alley*;
- Mixed use developments are being planned and constructed in and adjacent to the downtown area, such as The Grove and Littleton Mixed Use (formerly the Valley Feed store);
- Previous single-family homes are being removed together with empty properties are being planned for more dense residential dwellings, such as the multiplexes along Syracuse Street and the Littleton Commons development.
- Staff has been recently contacted with requests in the downtown for expanding private parking lots, adding more public parking, allowing for valet parking along Main Street, providing employee parking, identifying limited timed parking for high-turnover businesses, accommodating ADA stalls adjacent to specific businesses, blocking off underutilized driveways in order to increase on-street parking accommodations, and restriping for head-in angled parking on wider roadways to increase the number of stalls next to businesses.

As a result of all of these changes and requests, staff has been receiving many comments and concerns from businesses and residents.

The success of our downtown will largely depend upon our ability to forecast and manage such issues over time. What is also key to that success is our ability to create meaningful and lasting citizen engagement. Staff will present to council a process on how we might meet that challenge not only for downtown, but perhaps how we might “reset” citizen engagement for our community.





Staff Communication

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**File #:** ID# 17-64, **Version:** 1

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Agenda Date: 03/21/2017

Subject:

Proposed Amendments to Commercial Mobile Radio Service Code Requirements and Expand Regulations to Include Wireless Telecommunication Facilities

Presented	Ken Fellman, Acting City Attorney and Jocelyn Mills, Community Development Director
By:	

**POLICY QUESTION:**

Does city council support an update to the city's zoning code regulating Commercial Mobile Radio Services, and to expand upon the city's regulations to include wireless telecommunication facilities?

**BACKGROUND:**

Recently, it has come to light that Littleton's zoning code, specifically in regards to commercial mobile radio service, is in need of an update to bring the code into compliance with current state and federal regulations around wireless telecommunication facilities. Also, the city has been approached by some wireless telecommunication providers regarding locating wireless communications within city rights-of-way. The current code also does not address how to manage such requests.

**STAFF ANALYSIS:**

It appears Littleton's existing code on Commercial Radio Service is outdated and in need of being updated to meet current state and federal requirements. Also, with the latest technology around wireless telecommunication, it is important to update the code to address issues around locating wireless communications both on private property and within city rights-of-way.

Based on the need to ensure the city's meets state and federal requirements for wireless telecommunications, the proposal is to establish a new chapter dedicated to the topic, within the city's zoning code. The proposed ordinance would repeal Section 10-4-11 (Commercial Mobile Radio Service) and replace it with a new chapter, Chapter 16. Additionally, updated and new definitions are proposed for Section 10-1-2, and further clarification is suggested in the Conditional Use chapter of the code for radio transmission and broadcast structures (10-8-2 (C)).

**OPTIONS/ALTERNATIVES:**

Discussions regarding updating and amending the city's codes for wireless are:

1. Keep the existing code as is without any update to it.
2. Propose amendments to the existing code to address the state and federal regulations on wireless communication facilities, and to be able to manage wireless telecommunication providers' requests for locating wireless communication within rights-of-way.

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**File #:** ID# 17-64, **Version:** 1

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**STAFF RECOMMENDATION:**

Staff recommends option 2.

**ATTACHMENTS:**

The proposed code amendments are attached to this staff communication.

**DRAFT PROPOSED AMENDMENTS TO CODE**

**Proposal is to add new definitions and delete outdated definitions as follows:**

**10-1-2 DEFINITIONS**

ALTERNATIVE TOWER STRUCTURE means man-made trees, clock towers, bell steeples, light poles, buildings, and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflage or conceals the presence of antennas or towers so as to make them architecturally compatible with the surrounding area pursuant. This term also includes any antenna or antenna array attached to an alternative tower structure.

ANTENNA means any device used to transmit and/or receive radio or electromagnetic waves such as, 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. Exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of wireless communications signals.

ANTENNA, DISH means dish (parabolic or cylindrical) antennas used for microwave and satellite transmission and reception for commercial purposes. This definition shall not apply to wireless cable satellite dish antennas or dish antennas less than one meter when measured diagonally.

BASE STATION means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The definition of Base Station does not include or encompass a Tower as defined herein or any equipment associated with a Tower. Base Station does include, without limitation:

1. equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the City under Chapter 16 of Article 10 has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support; and
2. radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small-cell networks) that, at the time the relevant application is filed with the City under Chapter 16 has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.



The definition of Base Station does not include any structure that, at the time the relevant application is filed with the City under Chapter 16 of Article 10, does not support or house equipment described in paragraphs 1 and 2 above.

CAMOUFLAGE, CONCEALMENT, OR CAMOUFLAGE DESIGN TECHNIQUES means a Wireless Communication Facilities (WCF) is camouflaged or utilizes Camouflage Design Techniques when any measures are used in the design and siting of a WCF with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF site utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a flagpole, or (iii) uses a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree) or is incorporated into or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent.

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.

ELIGIBLE FACILITIES REQUEST means any request for modification of an Existing Tower or Base Station that does not Substantially Change the physical dimensions of such Tower or Base Station involving: (i) collocation of new Transmission Equipment, (ii) removal of Transmission Equipment, or (iii) replacement of Transmission Equipment.

ELIGIBLE SUPPORT STRUCTURE means any Tower or Base Station as defined in this Section, provided that it is Existing at the time the relevant application is filed with the City under this Section.

EXISTING TOWER OR BASE STATION means a constructed Tower or Base Station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an Eligible Facilities Request, provided that a Tower that exists as a legal, non-conforming use and was lawfully constructed is Existing for purposes of this definition.

OTARD means an Over-the-Air Receiving Device.

OTARD ANTENNA means (i) 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 (ii) 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 (iii) an antenna that is designed to receive television broadcast signals.

OTARD ANTENNA STRUCTURE means any pole, tower, or other structure designed and intended to support and OTARD Antenna.

SITE FOR TOWERS, other than Towers in the Right-of-Way and Eligible Support Structures, means the current boundaries of the leased or owned property surrounding the Tower or Eligible Support Structure and any access or utility easements currently related to the Site. A Site, for other Towers in the Right-of-Way, is further restricted to that area comprising the base of the structure and to other related Accessory Equipment already deployed on the ground.

SUBSTANTIAL CHANGE FOR ELIGIBLE SUPPORT STRUCTURE means a modification that Substantially Changes the physical dimensions of an Eligible Support Structure if it meets any of the following criteria: (i) for Towers other than Alternative Tower Structures in the Right-of-Way, it increases the height of the Tower by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other Eligible Support Structures, it increases the height of the structure by more than 10 percent or more than ten feet, whichever is greater; (ii) for Towers other than Towers in the Right-of-Way, it involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than twenty feet, or more than the width of the Tower Structure at the level of the appurtenance, whichever is greater for Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet; (iii) for any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or for Towers in the Right-of-Way and Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure; (iv) for any Eligible Support Structure, it entails any excavation or deployment outside the current Site; (v) for any Eligible Support Structure, it would impair the concealment elements of the Eligible Support Structure; or (vi) for any Eligible Support Structure, it does not comply with conditions associated with the siting approval of the construction or modification of the Eligible Support Structure or Base Station equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs (i), (ii), and (iii) of this Definition; and (vii) for any Eligible Support Structure, it does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or it does not comply with any relevant Federal requirements.

TOWER is any structure that is designed and constructed primarily built for the sole or primary purpose of supporting one or more any 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, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. Self supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission

towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like.

**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.

**WIRELESS COMMUNICATIONS FACILITY OR 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; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an antenna or antennas, including without limitation, direction, omni-directional and parabolic antennas, base stations, support equipment, alternative tower structures, and Towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand held radios/telephones and their associated transmitting Antennas, nor does it include other facilities specifically excluded from the coverage of this Section.

**Proposal is repeal the following section, 10-4-11:**

**Proposal is to replace with a new chapter:**

**Chapter 16. – WIRELESS COMMUNICATIONS FACILITIES (WCFS)**

**10-16-1: - INTENT AND PURPOSE:**

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the city council finds that these regulations are necessary to:

- (A) Provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the City with the fewest number of Wireless Communications Facilities (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;

- (B) Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including but not limited to camouflage design techniques and undergrounding of WCFs and the equipment associated therewith;
- (C) Encourage the deployment of smaller, less intrusive WCFs to supplement existing larger WCFs;
- (D) Encourage the use of wall mounted panel antennas;
- (E) Encourage roof mounted antennas only when wall mounted antennas will not provide adequate service or are not otherwise feasible;
- (F) Encourage the location of towers in non-residential areas, in a manner that minimizes the total number of towers needed throughout the community;
- (G) Encourage strongly the collocation of WCFs on new and existing sites;
- (H) Encourage owners and users of antennas and towers to locate them, to the extent possible, in areas where the adverse impact on the community is minimized;
- (I) Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently;
- (J) Effectively manage WCFs in the public Right-of-Way;
- (K) Manage Amateur Radio Facilities and Over-the-Air Receiving Devices in the City.

## **10-16-2: - APPLICABILITY:**

- (A) The requirements set forth in this Chapter 16 shall apply to all WCF applications for Base Stations, Alternative Tower Structures, Alternative Tower Structures located within Right-of-Way, and Towers as defined in Section 10-16-3 and further addressed herein.
- (B) The requirements set forth in this Chapter 16 shall not apply to:
  1. 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 that the requirement that the height be no more than the distance from the base of the antenna to the property line is met.
  2. Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to \_\_\_\_\_, 2017, shall not be required to meet the requirements of this Chapter 16, other than the requirements of Section 10-16-4 below. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of this Section 10-16-4.
  3. Miscellaneous Antennas. Antennas used for reception of television, multi-channel video programming and radio such as OTARD antennas, television broadcast band antennas, and broadcast radio antennas, provided that any requirements related to

Accessory Uses contained in Chapter 16 of this Code and the requirement that the height be no more than the distance from the base to the property line are met. The Director or his or her designee has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the City, modifications are necessary to comply with federal law.

### **10-16-3: – OPERATIONAL STANDARDS:**

- (A) Federal Requirements. All WCFs shall meet the current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF governed by this Section shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense..
- (B) Radio Frequency Standards. 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 City, the City may request that the owner or operator of the WCF provide information demonstrating compliance. If such information suggests, in the reasonable discretion of the City, that the WCF may not be in compliance, the City may request and the owner or operator of the WCF shall submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and which compares the results with established federal standards. If, upon review, the City finds that the facility does not meet federal standards, the City may require corrective action within a reasonable period of time, and if not corrected, may require removal of the WCF pursuant to Section 10-16-4(a) above. Any reasonable costs incurred by the City, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the Applicant.
- (C) Signal Interference. All WCFs shall be designed and sited, consistent with applicable federal regulations, so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and non-residential properties; nor shall any such facilities interfere with any public safety communications. The Applicant shall provide a written statement from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems and shall allow the City to monitor interference levels with public safety communications during this process. Additionally, the Applicant shall notify the City at least ten calendar days prior to the introduction of new service or changes in existing service, and shall allow the City to monitor interference levels with public safety communications during the testing process.
- (D) Legal Access. In all Applications for WCFs an Applicant must warrant and represent that it has the written agreement of the owner of the property which is the subject of the application for legal access to and from the WCF and the Applicant must also warrant and represent that it will have legal access to the utilities to operate and maintain the WCF.
- (E) Operation and Maintenance. To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the City concludes that a



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

- (F) Abandonment and Removal. If a WCF has not been in use for a period of three months, the owner of the WCF shall notify the City of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is not operated for a continuous period of six months shall be considered abandoned. The City, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within 30 days of receipt of written notice from the City. If such WCF is not removed within said 30 days, the City may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired.

#### **10-16-4: – DESIGN STANDARDS:**

- (A) The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this Section as specified below; provided, however, that the City may waive these requirements if it determines that the goals of this Section are better served thereby. To that end, WCFs shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the City, consistent with other provisions of this Code.
1. Camouflage/Concealment. All WCFs and any Transmission Equipment shall, to the extent possible, use camouflage design techniques including, but not limited to the use of materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF to the surrounding natural setting and built environment. Design, materials and colors of WCFs shall be compatible with the surrounding environment. Designs shall be compatible with structures and vegetation on the same parcel and adjacent parcels.
    - (a) Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g. proximity to historic or aesthetically significant structures, views, and/or community features). In such instances where WCFs are located in areas of high visibility, they shall (where possible) be designed (e.g., placed underground, depressed, or located behind earth berms) to minimize their profile.
    - (b) The camouflage design may include the use of Alternative Tower Structures should the Community Development Director determine that such design meets the intent of this Code and the community is better served thereby.
    - (c) All WCFs, such as antennas, vaults, equipment rooms, equipment enclosures, and tower structures shall be constructed out of non-reflective materials (visible exterior surfaces only).

1. Hazardous Materials. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.
2. Siting.
  - (a) No portion of any WCF may extend beyond the property line.
  - (b) Collocation. WCFs may be required to be designed and constructed to permit the facility to accommodate WCFs from at least 2 wireless service providers on the same WCF unless the City approves an alternative design. No WCF owner or operator shall unfairly exclude a competitor from using the same facility or location.
  - (c) WCFs shall be sited in a location that does not reduce the parking for the other principal uses on the parcel below Code standards.
3. Lighting. WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.
4. Landscaping and fencing requirements
  - (a) WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the parcel, below Code standards.
  - (b) WCFs shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from adjacent residential property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the site.
  - (c) In location where the visual impact of the WCF would be minimal, the landscaping requirement may be reduced or waived altogether by the Director or assigned designee.
  - (d) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as WCFs sited on large, wooded lots, natural growth around the site perimeter may be sufficient to buffer.
  - (e) No trees larger than 4 inches in diameter measured at 4 ½ feet high on the tree may be removed, unless authorized by the Community Development Director. To obtain such authorization the Applicant shall show that tree removal is necessary, the Applicant's plan minimizes the number of trees to be removed and any trees removed are replaced at a ratio of 2 to 1.
5. Noise. Noise generated on the site must not exceed the levels permitted in the City Code, except that a WCF owner or operator shall be permitted to exceed

City Code noise standards for a reasonable period of time during repairs, not to exceed two hours without prior authorization from the City.

6. Additional design requirements shall be applicable to the various types of WCFs as specified below:
  - (a) Base Stations. If an antenna is installed on a structure other than a Tower, such as a Base Station (including, but not limited to the antennas and accessory equipment) it shall be of a neutral, non-reflective color that is identical to, or closely compatible with, the color of the supporting structure, or uses other camouflage/concealment design techniques so as to make the antenna and related facilities as visually unobtrusive as possible.
  - (b) Alternative Tower Structures. Alternative Tower Structures shall be designed and constructed to look like a building, facility, or structure typically found in the area.
    - i. With respect to its pole-mounted components, be located on an existing utility pole serving another utility; or
    - ii. Be camouflaged/concealed consistent with other existing natural or manmade features in the right-of-way near the location where the Alternative Tower Structure will be located; or
    - iii. With respect to its pole components, be located on a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives, and the Applicant is authorized to construct the new utility poles; or
    - iv. To the extent reasonably feasible, be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the Alternative Tower Structure;
    - v. Be sized to minimize the negative aesthetic impacts to the right-of-way;
    - vi. Be designed such that antenna installations on traffic signal standards are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered.
    - vii. Require that any ground mounted equipment shall be located in a manner necessary to address both public safety and aesthetic concerns in the reasonable discretion of the Director, and may, where appropriate, require a flush-to-grade underground equipment vault.
    - viii. Not alter vehicular circulation or parking within the Right-of-Way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way. The Alternative Tower Structure must comply with the Americans With Disabilities Act and every other local, state, and federal law and regulations. No Alternative



Tower Structure may be located or maintained in a manner that causes unreasonable interference. Unreasonable interference means any use of the Right-of-Way that disrupts or interferes with its use by the City, the general public, or other person authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that disrupts vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.

- (c) Towers.
  - i. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the City;
  - ii. Tower structures should use existing land forms, vegetation, and structures to aid in screening the facility from view or blending in with the surrounding built and natural environment;
  - iii. Monopole support structures shall taper from the base to the tip;
  - iv. All Towers shall be enclosed by security fencing or wall at least 6 feet in height and shall also be equipped with an appropriate anti-climbing device.
  
- (e) Related Accessory Equipment. Accessory equipment for all WCFs shall meet the following requirements:
  - i. All buildings, shelter, cabinets, and other accessory components shall be grouped as closely as technically possible;
  - ii. The total footprint coverage area of the WCF's accessory equipment shall not exceed 350 square feet;
  - iii. No related accessory equipment or accessory structure shall exceed 12 feet in height;
  - iv. Accessory equipment, including but not limited too remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the accessory equipment shall be camouflaged or concealed.

### **10-16-5: – Review Procedures and Requirements:**

- (A) No new WCF shall be constructed and no collocation or modification to any WCF may occur except after a written request from an Applicant, reviewed and approved by the City in accordance with this Chapter. All WCFs shall be reviewed pursuant to the following procedures:

1. Submittal Requirements. In addition to an application form, Signal Interference Letter, and submittal fees, each Applicant shall submit a scaled site plan, photo simulation, scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate qualified professionals, showing the location and dimension of all improvements, including information concerning topography, radio frequency coverage, tower height, setbacks, drives, parking, fencing, landscaping, adjacent uses, drainage, and other information deemed by the Director to be necessary to assess compliance with this Section.
2. Inventory of Existing Sites. Each Applicant for a WCF shall provide to the Director a narrative and map description of the Applicant's existing or then currently proposed WCFs within the City, and outside of the City within one mile of its boundaries. In addition, the Applicant shall inform the City generally of the areas of the City in which it believes WCFs may need to be located within the next three years. The inventory list should identify the site name, site address, and a general description of the facility (i.e. – rooftop antennas and ground mounted equipment). This provision is not intended to be a requirement that the Applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the City. Rather, it is an attempt to provide a mechanism for the City and all Applicants for WCFs to share general information, assist in the City's comprehensive planning process, and promote collocation by identifying areas in which WCFs might be appropriately constructed for multiple users.

The Community Development Department may share such information with other Applicants applying for administrative approvals or conditional permits under this Section or other organizations seeking to locate WCFs within the jurisdiction of the City, provided however, that the Community Development Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

3. In all zoning districts, applications for Base Stations, Alternative Tower Structures and Alternative Tower Structures within Right-of-Way, shall be reviewed by the Director for conformance to this Section and Code using the Site Plan review procedures set forth in Article 8, Sec. 70-467 et al. of this Code. Should the Director consider the proposed WCF to have a significant visual impact, (i.e. proximity to historical sites) or otherwise be incompatible with the structure or surrounding area, or not meet the intent of these provisions, the Director may refer the application to City Council for approval, after a recommendation by Planning Commission.
  4. In all zoning districts, all other Towers may be permitted only as a Conditional Use, by City Council, subject to a recommendation by the Planning Commission. WCFs shall be reviewed for conformance to this section and Code using the Conditional Use review procedures set forth in Section 10-8-2(K) of this Code. All applications for Towers shall demonstrate that other alternative design options such as Base Stations or Alternative Tower Structures are not viable options as determined by the City. Notwithstanding anything in this Article to the contrary, no Towers located in the Right-of-Way shall exceed 35 feet in height.
5. Review Procedures for Eligible Facilities Requests.
- (a) Application. In all zoning districts, Eligible Facilities Requests shall be considered a use by right subject to administrative review. The City shall

prepare, and from time to time revise and make publicly available, an application form which shall be limited to the information necessary for the City to consider whether an application is an Eligible Facilities Request. Such information may include, without limitation, whether the project:

- i. Would result in a Substantial Change;
- ii. Violates a generally applicable law, regulations, or other rule reasonably related to public health and safety.

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

- (b) Type of Review. Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Director shall review such application to determine whether the application so qualifies.
- (c) Timeframe for Review. Subject to the tolling provisions of subparagraph d. below, within 60 days of the date on which an applicant submits an application seeking approval under this Section, the City shall approve the application unless it determines that the application is not covered by this Subsection.
- (d) Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the City and the Applicant, or in cases where the Director determines that the application is incomplete:
  - i. To toll the timeframe for incompleteness, the City must provide written notice to the Applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application;
  - ii. The timeframe for review begins running again when the Applicant makes a supplemental written submission in response to the City's notice of incompleteness; and
  - iii. Following a supplemental submission, the City will notify the Applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in paragraph (d)i. In the case of a second or subsequent notice of incompleteness, the City may not specify missing information or documents that were not delineated in the original notice of incompleteness.
- (e) Failure to Act. In the event the City fails to act on a request seeking approval for an Eligible Facilities Request under this Section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant becomes effective when the Applicant notifies the City in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

- (f) Interaction with Telecommunications Act Section 332(c)(7). If the City determines that the Applicant's request is not an Eligible Facilities Request as delineated in this Chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the City's decision that the application is not a covered request. To the extent such information is necessary, the City may request additional information from the Applicant to evaluate the application under Section 332(c)(7) reviews.
- 6. Abandonment and Removal. Prior to approval, affidavits shall be required from the owner of the property and from the Applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of six months.
- 7. Decision. Any decision to approve, approve with conditions, or deny an application for a WCF, shall be in writing and supported by substantial evidence in a written record. The Applicant shall receive a copy of the decision.
- 8. Compliance with Applicable Law. Notwithstanding the approval of an application for collocation as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in City Code and any other applicable regulations. In addition, all WCF applications shall comply with the following:
  - (a) Comply with any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF;
  - (b) Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;
  - (c) Be maintained in good working condition and to the standards established at the time of application approval; and
  - (d) Remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten calendar days from the time of notification by the City or after discovery by the owner or operator of the Site.
- 9. Compliance Report. Upon request by the City, the Applicant shall provide a compliance report within 45 days after installation of a WCF, demonstrating that as installed and in operation, the WCF complies with all conditions of approval, applicable Code requirements and standard regulations.

#### **10-16-6: – Standards For Approval:**

- (A) It is the intent of the City to provide for approval of WCFs administratively in cases where visual impacts are minimized, view corridors are protected, WCFs utilize appropriate camouflage/concealment design techniques to avoid adverse impacts on the surrounding area, and WCFs are designed, maintained, and operated at all times to comply with the provisions of this Article and all applicable law. Notwithstanding the approval of an application for collocation as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in City Code and any other applicable regulations.

WCFs, which are not Eligible Facilities Requests, shall be evaluated for approval subject to the following criteria:

1. Base Stations:
  - (a) Such facilities shall be architecturally compatible with respect to attachments, and colored to match the building or structure to which they are attached;
  - (b) The maximum protrusion of such facilities from the building or structure face to which they are attached shall be 6 feet;
  - (c) Wall mounted WCFs shall not extend above the roofline; and
  - (d) Roof mounted WCFs shall be approved only where an Applicant demonstrates a wall mounted WCF is inadequate to provide service and evaluated for approval based upon the following criteria:
    - i. Roof mounted antennas shall extend no more than 12 feet above the parapet of any flat roof or ridge of a sloped roof to which they are attached; and
    - ii. Other roof mounted Transmission Equipment shall extend no more than 7 feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.
2. Alternative Tower Structures:
  - (a) Such structures shall be architecturally compatible with the surrounding area;
  - (b) Height or size of the proposed alternative tower structure should be minimized as much as possible;
  - (c) WCFs shall be sited in a manner that evaluates the proximity of the facility to residential structures and residential district boundaries;
  - (d) WCFs should take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;
  - (e) Compatibility with the surrounding topography;
  - (f) Compatibility with the surrounding tree coverage and foliage;
  - (g) Compatibility of the design of the site, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
  - (h) Impact on the surrounding area of the proposed ingress and egress, if any.
3. Alternative Tower Structures within Right-of-Way. An Alternative Tower Structure may also include utilization of a traffic signal, street light pole, or similar structure within a public Right-of-Way or freestanding structure within a commercial, office,

or industrial area. Such facilities shall remain subject to the Alternative Tower Structures standards of approval noted above and subject to the following criteria below:

- (a) The pole or structure is not more than ten feet higher (as measured from the ground to the top of the pole) than any existing utility or traffic signal within 500 feet of the pole or structure.
  - (b) Any such pole shall in no case be higher than 35 feet.
  - (c) Any such pole shall be separated from any other pole, accessory equipment or wireless communication facility in the Right-of-Way by a distance of at least 600 feet.
  - d. Collocations are strongly encouraged and the number of poles within the Right-of-Way should be limited as much as possible.
  - e. Equipment enclosures shall be located out of view as much as possible.
4. All Other Towers. The City shall consider the following factors in determining whether to issue a conditional use approval, although the City may waive or reduce the burden on the Applicant of one or more of these criteria if the City concludes that the goals of this Article are better served thereby.
- (a) Height or size of the proposed tower;
  - (b) Proximity of the tower to residential structures and residential district boundaries;
  - (c) Nature of uses on adjacent and nearby properties;
  - (d) Compatibility with the surrounding topography;
  - (e) Compatibility with the surrounding tree coverage and foliage;
  - (f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - (g) Proposed ingress and egress;
  - (h) No new towers shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application. Evidence submitted to demonstrate that no existing WCF can accommodate these needs may consist of the following:
    - i. No existing WCFs with a suitable height are located within the geographic area required to meet the Applicant's engineering requirements;
    - ii. Existing WCFs do not have sufficient structural strength to support Applicant's proposed WCF;

- iii. The Applicant's proposed WCFs would cause electromagnetic interference with the WCFs on the existing WCFs or the existing WCF would cause interference with the Applicant's proposed WCF; and
  - iv. The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for collocation.
- (j) Setbacks and Separation. The following minimum setbacks and separation requirements shall apply to all WCFs for which a conditional use approval is required; provided, however, that the City may reduce standard setbacks and separation requirements if the Applicant demonstrates that the goals of this Section can be better met by reduced setback and separation requirements that protect the public health and safety, view corridors, or minimize adverse impact. A Tower shall meet the greater of the following minimum setbacks from all property lines:
- i. The setback for a principal building within the applicable zoning district;
  - ii. Twenty-five percent of the facility height, including WCFs and Related Accessory Equipment;
  - iii. The Tower height, including antennas, if the Tower is in or adjacent to a residential district; and
  - iv. Towers over 90 feet in height shall not be located within one-quarter mile from any existing tower that is over 90 feet in height, unless the Applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant's needs.

**Proposal is amend the Conditional Use Chapter as follows:**

**10-8-2: REQUIREMENTS AND CONDITIONS FOR SPECIFIC USES**

(C) Radio Transmission/Broadcast Towers, Wind Generators And Similar Structures:

1. Radio transmission towers (except for Wireless Communication Facilities (WCF), as defined in 10-1-2), wind generators and similar structures are permitted in all zone districts provided the conditions set forth below, at a minimum, are met:

(a) The setback of the structure from any property line shall be at least equal to the height of the structure plus ten feet (10'). Height shall be measured from ground level to the top of the highest attachment or, in the case of wind generators, the largest rotary blade, when vertical.

(b) The drawings and specifications for the structure and footings shall be approved by and bear the seal of a registered engineer competent in structural design.

(c) The maximum noise level permitted for any wind generator shall be as specified in section 7-3-6 of this code.

2. Those commercial mobile radio service (CMRS) facilities which are allowable as conditional uses shall be subject to the standards set forth in section 10-4-11 of this title.