

# Article 9.0 Wireless Communication Facilities

## 9.1. Intent and Purpose

It is the intent and purpose of this chapter of the county's Land Use Code to establish a regulatory framework for Wireless Communications Facilities (WCFs) constructed or located within Larimer County that accommodates the communication needs of residents and businesses, protects the public health, safety, and general welfare of the community, and minimizes adverse impacts.

### 9.1.1. Purpose

The County finds that these regulations are necessary to:

- A. Provide for the managed development, installation, maintenance, modification, and removal of wireless communications infrastructure in the county with the fewest number of WCFs to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;
- 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 the equipment associated with WCFs where technically feasible;
- 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 WCFs in non-residential areas in a manner that minimizes the total number of WCFs needed throughout the community;
- G. Encourage the collocation of WCFs on new and existing sites;
- H. Encourage owners and users of WCFs to locate them, to the extent possible, in areas where the adverse impact to the community is minimized;
- I. Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently; and
- J. Effectively manage small cell facilities in the right-of-way.

### 9.1.2. Applicability

- A. The requirements set forth in this chapter shall apply to all WCF applications for base stations, alternative tower structures, towers, micro cells, and small cell facilities as defined in this chapter.
- B. This chapter shall not preempt underlying zoning regulations unless explicitly stated in this chapter or as explicitly stated in federal and/or state law.
- C. The requirements set forth in this chapter shall not apply to:

1. Amateur radio antenna, over-the-air receiving device (OTARD), as those devices are defined in applicable law as of the date of these provisions, and residential television reception/antenna towers, except as provided in subparagraph 3. below.
2. Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to the effective date of these new wireless regulations, shall not be required to meet the requirements of this chapter of the Code, other than the requirements of the operational standards section. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of the operational standards section. Notwithstanding the foregoing, any modifications qualifying as an eligible facilities request shall be evaluated under this Code.
3. Miscellaneous antennas. Antennas used for reception of television, multichannel video programming and radio such as OTARD antennas, television Larimer County – Land Use Code Regulations Adopted October 7, 2019 2 broadcast band antennas, and broadcast radio antennas, provided that any requirements related to accessory uses contained in this Code and the requirement that the height be no more than the distance from the base of the structure where it meets the ground to the property line are met. The director 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 county, modifications are necessary to comply with federal law.
4. A WCF installed upon the declaration of a state of emergency by the federal, state, or local government, or a written determination of public necessity by the county.
5. A temporary WCF installed for providing coverage of a special event such as a news coverage or sporting event which must be included in the special event permit application

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**9.1.3. Permit Required**

- A. No person, firm or corporation shall construct, establish, build, or cause to be constructed, established, or built a WCF without first having obtained land use approvals as required in this chapter, a lease (as applicable), pole attachment agreement or license (as applicable), a building permit, and if applicable, right-of-way permit for this purpose.
- B. All WCF permits shall expire and be of no further force and effect 180 days following the date of county approval unless, pursuant to the discretion of the Director, prior to the date of expiration: (1) Construction has been diligently pursued towards completion of the project, or (2) Approval has been extended in accordance with paragraph C. below.
- C. Prior to the expiration of a WCF permit, one (1) 180-day extension of the permit may be authorized by the Director upon a written request by the applicant. An extension may be granted if a review of the permit shows that no major changes in the county's development or zoning regulations or in the development pattern of the surrounding properties has occurred, as determined by the Director. If a WCF permit expires, no further development of the facility may occur until a new permit application is submitted, reviewed, and approved in accordance with this Code, subject to all application and processing fees.

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**9.1.4. Severability**

If any section, clause, provision, or portion of these regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of the regulations in this chapter shall not be affected thereby and is hereby declared to be necessary for the public health, safety, and welfare.

## 9.2. Where Allowed

Subject to the standards of this section, the WCF classifications that are permitted in each zoning district are set out in Table 9-1, below. See §9.6 and Table 9-2 for review processes. WCFs located in the right-of-way are permitted through a master license agreement and right-of-way permit, subject to the design standards set forth in 9.4.3.E, *Design Standards for Small Cell Facilities in the Right-of-Way*.

**Table 9-1: Zoning Districts Where WCFs are Allowed and Heights**

<b>SP = Site Plan</b>	<b>AS = Administrative Special Review</b>		<b>SR = Special Review</b>	
<b>Zoning District</b>	<b>Attached Facility on Existing Structure</b>	<b>Small Cell Facility</b>	<b>Alternative Tower Structure (concealed)</b>	<b>Tower (non-concealed)</b>
<b>RR-1 - Rural Residential</b> <b>UR, UR-1, and UR-2 - Urban Residential</b> <b>MR Multi-Unit, MHP - Manufactured Home Park, and MHP-P Manufactured Housing Park Preservation</b>	<b>SP</b>	<b>SP ≤ 40 feet high</b>	<b>SP ≤ 40 feet high</b> <b>AS ≤ 60 feet high</b>	Not permitted
<b>RR-2 - Rural Residential</b> <b>FO - Forestry</b>	<b>SP</b>	<b>SP ≤ 40 feet high</b>	<b>SP ≤ 40 feet high</b> <b>AS ≤ 60 feet high</b>	<b>AS ≤ 60 feet high</b> <b>AS [1] ≤ 80 feet high</b>
<b>CD - Commercial Destination</b> <b>CN - Commercial Neighborhood</b>	<b>SP</b>	<b>SP ≤ 40 feet high</b>	<b>SP ≤ 40 feet high</b> <b>AS ≤ 60 feet high</b>	<b>AS ≤ 60 feet high</b> <b>AS [1] ≤ 80 feet high</b> <b>SR ≤ 100 feet high</b>
<b>CC - Commercial</b> <b>IL - Industrial Light</b> <b>IH - Industrial Heavy</b> <b>PD - Planned Development</b>	<b>SP</b>	<b>SP ≤ 40 feet high</b>	<b>SP ≤ 40 feet high</b> <b>AS ≤ 60 feet high</b>	<b>AS ≤ 60 feet high</b> <b>AS [1] ≤ 120 feet high</b>
<b>O - Open</b>	<b>SP</b>	<b>SP ≤ 40 feet high</b>	<b>SP ≤ 40 feet high</b> <b>AS ≤ 60 feet high</b>	<b>AS ≤ 60 feet high</b> <b>AS ≤ 120 feet high</b> <b>SR &gt; 120 feet high</b>
<b>AP - Airport</b>	<b>SP</b>	<b>SP ≤ 40 feet high</b>	<b>SP ≤ 40 feet high</b>	<b>AS ≤ 40 feet high</b>
<b>Public right-of-way</b>	Master License Agreement (MLA) & right-of-way permit	MLA & right-of-way permit	Not permitted	Not permitted

**Notes:**

[1] Requires Board of County Commissioners public hearing and decision but does not include a public hearing with the Planning Commission.

## **9.3. Operational Standards for all WCFs**

### **9.3.1. Federal and State Requirements**

All WCFs shall meet the current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC) and any other agency of the federal or state government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal or state agency. All applicants are responsible to ensure that they comply with federal and state regulations, including, but not limited to Americans with Disabilities Act (ADA) and other regulatory requirements.

### **9.3.2. Permission to Use Right-of-Way**

For WCFs in the right-of-way, the applicant shall execute a license agreement with the county. In this, the county is able to grant a non-exclusive license to the applicant to use the right-of-way. Attachment of WCFs on an existing traffic signal, street light pole, or similar structure shall require written evidence of a license, or other legal right or approval, to use such structure by its owner.

### **9.3.3. Operation and Maintenance**

To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with the standards contained in applicable local building and safety codes in effect at the time of original installation or modification. If upon inspection at any time, the county 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 County'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 county may remove such WCF at the owner's expense.

### **9.3.4. Abandonment and Removal**

If a WCF has not been in use for a period of six months, the owner of the WCF shall notify the county 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 county, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within 60 days of receipt of written notice from the county. If such WCF is not removed within said 60 days, the county may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired. The county reserves the right to pursue available legal remedies.

### **9.3.5. 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.

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**9.3.6. Collocation**

No WCF owner or operator shall unreasonably exclude a telecommunications competitor from using the same facility or location. Upon request by the Director, the owner or operator shall provide evidence explaining why collocation is not possible at a particular facility or site.

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**9.3.7. Cameras**

Placement of cameras or other surveillance on WCFs shall be used exclusively for the safety and security of the WCFs. No data secured through the use of camera, video, and biometric sensors (including facial recognition software) installed on WCFs shall be collected and shared without the expressed prior consent of citizens. Data collected from WCF security surveillance equipment will not be shared with law enforcement except within well-defined exigent circumstances. The applicant must identify in its application whether cameras or other surveillance equipment are to be utilized.

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**9.4. Design Standards**

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**9.4.1. Minimum Setbacks for all Towers from Property Lines**

- A. The minimum setback from property lines for towers not located in the right-of-way shall be as follows:
    - 1. Adjacent to properties, buildings, or structures with residential uses, a 2:1 setback to tower height applies (setback = 200% of the tower height);
    - 2. Adjacent to any right-of-way a 1:1 setback to tower height applies (setback = 100% of the tower height);
    - 3. For all other property adjacencies, the setback shall be at least 30% of tower height.
  - B. An alternative setback, approved by the Director or Board of County Commissioners, for an alternative tower structure where the facility replaces or proposes an accessory structure to an established principal use, to include, but not limited to, signs, light poles, and flagpoles, where it is evidenced that the siting and location of the alternative tower structure allows for camouflage and concealment design techniques to a greater extent than would be achieved by application of the principal structure setback.
  - C. All ground-based equipment shall meet the building and structure setbacks in the zoning district, unless an alternative setback is established for an alternative tower structure pursuant to this section.
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**9.4.2. Design Standards for all WCF**

The following design and landscaping standards apply to all WCFs governed by this chapter provided, however, that the Director may waive any of these requirements if they determine 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 area and to maintain the character and appearance of the county, consistent with other provisions of this Code.

**A. Camouflage, Concealment, or Camouflage Design Techniques**

All WCFs and any transmission equipment shall, to the extent technically feasible, use camouflage design techniques and not be readily apparent. Techniques may include, but not limited to the use of materials, colors, textures, screening, undergrounding, or other design options that will blend the WCF to the surrounding natural setting and/or built

environment. Design, materials, and colors of WCFs shall be compatible with the surrounding environment. Designs shall be compatible with structures and vegetation on sites located in the right-of-way and on adjacent parcels.

1. Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures and/or natural or community features, or in a Growth Management Area). Should the Director determine that WCFs are located in areas of high visibility, they shall (where possible) be designed (including but not limited to camouflaged, placed underground, depressed, or located behind earth berms) to minimize their profile at the request of the Director.
2. The camouflage design may include the use of alternative tower structures should the Director determine that such design meets the intent of this section and the community is better served thereby.
3. All WCFs, shall be constructed out of or finished with non-reflective materials (visible exterior surfaces only).
4. Maximum height for WCFs shall be based on limits set forth in Table 16.A above, except if they are structures, they shall comply with building height limits (e.g., for a silo).

**B. Collocation**

WCFs shall be designed and constructed to permit the facility to accommodate WCFs from at least two wireless service providers on the same WCF unless the county approves an alternative design to the extent reasonably feasible based upon construction, engineering, and design standards. Collocation shall not be required when it would materially compromise the camouflage design intent of the WCF. Upon request by the Director, the owner or operator shall provide evidence explaining why collocation is not possible at a particular facility or site.

**C. 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 county 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 to minimize the amount of glare and light falling onto nearby properties, particularly residences.

**D. Noise**

Noise generated on the site must not exceed the levels permitted by the county noise ordinance, except that a WCF owner or operator shall be permitted to exceed noise standards for a reasonable period of time during repairs, not to exceed two hours without prior authorization from the county.

**E. Landscaping and Fencing Requirements**

1. WCFs shall be sited in a manner that does not reduce landscaping required by the Land Use Code for the other principal uses on the property.
2. 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 lots with an

abundance of vegetation, including trees, natural growth around the site perimeter may be sufficient to buffer.

3. No trees larger than four inches in diameter measured at four and one-half feet high on the tree may be removed, unless authorized by the 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. The county shall designate a tree caliper requirement for all replacement trees. Additional landscaping required by the county will be maintained at the expense of the owner of the WCF.
4. Landscaping for concealed towers shall be compatible with the type of camouflage or concealment technique.
5. In Growth Management Areas (GMAs), excluding small cell facilities deployed in the right-of-way, all ground-based equipment must be screened by a solid fence or screen wall six feet in height as measured in accordance with this Code, and surrounded by a 30 percent opaque county landscape buffer around the perimeter of the enclosed area. Such area shall include a 60:40 mix of evergreen and deciduous trees. This requirement may be reduced or waived by the Director in areas where the buildings or other structures provide a comparable or better screening effect. Existing landscaping within 10 feet of the perimeter of the enclosed area may be applied towards the minimum planting requirements, upon approval of the Director. The planting area must be adequate to allow for appropriate spacing for mature growth for the tree species. In no case shall the planting area be less than 15 feet from the edge of the solid fence or screen wall. Where fencing for screening is required by the Director the fencing or screening material shall meet the standard of the zoning district in which the WCF will be located. In no case may fencing material primarily be wire or metal.

**F. Fire Protection**

WCFs shall be sited and built to address International Fire Code standards for fire-detection and extinguishing systems, and if in a wildfire hazard area provide defensible space and adequate vehicle access for emergency equipment and possibly an approved water supply.

**G. Adjacent to Residential Uses**

WCFs shall be sited in a manner that evaluates the proximity of the facility to residential structures. WCFs shall not be within 250 feet of any residential structure, unless it is demonstrated there is no other technically feasible alternative. When placed near a residential property, the WCF shall be placed adjacent to the common side yard property line between adjoining residential properties, such that the WCF minimizes visual impacts equitably among adjacent properties. In the case of a corner lot, the WCF may be placed adjacent to the common side yard property line between adjoining residential properties, or on the corner formed by two intersecting streets. If these requirements are not reasonably feasible from a construction, engineering or design perspective, the applicant may submit a written statement to the Director requesting the WCF be exempt from these requirements.

**H. Residential Buildings**

WCFs shall not be placed on buildings used principally for residential purposes.

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**9.4.3. Design Standards Specific to WCF Types**

The design requirements set forth in this section shall apply to the types of WCFs as specified below.

**A. Design Standards for Facilities Attached to Base Stations**

1. Roof mounted WCFs, including the antenna, support structures and screening, shall not project more than 10 feet above the roof line of a building.
2. WCFs shall be painted to match the building and shall be architecturally integrated with the building materials.
3. If placed on a structure or building which is non-conforming due to setbacks or height, the addition of antennas or equipment must not increase the nonconformity.
4. Façade mounted WCFs, including the antenna, support structures and screening, shall not extend above the top of the structure or the parapet wall, or, in the case of a pitched roof, above the fascia.
5. WCFs attached to base stations shall utilize camouflage design techniques. If an antenna is installed on a structure other than a tower or alternative tower structure, 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 technically feasible. Additionally, any ground-mounted equipment shall be located in a flush-to-grade underground equipment vault, unless otherwise authorized by the Director.

**B. Design Standards for Alternative Tower Structures Not in the Right-of-Way**

Alternative tower structures not in the right-of-way shall:

1. Be designed and constructed to look like a building, facility, structure, or trees typically found in the area or other natural feature.
2. Be camouflaged/concealed consistent with other existing natural or manmade features in or near the location where the alternative tower structure will be located.
3. Be architecturally compatible with the surrounding area.
4. Be the maximum size needed to obtain coverage objectives while maintaining compatibility with the context and character of the surrounding area. Height or size of the proposed alternative tower structure should be minimized as much as possible.
5. Be sited in a manner that evaluates the proximity of the facility to residential structures and residential district boundaries.
6. Take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses.
7. Be compatible with the surrounding topography and landscape.

**C. Design Standards for Towers**

1. Monopoles which taper from the base to the tip are preferred over lattice and guy towers with support, except in the O-Open zoning district where they may be appropriate if demonstrated to be less visually obtrusive.
2. Towers shall be subject to any applicable FAA standards and county design approval processes.
3. Tower structures should use existing landforms, vegetation, and structures to aid in screening the facility from view or blending in with the surrounding built and natural environment.
4. All towers shall be enclosed by security fencing or wall and shall also be equipped with an appropriate anti-climbing device.



5. Towers shall be compatible with the surrounding tree coverage and foliage.

**D. Design Standards for Accessory Equipment and Transmission Equipment**

Accessory equipment and transmission equipment for all WCFs shall meet the following requirements:

1. All transmission equipment and accessory equipment shall be grouped as closely as technically possible.
2. Transmission equipment and accessory equipment shall be located out of sight whenever possible by locating within equipment enclosures. Where such alternate locations are not available, the transmission equipment and accessory equipment shall be camouflaged or concealed in a manner appropriate to the character of the site.
3. Transmission equipment and accessory equipment shall be of a neutral, nonreflective 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 equipment as visually unobtrusive as possible, including, for example, painting the equipment to match the structure.
4. Equipment enclosures shall be designed to be architecturally compatible. (See §9.4.3.B.1).

**E. Design Standards for Small Cell Facilities in the Right-of-Way**

Small cell facilities in the right-of-way shall be designed and constructed to look like a facility or utility pole typically found in the right-of-way and shall comply with the following design standards:

1. Collocations are preferred, and the number of poles within the right-of-way shall be limited as much as possible.
2. The master license agreement notes preferred locations for siting facilities on streets, support structures, and their general placement.
3. New facilities placed on new wooden poles is prohibited, unless authorized through the master license agreement.
4. **Appearance**
  - a. With respect to a pole-mounted small cell facility, be located on, or within, an existing utility pole serving another utility
  - b. Be camouflaged/concealed consistent with other existing natural or manmade features near the location where the facility will be located;
  - c. With respect to a pole-mounted small cell facility, be located on, or within, 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;
  - d. 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 facility;
  - e. Be sized to minimize the negative aesthetic impacts to the right-of-way and adjacent property;
  - f. 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 materially altered, as determined by the county in its sole discretion;

**5. Ground Mounted Equipment**

Be designed such 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 and reasonably feasible based upon technical, construction, and engineering requirements, require a flush-to-grade underground equipment vault. Ground-based equipment may be located within the rights-of-way on a case-by-case basis, accounting for impacts of such equipment within the right-of way on the public health, safety, and welfare.

**6. Non-Interference**

- a. The alternative tower structure shall comply with the Americans with Disabilities Act (ADA) and every other local, state, and federal law and regulations.
- b. The alternative tower structure shall 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.
- c. 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 county, 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;

**7. Heights**

- a. The small cell facility shall not be more than ten feet higher (as measured from the ground to the top of the pole) than any existing utility or traffic signal within 600 feet of the pole or structure.
- b. Any such facility shall in no case be higher than 40 feet, unless such pole is already existing at a greater height.
- c. Any transmission equipment placed on an existing tower shall not extend more than five feet above such pole. Small cell facilities attached to an electric distribution alternative tower structure may be located at the minimum height necessary to provide the safety clearance required by the electric utility if applicable.

**8. Spacing**

- a. No new freestanding small cell facility shall be within 1,000 feet of another freestanding small cell facility in the right-of-way. These separation requirements do not apply to attachments made to existing alternative tower structures.
- b. The director may exempt an applicant from these separation requirements if (1) the applicant demonstrates through technical network documentation that the minimum separation requirement cannot be satisfied for technical reasons, or (2) the Director determines, when considering the surrounding topography; the nature of adjacent uses and nearby properties; and, the height of existing structures in the vicinity, that placement of a WCF at a distance less than 600 feet from another small cell facility will meet the intent of reducing visibility and visual clutter of small cell facilities to the extent possible.

## 9. Other Equipment

Equipment enclosures shall be located out of view as much as possible.

## 10. Temporary Tower

A temporary tower may be allowed for the purpose of maintaining or replacing an existing tower.

## 9.5. Administrative Waiver

**9.5.1.** Any of the above design standards may be waived by the Director upon written application that demonstrates the following waiver criteria:

- A.** The design standard prohibits or has the effect of prohibiting the provision of wireless service through the WCF at the location because the standard will not allow the technology to function at that location; and
- B.** There is no existing nearby alternate structure for collocation or attachment that will provide the technological functionality and which otherwise meets the design standard sought to be waived; and
- C.** The proposal for varying from the design standard represents a reasonable and best approximation of the specific standard sought to be waived; and
- D.** The proposed alternative does not and will not constitute or create any public safety, health, or welfare concern.

**9.5.2.** If any design standard is approved for waiver, the WCF proposed shall nevertheless meet all other applicable design standards not approved for waiver.

**9.5.3.** If a waiver request is denied for failure to meet any of the criteria specified above and there is no alternative for installation of the small cell facility at the particular location in a manner that meets the applicable design standards, then such application for the WCF for such specific location shall be denied.

## 9.6. Review Procedures

### 9.6.1. Review Procedures for all WCFs

The following requirements apply to all applications for WCFs. WCFs shall be processed in accordance with Table 9-2 below and this section.

**Table 9-2: Review Requirements for Different Facility Types**

Procedure	Applies to	Notice Given	Referral	Type of Decision	Appeal to	Timeframe
<b>Building permit only</b>	Eligible facilities requests	n/a	n/a	Administrative decision	Board of Appeals	60 days
<b>Site Plan (SP)[1]-§6.4.1</b>	See Table 9-1 for zoning districts and WCF types	Upon receipt of a complete application, notice is sent to neighboring properties	Sent to referral agencies within 14 calendar days of receipt of	Administrative decision	BCC	90 days

**Table 9-2: Review Requirements for Different Facility Types**

Procedure	Applies to	Notice Given	Referral	Type of Decision	Appeal to	Timeframe
		within 500 feet of the property	complete application Notice sent to cities if in a GMA			
<b>Administrative Special Review - §6.4.3</b>	See Table 9-1 for zoning districts and WCF types	Upon receipt of a complete application, notice is sent to neighboring properties within 500 feet of the property	Sent to referral agencies within 14 calendar days of receipt of complete application Notice sent to cities if in a GMA	Administrative decision. If 30% or more of the neighbors note concerns, it may be reviewed by Board of County Commissioners (BCC).	BCC	90 days or 120 if BCC review
<b>Special Review (SR)[1] - §6.4.2</b>	See Table 9-1 for zoning districts and WCF types	Notice is sent to neighboring properties within 500 feet of the property in accordance with §6.3.5.l	Sent to referral agencies within 14 calendar days of receipt of complete application Notice sent to cities if in a GMA	Two public hearings: Planning Commission (PC) recommendation and BCC approval		150 days
<b>Master License Agreement (MLA) with right-of-way permit [1]</b>	Small cell facilities in right-of-way	Upon receipt of a complete application, notice is sent to neighboring properties within 500 feet of each facility proposed in supplemental site license	Sent to referral agencies within 14 calendar days of receipt of the supplemental site license submittal	Administrative right-of-way permit	BCC	90 days

**Notes:**

[1] Building permit required in addition to the planning approval.

**A. Pre-Application Conference**

Prior to applying for any WCF, an applicant is encouraged to comply with the requirements of §6.3.2 regarding pre-application conferences; provided however that no pre-application conference shall be required for small cell facilities. The purpose of the pre-application conference is to clarify questions of the applicant, ensure the correct process is used, and

ensure that the submission of an application can be accepted. It does not indicate or qualify as the date the application is complete.

**B. Application and Completeness**

An application shall be made on forms provided by the county, in compliance with §6.3.3 of this LUC and in accordance with Table 16.B, depending on the type of facility and height. The Director shall determine if the application is complete. If the application is not complete, the applicant will be asked to provide the missing information before processing will resume. No application submittal will be accepted by mail without prior approval from the Director.

**C. Timelines for Review**

Unless applicant and county mutually agree otherwise, applications will be processed according to the following timelines:

1. The review period begins to run when the application is filed and may be tolled only by mutual agreement of the county and the applicant, or in cases where the Director determines that the application is incomplete.
2. Final action on complete applications for WCFs other than small cell facilities will be in no more than 150 days for a new WCF and 90 days for collocations that do not qualify as an eligible facilities request, provided all standards in this chapter are met.
3. Final action on complete applications for locating or collocating small cell facilities will be in no more than 90 days, provided all standards in this chapter are met.

**D. Decision**

Any decision to approve, approve with conditions, or deny an application for a WCF, shall be in writing and supported by a written record. The applicant shall receive a copy of the decision.

**E. Appeal**

Any decision to approve, approve with conditions, or deny an application for a WCF must be done within the timeframes of Table 9-2 above. Written application for appeal must be in accordance with §6.3.9.B of this Code, except that appeals must be submitted to the Director within 10 days of a decision.

**F. Compliance with Applicable Law**

Notwithstanding the approval of an application for new or modified WCFs or eligible facilities request as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building, structural, electrical, and safety requirements as set forth in this Code and any other applicable laws or regulations. In addition, all WCF applications shall comply as follows:

1. Obtain any separate permit or license required as issued by a local, state, or federal agency with jurisdiction of the WCF;
2. Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;
3. Be maintained in good working condition and to the standards established at the time of application approval; and
4. 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 10 calendar days

from the time of notification by the county or after discovery by the owner or operator of the site. Notwithstanding the foregoing, any graffiti on WCFs located in the rights-of-way or on public property may be removed by the county at its discretion, and the owner and/or operator of the WCF shall pay all costs of such removal within 30 days after receipt of an invoice from the county.

**G. Compliance Report**

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, federal, state and/or local laws, and/or regulations.

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**9.6.2. Review Procedures for all WCFs except Eligible Facilities Requests**

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 county in accordance with this chapter. All WCFs except eligible facilities requests which are reviewed under §9.6.3, shall be reviewed pursuant to the following procedures.

**A. Review Procedures for Towers and Base Stations Not in the Right-of-Way**

In all zoning districts, applications for towers shall be reviewed by the county for conformance with this chapter and using the procedures set forth in sections noted below based on the type of review required and noted in Table 9-2 and design criteria.

1. Review procedure types and criteria:
  - a. Site plan procedures and criteria are set forth in §6.4.1.
  - b. Administrative special review procedures and criteria are set forth in §6.4.3.
  - c. Special review procedure and criteria are set forth in §6.4.2.
2. All applications for towers shall demonstrate that other alternative design options, such as using base stations or alternative tower structures, are not viable options as determined by the county.
3. Applications that are within 500 feet of residentially zoned property shall require a courtesy notification to abutting property owners.
4. Applications will be referred to the relevant city if within a Growth Management Area (GMA).

**B. Review Procedures for Small Cell Facilities in the Right-of-Way**

Small cell facilities are permitted within the right-of-way, subject to approval of a master license agreement executed by the county manager and adherence to all the following standards:

1. Small cell facilities shall be a permitted use by right in county rights-of-way subject to review and approval from the county.
2. No new small cell facility shall be constructed in the right-of-way except after a written request from an applicant is reviewed and approved by the county in accordance with this section; after execution of a license agreement with the county, if required, or other legal right or approval to use such structure by its owner; and upon issuance of a building permit. All work done pursuant to small cell facility applications must be completed in accordance with all applicable building and safety requirements as set forth in this Code and any other applicable regulations.

3. New small cell facilities shall be contained in a structure that is architecturally compatible with the surrounding area through application of camouflage and concealment design techniques.
4. Applications for WCFs in the rights-of-way that are adjacent to residentially zoned property shall require a courtesy notification to abutting property owners.
5. Applications will be referred to the relevant city if within a Growth Management Area.

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**9.6.3. Review Procedures for Eligible Facilities Requests**

This section applies to any eligible facilities requests for collocation on, or modification to an existing tower or base station that does not substantially change the physical dimensions of such facility.

**A. Review Required for Eligible Facilities**

No collocation or modification to any existing tower or base station may occur except after a written request from an applicant is reviewed and approved by the Director.

**B. Review Criteria**

Upon receipt of an application for an eligible facilities request pursuant to this section, the County shall review administratively such application to determine whether the application meets the following criteria for an eligible facilities request:

1. Does not result in a substantial change;
2. Does not violate a generally applicable law, regulation, or other rule reasonably related to public health and safety and complies with generally applicable building, structural, electrical, and safety codes;
3. Complies with the original application design elements or conditions of approval, including but not limited to colors, textures, surfaces, scale, character, and siting, or any approved amendments thereto, subject to the thresholds established in the definition of substantial change; and
4. Complies with concealment elements of the eligible support structure necessary to qualify as a concealed facility.

**C. Timeframe for Reviewing Eligible Facilities Requests**

Subject to the tolling provisions of subparagraph D. below, within 60 days of the date on which an applicant submits a complete application, as determined by the Director, seeking approval under this subsection, the county shall approve the application unless it determines that the application is not covered by this section or otherwise in nonconformance with applicable codes.

**D. Tolling of the Timeframe for Review**

The 60-day review period begins to run when the submission of a completed application is accepted and may be tolled only by mutual agreement of the county and the applicant, or in cases where the Director determines that the application is incomplete.

1. To toll the timeframe for an incomplete application, the county 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;

2. The timeframe for review continues running again the following business day after the applicant makes a supplemental written submission in response to the county's notice of incompleteness; and
3. Following a supplemental submission, the county will notify the applicant within 10 calendar 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 above in 1. and 2. In the case of a second or subsequent notice of incompleteness, the county may not specify missing information or documents that were not delineated in the original notice of incompleteness.

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

If the county determines that the applicant's request is not an eligible facilities request as delineated in this section of the Code, 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 county's decision that the application is not a covered request. To the extent such information is necessary, the county may request additional information from the applicant to evaluate the application under Section 332(c)(7) reviews.

## 9.7. Application Requirements

Applications shall follow the procedures set forth in §9.6 and meet the standards set forth in the LUC Supplemental Materials.

## 9.8. Definitions

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Accessory Equipment**

Any equipment serving or being used in conjunction with a WCF, including, but not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or other structures including fences.

**Alternative Tower Structure**

Man-made trees, clock towers, bell steeples, light poles, traffic signals, buildings, and similar alternative design mounting structures that are compatible with the natural setting and/or surrounding structures, and camouflages or conceals the presence of antennas or towers so as to make them architecturally compatible with the surrounding area pursuant to this section including height limits as set forth in this Code. This term also includes any antenna or antenna array attached to an alternative tower structure. A stand-alone monopole (including a replacement pole) in the right-of-way that accommodates small cell facilities is considered an alternative tower structure to the extent it meets the camouflage and concealment standards of this section.

**Antenna**

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

**Applicant**

For the purpose of this Article 9.0, any person who submits an application to the county to site, install, construct, collocate, modify and/or operate a WCF.

**Base Station**

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 including the defined accessory equipment. Base station includes, 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 county under this section of the Code and 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 county, 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.
- 3) The definition of base station does not include any structure that, at the time the relevant application is filed with the county, does not support or house equipment described in paragraphs (1) and (2) above.

**Camouflage, Concealment, or Camouflage Design Techniques**

A WCF is camouflaged or utilizes camouflage design techniques when any measures are used in the design and siting of WCF with the intent to eliminate or as much as reasonably possible minimize the visual impact of such facilities to surrounding uses. A WCF site utilizes camouflage design techniques when it (i) is integrated in an outdoor fixture (such as a flagpole), or (ii) uses a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree, steeple, or silo) or is incorporated into (including, without limitation, being attached to the exterior of such facilities and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent.

**Collocation**

The mounting or installing of a WCF on a pre-existing structure, and or modifying a structure for the purpose of mounting or installing a WCF on that structure provided that, for purposes of eligible facilities requests, "collocation" means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and /or receiving radio frequency signals for communications purposes.

**Director**

The Community Development Director, or their designee.

**Eligible Facilities Request**

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**

Any tower or base station as defined in this section, if it is existing at the time the relevant application is filed with the county under this section of the Land Use Code.

**Existing Tower or Base Station**

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 it was built. For example, a tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

**Master License Agreement**

A legal contract between the County (the licensor) and a telecommunications provider (the licensee). The licensor grants the licensee the right to non-exclusively use the right-of-way for the purpose of small cell facilities according to the terms of the agreement.

**Microcell**

A small wireless facility that is no larger than 24 inches in length, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, that is no more than 11 inches in length.

**Monopole**

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

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

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

**Pole-Mounted Small Cell Facility**

A small cell facility with antenna that are mounted and supported on an alternative tower structure, which includes a replacement pole.

**Public Property**

For the purpose of this Article 9.0, real property owned or controlled by the county, excluding the right-of-way.

**Radio Frequency Emissions Letter**

A letter from the applicant certifying, all WCFs that are the subject of the application shall comply with federal standards for radio frequency emissions.

**Radio or Television Tower or Transmitter**

Freestanding non-concealed communications facilities used to transmit radio and television broadcasts, including: lattice towers, monopole towers, guyed towers, or other freestanding facilities that do not meet the definition of a freestanding concealed communications facility.

**Readily Apparent**

For purposes of determining whether a WCF is readily apparent, the phrase means that the facility, in the discretion of the Director, will be easily recognizable as a WCF to a reasonable person viewing the facility as a whole and in the context of any adjacent improvements and landscaping from publicly accessible locations when considering the character, scale, and height of nearby and surrounding natural or architectural features. Methods of design and construction that may assist in reducing the visibility of a facility and reaching a conclusion that a facility is not readily apparent include the use of color mimicking surrounding structures and landscaping, minimizing facility size to the greatest extent feasible, integrating the facility into any adjacent or attached improvements, and positioning the facility in a manner that limits the degree to which the facility projects away from any adjacent structures or landscaping. Due to differences in site characteristics, a determination that a particular WCF will not be readily apparent at one location shall not establish a precedent for the same determination for a facility of the same or similar design or construction at a different location.

**Replacement Pole**

A newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or street light poles or other similar structure of proportions and of equal height or such other height that would not constitute a substantial change to a pre-existing pole or structure in order to support a WCF or small cell facility or to accommodate collocation and remove the pre-existing pole or structure.

**Right-Of-Way**

Any public street, way, alley, sidewalk, median, parkway, or boulevard that is dedicated to public use.

**Signal Non-Interference Letter**

A letter from the applicant certifying, all WCFs that are the subject of the application shall be designed, sited and operated in accordance with applicable federal regulations addressing radio frequency interference.

**Site**

For this section of the Code, the area comprising the base of the structure and other related accessory equipment deployed on the ground including the area to be leased.

**Small Cell Facility**

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

**Substantial Change**

A modification that substantially changes the physical dimensions of an eligible support structure if, after the modification, the structure meets any of the following criteria:

- 1) For towers, other than alternative tower structures in the right-of-way or other towers in the right-of-way, it increases the height of the tower by more than ten percent or by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed

20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater;

- 2) 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 tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the side of the structure by more than six feet;
- 3) 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 ten percent larger in height or overall volume than any other ground cabinets associated with the structure;
- 4) For any eligible support structure, it entails any excavation or deployment outside the current site;
- 5) For any eligible support structure, it would defeat the concealment elements of the eligible support structure. For the purposes of this subsection (E), a change which undermines the concealment elements of an eligible support structure will be considered to defeat the concealment elements; or
- 6) For any eligible support structure, it does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs (A), (B), and (C) of this definition. For purposes of determining whether a substantial change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.

**Support Structure**

A structure designed to support small cell facilities including, but not limited to, monopoles, alternative tower structures, replacement poles, and other freestanding self-supporting pole structures.

**Toll and Tolling**

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

**Tower**

Any structure built for the sole or primary purpose of supporting one or more FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private broadcast services as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

**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 (WCF)**

A facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an antenna or antennas, including without limitation, directional, omni-directional and parabolic antennas, support equipment, alternative tower structures and towers. 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 Code.