

Wireless Communication Facility Ordinance Amendments

CPC CA 20-00019

CPC CA 20-00020

CPC CA 20-00023

CPC CA 20-00024

City Council – May 12, 2020

Morgan Hester, AICP, Principal Planner

Ben Bolinger, Senior Attorney

Joshua Pace, Senior Contracting Specialist



Items #?



- Four ordinance amendments being considered
- **CPC CA 20-00019 (Ordinance 1 – Item 8D)**
 - Wireless Communication Facilities (private property) and Small Cell Facilities (public rights-of-way), definitions, processes
- **CPC CA 20-00020 (Ordinance 2 – Item 8E)**
 - Eligible Facilities Requests
- **CPC CA 20-00023 (Ordinance 3 – Item 8F)**
 - Use Table and reference clean-up
- **CPC CA 20-00024 (Ordinance 4 – Item 8G)**
 - Permits Small Cell Facilities in the public rights-of-way

Ordinance 1 (Item #?) –

Wireless Communication Facilities and Small Cell Facilities



- **Ordinance CPC CA 20-00019**
- **CMRS (Commercial Mobile Radio Service) → WCF (Wireless Communication Facilities) and Small Cell Regulations**
 - Updated definitions and references to include more current technology
 - Modification requirements
 - Required application documents
 - Inventory mapping
 - Design Standards

Ordinance 1 (Item #?) – Wireless Communication Facilities (WCF)



- Telecommunication towers that are permitted on **private property and subject to zoning regulations**
- Changes to existing Code
 - Expansion of definitions
 - Camouflaging (aesthetic requirements)
 - Siting

Ordinance 1 (Item #?) – Small Cell Facilities



- Telecommunication facilities that are **permitted within the public rights-of-way**
- Change to Code
 - Inclusion of Small Cell Facilities as a type of WCF
 - Design Guidelines
 - Review criteria
 - Application process

Federal Regulations – Small Cell Facilities



- Telecommunications Act of 1996
 - Section 253 – Local government **cannot prohibit** any entity from providing telecom service
 - Section 332 – Local government must act on applications for deployment within a **reasonable period of time**
- FCC 18-133
 - Sets presumptively reasonable **fees**
 - Requires published **aesthetic standards**
 - Sets presumptively reasonable **shot clocks**

State Regulations – Small Cell Facilities



- CRS 29-27-403 – Sets mandatory **shot clock of 90 days** for small cell sites
- CRS 29-27-403 – Local government **must approve small cell sites** before telecommunication Providers can deploy
- CRS 38-5.5-104.5 – Telecommunication providers have the **right to locate small cells on light poles, traffic signals**

Ordinance 1 (Item #?) –

Wireless Communication Facilities and Small Cell Facilities



- Changes to **7.2.302 ‘Definitions of use types’**
 - Removal of Commercial Mobile Radio Service (CMRS) Facility and replaced with Wireless Communications Facility (WCF).
 - Facility types have been outlined within the definition for clarity.
 - Tower facilities are located on **private property**
 - Small Cell Facilities are **located within public rights-of-way**

Ordinance 1 (Item #?) –

Wireless Communication Facilities and Small Cell Facilities



- Revisions to **Section 7.4.607 ‘Processing of Wireless Communication Facility Applications’**
- **CM1** – Conditional Use request that is heard through City Planning Commission, 1,000’ notification radius from proposed WCF
- **CM2** – Administrative review in accordance with Development Plan application and review procedures
- **CM3** – Expedited administrative review in accordance with Development Plan application and review procedures
- **CM4** – Eligible Facilities Requests (**new addition**)
- **CM5** – Small Cell Facilities (**new addition**)

Ordinance 1 (Item #?) –

Wireless Communication Facilities and Small Cell Facilities



Type Of Facility	Application
Residential zones:	
Nonstealth freestanding facility ⁶	CM1 ³
Roof/wall mount ¹ :	
10 feet or less above roofline ²	CM3 ⁵
More than 10 feet above roofline and less than maximum height of zone	CM2 ⁴
Located on single- and two-family dwelling units	CM1 ³
Stealth freestanding facility ⁶ :	CM2 ⁴
Nonresidential zones:	
Broadcasting tower	CM1 ³
Collocation on existing facility ⁸	CM3 ⁵
Nonstealth freestanding facility ⁷	CM1 ³
Roof/wall mount:	
10 feet or less above roofline ²	CM3 ⁵
More than 10 feet above roofline	CM2 ⁴
Stealth freestanding facility:	
Equal to or less than maximum height of zone	CM2 ⁴
Located within utility substations or within utility easements and exceeding the height of other vertical infrastructure by more than 4 feet	CM1 ³
Eligible Facilities Requests	CM4 ⁹
Small Cell Facilities in the Right-of-Way	CM5 ¹⁰

- (Section 7.4.607 ‘Processing of Wireless Communication Facility Applications’)
- Table outlines requirements for application types
 - **CM1** – Conditional Use for Wireless Communication Facilities
 - **CM2** – Development Plan for Wireless Communication Facilities
 - **CM3** – Administrative Review for Wireless Communication Facilities
 - **CM4** – Eligible Facilities Requests (**NEW**)
 - **CM5** – Small Cell Facilities in the public rights-of-way (**NEW**)

Ordinance 1 (Item #?) –

Wireless Communication Facilities and Small Cell Facilities



- Found in new Code **Section 7.4.610(I)**
- WCF Setbacks and Separation –
 - Current Code
 - Freestanding facilities shall be located no closer than a distance equal to 5 times their height from residentially zoned properties or used for single-family purposes
 - Proposed Changes
 - Towers shall meet the **greater** of the following minimum setbacks from all property lines
 - Setback for a principal building within the applicable zoning district;
 - 25% of the facility height, including WCFs and equipment; or
 - 5 times the tower height, including antennas, if the tower is in or adjacent to a residential district of school site, unless a conditional use is approved

Ordinance 1 (Item #?) –

Wireless Communication Facilities and Small Cell Facilities



- **Section 7.6.610 ‘Design Standards’** establishes allowance for additional design standards, through administrative regulations, to be enacted
- Pursuant to FCC 18-133, Design Standards must be **published and objective**
- Collaborated with CSU to create Standards and are available online
 - Telecommunications webpage housed under Office of Innovation

Ordinance 1 (Item #?) – Wireless Communication Facilities and Small Cell Facilities



ColoradoSprings.gov > Departments > Office of Innovation > Telecommunications

Office of Innovation

- SmartCOB
- Open Data
- Telecommunications**
 - Application & Permits
 - About Wireless Infrastructure
 - Cable Franchise Agreements
- Resources

Contact Info

Office of Innovation

Contact

Phone: (719) 386-8660

Contact the Office of Innovation @

Address:

City Administration Building 30 S. Nevada Ave,
Suite 604

Colorado Springs, CO 80903

Telecommunications

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As part of the City's SmartCOB initiative, the Office of Innovation and Sustainability (OIS) encourages private telecommunications providers (Providers) to deploy the necessary infrastructure to ensure all Colorado Springs residents have access to affordable, reliable, and high-quality telecommunications services such as cable television, broadband internet, and wireless coverage.

OIS oversees the City's Cable Franchise Agreements with Comcast, CenturyLink, and Falcon Broadband.

OIS works with other City departments and providers to streamline processes for deployment of conduit and fiber-optic cable, small cell nodes, and other telecommunications facilities in the public Rights-of-Way.

Application Process and Permits



Learn about small cell infrastructure

Learn about how the City of Colorado Springs is working with companies to bring small cell infrastructure to the city.



Ordinance 1 (Item #?) – Wireless Communication Facilities and Small Cell Facilities



Office of Innovation

- ▲ SmartCOS ▶
- ▲ Open Data
- ▲ Telecommunications
 - ▲ Application & Permits
 - ▲ Macro Cell Tower
 - ▲ [Small Cell](#)
 - ▲ Substructure: Conduit / Fiber
 - ▲ About Wireless Infrastructure
 - ▲ Cable Franchise Agreements
- ▲ Resources

Contact Info

Office of Innovation

Contact

Phone: (719) 385-6650

[Contact the Office of Innovation](#)

Small Cell Wireless Communications Permitting

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Pre-Application Meeting (Voluntary)

At the Provider's request, the Office of Innovation and Sustainability (OIS) will coordinate a meeting between the Providers and the appropriate parties within the City. At this meeting, we will discuss proposed facility deployments and all necessary permits, fees, and other requirements related to those deployments. City stakeholders include OIS, Department of Information Technology (IT), Department of Public Works, Department of Planning, and Colorado Springs Utilities.

Contact

Joshua Pace

Email: Joshua.Pace@coloradosprings.gov

Phone: (719) 385-5272

Pre-Application Documents

1. Preliminary drawings in compliance with
 - Federal and State Requirements
 - Colorado Springs City Code, Chapter 7
 - [The City's Small Cell Design Standards](#)
2. Signed [Agreement in Connection with the Operation of a Wireless Network \(pdf\)](#) | [\(Download .docx\)](#)

Ordinance 1 (Item #?) –

Wireless Communication Facilities and Small Cell Facilities



- Found in new Code **Section 7.4.608 ‘Review Procedures and Requirements’**
- Affidavits
 - Required in the event a tower facility is abandoned or unused for a period of 12 months, outlining that the applicant and property owner are responsible for its removal.
 - Does not apply to Small Cell Facilities
- Small Cell Facility Appeals
 - The City Attorney’s Office is reviewing whether these facilities should be appealable, due to State shot clock regulations

Ordinance 2 (Item #?) – Eligible Facilities Requests



- **Ordinance CPC CA 20-00020**
- **Part 7 of Article 4 of Chapter 7**
- **Eligible Facilities Requests**
 - Modifications to non-small cell facility sites in compliance with the Middle Class Tax Relief and Job Creation Act of 2012, Section 6409;
 - Defines ‘Substantial Change’ similarly to what is codified in Section 6409;
 - Establishes submittal requirements and the review process; and
 - Establishes shot clocks for reviewing applications and associated “tolling”.

Ordinance 2 (Item #?) – Eligible Facilities Requests



- Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012
 - Mandates that a State or local government approve certain siting requests for modifications and collocations of equipment on an existing tower or base station that does not result in a substantial change of the sizing of the tower or base station.
 - A substantial change is defined as a modification that substantially changes the physical dimensions of a support structure.

Ordinance 2 (Item #?) – Eligible Facilities Requests



- Reconsideration
 - Due to the established shot clock of 60 days for review, timing for submitting an appeal request is not feasible
 - This section allows for the applicant to request reconsideration of application if the following –
 - 15 days prior to expiration – Manager denies application
 - 10 days prior to expiration – Applicant may submit written objection identifying that a **clear error by Staff was made**

Ordinance 3 (Item #?) – Land Use References



- **Ordinance CPC CA 20-00023**
- Clean up land use tables and all references to ‘CMRS’ that will no longer be applicable
 - CMRS → Wireless Communication Facilities
 - Private property
 - Inclusion of ‘Small Cell Facilities’
 - Public rights-of-way ONLY
- Allows for WCF uses to be either permitted or conditional uses in R1-6000 and PBC zoning districts except where the PUD Zone Ordinance states otherwise

Ordinance 4 (Item **#?**) – Public Property



- **Ordinance CPC CA 20-00024**
- Amendment to Chapter 3 – **Section 3.2.218**
‘Small Cell Facilities’
- Inclusion of language to permit Small Cell Facilities within **Public Rights-of-Way**
- Establishes that Small Cell Facilities are unlike a Revocable Permit as they are **more similar to a lease** than a license

Proposed Motion



CPC CA 20-00019 - CODE AMENDMENT

Adopt an Ordinance amending Part 3 (Land Use Types and Classifications) of Article 2 (Basic Provisions, Definitions, and Land Use Types and Classifications) and repealing and reordaining Part 6 (Commercial Mobile Radio Service (CMRS) Regulations) of Article 4 (Site Development Standards) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Wireless Communication Facilities.

CPC CA 20-00020 - CODE AMENDMENT

Adopt an Ordinance creating Part 7 (Eligible Facilities Requests) of Article 4 (Site Development Standards) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Eligible Facilities Requests.

CPC CA 20-00023 - CODE AMENDMENT

Adopt an Ordinance amending Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Wireless Communication Facilities and Eligible Facilities Requests.

CPC CA 20-00024 – CODE AMENDMENT

Adopt an Ordinance amending Part 2 (Use and Occupancy of Public Property) or Article 2 (City Properties) or Chapter 3 (Public Property and Public Works) of the Code of the City of Colorado Springs, 2001, as amended, permitted to allowing Small Cell Facilities in the public rights-of-way

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Small Cell 101



- Short-range cell sites (small cells) are used to compliment macro cell towers
- Small cells are typically placed on existing vertical structures
- Small cells will increase reliability and coverage for 4G LTE network
- Deployment of 5G antennas has begun and enabled devices will be required to access 5G network



Source – Crown Castle

Small Cell Application Process



- Currently – Revocable Permit
- Through amendments, similar to a Revocable Permit but –
 - Providers must execute a Master License Agreement (MLA) with City/CSU prior to approvals
 - Permits are largely not revocable, aside from circumstances that are outlined in MLA
- Chapter 3 amendment revises process

Incentives



- MLA Process
 - Joint agreement with City of Colorado Springs and CSU
- Application Process
 - Telecommunication Website
 - Application Checklists
 - Pre-Application meeting (optional)
- Fees
 - As outlined in MLA, batched applications allow for more applications to be submitted, and thus reviewed at once

Budget Committee



- Research
 - Planning Staff and the Budget Office collaborated to analyze Staff time for reviews to establish low and high scenarios for cost recovery

	Low Scenario	High Scenario
# of Staff Reviewers	5	8
Hours for Reviews	16	36
# of Iterations	3	4
Total Cost per Application	\$1,111	\$2,477

Budget Committee



- Research
 - Average of \$1,794 per application for Staff review
 - Analyzed fees from other municipalities across the nation
- Staff Proposed Small Cell Facility fees –
 - \$1,500 per site for up to 5 (\$7,500) + \$1,000 per site for up to 5 additional (\$5,000) = \$12,500 total for up to 10 sites on one application
- Cost Recovery
 - First 5 sites – 84%
 - Additional 5 sites – 70%

Budget Committee



- Committee Discussion
 - Higher Cost Recovery requested
- Next Steps
 - Meet with Providers to discuss Budget Committee discussion
 - Revisit discussion at future Budget Committee meeting
 - Administrative Fee and independent from proposed Ordinances