

Wireless Communication Facility Ordinance Amendments

CPC CA 20-00019

CPC CA 20-00020

CPC CA 20-00023

CPC CA 20-00024

City Council Work Session – April 27, 2020

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Items 8D – 8G



- 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 8D) – 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 8D) – 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 8D) – 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 8D) – 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 8D) –

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 8D) – 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 8D) – 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 8D) – 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 8D) – 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 8E) – 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 8E) – 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 8E) – 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 8F) – 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 8G) – 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