1 - Welcome and Overview

Purpose

Welcome to the Wireless Regulations project meeting and open house. This is an opportunity for the community to provide feedback about draft regulations and procedures that will accommodate the communication needs of residents and businesses and visitors while protecting public health, safety, and general welfare.

In 2018, the Federal Communications Commission adopted new legislation that affects proposed wireless regulations for the County.

Open House Boards

The open house stations are organized around these topics:

- What the County Can Regulate related to Wireless Facilities
- Approval Process
- Proposed Process Timeframes and Notice
- Proposed Design Standards and Concealment
- Standards for Small Cell in the Right of Way
- Images of Towers
- Images of Small Cell Facilities

Proposed Schedule

- May 8 – Joint Planning Commission and County Commissioners Discussion
- May 8 to 22 – Online information and public survey
- June 19 – If ready, Planning Commission Hearing
- July 22 – If ready, County Commissioners Adoption Hearing

Do you have any general suggestions about Wireless Facilities regulations?
2 – What can the County Regulate?

The Federal Communications Commission (FCC) and State of Colorado Regulations Govern how Larimer County Can Regulate Wireless Facilities

1996 Congress passed the Telecommunications Act. They generally preserved local government approval authority with a few exceptions:

1. Any denial of a wireless facility had to be in writing (47 U.S.C. 332(c)(7)(B)(iii)),
2. Regulations could not prohibit or have the effect of prohibiting wireless service (47 U.S.C. 332(c)(7)(B)(ii)), and
3. Wireless regulations could not be based on the health effects of RF (Radio Frequency) (47 U.S.C. 332(c)(7)(B)(i)).

2017, the State of Colorado passed the state small cell bill, which further restricted cities and counties, by requiring that small cell facilities be allowed in all zones, however the state small cell bill still generally preserved a local government’s ability to regulate wireless facilities (C.R.S. 29-27-404(3).

September of 2018, the FCC Order on small cells came out, further restricting local government’s ability to regulate (FCC WT Docket No. 17-79 (Sep. 27, 2018). Local governments cannot prohibit or create regulations that make it so difficult to essentially prohibit wireless facilities. This 2018 Small Cell Order is currently being appealed in the 9th Circuit.

What does this really mean?
Cities and Counties are limited in their ability to regulate wireless facilities. Larimer County can regulate:

1. Type of facility (concealed, not concealed, attached, small cell, temporary)
2. Height of tower or facility
3. Setbacks from property lines & residential uses
4. Appearance of the facility (concealed or not)
5. Screening of the ground-based equipment, for example landscaping and fencing
6. Process, however must comply with rigid time frames, referred to as the “Shot Clock”
7. Within ROW – quantity, size, and location
3 – How will County Process Wireless Facilities?

Currently, all attached and concealed (stealth) wireless facilities in the County are processed administratively, meaning they do not go to the Planning Commission or the Board of County Commissioners for approval but are approved at a staff level. In addition, these administrative processes do not require notification to adjacent property owners.

Proposed Planning Processes

In the proposed regulations, the type and height of the facility will guide the process and notification to adjacent property owners will occur.

<table>
<thead>
<tr>
<th>Facility Type</th>
<th>Height: 0’ to ≤40’</th>
<th>Height: &gt; 40’ to ≤ 60’</th>
<th>Height: &gt; 60’ to ≤ 90’</th>
<th>Height: &gt; 90’ to 125’</th>
<th>Height: &gt; 125’</th>
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</thead>
<tbody>
<tr>
<td>Small Cell</td>
<td>Site Plan (SP); administrative decision</td>
<td>Not permitted</td>
<td>Not permitted</td>
<td>Not permitted</td>
<td>Not permitted</td>
</tr>
<tr>
<td>Attached</td>
<td>Site Plan (SP); administrative decision</td>
<td>Site Plan (SP); administrative decision</td>
<td>Not permitted</td>
<td>Not permitted</td>
<td>Not permitted</td>
</tr>
<tr>
<td>Free-Standing Concealed</td>
<td>Site Plan (SP); administrative decision</td>
<td>Site Plan (SP); administrative decision</td>
<td>Public Site Plan (PSP); administrative decision</td>
<td>Public Site Plan (PSP); administrative decision</td>
<td>Minor Special Review (MS); Commissioner approval</td>
</tr>
<tr>
<td>Free-Standing Non-Concealed</td>
<td>Public Site Plan (PSP); administrative decision</td>
<td>Public Site Plan (PSP); administrative decision</td>
<td>Minor Special Review (MS); Commissioner approval</td>
<td>Minor Special Review (MS); Commissioner approval</td>
<td>Special Review (SR); Planning Commission recommendation and Commissioner approval</td>
</tr>
</tbody>
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Proposed Setbacks when Adjacent to Residential

2:1 Setback to tower height when adjacent to properties, buildings, or structures with residential uses (setback = 200% of the tower height);

1:1 Setback to tower height when adjacent to any public ROW (setback = 100% of the tower height)

Process for Small Cells in ROW

Any facilities within the right-of-way (ROW) must be processed Administratively, and the County cannot deny the use of the ROW, according to FCC. County proposes to use a Master License Agreement for these applications. Since these cannot be denied, there is no notice proposed for facilities within the ROW.

Standards have been included for facilities within the ROW. There are size limitations as well as limitations on the type of poles used in the ROW.
4 – Length of Time for Applications and Notice

The “Shot Clock” (Time Frame to Process)
The County must process all applications within a specified time frame. The FCC refers to this as the Shot Clock, a term taken from basketball. The initial review for all applications must be completed within 10 days. Any application which is missing required submittal items can be put “on-hold,” which the FCC refers to as tolling the shot clock. This essentially stops the clock. Then, the resubmitted application must be processed within the minimum number of days (this must include the original time used for the completeness review.

The table below outlines the review period for the various application types.

<table>
<thead>
<tr>
<th>Attached Facility on Existing Structure</th>
<th>Freestanding Concealed Facility</th>
<th>Freestanding Facility Non-Concealed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review Time</td>
<td>60 Days</td>
<td>90 Days</td>
</tr>
<tr>
<td></td>
<td></td>
<td>150 Days</td>
</tr>
</tbody>
</table>

What happens if the time frame is not met?
If the application cannot be completed within the specified time frame, the application will be deemed approved unless an agreement for additional processing time can be reached. This agreement between the wireless provider and the County must be done in writing. If an agreement is not reached, the wireless application is deemed approved and the wireless provider can move forward with their application.

How will the community know if an application is approved?
For administrative processes, a notice will be sent to neighbors after the application is approved and they will have an opportunity to appeal the administrative decision. However, any appeal must be based on the application not being processed according to the regulations.

For all other types of processes, the County will notify adjacent property owners that an application is in process. For any applications going to a public hearing, notice for the hearing will also be provided.

Do you have Input on Public Notice?
5 – Design: Camouflage and Concealment

DEFINITIONS:

**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) 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.

Camouflage, Concealment, or Camouflage Design Techniques.
- All WCFs and any Transmission Equipment shall, to the extent technically feasible, use Camouflage Design Techniques (for example, 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 located in the Public Right-of-Way and on adjacent parcels.
- Camouflage design are important in proximity to historic or aesthetically significant structures and/or natural or community features. In such cases, they shall (where possible) be designed to minimize their profile (for instance, camouflaged, placed underground, depressed, or located behind earth berms). The camouflage design may include the use of Alternative Tower Structures.
- All WCFs, shall be constructed out of or finished with non-reflective materials (visible exterior surfaces only)

**Readily Apparent.** For purposes of determining whether a wireless communication facility is readily apparent, the phrase means that the facility, in the discretion of the Director, will not be easily recognizable as a Wireless Communications Facility 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.
Design standards for Alternative Tower Structures for Small Cell facilities in the Public Right of Way (ROW). In addition to the design requirements applicable to Towers, above, Alternative Tower Structures shall be designed and constructed to look like a facility or utility pole typically found in the Public ROW and shall:

- Be located on, or within, an existing utility pole serving another utility;
- Be camouflaged/concealed consistent with other existing natural or manmade features near the location;
- Be located on, or within, a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives;
- Be consistent with the size and shape of the pole-mounted equipment installed by communications companies on nearby utility poles;
- Be sized to minimize the negative aesthetic impacts to the Public Right-of-Way and adjacent property;
- Be designed such that any ground mounted equipment shall be located in a manner to address both public safety and aesthetic concerns;
- Not alter vehicular circulation or parking within the Public Right-of-Way;
- 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;
- Any such Alternative Tower Structure shall in no case be higher than
- Small Cells 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;
- No new freestanding Small Wireless Facility shall be within 600 feet of another freestanding Small Wireless Facility in the public right-of-way.
- Collocations are strongly encouraged and the number of poles within the Public Right-of-Way should be limited as much as possible; and
- Equipment enclosures shall be located out of view as much as possible.

DEFINITIONS:
SMALL WIRELESS 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 seventeen 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.
Which of the Designs Below do You Prefer?
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