AGENDA
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD, COLORADO
VIRTUAL MEETING
JULY 27, 2020
7:00 P.M.

To watch the Council meeting live, please use either one of the following links:

City of Lakewood Website: https://www.Lakewood.org/CouncilVideos
Lakewood Speaks: https://lakewoodspeaks.org/

Phone Number for Public Comment: (will be provided)
Webinar ID: (will be provided)
(press # after entering the webinar id then press # once more to join the meeting)
Press *9 to Request to Speak
(You will be prompted when to speak. After speaking, you can hang up or hold to speak on a different agenda item)

The City of Lakewood does not discriminate on the basis of race, age, national origin, color, creed, religion, sex, sexual orientation or disability in the provision of services. People with disabilities needing reasonable accommodation to attend or participate in a City service program, can call 303-987-7080 or TDD 303-987-7057. Please give notice as far in advance as possible so we can accommodate your request.

ITEM 1 – CALL TO ORDER
ITEM 2 – ROLL CALL
ITEM 3 – PLEDGE OF ALLEGIANCE
ITEM 4 – PUBLIC COMMENT
ITEM 5 – EXECUTIVE REPORT
CITY MANAGER

CONSENT AGENDA

ORDINANCES ON FIRST READING

(Ordinances are on first reading for notice and publication only; public hearings are held on second reading)
ITEM 6 – ORDINANCE O-2020-19 – VACATING A PORTION OF RIGHT-OF-WAY FOR WEST YALE AVENUE, SOUTHWEST CORNER OF RED ROCKS BUSINESS DRIVE AND WEST YALE AVENUE FURTHER LOCATED TO THE SOUTHEAST OF LOT 7, BLOCK 3 OF THE RED ROCKS BUSINESS PARK FILING NO. 1, AS DEPICTED IN EXHIBIT “A” TO THIS ORDINANCE

ITEM 7 – ORDINANCE O-2020-20 – DISCONNECTING CERTAIN PROPERTY,addressed as 3053 S. ROONEY RD. A PARCEL OF LAND, BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 4 SOUTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO

ITEM 8 – ORDINANCE O-2020-21 – FOR THE CONVEYANCE OF A SEWER LINE EASEMENT TO WEST ALAMEDA HEIGHTS SANITATION SERVICE, INC. ACROSS A PORTION OF COTTAGE PARK

END OF CONSENT AGENDA

RESOLUTIONS

ITEM 9 – RESOLUTION 2020-23 – AUTHORIZING ALLOCATIONS FOR 533 VAN GORDON STREET, LAKEWOOD, CO 80228


ORDINANCES ON SECOND READING AND PUBLIC HEARINGS

ITEM 11 – CONTINUED ORDINANCE O-2020-1 – AMENDING LAKEWOOD MUNICIPAL CODE TITLE 12, AND ARTICLE 10 OF TITLE 17, TO REFLECT CHANGES IN STATE AND FEDERAL LAW RELATING TO WIRELESS SERVICES AND COMMUNICATIONS

ITEM 12 – CONTINUED RESOLUTION 2020-9 – ESTABLISHING CERTAIN FEES FOR PLACEMENT OF WIRELESS CARRIER OR SMALL CELL FACILITIES WITHIN CITY OF LAKEWOOD PUBLIC WAY
ITEM 13 – GENERAL BUSINESS

MOTION TO EXTEND EMERGENCY DECLARATION – I MOVE TO EXTEND THE DECLARATION OF DISASTER IN THE CITY OF LAKEWOOD COLORADO RESULTING FROM THE CORONAVIRUS/COVID-19 PANDEMIC, PURSUANT TO SECTION 1.27 of the LAKEWOOD MUNICIPAL CODE, ORIGINALLY DECLARED BY PROCLAMATION OF THE LAKEWOOD CITY MANAGER ON MARCH 17, 2020, EXTENDED BY MAJORITY VOTE OF THE CITY COUNCIL ON MULTIPLE OCCASIONS, AND BY THIS MOTION EXTENDED AGAIN UNTIL AUGUST 10, 2020, UNLESS EARLIER EXTENDED OR TERMINATED BY THE CITY COUNCIL.

ITEM 14 – MAYOR AND CITY COUNCIL REPORTS

A. MAYOR
B. MAYOR PRO TEM
C. COUNCIL MEMBERS

ITEM 15 – ADJOURNMENT
DATE OF COUNCIL MEETING: JULY 27, 2020 / AGENDA ITEM NO. 6

To: Mayor and City Council
From: Holly Bjorklund, Chief Financial Officer, 303-987-7601
Subject: VACATION OF WEST YALE AVENUE RIGHT-OF-WAY, SOUTH OF RED ROCKS BUSINESS DRIVE

SUMMARY STATEMENT: An ordinance vacating a portion of the West Yale Avenue right-of-way (ROW), south of Red Rocks Business Drive in the Rooney Valley.

BACKGROUND INFORMATION: The applicant, Cardel Rooney Valley Limited Partnership, is the owner of the parcel at 40-253-04-006 adjacent to the proposed vacation of right-of-way (ROW). This vacation of ROW is being requested in order to reconfigure the ROW of West Yale Avenue to construct a roundabout at the intersection of West Yale Avenue and Red Rocks Business Drive. There will also be additional ROW dedicated to the City in conjunction with this vacation request for the roundabout. This dedication of additional ROW will occur prior to recordation of the vacation ordinance.

West Yale Avenue in this location was dedicated to the City with the Red Rocks Business Park Filing No. 1 plat in 1983. The proposed roundabout is being designed and will be constructed as part of the development of the Cardel and CDN properties, to the south and north. Part of the proposal is to vacate 326 SF of the West Yale Avenue ROW, at the southwest corner of West Yale Avenue and Red Rocks Business Drive and to dedicate 848 SF of ROW in the same vicinity. This vacation and dedication of ROW will effectively reconfigure the ROW to accommodate the future roundabout. The adjacent property owned by Cardel is a portion of the property that is proposed to be dedicated to the Jefferson County R-1 School District as part of the surrounding development proposals. It is the applicant’s desire to address the reconfiguration of the ROW prior to deeding the property to Jefferson County R-1 School District. This vacation and dedication of ROW effectively allows for the proposed roundabout configuration and cleans up the ROW boundary. The vacated portion of ROW will be part of the land to be dedicated to Jefferson County R-1 School District with future development of the surrounding properties.

This vacation of ROW will not affect current access to adjacent properties.

In order to ensure that adequate ROW is obtained for the proposed roundabout, a condition has been added, requiring the additional ROW be dedicated prior to recordation of the vacation ordinance.

FINANCIAL IMPACTS: None
STAFF RECOMMENDATIONS: Approval

ALTERNATIVES: If this Ordinance is not approved, the proposed roundabout at West Yale Avenue and Red Rocks Business Drive will need to be modified to accommodate the existing ROW.

PUBLIC OUTREACH: This item was promoted through the regular communication channels for items that come before City Council for consideration.

NEXT STEPS:

ATTACHMENTS: Ordinance O-2020-19
Map
ROW Dedication Deed

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Timothy P. Cox, City Attorney
AN ORDINANCE

VACATING A PORTION OF RIGHT-OF-WAY FOR WEST YALE AVENUE, SOUTHWEST CORNER OF RED ROCKS BUSINESS DRIVE AND WEST YALE AVENUE FURTHER LOCATED TO THE SOUTHEAST OF LOT 7, BLOCK 3 OF THE RED ROCKS BUSINESS PARK FILING NO. 1, AS DEPICTED IN EXHIBIT “A” TO THIS ORDINANCE

WHEREAS, the applicant has requested the vacation of a portion of West Yale Avenue to accommodate a roundabout; and

WHEREAS, additional right-of-way will be dedicated to the City of Lakewood for the proposed roundabout; and

WHEREAS, the owner of Block 3, Lot 7 of the RED ROCKS BUSINESS PARK FILING NO. 1 adjacent to said right of way agree to the vacation, and

WHEREAS, the City Council finds that the vacation of the aforesaid portions of Right-of-way is in the public interest; and

WHEREAS, the City Council finds that no land adjoining the above portions of right-of-way would be left without an established connection to a public road;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Pursuant to Title 43, Article 2, Colorado Revised Statutes and City of Lakewood Case VA-19-002, and upon a finding that the described area is no longer necessary for use by the public and that no land would, by vacation, be left without a connection to an established public road, the land described in Exhibit “A” attached hereto and made a part hereof, be the same hereby vacated.

SECTION 2. This ordinance shall take effect upon recordation of the conveyance deed for dedication of additional right-of-way, but a minimum of thirty (30) days after final publication.

SECTION 3. After the effective date of this Ordinance and the recordation of the conveyance deed for dedication of additional right-of-way, the Lakewood City Clerk will record a certified copy of this Ordinance, including the attached Exhibit A, at the Jefferson County Clerk and Recorder’s office.

SECTION 2. This ordinance shall take effect a minimum of thirty (30) days after final publication.

SECTION 3. After the effective date of this Ordinance, the Lakewood City Clerk will record a certified copy of this Ordinance, including the attached Exhibit A, at the Jefferson County Clerk and Recorder’s office.
I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a virtual regular meeting of the Lakewood City Council on the 27th day of July, 2020; published by title in the Denver Post and in full on the City of Lakewood's website, [www.lakewood.org](http://www.lakewood.org), on the 30th day of July, 2020; set for public hearing to be held on the 10th day of August, 2020, read, finally passed and adopted by the City Council on the _____ day of August, 2020 and, signed by the Mayor on the _____ day of August, 2020.

________________________________________
Adam Paul, Mayor

ATTEST:

________________________________________
Michele Millard, City Clerk

APPROVED AS TO FORM:

________________________________________
Timothy P. Cox, City Attorney
EXHIBIT A

A PORTION OF WEST YALE AVENUE RIGHT-OF-WAY AS SHOWN AND DEDICATED ON THE PLAT OF RED ROCKS BUSINESS PARK FILING NO. 1 THE PLAT OF WHICH IS RECORDED IN PLAT BOOK 74, PAGES 11 THROUGH 13, AND AT RECEIPT NO. 83077584, OF THE RECORDS OF THE JEFFERSON COUNTY CLERK AND RECORDER, FURTHER LYING IN THE SOUTHWEST ONE-NINTH OF SECTION 25, TOWNSHIP 4 SOUTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF LAKEWOOD, COUNTY OF JEFFERSON, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: ASSUMING THE SOUTH LINE OF THE SOUTHWEST ONE-NINTH OF SECTION 25 BEING MONUMENTED BY A 3-1/4 INCH ALUMINUM CAP STAMPED PLS 22109 FLUSH IN CONCRETE AT THE SOUTHWEST CORNER OF SAID SECTION 25 AND A 2-1/2 INCH PIPE AND 3-1/4 INCH ALUMINUM CAP STAMPED PLS 19591 AT THE SOUTH ONE-QUARTER CORNER OF SECTION 25 TO BEAR NORTH 89°09'12" EAST, A DISTANCE OF 2702.57 FEET WITH ALL BEARINGS CONTAINED HEREBIN RELATIVE THERETO.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 25;
THENENCE NORTH 89°09'12" EAST A DISTANCE OF 1129.64 FEET ON THE SOUTH LINE OF SAID SECTION 25 TO THE NORTHERLY RIGHT-OF-WAY OF SAID WEST YALE AVENUE AND THE POINT OF BEGINNING;

THENENCE ON SAID WEST YALE AVENUE NORTHERLY RIGHT-OF-WAY LINE ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT 43.61 FEET, SAID CURVE HAVING A RADIUS OF 550.00 FEET, A DELTA OF 04°32'35" AND BEING SUBTENDED BY A CHORD BEARING NORTH 66°42'10" EAST A DISTANCE OF 43.60 FEET TO A CURVE;

THENENCE ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT 16.80 FEET, SAID CURVE HAVING A RADIUS OF 72.50 FEET, A DELTA OF 13°16'33" AND BEING SUBTENDED BY A CHORD BEARING SOUTH 05°46'08" WEST A DISTANCE OF 16.76 FEET TO A POINT OF NON-TANGENCY AND THE SOUTH LINE OF SAID SECTION 25;

THENENCE SOUTH 89°09'12" WEST A DISTANCE OF 38.36 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 326 SQUARE FEET OR 0.01 ACRES, MORE OR LESS.

SURVEYOR’S STATEMENT

I, AARON ALVIN DEMO, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO DO HEREBY STATE THAT THIS LEGAL DESCRIPTION WAS PREPARED UNDER MY PERSONAL SUPERVISION AND CHECKING, AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, BELIEF, AND IN MY PROFESSIONAL OPINION, AND THAT IT IS NOT A MONUMENTED LAND SURVEY.

AARON ALVIN DEMO, PROFESSIONAL LAND SURVEYOR COLORADO PLSS NO. 38285
FOR AND ON BEHALF OF BASELINE ENGINEERING CORP.

BASELINE ENGINEERING CORP.
4007 SOUTH LINCOLN AVE, SUITE 405
LOVELAND, COLORADO 80537
(970) 353-7600
THE ROCKS BUSINESS DRIVE AND WEST VALLE AVENUE
RIGHT-OF-WAY VACATION

FOR AND ON BEHALF OF BASELINE CORPORATION
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR NO. 28285
AARON ALVIN DEMO
PLS 1996
WITH 3" ALUMINUM CAP
FOUND 2-1/2" PILE
1/4 CORNER SECTION 25
1/4 SW 1/2 SEC 25, T20 S, R17 W, 6TH PM
N 80' 9.2" E 220' 57"
R=27.5'
CH=16.80'
L=43.36'
BASIS OF BEARINGS
S 89.09' W 112.98' N
W 30.76' S

POINT OF BEGINNING
RED ROCKS BUSINESS DRIVE
(REC. NO. 63077834)

WEST VALLE AVENUE

EXHIBIT A
Red is 848 SF to be dedicated for ROW.

Orange is 326 SF to be vacated for ROW.

WEST YALE AVENUE ROW VACATION, CASE VA-20-001 VICINITY MAP
WARRANTY DEED TO
CITY OF LAKEWOOD

CARDEL ROONEY VALLEY LIMITED PARTNERSHIP, a Colorado limited partnership "Grantor", for the consideration of Ten and no\100 Dollars ($10.00), in hand paid, hereby sell(s) and convey(s) for public use and roadway purposes to the CITY OF LAKEWOOD, a Colorado home rule municipal corporation, whose address is 480 South Allison Parkway, Civic Center South, Lakewood, Colorado, 80226, the following real property, in the County of Jefferson, State of Colorado, to wit and shown on Exhibit A made a part hereof:

Legal Description:

with all its appurtenances, and warrant(s) the title to the same, subject to easements, rights of way and restrictions of record, if any.

CONVEYED FOR PUBLIC STREET PURPOSES

P.M. No: 25-4-70-165
ACCEPTED FOR CITY OF LAKEWOOD

By: ______________________

Ord. No: O-83-108
Tax Schedule No: 300176899
Quarter Sec. No: 40-253
Signed this 1st day of __________, 2020.

Grantor:

CARDEL ROONEY VALLEY LIMITED PARTNERSHIP
A Colorado limited partnership

By:
Roderick Mickelberry, Authorized Signatory

STATE OF COLORADO       )
COUNTY OF __________    )

The foregoing instrument was acknowledged before me this 1st day of __________, 2020, by Roderick Mickelberry, as Authorized Signatory.

Witness my hand and seal.

My commission expires:

[ SEAL ]

DENISE KORTE
Notary Public
State of Colorado
Notary ID # 20074018315
My Commission Expires 05-06-2023

Notary Public
EXHIBIT A

LEGAL DESCRIPTION


BASIS OF BEARINGS: ASSUMING THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 25 BEING MONUMENTED BY A 3-1/4 INCH ALUMINUM CAP STAMPED PLS 22109 FLUSH IN CONCRETE AT THE SOUTHWEST CORNER OF SAID SECTION 25 AND A 2-1/2 INCH PIPE AND 3-1/4 INCH ALUMINUM CAP STAMPED PLS 19591 AT THE SOUTH ONE-QUARTER CORNER OF SECTION 25 TO BEAR NORTH 89°09'12" EAST, A DISTANCE OF 2702.57 FEET WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 25;

THENCE NORTH 89°09'12" EAST A DISTANCE OF 1169.93 FEET ON THE SOUTH LINE OF SAID SECTION 25;

THENCE NORTH 00°50'48" WEST A DISTANCE OF 16.65 FEET TO THE NORTHERLY RIGHT-OF-WAY OF WEST YALE AVENUE AS SHOWN AND DEDICATED BY SAID RED ROCKS BUSINESS PARK FILING NO. 1 AND TO THE POINT OF BEGINNING;

THENCE ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT 20.83 FEET, SAID CURVE HAVING A RADIUS OF 72.50 FEET, A DELTA OF 16°27'53" AND BEING SUBTENDED BY A CHORD BEARING NORTH 20°38'21" EAST A DISTANCE OF 20.76 FEET TO A REVERSE CURVE;

THENCE ON THE ARC OF A TANGENT CURVE TO THE LEFT 49.39 FEET, SAID CURVE HAVING A RADIUS OF 110.00 FEET, A DELTA OF 25°43'29" AND BEING SUBTENDED BY A CHORD BEARING NORTH 16°00'33" EAST A DISTANCE OF 48.97 FEET TO A POINT OF NON-TANGENCY AND THE WESTERLY RIGHT-OF-WAY OF RED ROCKS BUSINESS DRIVE AS SHOWN AND DEDICATED BY SAID RED ROCKS BUSINESS PARK FILING NO. 1;

THENCE ON SAID WESTERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES;

1. SOUTH 13°51'09" EAST A DISTANCE OF 42.28 FEET;

2. THENCE ON THE ARC OF A TANGENT CURVE TO THE RIGHT 22.30 FEET, SAID CURVE HAVING A RADIUS OF 15.00 FEET, A DELTA OF 85°10'26" AND BEING SUBTENDED BY A CHORD BEARING SOUTH 28°44'04" WEST A DISTANCE OF 20.30 FEET TO A REVERSE CURVE AND THE NORTHERLY RIGHT-OF-WAY OF SAID WEST YALE AVENUE;
THENCE ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID WEST YALE DRIVE ON THE ARC OF A CURVE TO THE LEFT 22.53 FEET, SAID CURVE HAVING A RADIUS OF 550.00 FEET, A DELTA OF 02°20'49" AND BEING SUTENDED BY A CHORD BEARING SOUTH 70°08'52" WEST A DISTANCE OF 22.53 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 848 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

SURVEYOR'S STATEMENT

I, AARON ALVIN DEMO, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO DO HEREBY STATE THAT THIS LEGAL DESCRIPTION WAS PREPARED UNDER MY PERSONAL SUPERVISION AND CHECKING, AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, BELIEF, AND IN MY PROFESSIONAL OPINION, AND THAT IT IS NOT A MONUMENTED LAND SURVEY.

AARON ALVIN DEMO, PROFESSIONAL LAND SURVEYOR
COLORADO PLS NO. 38285
FOR AND ON BEHALF OF BASELINE ENGINEERING CORP.

BASELINE ENGINEERING CORP.
4007 SOUTH LINCOLN AVE, SUITE 405
LOVELAND, COLORADO 80537
(970) 353-7600
DATE OF COUNCIL MEETING: JULY 27, 2020 / AGENDA ITEM NO. 7

To: Mayor and City Council
From: Travis Parker, Director of Planning, 303-987-7908
Subject: 3053 S. ROONEY RD. DISCONNECTION CASE DX-20-001

SUMMARY STATEMENT: The applicant, John C. Bandimere, Jr. of Rooney Road, LLC is requesting the disconnection of 7.53-acres of land located at 3053 S. Rooney Rd. that is currently in the City of Lakewood municipal boundary. The land is comprised of three (3) parcels. The applicant desires to disconnect this parcel of land into Unincorporated Jefferson County in order to incorporate it into the adjacent Bandimere Speedway property that is located within Unincorporated Jefferson County.

BACKGROUND INFORMATION: Consideration of whether to disconnect property requires steps that are controlled by State Statutes. State Statutes require that notice of the disconnection be provided to the Board of County Commissioners and Special Districts. City Council is the acting body, which will require two readings before City Council.

The subject parcels of land were annexed by the City in the 1970’s and these parcels of land were then bisected from the City municipal boundary in the late 1980’s when C-470 was built. The proposed disconnection is and state statutes are further defined in the Disconnection Impact Report.

BUDGETARY IMPACTS: N/A

STAFF RECOMMENDATION: Staff recommends approval of the disconnection request so that the parcels of land may be disconnected into Unincorporated Jefferson County and incorporated as part of the overall Bandimere Speedway property. This property is under the same ownership as the property to the north, west and south all of which is in Unincorporated Jefferson County. The proposed disconnection satisfies the State Statutes.

ALTERNATIVES: The City Council may approve the ordinance to disconnect or deny the ordinance to disconnect. More specifically, City Council may approve the ordinance to disconnect if the proposed disconnection meets State Statutes, which will disconnect the property to Unincorporated Jefferson County or City Council may deny the ordinance to disconnect if it is found that it does not meet the State Statutes for requesting the disconnection, which will leave the property in the City of Lakewood.

PUBLIC OUTREACH: There is no public outreach required by the Zoning Ordinance. Notice of the disconnection was sent to the Board of County Commissioners and Special Districts as required per State Statutes.

NEXT STEPS: The 1st reading for City Council was held on July 27 and the public hearing for City Council is scheduled for August 10.
ATTACHMENTS:  
Ordinance O-2020-20  
Disconnection Impact Report  
Map No. 1  
Map No. 2

REVIEWED BY:  
Kathleen E. Hodgson, City Manager  
Benjamin B. Goldstein, Deputy City Manager  
Timothy P. Cox, City Attorney
AN ORDINANCE

DISCONNECTING CERTAIN PROPERTY ADDRESSED AS 3053 S. ROONEY RD. A PARCEL OF LAND, BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 4 SOUTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO

WHEREAS, the owner of certain property addressed as 3053 South Rooney Road and located in a portion of the Southeast Quarter of Section 26, Township 4 South, Range 70 West of the 6th Principal Meridian, County of Jefferson, State of Colorado, as more particularly described in Exhibit A, attached hereto and incorporated herein (the “Property”), has applied to the City of Lakewood (the “City”) for disconnection of the Property from the City’s municipal boundaries;

WHEREAS, not having a disconnection process, the Lakewood City Council has chosen to adopt the process for disconnection set forth in Section 31-12-501, Colorado Revised Statutes;

WHEREAS, after notice provided pursuant to section 31-12-108(2), Colorado Revised Statutes, the City Council held a public hearing on the proposed disconnection;

WHEREAS, the City Council finds that no terms or conditions shall be imposed on the disconnection;

WHEREAS, the City Council further finds and determines that it is in the best interests of the City to disconnect the Property into Jefferson County;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The City hereby adopts the disconnection process set forth in Section 31-12-501, Colorado Revised Statutes.

SECTION 2. The Property is hereby disconnected from, and is no longer a part of, the City of Lakewood, Colorado. The Property is hereby made a part of the County of Jefferson, Colorado.
SECTION 3. The City Clerk is hereby authorized and directed to perform all statutory duties required to complete the disconnection.

SECTION 4. Disconnection of the Property shall be complete and effective on the “Effective Date” set forth in Section 5 below.

SECTION 5. This Ordinance shall take effect thirty (30) days after final publication, subject to compliance with the filing requirements of Section 31-12-501(4), Colorado Revised Statutes (the “Effective Date”).

SECTION 6. After the effective date of this Ordinance, the Lakewood City Clerk will record a certified copy of this Ordinance, including the attached Exhibit A, at the Jefferson County Clerk and Recorder’s office.

SECTION 7. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a virtual regular meeting of the Lakewood City Council on the 27th day of July, 2020; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 30th day of July, 2020; set for public hearing to be held on the 10th day of August, 2020, read, finally passed and adopted by the City Council on the ______ day of August, 2020 and, signed by the Mayor on the ______ day of August, 2020.

__________________________________________  
Adam Paul, Mayor

ATTEST:

__________________________________________  
Michele Millard, City Clerk

APPROVED AS TO FORM:

__________________________________________  
Timothy P. Cox, City Attorney
DISCONNECTION IMPACT REPORT
for the
3053 S. Rooney Rd. Disconnection
DX-20-001

CITY OF LAKEWOOD LAND PROPOSED TO BE DISCONNECTED TO UNINCORPORATED JEFFERSON COUNTY, COLORADO, LOCATED IN SECTION 26, TOWNSHIP 4 SOUTH, RANGE 70 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO

City of Lakewood
Planning Department
470 South Allison Parkway
Lakewood, Colorado 80226-3127
303-987-7500

March 11, 2020
1. INTRODUCTION

This Disconnection Impact Report is being prepared for the use of the Lakewood City Council during the consideration of an ordinance to disconnect a portion of the property at 3053 S. Rooney Rd.

Rooney Road, LLC is the property owner of the parcels of land that are approximately 7.53-acres in size. The request is to disconnect this portion of land into Unincorporated Jefferson County in order to incorporate the property at 3053 S. Rooney Rd. within one jurisdiction, Unincorporated Jefferson County. The disconnection area is generally bounded by Unincorporated Jefferson County to the north, west and south and the City of Lakewood and C-470 to the east.

2. C.R.S. REQUIREMENTS

The requirements and provisions of Section 31-12-501 of the Colorado Revised Statutes is listed in bold text. Information about the requirement for the Property follows in plain text.

Section 31-12-501. Application from the owner of a tract of land within and adjacent to the boundary of a municipality providing the desire to have said tract disconnected from such municipality, such owner may apply to the governing body of such municipality for the enactment of an ordinance disconnecting such tract of land from such municipality. The owner shall also provide notice and a copy of the application to the county board of commissioners and any affected special district.

(I) The owner of the properties at Parcel Identification Number 5940-264-00-001, 40-264-00-004 and 40-264-00-008 has filed an application with the City of Lakewood requesting disconnection of a portion of this property that is within the City of Lakewood municipal boundary. The subject properties are addressed 3053 S. Rooney Rd.

(II) Please refer to the attached Map No. 1, entitled 3053 S. Rooney Rd. Disconnection. This map depicts present and proposed boundaries of the municipality in the vicinity of the proposed disconnection.

(III) Notice along with a copy of the disconnection application were provided to the Jefferson County Board of Commissioners and any affected Special Districts, see Section 31-12-108.5 (1) (e) below. Failure by either the Jefferson County Board of Commissioners or the board of any special district to request a meeting constitutes an acknowledgment by the particular board that the disconnection will not adversely affect the county or an affected special district, as applicable. No request for a meeting from any entity was made to discuss any negative impacts on the county or any special district.

(IV) On receipt of such application, the governing body of the municipality shall give due consideration to the disconnection application, and, if such governing body is of the opinion that the best interests of the municipality will not be prejudiced by the disconnection of such tract, it shall enact an ordinance effecting such disconnection, see background information below.

(V) If such an ordinance is enacted, it is immediately effective upon the required filing with the Jefferson County Clerk and Recorder to accomplish the disconnection, and two certified
copies thereof shall be filed by the clerk in the office of the county clerk and recorder of the county in which such tract lies. The county clerk and recorder shall file the second certified copy with the division of local government in the department of local affairs, as provided by Section 24-32-109, C.R.S.

The following is background information on the subject property and disconnection application:

**Streets and utilities**

Streets, access, water lines, sanitation lines and utility lines will be reviewed with any future development. There are no known concerns with utilities for this property that will hinder the future development of property within the City of Lakewood if this property is disconnected. No adverse comments were received from any referral agencies.

**The existing and proposed land use pattern in the areas to be disconnected.**

Please refer to Map No. 2, which shows the existing and proposed land uses in the vicinity of the proposed disconnection.

**Water and Sanitary Services**

These parcels of land do not have water and sanitation service from a district or municipality. Sewage for the current speedway use is stored on-site and hauled off-site with portable toilets primarily used during events. Water is brought in for events and there is a well on the speedway site. Water and Sanitation services will need to be determined with any future development.

**Police and Law Enforcement**

Lakewood currently provides police and law enforcement services to the property. With the disconnection law enforcement services will be provided by Jefferson County.

**Park and Recreation Services**

These parcels of land are not within a park and recreation district.

**Transportation Services**

If the property is developed in the future, road improvements will be required per Unincorporated Jefferson County requirements for the property.

**Drainage, Grading and Erosion Control, and Stormwater Quality Plans**

If development is proposed in the future then all necessary grading, erosion control and drainage facilities will be installed with development or redevelopment of the areas to be disconnected in accordance with Unincorporated Jefferson County regulations.
**Fire Protection**

The City of Lakewood and Unincorporated Jefferson County do not provide fire protection services. The West Metro Fire Protection District currently services the site and has indicated that the property is within the District and that West Metro Fire Protection District will continue to service the area proposed to be disconnected.

**Existing special districts within the area to be disconnected.**

The following is a list of existing districts within the area proposed to be disconnected:

- Jefferson County School District R-1
- Mile High Flood District
- Regional Transportation District
- West Metro Fire Protection District
- Law Enforcement Authority
- Mount Carbon Metropolitan District

**Jefferson County R-1 School District**

The property is currently vacant. Currently the surrounding property is used for a speedway. There are no anticipated impacts of the disconnection on the Jefferson County R-1 School District. Any future development of the parcel of land will need to meet Jefferson County R-1 School District requirements whether within the City of Lakewood or Unincorporated Jefferson County.
Map No. 2 – Land Uses

General area of disconnection west of C-470
DATE OF COUNCIL MEETING: JULY 27, 2020 / AGENDA ITEM NO. 8

To: Mayor and City Council

From: Holly Bjorklund, Chief Financial Officer, 303-987-7601

Subject: CONVEYANCE OF SEWER EASEMENT TO WEST ALAMEDA HEIGHTS SANITATION SERVICE, INC.

SUMMARY STATEMENT: An ordinance conveying a Sewer Easement to West Alameda Heights Sanitation Service, Inc. for an existing sanitary sewer line across Cottage Park.

BACKGROUND INFORMATION: The Meadowlark Cottages Property (Property), located at the corner of W Bayaud Avenue and S Cody Street, was acquired by the Jefferson County School District in 1959. Shortly thereafter, two “cottage school” buildings were constructed, along with the sewer line in question.

The City of Lakewood acquired the 0.69-acre Property (Lots 1 and 2 of Block 9, West Alameda Heights Subdivision) in 2000. Jefferson County Open Space assisted with the acquisition and retained a reversionary interest to ensure that the Property continues to be used for parks and open space purposes.

The City has used the Property for a variety of uses over the years. Today, the Department of Community Resources is planning to make the site into a small neighborhood park to be named Cottage Park. The park will preserve the existing mature evergreens and will include a playground, walking paths and a small picnic shelter. The cottage school buildings were removed from the site last year and a Site Plan for the proposed park, along with a plat to combine the Property into a single lot have been prepared. As part of this process, a new survey was performed and thus discovered the sewer line and manhole. These have been in place for the past 60 years (long before the City took ownership of the Property) without the existence of an easement.

This proposed ordinance would formalize a 25’ wide easement for the existing facilities, which are still required to service properties to the north and south. The sewer line is owned and maintained by West Alameda Heights Sanitation, Inc., a private service provider. Typically, for new easements on property acquired through the Jefferson County Open Space program, a processing fee and compensation for the value of the easement would be required. However, these will be waived since the sewer line was in existence prior to the City or County being in ownership. The proposed easement will only cover the area where the facilities currently exist.

FINANCIAL IMPACTS: None

STAFF RECOMMENDATIONS: Approval

ALTERNATIVES: If this Ordinance is not approved, a prescriptive easement would still be in place, based upon the historical existence of the sewer line, but there would be no written documentation.
PUBLIC OUTREACH: This item was promoted through the regular communication channels for items that come before City Council for consideration.

NEXT STEPS: Record the easement upon Ordinance effective date

ATTACHMENTS: Ordinance O-2020-21
Map

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Timothy P. Cox, City Attorney
AN ORDINANCE
FOR THE CONVEYANCE OF A SEWER LINE EASEMENT TO WEST ALAMEDA HEIGHTS SANITATION SERVICE, INC. ACROSS A PORTION OF COTTAGE PARK

WHEREAS, the City of Lakewood owns Lots 1 and 2, Block 9, WEST ALAMEDA HEIGHTS, more commonly known as Meadowlark Cottages and renamed to Cottage Park; and

WHEREAS, West Alameda Heights Sanitation Service, Inc. ("West Alameda") has a sewer line main that has existed on said property since approximately 1960, long before Lakewood’s ownership; and

WHEREAS, West Alameda has requested a formal easement to cover their existing facilities;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. That the City hereby conveys a sewer line easement to West Alameda (as more particularly described in Exhibit A hereto).

SECTION 3. This ordinance shall take effect thirty (30) days after final publication.

SECTION 4. The Lakewood City Clerk will record the easement agreement approved by this ordinance at the Jefferson County Clerk and Recorders office.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a virtual regular meeting of the Lakewood City Council on the 27th day of July, 2020; published by title in the Denver Post and in full on the City of Lakewood’s website, www.lakewood.org, on the 30th day of July, 2020; set for public hearing to be held on the 10th day of August, 2020, read, finally passed and adopted by the City Council on the _____ day of August, 2020 and, signed by the Mayor on the _____ day of August, 2020.

_____________________________________
Adam Paul, Mayor

ATTEST:

_____________________________________
Michele Millard, City Clerk
APPROVED AS TO FORM:

______________________________
Timothy P. Cox, City Attorney
EXHIBIT A

A PARCEL OF LAND BEING THE EAST 25 FEET OF LOTS 1 AND 2, BLOCK 9, WEST ALAMEDA HEIGHTS, THE PLAT OF WHICH IS RECORDED IN PLAT BOOK 7, PAGE 44 AND AT RECEPTION NO. 47413864, OF THE RECORDS OF THE JEFFERSON COUNTY CLERK AND RECORDER, EXCEPT THE NORTH 103 FEET OF SAID LOT 1, LYING IN THE SOUTHEAST ONE-QUARTER OF SECTION 10, TOWNSHIP 4 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF LAKEWOOD, COUNTY OF JEFFERSON, STATE OF COLORADO, SAID PARCEL CONTAINING AN AREA OF 2,919 SQUARE FEET, MORE OR LESS.

THIS LEGAL DESCRIPTION WAS WRITTEN BY SPENCER CURTIS, RIGHT OF WAY AGENT FOR THE CITY OF LAKEWOOD ON JUNE 16, 2020 AND WAS BASED ON THE WEST ALAMEDA HEIGHT PLAT.
EXHIBIT A
(Continued)

THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED LAND SURVEY. IT IS ONLY TO DEPict THE ATTACHED DESCRIPTION.
STAFF MEMO

DATE OF COUNCIL MEETING: JULY 27, 2020 / AGENDA ITEM NO. 9

To: Mayor and City Council

From: Travis Parker, Director of Planning, 303-987-7908

Subject: 533 VAN GORDON STREET – ALLOCATION REQUEST

SUMMARY STATEMENT: The applicant, Brian Bulatovic, with Consolidated Investment Group, has submitted applications for review requesting 309 residential allocations and a 5-year banking plan for a multifamily residential project located at 533 Van Gordon Street. The property is zoned Mixed Use Residential Suburban (M-R-S) and approximately 3.6-acres in size.

BACKGROUND INFORMATION: On July 12, 2019, with voter approval, an ordinance went into effect to limit residential growth in the City of Lakewood. The ordinance, chapter 14.27 of the Municipal Code, is attached. In December of 2019, staff began implementation of this ordinance to manage issuance of residential building permits. Any development request of over 40 residential units must submit an allocation request to the City Council for approval.

On March 21, 2019, Consolidated Investment Group submitted a site plan application to the City for site and civil review. This site plan application, SP-19-008, is active and has received one round of review comments from City staff. Since March of 2019, the applicant has been determining how to move this project forward in the development review process.

Due to uncertainty with the proposed residential growth limitation ordinance in the first quarter of 2019, the applicant chose to suspend the city development review process. Now in determining next steps in the development review process, the applicant has chosen to submit a request for residential allocations and a banking plan prior to continuing with the development review process. The applicant is requesting that City Council review and make a determination on both the allocation and banking plan application requests.

The applicant has submitted applications for an over 40 residential allocation project and a banking plan with a duration of 5 years. Section 14.27.040.B (Maximum Allocations) outlines the review measures to be met when requesting more than 40 allocations.

17.27.040.B Maximum Allocations. The city shall not grant more than forty (40) allocations to a development in a calendar year except upon a finding after hearings held upon reasonable notice to the public - pursuant to the provisions of Lakewood municipal code 17.2.2.3 applicable to initial zoning and rezoning - that such accumulation of allocations will not prejudice the allocation process; and:

1. That there is an unmet community need for such development; or
2. That insufficient applications have been submitted to exhaust the allocations available and such allocations are available for distribution in the current calendar year.
Project will not prejudice the allocation process

As part of their allocation and banking plan request, the applicant is proposing to limit the number of allocations requested in a calendar year to 78 residential allocations as to not prejudice the allocation process. This proposal allows the allocation request to be fulfilled in a period of 4 years, and provides an additional year to fulfill the allocation request, if 4 years is insufficient. This proposal would allow for the full accumulation of allocations within the scope of the proposed 5-year banking plan and leave sufficient allocations for future residential development projects.

Based on the formula for creating allocations and future actions proposed by City Council in January 2020, there will most likely be over 400 allocations available each of the coming two years and around 700 each of the following three years. The applicant's request for 78 per year would not take priority over any other applications in the coming years and in general is not expected to make the overall amount requested exceed the amount that will be available.

There is an unmet need for such development

The 2017 City of Lakewood Housing Study recognizes the need for residential growth in Lakewood. Specifically, the housing study identifies that employment growth is strong and housing growth is not proportional to employment growth. Many Lakewood residents are commuting to and from places of employment. The study also recognizes that economic growth in Lakewood is an added factor in driving the need for residential growth. Overall, the study finds that there is a current demand for over 15,000 new residential units near transit in Lakewood. This site is less than a half mile from the light rail station.

The housing inventory of the report further identifies that the number of housing developments built in Lakewood number less 50 units per development and a majority of the existing housing stock was constructed prior to 1980. Additionally, the report depicts that residential vacancy rates in Lakewood are below average for the Metropolitan Statistical Area.

Based upon the applicant request for 78 allocations per year, the information contained in the 2017 City of Lakewood Housing Study, and number of allocations remaining for 2020, of which there are 193 (# SUBJECT TO CHANGE), staff finds that the measures in the Residential Growth Limitations Ordinance have been met and that:

1. The accumulation of allocations shall not prejudice the allocation process; and
2. That there is an unmet community need for such development.

BUDGETARY IMPACTS: All required public improvements will be constructed with the project, at the expense of the developer.

STAFF RECOMMENDATIONS: Staff recommends approval because the proposed allocation and banking plan requests satisfy the review criteria.

ALTERNATIVES: The City Council may approve or deny the allocation and banking plan requests. More specifically, the City Council may approve the allocation and banking plan requests because the Council agrees with the findings of the provided in this staff report. Also, the City Council may have additional reasons why the application satisfies the review criteria.
Or, the City Council may deny the allocation and banking plan requests based on a determination that the requests do not satisfy the review criteria. More specifically, the City Council may find evidence that the allocation and banking plan requests do *not* meet an unmet community need.

**PUBLIC OUTREACH:** As required by the Zoning Ordinance, a public hearing has been scheduled before the City Council on July 27, 2020. Notice was provided to meet the standards of Section 17.2.2.3 of the zoning ordinance including letters mailed to property owners within 500 feet and to neighborhood organizations within ½ mile of the subject property.

**NEXT STEPS:** If the allocation request is approved, the applicant may begin requesting allocations in the years 2020, 2021, 2022, 2023, and 2024 to obtain the number of allocations required for the multifamily project. At their own risk, the applicant may also begin site and civil plan review at any time during the 5-year banking plan. Once allocations have been acquired and all reviews completed the applicant may be issued an approved building permit.

**ATTACHMENTS:** Resolution 2020-23  
Lakewood Municipal Code 14.27  
2017 – City of Lakewood Housing Study  
First Quarter City Council Allocation Report

**REVIEWED BY:** Kathleen E. Hodgson, City Manager  
Benjamin B. Goldstein, Deputy City Manager  
Timothy P. Cox, City Attorney
A RESOLUTION

AUTHORIZING ALLOCATIONS FOR 533 VAN GORDON STREET, LAKEWOOD, CO 80228

WHEREAS, Van Gordon Associates LLC, a limited liability company (the “Owner”) owns the property known as 533 Van Gordon, Lakewood, CO; and Consolidated Investment Group (the “Developer”) is seeking to develop the property, approximately 3.6-acres, more or less; and

WHEREAS, the Property is currently zoned Mixed Use Residential Suburban (M-R-S); and

WHEREAS, the Developer is requesting approval of 309 residential allocations and a 5-year banking plan; and

WHEREAS, per Section 14.27.040.B specifies that Proposed Project over 40 residential units require approval of allocations and a banking plan; and

WHEREAS, the Developer desires to ensure that the Proposed Project is built and desires to develop the property according to the present zoning; and

WHEREAS, the Developer will request no more than 78 allocations per year over a 5-year period for the calendar years 2020, 2021, 2022, 2023, and 2024; and

WHEREAS, the Developer and the City wish to enter into this Agreement to ensure the Property is developed as the Proposed Project; and

WHEREAS, the Parties agree that the rights and obligations of the Parties to this Agreement will be binding on each of the Parties’ successors, assigns, and heirs.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The allocation request of 309 allocations and a 5-year banking plan for 355 Van Gordon Street, Lakewood, Colorado 80228 is hereby approved.

SECTION 2. The allocation and banking plan request shall be recorded by the City.

SECTION 3. This Resolution shall become effective immediately upon adoption.
INTRODUCED, READ AND ADOPTED by a vote of ____ for and ____ against at a virtual regular meeting of the Lakewood City Council held on July 27, 2020 at 7 o'clock p.m.

____________________________________
Adam Paul, Mayor

ATTEST:

____________________________________
Michele Millard, City Clerk

APPROVED AS TO FORM:

____________________________________
Timothy P. Cox, City Attorney
Chapter 14.27

RESIDENTIAL GROWTH LIMITATIONS

Sections:
14.27.010 Purpose/Intent.
14.27.020 Implementation/Exceptions.
14.27.030 Administration of this Chapter.
14.27.040 General Provisions.
14.27.050 Available Allocations.
14.27.060 Establishment of Allocation Pools.
14.27.070 Schedule of Allocation Periods.
14.27.080 Applications.
14.27.090 Issuance of Allocations.
14.27.100 Banking of Allocations.
14.27.110 Excess and Unused Allocations.
14.27.120 Failure to Use Allocations; Penalties.
14.27.130 Building Permit Approvals.
14.27.140 Mandatory Review.
14.27.150 Severability Clause.
14.27.160 Authority to Continue.
14.27.170 Definitions.

14.27.010 Purpose/Intent.
A. Establish a building permit management system that limits residential growth in the City of Lakewood to no greater than one (1) percent per annum, which will assure the preservation of its unique environment and exceptional quality of life;
B. Encourage redevelopment of blighted and distressed areas;
C. Encourage preservation of larger open space parcels;
D. Assure that such growth proceeds in an orderly and timely manner and does not exceed the availability of public facilities and urban services;
E. Avoid degradation in air and water quality;
F. Avoid increases in crime and urban decay associated with unmanaged growth;
G. To allow mitigation of the effects of past and future growth on infrastructure and schools.
(Citizen Initiative-Special Election 07-02-2019).

14.27.020 Implementation/Exceptions.
The provisions of this chapter shall apply to the issuance of building permits for all new dwelling units within the City of Lakewood except:
A. Structures located, or to be located, upon land that is designated “blighted.”
B. Structures located, or to be located, upon land located on a campus owned by a college or university, including, but not limited to, Colorado Christian University and Rocky Mountain College of Art and Design, and which are used to house only college or university students, staff, or faculty.
C. A dwelling unit may be replaced with another dwelling unit without obtaining an allocation, provided that the replacement unit is located on the same parcel, tract, or lot.
D. Mobile homes in operating mobile home parks may be removed and replaced with another mobile home without obtaining an allocation.
E. Industrial or commercial construction, unless such industrial or commercial construction includes structures which, in whole or in part, are to be occupied as a dwelling. (Citizen Initiative-Special Election 07-02-2019).

14.27.030 Administration of this Chapter.
A. Planning Commission may recommend and City Council may adopt rules as necessary to administer this chapter.
B. Calculations performed in the administration of this chapter shall be rounded downward for all partial numbers. (Citizen Initiative-Special Election 07-02-2019).

14.27.040 General Provisions.
A system of managing the issuance of residential building permits in the city is established with the following general provisions:
A. Allocation Required for a Building Permit. Except as otherwise provided in this chapter, an allocation is required as a condition precedent to the issuance of a building permit which will result in the creation of a new dwelling unit. For structures containing more than one dwelling unit, one allocation for each dwelling unit in the structure is required as a condition precedent to issuance of a building permit for such structure.
B. Maximum Allocations. The city shall not grant more than forty (40) allocations to a development in a calendar year except upon a finding after hearings held upon reasonable notice to the public pursuant to the provisions of Lakewood municipal code 17.2.2.3 applicable to initial zoning and rezoning that such accumulation of allocations will not prejudice the allocation process; and:
   1. That there is an unmet community need for such development; or
   2. That insufficient applications have been submitted to exhaust the allocations available and such allocations are available for distribution in the current calendar year.
C. Residential development projects may be specifically exempted from this chapter according to either of the following procedures:
   1. Residential developments may be exempted by the adoption by the electors of the City of Lakewood at a regular or special election of an initiated or referred ordinance enacting such an exemption. Such election shall be held according to the applicable provisions of the Lakewood City Charter, with any expenses covered by the applicant requesting the exemption.
   2. City Council may upon a finding of compliance with the below-listed criteria grant an exemption from the specific provisions of this chapter for a residential development within the city. City Council’s action shall be by ordinance, shall include two public hearings, and shall occur following public hearing and recommendation by Planning Commission. Planning Commission’s hearing and recommendation, and City Council’s hearing and decision on the requested exemption shall follow the hearing and notice procedures in section 17.2.2.3 of Lakewood municipal code. City Council may grant an exemption from the provisions of this chapter upon a finding that all of the following criteria, as may be applicable, are met:
      a. That the residential project requesting an exemption is a multifamily “senior housing project” which is and will remain housing for individuals over the age of 55; and
      b. That the project requesting an exemption demonstrates compliance with Lakewood Comprehensive Plan and any applicable neighborhood plan(s); and
c. A senior housing project developed based upon an exemption granted shall not be converted to another residential use without first having secured an allocation for each dwelling to be so converted, according to the provisions of this chapter.

D. Period of Validity. Allocations are only valid and can be used only from the date of issue through the last day of the allocation period for which they are issued, at which time they expire, unless a part of an approved banking plan.

E. Use of Allocations. An allocation is used by applying for and being issued a building permit or setting up a mobile home, as applicable. Unused allocations are those for which a building permit has not been issued, or a mobile home not set up, during the period for which the allocation is valid.

F. Surrender of Allocations. Allocations which a recipient does not expect to use during the period for which they are valid may be voluntarily surrendered without penalty at any time up until 30 days prior to the end of that allocation period. Allocations which are surrendered at least 30 days prior to the expiration of the allocation period shall be added to the number of available allocations for the next allocation period in the same calendar year for the same allocation pool, or to the year-end pool, as appropriate. Allocations in the year end pool may not be surrendered.

G. Transferability. Allocations are site specific and not transferable to other developments. Allocations are issued to a specific building lot, and may only be transferred within a development to other lots which are under the same ownership as the holder of the allocation. Allocations may be transferred with the conveyance of a lot. (Citizen Initiative-Special Election 07-02-2019).

14.27.050 Available Allocations.

A. In January of each year City Council shall determine by resolution the number of allocations which will be available for issuance and use during that year. The annual resolution shall assign a sufficient number of allocations directly for satisfaction of a previously exempted project(s) whose banking plan(s) included a Planning Commission recommendation for commitment of future allocations, if City Council approves such commitment. The resolution shall then assign those remaining available allocations to the “open pool,” “hardship pool,” “affordable/low income pool,” and “surplus pool,” and determine the number of allocations within each such pool as will be available for the respective allocation periods.

B. The total number of allocations available for issuance and use during each calendar year shall be equal to one percent of the number of dwelling units which are estimated to exist in the city on December 31 of the prior calendar year. The number of allocations available for issuance for 2018 will be based on figures from the City of Lakewood and the US Census statistics (152,590 residents divided by 2.27 = 67,220) and thus 672 allocations for new dwelling units will be available in 2018.

C. The number of dwelling units which exist in the city on December 31 of the prior year shall be estimated as follows:
   1. Begin with the number of dwelling units in the city which existed at the beginning of the previous calendar year.
   2. Add the number of new dwelling units for which building permits were issued during the previous calendar year which required an allocation for issuance.
   3. Add the number of allocations secured by, or assigned to, previously exempted projects or dwellings during the previous calendar year.
4. Add the number of dwelling units added to the city by reason of annexations during the previous calendar year. (Citizen Initiative-Special Election 07-02-2019).

5. Subtract the number of dwelling units which were destroyed (and not replaced within 12 months), abandoned or otherwise ceased to be used as such during the prior calendar year.

6. Subtract the number of dwelling units for which building permits had previously been issued, but which expired in the previous year without issuance of a certificate of occupancy. (Citizen Initiative-Special Election 07-02-2019).

14.27.060 Establishment of Allocation Pools.
For the purpose of administration of this chapter City Council hereby creates the following described allocation pools:

A. Open Pool. The open pool is created for all developments within the city that do not otherwise qualify to request allocations.

B. Hardship Pool. The hardship pool is created for distribution of allocations by City Council upon a finding that a hardship or unusual circumstance exists which merits relief. All developments otherwise eligible to apply for allocation in general may participate in the hardship pool. Allocations are awarded as requests are granted by City Council, and not as of a specified allocation date.

C. Affordable/Low Income Housing Pool. The affordable/low income housing pool is created for distribution of allocations for residential projects creating dwelling units for households earning up to 120 percent of area median income.

D. Surplus Pool. The year-end pool is created for the purpose of distributing unused and excess allocations which are available as of November 1 of each calendar year. All developments otherwise eligible to apply for allocation in general may participate in the surplus pool. (Citizen Initiative-Special Election 07-02-2019).

14.27.070 Schedule of Allocation Periods.

A. For all calendar years, the open pool will have two allocation periods which occur from January 1 through May 31, and from June 1 through October 31.

B. For all calendar years, the hardship pool will have an allocation period from January 1 to October 31.

C. For all calendar years, the affordable/low income housing pool will have one allocation period from January 1 through May 31. Excess allocations in the pool at the conclusion of the allocation period will be transferred to the open pool for the allocation period beginning on June 1.

D. The surplus pool allocation period will occur from November 1 through December 31. (Citizen Initiative-Special Election 07-02-2019).

14.27.080 Applications.

A. Applications for allocations shall be on a form provided by the city. A separate application submitted by the property owner is required for each allocation period. Except as provided otherwise, complete applications must be submitted to the city at least seven calendar days prior to the beginning of the allocation period for which the application is made. Applications may not be submitted more than 210 days before the beginning of the applicable allocation period. Applications for excess allocations may be made at any time that excess allocations are available, but prior to the last 30 calendar days of any allocation period.

B. Eligibility. To apply for allocations, a development must have completed all steps otherwise necessary to apply for and receive a building permit including the requisite zoning
and subdivision approval, but not including the preparation of building construction plans. Site development review, if necessary, need not be complete prior to applying for allocations, although a pre-submittal conference and review of the site plan by staff must be completed, with an indication that approval of the concept may be achieved.

C. Allocation requests within a development under common ownership shall be combined and treated as a single application. Lots in such developments which are held in separate ownership shall be treated as separate applications.

D. No applicant shall request allocations in excess of the lesser of: The available number of allocations in the appropriate pool in that allocation period, or the available number of lots or units in the subject development. (Citizen Initiative-Special Election 07-02-2019).

14.27.090 Issuance of Allocations.

A. Open Pool. For each respective allocation period in the open pool, one allocation will automatically be issued to each applicant if sufficient allocations are available. The remainder of requests is then tallied, and available allocations are distributed on a pro-rata basis to applicants based upon their requested number.

B. Hardship Pool. Hardship pool allocations are distributed by the City Council at their discretion upon request from an applicant, and subject to a finding that all of the following conditions exist:
   1. That the issuance of an allocation is necessary to prevent undue hardship on the applicant; and
   2. That the issuance of an allocation(s) will not adversely affect the public interest or the purposes of this chapter; and
   3. Allocations are available in the hardship pool; and
   4. That the requested allocation and the resulting building permit would be proper and in accordance with all of the ordinances and regulations of the City of Lakewood, excepting the provisions of this chapter.

C. Affordable/Low Income Housing Pool. Allocations assigned to the “affordable/low income” housing pool shall only be available for use by qualifying projects in the initial allocation period of each year. Any excess allocations in the affordable/low income housing pool at the end of the initial allocation period of the year will be transferred to the open pool for distribution pursuant to subsection (A) above.
   1. In addition to the application requirements, allocations from the affordable/low income housing pool will contain documentation in a form acceptable to the city attorney of the provisions that will be put in place to assure that rental units created by affordable/low income housing pool allocations will remain available to households making up to 120 percent of area median income for a period of at least 15 years after completion of construction, or assurances that the initial sale of the dwelling units created by the affordable/low income housing pool allocations will be by a bona fide, “arms-length sale” to individual households making no more than 120 percent of area median income, and at an initial sales price that is reasonably calculated to allow an otherwise qualified buyer to obtain a loan for the purchase of the dwelling unit with a down payment of no more than 20 percent of the sale price.
   2. If the number of affordable/low income housing pool allocations requested does not exceed the number assigned by City Council, the allocations will be distributed in the same manner as the open pool. However, if the number of allocations requested exceeds the number of allocations available in the affordable/low income housing pool, the applications will be presented to Planning Commission for review. The Planning Commission will award the affordable/low income housing pool allocations to those proposed dwelling units serving the households with the lowest area median income. In such circumstances, no building permit
shall be issued based upon any preference pool allocations until 16 days after the Planning Commission has issued a decision. Any aggrieved party may appeal the Planning Commission decision to City Council. Applicants for allocations from the affordable/low income housing pool may amend the application submitted to change from the affordable/low housing pool to the open pool, at any time prior to the beginning of the allocation period.

D. Surplus Pool. All unused open pool and hardship pool allocations which remain on November 1 of each year will be available in the surplus allocation pool. One allocation will automatically be issued to each applicant if sufficient allocations are available. The remainder of requests is then tallied, and available allocations are distributed on a pro rata basis to applicants based upon their requested number. Allocations which are unclaimed during the surplus pool or which are due to expire will be assigned by the City Council. Acquisition of the final remaining allocation by a banking plan for a specific project during the surplus pool shall trigger the expiration of the banking plan at the end of the first allocation period in the following year.

E. Insufficient Allocations. Except as noted above, if there are insufficient allocations available to issue at least one allocation to each applicant for a particular allocation period due to demand, a lottery shall be held to determine the recipients of the allocations. Those applicants who are unable to obtain an allocation during that particular allocation period will be given first preference to receive an allocation in the following allocation period in the same pool if a timely application is filed.

F. Following the issuance of allocations, staff shall present a report to Planning Commission and City Council summarizing the results of the allocation period. (Citizen Initiative-Special Election 07-02-2019).

14.27.100 Banking of Allocations.

Notwithstanding any other provisions of this chapter, the period of validity of an allocation may be extended through, and the allocation may be used in subsequent allocation periods upon approval by the city as provided in this section. The process of extending the period of validity of allocations in this section is as follows:

A. Banking of allocations will be permitted in the following circumstances only:
   1. The Director of Planning shall approve an application for banking of allocations for residential projects of forty (40) units or fewer if the number of units to be banked corresponds to that found in an entire building or buildings in the project, and if the allocations are proposed to be used within the same calendar year as the initial award of allocation.
   2. The Planning Commission may approve a banking plan for multifamily projects of forty (40) units or fewer for the purpose of banking beyond the end of a calendar year, upon a finding that building configuration, site constraints, or infrastructure phasing reasonably require that a larger increment of the development be built at one time.
   3. The Planning Commission may approve a banking plan for residential projects of forty (40) units or fewer upon a finding that building configuration, site constraints, or infrastructure phasing reasonably require that a larger increment of the development be built at one time.

B. Application for banking of allocations for projects over forty (40) units shall be made at the time of the allocation application. The application shall set forth a banking plan which includes the total number of dwelling units in the project, the number of allocations sought to be banked, the time period during which the validity of allocations is proposed for extension, and the reason therefore.
C. For applications submitted under subsection (A)(2) or (A)(3) of this section, the Planning Commission shall determine at a hearing upon reasonable notice to the public has been posted, whether the requested banking is appropriate as provided in this section.

D. A nonrefundable fee shall be assessed in conjunction with each approved multiyear banking plan to cover the city’s cost of the administrating banking plans. The fee shall be set by City Council by resolution and shall be based upon the number of dwelling units in the approved banking plan. The fee shall be payable on a pro rata (per unit) basis at the time of distribution of allocations to the banking plan. Failure to pay any installment of the fee within 30 days of distribution of allocations to the banking plan shall cause a forfeiture of such allocations.

E. A decision of the Planning Commission or the Director of Planning with respect to an application to bank allocations may be appealed to the City Council.

F. Requests for banking of allocations beyond the end of the calendar year of the application shall be subject to the following conditions:
   1. The maximum number of years in which allocations may be acquired pursuant to any banking plan of allocations shall be five. All allocations acquired within the banking period must be used during this time period.
   2. The maximum number of allocations that may be in the bank at any one time during the banking program shall not exceed the total number of allocations available in the city in the first year of approval of said banking.
   3. Banking plans will be approved only for a number of units which correspond to that found in an entire building or buildings in the project.
   4. Subject to City Council’s annual distribution of allocations, Planning Commission may recommend a commitment of future allocations to an approved banking plan project. Such commitment shall not bind City Council’s action, but shall serve to be an indication of support for a specific project.

G. Surrendered or forfeited allocations distributed to an approved banking plan from calendar years prior to the year during which they are surrendered or forfeited shall be deemed to have expired and shall not be available for distribution. Surrendered or forfeited allocations distributed to an approved banking plan in the same calendar year in which they are surrendered or forfeited shall be made available for redistribution in accordance with the applicable provisions of this chapter.

H. The Planning Commission, may, upon a show of good cause, approve an extension of up to one year to an existing banking plan, to allow use of the banked allocations. The holder of the allocations may not acquire further allocations during the period of such extension.

I. For the purpose of defining the total number of available allocations, the total number of dwelling units in the city shall not include banked allocations which have not received building permits.

J. An applicant banking allocations within the same calendar year, shall notify the Director of Planning in writing within ten days after the allocations are granted of the number of allocations being banked and the reasons therefore.

K. The annual reports to Planning Commission and City Council pertaining to the administration of this chapter shall include information regarding the number of banked allocations approved in the current year, used in the current year, and the total number of banked allocations by individual project.

L. Approval of a “banking plan” shall not constitute a “vested right” to develop the project.

(Citizen Initiative-Special Election 07-02-2019)
14.27.110 Excess and Unused Allocations.
   A. Excess allocations in the open pools will be used to supplement other approved banking plans.
   B. Excess allocations which have not been issued at the end of the allocation period and unused allocations will be added to the available number of allocations for the next allocation period in the same calendar year for the same pool, or to the surplus pool, as appropriate. (Citizen Initiative-Special Election 07-02-2019).

14.27.120 Failure to Use Allocations; Penalties.
   A. Failure to use an allocation which is not part of an approved banking plan during the period for which it is issued, without surrendering it at least 30 days prior to the expiration of the allocation period for which it has been issued, shall cause the holder of such allocation to be ineligible to receive allocations for a period of one year from the last day that the unused allocation is valid. This penalty may be waived by the Planning Commission for good cause.
   B. Failure to use an allocation which is part of an approved banking plan during the period of the banking plan, without surrendering it at least 60 days prior to the expiration of the period of the banking plan, shall cause the holder of such allocation to be ineligible to receive allocations for a period of two years from the last day that the unused allocation is valid. This penalty may be waived by the Planning Commission for good cause.
   C. Use of an dwelling unit constructed by reason of an allocation from the affordable/low income housing pool in a manner inconsistent with the affordability criteria listed in this chapter, or contrary to the assurances provided pursuant to such section, including, without limitation the initial sale of a dwelling unit at a price that exceeds the maximum price contemplated in such section, shall cause the holder of such allocation to be ineligible to receive further allocations for a period of three years from the date of the violation. This penalty may be waived by the Planning Commission for good cause. (Citizen Initiative-Special Election 07-02-2019).

14.27.130 Building Permit Approvals.
   All building permit applications will be reviewed within fifteen working days after submission of a complete application. At the end of the building permit review period, either a building permit will be made available for issuance or reasons will be given to the grantee why the permit cannot be issued, in which case the grantee has twenty work days in which to submit all required corrections. If the corrections are not completed in the time and manner required, the building permit application and related allocation are void unless reinstated by the city manager upon a finding that a longer increment of time would be reasonable. (Citizen Initiative-Special Election 07-02-2019).

14.27.140 Mandatory Review.
   City Council shall review this chapter once every five years or as needed. City Council may temporarily reduce the 1% limit at will. Should City Council determine an increase in allocations is needed, Council must send such requested increase to the voters of Lakewood. (Citizen Initiative-Special Election 07-02-2019).

14.27.150 Severability Clause.
   If any part, section, sentence or clause of this chapter shall for any reason be questioned in any court and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this chapter. Any such part, section, sentence
or clause shall not be taken to affect or prejudice in any way the remaining part or parts of this chapter. (Citizen Initiative-Special Election 07-02-2019).

14.27.160 Authority to Continue.

Any building permit that has gone through the processes necessary to secure a building permit, including, but not limited to, rezoning and subdivision, and was legally and formally applied for prior to adoption of this chapter, may be continued without obtaining an allocation. (Citizen Initiative-Special Election 07-02-2019).

14.27.170 Definitions.

The following terms are defined for purposes of this chapter:

A. Allocation. “Allocation” means a right, granted by the city pursuant to this chapter, to make application for a building permit to build one dwelling unit. An allocation is not a guarantee of receiving approval for a building permit. Approval of the building permit itself will occur through the established building permit review process.

B. Allocation Pools. “Allocation pools” mean separate categories of developments as described in this chapter which are created for the purpose of distributing available allocations.

C. Area Median Income. “Area median income” (AMI) means the median annual household income for Jefferson County, as adjusted by household size, and published annually by the United States Department of Housing and Urban Development.


- Building permits shall be allocated in accordance with the provisions of this chapter such that those issued shall result in no more than a one-percent annual increase in the number of dwelling units.

E. Development. “Development” means the entire plan to construct or place one or more dwelling units on a particular parcel or contiguous parcels of land within the city including, but not limited to, a subdivision approval, a planned unit development, and a mobile home park.

F. Dwelling Unit. One or more habitable rooms constituting a unit for permanent occupancy, with facilities for eating, sleeping, bathing, that occupies a structure or a portion of a structure.

G. Excess Allocations. “Excess allocations” means allocations which are available for issuance from a particular allocation pool and period, but which have not been issued by reason of lack of demand.

H. Good Cause. “Good cause,” when used as a basis for relief from timely compliance with specifically referenced provisions of this chapter, means the existence of unanticipated circumstances which are beyond the control of the property owner and which prevented timely compliance with the referenced provisions of this chapter. “Good cause” shall not include delays which are reasonably expected in the development process, including, but not limited to, preparation of plans or a securing of financing. The existence of “good cause”, and availability of relief by reason thereof, shall be determined after a public hearing conducted by the Planning Commission. A party aggrieved by the decision of the Planning Commission on such issue may, within 15 days of the date of the decision thereon by the Planning Commission, apply to the City Council for a review of said decision by filing a request for review with the city clerk. The City Council shall, within 30 days of receipt of the review request, and based upon the record alone as certified to Council by the Planning Commission, decide to uphold, deny, or modify the decision of the Planning Commission.
I. **Lottery.** “Lottery” shall mean a drawing held by the city to select applicants which will receive an allocation through a process based upon random chance. Each applicant in a lottery shall be treated equally regardless of the number of allocation requests.

J. **Pro-rata.** “Pro-rata” means the issuing of allocations to applicants in the same proportion that the total number of available allocations bears to the total number of requested allocations, as modified and elaborated in this chapter. For example, if applications for twice the number of allocations were received than the number available, each applicant would be granted approximately one-half the number requested.

K. **Set-up.** “Set-up”, when used in connection with mobile homes, means the process of setting up a mobile home for the purpose of occupancy as a residence including by way of example, connection to utilities and installation tie-downs.

L. **Unused Allocation.** “Unused allocation” means an allocation which has been issued but for which a building permit has not been issued or a mobile home set-up, as applicable, during the period for which the allocation is valid. (Citizen Initiative-Special Election 07-02-2019).
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1. **EXECUTIVE SUMMARY**

**Introduction and Background**

The metro area is quite fortunate to be surrounded by such an attractive natural environment, offering high quality of life, ideal climate, and a multitude of recreational opportunities. Because of these natural assets, the economy is strong and growing with little unemployment. Local and regional investments in major transportation infrastructure have contributed to making it a desirable place to live. These patterns of demand have most recognizably benefitted downtown Denver, but demand and revitalization pressures are pushing their way quickly into the first ring cities like Lakewood, Aurora, Arvada, and Wheat Ridge.

Housing is a critical component of not only the built environment, but of our regional economic infrastructure; that is, housing is not just an aesthetic but an economic concern. It is a critical component of individual and household investment, where nearly 50 percent of nationwide capital is tied to housing. Optimally located housing supply supports workforce mobility and productivity, whereas under-supply leads to increased transportation costs, decreased worker productivity and lower quality of life. Over-spending on housing, for example, leads to cost-burden, leading to lower quality of life. And because housing also supports workforce mobility, if housing is spread too far apart, or not available in sufficient supply to meet demand, workers and residents spend more of their income on transportation just to commute to work or for ordinary purposes (shopping, dining, etc.) One or both of these set of conditions can easily lead to diminished quality of life and negatively impact economic development efforts.

**Purpose**

The overarching question of this study is whether or not Lakewood’s housing supply is meeting the demands of its current residents and whether or not it is likely to meet the demands of future residents.

This analysis, led by Economic & Planning Systems’ (EPS) with RRC Associates, has attempted to illustrate that housing is defined much more than by its physical features, but defined rather (and more appropriately) by its context – neighborhoods, transit access, and the larger community. The analysis has also sought to underscore the connection between economic development efforts, the growth in the City’s economy, and the availability of a diversity of housing options in amenitized and transit-proximate neighborhoods for all spectrums of the workforce and population. That is, meeting demand means more than building houses, it means creating a sense of place for a range of residents and workers throughout their different life stages.

Whereas housing supply facilitates workforce availability and thus economic development, transportation access facilitates both quality of life and workforce productivity. The following report is intended to piece together the narrative formed by pieces of analysis. Guiding the analysis are a series of objectives and questions:
Study Questions
The underlying questions are both objective and subjective. Answers are intended to come neither fully from the analysis nor fully from the consultant; rather, answers to objective questions are intended to come from the analysis and answers to subjective questions are intended to come from a combination of EPS’s interpretations and perspectives as well as the perspectives of City’s leaders.

- What role does variety of housing stock play in economic development?
- How adequate is the city’s mix of housing for changing demand?
  - What are the potential impacts of a homogeneous housing stock?
- Is the supply situated in desirable neighborhoods?
- What are households looking for in housing, neighborhoods, and community?
- What does it mean to have a vibrant community with respect to housing?
  - Does it include infrastructure investment?
  - Does it allow for aging in place?
  - Does it make room for all generations?
- What is a city’s purview with respect to these issues/questions?
- Is there enough development capacity remaining to meet demand yet to come?

Summary of Findings
This summary highlights the major findings of the research, analysis, and process that address the questions at the heart of the City’s relevant housing questions, as outlined previously in the Introduction section. The findings are also delineated by chapter for clarity: Demand-Side Analysis, Supply-Side Analysis, and Stated Preferences.

Chapter 2: Demand-Side Analysis
Housing market growth typically responds to a variety of conditions, primarily employment and/or net-positive population growth (or household formation). At the heart of employment growth is the effort made by a city to attract, retain, and grow its business community. In an environment like the Denver MSA, however, there is also demand from population growth that sometimes continues without an underlying economic engine, as described below.

The question guiding the analysis of demand conditions and influences is “where is demand coming from?” The findings below represent highlights of the findings that are intended to shed light on the different angles from which this question can be interpreted: Is there demand at all? What is the demographic composition of it? That is, from what types of households?

1. The MSA is growing...

   Trends indicate that the MSA has been experiencing high rates of employment and population growth. Between 2000 and 2015, the MSA added more than 260,000 jobs (see the discussion of Figure 1 on page 14) and more than 660,000 people (see the discussion for Figure 10 on page 27). From a historic perspective, this is strong growth. Over the past 45 years, average annual employment growth has been approximately 23,200 jobs, whereas over the past seven years growth has averaged nearly 45,000 jobs per year. In terms of
population, the MSA has historically (over the past 45 years) added approximately 40,400 people per year (see Figure 8 on page 25), and in the last seven years it has averaged 60,700 per year. A further illustration of this attractiveness—during the two years following the Great Recession (2009 and 2010), the MSA endured a job loss of approximately 78,000 (see Figure 3 on page 16), but still added 39,000 people (see Figure 10 on page 27). Moreover, Colorado has gained national attention for its encouragement of entrepreneurial, high-tech, and professional and technical industries (see the Business-Friendly Environment section on page 21), and job growth in the professional and technical services industry is emblematic of this success (Table 1 on page 17).

...so, what does this mean? This means that the MSA is experiencing historically high employment growth right now, a positive sign for the economic health of the region, good for existing and new businesses. Good because existing businesses (e.g. retailers) have a growing demand base either from business-to-business transactions or from individuals demanding their products and services. Good for those entering the workforce, because unlike some other parts of the country (or even state), job growth and business expansion means economic opportunity. Good for the provision of City services (e.g. police, fire, schools, parks, etc.), because it means that there are users to pay fees and property owners and households to pay property and sales taxes. In general, it is a sign of positivity, strength, and economic health that residents should applaud, because it means that the “system” can run smoothly and there are enough people “paying the way”.

2. ...but Lakewood is not growing proportionately.

On one hand, Lakewood’s employment growth is strong, but its population and housing growth has not been proportional. On the positive side, Lakewood’s employment has been growing relatively strong compared to the MSA (see discussion around Figure 2 on page 15), accounting for an average of 5 percent of the MSA’s overall employment growth (see discussion around Figure 4 on page 16). In total, the City has added nearly 15,900 jobs between 2001 and 2016. The City’s top-performing industries have been educational services, manufacturing, health care, retail, professional/technical services, and accommodations, which have collectively added 15,200 jobs, or 85 percent of all the City’s positive growth (see Industry Mix discussion beginning on page 17). On the other hand, the City’s population grew by just 8,600 people between 2000 and 2015 (see discussion around Figure 9 on page 26), accounting for an average of just 1 percent of the MSA’s average annual population increase (see the discussion around Figure 11 on page 27).

...so, what does this mean? It means that Lakewood has only been a beneficiary of one side of the regional economic growth. On one side are the direct benefits of this growth, i.e. the earnings and wages, income, property and sales taxes\(^1\) that are generated by these businesses. On the other side, i.e. the side of the population, where a vast majority of the household expenditure potential from these new wages is not taking place in Lakewood (i.e. a daytime population does spend on eating out and a portion may be stopping for groceries

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\(^1\) Not all industries generate direct sales taxes. For example, retail and accommodations generate sales taxes directly, but educational services, management, or professional/technical services do not typically generate sales taxes. There are some industries, such as those in Lakewood that are its top-performing sectors, such as manufacturing, that may only generate sales taxes indirectly, i.e. after selling their products to a wholesaler, they are then sold to a consumer (business or individual) who pays sales taxes at the point of sale, which may or may not be Lakewood.
or other general merchandise on their commute to or from work, but a study of Denver’s retail sales conditions in 2013 documented that just 10 percent of all retail sales taxes collected by the City were generated by its workers\(^2\), and the property taxes they pay for their homes also is not benefitting Lakewood.

3. **While a majority of net new job-holders and population in the MSA and City have been Millennials and those born after 2001, there are significant increases in the population of those over 55.**

There are two ways to interpret this shift: one is from a “generational” perspective and the other is from a perspective of purely age categories. From the generational perspective, in terms of employment at the MSA level (data with this level of granularity were not available for the City), 90 percent of the net positive increase in jobs were taken by Millennials (see Figure 5 on page 19). In terms of population change, approximately 25 percent (at the MSA and City levels) of the net positive increase came from Millennials. From a purely age perspective, approximately 45 percent of the MSA’s new population was between the ages of 50 and 70. In Lakewood, nearly 55 percent of the net positive population change came from the same age group.

...so, what does this mean? Data indicate that, as households age, they spend less on typical taxable retail items. If households age in place and, thus, spend less, they generate less sales tax for Lakewood. Without bringing in more households, sales tax revenues to Lakewood increase more slowly and eventually stagnate. Beyond this, an elderly population demands infrastructure and access to services that may not be in place, e.g. lower maintenance housing (e.g. townhome or condominium living that doesn’t involve yard work, etc.), home healthcare, social assistance, etc.

4. **A larger portion of the City’s workforce is commuting than it was more than 10 years ago, and many of those imported jobs are in the City’s six top-performing industries.**

An analysis of employment, population, and commuting patterns indicates that a larger portion of the jobs in the City are being filled by in-commuters compared to more than a decade earlier (see the discussion of Figure 7 on page 24). In 2002, there were approximately 5,200 jobs being filled by workers living outside of Lakewood; but by 2014, that number had increased to more than 12,900, an increase of more than 7,700 more in-commuters (i.e. imported labor). From the perspective of the City’s top-performing industries, referenced above, not one of the six industries had net in-commuting in 2002, but by 2014, net in-commuting for these six top-performing industries had increased to 7,300 jobs.

...so, what does this mean? As pointed out in Finding 2, this means that the City’s sales tax base is not benefitting from most of the household expenditure potential related to the 7,700 jobs that the City’s business community brings in every day. Moreover, analysis shows that household spending peaks during primary working-age years of 45 to 54 (Table 16 on page 114) and falls 15 percent in each of the three subsequent age categories.

Chapter 3: Supply-Side Analysis

As mentioned above, housing market growth typically responds to a variety of conditions, such as employment or population growth. As shown, Lakewood’s employment base has been growing, but its population has not been growing proportionally. At the heart of supply growth are a variety of capacity factors, such as land availability, developable land or parcels, construction capacity, adequate infrastructure including roads, water, sewer, electricity, and public services to accommodate growth. Also key to growth in supply are external factors, such as neighborhood or community “infrastructure” that can channel growth. Again, in an environment such as the Denver MSA, many of the aspects of neighborhood and community infrastructure, such as parks, recreation, schools, shops, entertainment, etc., are nearly ubiquitous.

The questions guiding this part of the analysis are first of all, whether Lakewood’s inventory of housing has been growing to meet demands (such as from employment), and whether the supply is sufficient to meet the current and future demands in a market of changing demographics, thus preferences. Second of all, questions guiding this analysis also revolve around whether the City’s supply of housing is located in appropriate proximity to an adequate array of neighborhood and community amenities.

5. The City added relatively little housing between 2000 and 2015.

For the 15,900 jobs added in the City of Lakewood, there were relatively few new housing units added between 2000 and 2015. Between 2000 and 2015, approximately 5,100 units were added to the inventory (see discussion of Figure 12 on page 31). An analysis of residential construction trends also indicates that the City’s growth diverged (i.e. dropped) from the trajectory of the MSA’s growth/construction activity just before 2000 (see discussion of Figure 24 on page 46).

...so, what does this mean? All else being equal, when demand is constant and supply is constrained, the price of housing is pushed higher. If Lakewood adds less supply than there is demand for housing (which has been the case for 15 years), housing price pressures will grow. From the perspective of the existing housing stock, this means that property values (and therefore taxes) will increase, creating existing resident affordability issues. From the perspective of an expanding MSA economy, the neighborhoods that have desirable proximity to the major employment centers will face revitalization pressures, as evidenced by the West Colfax neighborhood on Lakewood’s eastern boundary and south of Sloan’s Lake. In these areas of redevelopment pressure, a single family home can be replaced with another much more expense single family home or duplex. If such a trend continues, it means that the City’s workforce, and particularly those in essential community functions (such as police, fire, and emergency services) cannot afford to live near their jobs.

6. The City only added one housing unit for every three jobs it created between 2000 and 2015.

Between 2000 and 2015, the 5-county MSA (Adams, Arapahoe, Denver, Douglas, and Jefferson counties) collectively added nearly one housing unit for every one job that was created, a signal of a somewhat balanced market. Lakewood, on the other hand (see discussion of Table 8 on page 41), added only one occupied housing unit for every three jobs it created.
so, what does this mean? Again, the supply constraint will eventually cause prices to escalate beyond a point where, not only is there not enough inventory for a reasonable portion of its workforce, but the price-points have escalated beyond affordability for its essential community workers. In fact, in 2015 the median home price in Lakewood was an estimated $66,000 and $98,000 more than a starting City police officer or West Metro firefighter could afford on a single salary, respectively. By 2016, the gaps between what a police officer and firefighter could afford had grown to $107,000 and $139,000, respectively.

7. The City did, however, facilitate its growth in areas that align well with its public policy objectives.

Analysis of the location of residential building permit activity indicates that between 2000 and 2016, a considerable portion of higher-density residential construction activity occurred in areas (Figure 26 on page 47) that aligned with the Growth Areas identified in its Comprehensive Plan, which was adopted in April 2015 (Figure 27 on page 48).

so, what does this mean? It means that the City has been successful in approving development in different parts of its community that are appropriate to the objectives laid out in the adopted Comprehensive Plan. For example, most of the multifamily residential development occurred in areas designated in the Comprehensive Plan as Growth Areas, whereas single family development occurred in other parts of the city where preservation of existing densities is important.

8. The City’s vacancy rate in 2015 was the same as in 2000.

Though not a significant finding of the research in itself, the fact that the overall owner and rental housing vacancy rate was 3.0 percent in 2000 and 2.8 percent in 2015 (see discussion of Figure 19 on page 40) means that the City was not utilizing its inventory any more efficiently in 2015 than it was in 2000 in order to accommodate the additional jobs it had created. Another aspect of housing availability is the rate of inventory turnover (the portion of units sold during a year). In 2015, Lakewood’s housing inventory turnover was approximately 7 percent, with some areas higher and lower than others. This compares to turnover at the MSA level of 8.0 percent for 2015.

so, what does this mean? On one hand, this points to a stability of the local resident population. On the other hand, it means that supply-side constraints are not just limited to new construction, they are also somewhat a product of a relatively constrained existing home resale market. Again, this means decreased opportunity for new residents to establish households and homes in Lakewood.

9. The City has limited areas to facilitate additional growth, except for infill sites, redevelopment opportunities, and a few areas for new development.

Part of the limitation to housing growth is that the City doesn’t have much land (if any) left to be developed in the manner in which it has been historically accustomed, i.e. greenfield development. The series of graphics illustrating during what periods of time the City’s housing supply was built (see Age of Structure section beginning on page 42) illustrates a general northeast to southwest development pattern, where 93 percent of the City’s housing inventory was built before 2000.
...so, what does this mean? This means that the prospect of adding more housing inventory is going to be much more challenging than it has historically been for the City. It means looking inward at redevelopment or revitalization opportunities. Specifically, it means looking at revitalization and redevelopment opportunities in commercial corridors, where adding housing inventory in a mixed-use context does not typically encounter neighborhood opposition in the same way it would if additional inventory (or denser housing) neighboring single family areas might.

10. The City’s housing inventory is not entirely homogeneous.

Two different analyses of the City’s housing inventory point to relatively different conclusions. On one hand, an analysis of the gross densities of residential development (see discussion of Figure 13 on page 33) illustrates that a vast majority of Census tracts fall between a gross density of 2 to 4 units per acre (a statistic which includes roads, right of way, parks, etc.). On the other hand, an analysis of housing units by number of units in structure indicates that Lakewood has a higher proportion of single family detached units than Denver, but a lower proportion than Adams, Arapahoe, Douglas, and Jefferson counties. In the discussion of Table 7 on page 34, it appears that Lakewood’s proportion of housing in buildings with 2 to 49 units is 35 percent or 10 percent higher than the rest of the MSA, but its inventory of housing in buildings with 50 or more units is 3 percent less than the MSA but still a higher than Adams, Douglas, and Jefferson counties.

...so, what does this mean? Even with a larger portion of buildings with 2 to 49 units in them, the City’s average gross density still ranges between a low 2 to 4 units per acre. This is not to suggest at all that Lakewood’s overall (i.e. citywide) gross density should be much higher, but that even in areas where additional density may be appropriate, such as along commercial corridors or the West Line, current densities are low. For example, gross densities in most filings of Stapleton ranged between 5 and 6 gross units per acre. It does, however, mean that Lakewood could increase its density in appropriate areas, as designated by the Comprehensive Plan, and not disturb or even significantly alter the character of its community.

Chapter 4: Stated Preferences

The preferences for physical, neighborhood, and community features articulated by a sample of Lakewood’s workforce are summarized by the following findings. For the most part, they characterize elements of housing demand for the City and illuminate where and possibly to what extent its supply of housing is adequate or deficient to meet demands over time. In essence, they provide a bridge for interpreting the demand- and supply-side analyses of the other two chapters.

As such, questions guiding this part of the analysis included nuances of previous questions, such as “how well does the City's housing supply align with its workforce's preference?” “How many people would like to live in the West Denver Metro Area?” “What are the next generation of homeowners looking for? That is, what are first-time homebuyers looking for, as well as what are current homeowners looking for in their next move, e.g. larger, smaller home or lot, lower maintenance, closer to schools or shops, etc. Digging deeper, the analysis also builds a profile of what each of the study’s age groups are looking for now and in the next five years.
11. Among the physical features of a home, cost and the quality of construction are the top two considerations for the City’s workforce in choosing where to live.

The analysis of physical features as factors of housing choice begins on page 61, and shows that 61 percent of those surveyed see housing cost as “very important” to their decision, followed by 50 percent saying that quality of construction is “very important”. Privacy between homes is third, followed by the size of a home, its historic character and low maintenance living. When asked how these considerations would change in the next five years, slightly larger portions of all respondents indicated that nearly the same ranking of considerations would be “very important”.

...so, what does this mean? As a basic finding, this simply reaffirms the notion that buyers in the market are and continue to be cost and quality conscious.

12. The under 35 group is most cost-conscious of all age groups, mindful of safety and security, but less so than the others, and more driven to live near parks, shops, and transit.

When it comes to the physical features of a home, under 35s are generally most concerned with cost. Nearly seven out of 10 say that it’s very important to their decision of where to live. As for quality of construction, which ranks second, just 39 percent feel it’s very important, followed by general indifference toward greater privacy between homes, home size, historic character, and low maintenance. A marginally lower proportion of this group says that a sense of safety and security is very important while their preferences for well-designed sidewalks ranks just about the same as the other age groups. Currently, a larger portion of this group is unconcerned about a sense of privacy than the others and much more concerned with living in proximity to parks and open space, shops and restaurants, as well as walking distance to rail stations or bus stops. As for their housing choices five years from now, the under 35s seem to be anticipating changes that make quality public schools and walking to them, home size, privacy between homes, sidewalks, quality construction, and a sense of safety more important.

...so, what does this mean? This means that, if Lakewood wants to attract under 35s or those who will be under 35 in the future, it needs to have a supply of housing available that is in proximity to parks and open space, shops and restaurants, as well as walking distance to rail stations or bus stops. The overlap of amenities indicates that just 9 percent (less than 5,900 units) of the City’s housing stock is within walking distance to even retail, employment centers, and grocery (excluding parks and rail stations or bus stops). Between 2000 and 2015, when the change in employment was nearly 16,000, assuming the same proportionality of jobs by age group at the MSA (see Finding 3), this would indicate that approximately 14,400 Millennials took new jobs in the City of Lakewood. But the analysis of the City’s population shows that the city only gained 10,200 new Millennials (who were all under 35 in 2015). Another part of the analysis showed that approximately 12 percent (8,500 units) of the City’s inventory in proximity to rail stations. If in 2015, there were 37,200 persons between the age of 20 and 34 in Lakewood (as representative of early home-buying years), this could equate conservatively to roughly 14,800 households. If, as indicated in the survey responses, 35 percent indicate that this will be very important to them in the future, that would equate to a maximum demand of more than 5,200 units in proximity to rail stations just due to 20 to 34 year-olds.
13. **The 35 to 54 group is generally focused on aspects of housing that facilitate an efficient and safe home and work life, where cost is less important than either of the other age groups, but historic character, schools, and a short commute to work are more important.**

While cost is still a very important consideration to 58 percent of this group, construction quality, privacy between homes, home size, and historic character are more important than for the under 35s. As for neighborhood features, sense of safety and security is very important to 75 percent of them, and a sense of privacy as well as a range of housing types in the neighborhood are more important to them than the under 35s. When it comes to community features, a short commute is very important to 51 percent of them, and having quality public schools in addition to being able to walk to them are much more important than to under 35s or the over 55s, but being able to walk to parks or rail stations/bus stops is much less important. As for their housing choices five years from now, the 35 to 54s seem to be anticipating changes, though not the same kind as the under 35s. They seem more interested in home size, quality construction, lower maintenance, walkability to rail or bus, schools, and parks, as well as safety and privacy.

**...so, what does this mean?** This age group, while not currently concerned with walkability to rail stations or bus stops, is likely to become increasingly interested in such. While bus stops are slightly more ubiquitous than rail stations in the city, the analysis shows that approximately 12 percent (8,500 units) of the inventory in proximity to housing. In 2015, there were 37,500 persons between the age of 35 and 54 in Lakewood, equating to roughly 15,000 households. If 29 percent indicate that this is very important to them in the future, that would equate to a maximum demand for more than 4,300 units in proximity to rail stations just due to 35 to 54 year-olds.

14. **For those over 55, physical and neighborhood features become much more important to this group’s considerations.**

Again, cost ranks highest on their list for physical feature considerations, but there are much larger proportions of this group saying that quality of construction, privacy between homes, home size, historic character, and low maintenance are very important. And while a sense of safety and security, like the other groups, is also the top neighborhood feature consideration, the over 55s are much more conscious of a sense of privacy, well-designed sidewalks, and a range of housing types in the neighborhood than the other groups. When it comes to the community features, however, this group is less interested in a short commute to work or proximities to parks, schools, shops, and transit. As for the over 55s, they seem to be anticipating changes also of a different type. The biggest change in their preferences is for lower maintenance living, being able to walk to shops and restaurants, walkability to rail or bus, as well as parks, housing cost and quality construction.

**...so, what does this mean?** Like the 35 to 54s, the Over 55s are not currently concerned with walkability to rail stations or bus stops, but likely to become increasingly interested. The same analysis would show that if there were 45,000 persons 55 or over in Lakewood, equating to roughly 18,000 households, and if 31 percent indicate that this will be very important to them in the future, that could equate to a maximum demand for nearly 5,600 units in proximity to rail stations just due to the Over 55s.
15. *If those who work but don't live in the city wanted to live in the city in areas with amenities they have stated as “very important”, the City would be undersupplied.*

The analysis of half-mile areas surrounding employment centers, retail, restaurants, and transportation indicates that the portion of the City’s housing inventory is generally lower than the portion of those surveyed who state that living within walkable distance of these amenities is very important in considering where to live (see Figure 57 through Figure 60 beginning on page 77).

...so, what does this mean? This implies that not only could the City allow for an expansion of supply in neighborhoods designated as Growth Areas, but that these Growth Areas are also appropriate for commercial reinvestment as well. Another implication, and one that extends into economic development and fiscal impacts, is that while it may be true that residential development on its own generally has a slightly net negative fiscal impact to City finances, it is also true that as households age, they spend less money on activities that generate the critical sales taxes that Lakewood relies upon. As such, it is vitally important that supplies of housing are simply available to a balanced distribution of age groups.

Conclusions

In EPS’s opinion, key to understanding what these patterns, trends, and conditions mean for Lakewood are addressed by bringing together some of the analysis under the light of a different set of questions that identify issues potentially more deeply rooted in fundamental drivers, such as opportunities or willingness.

As mentioned earlier, key among the findings is that the City’s housing supply has not been growing in proportion to its economic base for the past decade and a half, on average. At the root of such a pattern are a set of questions about opportunity and willingness. Has the “opportunity” to invest (i.e. buy a home) in Lakewood changed over the past 15 years; if so, how? More fundamentally, is the problem that the people who have taken jobs in the city (but commute in) don’t want to live in Lakewood, or that they are choosing to live elsewhere because there is something wrong either with the City’s housing supply, including all physical, neighborhood, and community aspects of it?

16. *What role does housing play in economic development?*

From the standpoint of strictly job creation (the demand side), it has been pointed out that Colorado is known for its encouragement of entrepreneurial and high-tech industries, which employ predominately younger workers, and that the MSA has been the primary beneficiary of this pattern (Finding 1). It has been pointed out that a vast majority of new job-holders were Millennials (Finding 3), and that imported labor makes up a larger portion of the workforce than it did more than a decade ago (Finding 4). But it would appear that the City has not been growing its housing inventory to accommodate either this age group in either sufficient quantity (Finding 6) or in terms of location (Finding 12 and Finding 15), in spite of the development magnitudes that have occurred in Growth Areas (Finding 7).

...so, what does this mean? Economic development isn’t just about recruiting jobs, it means developing the economy in general – i.e. all types of infrastructure. Finding 12 pointed out that a larger portion of Under 35s, while cost-conscious, are very interested in proximities to shops and restaurants, transit, and walking and biking to work. Even when
considering changes that they’ll likely experience in needs over the next five years, they still intend to choose their next house based on proximity to parks and recreation, schools, shops and restaurants, and transit, and that they are more willing to pay for this access than other age groups. So, this means offering resident housing mobility through different life stages, which encourages community investment. It means developing activity centers, i.e. areas with shopping, dining, entertainment, and transportation access. It means developing areas around employment centers and commercial activity with housing options that offer opportunities for some portion of residents and would-be residents to live. A full-time resident-worker population means not only community vibrancy, but has implications for long-term community-building.

17. How adequate is the City’s mix of housing for changing demand?
Based on the findings of the stated preference survey and the overlap of the City’s housing supply with the various amenities, it would appear (excluding the qualitative adjustments that need to be made to ascertain quality, for example, of the retail centers or restaurants) the portion of housing supply aligning with various amenities is slightly insufficient. Finding 10 pointed out that the City’s housing mix is not entirely homogeneous, but weighs much more heavily on the low-rise attached structures, such as buildings with 5 to 49 units, than the MSA on a whole. This is not to suggest that the City needs more high-rise projects, or even just projects with more than 50 units in the structure, but that the City does in fact have supply (whether it is adequate in terms of quality is a separate issue and the assessment of which is beyond the resources available for this study) that can meet various price-point demands.

...so, what does this mean? It means that the City doesn’t need to work very hard to attract the type of residents who are looking for traditional suburban living. It does mean that the City can encourage more development (both residential and commercial) in its designated Growth Areas to attract not only the generation of would-be residents who have accounted for the largest share of new job-holders in the city, but also portions of residents who may be living (and potentially) working in Lakewood who are contemplating retirement and lower maintenance living with proximity to amenities.

18. Is the supply situated in desirable neighborhoods?
Many of Lakewood’s neighborhoods meet the needs of its residents looking for safety and security, privacy between homes, a sense of privacy, and other general physical characteristics, such as home size or price, as described in Finding 11. There is, however, a limited inventory of housing that meets the demands, for example, of having a quality dining, entertainment, shopping, or a rail station in walking distance. On the other hand, it is likely that a more comprehensive and qualitative assessment of the City’s retail (shopping, dining, entertainment) might demonstrate that the targeted Growth Areas could benefit from revitalized commercial offerings (Finding 15).

...so, what does this mean? As an example, the calculations from above indicate that there could be demand for a maximum of 15,000 units in walking distance to rail stations versus the current inventory of 8,500.
19. What does it mean to have a vibrant community with respect to housing?

Concerning Lakewood’s future, a vibrant community with respect to housing will likely mean: the availability of housing that meets needs for all life stages (younger working households looking for the good proximity to open space that Lakewood offers; working households with children looking for quality schools and decent proximity to them; and retired households wanting to age in place). This means that the housing stock facilitates movement not just to respond to the different stage of life and the demands that they bring, but also facilitates movement within its supply for a variety of price-bands to accommodate the spectrum of Lakewood’s workforce wages.
2. **Demand-Side Analysis**

**Overview**

This chapter focuses on housing demand—its origins and characteristics—in objective, as well as subjective terms. The analysis is devoted to quantitatively detailing the origins and characteristics of demand in terms of economic and employment growth, commuting patterns, and population growth. It was guided by a series of questions that encapsulates the demand side of the narrative for this study, a few of which blend considerations of supply and are discussed in the following chapter on Findings: 1) Where does demand come from? 2) How well does the City’s housing stock align to its workforce preferences? 3) How many of those workers live in, or contemplate living in Lakewood? 4) As younger generations move through life and different household type stages, what will they be looking for? 5) And generally, what are households of different age categories looking for in housing?

There are numerous factors that influence, or drive, demand for housing. Although the scope of this study is not to delve into the details of all of these demand drivers, the analysis does detail several of the major housing demand drivers, specifically: employment growth, including a contextual discussion of what employers are looking for; commuting patterns; and population growth.

**Employment Trends**

One of the most fundamental drivers of housing demand is economic growth, evidenced through the growth of the jobs market. Questions that have guided this section of the demand drivers analysis are: 1) What industries have grown or declined at the MSA and City levels? 2) How has the industry distribution at the City level changed with respect to the MSA? 3) What are the demographic components of employment change at the MSA and City levels? 4) More subjectively, what are employers looking for when they hire new employees as their markets and business grow?

**Employment**

*Figure 1*, using Bureau of Economic Analysis and Bureau of Labor Statistics data, illustrates when the MSA has experienced either above- or below-average population growth during the past 46 years. As noted in the narrative of following graphics, this depicts average annual employment growth of approximately 23,200 jobs per year, factoring in expansions and contraction of the regional economy. The brackets indicate periods of continuous expansion, followed by periods of contraction, which have generally lasted approximately two years.
Cycles of Economic Activity

Compared to the U.S. economy, the Denver region has experienced fewer market contractions and longer periods of market expansion. While numerous definitions of what constitutes a "cycle" of economic activity exist, EPS has modeled directly from the National Bureau of Economic Research (NBER) Business Cycle Dating Committee definition of a cycle. It states that cycle of economic activity contains both a market expansion and contraction. A contraction begins at the peak and ends at the trough of economic activity, and an expansion begins at the trough and ends at the peak of economic activity.³ By this definition, the country has experienced seven cycles of economic activity (contraction and expansion) since 1969, whereas the Denver region has only experienced four complete cycles and is in the midst of a fifth:

- 1969 to 1975: 5 years of job gains, followed by 1 year of job losses
- 1976 to 1987: 10 years of job gains, followed by 2 years of job losses
- 1988 to 2003: 14 years of job gains, followed by 2 years of job losses
- 2004 to 2010: 5 years of job gains, followed by 2 years of job losses
- 2011 to present: 6 years of job gains

Employment at the City level, however, has been comparatively strong. Figure 2 illustrates how City employment levels have grown at proportionally higher rates than at the MSA level. Using available Quarterly Census of Employment and Wages (QCEW) data from the Colorado Department of Labor and Employment (CDLE), the trends have been normalized to the year 2001 (the most historic point from which Lakewood employment data were available).

³ See http://www.nber.org/cycles/cyclesmain.html The Business Cycle Dating Committee does not have a fixed definition of "economic activity"; rather, it is determined from broad collection of measures including Gross Domestic Product (GDP), employment, and real income.
Specifically, it illustrates employment for the MSA and the City by year as a percent of employment levels in 2001. In 2002, the City of Lakewood’s employment dropped 6 percent below its 2001 level when economic activity contracted following the dot-com bubble. At the MSA level, employment levels dropped 3 percent. In 2008, following six years of market expansion, employment in the City was 16 percent above its 2001 levels, whereas employment at the MSA level increased to just 102 percent of 2001 levels. In the wake of the recession (which dated 2007 to 2009), while employment at the MSA level dropped back to 97 percent of its 2001 level, the City’s employment dropped 4 percent but still 12 percent above 2001. Since then, the City’s economy has continued to expand with employment growing to 26 percent above 2001.

**Figure 2**
MSA and Lakewood Employment, 1969-2016

![Employment as % of 2001 Base](figure2.png)

**Figure 3** illustrates the magnitude of annual employment changes over this period of time. An observation that characterizes a general concern regarding increasing economic instability is that during the previous two periods of job losses (which coincide with NBER’s designations of contractions in economic activity), the job losses have generally been larger relative to previous economic contractions.

For example, between 1969 and 1975, employment increased by approximately 22,000; it grew by annual averages of approximately 23,000 between 1976 and 1987, 23,800 between 1988 and 2003, and 4,700 between 2004 and 2010; employment is currently growing by approximately 44,700 per year.
During the years for which data on the City were available, Figure 4 illustrates the magnitude of annual employment change in the City relative to the MSA. As indicated earlier, the City’s economy has grown proportionally more than the MSA’s during this time. For example, in 2003 when the MSA was still losing jobs, Lakewood saw a net gain of 3,600 jobs. And during 2010, when the number of jobs continued to decline in the MSA, Lakewood saw a small, but net positive gain. Overall, the City’s annual employment growth has accounted for an average of 5 percent of MSA employment growth. Between 2004 and 2006, as well as 2011, Lakewood captured an average of 14 percent the MSA’s net job growth.
Industry Mix

Another important detail of employment shifts in the City is the distribution by industry. **Table 1** illustrates the shift in distribution of jobs by industry at the MSA and City levels between 2001 and 2016.

**Table 1**
Distribution of Employment by Industry, 2001 and 2016

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<tr>
<td>11-County MSA</td>
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<tr>
<td>Agriculture, forestry, fishing and hunting</td>
<td>5,871</td>
<td>7,147</td>
<td>1,276</td>
<td>85</td>
<td>1.32%</td>
<td>0.4%</td>
<td>0.5%</td>
</tr>
<tr>
<td>Mining, quarrying, and oil and gas extraction</td>
<td>6,810</td>
<td>14,841</td>
<td>8,031</td>
<td>535</td>
<td>5.33%</td>
<td>0.5%</td>
<td>0.9%</td>
</tr>
<tr>
<td>Utilities</td>
<td>4,450</td>
<td>4,698</td>
<td>248</td>
<td>17</td>
<td>0.36%</td>
<td>0.3%</td>
<td>0.3%</td>
</tr>
<tr>
<td>Construction</td>
<td>105,537</td>
<td>101,182</td>
<td>-4,755</td>
<td>-317</td>
<td>-0.31%</td>
<td>7.8%</td>
<td>6.4%</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>119,031</td>
<td>100,073</td>
<td>-18,958</td>
<td>-1,264</td>
<td>-1.15%</td>
<td>7.8%</td>
<td>6.4%</td>
</tr>
<tr>
<td>Wholesale trade</td>
<td>77,509</td>
<td>80,858</td>
<td>3,349</td>
<td>223</td>
<td>0.28%</td>
<td>4.5%</td>
<td>5.1%</td>
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<tr>
<td>Retail trade</td>
<td>150,004</td>
<td>163,821</td>
<td>13,817</td>
<td>921</td>
<td>0.59%</td>
<td>11.0%</td>
<td>10.3%</td>
</tr>
<tr>
<td>Transportation and warehousing</td>
<td>62,244</td>
<td>59,983</td>
<td>-2,261</td>
<td>-151</td>
<td>-0.25%</td>
<td>4.5%</td>
<td>4.3%</td>
</tr>
<tr>
<td>Professional and technical services</td>
<td>114,954</td>
<td>158,355</td>
<td>43,401</td>
<td>1,834</td>
<td>2.16%</td>
<td>8.5%</td>
<td>10.0%</td>
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<tr>
<td>Management of companies and enterprises</td>
<td>15,048</td>
<td>32,866</td>
<td>17,818</td>
<td>1,188</td>
<td>5.35%</td>
<td>1.1%</td>
<td>2.1%</td>
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<tr>
<td>Administrative and waste services</td>
<td>98,261</td>
<td>108,813</td>
<td>10,552</td>
<td>703</td>
<td>0.85%</td>
<td>1.2%</td>
<td>6.9%</td>
</tr>
<tr>
<td>Educational services</td>
<td>51,427</td>
<td>78,931</td>
<td>27,504</td>
<td>1,934</td>
<td>5.83%</td>
<td>2.9%</td>
<td>5.0%</td>
</tr>
<tr>
<td>Health care and social assistance</td>
<td>117,838</td>
<td>190,586</td>
<td>72,748</td>
<td>4,850</td>
<td>3.26%</td>
<td>8.7%</td>
<td>12.0%</td>
</tr>
<tr>
<td>Arts, entertainment, and recreation</td>
<td>23,037</td>
<td>29,916</td>
<td>6,879</td>
<td>459</td>
<td>1.76%</td>
<td>1.7%</td>
<td>1.9%</td>
</tr>
<tr>
<td>Accommodation and food services</td>
<td>114,676</td>
<td>161,605</td>
<td>46,929</td>
<td>3,129</td>
<td>2.31%</td>
<td>8.4%</td>
<td>10.2%</td>
</tr>
<tr>
<td>Other services, except public administration</td>
<td>42,423</td>
<td>51,439</td>
<td>9,016</td>
<td>601</td>
<td>1.29%</td>
<td>3.1%</td>
<td>3.2%</td>
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<tr>
<td>Public administration</td>
<td>58,662</td>
<td>71,744</td>
<td>13,082</td>
<td>872</td>
<td>1.35%</td>
<td>4.3%</td>
<td>4.5%</td>
</tr>
<tr>
<td>Total, all industries</td>
<td>1,359,091</td>
<td>1,585,150</td>
<td>226,059</td>
<td>15,071</td>
<td>1.03%</td>
<td>100.0%</td>
<td>100.0%</td>
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City of Lakewood

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</thead>
<tbody>
<tr>
<td>Agriculture, forestry, fishing and hunting</td>
<td>1</td>
<td>84</td>
<td>83</td>
<td>6</td>
<td>31.79%</td>
<td>0.0%</td>
<td>0.1%</td>
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<tr>
<td>Mining, quarrying, and oil and gas extraction</td>
<td>69</td>
<td>129</td>
<td>60</td>
<td>4</td>
<td>4.26%</td>
<td>0.1%</td>
<td>0.2%</td>
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<tr>
<td>Utilities</td>
<td>122</td>
<td>285</td>
<td>163</td>
<td>11</td>
<td>5.83%</td>
<td>0.2%</td>
<td>0.4%</td>
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<tr>
<td>Construction</td>
<td>3,325</td>
<td>5,185</td>
<td>1,860</td>
<td>13</td>
<td>0.38%</td>
<td>3.4%</td>
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<tr>
<td>Manufacturing</td>
<td>1,944</td>
<td>3,423</td>
<td>1,480</td>
<td>99</td>
<td>3.85%</td>
<td>3.2%</td>
<td>4.4%</td>
</tr>
<tr>
<td>Wholesale trade</td>
<td>1,265</td>
<td>1,113</td>
<td>-152</td>
<td>-10</td>
<td>-0.85%</td>
<td>2.1%</td>
<td>1.4%</td>
</tr>
<tr>
<td>Retail trade</td>
<td>8,636</td>
<td>10,290</td>
<td>1,654</td>
<td>110</td>
<td>1.18%</td>
<td>14.0%</td>
<td>13.3%</td>
</tr>
<tr>
<td>Transportation and warehousing</td>
<td>748</td>
<td>1,036</td>
<td>288</td>
<td>19</td>
<td>2.19%</td>
<td>1.2%</td>
<td>1.3%</td>
</tr>
<tr>
<td>Finance and insurance</td>
<td>2,058</td>
<td>1,534</td>
<td>-524</td>
<td>-35</td>
<td>-1.94%</td>
<td>3.3%</td>
<td>2.0%</td>
</tr>
<tr>
<td>Real estate and rental and leasing</td>
<td>1,319</td>
<td>1,326</td>
<td>7</td>
<td>0</td>
<td>0.04%</td>
<td>2.1%</td>
<td>1.7%</td>
</tr>
<tr>
<td>Professional and technical services</td>
<td>6,304</td>
<td>7,898</td>
<td>1,594</td>
<td>106</td>
<td>1.51%</td>
<td>12.9%</td>
<td>10.2%</td>
</tr>
<tr>
<td>Management of companies and enterprises</td>
<td>720</td>
<td>1,116</td>
<td>396</td>
<td>26</td>
<td>2.96%</td>
<td>1.2%</td>
<td>1.4%</td>
</tr>
<tr>
<td>Administrative and waste services</td>
<td>6,171</td>
<td>6,874</td>
<td>704</td>
<td>47</td>
<td>0.72%</td>
<td>10.0%</td>
<td>8.9%</td>
</tr>
<tr>
<td>Educational services</td>
<td>845</td>
<td>2,729</td>
<td>1,884</td>
<td>126</td>
<td>6.13%</td>
<td>1.4%</td>
<td>3.5%</td>
</tr>
<tr>
<td>Health care and social assistance</td>
<td>5,665</td>
<td>12,593</td>
<td>6,928</td>
<td>462</td>
<td>5.47%</td>
<td>9.2%</td>
<td>16.3%</td>
</tr>
<tr>
<td>Arts, entertainment, and recreation</td>
<td>807</td>
<td>727</td>
<td>-80</td>
<td>-5</td>
<td>-0.69%</td>
<td>1.3%</td>
<td>0.9%</td>
</tr>
<tr>
<td>Accommodation and food services</td>
<td>6,840</td>
<td>8,521</td>
<td>1,681</td>
<td>112</td>
<td>1.48%</td>
<td>11.1%</td>
<td>11.0%</td>
</tr>
<tr>
<td>Other services, except public administration</td>
<td>1,935</td>
<td>2,170</td>
<td>236</td>
<td>16</td>
<td>0.77%</td>
<td>3.1%</td>
<td>2.8%</td>
</tr>
<tr>
<td>Public administration</td>
<td>8,782</td>
<td>9,239</td>
<td>457</td>
<td>30</td>
<td>0.34%</td>
<td>14.3%</td>
<td>11.9%</td>
</tr>
<tr>
<td>Total, all industries</td>
<td>61,813</td>
<td>77,476</td>
<td>15,663</td>
<td>1,058</td>
<td>1.54%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Source: BLS; Economic & Planning Systems
Using the industry growth trends, Table 2 summarizes the shifts by industry in the City of Lakewood relative to the changes at the MSA level. The results present the average annual employment change between 2001 and 2016, changes in location quotients (LQ)\(^4\), as well as a reference to the average annual growth rate at the metro level. This analysis delves deeper by dividing industries into four categories of change: 1) where the industry grew in Lakewood by a greater proportion than the MSA; 2) where the industry shrank at the City level, but did not lose jobs in proportion to job losses at the MSA; 3) where the industry grew at the City level, but did not grow in proportion to jobs at the MSA; and 4) where the industry shrank at the City level, and lost proportionally more than the MSA.

In general, the analysis reveals that the City has eight top-performing industries based on rates of growth: utilities, educational services, manufacturing, health care, agriculture, transportation, construction, and retail. Other industries that grew in Lakewood, although not proportionally to the MSA include mining, administrative services, real estate, professional and technical services, accommodations, management, and public administration (which include public school jobs, federal, state and local government jobs). These data are also utilized in a below to calculate location quotients.

**Table 2**
Summary of Industry Shift Metrics, 2001-2016

<table>
<thead>
<tr>
<th>Industry in Lakewood grew, and grew by greater proportion than MSA</th>
<th>Annual Employment (\Delta) (2001-2016)</th>
<th>Location Quotient (2001)</th>
<th>Location Quotient (2016)</th>
<th>MSA Annual % (\Delta)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utilities</td>
<td>163</td>
<td>0.60</td>
<td>1.24</td>
<td>0.36%</td>
</tr>
<tr>
<td>Educational services</td>
<td>1,884</td>
<td>0.36</td>
<td>0.71</td>
<td>2.90%</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>1,480</td>
<td>0.36</td>
<td>0.70</td>
<td>-1.15%</td>
</tr>
<tr>
<td>Health care and social assistance</td>
<td>6,928</td>
<td>1.06</td>
<td>1.35</td>
<td>3.26%</td>
</tr>
<tr>
<td>Agriculture, forestry, fishing and hunting</td>
<td>83</td>
<td>0.01</td>
<td>0.24</td>
<td>1.32%</td>
</tr>
<tr>
<td>Transportation and warehousing</td>
<td>288</td>
<td>0.27</td>
<td>0.35</td>
<td>-0.25%</td>
</tr>
<tr>
<td>Construction</td>
<td>193</td>
<td>0.69</td>
<td>0.71</td>
<td>-0.31%</td>
</tr>
<tr>
<td>Retail trade</td>
<td>1,654</td>
<td>1.27</td>
<td>1.29</td>
<td>0.59%</td>
</tr>
<tr>
<td><strong>Industry in Lakewood grew, but didn't grow proportionally as much as MSA</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Information</td>
<td>-524</td>
<td>0.54</td>
<td>0.57</td>
<td>-2.73%</td>
</tr>
<tr>
<td>Industry in Lakewood grew, but didn't grow proportionally to the MSA</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mining, quarrying, oil and gas extraction</td>
<td>60</td>
<td>0.22</td>
<td>0.18</td>
<td>5.33%</td>
</tr>
<tr>
<td>Administrative and waste services</td>
<td>704</td>
<td>1.39</td>
<td>1.29</td>
<td>0.68%</td>
</tr>
<tr>
<td>Real estate, rental and leasing</td>
<td>7</td>
<td>0.97</td>
<td>0.87</td>
<td>0.25%</td>
</tr>
<tr>
<td>Other services, except public administration</td>
<td>236</td>
<td>1.01</td>
<td>0.86</td>
<td>1.29%</td>
</tr>
<tr>
<td>Professional and technical services</td>
<td>1,594</td>
<td>1.21</td>
<td>1.02</td>
<td>2.18%</td>
</tr>
<tr>
<td>Accommodation and food services</td>
<td>1,681</td>
<td>1.32</td>
<td>1.08</td>
<td>2.31%</td>
</tr>
<tr>
<td>Management of companies and enterprises</td>
<td>396</td>
<td>1.06</td>
<td>0.69</td>
<td>5.35%</td>
</tr>
<tr>
<td>Public administration</td>
<td>457</td>
<td>3.30</td>
<td>2.63</td>
<td>1.35%</td>
</tr>
<tr>
<td><strong>Industry in Lakewood shrank, but lost proportionally more than the MSA</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wholesale trade</td>
<td>-152</td>
<td>0.36</td>
<td>0.28</td>
<td>0.28%</td>
</tr>
<tr>
<td>Arts, entertainment, and recreation</td>
<td>-80</td>
<td>0.77</td>
<td>0.50</td>
<td>1.76%</td>
</tr>
<tr>
<td>Finance and insurance</td>
<td>-1,188</td>
<td>1.16</td>
<td>0.72</td>
<td>0.40%</td>
</tr>
</tbody>
</table>

Source: BLS; CDLE; Economic & Planning Systems

H:\E3063-Lakewood Housing Study\Data\E3063-Lakewood Employment growth.xlsx\TABLE a.4 - Summary Table

\(^4\) Location quotients reflect a ratio of the portion of one industry at the local level divided by the portion of the same industry at a regional level. For example, if 10 percent of all jobs are in one industry at the local level and 10 percent of all jobs are in the same industry at the regional level, the location quotient would be 1.0. If, on the other hand, 5 percent of all jobs are in one industry at the local level and that industry accounts for 10 percent at the regional level, the location quotient will be 0.5.
Demographic Composition of Jobs

Another aspect of shifts in economic activity is the demographic composition of those shifts. Not only has industry predominance shifted within the region and City, but the workforce composition has also shifted. **Figure 5** illustrates this shift at the highest level by generational category – i.e. Millenials are those born between 1981 and 2000, Generation X are those born between 1965 and 1980, Baby Boomers are those born between 1946 and 1964, and the Silent Generation are those born before 1945. The graphic represents a net growth of approximately 270,000 jobs between 2005 and 2015 (when these data were available from the U.S. Census American Community Survey). It also illustrates that Millenials accounted for 90 percent of the positive employment change, while Generation X accounted for the remaining 10 percent of positive employment change. Of those exiting the workforce, Baby Boomers accounted for 75 percent while the Silent Generation accounted for 25 percent of those exiting.

**Figure 5**
Employment Change by Generational Category, 2005-2015

Source: Bureau of Economic Analysis; Bureau of Labor Statistics; Economic & Planning Systems

H:\163063-Lakewood Housing Study\Data\163063-Employment by Age.xlsx\Table 1 - Gen Employment
A breakdown of the details at the MSA level are shown in Table 3, which also reports the detail of employment by age category. Shown by age category, the trend reveals that, as a portion of those working, some of the younger and older age cohorts have become a larger part of the workforce, and those between 30 and 55 have become smaller portions. For example, those aged 25 to 29 accounted for 12 percent of all jobs in 2005 and 13 percent in 2015. At the other end of the spectrum, those age 55 to 59 accounted for 9 percent in 2015 (versus 8 percent in 2005); those age 60 and 61 made up more than 3 percent (compared to less than 2 percent in 2005); and those age 62 to 64 represented 3.5 percent of all jobs (compared to 2.1 percent in 2005).

### Table 3
**Distribution of MSA Employment by Age, 2005 and 2015**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>16 to 19 years</td>
<td>46,636</td>
<td>55,060</td>
<td>8,424</td>
<td>842</td>
<td>1.67%</td>
<td>3.7%</td>
<td>3.6%</td>
</tr>
<tr>
<td>20 and 21 years</td>
<td>42,266</td>
<td>50,117</td>
<td>7,851</td>
<td>785</td>
<td>1.72%</td>
<td>3.3%</td>
<td>3.3%</td>
</tr>
<tr>
<td>22 to 24 years</td>
<td>79,439</td>
<td>95,453</td>
<td>16,014</td>
<td>1,601</td>
<td>1.85%</td>
<td>6.3%</td>
<td>6.2%</td>
</tr>
<tr>
<td>25 to 29 years</td>
<td>150,864</td>
<td>201,045</td>
<td>50,181</td>
<td>5,018</td>
<td>2.91%</td>
<td>12.0%</td>
<td>13.1%</td>
</tr>
<tr>
<td>30 to 34 years</td>
<td>167,726</td>
<td>197,456</td>
<td>29,730</td>
<td>2,973</td>
<td>1.65%</td>
<td>13.3%</td>
<td>12.9%</td>
</tr>
<tr>
<td>35 to 44 years</td>
<td>322,109</td>
<td>358,088</td>
<td>35,979</td>
<td>3,979</td>
<td>1.06%</td>
<td>25.5%</td>
<td>23.4%</td>
</tr>
<tr>
<td>45 to 54 years</td>
<td>297,993</td>
<td>332,643</td>
<td>34,650</td>
<td>3,650</td>
<td>1.11%</td>
<td>23.6%</td>
<td>21.7%</td>
</tr>
<tr>
<td>55 to 59 years</td>
<td>104,289</td>
<td>138,218</td>
<td>33,929</td>
<td>3,929</td>
<td>2.86%</td>
<td>8.3%</td>
<td>9.0%</td>
</tr>
<tr>
<td>60 and 61 years</td>
<td>23,870</td>
<td>50,269</td>
<td>26,399</td>
<td>2,399</td>
<td>7.73%</td>
<td>1.9%</td>
<td>3.3%</td>
</tr>
<tr>
<td>62 to 64 years</td>
<td>26,730</td>
<td>53,655</td>
<td>26,925</td>
<td>2,925</td>
<td>7.22%</td>
<td>2.1%</td>
<td>3.5%</td>
</tr>
<tr>
<td>Total [Note 1]</td>
<td>1,281,922</td>
<td>1,532,004</td>
<td>270,082</td>
<td>27,008</td>
<td>1.96%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Generation Z (Born 2001 or later)</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Millennials (Born 1981 to 2000)</td>
<td>168,341</td>
<td>599,131</td>
<td>430,790</td>
<td>43,079</td>
<td>13.2%</td>
<td>39.1%</td>
<td>13.3%</td>
</tr>
<tr>
<td>Generation X (Born 1965 to 1980)</td>
<td>511,855</td>
<td>557,674</td>
<td>45,818</td>
<td>4,582</td>
<td>0.86%</td>
<td>36.4%</td>
<td>40.6%</td>
</tr>
<tr>
<td>Baby Boomers (Born 1946 to 1964)</td>
<td>531,126</td>
<td>375,199</td>
<td>-155,926</td>
<td>-15,593</td>
<td>-3.42%</td>
<td>24.5%</td>
<td>21.1%</td>
</tr>
<tr>
<td>Silents or before (Born 1945 or before)</td>
<td>50,600</td>
<td>0</td>
<td>-50,600</td>
<td>-5,060</td>
<td>-100.0%</td>
<td>0.0%</td>
<td>4.0%</td>
</tr>
<tr>
<td>Total</td>
<td>1,281,922</td>
<td>1,532,004</td>
<td>270,082</td>
<td>27,008</td>
<td>1.96%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

[Note 1]: These data represent an average of survey data collected by the U.S. Census American Community Survey over a 5-year period of time and do not, therefore, equate directly to actual counts of employment reported by the CDLE, BLS, or BEA.

Source: U.S. Census ACS 5-year estimates; Economic & Planning Systems

H:\E3063-Lakewood Housing Study\Data\E3063-Employment by Age.xlsx|Table 1 - Gen Employment

Lakewood Housing Study
August 28, 2017

Economic & Planning Systems, Inc. 20
Draft Report
Employer Demands

Employers consider a variety of factors in business development decisions, chief among them market, financial, and competitive factors, as well as considerations for a business-friendly environment, a growing market, and access to labor. Although the following is devoted to outlining these considerations, it is the latter that concerns this study primarily. Access to labor means that a city’s housing supply needs to facilitate it.

As defined by the International Economic Development Council (IEDC), a brief list of what businesses and economic developers look for in evaluating business development prospects includes:

- Business and income taxes
- Labor availability
- Energy costs
- Market size
- Quality of services
- Cost of living
- Quality of life
- Environmental regulation
- Permitting, licensing, and reporting regulations
- Real estate (housing) costs and availability
- Infrastructure
- Access to capital
- Incentives

Business-Friendly Environment

According to a 2015 report by the U.S. Chamber of Commerce, “Colorado has attained top-tier status for its support of innovation, entrepreneurship, talent pipeline, and overall economic activity.” The report cites numerous examples of the programs the state has developed to foster innovation and encourage entrepreneurship. Evidence of these efforts is apparent in the composition and commitments made by the State’s Office of Economic Development and International Trade (OEDIT). OEDIT’s strategies include: 1) building a business-friendly environment; 2) retaining, growing, and recruiting companies; 3) increasing access to capital; 4) creating and marketing a strong Colorado brand; 5) educating and training the workforce of the future; and 6) cultivating innovation and technology.

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5 See [https://www.uschamberfoundation.org/enterprisingstates/#CO](https://www.uschamberfoundation.org/enterprisingstates/#CO)
Growing Market

A growing market means expanding and growing opportunities. As the employment trends make apparent, the metro area continues to grow. One of the more commonly cited metrics for identifying economic and market growth is Gross Domestic Product (GDP) or Gross Regional Product (GRP). GRP is defined as the total value of income generated from production, employee compensation, payments to government (taxes), and measures of profit or return on investment. It is one of the more frequently cited economic contribution metrics in economic analysis because it characterizes the amount of “value” created by the regional economic activity. As illustrated in Figure 6, GRP in the metro area has grown at $5.9 billion per year. And while the metro area ranks 17th by annual growth in GRP, this rate of growth is larger than the bottom 68 MSAs combined.

Figure 6
Annual Gross Regional Product Growth by MSA, 2001-2015

$0 $5,000 $10,000 $15,000 $20,000 $25,000 $30,000 $35,000 $40,000 $45,000 $50,000

New York-Newark-Jersey City, NY-NJ-PA
Los Angeles-Long Beach-Anaheim, CA
Houston-The Woodlands-Sugar Land, TX
Dallas-Fort Worth-Arlington, TX
Chicago-Naperville-Elgin, IL-IN-WI
Washington-Arlington-Alexandria, DC-VA-MD-WV
San Francisco-Oakland-Hayward, CA
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD
Boston-Cambridge-Newton, MA-NH
Seattle-Tacoma-Bellevue, WA
Miami-Fort Lauderdale-West Palm Beach, FL
Atlanta-Sandy Springs-Roswell, GA
San Jose-Sunnyvale-Santa Clara, CA
Minneapolis-St. Paul-Bloomington, MN-WI
San Diego-Carlsbad, CA
Phoenix-Mesa-Scottsdale, AZ
Denver-Aurora-Lakewood, CO
Baltimore-Columbia-Towson, MD
Portland-Vancouver-Portland-Sherwood, OR-WA
Charlotte-Concord-Gastonia, NC-SC

Annual GRP Growth, 2001-2015 ($ millions)

Source: BEA, Economic & Planning Systems
Another commonly cited metric of economic growth is personal consumption. Because it accounts for 69 percent of U.S. GDP, business is attracted to environments where the driver of demand is strong and growing. Table 4 illustrates a comparison of PCE to GDP for the U.S. as well as Colorado, where between 2000 and 2015, Colorado’s PCE rose 4.2 percent per year on average. And as cited above, Colorado’s PCE accounts for 71 percent of GRP versus 69 percent of GDP at the national level.\(^7\)

### Table 4
**Personal Consumption Expenditure and GDP, 2000-2015**

<table>
<thead>
<tr>
<th></th>
<th>2000</th>
<th>2015</th>
<th>Total Δ</th>
<th>Ann. Δ</th>
<th>Ann. %</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Personal Consumption Expenditure</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. ($ millions)</td>
<td>$6,789,177</td>
<td>$12,278,861</td>
<td>$5,489,684</td>
<td>$365,979</td>
<td>4.0%</td>
</tr>
<tr>
<td>Colorado ($ millions)</td>
<td>$119,329</td>
<td>$221,708</td>
<td>$102,379</td>
<td>$6,825</td>
<td>4.2%</td>
</tr>
<tr>
<td><strong>Gross Domestic (Regional) Product</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. ($ millions)</td>
<td>$10,219,801</td>
<td>$17,925,143</td>
<td>$7,705,342</td>
<td>$513,689</td>
<td>3.8%</td>
</tr>
<tr>
<td>Colorado ($ millions)</td>
<td>$181,488</td>
<td>$313,329</td>
<td>$131,841</td>
<td>$8,789</td>
<td>3.7%</td>
</tr>
<tr>
<td><strong>PCE as % of GDP/GRP</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S.</td>
<td>66.4%</td>
<td>68.5%</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Colorado</td>
<td>65.8%</td>
<td>70.8%</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>

Source: BEA; Economic & Planning Systems

---

\(^7\) See also Appendix B. As illustrated in Figure 106, the rate of change in PCE in Colorado is strong by comparison to other states.
Commuting Patterns

Also chief among business considerations is access to labor. In metropolitan contexts, the dynamics of where residents live and where they work are complex. Communities often fall on a spectrum of purely employment center at one end and purely residential community on the other end. In reality, no one fits either description, but somewhere between. In such environments, some residents live and work in the same community, while many others choose (or are forced because of high housing prices) to live in one place and work in another. Figure 7 illustrates the patterns of in- and out-commuting among Lakewood’s workforce in 2002 and 2014. In 2002, approximately 9 percent of Lakewood’s workforce commuted in and approximately 46 percent of its job-holding residents commuted out to work. By 2014, Lakewood businesses were importing 17 percent of their labor from outside the city and only 16 percent of the job-holding residents were commuting out to work.

**Figure 7**

Commuting Patterns, 2002-2014

![Diagram](chart.png)

Source: U.S. Census; Economic & Planning Systems

H:\163063-Lakewood Housing Study\Data\LEHD-Commuting-profiles.xlsx
Population

Population growth, along with employment and economic growth, are among the fundamental housing demand drivers. Natural population growth fuels demand for different housing products - and especially relevant to the Denver MSA, in-migration to an attractive living and working environment driving housing demand. This portion of the demand drivers section is intended to identify what age and generational cohorts have changed within the City and MSA over time to begin to frame an understanding of which demographic groups have been and will be driving housing demand.

As illustrated in Figure 8, the 7-county Denver MSA has added an average of 40,400 persons per year since 1969. This graphic using U.S. Census data also illustrates when the MSA has experienced either above- or below-average population growth. For example, since 2011 (inclusive), the region has added approximately 60,700 people per year, well above the historical average since 1969.

Figure 8
MSA Population, 1969-2016

The City’s population growth, however, has not been comparatively strong. Figure 9 illustrates in the same manner in which Figure 2 on page 15 illustrated City employment levels compared to the MSA level. Using U.S. Census and State Demographer Office data, the trends have been normalized to the year 2001 (for the purpose of direct comparison to the findings of Figure 2). In general, it shows how population growth in the City paralleled the MSA in its upward growth trajectory through the 80s, but diverged in the 90s as the City approached buildout—a conclusion reached as a part of the Supply-Side analysis (refer to Age of Structure section of Chapter 2, beginning on page 42) that determined that a combined 93 percent of all housing in Lakewood had been built before 2000.
Just as with employment, in 2002, the City of Lakewood’s employment dropped but only by 1 percent below its 2001 level following the dot-com bubble. In 2008, following six years of market expansion, population in the City was still at the same level as 2001, whereas the population at the MSA level had increased another 11 percent over 2001. Only since the end of the market’s contraction (2010) has the City’s population grown again reaching just 6 percent above its 2001 level, whereas the MSA has reached a level of 24 percent above 2001.

**Figure 9**

As indicated above, the Metro Area lost population only twice in the past 46 years, approximately 4,700 in 1988 and approximately 17,000 in 2010. For example, between 1969 and 1975, population increased by approximately 36,200; between 1976 and 1987, population grew by an annual average of approximately 33,300; an annual average of approximately 43,200 between 1988 and 2003; an annual average of 36,700 between 2004 and 2010, and is currently growing by an annual average of approximately 58,600 per year.

Figure 10 illustrates the magnitude of annual population changes over this period of time. As indicated above, the Metro Area lost population only twice in the past 46 years, approximately 4,700 in 1988 and approximately 17,000 in 2010. For example, between 1969 and 1975, population increased by approximately 36,200; between 1976 and 1987, population grew by an annual average of approximately 33,300; an annual average of approximately 43,200 between 1988 and 2003; an annual average of 36,700 between 2004 and 2010, and is currently growing by an annual average of approximately 58,600 per year.
During the years for which data on the City were available, Figure 4 illustrates the magnitude of annual population change in the City relative to the MSA. As indicated earlier, the City’s economy has grown proportionally more than the MSA’s during this time, but the City’s population has not. Although not illustrated here, using data from Figure 9, between 1980 and 1992 Lakewood captured an average of 6 percent of the MSA’s population growth. Since then, Lakewood has only accounted for an average of 2 percent of the MSA’s population growth (compared to an average of 5 percent employment capture).

Figure 11
Annual Lakewood Population Change as % of MSA
Age Categories

Another aspect of shifts in demographic change is the composition of those shifts. Table 5 illustrates this shift by age and generational categories at the MSA. In total, the population of the MSA grew by just over 675,000 between 2000 and 2015. The results are that those born after 2001 accounted for nearly 598,000 of that net new population, or 67 percent of positive population change. Millennials accounted for 24 percent or nearly 216,000 of the positive population change, and the Generation X accounted for 9 percent of positive population change (approximately 85,000). On the other end of the spectrum, the population of Baby Boomers in the MSA has dropped by more than 61,000 since 2000, accounting for 28 percent of the overall population losses. Also, the population of Silents has also declined by more than 161,000 since 2000, accounting for 72 percent of the overall population loss.

From the perspective of age categories, however, nearly 60 percent of the growth in population has come from persons over the age of 50 versus approximately 40 percent of population growth is due to influx of those under 50.

Table 5
MSA Population Change by Age, 2000-2015

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</tr>
</thead>
<tbody>
<tr>
<td>Under 5 years</td>
<td>168,113</td>
<td>190,721</td>
<td>22,608</td>
<td>1,507</td>
<td>0.84%</td>
<td>7.0%</td>
<td>6.2%</td>
</tr>
<tr>
<td>5 to 9 years</td>
<td>173,448</td>
<td>204,822</td>
<td>31,374</td>
<td>2,092</td>
<td>1.11%</td>
<td>7.2%</td>
<td>6.7%</td>
</tr>
<tr>
<td>10 to 14 years</td>
<td>170,704</td>
<td>202,115</td>
<td>31,411</td>
<td>2,094</td>
<td>1.13%</td>
<td>7.1%</td>
<td>6.6%</td>
</tr>
<tr>
<td>15 to 19 years</td>
<td>160,052</td>
<td>191,811</td>
<td>31,759</td>
<td>2,117</td>
<td>1.21%</td>
<td>6.7%</td>
<td>6.2%</td>
</tr>
<tr>
<td>20 to 24 years</td>
<td>163,980</td>
<td>205,139</td>
<td>41,159</td>
<td>2,744</td>
<td>1.50%</td>
<td>6.8%</td>
<td>6.7%</td>
</tr>
<tr>
<td>25 to 29 years</td>
<td>199,150</td>
<td>246,166</td>
<td>47,016</td>
<td>3,134</td>
<td>1.42%</td>
<td>8.3%</td>
<td>8.0%</td>
</tr>
<tr>
<td>30 to 34 years</td>
<td>199,404</td>
<td>244,847</td>
<td>45,443</td>
<td>3,030</td>
<td>1.38%</td>
<td>8.3%</td>
<td>8.0%</td>
</tr>
<tr>
<td>35 to 39 years</td>
<td>213,806</td>
<td>223,722</td>
<td>9,916</td>
<td>661</td>
<td>0.30%</td>
<td>8.9%</td>
<td>7.3%</td>
</tr>
<tr>
<td>40 to 44 years</td>
<td>212,699</td>
<td>219,639</td>
<td>6,940</td>
<td>463</td>
<td>0.21%</td>
<td>8.9%</td>
<td>7.1%</td>
</tr>
<tr>
<td>45 to 49 years</td>
<td>189,063</td>
<td>206,111</td>
<td>17,048</td>
<td>1,137</td>
<td>0.58%</td>
<td>7.9%</td>
<td>6.7%</td>
</tr>
<tr>
<td>50 to 54 years</td>
<td>154,961</td>
<td>203,977</td>
<td>49,016</td>
<td>3,268</td>
<td>1.85%</td>
<td>6.5%</td>
<td>6.6%</td>
</tr>
<tr>
<td>55 to 59 years</td>
<td>106,712</td>
<td>191,909</td>
<td>85,197</td>
<td>5,680</td>
<td>3.99%</td>
<td>4.4%</td>
<td>6.2%</td>
</tr>
<tr>
<td>60 to 64 years</td>
<td>75,061</td>
<td>177,535</td>
<td>102,474</td>
<td>6,832</td>
<td>5.91%</td>
<td>3.1%</td>
<td>5.8%</td>
</tr>
<tr>
<td>65 to 69 years</td>
<td>62,191</td>
<td>133,553</td>
<td>71,362</td>
<td>4,757</td>
<td>5.23%</td>
<td>2.6%</td>
<td>4.3%</td>
</tr>
<tr>
<td>70 to 74 years</td>
<td>54,053</td>
<td>91,252</td>
<td>37,199</td>
<td>2,480</td>
<td>3.56%</td>
<td>2.3%</td>
<td>3.0%</td>
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<tr>
<td>75 to 79 years</td>
<td>44,103</td>
<td>57,025</td>
<td>12,922</td>
<td>861</td>
<td>1.73%</td>
<td>1.8%</td>
<td>1.9%</td>
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<tr>
<td>80 to 84 years</td>
<td>28,967</td>
<td>39,936</td>
<td>10,969</td>
<td>731</td>
<td>2.16%</td>
<td>1.2%</td>
<td>1.3%</td>
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<tr>
<td>85 years and over</td>
<td>24,103</td>
<td>45,389</td>
<td>21,286</td>
<td>1,419</td>
<td>4.31%</td>
<td>1.0%</td>
<td>1.5%</td>
</tr>
<tr>
<td>Total</td>
<td>2,400,570</td>
<td>3,075,671</td>
<td>675,101</td>
<td>45,007</td>
<td>1.67%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Generational Category

<table>
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<tr>
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</thead>
<tbody>
<tr>
<td>Generation Z (Born 2001 or later)</td>
<td>0</td>
<td>597,658</td>
<td>597,658</td>
<td>0.0%</td>
</tr>
<tr>
<td>Millennials (Born 1981 to 2000)</td>
<td>672,317</td>
<td>887,964</td>
<td>215,647</td>
<td>14,376</td>
</tr>
<tr>
<td>Generation X (Born 1965 to 1980)</td>
<td>605,295</td>
<td>690,268</td>
<td>84,973</td>
<td>5,665</td>
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<tr>
<td>Baby Boomers (Born 1946 to 1964)</td>
<td>727,768</td>
<td>666,179</td>
<td>-61,589</td>
<td>-4,106</td>
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<tr>
<td>Silents or before (Born 1945 or before)</td>
<td>395,190</td>
<td>233,602</td>
<td>-161,588</td>
<td>-10,773</td>
</tr>
<tr>
<td>Total</td>
<td>2,400,570</td>
<td>3,075,671</td>
<td>675,101</td>
<td>45,007</td>
</tr>
</tbody>
</table>

Source: U.S. Census, ACS; Economic & Planning Systems
H:\163063-Lakewood Housing Study\Data\163063-Population by Age.xlsx\Table 2 - MSA Gen Growth
Table 6 illustrates this shift by age and generational categories for the City. In total, the City grew by just over 8,500 between 2000 and 2015. The results are that those born after 2001 accounted for nearly 24,400 of that net new population, or 70 percent of positive population change. Millennials accounted for 30 percent or nearly 10,200 of the positive population change. Unlike the MSA, the City lost nearly 5,300 Generation X’ers, which accounted for 20 percent of population loss. Also, the population of Baby Boomers dropped by 5,600, and the population of Silents also declined by more than 15,000 since 2000.

From the perspective of age categories, whereas the MSA added population in all age categories, the City has lost population in 7 of the 10 age categories under 50, accounting for a net loss of 5,400 persons under the age of 50. On the other hand, the population of those over 50 increased by nearly 14,000.

Table 6
Lakewood Population Change by Age, 2000–2015

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</thead>
<tbody>
<tr>
<td>Under 5 years</td>
<td>8,685</td>
<td>8,392</td>
<td>-293</td>
<td>-20</td>
<td>-0.23%</td>
<td>6.0%</td>
<td>5.5%</td>
</tr>
<tr>
<td>5 to 9 years</td>
<td>9,164</td>
<td>7,324</td>
<td>-1,840</td>
<td>-123</td>
<td>-1.48%</td>
<td>6.4%</td>
<td>4.8%</td>
</tr>
<tr>
<td>10 to 14 years</td>
<td>8,718</td>
<td>8,698</td>
<td>-20</td>
<td>-1</td>
<td>-0.02%</td>
<td>6.1%</td>
<td>5.7%</td>
</tr>
<tr>
<td>15 to 19 years</td>
<td>8,826</td>
<td>8,392</td>
<td>-434</td>
<td>-29</td>
<td>-0.34%</td>
<td>6.1%</td>
<td>5.5%</td>
</tr>
<tr>
<td>20 to 24 years</td>
<td>10,327</td>
<td>11,749</td>
<td>1,222</td>
<td>81</td>
<td>0.74%</td>
<td>7.3%</td>
<td>7.7%</td>
</tr>
<tr>
<td>25 to 29 years</td>
<td>11,592</td>
<td>14,038</td>
<td>2,446</td>
<td>163</td>
<td>1.28%</td>
<td>8.0%</td>
<td>9.2%</td>
</tr>
<tr>
<td>30 to 34 years</td>
<td>10,652</td>
<td>11,444</td>
<td>792</td>
<td>53</td>
<td>0.48%</td>
<td>7.4%</td>
<td>7.5%</td>
</tr>
<tr>
<td>35 to 39 years</td>
<td>11,781</td>
<td>10,376</td>
<td>-1,405</td>
<td>-94</td>
<td>-0.84%</td>
<td>8.2%</td>
<td>6.8%</td>
</tr>
<tr>
<td>40 to 44 years</td>
<td>12,193</td>
<td>9,155</td>
<td>-3,038</td>
<td>-192</td>
<td>-1.95%</td>
<td>7.8%</td>
<td>5.5%</td>
</tr>
<tr>
<td>45 to 49 years</td>
<td>11,275</td>
<td>8,392</td>
<td>-2,883</td>
<td>-192</td>
<td>-1.95%</td>
<td>7.8%</td>
<td>5.5%</td>
</tr>
<tr>
<td>50 to 54 years</td>
<td>9,562</td>
<td>9,613</td>
<td>5</td>
<td>3</td>
<td>0.04%</td>
<td>6.6%</td>
<td>6.3%</td>
</tr>
<tr>
<td>55 to 59 years</td>
<td>7,478</td>
<td>11,749</td>
<td>4,271</td>
<td>285</td>
<td>3.06%</td>
<td>5.2%</td>
<td>7.7%</td>
</tr>
<tr>
<td>60 to 64 years</td>
<td>6,149</td>
<td>9,766</td>
<td>3,617</td>
<td>241</td>
<td>3.13%</td>
<td>4.3%</td>
<td>6.4%</td>
</tr>
<tr>
<td>65 to 69 years</td>
<td>5,572</td>
<td>7,629</td>
<td>2,057</td>
<td>137</td>
<td>2.12%</td>
<td>3.9%</td>
<td>5.0%</td>
</tr>
<tr>
<td>70 to 74 years</td>
<td>4,142</td>
<td>5,341</td>
<td>1,199</td>
<td>80</td>
<td>1.71%</td>
<td>2.9%</td>
<td>3.5%</td>
</tr>
<tr>
<td>75 to 79 years</td>
<td>3,362</td>
<td>3,510</td>
<td>148</td>
<td>10</td>
<td>0.29%</td>
<td>2.3%</td>
<td>2.3%</td>
</tr>
<tr>
<td>80 to 84 years</td>
<td>2,305</td>
<td>3,357</td>
<td>1,052</td>
<td>70</td>
<td>2.54%</td>
<td>1.6%</td>
<td>2.2%</td>
</tr>
<tr>
<td>85 years and over</td>
<td>2,106</td>
<td>3,662</td>
<td>1,556</td>
<td>104</td>
<td>3.76%</td>
<td>1.5%</td>
<td>2.4%</td>
</tr>
<tr>
<td>Total</td>
<td>144,089</td>
<td>152,589</td>
<td>8,500</td>
<td>567</td>
<td>0.38%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

<table>
<thead>
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</tr>
</thead>
<tbody>
<tr>
<td>Generation Z (Born 2001 or later)</td>
<td>0</td>
<td>24,414</td>
<td>24,414</td>
<td>1,628</td>
<td>n/a</td>
<td>0.0%</td>
<td>16.0%</td>
</tr>
<tr>
<td>Millennials (Born 1981 to 2000)</td>
<td>35,393</td>
<td>45,624</td>
<td>10,231</td>
<td>682</td>
<td>1.71%</td>
<td>24.6%</td>
<td>29.9%</td>
</tr>
<tr>
<td>Generation X (Born 1965 to 1980)</td>
<td>35,127</td>
<td>29,846</td>
<td>-5,281</td>
<td>-352</td>
<td>-1.08%</td>
<td>24.4%</td>
<td>19.6%</td>
</tr>
<tr>
<td>Baby Boomers (Born 1946 to 1964)</td>
<td>42,455</td>
<td>36,835</td>
<td>-5,620</td>
<td>-375</td>
<td>-0.94%</td>
<td>29.5%</td>
<td>24.1%</td>
</tr>
<tr>
<td>Silents or before (Born 1945 or before)</td>
<td>31,114</td>
<td>15,869</td>
<td>-15,245</td>
<td>-1,016</td>
<td>-4.39%</td>
<td>21.6%</td>
<td>10.4%</td>
</tr>
<tr>
<td>Total</td>
<td>144,089</td>
<td>152,589</td>
<td>8,500</td>
<td>567</td>
<td>0.38%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Source: U.S. Census, ACS; Economic & Planning Systems

H:\R3063-Lakewood Housing Study\Data\R3063-Population by Age.xlsx Table 3 - Lakewood Gen Grow
3. **Supply-Side Analysis**

This chapter describes supply-side data for the City of Lakewood, including housing inventory, residential development densities, occupancy and vacancy levels, age of the City’s inventory by year built, residential construction trends, existing home sales, and rental market trends. Much of the analysis of these data is completed using GIS. In order to show the cyclical nature of certain trends, many of the trends in these data series are also provided with points of geographic (such as the U.S., State, or MSA levels) or historical comparisons where data are available. Data sources used for this analysis include: U.S. Census, American Community Survey, City of Lakewood Building Department, Genesis Group MLS data, Costar/Apartments.com, the State and Metro Area Apartment Vacancy and Rent Surveys, as well as the Federal Housing Finance Agency (FHFA).

In general, the analysis points to a stable housing supply in the City. This stability is described both in terms of general occupancy and vacancy levels, tenure shift, as well as rates of ownership housing turnover. Other findings, such as the pace of residential construction activity in the City versus recent increases in magnitude of construction activity in the remainder of the MSA, point toward a challenge inherent in this stability. In other terms, an analysis of age of structure built illustrates that a predominance of the City’s housing inventory was built before 2000, confirmed by the trends in residential construction from the Building Department. While these recent increases in construction magnitude are pointing toward cyclical highs in the State and MSA’s inventory growth (facilitating population growth), the relative “build out” of the City (with the exception of areas identified for redevelopment) is preventing it from growing at a similar pace. These findings and their implications will be explored further as to what is contributing to these patterns, in an analysis of the regulatory context.

**Housing Inventory**

Between 2000 and 2015, the City of Lakewood’s total inventory of occupied and vacant housing grew by approximately 5,100 units (from 62,422 to 67,523 units). **Figure 12** illustrates the increase in housing inventory between 2000 and 2015 by Census tract. It should be noted that 14 Census tracts within Jefferson County were recoded between 2000 and the following decennial Census, replaced by 13 tracts of different coding and geographic areas, 12 of which are in the City, making a complete comparison of all areas within the City impossible. For tracts that did not change, however, it can be seen that the inventory of the central, west-central, and southeast areas generally gained the most housing while a few tracts in the northeast and south-central had net losses. Data from the City’s Building Department confirm these losses with a total of approximately 580 demolition permits (single-family detached and attached, duplexes, three- and four-plexes, as well as apartment buildings).
Figure 12
Housing Inventory Change, 2000-2015

Legend
Housing Inventory Change, 2000-2015
- Loss or no change
- Up to 50
- 51 to 100
- 101 to 250
- More than 250
Housing Densities

One way to assess the homogeneity or diversity of the City’s housing supply is to identify its general densities. On a geographic basis, the presumption is that a homogeneous housing supply will be evidenced by relatively consistent densities throughout the city. On the other end of the spectrum, a diverse housing supply would be evidenced by inconsistent and widely ranging residential densities throughout the City. Figure 13 illustrates the assessment of gross densities throughout Lakewood using Census tract level data on total housing inventory and the total acreage contained within each tract.

The analysis does not reveal a clear finding of strict homogeneity or diversity of housing supply. A majority of tracts have gross densities that are relatively low, falling between 2 to 4 dwelling units per acre, but there are also tracts with much higher and much lower gross densities, ranging between less than one unit per acre up to more than 11 units per acre. It should be noted that gross density is calculated as the total number of housing units divided by the total acreage for each Census Tract. Total acreage includes streets, open space, and non-residential development. For example, some tracts close to Denver, along Highway 6, and along Colfax Avenue have higher densities while tracts near open space to the southwest and more recently-development parts of the southwest have lower densities.
Housing Types

Another way to assess the homogeneity or diversity of housing is to look at the inventory of units by the number of units in structures, as illustrated in Table 7. Using data representative of 2015 from the U.S. Census, the analysis shows that 50 percent of Lakewood’s housing inventory falls into the single-family detached category with another 10 percent single-family attached (which can be interpreted as duplexes, triplexes or quads in the same way that 2-unit, and 3-/4- units in structure can also be interpreted). In total, Lakewood seems to have approximately 60 percent single-family housing (including what might be considered single-family detached as well as duplexes) while the MSA seems to have approximately 68 percent.

The differences in housing type, however, appear when calculated the portion of housing classified as buildings with 2 or more "apartments". In total, 35 percent of the City’s housing stock falls into the categories of housing units in buildings with 2 to 49 apartments, while 25 percent of the MSA’s inventory falls into this category. At the other end of the spectrum, an estimated 5 percent of Lakewood’s inventory is classified as housing in buildings with 50 or more apartments, while 8 percent of the MSA’s inventory falls into this category.

Table 7
Units in Structure by County, 2015

<table>
<thead>
<tr>
<th>Units by Type</th>
<th>SFD</th>
<th>SFA</th>
<th>2-units</th>
<th>3-unit / 4-unit</th>
<th>5 to 9 units</th>
<th>10 to 19</th>
<th>20 to 49</th>
<th>50 or more units</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adams</td>
<td>101,544</td>
<td>12,573</td>
<td>1,149</td>
<td>4,174</td>
<td>7,380</td>
<td>13,110</td>
<td>9,501</td>
<td>5,147</td>
<td>154,578</td>
</tr>
<tr>
<td>Arapahoe</td>
<td>138,208</td>
<td>23,839</td>
<td>1,873</td>
<td>6,711</td>
<td>14,756</td>
<td>23,471</td>
<td>19,003</td>
<td>13,816</td>
<td>241,677</td>
</tr>
<tr>
<td>Denver</td>
<td>138,561</td>
<td>23,457</td>
<td>6,876</td>
<td>10,427</td>
<td>13,789</td>
<td>28,377</td>
<td>33,025</td>
<td>48,941</td>
<td>303,453</td>
</tr>
<tr>
<td>Douglas</td>
<td>92,844</td>
<td>8,736</td>
<td>135</td>
<td>1,749</td>
<td>4,597</td>
<td>5,403</td>
<td>3,529</td>
<td>3,558</td>
<td>120,551</td>
</tr>
<tr>
<td>Jefferson</td>
<td>153,971</td>
<td>21,479</td>
<td>2,553</td>
<td>7,625</td>
<td>12,426</td>
<td>14,746</td>
<td>12,005</td>
<td>8,163</td>
<td>232,968</td>
</tr>
<tr>
<td>Total</td>
<td>625,128</td>
<td>90,084</td>
<td>12,586</td>
<td>30,686</td>
<td>52,948</td>
<td>85,107</td>
<td>77,063</td>
<td>79,625</td>
<td>1,053,227</td>
</tr>
<tr>
<td>Lakewood</td>
<td>33,286</td>
<td>6,805</td>
<td>1,445</td>
<td>3,332</td>
<td>5,798</td>
<td>7,422</td>
<td>5,672</td>
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<td>Units as % of Total</td>
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<td></td>
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<td></td>
<td></td>
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<tr>
<td>Adams</td>
<td>66%</td>
<td>8%</td>
<td>1%</td>
<td>3%</td>
<td>5%</td>
<td>8%</td>
<td>6%</td>
<td>3%</td>
<td>100%</td>
</tr>
<tr>
<td>Arapahoe</td>
<td>57%</td>
<td>10%</td>
<td>1%</td>
<td>3%</td>
<td>6%</td>
<td>10%</td>
<td>8%</td>
<td>6%</td>
<td>100%</td>
</tr>
<tr>
<td>Denver</td>
<td>46%</td>
<td>8%</td>
<td>2%</td>
<td>3%</td>
<td>5%</td>
<td>9%</td>
<td>11%</td>
<td>16%</td>
<td>100%</td>
</tr>
<tr>
<td>Douglas</td>
<td>77%</td>
<td>7%</td>
<td>0%</td>
<td>1%</td>
<td>4%</td>
<td>4%</td>
<td>3%</td>
<td>3%</td>
<td>100%</td>
</tr>
<tr>
<td>Jefferson</td>
<td>66%</td>
<td>9%</td>
<td>1%</td>
<td>3%</td>
<td>5%</td>
<td>6%</td>
<td>5%</td>
<td>4%</td>
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<tr>
<td>Total</td>
<td>59%</td>
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<td>1%</td>
<td>3%</td>
<td>5%</td>
<td>8%</td>
<td>7%</td>
<td>8%</td>
<td>100%</td>
</tr>
<tr>
<td>Lakewood</td>
<td>50%</td>
<td>10%</td>
<td>2%</td>
<td>5%</td>
<td>9%</td>
<td>11%</td>
<td>8%</td>
<td>5%</td>
<td>100%</td>
</tr>
<tr>
<td>as % difference from MSA</td>
<td>-10%</td>
<td>2%</td>
<td>1%</td>
<td>2%</td>
<td>4%</td>
<td>3%</td>
<td>1%</td>
<td>-3%</td>
<td></td>
</tr>
</tbody>
</table>

Source: U.S. Census; Economic & Planning Systems

8 The U.S. Census asks survey takers to indicate the type of housing they live in by the following terms: "a one-family house detached from any other house, a one-family house attached to one or more houses, a building with 2 apartments, a building with 3 or 4 apartments, a building with 5 to 9 apartments, a building with 10 to 19 apartments, a building with 20 to 49 apartments, and a building with more than 50 apartments."
Tenure

In 2000, 39 percent of households were renters and 61 percent were owner households. As illustrated by Figure 14, some parts of the City had higher proportions of renter households than other parts, such as many throughout the northern area of the City as well as a few tracts through the southern area.

**Figure 14**
Renter Household Proportions by Tract, 2000
While not a significant shift, by 2015 the overall proportion of renter households had increased to 41 percent with the owner household share at 59 percent. Figure 15 illustrates how renter household proportions changed by Census tract. Many of the tracts in the City’s north had average renter household proportions well above the citywide average, ranging generally between 50 and 72 percent. The west-central parts of the City, which are newer residential areas, indicate very low renter household proportions, i.e., where ownership households are in the majority.

Figure 15
Renter Household Proportions by Tract, 2015
**Figure 16** illustrates that tenure in the City has remained relatively stable since 2000. Minor shifts up and down have contributed to a narrow swing in ownership rates between 56 percent (2012 and 2014) and 63 percent (2007), a finding consistent with household experience at the high point of the housing bubble and generally the low point of the recovery.

**Figure 16**
**Historic Tenure Shifts, 1980-2015**

Source: U.S. Census; Economic & Planning Systems
Housing Vacancy

Figure 17 illustrates the shifts in vacancy rates by Census tract between 2000 and 2015. Positive percentages indicate an increase in the vacancy rate among the housing inventory, and negative percentages indicate a decrease in the vacancy rate (increase in the occupancy rates). Vacancy levels were most stable in the Census tracts along Colfax east to west as well as north to south between Kipling and Sheridan.

Figure 17
Vacancy Rate Shifts by Tract, 2000-2015
Figure 18 illustrates the portion of housing inventory that is vacant by Census tract among the existing inventory as of 2015. Vacancy rates are generally higher in the northern parts of the City, with the exception of a few Census tracts in the south that also have relatively high vacancy rates. Overall, the City’s vacancy rate in 2015 was 2.8 percent, equating to approximately 1,900 vacant units.

Figure 18
Vacancy Rates by Tract, 2015
As noted in the discussion of Figure 12 on page 31, the City’s total inventory of occupied and vacant housing increased by 5,100 units between 2000 and 2015. Figure 19 illustrates that the housing vacancy rate between 2000 and 2015 started at 3.0 percent in 2000 and ended at 2.8 percent in 2015. By comparison, the most current (2015) vacancy rate in Jefferson County is 3.7 percent, whereas the 7-county Denver MSA’s vacancy rate is 4.5 percent. (Boulder County’s vacancy rate is the highest at 5.9 percent, but the City and County of Denver’s inventory of vacant housing is the highest at 16,900 units.)

While fluctuating up and down between approximately 4.0 and 6.4 percent, the fact that the City began and ended this period of analysis with effectively the same vacant rate means that the increase in number of total and occupied housing units were approximately the same. According to the analysis, the inventory of occupied housing increased by 5,115 units (by comparison to the overall increase in housing of 5,100 units).

Figure 19
Housing Inventory and Vacancy Rates, 2000-2015

Source: U.S. Census; Economic & Planning Systems

H:\163063-Lakewood Housing Study\Data\163063-Tenure and Occupancy.xlsx\Occupancy
Jobs to Housing

The significance of this vacancy rate trend is not that the findings are important in themselves, but interpreted simultaneously with the growth of jobs and total housing inventory, they indicate that Lakewood’s jobs to housing ratio has changed to a greater degree than any other part of the MSA, as illustrated in Table 8. Between 2000 and 2015, the MSA, as defined by just five counties as shown, added 186,200 jobs and nearly 200,600 occupied housing units, representing a ratio of nearly 1 job per 1 housing unit. Lakewood, on the other hand, added nearly 16,600 jobs and only 5,100 occupied housing units, a ratio of more than 3 jobs to 1 housing units. Adding to this consideration the fact that the vacancy rate is not any lower than it is means that the City has not utilized its existing inventory any more efficiently than it was in 2000.

Table 8
Jobs to Housing Trends, 2000-2015

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Adams</td>
<td>152,653</td>
<td>128,156</td>
<td>1.2</td>
<td>206,324</td>
<td>159,313</td>
<td>1.3</td>
<td>53,671</td>
<td>31,157</td>
<td>1.7</td>
</tr>
<tr>
<td>Arapahoe</td>
<td>299,585</td>
<td>190,909</td>
<td>1.6</td>
<td>337,023</td>
<td>233,937</td>
<td>1.4</td>
<td>37,438</td>
<td>43,028</td>
<td>0.9</td>
</tr>
<tr>
<td>Denver</td>
<td>496,361</td>
<td>239,235</td>
<td>2.1</td>
<td>509,483</td>
<td>287,074</td>
<td>1.8</td>
<td>13,122</td>
<td>47,839</td>
<td>0.3</td>
</tr>
<tr>
<td>Douglas</td>
<td>61,114</td>
<td>60,924</td>
<td>1.0</td>
<td>122,621</td>
<td>118,613</td>
<td>1.0</td>
<td>61,507</td>
<td>57,689</td>
<td>1.1</td>
</tr>
<tr>
<td>Jefferson</td>
<td>222,859</td>
<td>206,067</td>
<td>1.1</td>
<td>243,321</td>
<td>226,920</td>
<td>1.1</td>
<td>20,462</td>
<td>20,853</td>
<td>1.0</td>
</tr>
<tr>
<td>Total</td>
<td>1,232,572</td>
<td>825,291</td>
<td>1.5</td>
<td>1,418,773</td>
<td>1,025,857</td>
<td>1.4</td>
<td>186,201</td>
<td>200,566</td>
<td>0.9</td>
</tr>
<tr>
<td>Lakewood</td>
<td>[Note 1]</td>
<td>61,614</td>
<td>60,531</td>
<td>1.0</td>
<td>78,190</td>
<td>65,646</td>
<td>1.2</td>
<td>16,576</td>
<td>5,115</td>
</tr>
</tbody>
</table>

[Note 1]: Jobs shown for 2000 are actually the total for 2001;
Source: U.S. Census; BLS; Economic & Planning Systems

H:\163063-Lakewood Housing Study\Data\163063- Tenure and Occupancy.xlsx\TABLE 2 - Jobs to Housing
Age of Structure

**Figure 20** illustrates by Census tract the portion of all (owner and renter) inventory built before 1980. In total, approximately 72 percent of the City’s inventory was built before 1980. For tracts located closer to the core of the Metro Area, up to 93 percent of the existing inventory was built before this time. For tracts located to the southwest, less than half to almost none of the existing inventory was built before this time.

**Figure 20**
Percent of Existing Inventory Built Before 1980
Another composite of the inventory data is illustrated in **Figure 21**, which shows the portion of existing inventory by tract built between 1980 and 2000. In total, approximately 21 percent of the City’s inventory was built during this period. In the older parts of the City, generally less than 10 percent of existing inventory was built during this time, but in newer parts more than 50 percent was built.

**Figure 21**
Percent of Existing Inventory Built Between 1980 and 2000
As a final component of this data series, **Figure 22** illustrates the portion of existing inventory built since 2000. In total, only 7 percent (fewer than 4,700 units) of the City’s existing inventory was built during the previous 15 years. With the exception of a few Census tracts, the purpose of this is to visualize the finding that only a very small portion of the City’s existing inventory was built during this time. This is also apparent in the following analysis of building permit data.

**Figure 22**
Percent of Existing Inventory Built After 2000
Residential Construction Activity

Figure 23 illustrates the location of residential development activity in the City between 2000 and 2016 (through the end of September). In the south, approximately one-third of all permits were issued in the Rooney Valley and Summit Glen subdivisions north of Morrison Road and east of C-470. Other areas of concentrated development occurred in the Illiff Ridge along Kipling south of Jewell Avenue, as well as along Jewell between Sheridan and Wadsworth. Much of the multifamily construction activity occurred in Belmar, which accounts for more than 10 percent of permit activity.

Figure 23
Location of Lakewood Building Permits, 2000-2016
Figure 24 illustrates a longer-term perspective on residential construction between 1987 and 2015 in Colorado. During this time, there have been two general cycles, one of which is documented entirely by this chart (1989 to 2009), the other of which has yet to peak. The graph illustrates a normalization of each trend with annual activity as an index of 1987 activity. It illustrates how similar the high and low points of the cycles are for the MSA and State, where activity generally peaked at approximately 260 to 300 percent of 1987 levels in 2000 and fell to approximately 30 percent of 1987 levels in 2009 and 2010.

**Figure 24**

In terms of actual construction, Figure 25 illustrates total units permitted, averaging 520 units per year. Except for the previous two to three years, the trend visualizes that the City has not experienced magnitudes of residential construction like it did in 2014 since before 2000.

**Figure 25**
Lakewood Residential Construction Activity, 1987-2015
**Figure 26** illustrates the location of building permits in the City during the last 16 years. The permits are illustrated also by type, distinguishing between single-family detached housing (small black dots), single-family attached (small orange dots), duplexes (blue dots), triplexes and quads (purple squares), and other multi-family buildings with five or more units (red squares).

**Figure 26**
Location of Building Permits by Type, 2000-2016
Figure 27 illustrates targeted growth areas identified in Chapter 5 of the City’s Comprehensive Plan. Even though the growth areas were identified through a process and plan that was completed recently in 2015, there is considerable alignment between concentrations of building activity and the growth areas.

Figure 27
Comprehensive Plan Growth Areas
Residential Sales Activity

Figure 28 illustrates the location of all sales of new and existing homes (attached single-family, detached single-family, and multifamily) between 2000 and 2016, a sample of 36,707 sales.

Figure 28
Home Sales, 2000-2016
Figure 29 illustrates the average sales price of homes sold in the City by Census Tract in 2000. Citywide, the average price of a home was approximately $185,700 ($127 per square-foot for an average 1,460 square-foot home). The average price of an attached home (including townhome, duplexes, or condominiums) was approximately $126,900 with an average size of 1,100 square feet. The average price of a single-family detached home was approximately $227,200 with an average size of 1,700 square feet.

Figure 29
Average Sales Prices, 2000
Figure 30 illustrates how the average sales prices by Census tract increased considerably throughout the City. Overall, the average price of a home nearly doubled at an increase of 82 percent to approximately $337,600. This equates to $159 per square foot for a 2,100 square-foot home (nearly 700 square feet larger than the average home sold in 2000). By 2016, the average 1,400 square-foot attached home sold for approximately $228,800, and the average single-family 2,600 square-foot detached home sold for approximately $405,500.

Figure 30
Average Sales Prices, 2016
Using datasets from the previous two charts, Figure 31 illustrates the average price appreciation in home sales by Census Tract between 2000 and 2016. At the City level, home prices appreciated 3.8 percent per year, attached homes appreciated at 3.8 percent, and single-family detached homes appreciated at 3.7 percent. Areas with generally the highest overall price appreciation were those closest to Denver east of Kipling and north of Jewell.

Figure 31
Sales Price Appreciation, 2000-2016
But during the 16-year timeframe, housing prices have risen, fallen, and risen again. To separate the cycle in the first part of the 2000s, Figure 31 illustrates the average price appreciation in home sales by Census Tract between 2011 and 2016. Citywide, home prices appreciated at 10.5 percent per year, attached home prices appreciated at 13.4 percent, and single-family detached home prices appreciated at 10.1 percent. In general, the highest rates of housing price appreciation occurred in areas closest to Denver, with many of the highest increases near Sloan’s Lake north of Colfax.

Figure 32
Sales Price Appreciation, 2011-2016
Figure 33 illustrates how home sales prices in the City of Lakewood, the Denver MSA, and the U.S. appreciated between 2000 and 2016. Most notable is how differently the Metro Area and the nation experienced the national housing bubble. While the average home price nationwide was escalating at 7.9 percent annually between 2000 and 2006, the average home price in Lakewood and the MSA was escalating at just 4.4 percent annually.

As a result, the market’s correction (decline in average sales prices) in the subsequent four to five years was not as pronounced as at the national level. National average prices dropped a total of 19 percent between 2006 and 2011 (accounting for the national economic recession of 2007 through 2009 and two years of stagnant economic conditions), while average prices in the City dropped only 15 percent, and at the MSA level prices dropped only 5 percent.

Following the recovery, the City and MSA have experienced housing price escalation at considerably higher rates than the country. Nationally, housing prices have risen 5.1 percent annually since 2011, but in the City they have increased by 10.5 percent annually, as indicated previously, and 9.9 percent annually at the MSA level.
Figure 34 illustrates that the average sales price of a home in Lakewood has increased to approximately $338,000 from $186,000 in 2000, an 82 percent increase. Between 2000 and 2006, housing sales price appreciation averaged 4.4 percent per year rising to nearly $241,000 in 2006. Between 2006 and 2011, the average price of a resale dropped to approximately $205,000, reflecting an average annual decline of 3.2 percent. Since 2011, however, and like the rest of the Denver MSA, average prices have escalated by substantial rates. The average price climbed to nearly $338,000 by 2016, reflecting an annual price appreciation of 10.5 percent. It should be noted that 2016 volume numbers reflect a partial year of data (only through September).

Figure 34
Home Price Escalation, 2000-2016

Figure 35 illustrates how the volume of sales in the City has returned to a general magnitude on par with units sold during the early 2000s.

Figure 35
Sales Volume, 2000-2015
Ownership Housing Turnover

Figure 36 illustrates the portion of existing ownership housing that was sold (called turnover) in 2015 by Census tract. In total, 5 percent of the City’s ownership housing sold during the year. Lower rates would tend to indicate areas of greater stability, while areas with higher rates would indicate areas of more rapid change demographically or socio-economically.

Figure 36
Ownership Housing Inventory Turnover, 2015
**Rental Market Activity**

**Figure 37** illustrates the long-term patterns of the rental market’s monthly rental rates and vacancy rates for the Denver MSA. One of the noteworthy findings of this pattern is the ten-year cycle of these two trends. Between 1981 and 1990, following a major boom in apartment construction, vacancy rates shot up to 14 percent, while average monthly rents increased at 1.3 percent per year for 10 years. As occupancy levels increased with increased population growth to 1990, vacancy rates remained around 5 percent or lower for the following 10-year period, during which average rents increased at 7.4 percent annually. In early 2001, also following a massive boom in apartment construction (typically stimulated by sub-5 percent vacancies), MSA vacancy rates jumped to 13 percent. Between 2001 and 2010 when demand began to increase, occupancies and the vacancy rate dropped and average rents increased at 1.1 percent per year. But in 2010 following the Great Recession, vacancy rates fell below 5 percent, which has stimulated the most recent spike in multifamily construction activity and led to an escalation in monthly rents of 8.1 percent per year; this has continued for the past six years.

**Figure 37**

*Denver MSA Vacancy and Rent Trends, 1981-2016*
Although data are not available going back as far, **Figure 38** illustrates the rental market trends of the past 16 years. As previously visualized, MSA vacancies in 2001 had been relatively low for the previous 10 years, which led to a boom in apartment construction. Rents had also been on a rapid uphill climb since 1990. In 2001, however, vacancy rates increased rapidly at the MSA level and to nearly 11 percent in the City of Lakewood followed by a 10-year stretch of stagnating rents (0.0 percent change on an annual basis). In 2010, vacancy rates began to dip below 5 percent at the MSA and City levels, stimulating construction as well as rapid price escalation. In the City, average rents have escalated at 9.7 percent since 2010. Also as illustrated in the previous chart, vacancy rates continue to fluctuate in and around the 5 percent mark, indicating a continuation of the current construction cycle.

**Figure 38**
Lakewood Vacancy and Rent Trends, 2000-2016
To illustrate how similarly the City’s apartment market has behaved, Figure 39 illustrates a comparison of vacancy rates to the Denver MSA and State of Colorado. Paralleling the State and MSA, the fluctuation in the City’s vacancy rate has been slightly less pronounced.

**Figure 39**
Vacancy Rate Trends, 2000-2015

In regards to how similarly rental rates in the City have paralleled the State and MSA, Figure 40 illustrates not only how closely aligned the stagnation of average rates was between 2000 and 2010, but also how homogenous the rental rates are throughout the State. (The City’s average monthly rent has historically been 7 percent below the MSA average since 2000.)

**Figure 40**
Rental Rate Trends, 2000-2015
4. **STATED PREFERENCES**

This chapter details the findings of the Lakewood workforce survey. The findings reveal useful patterns of choice, or stated preference, by age level, such that can be juxtaposed against a backdrop of housing supply, community assets and amenities. Demographic and socioeconomic characteristics of the survey respondents were noted to ensure alignment with the City of Lakewood’s population – i.e. that the results of the survey are statistically valid.

The survey was fielded between the beginning of December 2016 and March 2017. Additional time in leaving the survey “in the field” was granted for this project because it was fielded through the human resources departments at various major City of Lakewood employers. As such, time was allowed for coordination of this effort to ensure that the results represented the City’s major employers. These efforts yielded a total of 1,344 survey responses, approximately 490 of whom were both residents and workers in the City.

As with any stated preference survey, it should be noted that any such survey is subject to interpretation of results and that they are not scientific or completely reliable indications of what will happen in the future. They are, as intended for use and consideration in this study, best applied as guides to understanding the preferences of individuals and households regarding what is driving their decisions now and understanding what may guide their decisions in the future.

**Characteristics of Choice**

This section is devoted to detailing the different findings of how Lakewood’s workforce, represented by survey respondents, choose where to live. Considerable national research has been devoted to this subject, and EPS’s approach has been guided by an interest in bringing information to the City of Lakewood that is most relevant given current local and national political interests and discourse.

Housing choices are made based on a wide variety of factors from stage-of-life needs, physical characteristics, as well as neighborhood and community characteristics. Some of these overarching components are more important at different stages of life (e.g. consideration of housing price for first-time homebuyers), and others are consistently important to households (e.g. a sense of safety and security in their home). Each section below details the respective categories of housing choice and summarizes the findings of the survey.

**Stage of Life Needs**

An individual’s or household’s stage of life drives housing choice to a degree. Singles tend not to be interested in a large house on a large lot, because their lifestyle and household type don’t demand it. A family with numerous children, however, does have a greater need for a larger home and lot. Yet, as many singles become couples building families, their considerations change.

In this regard, stage-of-life needs are a way to interpret the results here. To do so, each section presents information across the age spectrum as well as by current versus their stated future housing choice preferences. The intent is to gain a deeper understanding of how Lakewood’s
workforce identifies factors that are and will likely be most important to them as they anticipate (at the very least) life stage changes in the next five years.

As will be shown throughout this section, the answer to that question is predominately that most of the considerations, for example, such as interest in higher-density housing types that, a willingness to endure relatively less privacy between housing units, and a desire to live in close proximity to amenities are largely stage-of-life driven. And while the focus of national discourse tends to focus on Millennials and their desires (which are driving many of today’s highly-amenitized luxury apartment projects), attention should also be placed on the needs of the population that is approaching retirement. As such, the results for each of the features depicted are broken down by age category: under 35s, those 35 to 54, and those 55 and older.

**Physical Features**

Among the most direct choices made in choosing where to live, the following series of charts display how respondents rate the following types of physical home features, including the type of unit, its size, energy efficiency, historic character, and construction quality, as well as price, factor into the workforce’s decisions. Displayed below illustrate the ranking of highest to lowest relative importance based on the portion of respondents that indicated various factors were “very important” to their current (Figure 41) and future (Figure 42) housing choices.

**Figure 41**
Importance of Physical Features Choice Factors

**Figure 42**
Importance of Physical Features to Future Choice Factors
Neighborhood Features

This section presents respondent preferences regarding neighborhood characteristics or more broadly, elements of the immediate surroundings that impact one’s sense of neighborhood, such as sense of safety and security, privacy, the presence of parks, trails and open space, sidewalks, streetscaping.

**Figure 43**
*Importance of Neighborhood Features Choice Factors*

<table>
<thead>
<tr>
<th>Neighborhood Features</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
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</thead>
<tbody>
<tr>
<td>Sense of safety</td>
<td>13%</td>
<td>21%</td>
<td>41%</td>
<td>27%</td>
</tr>
<tr>
<td>Well-designed sidewalks</td>
<td>4%</td>
<td>9%</td>
<td>41%</td>
<td>46%</td>
</tr>
<tr>
<td>Sense of privacy</td>
<td>2%</td>
<td>13%</td>
<td>39%</td>
<td>45%</td>
</tr>
<tr>
<td>Range of housing types</td>
<td>17%</td>
<td>27%</td>
<td>39%</td>
<td>18%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

**Figure 44**
*Importance of Neighborhood Features to Future Choice Factors*

<table>
<thead>
<tr>
<th>Neighborhood Features</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sense of safety</td>
<td>12%</td>
<td>17%</td>
<td>41%</td>
<td>36%</td>
</tr>
<tr>
<td>Well-designed sidewalks</td>
<td>3%</td>
<td>10%</td>
<td>36%</td>
<td>51%</td>
</tr>
<tr>
<td>Sense of privacy</td>
<td>2%</td>
<td>11%</td>
<td>39%</td>
<td>48%</td>
</tr>
<tr>
<td>Range of housing types</td>
<td>13%</td>
<td>28%</td>
<td>41%</td>
<td>18%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
Community Features

In some ways, neighborhood and community characteristics are identical. Neighborhood amenities, such as restaurants, shopping, and entertainment may be in walking distance and lend themselves toward a “sense of community” or “place”. As such, this section details preferences for living in proximity to various types of amenities, such as in walking distance to shops, restaurants, and entertainment or transit options. It also details the preferences for living in proximity to work, which mode of transportation they prefer to use for their commute, and how they view these preferences changing in the future.

Figure 45
Importance of Community Features to Choice Factors

<table>
<thead>
<tr>
<th>Community Features</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Short commute to work</td>
<td>8%</td>
<td>12%</td>
<td>31%</td>
<td>49%</td>
</tr>
<tr>
<td>Walk to parks, recreation</td>
<td>6%</td>
<td>11%</td>
<td>39%</td>
<td>44%</td>
</tr>
<tr>
<td>Quality public schools</td>
<td>24%</td>
<td>17%</td>
<td>21%</td>
<td>38%</td>
</tr>
<tr>
<td>Walk to shops, restaurants</td>
<td>15%</td>
<td>25%</td>
<td>30%</td>
<td>30%</td>
</tr>
<tr>
<td>Walk to rail, bus stop</td>
<td>19%</td>
<td>25%</td>
<td>32%</td>
<td>24%</td>
</tr>
<tr>
<td>Walk to schools</td>
<td>43%</td>
<td>20%</td>
<td>22%</td>
<td>14%</td>
</tr>
</tbody>
</table>

Source: RRC Associates, Economic & Planning Systems
H:\163063-Lakewood Housing Study\Draft\163063-survey selections-031717.xl|a -A Current Importance

Figure 46
Importance of Community Features to Future Choice Factors

<table>
<thead>
<tr>
<th>Community Features</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Short commute to work</td>
<td>10%</td>
<td>12%</td>
<td>34%</td>
<td>45%</td>
</tr>
<tr>
<td>Walk to parks, recreation</td>
<td>4%</td>
<td>11%</td>
<td>37%</td>
<td>47%</td>
</tr>
<tr>
<td>Quality public schools</td>
<td>25%</td>
<td>14%</td>
<td>20%</td>
<td>40%</td>
</tr>
<tr>
<td>Walk to shops, restaurants</td>
<td>10%</td>
<td>23%</td>
<td>35%</td>
<td>33%</td>
</tr>
<tr>
<td>Walk to rail, bus stop</td>
<td>12%</td>
<td>22%</td>
<td>36%</td>
<td>29%</td>
</tr>
<tr>
<td>Walk to schools</td>
<td>36%</td>
<td>21%</td>
<td>23%</td>
<td>21%</td>
</tr>
</tbody>
</table>

Source: RRC Associates, Economic & Planning Systems
H:\163063-Lakewood Housing Study\Draft\163063-survey selections-031717.xl|a - Future Importance
**Distinctions by Age Group**

The purpose of this section is to present the same data in a way that reveals distinctions between how each age group considers various factors affecting their current and future housing choice.

**Under 35s**

*Current Considerations*

The following Figure 47 through Figure 49 illustrate how this age groups currently sees the various aspects of physical, neighborhood, and community features important to their consideration of where to live. Each element is listed within its respective graphic according to the overall ranking given by all age groups; thus revealing where there are any distinctions between the priority order given to it in general and by the specific age group.

**Figure 47** shows that, like everyone else, housing cost is the primary consideration of physical features with approximately 7 out of 10 saying that it’s very important. The second characteristic, however, only garners 39 percent who say that quality of construction is very important. In fact, when interpreted relative to the other age groups, it appears that this age group is rather indifferent to the following five characteristics (quality of construction, privacy between homes, home size, etc.).

**Figure 47**

*Importance of Physical Features for Under 35s*

<table>
<thead>
<tr>
<th>Physical Features</th>
<th>Series1</th>
<th>Series2</th>
<th>Series3</th>
<th>Series4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost</td>
<td>144%</td>
<td>26%</td>
<td>69%</td>
<td>39%</td>
</tr>
<tr>
<td>Quality construction</td>
<td>2%</td>
<td>20%</td>
<td>39%</td>
<td>39%</td>
</tr>
<tr>
<td>Privacy between homes</td>
<td>17%</td>
<td>29%</td>
<td>33%</td>
<td>21%</td>
</tr>
<tr>
<td>Home size</td>
<td>4%</td>
<td>28%</td>
<td>50%</td>
<td>17%</td>
</tr>
<tr>
<td>Historic character</td>
<td>26%</td>
<td>32%</td>
<td>27%</td>
<td>15%</td>
</tr>
<tr>
<td>Low maintenance</td>
<td>35%</td>
<td>28%</td>
<td>23%</td>
<td>14%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

\[H:\163063-Lakewood Housing Study\Data[163063-survey selections-031717.xlsx]TABLE A - Current Importance\]
When considering neighborhood features, as with the other age groups, the sense of safety is very important to nearly 7 out of 10 under 35s, as shown in Figure 48. Well-designed sidewalks are very important to nearly half of this age group, but a sense of privacy seems to be very important to only a third of them. As for a range of housing types in the neighborhood, only 10 percent indicated that it was very important with 66 percent saying it was either slightly or moderately important.

**Figure 48**
Importance of Neighborhood Features for Under 35s

<table>
<thead>
<tr>
<th>Neighborhood Features</th>
<th>Series1</th>
<th>Series2</th>
<th>Series3</th>
<th>Series4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sense of safety</td>
<td>0%</td>
<td>29%</td>
<td>68%</td>
<td></td>
</tr>
<tr>
<td>Well-designed sidewalks</td>
<td>3%</td>
<td>8%</td>
<td>42%</td>
<td>47%</td>
</tr>
<tr>
<td>Sense of privacy</td>
<td>3%</td>
<td>24%</td>
<td>39%</td>
<td>33%</td>
</tr>
<tr>
<td>Range of housing types</td>
<td>23%</td>
<td>30%</td>
<td>36%</td>
<td>10%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

In the two previous charts, the priority order of this age group’s considerations has been the same as for the larger whole, but in Figure 49, several of the considerations change priority order. For example, instead of a short commute to work being very important to the largest portion of this age group, it is being able to walk to parks and recreation. A short commute to work is the second, followed by being able to walk to shops, restaurants. And indicative of their household types (which are predominately single-person households), quality of schools is only as important as being able to walk to a rail station or bus stop. Being able to walk to schools is the least important to this group.

**Figure 49**
Importance of Community Features for Under 35s

<table>
<thead>
<tr>
<th>Community Features</th>
<th>Series1</th>
<th>Series2</th>
<th>Series3</th>
<th>Series4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Short commute to work</td>
<td>9%</td>
<td>9%</td>
<td>33%</td>
<td>50%</td>
</tr>
<tr>
<td>Walk to parks, recreation</td>
<td>2%</td>
<td>9%</td>
<td>32%</td>
<td>56%</td>
</tr>
<tr>
<td>Quality public schools</td>
<td>22%</td>
<td></td>
<td>25%</td>
<td>31%</td>
</tr>
<tr>
<td>Walk to shops, restaurants</td>
<td>10%</td>
<td>15%</td>
<td>31%</td>
<td>44%</td>
</tr>
<tr>
<td>Walk to rail, bus stop</td>
<td>14%</td>
<td>21%</td>
<td>35%</td>
<td>31%</td>
</tr>
<tr>
<td>Walk to schools</td>
<td>40%</td>
<td>19%</td>
<td>27%</td>
<td>14%</td>
</tr>
</tbody>
</table>
Delving specifically into how this age group differs from the others, Table 9 illustrates the difference between the Under 35s and each other age group that sees the various features as very important. The positive percentages indicate which feature is more important to the Under 35s than other age groups, and the negative percentages indicate which features are relatively less important to the Under 35s.

As for physical considerations, the Under 35s are much more cost conscious than the other age groups, but less concerned with each of the other considerations. As for the neighborhood considerations, Under 35s seem generally less concerned with any of these aspects than the other age groups except for the slightly higher portion that sees well-designed sidewalks as very important by comparison to the 35 to 54s. And as for community features, the Under 35s are much more concerned with being able to walk to parks and recreation, shops and restaurants, as well as walking to rail stations or bus stops than the other groups. They are more interested in having a short commute to work than the Over 55s (though less so than 35 to 54s), and more interested in being able to walk to schools than the Over 55s (also less so than the 35 to 54s). As indicated earlier, their interest in quality public schools is relatively less than either of the other age groups.

Table 9
How Under 35s Differ in Their “Very Important” Ratings Currently

<table>
<thead>
<tr>
<th>Feature</th>
<th>35 to 54s</th>
<th>Over 55s</th>
<th>% Difference From “Under 35s” Saying Each Feature is “Very Important”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical Features</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost</td>
<td>11%</td>
<td>7%</td>
<td></td>
</tr>
<tr>
<td>Quality construction</td>
<td>-9%</td>
<td>-18%</td>
<td></td>
</tr>
<tr>
<td>Privacy between homes</td>
<td>-14%</td>
<td>-20%</td>
<td></td>
</tr>
<tr>
<td>Home size</td>
<td>-11%</td>
<td>-14%</td>
<td></td>
</tr>
<tr>
<td>Historic character</td>
<td>-7%</td>
<td>-5%</td>
<td></td>
</tr>
<tr>
<td>Low maintenance</td>
<td>4%</td>
<td>-11%</td>
<td></td>
</tr>
<tr>
<td>Neighborhood Features</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sense of safety</td>
<td>-7%</td>
<td>-12%</td>
<td></td>
</tr>
<tr>
<td>Well-designed sidewalks</td>
<td>3%</td>
<td>-4%</td>
<td></td>
</tr>
<tr>
<td>Sense of privacy</td>
<td>-6%</td>
<td>-25%</td>
<td></td>
</tr>
<tr>
<td>Range of housing types</td>
<td>-8%</td>
<td>-15%</td>
<td></td>
</tr>
<tr>
<td>Community Features</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Short commute to work</td>
<td>-1%</td>
<td>2%</td>
<td></td>
</tr>
<tr>
<td>Walk to parks, recreation</td>
<td>13%</td>
<td>14%</td>
<td></td>
</tr>
<tr>
<td>Quality public schools</td>
<td>-10%</td>
<td>-3%</td>
<td></td>
</tr>
<tr>
<td>Walk to shops, restaurants</td>
<td>11%</td>
<td>22%</td>
<td></td>
</tr>
<tr>
<td>Walk to rail, bus stop</td>
<td>7%</td>
<td>8%</td>
<td></td>
</tr>
<tr>
<td>Walk to schools</td>
<td>-2%</td>
<td>1%</td>
<td></td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
Future Considerations

Table 10 illustrates the difference between the portion of Under 35s that rated each housing feature a “very important” by comparison to three of metrics: 1) compared to how Under 35s said each element was “very important” to them currently; 2) compared to the portion of 35 to 54s that said each element would be “very important” to them in the next five years; and 3) compared to the portion of Over 55s that said each element would be “very important” to them in the next five years.

First of all, the left column of percentages illustrate that much larger portions of this age group anticipate quality of construction, privacy between homes, and home size to be more important in choosing where to live five years from now than it said of their decisions today. Much larger portions of them also said that all of the neighborhood features would be more important to them in the next five years, as well as all but one of the community features. Most notably are the significantly larger portion of this age group that thinks quality public schools and being able to walk to them will be very important.

Interesting also are how these portions of Under 35s view each element as very important in the next five years by comparison to how the other age groups view each element as very important in the next five years. By comparison to the 35 to 54s, cost, privacy between homes, and home size will all by marginally more important, as will well-designed sidewalks and a sense of privacy. By comparison to the Over 55s, privacy between homes and home size will also be marginally more important in their next move, as with well-designed sidewalks. But as for all of the community features, the Under 35s seem to rate all of the elements as “very important” in larger proportion than the other age groups.

Table 10
How Under 35s Differ in Their “Very Important” Ratings in 5 Years

<table>
<thead>
<tr>
<th>% Difference in Saying CURRENTLY &quot;Very Important&quot;</th>
<th>% Difference Other Age Groups Saying &quot;Very Important&quot;</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>35 to 54s</td>
</tr>
<tr>
<td><strong>Physical Features</strong></td>
<td></td>
</tr>
<tr>
<td>Cost</td>
<td>-1%</td>
</tr>
<tr>
<td>Quality construction</td>
<td>16%</td>
</tr>
<tr>
<td>Privacy between homes</td>
<td>21%</td>
</tr>
<tr>
<td>Home size</td>
<td>35%</td>
</tr>
<tr>
<td>Historic character</td>
<td>-1%</td>
</tr>
<tr>
<td>Low maintenance</td>
<td>-5%</td>
</tr>
<tr>
<td><strong>Neighborhood Features</strong></td>
<td></td>
</tr>
<tr>
<td>Sense of safety</td>
<td>10%</td>
</tr>
<tr>
<td>Well-designed sidewalks</td>
<td>17%</td>
</tr>
<tr>
<td>Sense of privacy</td>
<td>15%</td>
</tr>
<tr>
<td>Range of housing types</td>
<td>3%</td>
</tr>
<tr>
<td><strong>Community Features</strong></td>
<td></td>
</tr>
<tr>
<td>Short commute to work</td>
<td>3%</td>
</tr>
<tr>
<td>Walk to parks, recreation</td>
<td>5%</td>
</tr>
<tr>
<td>Quality public schools</td>
<td>37%</td>
</tr>
<tr>
<td>Walk to shops, restaurants</td>
<td>-8%</td>
</tr>
<tr>
<td>Walk to rail, bus stop</td>
<td>4%</td>
</tr>
<tr>
<td>Walk to schools</td>
<td>27%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

H:\R3605-Lakewood Housing\Study\Data\R3605-survey selections-031717.xlsx\TABLE B3 - under 35 future
35 to 54s

Current Considerations

The following Figure 50 through Figure 52 illustrate how this age groups currently sees the various aspects of physical, neighborhood, and community features important to their consideration of where to live.

Figure 50 shows that, like everyone else, housing cost is the primary consideration of physical features with approximately 7 out of 10 saying that it’s very important. The other elements follow with incrementally lower portions of this age group viewing each characteristic as very important. The only break in the pattern is that nearly half of this age group indicated that home size was moderately important.

Figure 50
Importance of Physical Features for 35 to 54s

<table>
<thead>
<tr>
<th>Feature</th>
<th>Series1</th>
<th>Series2</th>
<th>Series3</th>
<th>Series4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost</td>
<td>2%</td>
<td>8%</td>
<td>33%</td>
<td>58%</td>
</tr>
<tr>
<td>Quality construction</td>
<td>2%</td>
<td>8%</td>
<td>42%</td>
<td>48%</td>
</tr>
<tr>
<td>Privacy between homes</td>
<td>7%</td>
<td>23%</td>
<td>35%</td>
<td>35%</td>
</tr>
<tr>
<td>Home size</td>
<td>3%</td>
<td>16%</td>
<td>53%</td>
<td>28%</td>
</tr>
<tr>
<td>Historic character</td>
<td>22%</td>
<td>28%</td>
<td>29%</td>
<td>22%</td>
</tr>
<tr>
<td>Low maintenance</td>
<td>38%</td>
<td>34%</td>
<td>18%</td>
<td>10%</td>
</tr>
</tbody>
</table>

When considering neighborhood features, as with the other age groups, the sense of safety is very important to nearly 8 out of 10 of this age group, as shown in Figure 51. Each of the other considerations have lower portions of them indicating they are very important, and as for range of housing types, this age group is also somewhat indifferent.

Figure 51
Importance of Neighborhood Features for 35 to 54s

<table>
<thead>
<tr>
<th>Feature</th>
<th>Series1</th>
<th>Series2</th>
<th>Series3</th>
<th>Series4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sense of safety</td>
<td>18%</td>
<td>20%</td>
<td>20%</td>
<td>75%</td>
</tr>
<tr>
<td>Well-designed sidewalks</td>
<td>4%</td>
<td>10%</td>
<td>43%</td>
<td>44%</td>
</tr>
<tr>
<td>Sense of privacy</td>
<td>3%</td>
<td>16%</td>
<td>42%</td>
<td>39%</td>
</tr>
<tr>
<td>Range of housing types</td>
<td>18%</td>
<td>29%</td>
<td>35%</td>
<td>18%</td>
</tr>
</tbody>
</table>
The priority order of the community features, as shown in Figure 52, follows the same rank order as with the combined results. Having a short commute to work is very important to half of this age group, followed by being able to walk to parks and recreation and having quality public schools. Being able to walk to shops is very important to 3 out of 10, and being able to walk to a rail station or bus stop is very important to 1 out of 4. Being able to walk to schools, however, is only very important to less than 1 in 5.

Figure 52
Importance of Community Features for 35 to 54s

<table>
<thead>
<tr>
<th>Feature</th>
<th>Series1</th>
<th>Series2</th>
<th>Series3</th>
<th>Series4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Short commute to work</td>
<td>6%</td>
<td>15%</td>
<td>28%</td>
<td>51%</td>
</tr>
<tr>
<td>Walk to parks, recreation</td>
<td>5%</td>
<td>12%</td>
<td>40%</td>
<td>43%</td>
</tr>
<tr>
<td>Quality public schools</td>
<td>24%</td>
<td>15%</td>
<td>20%</td>
<td>41%</td>
</tr>
<tr>
<td>Walk to shops,...</td>
<td>16%</td>
<td>22%</td>
<td>29%</td>
<td>33%</td>
</tr>
<tr>
<td>Walk to rail, bus stop</td>
<td>19%</td>
<td>27%</td>
<td>31%</td>
<td>24%</td>
</tr>
<tr>
<td>Walk to schools</td>
<td>42%</td>
<td>20%</td>
<td>22%</td>
<td>16%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
H:\163063 Lakewood Housing Study\sed\565264 survey
selection-031717.xlsx/NEWS - Current Importance

Series1 Series2 Series3 Series4
In terms of how this age group differs from the others, Table 11 illustrates the difference between the 35 to 54s and each other age group. As for physical considerations, this age group is less concerned with housing cost or low maintenance than either of the other age groups. They are more concerned with quality construction, privacy between homes, home size, and historic character than the Under 35s, but less concerned about those elements than the Over 55s (with the exception of historic character).

As for the neighborhood considerations, they are more concerned about sense of safety, privacy, and a range of housing types than the younger age group, but they are marginally less concerned about all these neighborhood features than the Over 55s.

This age group is also largely focused on what they need, in terms of community features, for getting to work and getting children to school. Higher proportions of them indicated that a short commute to work was very important than the other age groups, as well as quality public schools and being able to walk to them. They are more concerned about all these features than the Over 55s are, but less concerned about walking to parks and recreation, shops and restaurants, as well as train stations or bus stops than the Under 35s.

**Table 11**

<table>
<thead>
<tr>
<th>How 35 to 54s Differ in Their “Very Important” Ratings Currently</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Difference between “very important”</strong></td>
</tr>
<tr>
<td><strong>under 35s</strong></td>
</tr>
<tr>
<td>Physical Features</td>
</tr>
<tr>
<td>Cost</td>
</tr>
<tr>
<td>Quality construction</td>
</tr>
<tr>
<td>Privacy between homes</td>
</tr>
<tr>
<td>Home size</td>
</tr>
<tr>
<td>Historic character</td>
</tr>
<tr>
<td>Low maintenance</td>
</tr>
<tr>
<td>Neighborhood Features</td>
</tr>
<tr>
<td>Sense of safety</td>
</tr>
<tr>
<td>Well-designed sidewalks</td>
</tr>
<tr>
<td>Sense of privacy</td>
</tr>
<tr>
<td>Range of housing types</td>
</tr>
<tr>
<td>Community Features</td>
</tr>
<tr>
<td>Short commute to work</td>
</tr>
<tr>
<td>Walk to parks, recreation</td>
</tr>
<tr>
<td>Quality public schools</td>
</tr>
<tr>
<td>Walk to shops, restaurants</td>
</tr>
<tr>
<td>Walk to rail, bus stop</td>
</tr>
<tr>
<td>Walk to schools</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
Future Considerations

Table 12 illustrates the difference between the portion of 35 to 54s that rated each housing feature a “very important” by comparison to three of metrics: 1) compared to how they said each element was “very important” to them currently; 2) compared to the portion of Under 35s that said each element would be “very important” to them in the next five years; and 3) compared to the portion of Over 55s that said each element would be “very important” to them in the next five years.

Compared to the Under 35s, this age group sees housing cost, privacy between homes, and home size as marginally less important. It should be noted that substantial portions of this group already had indicated that these physical features were very important to their housing decisions, so the relative differences here do not indicate that they are viewed any less importantly. On the other hand, historic character and low maintenance living will be slightly more important to them in the next five years than to the Under 35s. Compared to the Over 55s, privacy between homes, home size, and historic character will be slightly more important, but not cost or lower maintenance.

As for community features, this age group sees all of them as less important than the Under 35s, but generally more important to their housing choice in the next five years than the Over 55s.

Table 12
How 35 to 54s Differ in Their “Very Important” Ratings in 5 Years

<table>
<thead>
<tr>
<th>% Difference in Saying CURRENTLY “Very Important”</th>
<th>% Difference Other Age Groups Saying “Very Important”</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Under 35s</td>
</tr>
<tr>
<td><strong>Physical Features</strong></td>
<td></td>
</tr>
<tr>
<td>Cost</td>
<td>3%</td>
</tr>
<tr>
<td>Quality construction</td>
<td>7%</td>
</tr>
<tr>
<td>Privacy between homes</td>
<td>2%</td>
</tr>
<tr>
<td>Home size</td>
<td>1%</td>
</tr>
<tr>
<td>Historic character</td>
<td>6%</td>
</tr>
<tr>
<td>Low maintenance</td>
<td></td>
</tr>
<tr>
<td><strong>Neighborhood Features</strong></td>
<td></td>
</tr>
<tr>
<td>Sense of safety</td>
<td>5%</td>
</tr>
<tr>
<td>Well-designed sidewalks</td>
<td>3%</td>
</tr>
<tr>
<td>Sense of privacy</td>
<td>4%</td>
</tr>
<tr>
<td>Range of housing types</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Community Features</strong></td>
<td></td>
</tr>
<tr>
<td>Short commute to work</td>
<td>-5%</td>
</tr>
<tr>
<td>Walk to parks, recreation</td>
<td>3%</td>
</tr>
<tr>
<td>Quality public schools</td>
<td>-1%</td>
</tr>
<tr>
<td>Walk to shops, restaurants</td>
<td>2%</td>
</tr>
<tr>
<td>Walk to rail, bus stop</td>
<td>5%</td>
</tr>
<tr>
<td>Walk to schools</td>
<td>5%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

H:\B3003-Lakewood Housing Study\Data\B3003-survey selections-031717.xlsx\TABLE B2 - 35-54 future
Over 55s

*Current Considerations*

The following Figure 53 through Figure 55 illustrate how this age group currently sees the various aspects of physical, neighborhood, and community features important to their consideration of where to live. Figure 53 shows a rank order of physical feature considerations that looks very similar to the other two age groups, except that one a larger portion of them value low maintenance.

**Figure 53**

*Importance of Physical Features for Over 55s*

<table>
<thead>
<tr>
<th>Feature</th>
<th>Series 1</th>
<th>Series 2</th>
<th>Series 3</th>
<th>Series 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost</td>
<td>2%</td>
<td>8%</td>
<td>28%</td>
<td>62%</td>
</tr>
<tr>
<td>Quality construction</td>
<td>2%</td>
<td>6%</td>
<td>35%</td>
<td>57%</td>
</tr>
<tr>
<td>Privacy between homes</td>
<td>9%</td>
<td>21%</td>
<td>29%</td>
<td>41%</td>
</tr>
<tr>
<td>Home size</td>
<td>5%</td>
<td>19%</td>
<td>44%</td>
<td>31%</td>
</tr>
<tr>
<td>Historic character</td>
<td>23%</td>
<td>27%</td>
<td>31%</td>
<td>20%</td>
</tr>
<tr>
<td>Low maintenance</td>
<td>21%</td>
<td>33%</td>
<td>21%</td>
<td>25%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

When considering neighborhood features, as with the other age groups, the sense of safety is very important to 8 out of 10 of this age group, as shown in Figure 54, but unlike the others, they value privacy to a greater degree.

**Figure 54**

*Importance of Neighborhood Features for Over 55s*

<table>
<thead>
<tr>
<th>Feature</th>
<th>Series 1</th>
<th>Series 2</th>
<th>Series 3</th>
<th>Series 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sense of safety</td>
<td>12%</td>
<td>18%</td>
<td>80%</td>
<td></td>
</tr>
<tr>
<td>Well-designed sidewalks</td>
<td>4%</td>
<td>12%</td>
<td>34%</td>
<td>51%</td>
</tr>
<tr>
<td>Sense of privacy</td>
<td>1%</td>
<td>6%</td>
<td>35%</td>
<td>58%</td>
</tr>
<tr>
<td>Range of housing types</td>
<td>12%</td>
<td>23%</td>
<td>41%</td>
<td>25%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
This age group prioritizes their community features much like everyone else, as shown in Figure 55, except for being able to walk to a rail station or bus stop, which ranks on par with being able to walk to shops and restaurants.

**Figure 55**

**Importance of Community Features for Over 55s**

Table 13 illustrates that this age group generally views the physical and neighborhood features more importantly, except for housing cost compared to Under 35s and historic character compared to the 35 to 54s. On the other hand, they generally view the community features as less important than the others, except for seeing quality public schools more favorably than the Under 35s.

**Table 13**

**How Over 55s Differ in Their “Very Important” Ratings Currently**

<table>
<thead>
<tr>
<th>Feature</th>
<th>Under 35s</th>
<th>35 to 54s</th>
<th>% Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Physical Features</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost</td>
<td>-7%</td>
<td>4%</td>
<td></td>
</tr>
<tr>
<td>Quality construction</td>
<td>18%</td>
<td>6%</td>
<td>9%</td>
</tr>
<tr>
<td>Privacy between homes</td>
<td>20%</td>
<td>3%</td>
<td>1%</td>
</tr>
<tr>
<td>Home size</td>
<td>14%</td>
<td>3%</td>
<td>-2%</td>
</tr>
<tr>
<td>Historic character</td>
<td>5%</td>
<td>-2%</td>
<td></td>
</tr>
<tr>
<td>Low maintenance</td>
<td>11%</td>
<td>-5%</td>
<td>-15%</td>
</tr>
<tr>
<td><strong>Neighborhood Features</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sense of safety</td>
<td>12%</td>
<td>5%</td>
<td>-7%</td>
</tr>
<tr>
<td>Well-designed sidewalks</td>
<td>4%</td>
<td>7%</td>
<td>3%</td>
</tr>
<tr>
<td>Sense of privacy</td>
<td>-25%</td>
<td>-19%</td>
<td>6%</td>
</tr>
<tr>
<td>Range of housing types</td>
<td>15%</td>
<td>7%</td>
<td>-8%</td>
</tr>
<tr>
<td><strong>Community Features</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Short commute to work</td>
<td>-2%</td>
<td>-3%</td>
<td></td>
</tr>
<tr>
<td>Walk to parks, recreation</td>
<td>-14%</td>
<td>-1%</td>
<td></td>
</tr>
<tr>
<td>Quality public schools</td>
<td>3%</td>
<td>-7%</td>
<td></td>
</tr>
<tr>
<td>Walk to shops, restaurants</td>
<td>-22%</td>
<td>-11%</td>
<td></td>
</tr>
<tr>
<td>Walk to rail, bus stop</td>
<td>-8%</td>
<td>-1%</td>
<td></td>
</tr>
<tr>
<td>Walk to schools</td>
<td>-1%</td>
<td>-3%</td>
<td></td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

H:\163063-Lakewood Housing Study\Data\163063 survey selections-031717.xlsx |TABLE A1 - over 55 current
**Future Considerations**

As with the other comparison, Table 14 illustrates the difference between the portion of this age group that rated each housing feature a “very important” by comparison to how they said each element was “very important” currently, as well as compared to the other age groups looking five years from now.

By comparison to what is important to their current housing choices, they seem to be concerned about lower maintenance and cost, a sense of safety and well-designed sidewalks. Interestingly, though, they state that they are slightly more interested in being able to walk to parks and recreation, but significantly more interested in being able to walk to shops and restaurants and rail stations and bus stops.

By comparison to the other age groups, the portion of them that say low maintenance will be very important is 29 percent and 22 percent larger than the Under 35s and 35 to 54s, respectively. As for the neighborhood features, there are larger portions of this age group that view each element as more important (except for well-designed sidewalks among Under 35s).

And for the community features, while the portion of them that say being able to walk to parks and recreation is not as large as those Under 35 or even 35 to 54, the portion of them saying they would like to be able to walk to shops and restaurants as well as rail stations or bus stops is very close to the magnitude of Under 35s and 35 to 54s.

**Table 14**

How Over 55s Differ in Their “Very Important” Ratings in 5 Years

<table>
<thead>
<tr>
<th>Physical Features</th>
<th>% Difference in Saying CURRENTLY “Very Important”</th>
<th>% Difference Other Age Groups Saying “Very Important”</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Under 35s 35 to 54s</td>
</tr>
<tr>
<td>Cost</td>
<td>7%</td>
<td>1% 8%</td>
</tr>
<tr>
<td>Quality construction</td>
<td>3%</td>
<td>5% 5%</td>
</tr>
<tr>
<td>Privacy between homes</td>
<td>-7%</td>
<td>-8% -3%</td>
</tr>
<tr>
<td>Home size</td>
<td>1%</td>
<td>-20% -4%</td>
</tr>
<tr>
<td>Historic character</td>
<td>1%</td>
<td>7% 2%</td>
</tr>
<tr>
<td>Low maintenance</td>
<td>13%</td>
<td>22% 2%</td>
</tr>
<tr>
<td>Neighborhood Features</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sense of safety</td>
<td>1%</td>
<td>3% 1%</td>
</tr>
<tr>
<td>Well-designed sidewalks</td>
<td>2%</td>
<td>-11% 6%</td>
</tr>
<tr>
<td>Sense of privacy</td>
<td>-5%</td>
<td>5% 10%</td>
</tr>
<tr>
<td>Range of housing types</td>
<td>-3%</td>
<td>9% 4%</td>
</tr>
<tr>
<td>Community Features</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Short commute to work</td>
<td>-8%</td>
<td>-13% -6%</td>
</tr>
<tr>
<td>Walk to parks, recreation</td>
<td>3%</td>
<td>-16% -1%</td>
</tr>
<tr>
<td>Quality public schools</td>
<td>-8%</td>
<td>-42% -14%</td>
</tr>
<tr>
<td>Walk to shops, restaurants</td>
<td>10%</td>
<td>-4% -3%</td>
</tr>
<tr>
<td>Walk to rail, bus stop</td>
<td>8%</td>
<td>-4% 2%</td>
</tr>
<tr>
<td>Walk to schools</td>
<td>-1%</td>
<td>-20% -9%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

H:\R3005-Lakewood Housing Study\Data\R3005-survey selections-031717.xlsx\TABLE B1- over 55 future
Supply-Demand Synthesis

Supply in Proximity

The following series of graphics illustrate and quantify the overlap of various community features that figured prominently in the stated preference analysis. The percent of housing supply that is within walking distance, defined as a quarter-mile in any direction, is calculated for each amenity. The purpose is to illustrate the extent to which the City’s housing supply aligns with the stated demands of its workforce and residents.

Employment Centers

Figure 56 illustrates a quarter-mile walking distance surrounding the boundaries of employment centers throughout the city. Data analyzed from the CDLE were utilized to determine the boundaries of these areas. The findings of this analysis show that 34 percent of the City’s housing stock falls within these boundaries compared to approximately 50 percent of those surveyed who said it was “very important” to have a short commute to work.
**Figure 56**
Supply in Walking Distance to Employment Centers

[Map showing the supply in walking distance to employment centers with a legend indicating a 1/2-Mile buffer around Employment Centers.]
Walking Distance to Retail and Retail Redevelopment Areas

Using Costar designations, Figure 57 illustrates walking distance surrounding various areas of retail and retail redevelopment potential. The analysis finds that 18 percent of the City’s housing stock is within walking distance of these retail areas compared to 30 percent of those surveyed who said it was currently very important to be in walking distance of retail (and 33 percent who said it would be very important in the next five years). It should be noted that Costar’s data includes all sizes, types and mix, and although it was beyond the scope of the study, better data would have looked at typologies, such as neighborhood level retail.

**Figure 57**  
Walking Distance to Retail and Retail Redevelopment Areas
Walking Distance to Grocery

Figure 58 illustrates walking distances from each of the grocery stores that serve the City, including those that lie outside of the City’s incorporated boundaries. The analysis finds a good alignment of these amenities and the housing stock, where 28 percent of the housing inventory falls within these areas and 30 percent of those surveyed indicated that it was very important to their current considerations in choosing where to live.

Figure 58
Walking Distance to Grocery Stores
Walking Distance to Restaurants

Figure 59 illustrates another element of the stated preference elements, i.e. being able to walk to shops and restaurants. But as with the geographic analysis of retail centers, this uses data on all types and varieties of restaurants throughout the City, from fast-food to quick-casuals, etc. As such, the analysis finds that 69 percent of the City’s housing stock falls within walking distance to restaurants, whereas as mentioned previously, 30 percent of those surveyed indicated that it was very important to be in walking distance.

Figure 59
Walking Distance to Restaurants
**Walking Distance to Rail Stations**

**Figure 60** illustrates walking distances to the rail stations of the West Line, which collectively intersect with 12 percent of the City’s housing supply. This compares to 24 percent of those surveyed who said it is very important to be in walking distance, versus 29 percent who said it would be very important in the next five years.

**Figure 60**

Walking Distance to Rail Stations
Propensity to Move

Implicit in all of the considerations above are trade-offs. Housing demand has always been characterized by the presence of them, but the survey findings indicate that some segments of Lakewood’s workforce will shift away from historic trade-offs who favored bigger houses and greater sense of privacy but often fewer locational amenities and toward trade-offs that favors a smaller house or a smaller lot with locational amenities, such as centers of activity with retail, restaurants, entertainment, and employment.

One key difference between these two types of trade-offs is the cost associated with travelling to centers of activity. In the historical example, a household that favors a larger house with more privacy located further from the city drives farther and more frequently to shops, restaurants, entertainment, and work, whereas the household in the latter example doesn’t. As indicated in the following results, households are willing to pay more for housing with walkability, because they can capitalize the cost of transportation into the house.

Willingness to Pay 10% More in Housing

Table 15 presents the findings of respondents’ willingness to pay by age for various amenities. Overall, the findings show that 1 in 5 are willing to pay 10 percent more on housing to have higher quality schools, but 2 in 5 are not at all interested in doing so. And 15 percent of respondents are also willing to pay 10 percent more on their housing to cut their commute time in half, have the ability to walk or bike to shops or work. Though living in walking distance of a rail station or bus stop garnered a slightly smaller portion of respondents who said it was very important, there were generally fewer people very opposed to the idea. On the other hand, only a very small portion of those surveyed were interested in paying 10 percent more to live close to day care facilities.

On the basis of age, the responses reveal a general pattern of the Under 35s higher willingness to pay for the array of amenities than the other age groups. As noted by their considerations for housing choice five years from now, the findings also show that approximately 3 in 10 of the Under 35s would be willing to pay 10 percent more on housing to have higher quality public schools. Combined with those who saying they would be moderately willing, nearly 60 percent indicate so. As for being able to have a shorter commute and walk or bike to shops and work, approximately one quarter of this age group would be very willing to pay 10 percent more on housing.

As for the 35 to 54s, their responses indicate slightly more restraint or enthusiasm. As anticipated, nearly one quarter of them indicate a willingness to pay 10 percent more on housing to have higher quality public schools, but even adding to them those would said they would be moderately willing, the portion only reaches 38 percent – a substantial difference between the Under 35s.

The Over 55s are the most restrained in terms of their enthusiasm for paying 10 percent more on housing to achieve any of the following. Also as anticipated, they are far more opposed to paying 10 percent more on their housing to have higher quality public schools.
Table 15
Willingness to Pay by Age

<table>
<thead>
<tr>
<th>Willingness to Pay</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Somewhat likely</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cut commute time in half</td>
<td>32%</td>
<td>13%</td>
<td>26%</td>
<td>14%</td>
<td>15%</td>
</tr>
<tr>
<td>Ability to walk / bike to shops, etc.</td>
<td>27%</td>
<td>15%</td>
<td>25%</td>
<td>17%</td>
<td>15%</td>
</tr>
<tr>
<td>Ability to walk / bike to work</td>
<td>30%</td>
<td>15%</td>
<td>22%</td>
<td>17%</td>
<td>15%</td>
</tr>
<tr>
<td>Have higher quality schools</td>
<td>40%</td>
<td>11%</td>
<td>14%</td>
<td>14%</td>
<td>20%</td>
</tr>
<tr>
<td>Live within walking distance to rail station</td>
<td>29%</td>
<td>17%</td>
<td>25%</td>
<td>16%</td>
<td>13%</td>
</tr>
<tr>
<td>Live within walking distance to day care</td>
<td>66%</td>
<td>13%</td>
<td>12%</td>
<td>6%</td>
<td>4%</td>
</tr>
<tr>
<td>Under 35s</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cut commute time in half</td>
<td>16%</td>
<td>11%</td>
<td>30%</td>
<td>21%</td>
<td>22%</td>
</tr>
<tr>
<td>Ability to walk / bike to shops, etc.</td>
<td>18%</td>
<td>14%</td>
<td>21%</td>
<td>23%</td>
<td>24%</td>
</tr>
<tr>
<td>Ability to walk / bike to work</td>
<td>15%</td>
<td>16%</td>
<td>24%</td>
<td>22%</td>
<td>23%</td>
</tr>
<tr>
<td>Have higher quality schools</td>
<td>17%</td>
<td>8%</td>
<td>16%</td>
<td>28%</td>
<td>31%</td>
</tr>
<tr>
<td>Live within walking distance to rail station</td>
<td>13%</td>
<td>17%</td>
<td>29%</td>
<td>24%</td>
<td>16%</td>
</tr>
<tr>
<td>Live within walking distance to day care</td>
<td>32%</td>
<td>21%</td>
<td>23%</td>
<td>15%</td>
<td>9%</td>
</tr>
<tr>
<td>35 to 54s</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cut commute time in half</td>
<td>28%</td>
<td>14%</td>
<td>28%</td>
<td>14%</td>
<td>16%</td>
</tr>
<tr>
<td>Ability to walk / bike to shops, etc.</td>
<td>26%</td>
<td>16%</td>
<td>27%</td>
<td>16%</td>
<td>16%</td>
</tr>
<tr>
<td>Ability to walk / bike to work</td>
<td>28%</td>
<td>17%</td>
<td>23%</td>
<td>18%</td>
<td>15%</td>
</tr>
<tr>
<td>Have higher quality schools</td>
<td>36%</td>
<td>12%</td>
<td>14%</td>
<td>15%</td>
<td>23%</td>
</tr>
<tr>
<td>Live within walking distance to rail station</td>
<td>29%</td>
<td>17%</td>
<td>27%</td>
<td>13%</td>
<td>13%</td>
</tr>
<tr>
<td>Live within walking distance to day care</td>
<td>65%</td>
<td>13%</td>
<td>12%</td>
<td>5%</td>
<td>4%</td>
</tr>
<tr>
<td>Over 55s</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cut commute time in half</td>
<td>49%</td>
<td>13%</td>
<td>19%</td>
<td>9%</td>
<td>10%</td>
</tr>
<tr>
<td>Ability to walk / bike to shops, etc.</td>
<td>35%</td>
<td>14%</td>
<td>24%</td>
<td>15%</td>
<td>12%</td>
</tr>
<tr>
<td>Ability to walk / bike to work</td>
<td>45%</td>
<td>11%</td>
<td>18%</td>
<td>13%</td>
<td>13%</td>
</tr>
<tr>
<td>Have higher quality schools</td>
<td>63%</td>
<td>12%</td>
<td>12%</td>
<td>5%</td>
<td>8%</td>
</tr>
<tr>
<td>Live within walking distance to rail station</td>
<td>38%</td>
<td>17%</td>
<td>21%</td>
<td>12%</td>
<td>12%</td>
</tr>
<tr>
<td>Live within walking distance to day care</td>
<td>90%</td>
<td>6%</td>
<td>3%</td>
<td>0%</td>
<td>1%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
**Next Move**

The following series of graphics illustrate the portions of those surveyed that have expressed likelihoods of moving in the next 1 to 5 or 6 to 10 years, and where they think they are likely to move. **Figure 61** illustrates that 1 out of 5 are very likely to move in the next 1 to 5 years, with a slightly smaller portion indicating they are very likely to move in the next 6 to 10 years, as illustrated in **Figure 62**.

**Figure 61**
Likelihood of Moving in 1 to 5 Years by Age

```
<table>
<thead>
<tr>
<th>Age Group</th>
<th>Very Unlikely</th>
<th>Somewhat Unlikely</th>
<th>Somewhat Likely</th>
<th>Very Likely</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>26%</td>
<td>13%</td>
<td>46%</td>
<td></td>
</tr>
<tr>
<td>35 to 54</td>
<td>51%</td>
<td>17%</td>
<td>18%</td>
<td></td>
</tr>
<tr>
<td>55 and over</td>
<td>59%</td>
<td>14%</td>
<td>14%</td>
<td></td>
</tr>
<tr>
<td>Overall</td>
<td></td>
<td>15%</td>
<td>14%</td>
<td>22%</td>
</tr>
</tbody>
</table>
```

Source: RRC Associates; Economic & Planning Systems

H:\163063-Lakewood Housing Study\1\2\1\1\survey selections-061717.xlsx\d1 Moving 1

**Figure 62**
Likelihood of Moving in 6 to 10 Years by Age

```
<table>
<thead>
<tr>
<th>Age Group</th>
<th>Very Unlikely</th>
<th>Somewhat Unlikely</th>
<th>Somewhat Likely</th>
<th>Very Likely</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>15%</td>
<td>28%</td>
<td>31%</td>
<td></td>
</tr>
<tr>
<td>35 to 54</td>
<td>30%</td>
<td>28%</td>
<td>17%</td>
<td></td>
</tr>
<tr>
<td>55 and over</td>
<td>37%</td>
<td>17%</td>
<td>17%</td>
<td></td>
</tr>
<tr>
<td>Overall</td>
<td>29%</td>
<td>25%</td>
<td>19%</td>
<td></td>
</tr>
</tbody>
</table>
```

Source: RRC Associates; Economic & Planning Systems

H:\163063-Lakewood Housing Study\1\2\1\1\survey selections-061717.xlsx\d2 Moving 2
Figure 63 and Figure 64 illustrate where respondents indicate they are likely to move in the next 10 years. As to be expected, there is greater uncertainty surrounding this question. The choices given were: 1) stay in current home; 2) move within the West Denver Metro area; 3) move outside the West Denver Metro area; or 4) don’t know. The results show that nearly 3 out of 5 people intend to stay in their current home in the next five years, 1 out of 5 plan to move within the West Denver Metro area, and approximately 1 in 10 intend to leave it. As for the level of uncertainty, 10 percent overall don’t know what they’ll be doing, and that portion fluctuates higher for the lower age groups than for the higher age groups.

Figure 63
Where Likely to Move in 1 to 5 Years by Age

As for looking a bit further into the future, the level of uncertainty rises, compressing the portion of those who intend to stay in their current homes down to less than one third. The portion of those indicating they’ll move within the West Denver Metro area stays roughly the same at 20 percent, but the portion that anticipates leaving the West Denver Metro area increases from 11 to 19 percent.

Figure 64
Where Likely to Move in 6 to 10 Years by Age
And finally, as for the type of neighborhood Lakewood’s workforce anticipates moving to in the future, Figure 65 illustrates that nearly half of those surveyed anticipate moving to a suburban type of neighborhood in their next move and approximately 3 out of 10 will move to an urban neighborhood. Interestingly, the portion of those interested in moving to an urban neighborhood is roughly the same for each age group, whereas the portion of the Under 35s that indicate they’ll move to a suburban neighborhood is 55 percent compared to 49 percent for the 35 to 54s and 42 percent for the Over 55s.

**Figure 65**
Type of Future Neighborhood Preference by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Urban Neighborhood</th>
<th>Suburban Neighborhood</th>
<th>Don’t know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>33%</td>
<td>55%</td>
<td>12%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>30%</td>
<td>49%</td>
<td>21%</td>
</tr>
<tr>
<td>55 and over</td>
<td>30%</td>
<td>42%</td>
<td>28%</td>
</tr>
<tr>
<td>Overall</td>
<td>29%</td>
<td>48%</td>
<td>22%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems.
H:\163063-Lakewood Housing Study\163063 survey selections-081717.xlsx|D:\163-Where move 1
5. **POLICIES, STRATEGIES, & INCENTIVES**

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APPENDIX A:
STATED PREFERENCE DETAILS BY AGE GROUP
**Housing Cost**

The most important current consideration for choosing where to live for Lakewood’s survey respondents is housing cost, as illustrated in Figure 66. Approximately 3 out of 5 respondents rated it as very important with another 30 percent rating it moderately important. For respondents under 35, it nearly 70 percent described it as a very important consideration, followed by 62 percent of those 55 and over, and then 58 percent of those 35 to 54.

Asked about the importance of this consideration five years from now, Figure 67 illustrates that a slightly larger portion of all respondents indicated that housing costs were very important. By age cohort, the results appeared to maintain similar relationships to current considerations.

**Figure 66**
Importance of Housing Cost by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>14%</td>
<td>26%</td>
<td>69%</td>
<td></td>
</tr>
<tr>
<td>35 to 54</td>
<td>2%</td>
<td>33%</td>
<td>58%</td>
<td></td>
</tr>
<tr>
<td>55 and over</td>
<td>2%</td>
<td>28%</td>
<td>62%</td>
<td></td>
</tr>
<tr>
<td>Overall</td>
<td>1%</td>
<td>30%</td>
<td>61%</td>
<td></td>
</tr>
</tbody>
</table>

**Source:** RRC Associates; Economic & Planning Systems

**Figure 67**
Future Importance of Housing Cost by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>3%</td>
<td>25%</td>
<td>68%</td>
<td></td>
</tr>
<tr>
<td>35 to 54</td>
<td>2%</td>
<td>30%</td>
<td>61%</td>
<td></td>
</tr>
<tr>
<td>55 and over</td>
<td>1%</td>
<td>22%</td>
<td>69%</td>
<td></td>
</tr>
<tr>
<td>Overall</td>
<td>2%</td>
<td>27%</td>
<td>65%</td>
<td></td>
</tr>
</tbody>
</table>

**Source:** RRC Associates; Economic & Planning Systems
Quality of Residence

The second most important physical characteristic is the quality of the construction, illustrated in Figure 68. Half of all respondents said it was very important followed by another 39 percent saying it was moderately important. By age, this consideration is incrementally more important for older age groups, with more than half of respondents over 55 indicating that it is very important compared to 48 percent of 35 to 54 year-olds and 39 percent of under 35s.

As with the cost of housing playing a very important role in choosing where to live five years from now, the importance of construction quality also appears to rank very importantly to a slightly larger portion of the workforce for choosing where to live five years from now than it does today, illustrated in Figure 69. Interesting about this distribution, the portion of under 35s that rate it very important is equal to those currently 35 to 54, as opposed to being a relatively smaller portion – as in their current considerations. One interpretation of the results is that consideration for the quality of a residence increases with anticipated life stage changes.

Figure 68
Importance of Quality of Residence by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>2%</td>
<td>20%</td>
<td>39%</td>
<td>39%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>2%</td>
<td>8%</td>
<td>42%</td>
<td>48%</td>
</tr>
<tr>
<td>55 and over</td>
<td>2%</td>
<td>6%</td>
<td>35%</td>
<td>57%</td>
</tr>
<tr>
<td>Overall</td>
<td>2%</td>
<td>9%</td>
<td>39%</td>
<td>50%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
H:\163063-Lakewood Housing Study\Data\163063-survey selections-031717.xlsx
TABLE 4 - Quality

Figure 69
Future Importance of Quality of Residence by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>0%</td>
<td>9%</td>
<td>36%</td>
<td>55%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>2%</td>
<td>9%</td>
<td>34%</td>
<td>55%</td>
</tr>
<tr>
<td>55 and over</td>
<td>3%</td>
<td>6%</td>
<td>31%</td>
<td>60%</td>
</tr>
<tr>
<td>Overall</td>
<td>2%</td>
<td>8%</td>
<td>35%</td>
<td>56%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
H:\163063-Lakewood Housing Study\Data\163063-survey selections-031717.xlsx
TABLE 4 - Moving
Greater Privacy Between Homes

While greater privacy between homes (Figure 70) can be interpreted as a neighborhood characteristic as well as a feature of the home itself (in terms of side-yard setbacks and distance between neighboring homes), 35 percent of the workforce views this as a very important consideration, followed by another third of respondents indicating it as moderately important. As with the quality of residential construction, this consideration seems to be increasingly important with older age cohorts, where just 21 percent of under 35s consider it very important versus 41 percent of those over 55.

Looking five years from now, respondent answers regarding how important greater privacy between homes is when choosing where to live seems to reverse the pattern of current considerations across the age spectrum. While the overall trend still shows slightly less than 2 out of 5 see it as a very important consideration, the under 35s rate very important to a greater extent than the other age cohorts do – a complete inversion of the current consideration results. One interpretation is that as the under 35s perceive how they will be living and how their life stage may be changing in the next five years, privacy will become as important to them as it is currently to those 35 to 54 or over 55. Interestingly, though, is that while the portion of those 35 to 54 who say it's very important appears not to have changed significantly, the portion of those over 55 has decreased from 41 percent to 34 percent.

**Figure 70**
Importance of Greater Privacy Between Homes by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>17%</td>
<td>29%</td>
<td>33%</td>
<td>21%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>7%</td>
<td>23%</td>
<td>35%</td>
<td>35%</td>
</tr>
<tr>
<td>55 and over</td>
<td>9%</td>
<td>21%</td>
<td>29%</td>
<td>41%</td>
</tr>
<tr>
<td>Overall</td>
<td>9%</td>
<td>23%</td>
<td>33%</td>
<td>35%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems, H:\163063-Lakewood Housing Study\Data\163063-survey_selection031717.xlsx\TABLE d1 - Moving 1

**Figure 71**
Future Importance of Greater Privacy Between Homes by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>6%</td>
<td>12%</td>
<td>40%</td>
<td>42%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>5%</td>
<td>21%</td>
<td>37%</td>
<td>37%</td>
</tr>
<tr>
<td>55 and over</td>
<td>14%</td>
<td>14%</td>
<td>39%</td>
<td>34%</td>
</tr>
<tr>
<td>Overall</td>
<td>7%</td>
<td>17%</td>
<td>38%</td>
<td>38%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems, H:\163063-Lakewood Housing Study\Data\163063-survey_selection031717.xlsx\TABLE d1 - Moving 1
Home Size

When asked how important the size of a home is (Figure 72) in considering where to live, nearly 30 percent of all respondents indicate that it is very important with another 50 percent stating that it is moderately important. Broken down by the three age categories reveals that, for those who state this element is “very important” seems to increase with age, where only 17 percent of those under 35 considered it very important versus 28 percent of 35 to 54 year-olds and 31 percent of over 55s.

In five years, however, home size seems to be very important to nearly 10 percent more of the respondents than it does currently. Most significant is the portion of under 35s who see it as very important to their considerations. Whereas 17 percent viewed it as significant today, more than half said it was very important, anticipating changes in their household type or life stage.

Figure 72
Importance of Home Size by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td></td>
<td>4%</td>
<td>28%</td>
<td>50%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>3%</td>
<td>16%</td>
<td>53%</td>
<td>28%</td>
</tr>
<tr>
<td>55 and over</td>
<td>5%</td>
<td>19%</td>
<td>44%</td>
<td>31%</td>
</tr>
<tr>
<td>Overall</td>
<td>4%</td>
<td>19%</td>
<td>50%</td>
<td>27%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

Figure 73
Future Importance of Home Size by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>2%</td>
<td>10%</td>
<td>36%</td>
<td>52%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>4%</td>
<td>16%</td>
<td>44%</td>
<td>36%</td>
</tr>
<tr>
<td>55 and over</td>
<td>6%</td>
<td>24%</td>
<td>38%</td>
<td>32%</td>
</tr>
<tr>
<td>Overall</td>
<td>4%</td>
<td>18%</td>
<td>42%</td>
<td>36%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
Historic Character

Among the physical characteristics that are relatively less important when considering where to live, historic character or architectural significance (Figure 74) was only very important to 18 percent of respondents with another 30 percent indicating it moderately important. By age, the results do not reveal a pattern of increasing or decreasing importance across the age spectrum.

This was also the only consideration that did not change substantially when respondents considered how it would factor into their future housing choice (Figure 75), where still approximately 1 in 5 felt it was very important, followed by similar proportions in the moderately important, slightly important, and not at all important ratings.

Figure 74
Importance of Historic Character by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>26%</td>
<td>32%</td>
<td>27%</td>
<td>15%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>22%</td>
<td>28%</td>
<td>29%</td>
<td>22%</td>
</tr>
<tr>
<td>55 and over</td>
<td>23%</td>
<td>27%</td>
<td>31%</td>
<td>20%</td>
</tr>
<tr>
<td>Overall</td>
<td>23%</td>
<td>28%</td>
<td>30%</td>
<td>18%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

Figure 75
Future Importance of Historic Character by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>19%</td>
<td>32%</td>
<td>35%</td>
<td>14%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>20%</td>
<td>30%</td>
<td>27%</td>
<td>23%</td>
</tr>
<tr>
<td>55 and over</td>
<td>21%</td>
<td>26%</td>
<td>32%</td>
<td>21%</td>
</tr>
<tr>
<td>Overall</td>
<td>20%</td>
<td>29%</td>
<td>31%</td>
<td>20%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
Low Maintenance Living

When asked how important lower maintenance living is, just 15 percent of respondents considered it very important, as illustrated by Figure 76. Viewed across the age spectrum, however, reveals that this is relatively more important to those 55 and over. Questions were not specifically asked of survey takers as to their ideal components of lower maintenance living. Examples of condominiums and townhomes were given, however, which typically contain common areas and open space that are maintained by a homeowners association – a representation of physical characteristics, such as yard work, etc. that do not have to be done by the homeowner.

As for how this consideration factors into future housing choice (Figure 77), a portion of respondents seven percent larger indicated in general that it would be very important, driven largely by the increased proportion of those over 55 that saw it as very important (which increased to 38 percent versus 25 percent today).

Figure 76
Importance of Lower Maintenance Living by Age

<table>
<thead>
<tr>
<th>Age</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>35%</td>
<td>28%</td>
<td>23%</td>
<td>14%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>38%</td>
<td>34%</td>
<td>18%</td>
<td>10%</td>
</tr>
<tr>
<td>55 and over</td>
<td>21%</td>
<td>33%</td>
<td>21%</td>
<td>25%</td>
</tr>
<tr>
<td>Overall</td>
<td>32%</td>
<td>32%</td>
<td>21%</td>
<td>15%</td>
</tr>
</tbody>
</table>

Figure 77
Future Importance of Lower Maintenance Living by Age

<table>
<thead>
<tr>
<th>Age</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>37%</td>
<td>37%</td>
<td>17%</td>
<td>9%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>29%</td>
<td>29%</td>
<td>26%</td>
<td>16%</td>
</tr>
<tr>
<td>55 and over</td>
<td>11%</td>
<td>18%</td>
<td>33%</td>
<td>38%</td>
</tr>
<tr>
<td>Overall</td>
<td>23%</td>
<td>27%</td>
<td>28%</td>
<td>22%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
H:\163063-Lakewood Housing Study\Data\163063-surveys selections 031717.xlsx [TABLE 2 - Maint]
Sense of Safety and Security

The most important neighborhood characteristic, and in fact the most important consideration overall, in considering where to live is a sense of safety and security, illustrated in Figure 78. Three out of four people surveyed view this as a very important consideration, followed by another 20 percent who rate it moderately important. The results also show a moderate increase in the importance of this consideration across the age spectrum with 68 percent of under 35s defining it very important increasing to 80 percent of those over 55.

When thinking about housing choice five years from now, a slightly larger portion of all respondents indicated that it would be very important – 4 out of 5 (Figure 79). And while the magnitudes of those between 35 and 54, as well as those over 55 appeared to have stayed the same, the portion of those currently under 35 who said it would be very important in five years increased from 68 to 78 percent.

Figure 78
Importance of Sense of Safety and Security by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>0%</th>
<th>21%</th>
<th>29%</th>
<th>68%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>19%</td>
<td>29%</td>
<td>68%</td>
<td></td>
</tr>
<tr>
<td>35 to 54</td>
<td>20%</td>
<td>75%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>55 and over</td>
<td>18%</td>
<td>80%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overall</td>
<td>21%</td>
<td>75%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

Figure 79
Future Importance of Sense of Safety and Security by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>0%</th>
<th>21%</th>
<th>29%</th>
<th>68%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>19%</td>
<td>21%</td>
<td>78%</td>
<td></td>
</tr>
<tr>
<td>35 to 54</td>
<td>16%</td>
<td>80%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>55 and over</td>
<td>17%</td>
<td>81%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overall</td>
<td>17%</td>
<td>80%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
Well-Designed Sidewalks

The second most important neighborhood consideration is that it have well-designed sidewalks, with 46 percent defining it as very important. Although a distinction was not made in a following question, the interpretation of these results could leave open whether or not responses imply that sidewalks should be “designed” well or that there actually be sidewalks (as opposed to none at all). The findings of these responses across the age spectrum, unlike greater privacy between homes (Figure 70 on page 90) or a sense of safety and security (Figure 78), these responses do not illustrate a clear pattern of incrementally increasing or decreasing important across the age spectrum.

As a future consideration, however, the findings appear to indicate that the overall increase in portion of those who say it will be very important is driven by those under 35, illustrated in Figure 81. More than 3 out of 5 currently under 35s think that it will be very important to them in the future, versus slightly less than half today.

Figure 80
Importance of Well-Designed Sidewalks by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>3%</td>
<td>8%</td>
<td>42%</td>
<td>47%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>4%</td>
<td>10%</td>
<td>43%</td>
<td>44%</td>
</tr>
<tr>
<td>55 and over</td>
<td>4%</td>
<td>12%</td>
<td>34%</td>
<td>51%</td>
</tr>
<tr>
<td>Overall</td>
<td>4%</td>
<td>9%</td>
<td>41%</td>
<td>46%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
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Figure 81
Future Importance of Well-Designed Sidewalks by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>2%</td>
<td>5%</td>
<td>29%</td>
<td>64%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>3%</td>
<td>10%</td>
<td>39%</td>
<td>47%</td>
</tr>
<tr>
<td>55 and over</td>
<td>6%</td>
<td>11%</td>
<td>30%</td>
<td>53%</td>
</tr>
<tr>
<td>Overall</td>
<td>3%</td>
<td>10%</td>
<td>36%</td>
<td>51%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
H:\163063-Lakewood Housing Study\163063-survey selections-031717.xlsx\TABLE_d1-Moving 1
**Sense of Privacy**

A question of nuance as to the importance of privacy, respondents were asked how important the general sense of privacy was in considering where to live, illustrated by Figure 82. Here, 45 percent of respondents define it as very important with another 39 percent indicating it as moderately important. And, as with the counterpart question regarding “greater privacy between homes”, this consideration becomes increasingly important across the age spectrum. In this case, however, the difference between the portion of respondents over 55 and those 35 to 54 is much larger than the incrementally different magnitudes illustrated in Figure 70.

Again, as a future consideration, the shift in the overall proportion of those who think it will be very important seems to be driven by the increase in the portion of those under 35 (Figure 83), although a slightly portion of the overall increase may be attributed also to the small increase in portion of those between 35 and 54.

**Figure 82**
Importance of Sense of Privacy by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>3%</td>
<td>24%</td>
<td>39%</td>
<td>33%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>3%</td>
<td>16%</td>
<td>42%</td>
<td>39%</td>
</tr>
<tr>
<td>55 and over</td>
<td>1%</td>
<td>6%</td>
<td>35%</td>
<td>58%</td>
</tr>
<tr>
<td>Overall</td>
<td>2%</td>
<td>13%</td>
<td>39%</td>
<td>45%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

**Figure 83**
Future Importance of Sense of Privacy by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>3%</td>
<td>13%</td>
<td>37%</td>
<td>48%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>3%</td>
<td>12%</td>
<td>43%</td>
<td>43%</td>
</tr>
<tr>
<td>55 and over</td>
<td>2%</td>
<td>9%</td>
<td>36%</td>
<td>53%</td>
</tr>
<tr>
<td>Overall</td>
<td>2%</td>
<td>11%</td>
<td>39%</td>
<td>48%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
Range of Housing Types

Having a range of housing types in the neighborhood was only very important to approximately 1 in 5 respondents, a nearly equal portion to those respondents that indicated it was not at all important, as shown in Figure 84. In these responses, it is also interesting to note that increasing portions of respondents describe this as very important across the age spectrum, where only 10 percent of under 35s indicate so, versus 18 percent of 35 to 54 year-olds and 25 percent of over 55s.

As with the consideration for historic character (Figure 74 and Figure 75 on page 92), the distribution of respondents who feel that having a range of housing types in the neighborhood will be very important does not seem to have changed significantly. And across the age spectrum, the sentiments seem to be maintained.

**Figure 84**
Importance of a Range of Housing Types in Neighborhood by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>23%</td>
<td>30%</td>
<td>36%</td>
<td>10%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>18%</td>
<td>29%</td>
<td>35%</td>
<td>18%</td>
</tr>
<tr>
<td>55 and over</td>
<td>12%</td>
<td>23%</td>
<td>41%</td>
<td>25%</td>
</tr>
<tr>
<td>Overall</td>
<td>17%</td>
<td>27%</td>
<td>39%</td>
<td>18%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

**Figure 85**
Future Importance of a Range of Housing Types in Neighborhood by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>21%</td>
<td>27%</td>
<td>40%</td>
<td>13%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>14%</td>
<td>28%</td>
<td>40%</td>
<td>18%</td>
</tr>
<tr>
<td>55 and over</td>
<td>8%</td>
<td>26%</td>
<td>44%</td>
<td>22%</td>
</tr>
<tr>
<td>Overall</td>
<td>13%</td>
<td>28%</td>
<td>41%</td>
<td>18%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
Short Commute to Work

Among the community characteristics that are important in choosing where to live, having a short commute to work garners nearly 50 percent of respondents stating that it’s very important, illustrated in Figure 86. The results by age category also do not differ, revealing that this consideration holds constant across life stages. Such a finding also reflects on the importance of having an adequate transportation network to facilitate a mobile workforce.

When asked how important this consideration would be in five years, however, a slightly smaller portion indicated it would be very important (Figure 87). The significant changes appeared in the under 35s, where a slightly higher proportion agreed that it would be very important, and in the over 55s, where a smaller portion said it would be very important, possibly because they would be anticipating retirement and not as concerned about living in closer proximity to work.

Figure 86
Importance of a Short Commute to Work by Age

<table>
<thead>
<tr>
<th>Age</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>9%</td>
<td>9%</td>
<td>33%</td>
<td>50%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>6%</td>
<td>15%</td>
<td>28%</td>
<td>51%</td>
</tr>
<tr>
<td>55 and over</td>
<td>12%</td>
<td>10%</td>
<td>28%</td>
<td>48%</td>
</tr>
<tr>
<td>Overall</td>
<td>8%</td>
<td>12%</td>
<td>31%</td>
<td>49%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

Figure 87
Future Importance of a Short Commute to Work by Age

<table>
<thead>
<tr>
<th>Age</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>4%</td>
<td>8%</td>
<td>34%</td>
<td>53%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>5%</td>
<td>13%</td>
<td>35%</td>
<td>46%</td>
</tr>
<tr>
<td>55 and over</td>
<td>20%</td>
<td>12%</td>
<td>28%</td>
<td>40%</td>
</tr>
<tr>
<td>Overall</td>
<td>10%</td>
<td>12%</td>
<td>34%</td>
<td>45%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
Walking Distance to Parks, Recreation, Trails

The second most important community characteristic consideration is to be in walking distance to parks, recreation, and trails, illustrated in Figure 88. Not surprising for a population living in such an outdoor recreation-rich environment, the findings also show that while more than 2 out of 5 respondents between 35 and 54 and those over 55 view it as very important, nearly 3 out of 5 respondents under 35 see this as very important. This finding is also key for the City of Lakewood, as it sits in very close proximity to the Foothills and significant open space and hiking trails.

As with several of the questions (historic character and range of housing types in the neighborhood), walking distance to parks, recreation, and trails (Figure 89) seems to factor into people’s decisions with the same degree of influence for future housing choice as it does today.

Figure 88
Importance of Walking Distance to Parks, Recreation, Trails by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>2%</td>
<td>9%</td>
<td>32%</td>
<td>56%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>5%</td>
<td>12%</td>
<td>40%</td>
<td>43%</td>
</tr>
<tr>
<td>55 and over</td>
<td>7%</td>
<td>11%</td>
<td>41%</td>
<td>42%</td>
</tr>
<tr>
<td>Overall</td>
<td>6%</td>
<td>11%</td>
<td>39%</td>
<td>44%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
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Figure 89
Future Importance of Walking Distance to Parks, Recreation, Trails by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>0%</td>
<td>7%</td>
<td>32%</td>
<td>61%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>4%</td>
<td>11%</td>
<td>39%</td>
<td>46%</td>
</tr>
<tr>
<td>55 and over</td>
<td>6%</td>
<td>12%</td>
<td>37%</td>
<td>45%</td>
</tr>
<tr>
<td>Overall</td>
<td>4%</td>
<td>11%</td>
<td>37%</td>
<td>47%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
H:\163063-Lakewood Housing Study\data\survey\importance of walking distance to parks trails - Moving 1
Quality Public Schools

Having quality public schools is very important to nearly 2 out of 5 respondents, as shown in Figure 90. Also not surprisingly, the pattern by age category reveals that a slightly larger portion of respondents in the typical family-raising ages (35 to 54) view this consideration as very important, while smaller portions of those under 35 and over 55 view it as such.

And while the overall proportion of respondents remained roughly the same when asked how this consideration would factor into future housing choice, Figure 91 illustrates very significantly how the under 35s in the workforce are anticipating the needs of their own children. In fact, this difference is the most significant of all the differences between current and future housing choice results.

Figure 90
Importance of Quality Public Schools by Age

<table>
<thead>
<tr>
<th>Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>22%</td>
<td>25%</td>
<td>22%</td>
<td>31%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>24%</td>
<td>15%</td>
<td>20%</td>
<td>41%</td>
</tr>
<tr>
<td>55 and over</td>
<td>28%</td>
<td>17%</td>
<td>20%</td>
<td>34%</td>
</tr>
<tr>
<td>Overall</td>
<td>24%</td>
<td>17%</td>
<td>21%</td>
<td>38%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

Figure 91
Future Importance of Quality Public Schools by Age

<table>
<thead>
<tr>
<th>Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>7%</td>
<td>5%</td>
<td>21%</td>
<td>68%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>26%</td>
<td>16%</td>
<td>19%</td>
<td>40%</td>
</tr>
<tr>
<td>55 and over</td>
<td>40%</td>
<td>14%</td>
<td>20%</td>
<td>26%</td>
</tr>
<tr>
<td>Overall</td>
<td>25%</td>
<td>14%</td>
<td>20%</td>
<td>40%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems
Walking Distance to Shops, Restaurants

Walking distance to shops, restaurants and entertainment appears to be very important to 30 percent of all respondents, followed by another 30 percent indicating it as moderately important, illustrated in Figure 92. The findings across the age spectrum reveal a pattern, among others, that frequently receive anecdotal attention. More than 2 out of 5 respondents under 35 see this as a very important consideration, whereas one third of those 35 to 54 do, and only 1 out of 5 over 55 state it to be very important.

Though not quite the inversion of attitudes as illustrated by Figure 70 and Figure 71 on page 90, Figure 93 illustrates that a smaller portion of currently under 35s identified this as very important in choosing where to live five years from now, and a larger portion of the over 55s viewed it as very important (32 percent versus 22 percent).

Figure 92
Importance of Walking Distance to Shops, Restaurants by Age

Figure 93
Future Importance of Walking Distance to Shops, Restaurants by Age
Walking Distance to Rail Station or Bus Stop

Just 1 in 4 respondents indicated that being able to walk to a rail station or bus stop was very important, followed by about 1 in 3 saying that it was moderately important in choosing where to live. Figure 94 illustrates that there is a slightly larger portion of those under 35 that view this as very important, whereas, the results indicate very little difference between those between 35 and 54 and those over 55.

As for how this consideration will factor into future housing choice, walking distance to a rail station or bus stop is the only finding that increased consistently across the age spectrum, illustrated in Figure 95. Four percent more respondents under 35 identified it as very important, 5 percent more respondents between 35 and 54 identified it as very important, and 8 percent more in the over 55 category identified it as such.

Figure 94
Importance of Walking Distance to Rail or Bus by Age

Figure 95
Future Importance of Walking Distance to Rail or Bus by Age
Walking Distance to Schools

While approximately 2 out of 5 respondents indicating that having quality public schools was very important (Figure 90), Figure 96 indicates that only 1 out of 7 view being able to walk to schools is very important. Although there are slight differences among the age cohorts, there seem to be slightly larger portions of the younger cohorts that view this community characteristic as moderately important (i.e. 27 percent of under 35s say it is moderately important, compared to 22 percent and 15 percent for those between 35 and 54 and those over 55, respectively).

Again, as a matter of future housing choice, Figure 97 illustrates that 41 percent of the under 35s see it as very important to their future housing choice considerations versus 14 percent of them who do for their choices today. The changes in sentiment among the other age groups indicates, as with the importance of quality of public schools (Figure 90 and Figure 91 on page 100), that its importance remains relatively the same as it was for today’s housing choices.

Figure 96
Importance of Walking Distance to Schools by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>40%</td>
<td>19%</td>
<td>27%</td>
<td>14%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>42%</td>
<td>20%</td>
<td>22%</td>
<td>16%</td>
</tr>
<tr>
<td>55 and over</td>
<td>52%</td>
<td>20%</td>
<td>15%</td>
<td>13%</td>
</tr>
<tr>
<td>Overall</td>
<td>43%</td>
<td>20%</td>
<td>22%</td>
<td>14%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

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Figure 97
Future Importance of Walking Distance to Schools by Age

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Not at all</th>
<th>Slightly</th>
<th>Moderately</th>
<th>Very</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 35</td>
<td>9%</td>
<td>17%</td>
<td>34%</td>
<td>41%</td>
</tr>
<tr>
<td>35 to 54</td>
<td>36%</td>
<td>19%</td>
<td>24%</td>
<td>21%</td>
</tr>
<tr>
<td>55 and over</td>
<td>54%</td>
<td>26%</td>
<td>8%</td>
<td>12%</td>
</tr>
<tr>
<td>Overall</td>
<td>36%</td>
<td>21%</td>
<td>23%</td>
<td>21%</td>
</tr>
</tbody>
</table>

Source: RRC Associates; Economic & Planning Systems

H:\163063-Lakewood Housing Study\Data\163063-survey selections-031717.v1b\H062 - d1 - Moving 1
APPENDIX B:
MISCELLANEOUS ANALYSIS
Housing Price Attainability

Categories

Figure 98 illustrates a spectrum of income categories for owners and renters in Lakewood, classified by increments of Area Median Income (AMI). The data represent the proportion of owners and renters by AMI category for 2015. Generally, renters often account for a majority of households in lower income categories, and owners often account for a majority of households in higher income categories, whereas toward the middle or slightly below the middle of the spectrum (i.e. around the median income), it is common for these proportions to be somewhat balanced. As shown, households earning less than 80 percent of AMI, or $49,000, is this point in the spectrum. Between 50 and 80 percent AMI, more than half of Lakewood’s households are renters and slightly less are owners. At 80 to 100 percent AMI, the distribution reverses, where more than half of households are owners and less than half are renters. The proportion of owners increases to slightly more than 80 percent at the highest income level, and the proportion of renters increases to slightly more than 60 percent at the lowest income levels.

Figure 98
Household Income Levels by Tenure
For the purposes of policy discussion, broad categories of housing used to characterize different levels of demand are illustrated in Figure 99. On the spectrum, supportive services are often associated with social assistance, e.g. mental health, substance abuse services. Deeply subsidized rental housing are frequently needed to remedy problems associated with populations of special needs, homelessness or at-risk of homelessness. These are not the only types of households in this category – there are also, for example, owner households on a fixed-incomes, e.g. a pension, who may fall into this category, but not require such services.

Affordable housing is often a term used to describe the next category of housing demand, including the 30 to 80 percent AMI levels. Households in the category of 30 to 50 percent AMI may also need supportive services, but they are more frequently associated with special needs populations or employed households struggling with very low-paying jobs. The 50 to 80 percent AMI is much more frequently the focus of communities struggling with supply-side shortages of rental housing for its service workforce (a common problem in resort settings), e.g. retail, accommodations, etc. that are necessary to keep a heavily service-sector economy functioning.

In similar contexts where issues of supply are concerned, the term workforce housing is frequently used to describe a segment of the housing inventory that meets the demands of a community’s essential workforce, including teachers, city government, police, fire, and emergency personnel, etc. This category is also synonymous with today’s discussions about “missing middle” housing. It is a segment of the market that is also overlooked by federal, state, and often local forms of subsidy, as well as market-rate development activity.

Figure 99
Household Income Levels with Typical Policy Terminology

Another series of categories frequently associated with different income levels, and illustrated in Figure 100 with Lakewood’s median income metrics for 2015, the most recent year for which this information is available and representative of the population. Extremely low income is used to characterize households with less than 30 percent AMI, very low income for households between 30 and 50 percent AMI, low income for households between 50 and 80 percent AMI, moderate income for households in the workforce housing category, and middle to high income for those in the market-rate categories of housing as described previously.

Figure 100
Household Income Levels with Income Terminology
Another way to look at the distribution of household incomes is to make an association with average wages of different industries. Figure 101 shows the same income spectrum with the average wages for Lakewood’s industries categorized at the 2-digit NAICS level. It should be noted that this illustrates individual wages along a household income spectrum, which would assume that a household has a single wage-earner.

Figure 101
Household Income Levels with Individual Wage Associations
Using the wage levels identified above, **Figure 102** illustrates the target purchase prices for those individuals compared to the average resale price of housing sold in Lakewood during 2016. As such, workers in just two fields would have been available to afford the average-priced home in 2016.

**Figure 102**  
**Estimated Target Purchase Price for Individuals by Industry, 2016**  

[Graph showing target purchase prices for individuals by industry with data points and median existing home resale price highlighted.]  

Source: CDLE, QCEW; Economic & Planning Systems
To expand on the conversation of attainability, **Figure 103** illustrates the target purchase price for households by industry, assuming that the primary wage-earner workers in the respective field. To appropriately estimate these figures, the analysis used the average wages by industry and added approximately 70 percent of overall average wages to each household so that the weighted average salary of resulting households by industry equaled the *average* household income of households with earnings for Lakewood as observed by the U.S. Census ($78,064 in 2015). As such, households in nine industries from Finance & Insurance to Mining were able to afford the average-priced house in Lakewood.

**Figure 103**

*Estimated Target Purchase Price for Households by Industry, 2016*

<table>
<thead>
<tr>
<th>Industry</th>
<th>Affordable Purchase Price to Households Employed in Lakewood by Industry, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture, Forestry, Fishing and Hunting</td>
<td>$161,800</td>
</tr>
<tr>
<td>Accommodation and Food Services</td>
<td>$166,100</td>
</tr>
<tr>
<td>Arts, Entertainment, and Recreation</td>
<td>$174,900</td>
</tr>
<tr>
<td>Retail Trade</td>
<td>$211,100</td>
</tr>
<tr>
<td>Other Services</td>
<td>$231,600</td>
</tr>
<tr>
<td>Educational Services</td>
<td>$239,900</td>
</tr>
<tr>
<td>Real Estate and Rental and Leasing</td>
<td>$283,700</td>
</tr>
<tr>
<td>Business Services</td>
<td>$283,900</td>
</tr>
<tr>
<td>Health Care and Social Assistance</td>
<td>$295,300</td>
</tr>
<tr>
<td>Business Services</td>
<td>$283,900</td>
</tr>
<tr>
<td>Unclassified</td>
<td>$317,600</td>
</tr>
<tr>
<td>Construction</td>
<td>$320,800</td>
</tr>
<tr>
<td>Finance and Insurance</td>
<td>$422,800</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>$423,400</td>
</tr>
<tr>
<td>Information</td>
<td>$429,800</td>
</tr>
<tr>
<td>Professional, Scientific and Technical Services</td>
<td>$437,400</td>
</tr>
<tr>
<td>Transportation and Warehousing</td>
<td>$445,200</td>
</tr>
<tr>
<td>Public Administration</td>
<td>$491,900</td>
</tr>
<tr>
<td>Management of Companies and Enterprises</td>
<td>$493,000</td>
</tr>
<tr>
<td>Wholesale Trade</td>
<td>$541,400</td>
</tr>
<tr>
<td>Mining, Quarrying, and Oil and Gas Extraction</td>
<td>$541,400</td>
</tr>
</tbody>
</table>

Median Existing Home Resales Price: $337,583

Source: CDLE, DCEW, Economic & Planning Systems

H:\163063-Lakewood Housing Study\Data\Affordable Targets.xlsx Targets by NAICS ind
Construction of Subsidized Housing

**Figure 104** illustrates magnitudes of target purchase prices in each of these AMI categories with a visual overlay of the current average cost ($240,000) of building an ownership or rental housing unit in the market (rental units currently cost approximately $210,000 and ownership units currently cost approximately $270,000). The purpose is to illustrate the difficulties of and the level of subsidy required to building housing at the lowest levels of need. It should be noted that the gaps represent the difference between what a household could afford to pay in 2015 (i.e. a target purchase price) and the approximately average cost to construct a housing unit. It should also be noted that while ownership housing units would typically not be constructed for at incomes lower than 100 or 120 percent AMI in a typical market, the illustration presents the target purchase price for uniformity of calculation.

At under 30 percent AMI, where household incomes are under $18,000 (as shown previously), an affordable purchase price is estimated to be $53,200, leaving a construction financing gap of $187,000. A unit priced at 50 percent AMI would have a gap of $132,000, and a unit priced at 80 percent AMI would have a gap of $50,000. For rental units that cost approximately $210,000 to build, however, those gaps might be smaller – e.g. at 30 percent AMI, that gap would be approximately $156,000; at 50 percent AMI, the gap would be an estimated $74,000; and the gap at 80 percent AMI would be an estimated $20,000.

**Figure 104**  
Household Income Levels with Price to Cost Gaps
Clearly, the lower the AMI level, the more subsidy required, which is what Figure 105 illustrates. In today’s market of conventional resources, units built for the purpose of meeting extremely low income, special needs, homelessness, supportive services require immense resource – combining federal, state, and considerable local resources. Units built to meet the demands of very low income housing also use substantial federal and state resources, but don’t require the immense local subsidy – often requiring additional gap financing in the form of fee waivers (e.g. building permit fees, etc.). Units built for the low income housing spectrum require typically much less intense local resource, including private activity bonds (such as 4 percent low-income housing tax credits) as well as local fee waivers.

**Figure 105**

**Household Income Levels with Typical Gap Closure**
**Miscellaneous**

**Consumer Expenditures**

By comparison to other states, Colorado ranks in the top category for rate of growth in personal consumption expenditure, illustrated in **Figure 106**.

**Figure 106**
**Percent Change in U.S. Personal Consumption Expenditure, 2014-2015**

![Map showing percent change in personal consumption expenditure by state, 2014-2015](image-url)

U.S. Bureau of Economic Analysis
By age, personal expenditure on consumption increases to primary working years (45 to 54) and decreases in age categories following

Figure 107
Personal Consumption Expenditure by Age, 2015

Table 16 illustrates consumer expenditure data by age and by type of expenditure in 2015. The largest differences in expenditure by age are attributable to housing and transportation costs, which account to more than 40 percent of the difference between households in the 45 to 54 category and all other older households.

Table 16
Personal Consumption Expenditure by Age by Category, 2015

<table>
<thead>
<tr>
<th>Category</th>
<th>Under 25 years</th>
<th>25-34 years</th>
<th>35-44 years</th>
<th>45-54 years</th>
<th>55-64 years</th>
<th>65 years and older</th>
<th>65-74 years</th>
<th>75 years and older</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food</td>
<td>$5,328</td>
<td>$6,855</td>
<td>$8,664</td>
<td>$8,131</td>
<td>$7,102</td>
<td>$5,350</td>
<td>$5,973</td>
<td>$4,494</td>
</tr>
<tr>
<td>Food away from home</td>
<td>$2,536</td>
<td>$3,193</td>
<td>$3,837</td>
<td>$3,595</td>
<td>$2,834</td>
<td>$2,060</td>
<td>$2,314</td>
<td>$1,681</td>
</tr>
<tr>
<td>Housing</td>
<td>$11,502</td>
<td>$18,334</td>
<td>$22,197</td>
<td>$21,153</td>
<td>$18,254</td>
<td>$15,466</td>
<td>$16,364</td>
<td>$14,233</td>
</tr>
<tr>
<td>Household furnishings and equipment</td>
<td>$1,135</td>
<td>$1,743</td>
<td>$2,050</td>
<td>$2,040</td>
<td>$2,083</td>
<td>$1,472</td>
<td>$1,763</td>
<td>$1,072</td>
</tr>
<tr>
<td>Apparel and services</td>
<td>$1,370</td>
<td>$1,926</td>
<td>$2,542</td>
<td>$2,529</td>
<td>$1,622</td>
<td>$1,035</td>
<td>$1,284</td>
<td>$694</td>
</tr>
<tr>
<td>Transportation</td>
<td>$6,418</td>
<td>$9,812</td>
<td>$10,947</td>
<td>$11,723</td>
<td>$10,030</td>
<td>$6,802</td>
<td>$7,954</td>
<td>$5,220</td>
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<tr>
<td>Healthcare</td>
<td>$953</td>
<td>$2,786</td>
<td>$3,862</td>
<td>$4,668</td>
<td>$5,116</td>
<td>$5,751</td>
<td>$5,693</td>
<td>$5,831</td>
</tr>
<tr>
<td>Entertainment</td>
<td>$1,391</td>
<td>$2,500</td>
<td>$3,171</td>
<td>$3,295</td>
<td>$3,332</td>
<td>$2,448</td>
<td>$2,967</td>
<td>$1,734</td>
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<tr>
<td>Education</td>
<td>$2,575</td>
<td>$1,125</td>
<td>$1,177</td>
<td>$2,659</td>
<td>$1,163</td>
<td>$259</td>
<td>$292</td>
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<tr>
<td>Miscellaneous</td>
<td>$206</td>
<td>$633</td>
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<td>$1,038</td>
<td>$850</td>
<td>$896</td>
<td>$981</td>
<td>$780</td>
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<tr>
<td>Other</td>
<td>-$340</td>
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<td>$5,555</td>
<td>$8,513</td>
<td>$6,686</td>
<td>$2,639</td>
<td>$3,332</td>
<td>$2,179</td>
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<tr>
<td>Annual aggregate expenditures</td>
<td>$33,075</td>
<td>$52,658</td>
<td>$65,140</td>
<td>$69,343</td>
<td>$59,072</td>
<td>$44,378</td>
<td>$48,918</td>
<td>$38,146</td>
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</table>

Source: BLS CES; Economic & Planning Systems

H:\163063-Lakewood Housing Study\Data\163063-BLS CES by Age.xlsx\TABLE 1 - Summary

Economic & Planning Systems, Inc.  114  Appendix B
<table>
<thead>
<tr>
<th>Allocation Range</th>
<th># of Allocations</th>
<th>BP Date</th>
<th>Applicant</th>
</tr>
</thead>
<tbody>
<tr>
<td>20-001</td>
<td>1</td>
<td>Issued</td>
<td>Oscar Rodriguez</td>
</tr>
<tr>
<td>20-002 - 20-006</td>
<td>5</td>
<td></td>
<td>Anthony Del Grippo</td>
</tr>
<tr>
<td>20-007 - 20-030</td>
<td>24</td>
<td>Issued</td>
<td>Century Communities</td>
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<tr>
<td>20-031 - 20-070</td>
<td>40</td>
<td></td>
<td>Nathan Sandberg</td>
</tr>
<tr>
<td>20-071 - 20-092</td>
<td>22</td>
<td></td>
<td>Joseph Klopfenstein</td>
</tr>
<tr>
<td>20-093</td>
<td>1</td>
<td></td>
<td>Stephen Sundberg</td>
</tr>
<tr>
<td>20-094</td>
<td>1</td>
<td></td>
<td>Stephen Sundberg</td>
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<tr>
<td>20-095</td>
<td>1</td>
<td>Issued</td>
<td>David Kepley</td>
</tr>
<tr>
<td>20-096 - 20-125</td>
<td>30</td>
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<td>Fenton P5 LLC</td>
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<tr>
<td>20-126</td>
<td>1</td>
<td></td>
<td>Saul Construction</td>
</tr>
<tr>
<td>20-127 - 20-155</td>
<td>29</td>
<td></td>
<td>Jovo Poparar</td>
</tr>
<tr>
<td>20-156</td>
<td>1</td>
<td></td>
<td>CIM Investments</td>
</tr>
<tr>
<td>20-157 - 20-158</td>
<td>2</td>
<td></td>
<td>Nathan Hoppe</td>
</tr>
<tr>
<td>20-159</td>
<td>1</td>
<td></td>
<td>Kris Mahoney</td>
</tr>
<tr>
<td>20-160</td>
<td>1</td>
<td></td>
<td>Dirk Nygaard</td>
</tr>
<tr>
<td>20-161</td>
<td>1</td>
<td></td>
<td>Ed &amp; Michele Stafford</td>
</tr>
<tr>
<td>20-162</td>
<td>1</td>
<td></td>
<td>Jenna Gorman</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Open Pool</th>
<th>Affordable Pool</th>
</tr>
</thead>
<tbody>
<tr>
<td>Starting Number</td>
<td>250</td>
</tr>
<tr>
<td>Total Issued</td>
<td>162</td>
</tr>
<tr>
<td>Total Used</td>
<td>26</td>
</tr>
<tr>
<td>Issued but Unused</td>
<td>136</td>
</tr>
<tr>
<td>Still Available</td>
<td>88</td>
</tr>
</tbody>
</table>
### Project Description

<table>
<thead>
<tr>
<th>Type</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single family home</td>
<td>1</td>
</tr>
<tr>
<td>5 Townhomes (7 units)</td>
<td></td>
</tr>
<tr>
<td>24 Townhomes</td>
<td></td>
</tr>
<tr>
<td>40 Townhomes</td>
<td></td>
</tr>
<tr>
<td>22 Townhome</td>
<td></td>
</tr>
<tr>
<td>1 Single family group home</td>
<td></td>
</tr>
<tr>
<td>1 Single family group home</td>
<td></td>
</tr>
<tr>
<td>1 ADU</td>
<td></td>
</tr>
<tr>
<td>30 Multifamily units</td>
<td></td>
</tr>
<tr>
<td>1 Single family home</td>
<td></td>
</tr>
<tr>
<td>29 Single family homes</td>
<td></td>
</tr>
<tr>
<td>1 Single family home</td>
<td></td>
</tr>
<tr>
<td>1 Duplex unit</td>
<td></td>
</tr>
<tr>
<td>1 Single family home</td>
<td></td>
</tr>
<tr>
<td>1 Single family home</td>
<td></td>
</tr>
<tr>
<td>1 Single family home</td>
<td></td>
</tr>
<tr>
<td>1 ADU</td>
<td></td>
</tr>
</tbody>
</table>
STAFF MEMO

DATE OF COUNCIL MEETING: JANUARY 13, 2020 / AGENDA ITEM NO. 11
JANUARY 27, 2020 / AGENDA ITEM NO. 12
APRIL 27, 2020 / AGENDA ITEM NO. 14
DATE OF STUDY SESSION: JULY 6, 2020 / AGENDA ITEM NO. 4
DATE OF COUNCIL MEETING: JULY 27, 2020/AGENDA ITEM NO. 10

To: Mayor and City Council

From: Ben Goldstein, Deputy City, 303-987-7049

Subject: SMALL CELL CODE AND FEE UPDATES

This ordinance was approved on 1st Reading by a vote of 10 ayes 1 nays.

SUMMARY STATEMENT: Ordinance amending Article 10 (wireless services and communications), Title 12 (streets and sidewalks) to update the Code to reflect changes in state and federal law. Staff is asking that City Council review and vote on the attached changes.

BACKGROUND INFORMATION: The City of Lakewood has seen an increase in the number of applications for “small cell” Wireless Communication Facilities (WCFs) in the public right-of-way and staff expects the volume to increase as providers roll out the new 5G technology. 5G technology uses lower power antennas that have a shorter range but have more capacity and faster speeds. This means they require a greater density of network facilities to provide coverage. The City of Lakewood must allow small cell poles and related equipment in the public right of way under federal and state law. The city’s regulatory authority over small cell facilities is limited to the exercise of the city’s police power to address safety and aesthetic issues, including requiring design standards to address issues such as:

- Placement does not change vehicle travel or parking.
- Placement does not block vehicle, bicycle, or pedestrian access or visibility along the right of way.
- Placement in the right of way should avoid placement directly in front of structures on adjacent properties whenever possible.
- New pole placement must be 15’ from trees, existing streetlights or utility poles.
- Height of poles must generally be consistent with local zone districts.
- Facilities must include camouflage elements to minimize visual impact.

Additionally, local and state governments have very limited legal authority under federal law to regulate radio frequency emissions from wireless facilities. Preemption of local or state regulatory authority is found in the 1996 Telecommunications Act, 47 U.S.C. § 332(c)(7)(B)(iv), which provides that:

“No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission’s regulations concerning such
In 2017, changes in State law mandates that small cells are a use by right in any zoning district, and imposed (among other things) a 90 day shot clock in which the city must act on applications. In 2018, the Federal Communications Commission (FCC) adopted new regulations which (among other things) creates legal presumptions addressing the maximum amount of fees that can be charges for licenses and permits, the parameters in which design standards can be enforced and has its own shot clocks for acting on applications. The FCC regulations say they are not intended to preempt most state law requirements, although in some respects those regulations do conflict with Colorado law.

Small Cells are commonly installed on streetlights and utility poles, although the predicted number of poles needed for 5G coverage will likely result in numerous stand-alone small cell poles as well. The city’s design manual for aesthetic standards follows designs that Xcel Energy and the cell providers have worked out, and also will minimize visual impact while promoting uniformity of small cell designs within the city.

**DISCUSSION:** In discussions with the wireless industry, Staff and industry did not reach consensus on whether there should be a setback for roof-mounted antennas. Staff would like direction from City Council for the setback of roof-mounted antennas. Should roof mounted antennas be allowed on the roof edge (providing better coverage), or required to be setback for aesthetic reasons? See attached alternative language. Wireless industry representatives take the position that if setbacks are required on rooftops, the only way roof-mounted antennas will be feasible will be to make them significantly taller.

**BUDGETARY IMPACTS:** There is no significant budget impact associated with the requested code changes. However, as the volume of applications increases there could be additional employee time needed to meet the “shot clock” to process the applications. Resources will primarily come from Public Works and the fee schedule may need to be updated in the future to provide additional resources.

**STAFF RECOMMENDATIONS:** Staff recommends that the City Council adopt the Ordinance amending Article 10 (Wireless Services and Communications) and Title 12 (Streets and Sidewalks).

**ALTERNATIVES:** The City Council may adopt the ordinance, amend the ordinance before adoption or choose to leave the municipal code as-is.

**PUBLIC OUTREACH:** This item was promoted through the regular communication channels for items that come before City Council for consideration. The public will have an opportunity to provide feedback during the public hearing if city council approves first reading of the ordinance. Additionally, several meetings were held with the cellular industry to obtain their feedback and suggestions.

**NEXT STEPS:** The 1st reading is scheduled for January 13, 2020 and the public hearing is scheduled for January 27, 2020.

**ATTACHMENTS:**
- Ordinance O-2020-1
- Alternative roof mounted antenna language to be considered
- Redlined municipal code provisions showing the changes the proposed ordinance would create for Title 12 and Article 10

**REVIEWED BY:** Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Timothy P. Cox, City Attorney
AN ORDINANCE

AMENDING LAKEWOOD MUNICIPAL CODE TITLE 12, AND ARTICLE 10 OF TITLE 17, TO REFLECT CHANGES IN STATE AND FEDERAL LAW RELATING TO WIRELESS SERVICES AND COMMUNICATIONS

WHEREAS, the City of Lakewood (the “City”) is authorized to require that Wireless Communication Facilities (“WCFs”) meet design standards and municipal code requirements to address issues such as ensuring placement does not change vehicle travel or block vehicle, bicycle or pedestrian access or visibility along the right-of-way, and minimizing the visual impact of the facility by using camouflaging or screening techniques;

WHEREAS, the growth in wireless services has created an increased demand for deployment of new wireless communications network facilities;

WHEREAS, the manner in which the City can exercise authority over the siting, deployment, operation and maintenance of WFCs has been limited in recent years by State and Federal statutes and by Federal Communications Commission regulations;

WHEREAS, pursuant to State law, the City must allow small cell wireless facilities in the public right-of-way, subject to the exercise of local police powers;

WHEREAS, the amendments to Articles 10 and Title 12 will permit the City to exercise its regulatory authority over the siting, deployment, operation and maintenance of WCFs consistent with State and Federal law;

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal code by setting a public hearing in order to provide City Staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The recitals set forth above are incorporated herein.

SECTION 2. Article 10 of the Lakewood Municipal Zoning Code is hereby amended as set forth in the attachment named: Article 10 Amended.

SECTION 3. Title 12 of the Lakewood Municipal Code is hereby amended as set forth in the attachment named: Title 12.
SECTION 4. This Ordinance shall take effect thirty (30) days after publication following signature.

SECTION 5. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a regular meeting of the Lakewood City Council on the 13th day of January, 2020; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 16th day of January, 2020; set for public hearing to be held on the 10th day of February, 2020; continued to April 27th, continued to July 27th, read, finally passed and adopted by the City Council on the _____ day of July, 2020; and signed and approved by the Mayor on the _____ day of July, 2020.

Adam Paul, Mayor

ATTEST:

Michele Millard, City Clerk

APPROVED AS TO FORM:

Timothy P. Cox, City Attorney
b. Roof-mounted WCF.

1. All roof-mounted WCFs and accessory equipment shall be fully screened from view with existing parapets or with the addition of architecturally compatible screening walls or other structures as viewed at ground level.

2. Any screen walls shall be set back from the parapet or roof edge so that visibility from the street or adjacent residential properties is minimized to the greatest extent technically feasible.

3. Roof-mounted communication facilities and accessory equipment shall not be permitted on a sloped roof, unless it can be demonstrated that it is not visible from the street or adjacent residential areas.

4. Roof-mounted communication facilities are subject to the following height regulations:

   1. Roof-mounted antenna and equipment are not subject to a maximum height when proposed on an existing structure, provided that the applicant can demonstrate that all roof-mounted antenna and accessory equipment can be located behind an existing parapet or existing screen wall that is at least as tall as the antenna and accessory equipment. Expansions to existing screen walls may be authorized by the City Manager or designee, if the applicant can demonstrate that any expansion does not result in any additional height and is in compliance with the design standards above or that the requested modification is an Eligible Facilities Request.

   2. Roof-mounted antenna and accessory equipment not meeting the standard above are subject to the maximum building height for the zoning district or applicable design standards, whichever is stricter.

   3. Roof-mounted panel antenna shall not extend more than eight (8) feet above the roof parapet.

   d. Roof-mounted whip antenna shall not extend more than ten (10) feet above the building to which they are mounted.
12.04.010 Citation.

This chapter shall be known as the “public way permit ordinance” of the city. (Ord. 1-82-59 § 1 (part), 1982; Ord. O-75-71 § 1, 1975).

12.04.020 Definitions

For the purposes of this chapter, the following words shall have the following meanings:

“City” means the City of Lakewood, Colorado.

“Director” means the Director of Public Works of the city or his/her authorized representative.

“District” means any metropolitan, water, and/or sanitation district formed under Title 32, Article I, CRS, as amended.

“Permittee” means the holder of a valid permit.

“Person” means any person, firm, partnership, special, metropolitan or general district association; corporation; municipal department, company or organization of any kind.

“Public way” means any public street, way, place, alley, sidewalk, easement, park, square, plaza, and any city-owned right-of-way or any other public property owned or controlled by the city and dedicated to public use. Any easements dedicated solely for utility purposes shall not be governed by the provisions of this chapter.

“Specifications” means Engineering Regulations, Construction Specifications and Design Standards adopted by the city.

“Work in the public way” means, but is not limited to, construction of streets and all related appurtenances, sidewalks, driveway openings, bus shelters, bus loading pads, street lights, and traffic signal devices. It shall also mean construction, maintenance and repair of all underground structures such as pipes, conduits, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar structure located below the surface of any public way, and installation of overhead poles used for any purpose. (Ord. O-94-17 §§ 1, 2, 1994; Ord. O-94-91-59 § 19, 1991; Ord. O-82-59 § 1 (part), 1982; Ord. O-71-24 § 3, 1971).

12.04.030 Types of permits to work in the public way.

There shall be three types of permits to work in the public way:
A. Public Improvement Agreement Permits: permits issued as part of the public improvement agreement procedure under Chapter 14.13 of this code. Chapter 14.13 provides that any person obtaining a building permit may be required to sign a public improvement agreement, provides for inspection of those public improvements, and provides for collateral to insure the public improvements are built and are warranted for one year of satisfactory performance;

B. Annual permits: permits granted to persons to cover all work done in the public way for a period of one year;


12.04.040 Application for permit.

A. It is unlawful for any person to perform work within the public way of the city without obtaining a permit from the city. Any person doing work within the public way of a state highway must obtain a permit from the state and the city. If the state inspects the work in state right-of-way, there will be no charge for the Lakewood permit. If the city inspects the work in state right-of-way, all conditions and fees pertaining to a city permit shall apply.

B. In Lakewood, the physical construction of public improvements in new developments is the responsibility of the developer of the land. Ownership of those improvements remains with the developer of the land until acceptance by the city. Any person performing work on those improvements which are within a public way, but prior to acceptance by the city, shall obtain a permit from the city and permission from the owner of the improvements in the public way. The permittee shall be financially responsible to the owner of the improvements to carry out all remedial work necessary to receive acceptance by the city of those improvements. This financial obligation shall apply only to the work in the public way done by the permittee.

1. Public Improvement Agreement Permit. An applicant doing work in the public way which requires a public improvement agreement as required by Chapter 14.13 of this code shall have an approved set of plans and specifications prior to permit application. No work shall be started until the Director has approved the plans, specifications, and permit application, and issued a permit.

2. Annual Permits and Individual Permits. A separate written application for that work done under an annual or individual permit shall be submitted to the Director on a form provided by the city for each individual job. The application shall be submitted at least two days prior to the planned start of work in the public way. Permittees may be required to increase this time up to fourteen days when the work consists of more than a single spot excavation. The city may require submission of plans and specifications. No work shall be started until the Director has approved the plans and specifications and permit application, and issued a permit, except as specified in Section 12.04.180. (Ord. O-94-17 § 4, 1994; Ord. O-82-59 § 1 (part), 1981; Ord. O-71-24 § 5, 1971).

3. Underground Utilities. The type, size, location, and the number of all underground utilities shall be shown. Field verified elevations and locations are required on all development plans for existing underground utilities that have the potential to affect the proposed design or construction. It is the permittee’s responsibility to verify, prior to commencing any construction, the existence and location of all existing underground utilities along its route of work.
12.04.045 Insurance.

Before a public way permit is issued, the applicant shall submit to the Director a certificate of insurance in an amount set by City Council resolution. The certificate of insurance shall list the City and its officers and employees as additional named insureds.

City departments, mutual water companies, persons holding a franchise in the City, any governmental agency, or any special metropolitan water and/or sanitation district shall be relieved of the obligation of submitting a certificate of insurance if the permit is signed in the name of that person and they carry insurance equal to an amount set by City Council resolution. Upon request, the agency shall submit a letter certifying such coverage or self-insurance. If a person other than those named above signs the permit, a certificate of insurance shall be provided. (Ord. O-97-28 § 1, 1997; Ord. O-94-17 § 5, 1994; Ord. O-82-59 § 1 (part), 1982; Ord. O-75-71 § 4, 1975).

12.04.060 Performance/warranty guarantee for permits.

A. Public Improvement Agreement. Procedures for guaranteeing performance and providing for warranty are specified in Chapter 14.13 and no additional performance/warranty guarantee will be required in addition to those requirements.

B. Annual Permit. Any entity doing work under an annual permit shall provide the City with ten thousand dollars cash or an irrevocable letter of credit. The irrevocable letter of credit shall run for a period of time at least one year beyond the anticipated acceptance date of any work done under the annual permit. If no refund request is received, the deposit shall be carried forward for use as the annual deposit for the following year. If a demand is made by the City on all or a portion of a ten thousand dollar performance/warranty guarantee, no further permits shall be issued to that entity until the performance/warranty guarantee is reestablished in the amount of ten thousand dollars plus the amount of the demand made by the City.

C. Individual Permit. Each permittee before being issued a permit shall provide the city, at the permittee’s expense, a performance/warranty guarantee. This guarantee shall be in the form of cash or an irrevocable letter of credit.

The guarantee shall be in an amount equal to one hundred percent of the City Engineer’s estimate of the cost of restoration. The cost of restoration shall include the removal of defective material, recompaction of subgrade and base material and construction of surface improvements. The irrevocable letter of credit shall run for a period of time at least one year beyond the anticipated acceptance date of the work identified in the permit and may be returned as provided in Section 12.04.080(B)(2). Such guarantees shall be extended if requested by the City Engineer.

The City Engineer may waive performance/warranty guarantee requirements for any owner of a single-family residence desiring to repair their driveway or sidewalk provided the owner performs the work personally and upon satisfactory evidence to the City Engineer that the applicant is competent to perform the work.
12.04.060 Other Guarantees. In lieu of subsections (B) and (C) above, any City department, mutual water companies, persons holding a franchise in the City, any governmental agency, or any special metropolitan, water and/or sanitation district may provide the City with an annual letter signed by an appropriate company or district officer guaranteeing: (1) complete performance of the work acceptable to the City, and (2) the correction of any defect in the work which the City discovers and for which the City gives written notice to the permittee within one year after the date when the City initially accepts the work.

If the Director determines that any permittee fails to promptly perform under the conditions of this subsection (D) of this section, that permittee shall be required to post a performance/warranty guarantee meeting the requirements of subsections (B) or (C) of this section. If the Director determines that the permittee then satisfactorily complies with this chapter for a one-year period while operating under the provisions of subsections (B) or (C) of this section, the permittee shall then again be eligible to operate with the annual guarantee letter provided in subsection (D) of this section.

Notwithstanding anything to the contrary in this section, any contractor performing work pursuant to a contract directly with the City shall adhere to the performance payment requirements set forth in the contract documents. (Ord. O-97-28 §§ 2, 3, 1997; Ord. O-94-17 § 6, 1994; Ord. O-82-59 § 1 (part), 1982; Ord. O-71-24 § 7, 1971).

12.04.070 Purpose of performance/warranty guarantee.

A. Any guarantee made hereunder shall serve as security for the performance of work necessary to repair the public way if the permittee fails to make the necessary repairs or to complete the work under the permit.

B. The permittee, by acceptance of the permit, expressly guarantees complete performance of the work acceptable to the city and guarantees all work done by him for a period of one year after the date of acceptance, and agrees upon demand to maintain and to make all necessary repairs during the one-year period. This guarantee shall include all repairs and actions needed as a result of:

1. Defects in workmanship;
2. Settling of fills or excavations;
3. Any unauthorized deviations from the approved plans and specifications;
4. Failure to barricade;
5. Failure to clean up during and after performance of the work;
6. Any other violation of this chapter.

C. The one-year guarantee period shall run from acceptance of the work. If repairs are required during the one-year period, those repairs need only be guaranteed until the end of the original one-year guarantee period starting with the date of initial acceptance. It is not necessary that...
a guarantee be provided for subsequent repairs beyond the initial one-year guarantee period. (Ord. O-94-17 § 7, 1994; Ord. O-82-59 § 1 (part), 1982; Ord. O-71-24 § 8, 1971).

12.04.080 Inspection fees and procedures.

A. At the time of permit application, all permittees shall pay for the costs of inspection. Costs of inspection shall be in accordance with the schedule of charges prepared by the Director and adopted by City Council resolution.

B. Inspections will occur as follows:


2. Annual and Individual Permits. Two inspections shall take place. First, the permittee shall notify the city immediately after completion of work operations and acceptance will be made if all work meets city and permit standards. Second, approximately thirty days prior to the expiration of the one-year guarantee, the city shall perform an inspection of the completed work. If the work is still satisfactory, the cash or letter of credit for individual permit holders shall be returned less any amounts needed to complete work not done by permittee.

2. For annual permits, the annual deposit shall be carried forward for use as the annual deposit for the following year if no refund request is received.

At any time prior to completion of the one-year warranty period, the city may notify the permittee of any needed repairs. Such repairs shall be completed within twenty-four hours if the defects are determined by the city to be an imminent danger to the public health, safety, and welfare. Nonemergency repairs shall be completed within thirty days after notice.

3. Random Inspections. Random inspections may be made of the permittee’s work procedures, and the permittee shall correct procedures if ordered to do so. Failure to do so may result in revocation of the permit. (Ord. O-94-17 § 8, 1994; Ord. O-82-59 § 1 (part), 1982; Ord. O-75-71 § 2, 1975).

12.04.090 Time of completion.

A. Public Improvement Agreement. Time of completion will be specified in the public improvement agreement signed under the provisions of Chapter 14.13 of this code.

B. Annual Permits and Individual Permits. All work covered by the permit shall be completed by the date stated on the application. Unless extended for good cause, Permits shall be void if work has not commenced six months after issuance. Letters of credit or cash deposited as a performance/warranty guarantee for individual permits will be returned after voiding of the permit. (Ord. O-82-59 § 1 (part), 1982; Ord. O-75-71 § 3, 1975).

12.04.110 Traffic control.

When it is necessary to obstruct traffic, a detour plan shall be submitted to the Director prior to starting construction. No permit will be issued until the plan is approved by the Director. No permittee
shall interrupt access to and from private property, block emergency vehicles, block access to fire
hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any
other vital equipment unless permission is obtained from the owner of that facility. If a street closing is
desired, the applicant will request the assistance and obtain the approval of the Director. It shall be
the responsibility of the permittee to notify and coordinate all work in the public way with police, fire,
ambulance, and transit organizations.

. When necessary for public safety, the permittee shall employ flag persons whose duties shall be to
control traffic around or through the construction site. The use of flag persons may be required by the
Director.

. Unless approved by the Director, the permittee shall not impede rush hour traffic on arterial or
collector streets during the morning or evening rush hours. No construction shall be performed nor
shall any traffic lane be closed to traffic during the hours of seven a.m. to nine a.m. or three-thirty p.m.
to six p.m. without the approval of the Director.

. Traffic control devices, as defined in Part VI of the Manual on Uniform Traffic Control Devices, must be
used whenever it is necessary to close a traffic lane or sidewalk. Traffic control devices are to be
supplied by the permittee. If used at night, they must be reflectorized and must be illuminated or have
barricade warning lights. Oil flares or kerosene lanterns are not allowed as a means of illumination.

12.04.110

- Part VI of the Manual on Uniform Traffic Control Devices shall be used as a guide for all maintenance
and construction signing. The permittee shall illustrate on the permit the warning and control devices
proposed for use. At the direction of the Director, such warning and control devices shall be increased,
decreased, or modified. (Ord. O-94-17 § 9, 1994; Ord. O820-87 § 1 (part), 1982; Ord. O-75-71 § 5,
1975).

12.04.120 Construction standards and responsibility for all public improvements.
The permittee shall be fully responsible for the cost and actual performance of all work in the public
way. The permittee shall do all work in conformance with the Engineering Regulations, Construction
Specifications, and Design Standards adopted by the city. These standards shall apply to all work in the

12.04.130 Protection of paved surfaces from equipment damage.
- Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any
paved surface. Tracked vehicles with grousers are not permitted on paved surface unless specific
precautions are taken to protect the surface. The permittee will be responsible for any damage caused
to the pavement by the operation of such equipment and, upon order of the Director, shall repair such
surfaces. Failure to do so will result in the use of the applicant’s performance/warranty guarantee by

12.04.140 Protection of property.
The permittee shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The permittee shall, at his own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the public way. (Ord. O-82-59 § 1 (part), 1982; Ord. O-71-24 § 15, 1971).

### 12.04.150 Relocation, location responsibilities and protection of utilities.

- Before any permittee begins excavation in any public way, he shall verify the location of existing utilities. For information, contact the Utility Notification Center of Colorado and 1-800-922-1987 or 811. A permittee shall additionally make inquiries of all ditch companies, utility companies, districts, municipal departments and all other agencies that might have facilities in the area of work to determine possible conflicts.

- The permittee shall contact the Utility Notification Center of Colorado and request field locations of all facilities in the area at least forty-eight hours in advance. Field locations shall be marked prior to commencing work. The permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus which may be affected by the work from damage during construction or settlement of trenches subsequent to construction. (Ord. O-94-17 § 11, 1994; Ord. O-82-59 § 1 (part), 1982; Ord. O-71-24 § 16, 1971).

### 12.04.160 Noise, dust, debris, hours of work.

- Each permittee shall conduct work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the work, the permittee shall take appropriate measures to reduce noise, dust, and unsightly debris. No work shall be done between the hours of ten p.m. and seven a.m., nor at any time on Sunday, except with the written permission of the Director, or in case of an emergency. (Ord. O-82-59 § 1 (part), 1982; Ord. O-71-24 § 17, 1971).

### 12.04.170 Clean-up

- As the work progresses, all public rights-of-way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All clean-up operations shall be done at the expense of the permittee. (Ord. O-82-59 § 1 (part), 1982; Ord. O-71-24 § 18, 1971).

### 12.04.180 Emergency work.

- Any person maintaining facilities in the public way may proceed with repairs upon existing facilities without a permit when emergency circumstances demand that the work be done immediately. Emergency work is defined to mean any work necessary to restore water, sewer, gas, phone, electric, and cable facilities. Repairs on other facilities in the public way may also be administratively classified as emergency by the Director. The person doing the work shall apply to the Director for a permit on the first working day after such work has commenced. All emergency work will require prior telephone notification to the City Police Department of Public Safety and the appropriate fire protection district. (Ord. O-94-17 § 12, 1994; Ord. O-82582-59 § 1 (part), 1982; Ord. O-71-24 § 19, 1971).
12.04.190 Preservation of monuments.

The permittee shall not disturb any surface monuments or survey hubs and points found on the line of work unless approval is obtained from the Director. Any monuments, hubs, and points disturbed will be replaced by a Colorado registered land surveyor at the permittee's expense. (Ord. O-94-17 § 13, 1994; Ord. O-82-59 § 1 (part), 1982; Ord. O-71-24 § 20, 1971).

12.04.200 Registration to do work.

All persons doing work within the public way under this chapter shall obtain a registration if required by Chapter 14.11 of this code. The City Engineer may waive the registration requirements for any owner of a single-family residence desiring to repair their driveway or sidewalk provided the owner performs the work personally and upon satisfactory evidence to the City Engineer that the applicant is competent to perform the work, (Ord. O-2011-11 § 1, 2011; Ord. O-82-59 § 1 (part), 1982; Ord. O-71-24 § 21, 1971).

12.04.210 Boring.

Boring or other methods to prevent cutting of the pavement will be required upon request of the Director. It is the city's intent to require boring only when necessary on arterial and major and minor collector streets with high volumes of traffic and/or high accident potential. (Ord. O-94-17 § 14, 1994; Ord. O-82-59 § 1 (part), 1982; Ord. O-71-56 § 1, 1971; Ord. O-71-24 § 22, 1971).

12.04.220 Suspension or revocation of permits and stop work orders.

A. Any permit may be revoked or suspended by the Director, after notice to the permittee for:

1. Violation of any condition of the permit or of any provision of this chapter;
2. Violation of any provision of any other ordinance of the city or state law relating to the work;
3. Existence of any condition or performance of any act which does constitute or cause a condition endangering life or damage to property.

B. A suspension or revocation by the Director, and a stop work order, shall take effect immediately upon notice to the person performing the work in the public way.

C. A stop work order may be issued by the Director to any person or persons doing or causing any work to be done in the public way without a permit, or in violation of any provision of this chapter, or any other ordinance of the city.
D. Any suspension or revocation or stop work order may be appealed by the permittee to the Director by filing a written notice of appeal within ten days of the action. (Ord. O-94-17 § 15, 1994; Ord. O-82-59 § 1 (part), 1982; Ord. O-71-24 § 23, 1971).

12.04.230 Appeals procedure.

Any decision rendered by the Director may be appealed within thirty days by the permittee to the Board of Appeals in accordance with the rules and procedures established by that body. (Ord. O-82-59 § 1 (part), 1982; Ord. O-71-24 § 24, 1971).

12.04.240 Penalty.

If any person, firm or corporation, including but not limited to the officers and agents of a corporation, responsible for its actions or inaction, and the partners of a partnership, firm or joint venture, shall violate or cause the violation of any of the provisions of this chapter, they shall be guilty of a separate offense for each and every day or portion thereof during which a violation is committed, continues or is permitted, and upon conviction of any such violation such person, firm or corporation, including but not limited to such partners, officers or agents, shall be subject to the penalties set forth in Subsection 1.16.020A. (Ord. O-96-44 § 13, 1996; Ord. O-94-17 § 16, 1994; Ord. O-84-87 § 7, 1984; Ord. O-82-59 § 1 (part), 1982; Ord. O-71-24 § 25, 1971).
Chapter 12.08 - Major Street Plan and Master Plan

**MAJOR STREET PLAN AND MASTER PLAN**

**Sections:**

- 12.08.010 Major street plan adopted.
- 12.08.020 Master plan acceptance and approval.
- 12.08.030 Master plan certification and filing.

**12.08.010 Major street plan adopted.**

The major street plan adopted by Resolution No. 70-95 includes a single map bearing the legend "Major Street Plan, City of Lakewood, Colorado," as certified to the City Council by the Lakewood Planning Commission. (Ord. O-94-17 § 17, 1994; Res. 70-95 § 1, 1970).

**12.08.020 Master plan acceptance and approval.**

The master plan for the development of the city, with accompanying maps, charts and descriptive matter, which master plan is entitled and known as the Lakewood Comprehensive Plan shall be as adopted and from time to time amended by the Lakewood Planning Commission and approved by the City Council. (Ord. O-94-17 § 18, 1994; Res. 75-68 § 1, 1975).

**12.08.030 Master plan certification and filing.**

The Mayor and City Clerk are authorized and directed to indicate the acceptance and approval of the Lakewood Comprehensive Plan mentioned in Section 12.08.020 by affixing their signatures to a certification of this acceptance and approval on the Lakewood Comprehensive Plan; and the City Clerk is authorized and directed to file a certified copy of the Lakewood Comprehensive Plan with the Clerk and Recorder of Jefferson County. (Ord. O94-094-17 § 19, 1994; Res. 75-68 § 2, 1975).

Chapter 12.12 - Street Improvement Policy

**STREET IMPROVEMENT POLICY**

*Prior resolution history for Sections 12.08.020 and 12.08.030: Resolution No. 70-95 §§ 2 and 3.*
Sections:

12.12.010 City street system - Classification.

A. Functional Classifications. City streets shall be placed in five functional classifications: local streets, minor collector streets, major collector streets, arterial streets, and major regional arterial streets.

B. Major Street Plan Classifications. Local streets, minor collector streets, major collector streets and arterial streets not specifically shown on the major street plan of Lakewood, must be platted and developed as determined by the city.

C. References in existing planned developments (PD's) and official development plans (ODP's) to street designations such as "freeways" and "major streets" will be reviewed by the Director of the Department of Planning, Permits and Public Works as said streets are to be planned or constructed and the Director of the Department of Planning, Permits and Public Works will determine which new street designation standards will be applied. The determination of the Director of the Department of Planning, Permits and Public Works may be appealed by the affected property owner to the Planning Commission within ten days of said determination and the Planning Commission's decision on the street design designation shall be final.


12.12.020 Type of improvements required for city's street system.

A. Adequate and consistent design guidelines, based on engineering and planning standards, must be applied in developing the city's street system. All street improvements will therefore be in accordance with the city Engineering Regulations, Construction Specifications, and Design Standards as amended, the subdivision ordinance and the zoning ordinance.

B. In those instances where, in the opinion of the City Engineer, the rigid application of such guidelines would result in excessive right-of-way costs, relocation problems, and/or other extreme difficulties, a lesser standard may be approved by the City Engineer. (Ord. O-94-17 § 23, 1994; Ord. O-85-63 § 2, 1985).

12.12.030 Cost responsibility for improvements to the city's street system.

A. The cost responsibilities for street improvements applies the general but qualified concept that those who benefit from street and other public improvements should be most directly responsible for the cost of said improvements.

B. In applying this concept, the following conditions are recognized and incorporated in assigning cost responsibilities:
12.12.030

1. Any new land development within Lakewood benefits by the existence and use of the existing street system and other public improvements in the community. Nonetheless, while the existing street system and other existing public improvements benefit all new land development, no specific monetary charges are made to new land developments for use of the existing street system and other existing public improvements.

2. Benefits derived from arterial and major regional arterial streets adjacent to and within a new land development accrue both to the general public and to the owner of a new land development.

3. Benefits derived from major collector streets, minor collector streets and local streets are direct and accrue primarily to the owner of a new land development.

C. Cost responsibilities for new streets are as follows:

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<thead>
<tr>
<th>Classification</th>
<th>Right-of-Way</th>
<th>Streets</th>
<th>Sidewalk/Bikeways</th>
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<tbody>
<tr>
<td>Major regional arterial streets</td>
<td>Property owner</td>
<td>Shared</td>
<td>Property owner</td>
</tr>
<tr>
<td>Arterial streets</td>
<td>Property owner</td>
<td>Shared</td>
<td>Property owner</td>
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<tr>
<td>Collector streets (major and minor)</td>
<td>Property owner</td>
<td>Property owner</td>
<td>Property owner</td>
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<tr>
<td>Local streets</td>
<td>Property owner</td>
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Cost sharing on major regional arterial and arterial streets shall be done in the following manner: the property owner shall pay the cost of the street except for those costs paid for by the city. The property owner shall be responsible for all street improvements defined in Section 14.13.020 of the municipal code including roadway base and pavement thicknesses up to an EDLA (equivalent daily loaded axle) of thirty or the EDLA required for all traffic generated by the land development whichever is greater. The city will pay for any roadway base and pavement thicknesses in excess of the portion paid by the property owner.

D. Rebuild of Existing Street Facilities. The city shall have the authority to require improvements on existing streets made necessary by the development of a parcel. The procedures for such improvements shall be as defined in Chapter 14.13 of the city code or the subdivision and zoning ordinances, whichever provides the higher standard. These improvements shall include but not be limited to: Those rights-of-way, easements, access rights, and physical improvements which, upon formal acceptance by the city, shall become the responsibility of the city for ownership and/or maintenance and repair, unless otherwise provided, and shall include, but not by way of limitation, the following: curb and gutter, asphalt pavement, concrete pavement, streets of all types, survey.
monuments, pavement striping, sidewalks, pedestrian/bike paths, traffic signals, street lights, street signs, highways, freeways, rights-of-way, easements, access rights, construction plans, medians, bridges, acceleration and deceleration lanes, culverts, storm drainage facilities including necessary structures, channels, water lines, sanitary sewer lines, and all other improvements, which upon acceptance by the city are intended to be for the use of and enjoyment of the public.

E. Peripheral Streets. A peripheral street is one which borders a development, with one fraction of the street right-of-way on the property owner’s land and the remaining street right-of-way on the adjacent property owner’s land. A street which is located on right-of-way entirely within a single property owner’s land is not a peripheral street and will be paid for by the property owner with the exception of major regional arterial or arterial streets cost sharing which is as specified in subsection C of this section.

12.12.030

1. New Peripheral Streets. If the City Engineer determines that a new local or collector peripheral street is to be constructed, the property owner shall build and pay for one-half of the street plus five feet of additional pavement, but not less than 17 feet of pavement. If the City Engineer determines that a new major regional arterial or arterial peripheral street is to be constructed, the property owner shall build and pay for one-half of the street.

2. Existing Non-Standard Peripheral Street. Where a peripheral street exists but does not meet current City standards, adjacent property owners shall build and pay for one-half of the street plus five feet of additional pavement for a local or collector street as determined by the City Engineer, but not less than 17 feet of pavement.

If the City Engineer determines that an existing non-standard street is to be constructed to major regional arterial or arterial street standards, the adjacent property owner shall build and pay for one-half of the street.

12.17.010 Purpose.

- The purpose of this ordinance is to prevent injury to persons and property, to prevent traffic delays, and to avoid interference with the traffic flow in the public right-of-way. Delay or distraction may interfere with the safe operation of motor vehicles. Delay and distractions are caused by vendors standing near public streets, near intersections, and near traffic lights to contact drivers or passengers in cars that are passing or that are stopped temporarily due to traffic lights or other reasons. (Ord. O-97-74 § 1, 1997).

12.17.020 Revocable permit.

A. No person shall occupy the public right-of-way for the purpose of selling services or articles of merchandise without first obtaining a revocable permit.

B. This ordinance shall not apply to vendors of materials whose primary purpose is the dissemination of information such as newspapers or religious, political or ideological material. (Ord. O-97-74 § 1, 1997).

12.17.030 Permit fee.

A permit application form shall be obtained from the Department of Finance. Processing of the permit will entail an non-refundable fee of $100.00. The permit may be renewed by the permittee for three (3) consecutive years for use at the location granted on the permit. The renewal fee shall be $25.00. Any future increase or decrease in said fees shall be by the adoption of a resolution by City Council. (Ord. O-97-74 § 1, 1997).

12.17.040 Sales tax deposit.

A sales tax deposit in the amount of $50.00 shall be paid by the permittee at the time of receiving a permit. Said deposit will be applied toward the permittee's first sales tax return. Any additional sales tax shall be paid by the permittee on or before the due date for sales tax pursuant to Chapter 3.01 of the Lakewood Municipal Code. If the tax due is less than the amount paid for the deposit, a refund of the difference shall be paid to the permittee. Said deposits are for a period of one (1) year. (Ord. O-97-74 § 1, 1997).
12.17.050 Location.

-The Director of the Department of Finance or the Director’s designee shall approve or deny the location of the permit. The City shall provide a map to the permittee designating the general location of the public right-of-way and the permittee’s location thereon. In determining whether a particular location for sidewalk vendors is compatible with the public interest in the use of a public right-of-way, all or some of the following may be considered to determine whether the proposed location should be approved or denied. A. The width of sidewalk.

B. The proximity of existing street furniture including, but not limited to, sign posts, lamp posts, parking meters, bus shelters, benches, telephone booths, planters, newsstands and newspaper vending devices.

C. The presence of bus stops, truck loading zones, taxi stands or hotel zones.

D. The volume of street and pedestrian traffic, the rate of speed of traffic, and the ability to safely exit the traffic lane.

E. The location of other vendors in the immediately adjacent area.

F. The accident history of the location.

G. Other conditions which affect the public health, safety and welfare. (Ord. O-97-74 § 1, 1997).

12.17.060 Time.

A. Permits shall be issued for a period of one (1) year and may be renewed by the permittee for three (3) consecutive years. Once a permit has been issued and remains in effect for a location, no other person may be issued a permit for the same location. Any change of ownership of the business or change of location shall require a new application and permit, with payment of fees therefor, as provided here and above.

B. Any location which is vacated or abandoned by the permittee shall be accessible to other permittees under the provisions of this ordinance. A location is deemed abandoned by the permittee if the location is vacated for 30 consecutive days. (Ord. O-97-74 § 1, 1997).

12.17.070 One location.

-Each permit shall be valid for not more than one location. The permit is valid only when used at the location designated on the permit. (Ord. O-97-74 § 1, 1997).

12.17.080 Requirements.

The permittee shall observe the following requirements:

A. Permittee shall not place any carts, tables, display structures or similar devices in the public right-of-way.
B. Permittee shall provide a four-foot minimum unobstructed area to allow access as required by the Americans with Disabilities Act.

C. Permittee shall cause the public right-of-way permit and a sales tax license (if applicable) to be visible at all times.

D. Permittee shall not block any street signs.

E. Permittee shall not sell to people in cars in traffic lanes.

F. Permittee shall not sell on a median. (Ord. O-97-74 § 1, 1997).

12.17.090 Insurance requirements.

- Before any permit is issued, the applicant shall furnish to the City a Certificate of Insurance, with the City named as an additional insured, from a firm with corporate surety, authorized to do business in the State of Colorado, for public liability and property damage in the amount established by the City of not less than the following:

- For death or injury to any one person and including property damage, one hundred fifty thousand dollars ($150,000.00)

- Total liability in any one accident, six hundred thousand dollars ($600,000.00). (Ord. O-97-74 § 1, 1997).

12.17.100 Indemnification.

- The applicant shall be required to sign an indemnity agreement, on a form furnished by the City, which releases and discharges the City, its employees, agents and assigns from any liability and from any and all claims, demands, damages, actions, causes of action, or suits of any kind or nature whatsoever as related to occupying the public right-of-way. (Ord. O-97-74 § 1, 1997).

12.17.110 Lottery.

- In the event there is more than one application for a specific location, the City shall conduct a lottery drawing. The City Manager or his designee shall adopt such rules and regulations as may be required to administer said lottery and to administer other provisions of this Ordinance. (Ord. O-97-74 § 1, 1997).

12.17.120 Sanctions and appeal.

A. Nothing in this chapter shall be construed to limit the City's authority to require cessation of occupying the public right-of-way prior to the expiration of a permit. The City is not under any requirement to renew a permit. Permits may be revoked for cause including, but not limited to, trespass, failure to pay sales taxes, abandonment of location, drunkenness or disorderly conduct, failure to comply with the provisions of this ordinance or other City ordinances, or the existence of
conditions that are harmful to the public health, safety and welfare. Additionally, a permit may be revoked if, in the discretion of the Finance Director, the location has become unsafe based on the criteria set forth in Section 12.17.050.

B. Permittee may appeal a notice of revocation or a denial of issuance of a permit. Said appeal must be filed with the Finance Director within ten (10) business days after mailing of the notice of revocation or the denial of issuance of a permit. The Finance Director shall notify the permittee in writing of the time and place fixed by him for such appeal hearing. After such hearing, the hearing officer shall make an order in the matter and shall furnish a copy of such order to the permittee. Every decision of the hearing officer shall be in writing, and notice thereof shall be mailed to the permittee within thirty (30) days after such hearing. All such decisions are final.

C. Nothing in the chapter, shall prohibit the City from enforcing the provisions of this ordinance in the Lakewood Municipal Court or the Jefferson County District Court.

12.17.120

D. In addition to enforcement by any authorized personnel, this ordinance may be enforced by the Director of Community Planning & Development or his designee. (Ord. O-97-74 § 1, 1997).

12.17.130 Prior locations.

All prior locations authorized to vendors to occupy the public right of way for the purpose of conducting retail sales are hereby rescinded and revoked. No rights shall accrue to vendors based upon any previous authorization by the City to occupy the public right-of-way, and no prior authorization or approval by the City to occupy the public right-of-way shall allow for the grandfathering of a vendor’s location. The City reaffirms its absolute right to regulate activities in the public right-of-way through its police powers. (Ord. O-97-74 § 1, 1997).

12.17.140 Parades.

The provisions of the ordinance shall not apply at those locations which are adjacent to public streets which are officially and temporarily closed to through traffic for parades and other celebrations. Nothing herein shall relieve a vendor from obtaining a sales tax license. (Ord. O-97-74 § 1, 1997).

12.17.150 Penalty.

The penalty for a violation of any provision of this chapter shall be as set forth in Section 1.16.020-4. (Ord. O-2017-10, 2017; Ord. O-97-74 § 1, 1997).
12.18.010 Purpose.

The purpose of this chapter is to prevent dangers to persons and property, to prevent delays, and to avoid interference with the traffic flow. Roadways that have center medians are often designed to deal with specific traffic flow problems and any delay or distraction may interfere with traffic planning. Persons standing near intersections and near traffic lights to contact drivers or passengers in cars that are passing or that are stopped temporarily due to traffic lights can cause safety problems and traffic delays. (Ord. O-2001-20 § 1, 2001).

12.18.020 Prohibitions.

A. It shall be unlawful for any person to solicit employment, business, contributions, or sales of any kind, or collect monies for the same, from the occupant of any vehicle traveling upon any street or highway when such solicitation or collection:

1. Causes the person performing the activity to enter onto the traveled portion of a street or highway;

2. Involves the person performing the activity to be located upon any median area which separates traffic lanes for vehicular travel in opposite directions;

3. Causes the traffic on the traveled portion of a street or highway to be delayed or impeded; or

4. The person performing the activity is located such that vehicles cannot move into a legal parking area to safely conduct the transaction.

B. It shall be unlawful for any person to solicit or attempt to solicit employment, business, contributions, or sales of any kind from the occupant of any vehicle traveling upon any controlled-access highway including any entrance to or exit from such highway. (Ord. O-2001-20 § 1, 2001).

12.18.030 Definition.

For purposes of this section, the traveled portion of the street or highway shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purpose of vehicular traffic; or the entire width of every way declared to be a public street or highway by any law of this state. (Ord. O-2001-20 § 1, 2001).

12.19.010

Chapter 12.19 - Regulating the Administrative Approval of Minor Right of Way

12.19.010 Purpose.

The purpose of this ordinance is to allow for minor right of way encroachments including but not limited to commercial type trash dumpsters, fences, and mailbox pillars to be approved.
Administratively under certain limited conditions. The approval shall be limited to those instances where the encroachment will not interfere with vehicle or pedestrian traffic or sight triangles and has been approved by all appropriate City departments. (Ord. O-2005-5 § 2, 2005).

12.19.020 Revocable License Agreement.

A. No person shall construct any improvement, such as fences or mailbox pillars, or place any object, such as commercial type trash dumpsters in the public right of way without first obtaining a Revocable License Agreement approved by the Director of Finance.

B. This ordinance shall not apply to trash receptacles that are placed adjacent to the traveled lanes for removal on the scheduled date of pick-up.

C. A fee for processing the Revocable License Agreement shall be set by City Council resolution from time to time.

D. The revocable license agreement granted by the City is revocable at will by the City. (Ord. O-2005-5 § 2, 2005).

12.19.030 Procedure for Approval.

A. An application form shall be obtained from the Department of Finance, Property Management Section.

B. The application form shall be completed and returned to Property Management for review with the applicable fee.

C. Property Management shall forward copies of the application to all appropriate departments for review and comment.

D. Upon approval by appropriate departments, Property Management shall prepare the Revocable License Agreement to be signed first by the applicant and final signature by the Director of Finance. (Ord. O-2005-5 § 2, 2005).

12.19.040 Standards for Approval.

A. A revocable license agreement may be granted administratively only if the applicant meets the following criteria:

   - The proposed encroachment shall not create an obstruction to vehicle, bicycle or pedestrian traffic in any way.

   - The proposed encroachment shall not infringe upon any easement rights held by the City of Lakewood, other public agency or utility.

   - The proposed encroachment shall not obstruct the sight triangle.
D.

The proposed encroachment shall not create or contribute to a safety hazard.

E.

The proposed encroachment shall meet all standards and requirements of the City of Lakewood for location and improvements. (Ord. O-2005-5 § 2, 2005).

12.19.050 Indemnification.

The Revocable License Agreement shall contain an indemnity agreement which releases and discharges the City, its employees, agents and assigns from any liability and from any and all claims, demands, damages, actions, causes of action, or suits of any kind or nature whatsoever as related to encroaching upon the public right-of-way. The Licensee shall reimburse the City for defending claims brought against the City, failure to reimburse the City in a timely manner may result in a lien being placed upon the Licensee’s property. (Ord. O2005-2005 § 2, 2005).

12.19.060 Appeal of application denial.

In the event that the Director of Finance denies a revocable license agreement, an applicant shall have the right to a quasi-judicial hearing before the City Manager or his designee for the purpose of appealing the Director’s administrative decision. A written request for a hearing shall be made to the City Manager or his designee within ten (10) days of the date of the mailing of the City Clerk’s written findings and decision denying the license application. The hearing shall be conducted within ten (10) days of the City Manager’s or his designee’s receipt of the written request for a hearing unless a later date is requested by the applicant. (Ord. O-2005-5 § 2, 2005).

12.19.070 Termination of Revocable License Agreement.

The holder of the Revocable License Agreement may terminate the Revocable License Agreement by notifying the City in writing, complying with the terms of the Revocable License Agreement, and removing the encroachment. The City may terminate the Revocable License Agreement by notifying the holder of the Revocable License Agreement in writing. The holder of the Revocable License Agreement shall remove the encroachment pursuant to the terms of the Revocable License Agreement. (Ord. O-2005-5 § 2, 2005).

12.20.010

Chapter 12.20

12.20.020 Regulation of Newspaper corrals at Belmar site. Corrals

12.20.010 Purpose

A.

It is the intent of this ordinance to place reasonable restrictions on the location of newspaper corrals within the Belmar Site. The Belmar Site is unique in the mixed use character of residential, commercial and office space and will consist of streetscapes, sidewalks, street lighting and other amenities which are unique in the City. The regulation of the location of newspaper corrals in the Belmar Site is essential to ensure compatibility with the unique design of the Belmar Site and to
avoid visual blight by controlling congestion of newspaper vending machines at certain locations. The City recognizes the First Amendment rights of newspapers to distribute their publications and will not interfere with such rights. There will be both an ample number of newspaper corrals located within the Belmar Site and an ample number of alternative methods of newspaper distribution through home delivery and retail stores in the Belmar Site. This Chapter does not regulate content.

B. The Belmar Site consists of the Service Areas of The Plaza Metropolitan District No. 1, The Plaza Metropolitan District No. 2, and The Plaza Metropolitan District No. 3 as legally described more specifically in an Exhibit on file in the City Clerk’s Office as may be amended from time to time. The Belmar Site is generally described as being bounded on the north by West Alameda Avenue, on the west by South Wadsworth Boulevard, on the south by Center Avenue, and on the east by Quay Street. [Ord. O-2004-11 § 1, 2004].

12.20.020 Newspaper corrals at Belmar Site.

A. Newspaper corrals are permitted within the Belmar Site in the public right of way only in those locations designated by the Director of Community Planning and Development (“Director”) or his designee. These newspaper corrals are available for use by permit as provided in this Chapter for locating newspaper vending machines. No person shall install or use any newspaper vending machine or similar device on or at the Belmar Site other than as described in this Chapter. Newspaper vending machines shall be located only within a newspaper corral.

B. Any publication that is eligible for the periodicals mailing privileges of the United States Postal Service may place its newspaper vending machine within a newspaper corral after receiving a permit from the City to do so. Only one newspaper vending machine per publication may be located in each newspaper corral installed at the Belmar Site. [Ord. O-2004-11 § 1, 2004].

12.20.030 Criteria.

The Director shall use the following criteria in determining locations for newspaper corrals:

A. Newspaper corrals and their locations and access shall be in compliance with the Americans with Disabilities Act.

B. Newspaper corrals shall be in compliance with City regulations relating to traffic and pedestrian safety.

C. Newspaper corrals shall be placed in those locations, among others, where the public is invited to congregate, such as public plazas, park entrances and public transportation stops. There shall be a minimum of seven (7) newspaper corrals located within the Belmar Site. [Ord. O-2004-11 § 1, 2004].

D. There shall be a minimum of seven (7) newspaper corrals located within the Belmar Site.
12.20.040 Permit required

A. Annual Permit Required.- It shall be unlawful to use, operate or maintain a newspaper vending machine without first having obtained a permit issued by the Director. A permit shall be valid for one (1) year following the date of issuance and may be renewed in accordance with this Chapter. Permit fees, if any, shall be established, and from time to time may be changed, by resolution of the City Council.

B. Initial Permit Application.- Any person who wishes to obtain a permit to use, operate or maintain a newspaper vending machine shall submit to the Director an application in a form approved by the City which shall include, but not be limited to, identification, address, and contact information for the applicant. The applicant shall make payment of all application fees imposed for the application. Application fees, if any, shall be established, and from time to time may be changed, by resolution of the City Council.

C. Allocation: Newspaper vending machine permits are available on a first come, first served basis. Should the first come, first served system not resolve allocation questions, the Director shall select publications by random drawing. (Ord. O-2004-11 § 1, 2004).

12.20.050 Permittee obligations

A. A newspaper vending machine permittee shall maintain the newspaper vending machine face, its interior, and all mechanical workings of its individual box, including, without limitation, the window and face plate, the coin mechanism, coin tray, and lock, if any; and the inside shelves in proper working order.

B. A newspaper vending machine permit is valid for one year from date of issuance. In addition to other causes specified in this Chapter for permit denial, revocation, or suspension, a newspaper vending machine permit expires when the machine is not in use for a period of thirty days, or if the permittee has failed to maintain the newspaper vending machine over such a period. The Director shall take no final action based on such an expiration without notice to the permittee and an opportunity for a hearing. Upon denial of renewal of a permit, or suspension, revocation, expiration for failure to use or maintain, or expiration for failure to renew, the Director may remove the newspaper vending machine, contents of any machine, change the locks, hold any contents and money as abandoned property, and issue a new permit to someone else. (Ord. O-2004-11 § 1, 2004).

12.20.060 Non-periodical newspaper vending machine boxes.

A. The Director shall permit one newspaper vending machine box in each corral for use by purveyors of printed material which is not eligible for the periodicals mailing privileges of the United States Postal Service. Such non-periodical newspaper vending machines shall contain only materials available free to the public.

12.20.060

B. In the event that there are unused periodicals newspaper vending machines spaces in any corral, the Director may make the space available as temporary non-periodical newspaper vending machines, except that temporary permits issued on this basis shall be revocable at any time that a new
applicant for a regular newspaper vending machine receives approval of the application. (Ord. O-2004-11 § 1, 2004).

12.20.070 Application review

A. The Director shall administratively approve or deny an application for issuance or renewal of an annual permit within fourteen (14) days from the date the application is deemed complete by the City. Each application shall apply throughout the Belmar Site. The Director shall administratively deny or may administratively revoke a permit if the applicant or permittee do not qualify under the provisions of this Chapter to use a newspaper corral. Any denial or revocation shall be in writing, contain a description of the reasons for the denial, and shall be sent to the applicant by certified mail, return receipt requested, at the applicant’s address as specified in the application. An applicant shall have thirty (30) days from the date of mailing of a denial or revocation within which to correct all cited deficiencies. (Ord. O-2004-11 § 1, 2004).

12.20.080 Appeals of Permit Decisions

A. Appeal Hearing. An applicant shall have the right to a quasi-judicial hearing before the City Manager or his designee for the purpose of appealing the Director’s administrative decision(s). A written request for a hearing shall be made to the City Manager or his designee within ten (10) days of the mailing date of the Director’s written findings and decision denying or conditioning the permit application. The hearing shall be conducted within fourteen (14) days of the City Manager’s or his designee’s receipt of the written request for a hearing unless a later date is requested by the applicant.

B. Appeal of Order. The order of the City Manager or his designee made pursuant to this section shall be a final decision and may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4). For purposes of any appeal to the District Court, the City Manager’s or his designee’s decision shall be final upon the earlier of the date of the applicant’s receipt of the order or four (4) days following the date of mailing. (Ord. O-2004-11 § 1, 2004).

12.20.090 Rules and regulations

The Director may adopt reasonable rules and regulations to supplement the requirements of this Chapter. Said rules and regulations shall not be in conflict with this Chapter. (Ord. O-2004-11 § 1, 2004).

12.20.100 Intent.

It is the intent of this Chapter to be interpreted liberally to ensure compliance with newspaper distributors’ First Amendment rights. (Ord. O-2004-11 § 1, 2004).

12.20.110 Severability.
If any provision of this Chapter is held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions of this Chapter which can be given effect without the invalid provision. (Ord. O-2004-11 § 2, § 2004).
Definitions from Section 13:

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.

Alternative Tower Structure: man-made trees, clock towers, bell steeples, light poles, buildings, and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflage or conceals the presence of Antennas or Towers so as to make them architecturally compatible with the surrounding area pursuant to this title. This term also includes any Antenna or Antenna array attached to an Alternative Tower Structure. A stand-alone pole in the Right-of-Way, streetlight, or traffic signal that accommodates Small Cell Facilities is considered an Alternative Tower Structure to the extent it meets the camouflage and concealment standards of this title.

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 WCF: any person that submits an application to the City to site, install, construct, collocate, modify and/or operate a Wireless Communications Facility.

Amateur Radio Towers and Antennae: Broadcasting and receiving structures or devices used for personal pleasure or as a hobby.

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. Base Station does include, without limitation:

1. Equipment associated with wireless communications services such as private broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the City under this Chapter 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 City under this title, 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.
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The definition of Base Station does not include any structure that, at the time the relevant application is filed with the City, does not support or house equipment described in paragraphs 1 and 2 above.

Camouflage, Concealment, Or Camouflage Design Techniques: the designing of a WCF to alter its appearance in such a manner as to substantially integrate it into surrounding building designs and/or natural settings to minimize the visual impacts of the facility on the surrounding uses and ensure the facility is compatible with the environment in which it is located. A Wireless Communication Facility utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a utility tower, or (iii) uses a design which mimics and is consistent with the nearby natural or architectural features (such as a clock tower) 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: (1) mounting or installing a WCF on a pre-existing structure, and/or (2) 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 person, or that person’s designee, authorized by the City Manager to enforce and interpret this Zoning Ordinance.

Eligible Facilities Request: any request for modification of an Existing Tower or Base Station that it is not a Substantial Change.

Eligible Support Structure: any Tower or Base Station as defined in this Section, provided that it is existing at the time the relevant application is filed with the City under this Section.

Existing Tower or Base Station: 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.

FCC: the Federal Communications Commission.

Hazardous Substance: any substance, chemical or waste that is identified as hazardous or toxic in any applicable federal, state or local law or regulation, including but not limited to petroleum products and asbestos.

Interference: physical interference and radio frequency interference.

Micro Cell Facility: a small wireless facility that is no larger than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height, and that has an exterior Antenna, if any, that is no more than eleven (11) inches in length.

Monopole: a single, freestanding pole-type structure supporting one or more Antennas.

Over the Air Receiving Device: an Antenna used to receive video programming from direct broadcast satellites, broadband radio services and television broadcast stations, but shall not include Antennas used for AM/FM radio, amateur (“ham”) radio, CB radio, Digital Audio Radio Services or Antennas used as part of a hub to relay signals among multiple locations.

Owner means a person with a legal or equitable interest in ownership of real or personal property.
Permit means a permit issued and described in accordance with Laws, which is used to regulate, monitor, and control the improvement, construction, or excavation activities, or other work or activity, occurring upon or otherwise affecting Licensor’s ROW, including ROW use, building, and electrical permits.

Physical Interference means where equipment, vegetation, or a structure causes reduced use of another’s prior mounted equipment; or an obstruction in a necessary line-of-sign path.

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 Right-of-Way (ROW): any public street, way, alley, sidewalk, median, parkway, or boulevard that is dedicated to public use.

Radio Antenna, Amateur: A noncommercial device that is used for transmitting and receiving electromagnetic waves.

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 Frequency Interference means the emission or conduction of radio frequency energy (or electronic noise) produced by electrical and electronic devices at levels that interfere with the operation of adjacent or nearby equipment.

READILY APPARENT. For purposes of determining whether a WCF is readily apparent, the phrase means that the facility, will be easily recognizable as a WCF in the discretion of the Director, 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: an Alternative Tower Structure that is a newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or street light pole 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 Micro Cell Facility or to accommodate Collocation and replaces a pre-existing pole or structure.

Satellite Dish Antenna: A parabolic antenna intended to receive signals from orbiting satellites and other sources. Non-commercial dish antennas are defined as being less than four meters in diameter, while commercial dish antennas are usually those larger than four meters and typically used by broadcasting stations.

Setback: The minimum distance any building or structure must be separated from a specified point.
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Sign: Any structure, which requires a permanent or temporary location, that has a visual display visible from a public right-of-way and is designed to identify, announce, direct or inform.

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 Towers (other than Towers in the Right-of-Way and Eligible Support Structures): the current boundaries of the leased or owned property surrounding the Tower or Eligible Support Structure and any access or utility easements currently related to the Site. A Site, for other Alternative Tower Structures, Base Stations, Micro Cell Facilities, and Small Cell Facilities in the Right-of-Way, is further restricted to that area comprising the base of the structure and to other related Accessory Equipment already deployed on the ground.

Small Cell Facility: a Wireless Communication Facility 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 no 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. Small cells may be attached to Alternate Tower Structures, Replacement Poles, and Base Stations. The definition of a Small Cell Facility shall also include a Micro Cell or Micro Cell Facility.

Street: A public or private thoroughfare for vehicular traffic other than an alley or driveway.

Substantial Change for Eligible Facilities Request: 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:

(A) For Towers, other than Alternative Tower Structures or Towers in the Right-of-Way, it increases the height of the Tower by more than ten percent (10%) or by the height of one (1) additional Antenna array, with separation from the nearest existing Antenna not to exceed twenty feet, whichever is greater; for other Eligible Support Structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater;

(B) 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 twenty (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 (6) feet;

(C) 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;

(D) 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 (10%) larger in height or overall volume than any other existing, individual ground cabinet associated with the structure;
(E) For any Eligible Support Structure, it entails any excavation or deployment outside the current Site;

(F) For any Eligible Support Structure, it would defeat the concealment elements of the Eligible Support Structure. For the purposes of this subsection (vi), a change that would undermine the concealment elements of this structure will be considered to defeat the concealment elements of the structure; or

(G) 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 Wireless Facilities including, but not limited to, Monopoles, Alternative Tower Structures, Replacement Poles, and other freestanding self-supporting pole structures.

Toll and Tolling: 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, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes self-supporting lattice towers, guyed towers or Monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, Alternative Tower Structures and the like.

Transmission Equipment: equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, Antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Wireless Communications Equipment Shelter: An unattended structure such as a small building or cabinet(s) used to house equipment for a wireless communications facility associated with either a freestanding wireless communications facility or a structure or building mounted wireless communications facility.

Wireless Communications Facility or WCF: a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an Antenna or Antennas, Base Stations, support equipment, Alternative Tower Structures, Small Cell Facilities, and Towers. 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 title.
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Wireless Communications Provider: A public or private company providing personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services.

Wireless Communications Site: Any use of property for antennae, equipment, and equipment shelter(s) employed in the reception, switching, and/or transmission of wireless telecommunication services including, but not limited to, paging, enhanced specialized mobile radio, personal communication services, microwave link antenna, cellular telephone, and other related technologies.

ARTICLE 10: Wireless Services and Communications .......................................................... 10-1

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ARTICLE 10: WIRELESS SERVICES AND COMMUNICATIONS

17.10.1: General

17.10.1.1: Purpose and Intent

This Article is intended to ensure that residents, public safety operations and businesses in the City have reliable access to personal wireless services and state of the art communications services in a way that reasonably preserves the aesthetic character of the community and complies with Federal and State laws.

It is the City's intent to:

The City Council finds that these regulations are necessary to:

A. Provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the City with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;

B. Minimize adverse visual effects of WCFs through thoughtful design and siting, including but not limited to camouflage design techniques, appropriate and effective screening, and equipment undergrounding whenever appropriate;

C. Encourage the location of Towers in a manner that minimizes the total number of Towers needed throughout the community;

D. Require the collocation of WCFs wherever reasonably feasible;

E. Encourage owners and users of WCFs to locate them, to the extent possible, in areas where the adverse impact to the community is minimized;

F. Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently;

G. Effectively manage WCFs in the Public Right of Way;

H. Manage amateur radio facilities and over-the-air devices in the City;

A. Ensure the City has sufficient wireless infrastructure to support public safety and emergency response communications throughout the City;

B. Ensure access to reliable personal wireless services throughout all areas of the City and in no event prohibit or have the effect of prohibiting the provision of personal wireless services;

C. Encourage the use of existing structures for the siting of facilities;

D. Encourage the location of new freestanding support structures in areas where any potential adverse impacts on the community will be minimized;
E. Minimize the potential adverse effects of wireless service facilities through the implementation of reasonable design, landscaping and construction practices; and

F. Conform to federal and state laws which exempt certain facilities, receiving dishes and antennas from local regulations.

17.10.1.2: Applicability

A. The standards in this Article shall control the design, location, alteration, installation and maintenance WCF applications for Base Stations, Alternative Tower Structures, Towers, Micro Cells, and Small Cell Facilities as defined in Section 17.13.2 and further addressed herein.

B. The Requirements set forth in this Article shall not apply to:

1. Amateur radio Antennas that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive only Antennas, provided that the requirements that the height be no more than the distance from the base of all wireless service infrastructure in all zone districts. No provision the Antenna to the property lines is met.

2. Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to the effective date of Ordinance # 2019 O-2020-1 shall not be required to meet the requirements of this Article shall apply to Chapter, other than the requirements of Section 17.10.3. Changes and additions to pre-existing WCFs (including trading out of Antennas for an equal number of Antennas) shall meet applicable requirements of Section 17.10.3. Notwithstanding the foregoing, any modifications qualifying as an Eligible Facilities Requests shall be evaluated under this Section.

3. Miscellaneous Antennas. Antennas used for reception of television, multi-channel video programming and radio such as Over-the-Air Receiving Device (OTARD) Antennas, television broadcast band Antennas, satellite earth station 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 to the property line are met. The Director or his or her designee has the authority to approve modifications to the height restriction related to OTARD Antennas and OTARD antenna structures, if in the reasonable discretion of the City, modifications are necessary to comply with federal law.

4. A WCF installed upon the declaration of a state of emergency by the federal, state, or local government, or a written determination of serving the general health, safety, and welfare of residents by the City, or reasonable ability to obtain such written determination within 72 hours.

5. A temporary WCF installed for the purpose of providing sufficient coverage for a special event, subject to administrative approval by the City.
A.6. The siting of Distributed Antenna Systems (DAS) or wireless facilities located within and intended to provide wireless coverage within a structure.

B. Any dish antenna less than 40 inches in diameter located in a residential zone district; or

C. Any dish antenna less than 80 inches in diameter located in any other zone district.

17.10.2: Wireless Facilities – By Zone District

Table 17.4.1 identifies where the different types of wireless facilities are permitted as primary or accessory uses, by right or with a special use permit, and where these uses are prohibited in each zone district within the City of Lakewood.

17.10.3: Wireless Facility Operational Standards

17.10.3.1: Wireless Stealth Facilities

A. Review Requirements:

The installation of new wireless stealth facilities on any non-single-family or two-family structure may be allowed in any zone district if reviewed and approved in accordance with the Review of Supplemental Standards procedures identified in Article 2. The Director shall exercise discretion in applying the standards outlined for all new wireless stealth facilities, where such standards are determined to be necessary to minimize the potential adverse effects of wireless service facilities. At a minimum the following standards shall apply:

1. The dimensions of the stealth facility must reasonably approximate the dimensions of the object they are being disguised as, and

2. The location of the stealth facility must be in concert with its surroundings.

17.10.3.2: New Wireless Facilities on Existing Structures

A. Review Requirements:

The installation of new wireless facilities on

A. Federal Requirements. All WCFs shall meet the current standards and regulations of the Federal Aviation Administration (FAA), the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Unless preempted by federal law, failure to meet such revised standards and regulations within 30 days of the City’s determination of such failure shall constitute grounds for the removal of the WCF by the City or owner at the WCF owner’s expense.
B. Permission to Use Public Right-of-Way or Public property. Prior to WCFs being sited in the ROW, the Applicant shall have an executed license agreement with the City, granting a non-exclusive license to use the Public Right-of-Way. Attachment of WCFs to existing or replacement structures—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, and Site specific approval pursuant to 17.10.4. The Applicant shall remain the owner of, and solely responsible for any WCF installed in the ROW. Prior to, or concurrently with, seeking land use approval for a WCF on Public Property, the applicant shall execute a lease agreement with the City.

C. 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. If upon inspection, the City concludes that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have 30 days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner and meeting reasonable safety considerations, the City's Chief Building Official may extend such compliance period not to exceed 90 days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the City may be allowed to remove such WCF at the owner's expense.
D. Emergency. In the event of an emergency or to protect the public health or safety, prior to the City accessing or performing any work on a facility on which a WCF Owner has installed Equipment, City may require WCF Owner to deactivate such Equipment if any of City’s employees or agents must move closer to the Equipment than the FCC’s recommended minimum distance. In such case, City will contact WCF Owner to request immediate deactivation.

E. Non-Interference. The following provisions shall apply to ensure and/or avoid interference (both physical interference and Radio Frequency Interference) resulting from Licensee’s installation, operation and/or maintenance of its Equipment:

a. Radio Frequency Interference. All WCF Owners shall ensure that the Equipment will not cause Radio Frequency Interference with Wireless Communication Facilities or devices, cable television, broadcast radio or television systems, satellite broadcast systems, or City traffic, public safety or other communications signal equipment existing at the time of installation of the Equipment.

b. Existing Uses. WCF Owners shall not interfere in any manner with the existing uses of City property including Rights-of-Way, and including sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electric and telephone wires, streetlight fixtures, cable television, and other telecommunications, utility, and municipal property without the express written approval of the Owner(s) of the affected property or properties.

c. City Communications. WCF Owners shall not interfere in any manner with current or future City or other governmental public safety communication.

d. Remedies. If Interference occurs and continues for a period in excess of 24 hours following notice to the interfering party via telephone, the City may require the interfering party to reduce power or cease operations of the interfering equipment until the Interference is cured.

F. Relocation, Abandonment and Removal. After the WCF is constructed, if a WCF has not been in use for a period of three months, the owner of the WCF shall notify the City of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is contracted and is not operated for a continuous period of six months shall be considered abandoned. The City, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within 30 days of receipt of written notice from the City. If such WCF is not removed within said 30 days, the City may remove it at the owner’s expense and any zone district if approved permits for the WCF shall be deemed to have expired. For any public project, a WCF may be required to relocate at WCF Owner’s expense.
G. Hazardous Materials. No Hazardous materials shall be permitted in association with WCFs, except those necessary for the operation of the WCF and only in accordance with all applicable laws governing such materials.

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

17.10.4 Review Procedures and Requirements

A. Permit Required. No new WCF shall be constructed and no Collocation or modification to any WCF may occur except after a written request from an Applicant, reviewed and approved by the City in accordance with this Chapter. All WCFs except Eligible Facilities Requests which are reviewed under subsection (a)(3) of this Section, shall be reviewed pursuant to the following procedures. All WCF permits shall expire and be of no further force and effect 180 days following the date of approval unless, prior to the date of expiration: (1) Construction has been diligently pursued towards completion of the project, or (2) 180-day extension of the permit has been 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 City'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.

1. Review Procedures for certain WCFs, including Base Stations, Alternative Tower Structures, Small Cell Facilities, and Alternative Tower Structures within Public Rights-of-Way. Applications for these WCF facilities shall be reviewed by the Public Works Department for conformance to this Section and using the Design Review procedures set forth in Section 17.10.5 For WCFs in the Right-of-Way that are found to have a significant visual impact (i.e. proximity to historical sites), be incompatible with the structure of surrounding area, or not meet the intent of these provisions, the City may refer the application to Planning Commission for a Special Use Permit Review of Supplemental Standards Determination.

2. Review Procedures for certain WCFs, including Towers. Towers, other than those defined or excepted in (1) above, must apply for Special Use Permit Review approval. These WCFs shall be reviewed for conformance using the procedures set forth in Section 17.10.5. 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 City.

   a. Eligible Facilities Requests shall be considered a permitted use, subject to administrative review. The City shall prepare, and from time to time revise and make publicly available, an application form which shall require submittal of information necessary for the City to consider whether an application is an Eligible
Facilities Request. Such required information shall include, without limitation, whether the project:

i. Constitutes a Substantial Change;
ii. Violates a generally applicable law, regulation, or other rule codifying objective standards reasonably related to public health and safety.

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

b. Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Director shall review such application to determine whether the application so qualifies.

c. Timeframe for Review. Subject to the Tolling provisions of subparagraph d. below, within 60 days of the date on which an Applicant submits an application seeking approval under this Section, the City shall approve the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable codes.

d. Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be Tolled only by mutual agreement of the City and the Applicant, or in cases where the Director determines that the application is incomplete:

i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

ii. The timeframe for review begins running again the following business day after the applicant makes a supplemental written submission in response to the City’s notice of incompleteness;

iii. Following a supplemental submission, the City will notify the Applicant within 10 business days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is Tolled in the case of second or subsequent notices pursuant to the procedures identified in paragraph (d.)(i). In the case of a second or subsequent notice of incompleteness, the City may not specify missing information or documents that were
not delineated in the original notice of incompleteness.

e. Failure to Act. In the event the City fails to act on a request seeking approval for an Eligible Facilities Request under this Section within the timeframe for review (accounting for any Tolling), the request shall be deemed granted. The request becomes effective when the Applicant notifies the City in writing after the review period has expired (accounting for any Tolling) that the application has been deemed granted.

f. Interaction with Telecommunications Act Section 332(c)(7). If the City determines that the Applicant’s request is not an Eligible Facilities Request as delineated in this Chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC’s Shot Clock order, will begin to run from the issuance of the City’s decision that the application is not a covered request. To the extent such information is necessary, the City may request additional information from the Applicant to evaluate the application under Section 332(c)(7) reviews.


a. Small Cell Facilities in the Right-of-Way shall be considered a permitted use, subject to administrative review as set forth in Subsection A.1.

b. The City shall prepare, and from time to time revise, and make publicly available, an application form which shall require submittal of information necessary for the City to consider whether a project is eligible as a Small Cell Facility in the Right-of-Way, meeting certain criteria. The application shall not require the Applicant to demonstrate a need or business case for any proposed modification or Collocation.

c. Upon receipt of an application for a Small Cell Facility in the Right-of-Way pursuant to this Section, the Public Works Department shall review such application to determine whether the application is complete.

d. Timeframe for Review. Within 90 calendar days of the date on which an Applicant submits an application seeking approval under this Section, the City shall take action on the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable codes.

B. Submittal Requirements.
1. In addition to submittal requirements of Chapter 17.2, the following supplemental items are required for all WCF applications:
   a. Signal Non-Interference Letter;
   b. Radio Frequency Emissions Letter;
   c. Photo simulations showing before and after conditions excluding applications for small cell facilities;
   d. Written representation that Applicant shall be responsible for paying all charges for any electricity furnished by a utility to Applicant and for charges for furnishing service to the Equipment. When the Equipment requires an electric meter as determined by the utility provider, the Applicant shall install or cause to be installed a separate electric meter on a ground mounted pedestal or on Applicant’s pad mounted equipment cabinet as required by the electric provider for the operations of its Equipment;
   e. Inventory of Sites. Each applicant for a WCF shall provide to the City a narrative description and data in a format acceptable to the City showing the applicant’s currently proposed WCFs within the City, and outside of the City within one half-mile of its boundaries. This provision is not intended to be a requirement that the applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the City. This information will be used to assist in the City’s comprehensive planning process, and promote Collocation by identifying areas in which WCFs might be appropriately constructed for multiple users.
   f. Abandonment and removal Affidavits shall be required from the owner of the property and from the applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of six (6) months.
   g. Consolidated applications. The City shall allow a wireless provider to file a multi-site permit seeking approval for up to ten (10) permits for Small Cell Facilities at a given time. Each individual site shall be processed as a separate permit in order to facilitate recording site addresses, utility company requirements, and timely inspection scheduling. The City’s denial of any individual small cell facility is not a basis to deny the application as a whole or any other small cell facility incorporated within the consolidated application.

C. Decision. Any decision to approve, approve with conditions, or deny an application for a WCF, shall be in writing and supported by substantial evidence in a written record. The applicant shall receive a copy of the decision.
D. Compliance with Applicable Law. Notwithstanding the approval of an application for new 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 the Municipal Code and any other applicable laws or regulations. In addition, all WCF applications shall comply with the following:

1. Comply with any permits or licenses 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 ten calendar days from the time of notification by the City or after discovery by the owner or operator of the Site. Notwithstanding the foregoing, any graffiti on WCFs located in the Public Rights-of-Way or on Public Property may be removed by the City 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 City.

17.10.5 Design Standards

A. Review Requirements. The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this Chapter as specified below; provided, however, that the City may waive these requirements if it determines that the goals of this Chapter are better served thereby. To that end, WCFs shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the City, consistent with other provisions of this Code. Notwithstanding the foregoing, the Planning Director shall have the authority to promulgate design standards for small cell facilities in the rights of way, which shall govern those types of WCFs.

1. Camouflage/Concealment. All WCFs and any Transmission Equipment shall, to the extent possible, use Camouflage Design Techniques including, but not limited to the use of materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF into the surrounding natural setting and built environment.
   a. Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g., proximity to historic, natural, or aesthetically significant structures or areas, views, and/or community features or facilities). In such instances where WCFs are located in areas of high visibility, they shall (where possible) be designed to minimize their profile.
   b. The camouflage design may include the use of Alternative Tower Structures should the Public Works Department determine that such
design meets the intent of this Code and the community is better served thereby.

c. All WCFs, such as Antennas, vaults, equipment rooms, equipment enclosures, and Tower structures shall be constructed out of non-reflective materials (visible exterior surfaces only).

2. Collocation. WCFs shall be designed and constructed to permit the facility to accommodate WCFs from at least two (2) wireless service providers on the same WCF, to the extent it is feasible in good faith based upon construction, engineering and design standards, except where such Collocation would materially compromise the design intent of the WCF, particularly visually.

3. Lights and other attachments.
   a. WCFs shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purpose. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties or environs. Lighting shall be shielded or directed to the maximum extent so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.
   b. All exterior lighting within equipment yards shall be mounted on poles or on the building wall below the height of the screen wall or fence.
   c. No Tower shall have constructed on, or attached to, any additional platform, catwalk, crow’s nest or like structure (other than those required by industry standards or federal regulations), except during periods of construction or repair.
   d. Signs and advertising. The use of any portion of a Tower for signs or advertising devices other than public safety warnings, certification, or other requires seals on any wireless communication device or structure is prohibited. However, the telephone numbers to contact in an emergency shall be posted on each facility.

4. Noise. Noise generated on the site must not exceed the levels permitted in the City of Lakewood Municipal Code, except that a WCF owner or operator shall be permitted to exceed such noise standards for a reasonable period of time during repairs, not to exceed two (2) hours without prior authorization from the City.

5. Landscaping Requirements.
   a. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the parcel.
   b. WCFs, excluding Small Cell Facilities unless otherwise required by the Public Works Department, shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from Rights-of-Way and adjacent properties. Where the City has requested additional landscaping, the City may require irrigation requirements for the landscaping.
6. Screening Requirements.
   a. All equipment, not located within the Public Right-of-Way and not otherwise defined, shall be fully screened within a walled yard or placed in an enclosed building except in cases where a better design alternative exists. The yard shall be enclosed by a solid fence or wall of sufficient height to screen all miscellaneous equipment from view from the public Right-of-Way or adjacent properties and to provide security.
   b. All structures and improvements associated with the WCF shall be provided with adequate safety equipment and aesthetic treatments, including incorporating landscape screening noted in subsection 5, to be visually compatible with uses in the surrounding area.
   c. Roof-top mounted equipment shall be screened from off-site views to the extent practical by solid screen walls or the building’s parapet.
   d. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

Article 2—B.
7. WCFs Adjacent to Single Family Residential Uses. WCFs shall be sited in a manner that evaluates the proximity of the facility relative to residential structures, neighborhoods, and residential zoning boundaries in order to minimize the visual impacts of WCFs on residential areas.
   a. When placed near residential property, the WCF shall be placed in close proximity to a common property line between adjoining residential properties, such that the WCF minimizes visual impacts equitably among adjacent and nearby properties.
   b. For a corner lot, the WCF may be placed adjacent to a common property line between adjoining residential properties, or on the corner formed by two intersecting streets.
   c. If these siting requirements are not feasible in good faith from a construction, engineering, or design perspective, the Applicant may submit a written statement to the Public Works Department requesting the WCF be exempt from these requirements, and offer alternative locations reasonably meeting the intent of this section.

8. Design requirements specific to various types of WCFs.
   a. Base Stations. 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 possible, including for example, without limitation, painting the Antennas and accessory equipment to match the structure. Additionally, any ground mounted equipment may be located in a flush-to-grade underground equipment vault if it is reasonably feasible from a construction, engineering, or design perspective.
b. Alternative Tower Structures, not in the Public Right-of-Way shall:
   i. Be designed and constructed to look like a building, facility, structure, or other commonplace item, such as but not limited to a tree, public art, or clocktower, typically found in the area.
   ii. Be camouflaged/concealed consistent with other existing natural or manmade features in or near the location where the Alternative Tower Structure will be located.
   iii. Be compatible with the surrounding area, including architecture, topography, and/or landscaped environment.
   iv. Be the minimum size needed to obtain coverage objectives. Height or size of the proposed Alternative Tower Structure should be minimized as much as possible.
   v. Be sited in a manner that is sensitive to the proximity of the facility to residential structures, neighborhoods, and residential zoning district boundaries.
   vi. Take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses.

c. Towers:
   i. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards and City design approval processes, be painted a neutral color so as to reduce visual obtrusiveness.
   ii. Wherever possible, Towers shall locate to utilize existing landforms, vegetation, and structures to aid in screening the facility from view, or otherwise blending in with surrounding built and natural environment.
   iii. Monopole support structures shall taper from the base to the tip.
   iv. All Towers, excluding Alternative Tower Structures in the Right-of-Way, shall be enclosed by security fencing or wall and shall also be equipped with an appropriate ant-climbing device.
   v. Towers shall be subject to the height restrictions of each zoning district. Notwithstanding anything in this Chapter to the contrary, Towers are prohibited in the Right-of-Way.

d. Roof and Building Façade Mounted Antennas: WCFs:
   i. Building façade mounted antennas shall not protrude horizontally more than 2 feet from the building wall and shall be painted or treated to match the building or structure to which the antenna is attached.
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2. Building façade mounted antennas shall not exceed the height of the parapet or the rooftop, whichever is greater.

3. The total of all visible building façade mounted antennas may not exceed the greater of 10 percent of the square footage of the building façade or 25 square feet per façade.

C. Roof Mounted Antennas:

1. i. Roof mounted antennas and accessory equipment shall be painted or treated to match the façade of the building to which they are attached in order to minimize visibility from adjacent residential land uses and/or from public sidewalks.

   ii. Roof-mounted WCFs may be approved only where an Applicant sufficiently demonstrates that a wall mounted WCF is inadequate to provide service. By filing an application for a roof-mounted WCF, an Applicant is certifying agreement to the City’s determination that the height extensions described in this subsection are the maximum heights that will allow the WCF to be Camouflaged, and that any additional increase in height will undermine the Camouflage nature of the site.

2. Maximum height. Roof mounted antennas and accessory equipment shall not exceed the height of the penthouse or mechanical equipment room to which the antennas are attached.

3. Antennas not mounted on a penthouse or mechanical equipment room shall be set back at least 5 feet from the exterior wall of a building.

4. i. The maximum height of a roof mounted antenna that is not mounted on a penthouse or mechanical equipment room is equal to the distance the antenna is set back from the exterior wall up to a maximum height of 10 feet above the taller of either rooftop or parapet of the building to which the antenna is attached.

   iv. All rooftop equipment and Antennas must be adequately screened where feasible from a technical, construction, design and engineering perspective.

   v. Building façade mounted antennas shall not protrude horizontally more than 2 feet from the building wall and shall be painted or treated to match the building or structure to which the antenna is attached.

   vi. Building façade mounted antennas shall not exceed the height of the parapet or the rooftop, whichever is greater.
The total of all visible building façade mounted antennas may not exceed the greater of 10 percent of the square footage of the building façade.

D. Antennas on Existing Support Structures:

1. In single-family and two-family zone districts: The mounting of an additional antenna or antennas on an existing support structure, including any existing support structure that is nonconforming with regards to height, may be permitted provided that the height of the existing structure may not be increased by more than 15 percent.

2. In non-single-family and two-family zone districts: The mounting of an additional antenna or antennas on an existing support structure may be permitted provided that the height of the existing structure may not be increased above 60 feet without triggering the review requirements as outlined for New Freestanding Support NonStealth Structures in Section 17.10.3.2:

17.10.3.3: New Freestanding Support Non-Stealth Structures

A. Review Requirements:

1. New freestanding support structures of 60 feet in height or less may be allowed in any zone district other than a single-family or two-family district if reviewed and approved in accordance with the site plan procedures identified in Article 2.

2. New freestanding support structures of more than 60 feet in height may be allowed in any zone district other than a single-family or two-family district if reviewed and approved in accordance with the special use permit and site plan procedures identified in Article 2.

3. New freestanding support structures of any height located on public property, right-of-way, or utility property that will support street lights, public facilities or equipment in addition to wireless facilities may be allowed in any zone district if reviewed and approved in accordance with the Site Plan procedures identified in Article 2. Examples include, but are not limited to, municipal communication facilities, athletic field lights, traffic lights, and other light structures.

4. Existing support structures including but not limited to municipal communication facilities, athletic field lights, traffic lights, and other light structures on local streets shall be limited to a maximum 15-foot height extension.

B. The maximum height for any new freestanding support structure shall be 60 feet, or the maximum building height allowed in the subject zoning district, whichever is greater.

C. When adjacent to a property that is zoned residential or contains a residential use or structure, new freestanding support structures must be setback from property at least the minimum setback required by the zone district where the structure is located or 60 percent of the support structure height, whichever is greater.
D. New freestanding support structures shall be enclosed by security fencing 6 feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the City may waive such requirements, if the Director determines that the waiver will not create an increased risk to public health or safety.

E. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

F. New free standing support structures shall be designed to accommodate a minimum number of colocations based upon their height.

1. Support structures between 45 feet and 100 feet in height shall support at least two telecommunications providers;

2. Support structures greater than 100 feet and up to 150 feet in height shall support at least three telecommunications providers; and

3. Support structures greater than 150 feet in height shall support at least four telecommunications providers.

G. New freestanding support structures over 60 feet in height shall not be located within 1000 feet from any existing freestanding support structure that is over 60 feet in height, unless the applicant has shown to the satisfaction of the City that colocation is impracticable and that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.

17.10.3.4: Other Wireless Facility Types

The Director may apply the standards defined for new wireless facilities on existing structures or new freestanding support structures to any wireless facility type that is not directly addressed in these regulations as appropriate to minimize the potential adverse effects of wireless service facilities.

vii. 17.10.3.5:

e. Related Accessory Equipment

A. Excluding Small Cell Facilities in the Right-of-Way, the buildings, shelters, cabinets, and other accessory components shall be setback a minimum of 15 feet from each property line with a residential zone district or a lot containing a residential structure, or shall meet all setback requirements of the underlying zone districts, whichever results in the greater setback, and shall be grouped as closely as technically possible.

B. Total footprint coverage area of the accessory equipment shall not exceed 500 square feet per provider, with a maximum of 1500 square feet total for three or more providers.

C. No accessory equipment or accessory structure shall exceed 1512 feet in height.
D.iv. Accessory equipment shall be painted a neutral color and enclosed by security fencing 6 feet in height and shall be landscaped with a buffer of plant materials that effectively screens the view of the accessory equipment from adjacent residential property and from the adjacent street; provided, however, that the City may waive such requirements, if the Director determines that the waiver will not (1) create an increased risk to public health or safety or (2) create a negative visual impact to adjacent residential property or from the adjacent street. Accessory equipment, including but not limited to remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the Accessory Equipment shall use Camouflage Design Techniques.

E.v. No accessory equipment or accessory structures shall be sited in a manner that reduces the parking or landscaped areas for other principal uses on the parcel below the minimums required by the Zoning Ordinance.

17.10.4: Abandonment and Removal

If a support structure is abandoned and remains abandoned for a period longer than 12 consecutive months, the City may require that the support structure be removed. The City shall first provide written notice to the owner of the support structure of the requirement for removal and give the owner the opportunity to take such action(s) as may be necessary to reinstate the active use of the support structure within 30 days of receipt of the written notice. If the owner of the support structure fails to reinstate the active use of the support structure within the 30-day period, the owner of the support structure shall be required to remove the same within six months. Approval.
A. It is the intent of the City to provide for approval of WCFs administratively in cases where visual impacts are minimized, view corridors are protected, appropriate Camouflage and Concealment Design Techniques are employed to avoid adverse impacts on the surrounding area, and they are designed, maintained, and operated at all times to comply with the provisions of this Chapter and all applicable laws. Notwithstanding the approval of an application for Eligible Facilities Request as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in municipal code and any other applicable regulations.

1. Special Use Permit. Any application for a WCF which does not comply with the provisions of this Chapter may seek approval of a Special Use Permit by submitting an application to Planning Commission.

2. Collocation and Separation Required. No new Towers, excepting Small Cell Facilities in the Right-of-Way, shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application, and sufficient separation of Towers is achieved. Evidence may consist of the following:
a. No existing WCFs with a suitable height are located within the geographic area required to meet the Applicant’s engineering requirements;
b. Existing WCFs do not have sufficient structural strength to support applicant’s proposed WCF;
c. The Applicant’s proposed WCFs would cause electromagnetic interference with the existing WCFs or the existing WCF would cause interference with the Applicant’s proposed WCF;
d. The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for Collocation;
e. Towers over 90 feet in height shall not be located within one-quarter mile from any Existing Tower that is over 90 feet in height, unless the Applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant’s needs.

3. Setbacks. The following minimum setback requirements shall apply to all WCFs except for Alternative Tower Structures in the Right-of-Way; provided however, that the City may reduce standard setback requirements if the applicant demonstrates that the goals of this Section can be met through Performance Options or through Alternative Compliance, or through a Variance process. A Tower shall meet the greater of the following minimum setbacks from all property lines:
   a. The setback for a principal building within the applicable zoning district; or
   b. Twenty-five percent (25%) of the facility height, including WCFs and Related Accessory Equipment; or
   c. For sites within 100 feet of residential uses, facilities over 30 feet in height shall have a minimum setback from all adjacent residential property lines of one (1) foot for every foot in height.
Definitions from Section 13:

For the purposes of this chapter, the following words, phrases, and terms shall have the meanings set forth herein. Words not defined shall be given their common and ordinary 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 ground-based enclosures.

Alternative Tower Structure: man-made trees, clock towers, bell steeples, light poles, buildings, and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflages or conceals the presence of Antennas or Towers so as to make them architecturally compatible with the surrounding area pursuant to this title. This term also includes any Antenna or Antenna array attached to an Alternative Tower Structure. A stand-alone pole in the Right-of-Way, streetlight, or traffic signal that accommodates Small Cell Facilities is considered an Alternative Tower Structure to the extent it meets the camouflage and concealment standards of this title.

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 WCF: any person that submits an application to the City to site, install, construct, collocate, modify and/or operate a Wireless Communications Facility.

Amateur Radio Towers and Antennae: Broadcasting and receiving structures or devices used for personal pleasure or as a hobby.

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. Base Station does include, without limitation:
1. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the City under this Chapter 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 City under this title, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

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

Camouflage, Concealment, Or Camouflage Design Techniques: the designing of a WCF to alter its appearance in such a manner as to substantially integrate it into surrounding building designs and/or natural settings to minimize the visual impacts of the facility on the surrounding uses and ensure the facility is compatible with the environment in which it is located. A Wireless Communication Facility utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a utility tower, or (iii) uses a design which mimics and is consistent with the nearby natural or architectural features (such as a clock tower) 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: (1) mounting or installing a WCF on a pre-existing structure, and/or (2) 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 person, or that person’s designee, authorized by the City Manager to enforce and interpret this Zoning Ordinance.

Eligible Facilities Request: any request for modification of an Existing Tower or Base Station that it is not a Substantial Change.

Eligible Support Structure: any Tower or Base Station as defined in this Section, provided that it is existing at the time the relevant application is filed with the City under this Section.

Existing Tower or Base Station: 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.

FCC: the Federal Communications Commission.
Hazardous Substance: any substance, chemical or waste that is identified as hazardous or toxic in any applicable federal, state or local law or regulation, including but not limited to petroleum products and asbestos.

Interference: physical interference and radio frequency interference.

Micro Cell Facility: a small wireless facility that is no larger than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height, and that has an exterior Antenna, if any, that is no more than eleven (11) inches in length.

Monopole: a single, freestanding pole-type structure supporting one or more Antennas.

Over the Air Receiving Device (OTARD): an Antenna used to receive video programming from direct broadcast satellite services, including home satellites that are 1M or less in diameter, broadband radio services and television broadcast stations, but shall not include Antennas used for AM/FM radio, amateur ("ham") radio, CB radio, Digital Audio Radio Services or Antennas used as part of a hub to relay signals among multiple locations.

Owner means a person with a legal or equitable interest in ownership of real or personal property.

Permit means a permit issued and described in accordance with Laws, which is used to regulate, monitor, and control the improvement, construction, or excavation activities, or other work or activity, occurring upon or otherwise affecting Licensor’s ROW, including ROW use, building, and electrical permits.

Physical Interference means where equipment, vegetation, or a structure causes reduced use of another’s prior mounted equipment, or an obstruction in a necessary line-of-sight path.

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 Right-of-Way (ROW): any public street, way, alley, sidewalk, median, parkway, or boulevard that is dedicated to public use.

Radio Antenna, Amateur: A noncommercial device that is used for transmitting and receiving electromagnetic waves.

Radio Frequency Emissions Letter: a letter from the Applicant identifying the FCC’s uncontrolled/general population maximum permitted exposure limits for each proposed WCF, identifying the RF emissions from the WCFs that are the subject of the application. The Letter shall identify, at a minimum, any measures required to comply with the FCC standards for predicted exposure levels, and details for any signage, barriers or similar mitigation that is recommended or required. The Letter shall additionally certifying that all WCFs that are the subject of the application shall comply with federal standards for radio frequency emissions.

Radio Frequency Interference means the emission or conduction of radio frequency energy (or electronic noise) produced by electrical and electronic devices at levels that interfere with the operation of adjacent or nearby equipment.

Radio Tower, Amateur: A structure that supports an antenna.

READILY APPARENT. For purposes of determining whether a WCF is readily apparent, the phrase means that the facility, will be easily recognizable as a WCF in the discretion of the Director, 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

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Commented [ksf5]: “Council” suggested deleting this, noting “Strike last part of this sentence. It is exempting (“shall not include”) relay hubs (receive AND transmitting devices). This may permit broadcasting mini towers on neighborhood homes. If you do not strike, you may be allowing mini antennas for a distributed antenna system via satellite. ie, Satellite providers could offer customer discounts for using residential satellites as relay devices. Creates a lack of oversight. Can be addressed again at a future date.”

In fact, we think it means just the opposite. By saying that By saying OTARD does not include hub and relay, we are saying that any such hub and relay is subject to normal permitting reqs.

Commented [ksf6]: Not exactly what was requested from “CColo”, but close, and a bit more detailed than what was here before. This also pulls some of the proposed code language from CColo in other parts of the code. By making it part of the definition of what needs to be in the Letter, we only need to reference the provision of the Letter elsewhere in the Code.

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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: an Alternative Tower Structure that is a newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or street light pole 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 Micro Cell Facility or to accommodate Collocation and replaces a pre-existing pole or structure.

Satellite Dish Antenna: A parabolic antenna intended to receive signals from orbiting satellites and other sources. Non-commercial dish antennas are defined as being less than four meters in diameter, while commercial dish antennas are usually those larger than four meters and typically used by broadcasting stations.

Setback: The minimum distance any building or structure must be separated from a specified point.

Sign: Any structure, which requires a permanent or temporary location, that has a visual display visible from a public right-of-way and is designed to identify, announce, direct or inform.

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 Towers (other than Towers in the Right-of-Way and Eligible Support Structures): the current boundaries of the leased or owned property surrounding the Tower or Eligible Support Structure and any access or utility easements currently related to the Site. A Site, for other Alternative Tower Structures, Base Stations, Micro Cell Facilities, and Small Cell Facilities in the Right-of-Way, is further restricted to that area comprising the base of the structure and to other related Accessory Equipment already deployed on the ground.

Small Cell Facility: a Wireless Communication Facility 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 no 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. Small cells may be attached to Alternate Tower Structures, Replacement Poles, and Base Stations. The definition of a Small Cell Facility shall also include a Micro Cell or Micro Cell Facility.

Street: A public or private thoroughfare for vehicular traffic other than an alley or driveway.
Substantial Change for Eligible Facilities Request: 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:

(A) For Towers, other than Alternative Tower Structures or Towers in the Right-of-Way, it increases the height of the Tower by more than ten percent (10%) or by the height of one (1) additional Antenna array, with separation from the nearest existing Antenna not to exceed twenty feet, whichever is greater; for other Eligible Support Structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater;

(B) 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 twenty (20) feet, or more than the width of the Tower Structure at the level of the appurtenance, whichever is greater; for other 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 (6) feet;

(C) 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;

(D) 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 (10%) larger in height or overall volume than any other existing, individual ground cabinet associated with the structure;

(E) For any Eligible Support Structure, it entails any excavation or deployment outside the current Site;

(F) For any Eligible Support Structure, it would defeat the concealment elements of the Eligible Support Structure. For the purposes of this subsection (vi), a change that would undermine the concealment elements of this structure will be considered to defeat the concealment elements of the structure; or

(G) 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 Wireless Facilities including, but not limited to, Monopoles, Alternative Tower Structures, Replacement Poles, and other freestanding self-supporting pole structures.

Toll and Tolling: 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, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes self-supporting lattice towers, guyed towers or Monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, Alternative Tower Structures and the like.
Lakewood Zoning Ordinance –  
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 Equipment Shelter: An unattended structure such as a small building or cabinet(s) used to house equipment for a wireless communications facility associated with either a freestanding wireless communications facility or a structure or building mounted wireless communications facility.

Wireless Communications Facility or WCF: a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an Antenna or Antennas, Base Stations, support equipment, Alternative Tower Structures, Small Cell Facilities, and Towers. 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 title.

Wireless Communications Provider: A public or private company providing personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services.

Wireless Communications Site: Any use of property for antennae, equipment, and equipment shelter(s) employed in the reception, switching, and/or transmission of wireless telecommunication services including, but not limited to, paging, enhanced specialized mobile radio, personal communication services, microwave link antenna, cellular telephone, and other related technologies.
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ARTICLE 10: WIRELESS SERVICES AND COMMUNICATIONS

17.10.1: General

17.10.1.1: Purpose and Intent

This Article is intended to ensure that residents, public safety operations and businesses in the City have reliable access to personal wireless services and state of the art communications services in a way that reasonably preserves the aesthetic character and value of the community and complies with Federal and State laws.

The City Council finds that these regulations are necessary to:

A. Provide for the managed development and installation, maintenance modification, and removal of wireless communications infrastructure in the City with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;
B. Minimize adverse visual effects of WCFs through thoughtful design and siting, including but not limited to camouflage design techniques, appropriate and effective screening, and equipment undergrounding whenever appropriate;
C. Encourage the location of Towers in a manner that minimizes the total number of Towers needed throughout the community;
D. Require the collocation of WCFs wherever reasonably feasible;
E. Encourage owners and users of WCFs to locate them, to the extent possible, in areas where the adverse impact to the community is minimized;
F. Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, efficiently, and safely;
G. Effectively manage WCFs in the Public Right of Way;
H. Manage amateur radio facilities and over-the-air devices in the City;
I. Ensure the City has sufficient wireless infrastructure to support public safety and emergency response communications throughout the City;

17.10.1.2: Applicability

A. The standards in this Article shall apply to all Eligible Facilities Requests and WCF applications for Base Stations, Alternative Tower Structures, Towers, Micro Cells, and Small Cell Facilities as defined in Section 17.13.2 and further addressed herein.

B. The Requirements set forth in this Article shall not apply to:

1. Amateur radio Antennas that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive only Antennas, provided

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that the requirements that the height be no more than the distance from the base of the Antenna to the property lines is met.

2. Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to the effective date of Ordinance # O-2020-1 shall not be required to meet the requirements of this Chapter, other than the requirements of Section 17.10.3. Changes and additions to pre-existing WCFs (including trading out of Antennas for an equal number of Antennas) shall meet applicable requirements of Section 17.10.3. Notwithstanding the foregoing, any modifications qualifying as an Eligible Facilities Requests shall be evaluated under this Section.

3. Miscellaneous Antennas. Antennas used for reception of television, multi-channel video programming and radio such as Over-the-Air Receiving Device (OTARD) Antennas, television broadcast band Antennas, satellite earth station antennae 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 to the property line are met. The Director or his or her designee has the authority to approve modifications to the height restriction related to OTARD Antennas and OTARD antenna structures, if in the reasonable discretion of the City, modifications are necessary to comply with federal law.

4. A WCF installed upon the declaration of a state of emergency by the federal, state, or local government, or a written determination of serving the general health, safety, and welfare of residents by the City, or reasonable ability to obtain such written determination within 72 hours.

5. A temporary WCF installed for the purpose of providing sufficient coverage for a special event, subject to administrative approval by the City.

6. The siting of Distributed Antenna Systems (DAS) or wireless facilities located within and intended to provide wireless coverage within a structure.

17.10.2: Wireless Facilities – By Zone District

Table 17.4.1 identifies where the different types of wireless facilities are permitted as primary or accessory uses, by right or with a special use permit, and where these uses are prohibited in each zone district within the City of Lakewood.

17.10.3: Operational Standards

A. Federal Requirements. All WCFs shall meet the current standards and regulations of the Federal Aviation Administration (FAA), the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Unless preempted by federal law, failure to meet such revised standards and regulations within 30 days of the City’s determination of such failure shall constitute grounds for the removal of the WCF by the City or owner at the WCF owner’s expense.

B. Permission to Use Public Right-of-Way or City-owned Public property. Prior to WCFs being sited in the ROW, the Applicant shall have an executed license agreement with

Commented [BG13]: Council Member Gutwein proposed amendment regarding worker safety would likely be included in this section. Staff and legal counsel have concerns about applying the suggested standards to a specific business type and thus recommend this be part of a larger conversation for City Council.

Commented [ksf14]: Clarification suggested by "cc." Does not apply to public property in City owned by State or other governmental entities.
the City, granting a non-exclusive license to use the Public Right-of-Way. Attachment of WCFs on an existing or replacement 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, and Site specific approval pursuant to 17.10.4. The Applicant and if different from the Applicant, the Owner, shall remain the owner of, and solely responsible for any WCF installed in the ROW. Prior to, or concurrently with, seeking land use approval for a WCF on City-owned Public Property, the Applicant shall execute a lease agreement with the City.

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

Commented [ksf15]: AT&T has correctly pointed out that an applicant may not be the owner of the WCF.
C.D. Emergency. In the event of an emergency or to protect the public health or safety, prior to the City accessing or performing any work on a facility on which a WCF Owner has installed Equipment, City may require WCF Owner to deactivate such Equipment if any of City’s employees or agents must move closer to the Equipment than the FCC’s recommended minimum distance. In such case, City will contact WCF Owner to request immediate deactivation.

D.E. Non-Interference. The following provisions shall apply to ensure and/or avoid interference (both physical interference and Radio Frequency Interference) resulting from Licensee’s installation, operation and/or maintenance of its Equipment:

a. Radio Frequency Interference. All WCF Owners shall ensure that the Equipment will not cause Radio Frequency Interference with Wireless Communication Facilities or devices, cable television, broadcast radio or television systems, satellite broadcast systems, or City traffic, public safety or other communications signal equipment existing at the time of installation of the Equipment.

b. Existing Uses. WCF Owners shall not interfere in any manner with the existing uses of City property including Rights-of-Way, and including sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electric and telephone wires, streetlight fixtures, cable television, and other telecommunications, utility, and municipal property without the express written approval of the Owner(s) of the affected property or properties.

c. City Communications. WCF Owners shall not interfere in any manner with current or future City or other governmental public safety communication.

d. Remedies. If Interference occurs and continues for a period in excess of 24 hours following notice to the interfering party via telephone, the City may require the interfering party to reduce power or cease operations of the interfering equipment until the Interference is cured.

E.F. Relocation, Abandonment and Removal. After the WCF is constructed, if a WCF has not been in use for a period of three months, the owner of the WCF shall notify the City of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is contracted and is not operated for a continuous period of six months shall be considered abandoned. The City, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within 30 days of receipt of written notice from the City. If such WCF is not removed within said 30 days, the City may remove it at the owner’s expense and any approved permits for the WCF shall be deemed to have expired. For any public project, a WCF may be required to relocate at WCF Owner’s expense.
E.G. Hazardous Materials. No Hazardous materials shall be permitted in association with WCFs, except those necessary for the operation of the WCF and only in accordance with all applicable laws governing such materials.

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

I. A WCF Owner or operator shall maintain with the City the following contact and site information and shall notify the City of any changes to such information within thirty (30) days of any change.
   a. Name, physical and email address, telephone number (including emergency 24/7/365 contact), and legal status of the Owner and if different from the Owner, the operator; and
   b. Any official identification numbers and FCC certifications for the WCF.

J. Unauthorized Access. All WCFs shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically, Towers and Alternative Tower Structures shall be made inaccessible to individuals and constructed in such a manner that they cannot be climbed. WCFs shall be accessible only to persons authorized to operate or service them.

17.10.4 Review Procedures and Requirements
A. Permit Required. No new WCF shall be constructed and no Collocation or modification to any WCF may occur except after a written request from an Applicant, reviewed and approved by the City in accordance with this Chapter. All WCFs except Eligible Facilities Requests which are reviewed under subsection (a)(3) of this Section, shall be reviewed pursuant to the following procedures. All WCF permits shall expire and be of no further force and effect 180 days following the date of approval unless, prior to the date of expiration: (1) Construction has been diligently pursued towards completion of the project, or (2) 180-day extension of the permit has been 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 City'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.

1. Review Procedures for certain WCFs, including Base Stations, Alternative Tower Structures, Small Cell Facilities, and Alternative Tower Structures within Public Rights-of-Way. Applications for these WCF facilities shall be reviewed by the Public Works Department for conformance to this Section and using the Design Review procedures set forth in Section 17.10.5 For WCFs in the Right-of-Way that are found to have a significant visual impact (i.e. proximity to historical sites), be incompatible with the structure of surrounding area, or not meet the intent of
these provisions, the City may refer the application to Planning Commission for a Special Use Permit Review Determination.

2. Review Procedures for certain WCFs, including Towers. Towers, other than those defined or excepted in (1) above, must apply for Special Use Permit Review approval. These WCFs shall be reviewed for conformance using the procedures set forth in Section 17.10.5. 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 City.

   a. Eligible Facilities Requests shall be considered a permitted use, subject to administrative review. The City shall prepare, and from time to time revise and make publicly available, an application form which shall require submittal of information necessary for the City to consider whether an application is an Eligible Facilities Request. Such required information shall include, without limitation, whether the project:
      i. Constitutes a Substantial Change;
      ii. Violates a generally applicable law, regulation, or other rule codifying objective standards reasonably related to public health and safety.

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

   b. Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Director shall review such application to determine whether the application so qualifies.

   c. Timeframe for Review. Subject to the Tolling provisions of subparagraph d. below, within 60 days of the date on which an Applicant submits an application seeking approval under this Section, the City shall approve the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable codes.

   d. Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be Tolled only by mutual agreement of the City and the Applicant, or in cases where the Director determines that the application is incomplete:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.
ii. The timeframe for review begins running again the following business day after the applicant makes a supplemental written submission in response to the City’s notice of incompleteness;

iii. Following a supplemental submission, the City will notify the Applicant within 10 business days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is TOLLED in the case of second or subsequent notices pursuant to the procedures identified in paragraph (d)(ii). In the case of a second or subsequent notice of incompleteness, the City may not specify missing information or documents that were not delineated in the original notice of incompleteness.

e. Failure to Act. In the event the City fails to act on a request seeking approval for an Eligible Facilities Request under this Section within the timeframe for review (accounting for any Tolling), the request shall be deemed granted. The request becomes effective when the Applicant notifies the City in writing after the review period has expired (accounting for any Tolling) that the application has been deemed granted.

f. Interaction with Telecommunications Act Section 332(c)(7). If the City determines that the Applicant’s request is not an Eligible Facilities Request as delineated in this Chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC’s Shot Clock order, will begin to run from the issuance of the City’s decision that the application is not a covered request. To the extent such information is not necessarily required under the appropriate provision of the Code under which the application should be considered, the City may request additional information from the Applicant to evaluate the application under Section 332(c)(7) reviews, and the Shot Clock shall not commence until such information is provided.


a. Small Cell Facilities in the Right-of-Way shall be considered a permitted use, subject to administrative review as set forth in Subsection A.1.

b. The City shall prepare, and from time to time revise, and make publicly available, an application form which shall require submittal of information necessary for the

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City to consider whether a project is eligible as a Small Cell Facility in the Right-of-Way, meeting certain criteria. The application shall not require the Applicant to demonstrate a need or business case for any proposed modification or Collocation.

c. Upon receipt of an application for a Small Cell Facility in the Right-of-Way pursuant to this Section, the Public Works Department shall review such application to determine whether the application is complete.

d. Timeframe for Review. Within 90 calendar days of the date on which an Applicant submits an application seeking approval under this Section, the City shall take action on the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable codes.

B. Submittal Requirements.

1. In addition to submittal requirements of Chapter 17.2, the following supplemental items are required for all WCF applications

a. Signal Non-Interference Letter;

b. Radio Frequency Emissions Letter: To the extent that the WCFs that are the subject of the application require FCC filings to demonstrate compliance with the National Environmental Policy Act, all such filings shall be provided to the City.

c. Information related to need for environmental assessment: If an applicant is required to submit an environmental assessment to the FCC for the proposed site, it shall submit a copy of that environmental assessment, or alternately, it shall certify to the City in writing that the proposed site is categorically excluded per 47 C.F.R. § 1.1307.

d. Photo simulations showing before and after conditions excluding applications for small cell facilities;

e. Written representation that Applicant shall be responsible for paying all charges for any electricity furnished by a utility to Applicant and for charges for furnishing service to the Equipment. When the Equipment requires an electric meter as determined by the utility provider, the Applicant shall install or cause to be installed a separate electric meter on a ground mounted pedestal or on Applicant’s pad mounted equipment cabinet as required by the electric provider for the operations of its Equipment.

f. Inventory of Sites. Each applicant for a WCF shall provide to the City a narrative description and data in a format acceptable to the City showing the applicant’s currently proposed WCFs within the City, and outside of the City within one half-mile of its boundaries. This provision is not intended to be a requirement that the applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the City. This information will be used to assist in the City’s comprehensive planning process, and promote Collocation.

Commented [ksf19]: Modified from what was suggested by “CColo.” It was proposed that language say the City can require a study to demonstrate proof of NEPA compliance regarding RF. If NEPA is triggered, an applicant is required to make certain FCC filings. Local governments can require that an applicant provide what it is required to file with the FCC, not more.

Commented [ksf20]: Modified version of proposal from “CColo.”

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by identifying areas in which WCFs might be appropriately constructed for multiple users.

The City may share information regarding the location of sites and the owners or managers of such sites with other applicants applying for administrative approvals or conditional permits under this section or other organizations seeking to locate WCFs within the jurisdiction of the City, provided however, that the City, is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

f. Abandonment and removal Affidavits shall be required from the owner of the property and from the applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of six (6) months.

h. Consolidated applications. The City shall allow a wireless provider to file a multi-site permit seeking approval for up to ten (10) permits for Small Cell Facilities at a given time. Each individual site shall be processed as a separate permit in order to facilitate recording site addresses, utility company requirements, and timely inspection scheduling. The City’s denial of any individual small cell facility is not a basis to deny the application as a whole or any other small cell facility incorporated within the consolidated application.

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

D. Compliance with Applicable Law. Notwithstanding the approval of an application for new 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 the Municipal Code and any other applicable laws or regulations. In addition, all WCF applications shall comply with the following:

1. Comply with any permits or licenses 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 ten calendar days from the time of notification by the City or after discovery by the owner or operator of the Site. Notwithstanding the foregoing, any graffiti on WCFs located in the Public Rights-of-Way or on Public Property may be removed by the City 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 City.

17.10.5 Design Standards
A. Review Requirements. The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this Chapter as specified below; provided, however, that the City may waive these requirements if it determines that the goals of this Chapter are better served thereby. To that end, WCFs shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the City, consistent with other provisions of this Code. Notwithstanding the foregoing, the Planning Director shall have the authority to promulgate design standards for small cell facilities in the rights of way, which shall govern those types of WCFs. The design standards in this section and any design standards promulgated pursuant hereto, shall be employed to avoid or minimize the intangible harm of unsightly deployments or deployments that are not in character with the surrounding area. Design standards shall be applicable to both newly constructed WCFs, to the extent not inconsistent with state law, permitted but not yet constructed WCFs, as well as legal non-conforming WCFs when such sites are sought to be modified.

1. Camouflage/Concealment. All WCFs and any Transmission Equipment shall, to the extent possible, use Camouflage Design Techniques including, but not limited to the use of materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF into the surrounding natural setting and built environment.
   a. Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g. proximity to historic, natural, or aesthetically significant structures or areas, views, and/or community features or facilities). In such instances where WCFs are located in areas of high visibility, they shall (where possible) be designed to minimize their profile.
   b. The camouflage design may include the use of Alternative Tower Structures should the Public Works Department determine that such design meets the intent of this Code and the community is better served thereby.
   c. All WCFs, such as Antennas, vaults, equipment rooms, equipment enclosures, and Tower structures shall be constructed out of non-reflective materials (visible exterior surfaces only).

2. Collocation. WCFs shall be designed and constructed to permit the facility to accommodate WCFs from at least two (2) wireless service providers on the same WCF, to the extent it is feasible in good faith based upon construction, engineering and design standards, except where such Collocation would materially compromise the design intent of the WCF, particularly visually.

3. Lights and other attachments.
   a. WCFs shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purpose. If lighting is required, the City may review the
available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties or environs. Lighting shall be shielded or directed to the maximum extent so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.

b. All exterior lighting within equipment yards shall be mounted on poles or on the building wall below the height of the screen wall or fence.

c. No Tower shall have constructed on, or attached to, any additional platform, catwalk, crow's nest or like structure (other than those required by industry standards or federal regulations), except during periods of construction or repair.

d. Signs and advertising. The use of any portion of a Tower for signs or advertising devices other than public safety warnings, certification, or other requires seals on any wireless communication device or structure is prohibited. However, the telephone numbers to contact in an emergency shall be posted on each facility.

4. Noise. Noise generated on the site must not exceed the levels permitted in the City of Lakewood Municipal Code, except that a WCF owner or operator shall be permitted to exceed such noise standards for a reasonable period of time during repairs, not to exceed two (2) hours without prior authorization from the City.

5. Landscaping Requirements.

a. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the parcel.

b. WCFs, excluding Small Cell Facilities unless otherwise required by the Public Works Department, shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from Rights-of-Way and adjacent properties. Where the City has requested additional landscaping, the City may require irrigation requirements for the landscaping.

b.c. To the extent possible, heritage trees and traditional landscaping designs should be preserved in the Rights-of-Way. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

6. Screening Requirements.

a. All equipment, not located within the Public Right-of-Way and not otherwise defined, shall be fully screened within a walled yard or placed in an enclosed building except in cases where a better design alternative exists. The yard shall be enclosed by a solid fence or wall of sufficient height to screen all miscellaneous equipment from view from the public Right-of-Way or adjacent properties and to provide security.

b. All structures and improvements associated with the WCF shall be provided with adequate safety equipment and aesthetic treatments, including incorporating landscape screening noted in subsection.
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5. to be visually compatible with uses in the surrounding area.
   c. Roof-top mounted equipment shall be screened from off-site views to the extent practical by solid screen walls or the building’s parapet.
   d. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

7. WCFs Adjacent to Single Family Residential Uses. WCFs shall be sited in a manner that evaluates the proximity of the facility relative to residential structures, neighborhoods, and residential zoning boundaries in order to minimize the visual impacts of WCFs on residential areas.
   a. When placed near residential property, the WCF shall be placed in close proximity to a common property line between adjoining residential properties, such that the WCF minimizes visual impacts equitably among adjacent and nearby properties.
   b. For a corner lot, the WCF may be placed adjacent to a common property line between adjoining residential properties, or on the corner formed by two intersecting streets.
   c. If these siting requirements are not feasible in good faith from a construction, engineering, or design perspective, the Applicant may submit a written statement to the Public Works Department requesting the WCF be exempt from these requirements, and offer alternative locations reasonably meeting the intent of this section.

8. Design requirements specific to various types of WCFs.
   a. Base Stations. 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 possible, including for example, without limitation, painting the Antennas and accessory equipment to match the structure. Additionally, any ground mounted equipment may be located in a flush-to-grade underground equipment vault if it is reasonably feasible from a construction, engineering, or design perspective.
   b. Alternative Tower Structures, not in the Public Right-of-Way shall;
      i. Be designed and constructed to look like a building, facility, structure, or other commonplace item, such as but not limited to a tree, public art, or clocktower, typically found in the area.
      ii. Be camouflaged/concealed consistent with other existing natural or manmade features in or near the location where the Alternative Tower Structure will be located.
      iii. Be compatible with the surrounding area, including architecture, topography, natural vegetation, and/or landscaped environment.

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iv. Be the minimum size needed to obtain coverage objectives. Height or size of the proposed Alternative Tower Structure should be minimized as much as possible.

v. Be sited in a manner that is sensitive to the proximity of the facility to residential structures, neighborhoods, and residential zoning district boundaries.

vi. Take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses.

c. Towers

i. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards and City design approval processes, be painted a neutral color so as to reduce visual obtrusiveness.

ii. Wherever possible, Towers shall locate to utilize existing landforms, vegetation, and structures to aid in screening the facility from view, or otherwise blending in with surrounding built and natural environment.

iii. Monopole support structures shall taper from the base to the tip.

iv. All Towers, excluding Alternative Tower Structures in the Right-of-Way, shall be enclosed by security fencing or wall and shall also be equipped with an appropriate ant-climbing device.

v. Towers shall be subject to the height restrictions of each zoning district. Notwithstanding anything in this Chapter to the contrary, Towers are prohibited in the Right-of-Way.

d. Roof and Building Façade Mounted WCFs:

i. Roof mounted antennas and accessory equipment shall be painted or treated to match the façade of the building to which they are attached in order to minimize visibility from adjacent residential land uses and/or from public sidewalks.

ii. Roof-mounted WCFs may be approved only where an Applicant sufficiently demonstrates that a wall mounted WCF is inadequate to provide service. By filing an application for a roof-mounted WCF, an Applicant is certifying agreement to the City’s determination that the height extensions described in this subsection d. are the maximum heights that will allow the WCF to be Camouflaged, and that any additional increase in height will undermine the Camouflage nature of the site.

iii. Maximum height. Roof mounted antennas and accessory equipment shall not exceed the height of the penthouse or mechanical equipment room to which the antennas are attached. Antennas not mounted on a penthouse or mechanical equipment room shall be set back at least 5 feet from the exterior wall of a
building. The maximum height of a roof mounted antenna that is not mounted on a penthouse or mechanical equipment room is equal to the distance the antenna is set back from the exterior wall.

iv. All rooftop equipment and Antennas must be adequately screened where feasible from a technical, construction, design and engineering perspective.

v. Building façade mounted antennas shall not protrude horizontally more than 2 feet from the building wall and shall be painted or treated to match the building or structure to which the antenna is attached.

vi. Building façade mounted antennas shall not exceed the height of the parapet or the roofline, whichever is greater.

vii. The total of all visible building façade mounted antennas may not exceed the greater of 10 percent of the square footage of the building façade.

e. Related Accessory Equipment

i. Excluding Small Cell Facilities in the Right-of-Way, the buildings, shelters, cabinets, and other accessory components shall be setback a minimum of 15 feet from each property line with a residential zone district or a lot containing a residential structure, or shall meet all setback requirements of the underlying zone districts, whichever results in the greater setback, and shall be grouped as closely as technically possible.

ii. Total footprint coverage area of the accessory equipment shall not exceed 500 square feet per provider, with a maximum of 1500 square feet total for three or more providers.

iii. No accessory equipment or accessory structure shall exceed 12 feet in height.

iv. Accessory equipment, including but not limited to remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the Accessory Equipment shall use Camouflage Design Techniques.

v. No accessory equipment or accessory structures shall be sited in a manner that reduces the parking or landscaped areas for other principal uses on the parcel below the minimums required by the Zoning Ordinance.

17.10.5 Standards for Approval.
A. It is the intent of the City to provide for approval of WCFs administratively in cases where visual impacts are minimized, view corridors are protected, appropriate Camouflage and Concealment Design Techniques are employed to avoid adverse impacts on the surrounding area, and they are designed, maintained, and operated at all times to comply with the provisions of this Chapter and all applicable laws. Notwithstanding the approval of an application for Eligible Facilities Request as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in municipal code and any other applicable regulations.

1. Special Use Permit. Any application for a WCF which does not comply with the provisions of this Chapter may seek approval of a Special Use Permit by submitting an application to Planning Commission.

2. Collocation and Separation Required. No new Towers, excepting Small Cell Facilities in the Right-of-Way, shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application, and sufficient separation of Towers is achieved. Evidence may consist of the following:
   a. No existing WCFs with a suitable height are located within the geographic area required to meet the Applicant's engineering requirements;
   b. Existing WCFs do not have sufficient structural strength to support applicant's proposed WCF;
   c. The Applicant’s proposed WCFs would cause electromagnetic interference with the existing WCFs or the existing WCF would cause interference with the Applicant’s proposed WCF;
   d. The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for Collocation;
   e. Towers over 90 feet in height shall not be located within one-quarter mile from any Existing Tower that is over 90 feet in height, unless the Applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant’s needs.

3. Setbacks. The following minimum setback requirements shall apply to all WCFs except for Alternative Tower Structures in the Right-of-Way; provided however, that the City may reduce standard setback requirements if the applicant demonstrates that the goals of this Section can be met through Performance Options or through Alternative Compliance, or through a Variance process. A Tower shall meet the greater of the following minimum setbacks from all property lines;
   a. The setback for a principal building within the applicable zoning district; or
   b. Twenty-five percent (25%) of the facility height, including WCFs and Related Accessory Equipment; or
   c. For sites within 100 feet of residential uses, facilities over 30 feet in height shall have a minimum setback from all adjacent residential property lines of one (1) foot for every foot in height.
Definitions from Section 13:

For the purposes of this chapter, the following words, phrases, and terms shall have the meanings set forth herein. Words not defined shall be given their common and ordinary 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 ground-based enclosures.

Alternative Tower Structure: man-made trees, clock towers, bell steeples, light poles, buildings, and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflages or conceals the presence of Antennas or Towers so as to make them architecturally compatible with the surrounding area pursuant to this title. This term also includes any Antenna or Antenna array attached to an Alternative Tower Structure. A stand-alone pole in the Right-of-Way, streetlight, or traffic signal that accommodates Small Cell Facilities is considered an Alternative Tower Structure to the extent it meets the camouflage and concealment standards of this title.

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 WCF: any person that submits an application to the City to site, install, construct, collocate, modify and/or operate a Wireless Communications Facility.

Amateur Radio Towers and Antennae: Broadcasting and receiving structures or devices used for personal pleasure or as a hobby.

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. Base Station does include, without limitation:

1. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the City under this Chapter and has been reviewed and approved under the applicable zoning or siting requirements.
process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support; and

2. Radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small-cell networks) that, at the time the relevant application is filed with the City under this title, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

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

Camouflage, Concealment, Or Camouflage Design Techniques: the designing of a WCF to alter its appearance in such a manner as to substantially integrate it into surrounding building designs and/or natural settings to minimize the visual impacts of the facility on the surrounding uses and ensure the facility is compatible with the environment in which it is located. A Wireless Communication Facility utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a utility tower, or (iii) uses a design which mimics and is consistent with the nearby natural or architectural features (such as a clock tower) 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: (1) mounting or installing a WCF on a pre-existing structure, and/or (2) 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 person, or that person’s designee, authorized by the City Manager to enforce and interpret this Zoning Ordinance.

Eligible Facilities Request: any request for modification of an Existing Tower or Base Station that it is not a Substantial Change.

Eligible Support Structure: any Tower or Base Station as defined in this Section, provided that it is existing at the time the relevant application is filed with the City under this Section.

Existing Tower or Base Station: 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.

FCC: the Federal Communications Commission.

Hazardous Substance: any substance, chemical or waste that is identified as hazardous or toxic in any applicable federal, state or local law or regulation, including but not limited to petroleum products and asbestos.
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Interference: physical interference and radio frequency interference.

Micro Cell Facility: a small wireless facility that is no larger than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height, and that has an exterior Antenna, if any, that is no more than eleven (11) inches in length.

Monopole: a single, freestanding pole-type structure supporting one or more Antennas.

Over the Air Receiving Device (OTARD): an Antenna used to receive video programming from direct broadcast satellite services, including home satellites dishes that are 1M or less in diameter, broadband radio services and television broadcast stations, but shall not include Antennas used for AM/FM radio, amateur (“ham”) radio, CB radio, Digital Audio Radio Services or Antennas used as part of a hub to relay signals among multiple locations.

Owner means a person with a legal or equitable interest in ownership of real or personal property.

Permit means a permit issued and described in accordance with Laws, which is used to regulate, monitor, and control the improvement, construction, or excavation activities, or other work or activity, occurring upon or otherwise affecting Licensor's ROW, including ROW use, building, and electrical permits.

Physical Interference means where equipment, vegetation, or a structure causes reduced use of another’s prior mounted equipment, or an obstruction in a necessary line-of-sight path.

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 Right-of-Way (ROW): any public street, way, alley, sidewalk, median, parkway, or boulevard that is dedicated to public use.

Radio Antenna, Amateur: A noncommercial device that is used for transmitting and receiving electro-magnetic waves.

Radio Frequency Emissions Letter: a letter from the Applicant identifying the FCC’s uncontrolled/general population maximum permitted exposure limits for each proposed WCF, identifying the RF emissions from the WCFs that are the subject of the application. The Letter shall identify, at a minimum, any measures required to comply with the FCC standards for predicted exposure levels, and details for any signage, barriers or similar mitigation that is recommended or required. The Letter shall additionally certifying that all WCFs that are the subject of the application shall comply with federal standards for radio frequency emissions.

Radio Frequency Interference means the emission or conduction of radio frequency energy (or electronic noise) produced by electrical and electronic devices at levels that interfere with the operation of adjacent or nearby equipment.

Radio Tower, Amateur: A structure that supports an antenna.

REALLY APPARENT. For purposes of determining whether a WCF is readily apparent, the phrase means that the facility, will be easily recognizable as a WCF in the discretion of the Director, 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: an Alternative Tower Structure that is a newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or street light pole 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 Micro Cell Facility or to accommodate Collocation and replaces a pre-existing pole or structure.

Setback: The minimum distance any building or structure must be separated from a specified point.

Sign: Any structure, which requires a permanent or temporary location, that has a visual display visible from a public right-of-way and is designed to identify, announce, direct or inform.

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 Towers (other than Towers in the Right-of-Way and Eligible Support Structures): the current boundaries of the leased or owned property surrounding the Tower or Eligible Support Structure and any access or utility easements currently related to the Site. A Site, for other Alternative Tower Structures, Base Stations, Micro Cell Facilities, and Small Cell Facilities in the Right-of-Way, is further restricted to that area comprising the base of the structure and to other related Accessory Equipment already deployed on the ground.

Small Cell Facility: a Wireless Communication Facility 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 no 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. Small cells may be attached to Alternate Tower Structures, Replacement Poles, and Base Stations. The definition of a Small Cell Facility shall also include a Micro Cell or Micro Cell Facility.

Street: A public or private thoroughfare for vehicular traffic other than an alley or driveway.

Substantial Change for Eligible Facilities Request: 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:
(A) For Towers, other than Alternative Tower Structures or Towers in the Right-of-Way, it increases the height of the Tower by more than ten percent (10%) or by the height of one (1) additional Antenna array, with separation from the nearest existing Antenna not to exceed twenty feet, whichever is greater; for other Eligible Support Structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater;

(B) 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 twenty (20) feet, or more than the width of the Tower Structure at the level of the appurtenance, whichever is greater; for other 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 (6) feet;

(C) 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;

(D) 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 (10%) larger in height or overall volume than any other existing, individual ground cabinet associated with the structure;

(E) For any Eligible Support Structure, it entails any excavation or deployment outside the current Site;

(F) For any Eligible Support Structure, it would defeat the concealment elements of the Eligible Support Structure.

(G) 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 Wireless Facilities including, but not limited to, Monopoles, Alternative Tower Structures, Replacement Poles, and other freestanding self-supporting pole structures.

Toll and Tolling: 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, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes self-supporting lattice towers, guyed towers or Monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, Alternative Tower Structures and the like.

Transmission Equipment: equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, Antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes...
Wireless Communications Equipment Shelter: An unattended structure such as a small building or cabinet(s) used to house equipment for a wireless communications facility associated with either a freestanding wireless communications facility or a structure or building mounted wireless communications facility.

Wireless Communications Facility or WCF: a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an Antenna or Antennas, Base Stations, support equipment, Alternative Tower Structures, Small Cell Facilities, and Towers. 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 title.

Wireless Communications Provider: A public or private company providing personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services.

Wireless Communications Site: Any use of property for antennae, equipment, and equipment shelter(s) employed in the reception, switching, and/or transmission of wireless telecommunication services including, but not limited to, paging, enhanced specialized mobile radio, personal communication services, microwave link antenna, cellular telephone, and other related technologies.
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ARTICLE 10: WIRELESS SERVICES AND COMMUNICATIONS

17.10.1: General

17.10.1.1: Purpose and Intent

This Article is intended to ensure that residents, public safety operations and businesses in the City have reliable access to personal wireless services and state of the art communications services in a way that reasonably preserves the aesthetic character and value of the community and complies with Federal and State laws.

The City Council finds that these regulations are necessary to:

A. Provide for the managed development and installation, maintenance modification, and removal of wireless communications infrastructure in the City with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;
B. Minimize adverse visual effects of WCFs through thoughtful design and siting, including but not limited to camouflage design techniques, appropriate and effective screening, and equipment undergrounding wherever appropriate;
C. Encourage the location of Towers in a manner that minimizes the total number of Towers needed throughout the community;
D. Require the collocation of WCFs wherever reasonably feasible;
E. Encourage owners and users of WCFs to locate them, to the extent possible, in areas where the adverse impact to the community is minimized;
F. Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and safely;
G. Effectively manage WCFs in the Public Right of Way;
H. Manage amateur radio facilities and over-the-air devices in the City;
I. Ensure the City has sufficient wireless infrastructure to support public safety and emergency response communications throughout the City.

17.10.1.2: Applicability

A. The standards in this Article shall apply to all Eligible Facilities Requests and WCF applications for Base Stations, Alternative Tower Structures, Towers, Micro Cells, and Small Cell Facilities as defined in Section 17.13.2 and further addressed herein.
B. The Requirements set forth in this Article shall not apply to:
1. Amateur radio Antennas that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive only Antennas, provided that the requirements that the height be no more than the distance from the base of the Antenna to the property lines is met.

2. Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to the effective date of Ordinance # O-2020-1 shall not be required to meet the requirements of this Chapter, other than the requirements of Section 17.10.3. Changes and additions to pre-existing WCFs (including trading out of Antennas for an equal number of Antennas) shall meet applicable requirements of Section 17.10.3. Notwithstanding the foregoing, any modifications qualifying as an Eligible Facilities Requests shall be evaluated under this Section.

3. Miscellaneous Antennas. Antennas used for reception of television, multichannel video programming and radio such as Over-the-Air Receiving Device (OTARD) Antennas, television broadcast band Antennas, satellite earth station antenna 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 to the property line are met. The Director or his or her designee has the authority to approve modifications to the height restriction related to OTARD Antennas and OTARD antenna structures, if in the reasonable discretion of the City, modifications are necessary to comply with federal law.

4. A WCF installed upon the declaration of a state of emergency by the federal, state, or local government, or a written determination of serving the general health, safety, and welfare of residents by the City, or reasonable ability to obtain such written determination within 72 hours.

5. A temporary WCF installed for the purpose of providing sufficient coverage for a special event, subject to administrative approval by the City.

6. The siting of Distributed Antenna Systems (DAS) or wireless facilities located within and intended to provide wireless coverage within a structure.

17.10.2: Wireless Facilities – By Zone District

Table 17.4.1 identifies where the different types of wireless facilities are permitted as primary or accessory uses, by right or with a special use permit, and where these uses are prohibited in each zone district within the City of Lakewood.

17.10.3: Operational Standards

A. Federal Requirements. All WCFs shall meet the current standards and regulations of the Federal Aviation Administration (FAA), the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Unless preempted by federal law, failure to meet such revised standards and regulations within 30 days of the City’s determination of such failure shall constitute grounds for the removal of the WCF by the City or owner at the WCF owner’s expense.
B. Permission to Use Public Right-of-Way or City-owned Public property. Prior to WCFs being sited in the ROW, the Applicant shall have an executed license agreement with the City, granting a non-exclusive license to use the Public Right-of-Way. Attachment of WCFs on an existing or replacement 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, and Site specific approval pursuant to 17.10.4. The Applicant and if different from the Applicant, the Owner, shall remain the owner of, and solely responsible for any WCF installed in the ROW. Prior to, or concurrently with, seeking land use approval for a WCF on City-owned Public Property, the Applicant shall execute a lease agreement with the City.

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

Commented [ksf34]: Clarification suggested by "cc." Does not apply to public property in City owned by State or other governmental entities.

Commented [ca35]: Public Property could include parks, etc. Either delete or BE SPECIFIC as to which City-Owned property that could be used (i.e.: traffic signal support structures ...). And we should limit use such property to structures sound enough to bear the burden of heavy equipment.

Commented [ksf36R35]: I think it would address Council Member Able’s concern to say “City owned vertical assets in the Public Right-of-Way.” This section requires that applicants still need a license, and that’s the vehicle to address the structural issues. Note that this section refers to existing or replacement poles. The reason is that often times an applicant will need to replace the pole is precisely because the existing pole cannot support the proposed equipment.

Commented [ksf37]: AT&T has correctly pointed out that an applicant may not be the owner of the WCF.

Commented [ca38]: 3 months is too long for unsafe conditions to remain in place.

Commented [ksf39R38]: I believe the Chief Building Official would not extend if it was unsafe, but ultimately this is a policy decision for the Council to make.
C.D. Emergency. In the event of an emergency or to protect the public health or safety, prior to the City accessing or performing any work on a facility on which a WCF Owner has installed Equipment, City may require WCF Owner to deactivate such Equipment if any of City’s employees or agents must move closer to the Equipment than the FCC’s recommended minimum distance. In such case, City will contact WCF Owner to request immediate deactivation.

D.E. Non-Interference. The following provisions shall apply to ensure and/or avoid interference (both physical interference and Radio Frequency Interference) resulting from Licensee’s installation, operation and/or maintenance of its Equipment:

a. Radio Frequency Interference. All WCF Owners shall ensure that the Equipment will not cause Radio Frequency Interference with Wireless Communication Facilities or devices, cable television, broadcast radio or television systems, satellite broadcast systems, or City traffic, public safety or other communications signal equipment existing at the time of installation of the Equipment.

b. Existing Uses. WCF Owners shall not interfere in any manner with the existing uses of City property including Rights-of-Way, and including sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electric and telephone wires, streetlight fixtures, cable television, and other telecommunications, utility, and municipal property without the express written approval of the Owner(s) of the affected property or properties.

c. City Communications. WCF Owners shall not interfere in any manner with current or future City or other governmental public safety communication.

d. Remedies. If Interference occurs and continues for a period in excess of 24 hours following notice to the interfering party via telephone, the City may require the interfering party to reduce power or cease operations of the interfering equipment until the Interference is cured.

E.F. Relocation, Abandonment and Removal. After the WCF is constructed, if a WCF has not been in use for a period of three months, the owner of the WCF shall notify the City of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is contracted and is not operated for a continuous period of six months shall be considered abandoned. The City, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within 30 days of receipt of written notice from the City. If such WCF is not removed within said 30 days, the City may remove it at the owner’s expense and any approved permits for the WCF shall be deemed to have expired. For any public project, a WCF may be required to relocate at WCF Owner’s expense.
E.G. Hazardous Materials. No Hazardous materials shall be permitted in association with WCFs, except those necessary for the operation of the WCF and only in accordance with all applicable laws governing such materials.

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

I. A WCF Owner or operator shall maintain with the City the following contact and site information and shall notify the City of any changes to such information within thirty (30) days of any change:
   a. Name, physical and email address, telephone number (including emergency 24/7/365 contact), and legal status of the Owner and if different from the Owner, the operator; and
   b. Any official identification numbers and FCC certifications for the WCF.

J. Unauthorized Access. All WCFs shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically, Towers and Alternative Tower Structures shall be made inaccessible to individuals and constructed in such a manner that they cannot be climbed. WCFs shall be accessible only to persons authorized to operate or service them.

17.10.4 Review Procedures and Requirements
   A. Permit Required. No new WCF shall be constructed and no Collocation or modification to any WCF may occur except after a written request from an Applicant, reviewed and approved by the City in accordance with this Chapter. All WCFs except Eligible Facilities Requests which are reviewed under subsection (a)(3) of this Section, shall be reviewed pursuant to the following procedures. All WCF permits shall expire and be of no further force and effect 180 days following the date of approval unless, prior to the date of expiration: (1) Construction has been diligently pursued towards completion of the project, or (2) 180-day extension of the permit has been 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 City'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.

   1. Review Procedures for certain WCFs, including Base Stations, Alternative Tower Structures, Small Cell Facilities, and Alternative Tower Structures within Public Rights-of-Way. Applications for these WCF facilities shall be reviewed by the Public Works Department for conformance to this Section and using the Design Review procedures set forth in Section 17.10.5 For WCFs in the Right-of-Way that are found to have a significant visual impact (i.e. proximity to historical sites), be incompatible with the structure of surrounding area, or not meet the intent of

Commented [ksf40]: Modified version of information recommended by “CColo”

Commented [ksf41]: “CColo” proposed a cut and paste here from a code from another state. The concept has been included, and it has been modified to be consistent with terms used in the Lakewood code.
these provisions, the City may refer the application to Planning Commission for a Special Use Permit Review Determination.

2. Review Procedures for certain WCFs, including Towers. Towers, other than those defined or excepted in (1) above, must apply for Special Use Permit Review approval. These WCFs shall be reviewed for conformance using the procedures set forth in Section 17.10.5. 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 City.

   a. Eligible Facilities Requests shall be considered a permitted use, subject to administrative review. The City shall prepare, and from time to time revise and make publicly available, an application form which shall require submittal of information necessary for the City to consider whether an application is an Eligible Facilities Request. Such required information shall include, without limitation, whether the project:
      i. Constitutes a Substantial Change;
      ii. Violates a generally applicable law, regulation, or other rule codifying objective standards reasonably related to public health and safety.

      The application may not require the Applicant to demonstrate a need or business case for the proposed modification or Collocation.
   b. Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Director shall review such application to determine whether the application so qualifies.
      i. The Director may deny the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable codes.

4. Timeframe for Review. Subject to the Tolling provisions of subparagraph d. below, within 60 days of the date on which an Applicant submits an application seeking approval under this Section, the City shall:

   a. Not later than the 30th day of the approval period, the City shall provide written notice to the Applicant: (1) informing the Applicant of the City’s decision to approve or deny the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable codes.

   b. Time of the Timeframe for Review:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

      ii. The timeframe for review begins running again the following business day after the applicant provides the required information.

   c. Time of the Timeframe for Review:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

      ii. The timeframe for review begins running again the following business day after the applicant provides the required information.

   d. Time of the Timeframe for Review:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

      ii. The timeframe for review begins running again the following business day after the applicant provides the required information.

   e. Time of the Timeframe for Review:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

      ii. The timeframe for review begins running again the following business day after the applicant provides the required information.

   f. Time of the Timeframe for Review:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

      ii. The timeframe for review begins running again the following business day after the applicant provides the required information.

   g. Time of the Timeframe for Review:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

      ii. The timeframe for review begins running again the following business day after the applicant provides the required information.

   h. Time of the Timeframe for Review:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

      ii. The timeframe for review begins running again the following business day after the applicant provides the required information.

   i. Time of the Timeframe for Review:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

      ii. The timeframe for review begins running again the following business day after the applicant provides the required information.

   j. Time of the Timeframe for Review:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

      ii. The timeframe for review begins running again the following business day after the applicant provides the required information.

   k. Time of the Timeframe for Review:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

      ii. The timeframe for review begins running again the following business day after the applicant provides the required information.

   l. Time of the Timeframe for Review:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

      ii. The timeframe for review begins running again the following business day after the applicant provides the required information.

   m. Time of the Timeframe for Review:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

      ii. The timeframe for review begins running again the following business day after the applicant provides the required information.

   n. Time of the Timeframe for Review:
      i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

      ii. The timeframe for review begins running again the following business day after the applicant provides the required information.
makes a supplemental written submission in response to the City’s notice of incompleteness;

iii. Following a supplemental submission, the City will notify the Applicant within 10 business days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in paragraph (d)(ii). In the case of a second or subsequent notice of incompleteness, the City may not specify missing information or documents that were not delineated in the original notice of incompleteness.

e-d. Failure to Act. In the event the City fails to act on a request seeking approval for an Eligible Facilities Request under this Section within the timeframe for review (accounting for any Tolling), the request shall be deemed granted. The request becomes effective when the Applicant notifies the City in writing after the review period has expired (accounting for any Tolling) that the application has been deemed granted.

f-e. Interaction with Telecommunications Act Section 332(c)(7). If the City determines that the Applicant’s request is not an Eligible Facilities Request as delineated in this Chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC’s Shot Clock order, will begin to run from the issuance of the City’s decision that the application is not a covered request. To the extent such information is necessary, the City may request additional information from the Applicant to evaluate the application under Section 332(c)(7) reviews, and the Shot Clock shall not commence until such information is provided.


   a. Small Cell Facilities in the Right-of-Way shall be considered a permitted use, subject to administrative review as set forth in Subsection A.1.

   b. The City shall prepare, and from time to time revise, and make publicly available, an application form which shall require submittal of information necessary for the City to consider whether a project is eligible as a Small Cell Facility in the Right-of-Way, meeting certain

Commented [ksf49]: These were not requested by anyone but are a clarification/clean up added to be consistent with law.
criteria. The application shall not require the Applicant to demonstrate a need or business case for any proposed modification or Collocation.

c. Upon receipt of an application for a Small Cell Facility in the Right-of-Way pursuant to this Section, the Public Works Department shall review such application to determine whether the application is complete.

d. Timeframe for Review. Within 90 calendar days of the date on which an Applicant submits an application seeking approval under this Section, the City shall take action on the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable codes.

B. Submittal Requirements.

1. In addition to submittal requirements of Chapter 17.2, the following supplemental items are required for all WCF applications:
   a. Signal Non-Interference Letter;
   b. Radio Frequency Emissions Letter; To the extent that the WCFs that are the subject of the application require FCC filings to demonstrate compliance with the National Environmental Policy Act, all such filings shall be provided to the City;
   c. Information related to need for environmental assessment: If an applicant is required to submit an environmental assessment to the FCC for the proposed site, it shall submit a copy of that environmental assessment, or alternately, it shall certify to the City in writing that the proposed site is categorically excluded per 47 C.F.R. § 1.1307;
   d. Photo simulations showing before and after conditions excluding applications for small cell facilities;
   e. Written representation that Applicant shall be responsible for paying all charges for any electricity furnished by a utility to Applicant and for charges for furnishing service to the Equipment. When the Equipment requires an electric meter as determined by the utility provider, the Applicant shall install or cause to be installed a separate electric meter on a ground mounted pedestal or on Applicant’s pad mounted equipment cabinet as required by the electric provider for the operations of its Equipment;
   f. Inventory of Sites. Each applicant for a WCF shall provide to the City a narrative description and data in a format acceptable to the City showing the applicant’s currently proposed WCFs within the City, and outside of the City within one half-mile of its boundaries. This provision is not intended to be a requirement that the applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the City. This information will be used to assist in the City’s comprehensive planning process, and promote Collocation by identifying areas in which WCFs might be appropriately constructed for multiple users.

Commented [ksf50]: Council member Johnson did not suggest specific language for amendments but suggested that for 17.10.4 B&C new requirements be added regarding radio frequency emissions. First, if you include anything, do it in B not in C. Subsection 17.10.4.C addresses decisions and simply says all decisions will be in writing.

Council Member Johnson’s recommendations are as follows:

“17.10.4. B&C All new facility applications, or if an existing pole is substantially altered, must have a Radio Frequency Radiation Study and the results must be documented to the city to include actual levels and predicted levels of RFR.”

Fellman note: The Code defines a Radio Frequency Emissions Letter. I am not sure if Council Member Johnson is proposing that a “Study” be something different, but that question needs to be addressed. Second, it requires that applications include this study which must provide actual radio frequency emissions levels. If a site is being applied for, it is not yet built or operational, so it would be impossible to document “actual” emissions.

With respect to the additional detail Council Member Johnson suggested for this subsection, ...

Commented [ca51]: Document compliance

Commented [ksf52]: Council discretion as to whether you use “demonstrate compliance” vs. “document compliance.”

Commented [ksf53]: Modified from what was suggested by “CColo.” It was proposed that language say the City can require a study to demonstrate proof of NEPA compliance. If NEPA is triggered, an applicant is required to make certain FCC filings. Local governments can require that an applicant...

Commented [ca54]: Document and establish (or) prove)

Commented [ksf55]: “Certify” or “Establish” or “Prove” may not be very different from a legal standpoint. An applicant that certifies in writing that a site is categorically excluded under the specific section of the federal regs is how one would “establish” or “prove” this exemption. You describe the site, you note the federal regs and...

Commented [ksf56]: Modified version of proposal from “CColo.”

Commented [ksf57]: This is a variation of what was proposed by “CColo” and was already in the code draft.
The City may share information regarding the location of sites and the owners or managers of such sites with other applicants applying for administrative approvals or conditional permits under this section or other organizations seeking to locate WCFs within the jurisdiction of the City, provided however, that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

f-g. Abandonment and removal Affidavits shall be required from the owner of the property and from the applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of six (6) months.

g-h. Consolidated applications. The City shall allow a wireless provider to file a multi-site permit seeking approval for up to ten (10) permits for Small Cell Facilities at a given time. Each individual site shall be processed as a separate permit in order to facilitate recording site addresses, utility company requirements, and timely inspection scheduling. The City’s denial of any individual small cell facility is not a basis to deny the application as a whole or any other small cell facility incorporated within the consolidated application.

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

D. Compliance with Applicable Law. Notwithstanding the approval of an application for new 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 the Municipal Code and any other applicable laws or regulations. In addition, all WCF applications shall comply with the following:

1. Comply with any permits or licenses 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 ten calendar days from the time of notification by the City or after discovery by the owner or operator of the Site. Notwithstanding the foregoing, any graffiti on WCFs located in the Public Rights-of-Way or on Public Property may be removed by the City 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 City.

17.10.5 Design Standards

A. Review Requirements. The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this...
Chapter as specified below, provided, however, that the City may waive these requirements if it determines and documents that the goals of this Chapter are better served thereby. To that end, WCFs shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the City, consistent with other provisions of this Code. Notwithstanding the foregoing, the Planning Director shall have the authority to promulgate design standards for small cell facilities in the rights of way, which shall govern those types of WCFs. The design standards in this section and any design standards promulgated pursuant hereto, shall be employed to avoid or minimize the intangible harm of unsightly deployments or deployments that are not in character with the surrounding area. Design standards shall be applicable to both newly constructed WCFs, to the extent not inconsistent with state law, permitted but not yet constructed WCFs, as well as legal non-conforming WCFs when such sites are sought to be modified.

1. Camouflage/Concealment. All WCFs and any Transmission Equipment shall, to the extent possible, use Camouflage Design Techniques including, but not limited to the use of materials, colors, textures, screening, landscaping, or other design options that will blend the WCF into the surrounding natural setting and built environment.
   a. Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g. proximity to historic, natural, or aesthetically significant structures or areas, views, and/or community features or facilities). In such instances where WCFs are located in areas of high visibility, they shall (where possible) be designed to minimize their profile.
   b. The camouflage design may include the use of Alternative Tower Structures should the Public Works Department determine that such design meets the intent of this Code and the community is better served thereby.
   c. All WCFs, such as Antennas, vaults, equipment rooms, equipment enclosures, and Tower structures shall be constructed out of non-reflective materials (visible exterior surfaces only).

2. Collocation. WCFs shall be designed and constructed to permit the facility to accommodate WCFs from at least two (2) wireless service providers on the same WCF, to the extent it is feasible in good faith based upon construction, engineering and design standards, except where such Collocation would materially compromise the design intent of the WCF, particularly visually.

3. Lights and other attachments.
   a. WCFs shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purpose. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause
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the least disturbance to the surrounding properties or environs. Lighting shall be shielded or directed to the maximum extent so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.

b. All exterior lighting within equipment yards shall be mounted on poles or on the building wall below the height of the screen wall or fence.

c. No Tower shall have constructed on, or attached to, any additional platform, catwalk, crow’s nest or like structure (other than those required by industry standards or federal regulations), except during periods of construction or repair.

d. Signs and advertising. The use of any portion of a Tower for signs or advertising devices other than public safety warnings, certification, or other requires seals on any wireless communication device or structure is prohibited. However, the telephone numbers to contact in an emergency shall be posted on each facility.

4. Noise. Noise generated on the site must not exceed the levels permitted in the City of Lakewood Municipal Code, except that a WCF owner or operator shall be permitted to exceed such noise standards for a reasonable period of time during repairs, not to exceed two (2) hours without prior authorization from the City.

5. Landscaping Requirements.

a. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the parcel.

b. WCFs, excluding Small Cell Facilities unless otherwise required by the Public Works Department, shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from Rights-of-Way and adjacent properties. Where the City has requested additional landscaping, the City may require irrigation requirements for the landscaping. All such expense, including the cost of water, shall be borne by the wireless provider.

c. To the extent possible, heritage trees and traditional landscaping designs should be preserved in the Rights-of-Way. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

6. Screening Requirements.

a. All equipment, not located within the Public Right-of-Way and not otherwise defined, shall be fully screened within a walled yard or placed in an enclosed building except in cases where a better design alternative exists. The yard shall be enclosed by a solid fence or wall of sufficient height to screen all miscellaneous equipment from view from the public Right-of-Way or adjacent properties and to provide security.

b. All structures and improvements associated with the WCF shall be provided with adequate safety equipment and aesthetic treatments, including incorporating landscape screening noted in subsection

Commented [ca71]: As our lawyers have stated, we have no decibel limits in our noise ordinance, so there is no way to enforce the noise ordinance.

Commented [ca72]: Make it clear the city is not the payer.

Commented [ksf73R72]: This is a policy decision for Council.

Commented [ca74]:

Commented [ca75]: Too much wiggle room for industry, too little protection for landscaping on private property.

Commented [ksf76R75]: Shall have constructed on, or attached to, any additional platform, catwalk, crow’s nest or like structure (other than those required by industry standards or federal regulations), except during periods of construction or repair.

Commented [ca77]: Shall be preserved.

Commented [ksf78]: Proposed by “CColo.” I believe we discussed adding something like this, either in the code or in the Design Standards. The exact wording and where this goes should be determined by City staff dealing with these issues.

Commented [ca79]: No private property or existing easements can be used for this purpose without the property owner’s written consent.

Commented [ksf80R79]: This entire chapter involves all kinds of wireless sites including sites on private property. This is not a grant of a right to use private property. It says when you do use private property (like when you own or lease it) the equipment shall be fully screened. In addition, it would be inappropriate to say no existing easements can be used for this purpose without the property owner’s written consent, because some easements may specifically allow for this kind of use, and the City does not have the legal authority to change the terms of an easement grant.
5. to be visually compatible with uses in the surrounding area.

c. Roof-top mounted equipment shall be screened from off-site views to the extent practical by solid screen walls or the building’s parapet.

d. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

7. WCFs Adjacent to Single Family Residential Uses. WCFs shall be sited in a manner that evaluates the proximity of the facility relative to residential structures, neighborhoods, and residential zoning boundaries in order to minimize the visual impacts of WCFs on residential areas.

   a. When placed near residential property, the WCF shall be placed in close proximity to a common property line between adjoining residential properties, such that the WCF minimizes visual impacts equitably among adjacent and nearby properties.

   b. For a corner lot, the WCF may be placed adjacent to a common property line between adjoining residential properties, or on the corner formed by two intersecting streets.

   c. If these siting requirements are not feasible in good faith from a construction, engineering, or design perspective, the Applicant may submit a written statement to the Public Works Department requesting the WCF be exempt from these requirements, and offer alternative locations reasonably meeting the intent of this section.

8. Design requirements specific to various types of WCFs.

   a. Base Stations. 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 possible, including for example, without limitation, painting the Antennas and accessory equipment to match the structure. Additionally, any ground mounted equipment may be located in a flush-to-grade underground equipment vault if it is reasonably feasible from a construction, engineering, or design perspective.

   b. Alternative Tower Structures, not in the Public Right-of-Way shall:

      i. Be designed and constructed to look like a building, facility, structure, or other commonplace item, such as but not limited to a tree, public art, or clocktower, typically found in the area.

      ii. Be camouflaged/concealed consistent with other existing natural or manmade features in or near the location where the Alternative Tower Structure will be located.

      iii. Be compatible with the surrounding area, including architecture, topography, natural vegetation, and/or landscaped environment.
iv. Be the minimum size needed to obtain coverage objectives. Height or size of the proposed Alternative Tower Structure should be minimized as much as possible.

v. Be sited in a manner that is sensitive to the proximity of the facility to residential structures, neighborhoods, and residential zoning district boundaries.

vi. Take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses.

c. Towers

i. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards and City design approval processes, be painted a neutral color so as to reduce visual obtrusiveness.

ii. Wherever possible, Towers shall locate to utilize existing landforms, vegetation, and structures to aid in screening the facility from view, or otherwise blending in with surrounding built and natural environment.

iii. Monopole support structures shall taper from the base to the tip.

iv. All Towers, excluding Alternative Tower Structures in the Right-of-Way, shall be enclosed by security fencing or wall and shall also be equipped with an appropriate anti-climbing device.

v. Towers shall be subject to the height restrictions of each zoning district. Notwithstanding anything in this Chapter to the contrary, Towers are prohibited in the Right-of-Way.

d. Roof and Building Façade Mounted WCFs:

i. Roof mounted antennas and accessory equipment shall be painted or treated to match the façade of the building to which they are attached in order to minimize visibility from adjacent residential land uses and/or from public sidewalks. No WCFs can be placed on rooftops or facades in Residential Zone Districts.

ii. Roof-mounted WCFs may be approved only where an Applicant sufficiently demonstrates that a wall mounted WCF is inadequate to provide service. By filing an application for a roof-mounted WCF, an Applicant is certifying agreement to the City’s determination that the height extensions described in this subsection are the maximum heights that will allow the WCF to be Camouflaged, and that any additional increase in height will undermine the Camouflage nature of the site.

iii. Maximum height. Roof mounted antennas and accessory equipment shall not exceed the height of the penthouse or mechanical equipment room to which the antennas are attached. Antennas not mounted on a penthouse or mechanical equipment room shall be subject to the height restrictions of each zoning district.
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room shall be set back at least 5 feet from the exterior wall of a building. The maximum height of a roof mounted antenna that is not mounted on a penthouse or mechanical equipment room is equal to the distance the antenna is set back from the exterior wall.

iv. All rooftop equipment and Antennas must be adequately screened where feasible from a technical, construction, design and engineering perspective.

v. Building façade mounted antennas shall not protrude horizontally more than 2 feet from the building wall and shall be painted or treated to match the building or structure to which the antenna is attached.

vi. Building façade mounted antennas shall not exceed the height of the parapet or the roofline, whichever is greater.

vii. The total of all visible building façade mounted antennas may not exceed the greater of 10 percent of the square footage of the building façade.

e. Related Accessory Equipment

i. Excluding Small Cell Facilities in the Right-of-Way, the buildings, shelters, cabinets, and other accessory components shall be setback a minimum of 15 feet from each property line with a residential zone district or a lot containing a residential structure, or shall meet all setback requirements of the underlying zone districts, whichever results in the greater setback, and shall be grouped as closely as technically possible.

ii. Total footprint coverage area of the accessory equipment shall not exceed 500 square feet per provider, with a maximum of 1500 square feet total for three or more providers.

iii. No accessory equipment or accessory structure shall exceed 12 feet in height.

iv. Accessory equipment, including but not limited to remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the Accessory Equipment shall use Camouflage Design Techniques.

v. No accessory equipment or accessory structures shall be sited in a manner that reduces the parking or landscaped areas for other principal uses on the parcel below the minimums required by the Zoning Ordinance.

vi. **No accessory equipment can be placed within 150 feet of existing utility accessory equipment in Rights of Way.**
17.10.5 Standards for Approval

A. It is the intent of the City to provide for approval of WCFs administratively in cases where visual impacts are minimized, view corridors are protected, appropriate Camouflage and Concealment Design Techniques are employed to avoid adverse impacts on the surrounding area, and they are designed, maintained, and operated at all times to comply with the provisions of this Chapter and all applicable laws. Notwithstanding the approval of an application for Eligible Facilities Request as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in municipal code and any other applicable regulations.

1. Special Use Permit. Any application for a WCF which does not comply with the provisions of this Chapter may seek approval of a Special Use Permit by submitting an application to Planning Commission.

2. Collocation and Separation Required. No new Towers, excepting Small Cell Facilities in the Right-of-Way, shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application, and sufficient separation of Towers is achieved. Evidence may consist of the following:
   a. No existing WCFs with a suitable height are located within the geographic area required to meet the Applicant’s engineering requirements;
   b. Existing WCFs do not have sufficient structural strength to support applicant’s proposed WCF;
   c. The Applicant’s proposed WCFs would cause electromagnetic interference with the existing WCFs or the existing WCF would cause interference with the Applicant’s proposed WCF;
   d. The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for Collocation;
   e. Towers over 90 feet in height shall not be located within one-quarter mile from any Existing Tower that is over 90 feet in height, unless the Applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant’s needs.

3. Setbacks. The following minimum setback requirements shall apply to all WCFs except for Alternative Tower Structures in the Right-of-Way, provided however, that the City may reduce standard setback requirements if the applicant demonstrates that the goals of this Section can be met through Performance Options or through Alternative Compliance, or through a Variance process. A Tower/WCFs subject to this subsection shall meet the greater of the following minimum setbacks from all property lines:
   a. The setback for a principal building within the applicable zoning district;
   b. Twenty-five percent (25%) of the facility height, including WCFs and Related Accessory Equipment; or

Commented [ksf90]: Council member Johnson suggested adding separation requirements in 17.10.5.9, which is not a section found in the current amendments. She may mean 17.10.5.A.2 which has some reference to separation. Her requests are in quotes below, followed by my feedback.

"Spacing/separation - all free standing small cell facilities must be within 1200 feet of another small cell facility in a residential area.

All small cell facilities must be within 600 feet of one another in a commercial zone."

Fellman note: I am assuming the intent is that small cell facilities be separated from other small cell facilities by at least 1200 feet in residential zones and 600 feet in commercial zones – and not “be within” 1200 or 600 feet of each other, which would allow them to be sited next to one another. In any event, the separation for small cells is set forth in the City’s design standards, so the first issue is whether Council wants to impose these requirements in code, or in administrative regulations.

Either way, I am not aware of any Colorado suburban or urban city that requires separation of more than 600 feet. Denver is 250 feet. The industry will claim (and I believe in some, but certainly not all cases, they are correct) that a separation requirement of even 600 feet means that their networks may not be able to work effectively. Requiring a separation distance of 1200 feet may be an invitation to a legal challenge.

Finally, if Council does move forward with Council member Johnson’s recommendation here, note that the recommendation says 1200 feet in a residential “area” and 600 feet in a commercial “zone.” I would suggest consistency and use “area” in each case.

Commented [ca91]: Leaves too much discretion to administrative decisions

Commented [ksf92R91]: This is a policy decision

Commented [ksf93]: This edit is a correction. The first sentence of this subsection 3 applies to all WCFs except Alternative Tower Structures in the ROW, yet in the last sentence it referred only to Towers. The change is to clarify that this subsection in fact applies to all WCFs except for Alternative Tower Structures in the ROW.
c. For sites within 100 feet of residential uses, facilities over 30 feet in height shall have a minimum setback from all adjacent residential property lines of one (1) foot for every foot in height.

Commented [ca94]: 150 feet: On large properties, the front door can be much further than 100 feet from ROW

Commented [ksf95R94]: This subsection does not include small cells in the ROW. It would apply to a site on a lot adjacent to a residential lot. The setback is from the property line on which the WCF site is built. You would have a minimum of 1 foot for every foot of the WCF height to the residential property line, IN ADDITION TO whatever the setback is on from the residential property line to the residential structure.

Commented [ca96]:

Commented [ksf97]: For all WCFs, except in the ROW, the setbacks are the standards in Subsections a OR b OR c here. Council Member Johnson is proposing that for towers in non-residential areas, the criteria is on that noted in "b."

For residential zones, Council Member Johnson suggests that that any WCF must be 500 feet from any residential structure, unless there is documentation of "inadequate service." She also suggests that for any WCFs, "if an applicant can document a significant gap in service, the city may reduce the setback requirement by the minimum amount to provide service." I was not sure if she is suggesting that staff can grant this reduction or whether Council does. If the latter, it will create problems in meeting shot clock requirements. I also am concerned about how one would document "inadequate service" in order to qualify to be closer to a residential structure.

Commented [ksf98]: Council member Johnson suggesting language prohibiting WCFs on residential buildings but did not specify where the amendment is proposed to fit in the code. Further, she did not distinguish between single or multi-family structures. It is not uncommon to see antennas on apartment buildings, and I don’t know if the intent was to prohibit these. If Council desires amendments either for all residential structures or only on single family, we can find a suitable place to put the language.
Definitions from Section 13:

For the purposes of this chapter, the following words, phrases, and terms shall have the meanings set forth herein. Words not defined shall be given their common and ordinary 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, buildings, traffic signals, and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflage or conceals the presence of Antennas or Towers so as to make them architecturally compatible with the surrounding area pursuant to this title, including height limits as set forth in this title. This term also includes any Antenna or Antenna array attached to an Alternative Tower Structure. A stand-alone pole, including a replacement pole, in the Right-of-Way, streetlight, or traffic signal that accommodates Small Cell Facilities is considered an Alternative Tower Structure to the extent it meets the camouflage and concealment standards of this title.

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, all 5G, 4G, 4G LTE, and any higher gigahertz frequency antennas, 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 WCF: any person that submits an application to the City to site, install, construct, collocate, modify and/or operate a Wireless Communications Facility.

Amateur Radio Towers and Antennae: Broadcasting and receiving structures or devices used for personal pleasure or as a hobby.

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. Base Station does include, without limitation:

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

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

Camouflage, Concealment, Or Camouflage Design Techniques: the designing of a WCF to alter its appearance in such a manner as to substantially integrate it into surrounding buildings and natural settings to minimize the visual impacts of the facility on the surrounding uses and ensure the facility is compatible with the environment in which it is located. A Wireless Communication Facility utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a utility tower, or (iii) uses a design which mimics and is consistent with the nearby natural or architectural features (such as a clock tower) 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: (1) mounting or installing a WCF on a pre-existing structure, and/or (2) 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. Co-location shall also include the location of communication facilities with other existing structures, including but not limited to water tanks, light standards, power poles, and other utility facilities and structures.

Director: The person, or that person’s designee, authorized by the City Manager to enforce and interpret this Zoning Ordinance.

Eligible Facilities Request: any request for modification of an Existing Tower or Base Station that it is not a Substantial Change, or that does not substantially change the physical dimensions of such tower or base station involving 1) collocation of new transmission equipment, 2) removal of transmission equipment, or 3) replacement of transmission equipment.

Eligible Support Structure: any Tower or Base Station as defined in this Section, provided that it is existing at the time the relevant application is filed with the City under this Section.

Evidence of Need: A coverage gap that exists when a remote user of those services is unable to either connect with the land-based national telephone network, or to maintain a connection capable of supporting a reasonably uninterrupted communication. When a coverage gap exists customers cannot receive and send signals, and when customers pass through a coverage gap their calls are disconnected.
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.

FCC: the Federal Communications Commission.

Hazardous Substance: any substance, chemical or waste that is identified as hazardous or toxic in any applicable federal, state or local law or regulation, including but not limited to petroleum products and asbestos.

Interference: physical interference and radio frequency interference.

Micro Cell Facility or microcell: a small wireless facility that is no larger than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height, and that has an exterior Antenna, if any, that is no more than eleven (11) inches in length.

Monopole: a single, freestanding pole-type structure supporting one or more Antennas.

Over the Air Receiving Device (OTARD): an Antenna used to receive video programming from direct broadcast satellites direct broadcast satellite service, including home satellites that are 1M or less in diameter, broadband radio services and television broadcast stations, but shall not include Antennas used for AM/FM radio, amateur (“ham”) radio, CB radio, Digital Audio Radio Services or Antennas used as part of a hub to relay signals among multiple locations.

Owner means a person with a legal or equitable interest in ownership of real or personal property.

Permit means a permit issued and described in accordance with Laws, which is used to regulate, monitor, and control the improvement, construction, or excavation activities, or other work or activity, occurring upon or otherwise affecting Licensor’s ROW, including ROW use, building, and electrical permits.

Physical Interference means where equipment, vegetation, or a structure causes reduced use of another’s prior mounted equipment, or an obstruction in a necessary line-of-sign path.

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 Right-of-Way (ROW): any public street, way, alley, sidewalk, median, parkway, or boulevard that is dedicated to public use.

Radio Antenna, Amateur: A noncommercial device that is used for transmitting and receiving electro-magnetic waves.

Radio Frequency Emissions Letter Radio Frequency Radiation (RFR) Study: a report letter from the Applicant providing emissions measurements detailed within this Article and certifying all WCFs that are the subject of the application are in compliance shall comply with federal standards for radio frequency emissions.

Radio Frequency Interference means the emission or conduction of radio frequency energy (or electronic noise) produced by electrical and electronic devices at levels that interfere with the operation of adjacent or nearby equipment.

Radio Tower, Amateur: A structure that supports an antenna.
READILY APPARENT. For purposes of determining whether a WCF is readily apparent, the phrase means that the facility will be easily recognizable as a WCF in the discretion of the Director, 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: an Alternative Tower Structure that is a newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or street light pole 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 Micro Cell Facility or to accommodate Collocation and replaces a pre-existing pole or structure.

Satellite Dish Antenna: A parabolic antenna intended to receive signals from orbiting satellites and other sources. Non-commercial dish antennas are defined as being less than four meters in diameter, while commercial dish antennas are usually those larger than four meters and typically used by broadcasting stations.

Setback: The minimum distance any building or structure must be separated from a specified point.

Sign: Any structure, which requires a permanent or temporary location, that has a visual display visible from a public right-of-way and is designed to identify, announce, direct or inform.

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 Towers (other than Towers in the Right-of-Way and Eligible Support Structures): the current boundaries of the leased or owned property surrounding the Tower or Eligible Support Structure and any access or utility easements currently related to the Site. A Site, for other Alternative Tower Structures, Base Stations, Micro Cell Facilities, and Small Cell Facilities in the Right-of-Way, is further restricted to that area comprising the base of the structure and to other related Accessory Equipment already deployed on the ground.

Small Cell Facility: a Wireless Communication Facility 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 no larger than seventeen cubic feet in volume. The following associated and accessory 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. Small cells may be attached to Alternate Tower
Structures, Replacement Poles, and Base Stations. The definition of a Small Cell Facility shall also include a Micro Cell or Micro Cell Facility, as well as equipment for densifying technology.

Street: A public or private thoroughfare for vehicular traffic other than an alley or driveway.

Substantial Change for Eligible Facilities Request: 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:

(A) For Towers, other than Alternative Tower Structures or Towers in the Right-of-Way, it increases the height of the Tower by more than ten percent (10%) or by the height of one (1) additional Antenna array, with separation from the nearest existing Antenna not to exceed twenty feet, whichever is greater less; for other Eligible Support Structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is less greater.

(B) 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 ten (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 (6) feet;

(C) 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;

(D) 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 (10%) larger in height or overall volume than any other existing, individual ground cabinet associated with the structure;

(E) For any Eligible Support Structure, it entails any excavation or deployment outside the current Site;

(F) For any Eligible Support Structure, it would defeat the concealment elements of the Eligible Support Structure. For the purposes of this subsection (vi), a change that would undermine the concealment elements of this structure will be considered to defeat the concealment elements of the structure; or

(G) 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 Wireless Facilities including, but not limited to, Monopoles, Alternative Tower Structures, Replacement Poles, and other freestanding self-supporting pole structures.
Toll and Tolling: 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, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes self-supporting lattice towers, guyed towers or Monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, Alternative Tower Structures and the like.

Transmission Equipment: Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, Antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment, excluding OTARDS, 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 Equipment Shelter: An unattended structure such as a small building or cabinet(s) used to house equipment for a wireless communications facility associated with either a freestanding wireless communications facility or a structure or building mounted wireless communications facility.

Wireless Communications Facility or WCF: a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an Antenna or Antennas, Base Stations, support equipment, Alternative Tower Structures, Small Cell Facilities, and Towers. 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 title.

Wireless Communications Provider: A public or private company providing personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services.

Wireless Communications Site: Any use of property for antennae, equipment, and equipment shelter(s) employed in the reception, switching, and/or transmission of wireless telecommunication services including, but not limited to, paging, enhanced specialized mobile radio, personal communication services, microwave link antenna, cellular telephone, and other related technologies.
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ARTICLE 10: WIRELESS SERVICES AND COMMUNICATIONS

17.10.1: General

17.10.1.1: Purpose and Intent

This Article is intended to ensure that residents, public safety operations and businesses in the City have reliable access to personal wireless services and state of the art communications services in a way that reasonably preserves the aesthetic character and value of the community, and complies with Federal, State, and local laws, including but not limited to the National Environmental Policy Act (NEPA), the National Building Act, and the Americans with Disabilities Act (ADA).

It is the City’s intent to:

The City Council finds that these regulations are necessary to:

A. Provide for the managed development and installation, maintenance modification, and removal of wireless communications infrastructure in the City with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;

B. Minimize adverse visual effects of WCFs through thoughtful design, and siting, and installation, including but not limited to camouflage design techniques, appropriate and effective screening, and equipment undergrounding whenever appropriate;

C. Encourage the location of Towers and Wireless Communications Facilities on a building, or the joint use of new and existing ground mounted facility tower sites as a primary option so to in a manner that-minimizes the total number of Towers needed throughout the community;

D. Require the collocation of WCFs wherever reasonably feasible;

E. Require owners and users of WCFs to locate them, to the extent possible, in areas where the adverse impact to the community including real estate, is minimized;

F. Enhance the ability of wireless communications service technology providers to provide such services to the community quickly, effectively, and efficiently, and safely;

G. Effectively manage WCFs in the Public Right of Way;
H. Manage amateur radio facilities and over-the-air devices in the City:

A. Ensure the City has sufficient wireless infrastructure to support public safety and emergency response communications throughout the City;

B. Ensure access to reliable personal wireless services throughout all areas of the City and in no event prohibit or have the effect of prohibiting the provision of personal wireless services;

C. Encourage the use of existing structures for the siting of facilities;

D. Encourage the location of new freestanding support structures in areas where any potential adverse impacts on the community will be minimized;

E. Minimize the potential adverse effects of wireless service facilities through the implementation of reasonable design, landscaping and construction practices; and

F. Conform to federal and state laws which exempt certain facilities, receiving dishes and antennas from local regulations.

17.10.1.2: Applicability

A. The standards in this Article shall control the design, location, alteration, installation of all Eligible Facilities Requests and maintenance WCF applications for Base Stations, Alternative Tower Structures, Towers, Micro Cells, and Small Cell Facilities as defined in Section 17.13.2 and further addressed herein.

B. The Requirements set forth in this Article shall not apply to:

1. Amateur radio Antennas that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive only Antennas, provided that the requirements that the height be no more than the distance from the base of all wireless service infrastructure in all zone districts. No provision the Antenna to the property lines is met.

2. Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to the effective date of the latest revision of this Article of the City of Lakewood Zoning Code shall be required to become compliant under this Article within 5 years, or at a point in time as negotiated by the City and facilities owner.

Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to the effective date of Ordinance #2019O-2020-1 shall not be required to meet the requirements of this Article shall apply to Chapter, other than the requirements of Section 17.10.3. Changes and additions to pre-existing WCFs (including trading out of Antennas for an equal number of Antennas) shall meet
applicable requirements of Section 17.10.3. Notwithstanding the foregoing, any
modifications qualifying as an Eligible Facilities Requests shall be evaluated
under this Section.

3. Miscellaneous Antennas. Antennas used for reception of television, multi-
channel video programming and/or radio such as Over-the-Air Receiving Device
(OTARD) Antennas, television broadcast band Antennas, satellite earth station
antennae 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 to the property line are met.
The Director or his or her designee has the authority to approve modifications to
the height restriction related to OTARD Antennas and OTARD antenna
structures, if in the reasonable discretion of the City, modifications are necessary
to comply with federal law.

4. A temporary WCF installed upon the declaration of a state of emergency by the
federal, state, or local government, and upon or a written determination that such
temporary WCF is specifically serving an emergent need of the general health,
safety, and welfare of residents by need of the City, subject to approval by the
City Council. Such WCF shall be subject to this Article immediately upon lifting
the respective state of emergency.

or reasonable ability to obtain such written determination within 72 hours.

5. A temporary WCF installed for the purpose of providing sufficient coverage for a
special event, subject to administrative approval by the City.
A. The siting of Distributed Antenna Systems (DAS) or wireless facilities
located within and intended to provide wireless coverage within a structure.
B. Any dish antenna less than 40 inches in diameter located in a residential zone district; or
C. Any dish antenna less than 80 inches in diameter located in any other zone district.

17.10.2: Wireless Facilities – By Zone District

Table 17.4.1 identifies where the different types of wireless facilities are permitted as primary or
accessory uses, by right or with a special use permit, and where these uses are prohibited in
each zone district within the City of Lakewood.

17.10.3: Wireless Facility Operational Standards

17.10.3.1: Wireless Stealth Facilities

A. Review Requirements:

The installation of new wireless stealth facilities on any non-single-family or two-family
structure may be allowed in any zone district if reviewed and approved in accordance
with the Review of Supplemental Standards procedures identified in Article 2. The
Director shall exercise discretion in applying the standards outlined for all new wireless

stealth facilities, where such standards are determined to be necessary to minimize the potential adverse effects of wireless service facilities. At a minimum the following standards shall apply:

1. The dimensions of the stealth facility must reasonably approximate the dimensions of the object they are being disguised as, and

2. The location of the stealth facility must be in concert with its surroundings.

17.10.3.2: New Wireless Facilities on Existing Structures

A. Review Requirements:

The installation of new wireless facilities on Federal Requirements. All WCFs shall meet the current standards and regulations of the Federal Aviation Administration (FAA), the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Unless preempted by federal law, failure to meet such revised standards and regulations within 30 days of the City’s determination of such failure shall constitute grounds for the removal of the WCF by the City or owner at the WCF owner’s expense.

B. Permission to Use Public Right-of-Way or City-owned Public property. Prior to WCFs being sited in the ROW, the Applicant shall have an executed license agreement with the City, granting a non-exclusive license to use the Public Right-of-Way. Attachment of WCFs on an existing or replacement structures, 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, and Site specific approval pursuant to 17.10.4. The Applicant shall remain the owner of, and solely responsible for any WCF installed in the ROW. Prior to, or concurrently with, seeking land use approval for a WCF on Public Property, the Applicant shall execute a lease agreement with the City.

C. 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. If upon inspection, the City concludes that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have 30 days from the date of notice to bring such WCF into compliance by providing to the City an independent, third-party engineering certification paid for by the Applicant, that such Towers meet all building and safety codes of the City of Lakewood. The Applicant shall fully cooperate in arranging access for the inspection and may participate in the inspection. Upon good cause shown by the owner and meeting reasonable safety considerations, the City’s Chief Building Official Director may extend such compliance period not to exceed 90 days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the City may be allowed to remove such WCF at the owner’s expense.
a. Each wireless communication facility which contains trees, foliage or other landscaping elements, whether or not used as screening, shall be maintained in good condition at all times in accordance with the approved landscape plan, and the owner or operator of the facility shall be responsible for replacing any damaged, dead or decaying landscaping as promptly as reasonably possible. Amendments or modifications to the landscape plan shall be submitted for approval to the Director.

b. Certification must be provided upon request by the City that the proposed facility will at all times comply with all applicable requirements and standards pertaining to electromagnetic and/or radio frequency radiation.
D. Emergency. In the event of an emergency or to protect the public health or safety, prior to the City accessing or performing any work on a facility on which a WCF Owner has installed Equipment, City may require WCF Owner to deactivate such Equipment if any of City’s employees or agents must move closer to the Equipment than the FCC’s recommended minimum distance. In such case, City will contact WCF Owner to request immediate deactivation.

E. Non-Interference. The following provisions shall apply to ensure and/or avoid interference (both physical interference and Radio Frequency Interference) resulting from Licensee’s installation, operation and/or maintenance of its Equipment:

a. Radio Frequency Interference. All WCF Owners shall ensure that the Equipment will not cause Radio Frequency Interference with Wireless Communication Facilities or devices, cable television, broadcast radio or television systems, satellite broadcast systems, or City traffic, public safety or other communications signal equipment existing at the time of installation of the Equipment.

b. Existing Uses. WCF Owners shall not interfere in any manner with the existing uses of City property including Rights-of-Way, and including sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electric and telephone wires, streetlight fixtures, cable television, and other telecommunications, utility, and municipal property without the express written approval of the Owner(s) of the affected property or properties.

c. City Communications. WCF Owners shall not interfere in any manner with current or future City or other governmental public safety communication.

d. Remedies. If Interference occurs and continues for a period in excess of 24 hours following notice to the interfering party via telephone, the City may require the interfering party to reduce power or cease operations of the interfering equipment until the Interference is cured.

F. Relocation, Abandonment and Removal. After the WCF is constructed, if a WCF has not been in use for a period of three months, the owner of the WCF shall notify the City of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is contracted and is not operated for a continuous period of six months shall be considered abandoned. The City, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within 30 days of receipt of written notice from the City. If such WCF is not removed within said 30 days, the City may remove it at the owner’s expense and any zone district if approved permits for the WCF shall be deemed to have expired. For any public project, a WCF may be required to relocate at WCF Owner’s expense.
G. Hazardous Materials. No Hazardous materials shall be permitted in association with WCFs, except those necessary for the operation of the WCF and only in accordance with all applicable laws governing such materials.

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

I. Site Safety from Unauthorized Access. All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically, all antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

J. Authority to Inspect Facilities. In order to verify that the holder of a special use permit or other approval for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, and building codes, laws, ordinances and regulations and other applicable requirements, the City may designate persons to conduct an inspection on its behalf of all facets of said permit holder’s, renter’s, lessee’s or licensee’s placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

K. The owner or operator of any wireless communications facility shall maintain with the City, at all times, current contact and site information. Applicant shall notify City of any changes to the information submitted within thirty days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:
   a. Identity, including name, address, and telephone number, and legal status of the owner of the facility including official identification numbers and FCC certification, and, if different from the owner, the identity and legal status of the person or entity responsible for operating the facility;
   b. Name, address and telephone number of a local contact person for emergencies;
   c. Type of service provided;
   d. Identification signs, including emergency phone numbers of the utility provider, shall be posted at all communication facility sites.

L. Each owner or operator of a wireless communications facility shall routinely and regularly, no less than annually, inspect each site to ensure compliance with the standards as set forth in this section.
17.10.4 Review Procedures and Requirements

A. Permit Required

No new WCF shall be constructed and no Collocation or modification to any WCF may occur except after a written request from an Applicant, reviewed and approved by the City in accordance with this Chapter. All WCFs except Eligible Facilities Requests which are reviewed under subsection (a)(3) of this Section, shall be reviewed pursuant to the following procedures. All WCF permits shall expire and be of no further force and effect 180 days following the date of approval unless, prior to the date of expiration: (1) Construction has been diligently pursued towards completion of the project, or (2) 180-day extension of the permit has been 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 City’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.

B. Bond Required

Prior to issuance of any permit, the Applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, jointly required to execute and file with the City a bond, or other form of security acceptable to the City Attorney as to type of security, and the form and manner of execution, in the amount as determined by the Department of Public Works for construction of a tower facility or a co-location on an existing tower or other structure, and with such sureties as are deemed sufficient by the City Attorney to assure the faithful performance of the terms and conditions of this chapter and conditions of any special use permit, including payment of costs of future demolition of an abandoned tower or other facilities. The full amount of the bond or security shall remain in full force and effect while the facility is in existence and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit or other approval.

C. Insurance Required

1. Except as provided in or supplemented by any franchise agreement or license, a telecommunications carrier shall secure and maintain public liability, property insurance, and umbrella coverage in at least the following amounts:
   a. Public liability: $2,000,000 per/person/per occurrence
   b. Property damage: $2,000,000 per any one claim
   c. Umbrella liability: $5,000,000

2. The public and personal liability and property damage insurance policy shall specifically include the City, its employees, agents, and members of the City Council as additional insureds.

3. The public and personal liability and property damage insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State of New York.
business in the State and which has one of the three highest or best ratings from the Alfred M. Best Company.

4. The public liability and property damage insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days written notice in advance of the cancellation of the policy.

5. Renewal of replacement policies or certificates shall be delivered to the City as least 15 days before expiration of the insurance which such policies are to renew or be replaced.

6. Before a telecommunications system provides telecommunications service to subscribers, the telecommunications carrier shall deliver the policies or certificates representing the insurance to the City as required herein.

7. Worker’s compensation within statutory limits and employer’s liability insurance with limits of not less than $1,000,000.

8. The liability insurance policies required by this section shall be maintained by the grantee throughout the term of the telecommunications license or franchise. The policy may not be canceled nor the intention not to renew be stated until 90 days prior to the City, by registered mail, or a written notice addressed to the City Engineer of such intent to cancel or not to renew. Within 60 days after receipt by the City of said notice, the grantee shall obtain and furnish to the City replacement insurance policies meeting the requirements of this section.

9. Grantee shall provide the City with evidence of insurance for each of the coverage’s described above at least 10 days prior to construction and/or occupancy of any site subject to this chapter.

D. Emissions Requirements.

1. Per Submittal Requirements within this Article, any new facility application or request involving a substantial change to an existing facility will be required to provide a statement of Radio Frequency Radiation Study (RFR) confirming current assessed Radio Frequency (RF) exposure limits if such new WCF or substantial change to an existing WCF increases Radio Frequency from its own facility, or increases Radio Frequency in combination with other facilities.

2. The City reserves the right to require an annual Radio Frequency report to be provided to the Department of Public Works upon request for any facilities subject to the National Environmental Policy Act (NEPA).

3. The City and/or its assigned agents reserve the right to measure, at random, the radio frequency emissions of any facility and to review or revoke any permit under this Article if a wireless cell facility demonstrably increases signal output above the Uncontrolled/General Population Maximum Permissible Exposure (MPE) limits imposed by the FCC (47 CFR Sec. 2.1).

4. Any operational or technological changes to an approved WCF that affects the facility’s radio frequency emissions shall be reported promptly to the City.

E. Review Procedures for certain all WCFs, including Base Stations, Alternative Tower Structures, Small Cell Facilities, and Alternative Tower Structures within Public Rights-Of-Way. Applications for these WCF facilities shall be reviewed by the Public Works...
Review Procedures for Eligible Facilities Requests

1. Eligible Facilities Requests shall be considered a permitted use, subject to administrative review. The City shall prepare, and from time to time revise and make publicly available, an application form which shall require submittal of information necessary for the City to consider whether an application is an Eligible Facilities Request. Such required information shall include, without limitation, whether the project:

a. Constitutes a Substantial Change;
b. Violates a generally applicable law, regulation, or other rule codifying objective standards reasonably related to public health and safety;

Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Director shall review such application to determine whether the application so qualifies for an Eligible Facilities Request. Timeframe for Review. Subject to the Tolling provisions of subparagraph d. below, within 60 days of the date on which an Applicant submits an application seeking approval under this Section, the City shall approve the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable codes.

2. Review Procedures for certain WCFs, including Towers, Towers other than those defined or excepted in (1) above, must apply for Special Use Permit Review approval. These WCFs shall be reviewed for conformance using the procedures set forth in Section 17.10.5. 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 City.

Eligible Facilities Requests shall be considered a permitted use, subject to administrative review. The City shall prepare, and from time to time revise and make publicly available, an application form which shall require submittal of information.
necessary for the City to consider whether an application is an Eligible Facilities Request. Such required information shall include, without limitation, whether the project:

Constitutes a Substantial Change;

b. Violates a generally applicable law, regulation, or other rule codifying objective standards reasonably related to public health and safety.

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

Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Director shall review such application to determine whether the application so qualifies for an Eligible Facilities Request.

Timeframe for Review. Subject to the Tolling provisions of subparagraph d. below, within 60 days of the date on which an Applicant submits an application seeking approval under this Section, the City shall approve the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable codes.

3. Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be Tollored only by mutual agreement of the City and the Applicant, or in cases where the Director determines that the application is incomplete:

1. To toll the timeframe for incompleteness, the City must provide written notice to the Applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph [a][i] above.

2. The timeframe for review begins running again the following business day after the Applicant makes a supplemental written submission in response to the City’s notice of incompleteness.

3. Following a supplemental submission, the City will notify the Applicant within 10 business days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is Tollored in the case of second or subsequent notices pursuant to the procedures identified in paragraph [d][i][i]. In the case of a second or subsequent notice of incompleteness, the City may not specify missing information or documents that were not delineated in the original notice of incompleteness.

4. Failure to Act. The City shall make every effort to review any request seeking approval for an Eligible Facilities Request within the herein applicable timeline unless, working with the Applicant, a new timeframe is established. In the event the City fails to act on a request seeking approval for an Eligible Facilities Request under this Section within the timeframe for review, or the timeframe agreed upon with the Applicant (accounting for any Tolloring), the request shall be...
deemed granted. The request becomes effective when the Applicant notifies the City in writing after the review period, including allowed extensions, has expired (accounting for any Tolling) that the application has been deemed granted.

Interaction with Telecommunications Act Section 332(c)(7). If the City determines that the Applicant’s request is not an Eligible Facilities Request as delineated in this Chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC’s Shot Clock order, will begin to run from the issuance of the City’s decision that the application is not a covered request. To the extent such information is necessary, the City may request additional information from the Applicant to evaluate the application under Section 332(c)(7) reviews.

5. Interaction with Telecommunications Act Section 332(c)(7). If the City determines that the Applicant’s request is not an Eligible Facilities Request as delineated in this Chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC’s Shot Clock order, will begin to run from the issuance of the City’s decision that the application is not a covered request. To the extent such information is necessary, the City may request additional information from the Applicant to evaluate the application under Section 332(c)(7) reviews.

The City shall make every effort to review any request seeking approval for an Eligible Facilities Request within the timeframe set forth in the applicable timeline unless, working with the Applicant, a new timeframe is established. In the event the City fails to act on a request seeking approval for an Eligible Facilities Request under this Section within the timeframe for review, or the timeframe agreed upon with the Applicant (accounting for any Tolling), the request shall be deemed granted. The request becomes effective when the Applicant notifies the City in writing after the review period, including allowed extensions, has expired (accounting for any Tolling) that the application has been deemed granted.

Interaction with Telecommunications Act Section 332(c)(7). If the City determines that the Applicant’s request is not an Eligible Facilities Request as delineated in this Chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the
   a. Small Cell Facilities in the Right-of-Way shall be considered a permitted use, subject to administrative review as set forth in Subsection A.1.
   b. The City shall prepare, and from time to time revise, and make publicly available, an application form which shall require submittal of information necessary for the City to consider whether a project is eligible as a Small Cell Facility in the Right-of-Way, meeting certain criteria.
   c. Upon receipt of an application for a Small Cell Facility in the Right-of-Way pursuant to this Section, the Public Works Department shall review such application to determine whether the application is complete.
   d. Timeframe for Review. Within 90 calendar days of the date on which an Applicant submits an application seeking approval under this Section, the City shall take action on the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable code.

I. Submittal Requirements for all new WCFs, including Small Cell Facilities.
   1. In addition to submittal requirements of Chapter 17.2, the following supplemental items are required for all WCF applications:
      a. Project Description Summary: A brief project description for the proposed WCF, to include: 1) Number and sizes of antennas and approximate orientation, 2) copy of the respective FCC license, 3) heights of proposed facilities, 4) equipment enclosure type and size, 5) materials and colors of antennas and any equipment enclosure, 6) description of towers or other structures necessary to support the proposed facilities, 7) description of lighting, signage and landscaping proposed, and 8) other technical information regarding transmission equipment such as maximum power output and frequencies.
      b. 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.
c. **Radio Frequency Emission** Radio Frequency Radiation (RFR) Study. For the sole purpose of verifying compliance with the FCC radio frequency emission standards, an emissions report shall be submitted which measures the predicted and actual levels of electromagnetic field radiation emitted by the proposed facility operating alone and in combination with radiation emitted from other existing or approved facilities that can be detected at the proposed facility site. Radiation measurements shall be based on all proposed (applications filed and pending), approved, and existing facilities operating at maximum power densities and frequencies within a minimum 1300 ft radius of the proposed facility. The RFR Study shall identify the following:

1. the existing and predicted electromagnetic field radiation in table form, specifically delineating both the General Population Exposure and Occupational Exposure
2. any measures required to comply with the FCC standards for predicted exposure levels
3. a summary of the conclusions of the report, and
4. details for any signage, barriers or similar mitigation that is recommended or required.

The RFR Study shall be prepared by a qualified third-party expert. If mitigation is required by FCC radio frequency emission standards, the details for signage, barriers or other physical improvements shall also be included on the project plans prepared for the facility. It is the responsibility of the Applicant to determine the location and power of existing facilities.

d. **Environmental Assessment.** Pursuant to NEPA, any application wishing to construct a facility that uses an FCC license must submit an environmental assessment to the FCC, or alternately, certify to the City by written statement that such facility is categorically excluded per 47 C.F.R. § 1.1307. An environmental assessment is required if the proposed construction:

1. Will be in a wilderness area or wildlife preserve (generally on federal land);
2. Might affect threatened and endangered species or their habitat (Endangered Species Act);
3. Might affect properties included or eligible for inclusion in the National Register of Historic Places or Indian religious and cultural sites;
4. Will be in a flood plain;
5. Will involve “significant changes in surface features” during construction (e.g., wetlands, water diversion, deforestation);
6. Will be taller than 450 feet and so might affect migratory birds;
7. Involves high intensity lighting in a residential area; or
8. Would cause radio frequency emission exposure in excess of FCC-established limits.
Any Applicant seeking to build a WCF that falls into any category requiring an environmental assessment and seeking not to submit an environmental assessment, must obtain and provide a “findings of no significant impact” before site construction. Building without adhering to the legal requirements of 47 CFR 1.1301-1.1319 can constitute a violation of FCC rules and may subject the constructing party to potential enforcement action:

e. Title Report. For any wireless facility proposed to be installed on any private property, not owned or controlled by the City, the Applicant must submit a title report, issued within 30 days prior to the date the Applicant filed the application;

f. Peer Review. Prior to accepting an application as complete, the city may at its sole discretion require a peer review of the project be conducted by an independent qualified RF engineering consultant, as deemed necessary to confirm compliance with FCC radio frequency emission standards. The consultant shall be selected by the City and paid for by the project Applicant. If peer review is required, the application shall include sufficient information for the city-retained consultant to conduct such review for compliance with FCC radio frequency emission standards;

g. Photo simulations. The Applicant shall provide photo simulations of the proposed facility from key public viewpoints based upon consultation with city staff. Photo-simulations shall display existing and proposed views, and include the date(s) when the base photo was taken, excluding applications for small cell facilities;

h. Noise Analysis. A noise analysis for emergency generators or other noise-producing facilities;

i. Landscape Plan. A landscape and irrigation plan, showing all existing and proposed improvements, location of proposed plantings and type of landscape material, for proposed ground-mounted facilities including equipment cabinets;

j. Elevations. Elevations showing all sides of the proposed facility, and including the following information:
   1. Elevations and sections of the site displaying site topography, proposed facilities including towers, equipment shelter and existing buildings,
   2. Wall, roof, tower and antenna materials,
   3. Fencing, air conditioning units and outdoor lighting, if any,
   4. Rooftop or building features such as vents, chimneys and antennas, and
   5. Building or tower height as measured from natural grade.

k. Inventory of Sites. Each Applicant for a WCF shall provide to the City a narrative description and data in a format acceptable to the City showing the
Applicant's currently proposed WCFs within the City, and outside of the City within one half-mile of its boundaries. This provision is not intended to be a requirement that the Applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the City. This information will be used to assist in the City's comprehensive planning process, and promote Collocation by identifying areas in which WCFs might be appropriately constructed for multiple users. The City may share information regarding the location of sites and the owners or managers of such sites with other Applicants applying for administrative approvals or conditional permits under this section or other organizations seeking to locate WCFs within the jurisdiction of the City, provided however, that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable:

1. **Load Certification.** The owner of a proposed new tower shall provide certification with documentation (structural analysis) including calculations that the telecommunication facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, City, state and federal structural requirements for loads, including wind and ice loads.

2. **Written Statement.** Written representation that Applicant shall be responsible for paying all charges for any electricity furnished by a utility to Applicant and for charges for furnishing service to the Equipment. When the Equipment requires an electric meter as determined by the utility provider, the Applicant shall install or cause to be installed a separate electric meter on a ground mounted pedestal or on Applicant’s pad mounted equipment cabinet as required by the electric provider for the operations of its equipment.

3. **Abandonment and removal Affidavits.** Affidavits shall be required from the owner of the property and from the Applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of six (6) months.

**J.** Consolidated applications. The City shall allow a wireless provider to file a multi-site permit seeking approval for up to ten (10) permits for Small Cell Facilities at a given time. Each individual site shall be processed as a separate permit in order to facilitate recording site addresses, utility company requirements, and timely inspection scheduling. The City’s denial of any individual small cell facility is not a basis to deny the application as a whole or any other small cell facility incorporated within the consolidated application.

**K.** Consultants for Application Review. The City may hire a consultant and/or expert necessary to assist the City or any of its Departments in reviewing and evaluating the application for a facility, including the construction and modification of the site, once permitted, and any site inspections.
1. An Applicant shall deposit with the City escrow funds sufficient to reimburse the City for all reasonable costs of the City's consultant in providing expert evaluation and consultation to any agency of the City in connection with the review of any application, including any expert consultation services deemed necessary by the City and in an amount to be determined by the City. The placement of the deposit with the City shall occur at such later time as the City may direct. The City will maintain a separate escrow account for all such funds. The City's consultants/experts shall invoice the City Department employing its services related to the application. In the event that the amount held in escrow by the City is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall, upon request of the Applicant, be promptly refunded to the Applicant.

2. Escrow Amount. The total amount of the funds needed as set forth in this section may vary with the scope and complexity of the project, the completeness of the application, and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. When notified by the City that additional escrow is required, the Applicant may request copies of invoices paid to consultants and/or experts. If the Applicant finds errors in those invoices, the Applicant may ask the City to audit those specific items for reasonableness and may request relief therefrom.

3. Fee Cap. Notwithstanding the above, there shall be a fee cap as to the total consultant fees to be charged to the Applicant in a case, which shall be the greater of $17,000 or 10% of the highest annual lease payment to be made by the Applicant to the owner of the property under the lease authorizing placement of the wireless telecommunications facilities at a given site. However, the fee cap shall not apply as to any fees which the City determines to be attributable to the dilatory or otherwise bad faith actions of the Applicant in providing a complete application or in proceeding with a public hearing.

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

1. Conditions of Approval for WCF permits. In addition to any other conditions of approval permitted under federal and state law and this Code that the Director deems appropriate or required under this Code, all WCF permits under this subsection shall include the following conditions of approval:
   a. No Automatic Renewal. The grant or approval of a WCF permit shall not renew or extend the underlying permit term.
   b. Compliance with Previous Approvals. The grant or approval of a WCF permit shall be subject to the conditions of approval of the underlying permit.
c. As-Built Plans. The Applicant shall submit to the Director an as-built set of plans and photographs depicting the entire WCF as modified, including all transmission equipment and all utilities, within ninety (90) days after the completion of construction.

d. Indemnification. To the fullest extent permitted by law, the Applicant and any successors and assigns, shall defend, indemnify and hold harmless [the] city, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorney fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, related to the WCF permit and the issuance of any permit or entitlement in connection therewith. The Applicant shall pay such obligations as they are incurred by [the] city, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the city reasonably determines necessary to protect the city from exposure to fees, costs or liability with respect to such claim or lawsuit.

e. Compliance with approved plans. The proposed project shall be built in compliance with the approved plans on file with the Department of Public Works.

f. Violations. The WCF shall be developed, maintained, and operated in full compliance with the conditions of the WCF permit, any other applicable permit, and any law, statute, ordinance or other regulation applicable to any development or activity on the site. Failure of the Applicant to cease any development or activity not in full compliance shall be a violation of these conditions. Any violation of this Code, the conditions of approval for the small wireless facility permit, or any other law, statute, ordinance or other regulation applicable to any development or activity on the site may result in the revocation of this permit. The remedies specified in this section shall be cumulative and the city may resort to any other remedy available at law or in equity and resort to any one (1) remedy shall not cause an election precluding the use of any other remedy with respect to a violation.

g. In the event that a court of competent jurisdiction invalidates or limits, in part or in whole, Title 47, United States Code, section 1455, such that such statute would not mandate approval for the collocation or deployment granted or deemed granted under a WCF permit, such permit shall automatically expire twelve (12) months from the date of that opinion.

h. The grant, deemed-grant or acceptance of a WCF permit shall not waive and shall not be construed or deemed to waive the city’s standing in a court of competent jurisdiction to challenge Title 47, United States Code, section 1455 or any WCF permit issued pursuant to Title 47, United States Code, section 1455 or this Code.
2. **Additional Notice to Neighbors.** After an application to allow the installation of a wireless facility subject to the approval of a WCF permit pursuant to this Code is complete, the Applicant shall provide property owners notice of such installation pursuant to 17.10.4 (L)(i)(o)(1) of this Article. Failure of the city to provide notice pursuant to this subsection shall not be grounds to challenge a determination provided that the notice otherwise required by law has been provided.

1. Upon execution of any administrative decision approving or approving with conditions the application and prior to any construction, notice shall be sent by mail of the administrative approval by the Applicant to all property owners within a 1,300-ft radius of the facility, using names and addresses appearing on the latest adopted tax roll of the county. The notifying radius shall be measured from the outer boundary of the subject parcel, or for those facilities in the public right of way, from the outer boundary of the closest parcel adjacent to the subject public right of way site. Notice shall be sent no later than 15 days after such decision has been made by the City.

2. Notice of the administrative approval shall also be made within 15 days of such decision by posting a notice in a publicly visible location on the property in question.

M. **Compliance with Applicable Law.** Notwithstanding the approval of an application for new 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 the Municipal Code and any other applicable laws or regulations. In addition, all WCF applications shall comply with the following:

1. Comply with any permits or licenses 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:

4. All wireless communication facilities and related equipment, including lighting, fences, shields, cabinets, and poles, shall be maintained in good repair, remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, so as to minimize occurrences of dangerous conditions or visual blight, and in no instance more than ten 5 calendar days from the time of notification by the City or after discovery by the owner or operator of the Site. Each wireless communication facility which contains trees, foliage or other landscaping elements, whether or not used as screening, shall be maintained in good condition at all times in accordance with...
the approved landscape plan, and the owner or operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping as promptly as reasonably possible. Amendments or modifications to the landscape plan shall be submitted for approval to the Director. Notwithstanding the foregoing, any graffiti on WCFs located in the Public Rights-of-Way or on Public Property may be removed by the City at its discretion, and the owner and/or operator of the WCF shall pay all costs of such removal according to the City Municipal Code guidelines as set forth by the City within 30 days and after receipt of an invoice from the City.

Any failure by the city to enforce compliance with any applicable laws shall not relieve any Applicant of its obligations under this Code, any permit issued under this Code, or any other applicable laws and regulations.

17.10.5 Design Standards

A. Review Requirements. The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this Chapter as specified below: provided, however, that the City may waive these requirements if it determines that the goals of this Chapter are better served thereby. To that end, WCFs shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the City, consistent with other provisions of this Code. Notwithstanding the foregoing, the Planning Director shall have the authority to promulgate design standards for small cell facilities in the rights of way, which shall govern those types of WCFs. All current design standards as outlined in this section shall be employed and directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments, and shall be applicable to both newly constructed WCFs, permitted but not yet constructed WCFs, as well as pre-existing WCFs applying for a substantial change.

B. 1. Camouflage/Concealment and Shrouding.

All WCFs and any Transmission Equipment shall, to the extent possible, use Camouflage Design Techniques including, but not limited to the use of materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF into the surrounding natural setting and built environment.

   a. Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g. proximity to historic, natural, or aesthetically significant structures or areas, views, and/or community features or facilities). In such instances where WCFs are located in areas of high visibility, they shall (where possible) be designed to minimize their profile.
b. The camouflage design may include the use of Alternative Tower Structures should the Public Works Department determine that such design meets the intent of this Code and the community is better served thereby.

c. All WCFs, such as Antennas, vaults, equipment rooms, equipment enclosures, and Tower structures shall be constructed out of non-reflective materials (visible exterior surfaces only).

2. Spacing and Collocation.

a. Collocation Standards.

i. New communication facilities shall be co-located with existing facilities and with other planned new facilities whenever feasible and aesthetically desirable. No new Towers, excepting Small Cell Facilities in the Right-of-Way, shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application, and sufficient separation of Towers is achieved. Evidence may consist of the following:

i. No existing WCFs with a suitable height are located within the geographic area required to meet the Applicant’s engineering requirements;

ii. Existing WCFs do not have sufficient structural strength to support Applicant’s proposed WCF;

iii. The Applicant’s proposed WCFs would cause electromagnetic interference with the existing WCFs or the existing WCF would cause interference with the Applicant’s proposed WCF;

iv. The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for Collocation;

v. Towers over 90 feet in height shall not be located within one-quarter mile from any Existing Tower that is over 90 feet in height, unless the Applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant’s needs.

ii. WCFs shall be designed and constructed to permit the facility to accommodate WCFs from at least two (2) wireless service providers on the same WCF, to the extent it is feasible in good faith based upon construction, engineering and design standards, except where such Collocation would materially compromise the design intent of the WCF, particularly visually.
iii. In order to facilitate co-location, conditions of approval for conditional use permits for new facilities shall require all service providers to cooperate in the siting of equipment and antennas to accommodate the maximum number of operators at a given site where found to be feasible and aesthetically desirable. Where feasible and aesthetically desirable, service providers are encouraged to co-locate with other facilities such as existing buildings, water tanks, light standards, and other utility structures where the co-location is found to minimize the overall visual impact.

iv. Service providers shall exhaust all reasonable measures to co-locate their communications facilities on existing towers, existing alternative building or other structures within the City, or with or within existing ancillary support equipment facilities prior to applying for new communication facility sites. The service provider shall provide evidence to the City that the provider has contacted all other potential providers who have, or who are reasonably likely to be, installing facilities within the vicinity of the proposed facility and has offered to participate in a joint installation project on reasonable terms. Such evidence should include but is not limited to copies of written requests and responses, along with any letters of rejection, stating the reason for rejection.

b. Spacing Standards. No new free-standing small cell facility shall be within 1,300-ft of another free-standing small cell facility on the right of way. These separation requirements do not apply to attachments made to existing alternative tower structures.

d. Exemptions. The Public Works Department may exempt an Applicant from these separation requirements if 1) the Applicant demonstrates Evidence of Need 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 1,300-ft from another small cell facility will meet the intent of reducing visibility and visual clutter of small cell facilities to the extent possible.

3. **Location Preferences.** Small Cell Wireless Facilities in the public roads shall be installed in the most highly preferred locations as listed below. Locations listed in order of most preferred locations to least preferred locations with the first location listed being most desirable.

   a. Preferred Locations — Non-Residential zone districts, excepting parks, ordered from most preferred to least preferred:
i. Parcels in the industrial zones, then
ii. Parcels in commercial zones;
iii. Parcels in the mixed use zones
iv. City owned or controlled parcels or public facilities, excepting parks and historic City-owned properties; then
v. Agricultural sites
vi. Any public road within a 1,500-foot radius of a day care center or school, as defined by sections 1596.78 of the Health and Safety Code and 26054 of the Business and Professions Code, respectively.
vii. Any public road within a 1,500-foot radius of a City, County, or State Park, open space area, or City sports field.
viii. Any public road adjacent to mixed-use sites with residential dwellings.
ix. Any public road right of ways located in an exclusively residential zoning district.

4. Preferred Locations — Residential Zones, Park, and Open Space Parcels. If a facility is proposed in a residential zone or adjacent to or on a parcel used for open space or park purposes, all facilities should be located according to the following preferences, ordered from most preferred to least preferred, with the first location listed being most desirable:
   1) City owned or controlled parcels not for park or open space uses; then
   2) Parcels that contain non-residential uses and do not contain residential or park or open space uses; then
   3) Parcels that do not contain single-family homes, multi-family homes, or park or open space uses; then
   4) City owned or controlled parcels; then
   5) In the public right-of-way abutting a residential zone; then
   6) All other parcels

a. When a lower ranked alternative is proposed, the application must include technical information demonstrating that a higher ranked option is not technically feasible in light of the provider’s service objectives.

5. Lights and other attachments:
   a. WCFs shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purpose. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties or environs. Lighting shall be shielded or directed to the maximum extent so as to minimize the
amount of glare and light falling onto nearby properties, particularly residences.

b. All exterior lighting within equipment yards shall be mounted on poles or on the building wall below the height of the screen wall or fence.

c. No Tower shall have constructed on, or attached to, any additional platform, catwalk, crow’s nest or like structure (other than those required by industry standards or federal regulations), except during periods of construction or repair.

d. Signs and advertising. The use of any portion of a Tower for signs or advertising devices other than public safety warnings, certification, or other requires seals on any wireless communication device or structure is prohibited. However, the telephone numbers to contact in an emergency shall be posted on each facility. Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration sign as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

e. Flush-mounting of antennas shall be employed wherever feasibly possible when such mounting does not detract from adjacent views or overall aesthetics.

f. To the extent possible, accessory equipment should be placed within the pole base rather than on the outside of the pole.

g. The use of small, decorative structures as mounting locations should be limited in historic districts.

6. Noise. Noise generated on the site must not exceed the levels permitted in the City of Lakewood Municipal Code, except that a WCF owner or operator shall be permitted to exceed such noise standards for a reasonable period of time during repairs, not to exceed two (2) hours without prior authorization from the City. If “Plainly Audible” noise nuisance complaints are received by the City, a site noise compliance evaluation and mitigation report shall be submitted to the City within 30 days by Owner or Operator of WCF. Owner or Operator of WCF, at Owners

Commented [Secondpas35]: Derived from a recent court case.
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expense, must make every effort to mitigate and return WCF into compliance within a reasonable time frame, not to exceed 90 days. If noise nuisance complaints are received by the City, a site noise report shall be submitted to the City within 30 days.

7. Landscaping Requirements.
   a. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the parcel.
   b. WCFs, excluding Small Cell Facilities mounted on existing structures with existing surrounding landscaping, unless otherwise required by the Public Works Department, shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from Rights-of-Way and adjacent properties. Where the City has requested additional landscaping, the City may require irrigation requirements for the landscaping.
   c. Critical Root Zone: To the extent possible, heritage trees and traditional landscaping designs should be preserved in the Public Right of Way. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

8. Screening Requirements.
   a. All equipment, not located within the Public Right-of-Way and not otherwise defined, shall be fully screened within a walled yard or placed in an enclosed building except in cases where a better design alternative exists. The yard shall be enclosed by a solid fence or wall of sufficient height to screen all miscellaneous equipment from view from the public Right-of-Way or adjacent properties and to provide security. Screening should not unnecessarily inhibit view from adjacent properties.
   b. All structures and improvements associated with the WCF shall be provided with adequate safety equipment and aesthetic treatments, including incorporating landscape screening noted in subsection 5, to be visually compatible with uses in the surrounding area.
   c. Roof-top mounted equipment shall be screened from off-site views to the extent practical by solid screen walls or the building’s parapet. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

Article 2. B.

   a. The following minimum setback requirements shall apply to all WCFs except for Alternative Tower Structures in the Right-of-Way: provided however, that the City may reduce standard setback requirements if the...
Applicant demonstrates an Evidence of Need. Setback requirements shall be measured from the outer boundary of the subject parcel, or for those facilities in the public right of way, from the outer boundary of the closest parcel adjacent to the subject public right of way.

1. Non-Residential Zones: A Tower shall meet the greater of the following minimum setbacks from all property lines:
   a. The setback for a principal building within the applicable zoning district; or twenty-five percent (25%) of the facility height, including WCFs and related Accessory Equipment.

2. Residential Zones and Parcels: Any WCFs adjacent to Single Family Residential Uses shall be sited in a manner that evaluates the proximity of the facility relative to residential structures. Unless Applicant demonstrates that there is no other technically feasible alternative, WCFs over 30 feet in height shall have a minimum setback from all adjacent residential property lines of one (1) foot for every foot in height, or a minimum setback of 500-feet from any residential structure’s outer boundary, whichever is greater, unless the Applicant can prove that a shorter distance is necessary to provide service. If a shorter distance is necessary, the greatest setback distance that will accommodate service shall be employed.

   i. 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.

   ii. In the case of a corner lot, the WCF may be placed adjacent to the common side property line between adjoining residential properties, or on the corner formed by two intersecting streets.

   iii. If these siting requirements are not reasonably feasible from a construction, engineering, or design perspective, the Applicant may submit a written statement to the Public Works Department requesting the WCF be exempt from these requirements, and offer alternative locations reasonably meeting the intent of this section.

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

10. Design requirements specific to various types of WCFs.
a. **Base Stations.** 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 possible, including for example, without limitation, painting the Antennas and accessory equipment to match the structure. Additionally, any ground mounted equipment may be located in a flush-to-grade underground equipment vault if it is reasonably feasible from a construction, engineering, or design perspective.

b. **Alternative Tower Structures, not in the Public Right-of-Way shall:**

i. Be designed and constructed to look like a building, facility, structure, or other commonplace item, such as but not limited to a tree, public art, or clock tower, typically found in the area.

ii. Be camouflaged/concealed consistent with other existing natural or manmade features in or near the location where the Alternative Tower Structure will be located.

iii. Be compatible with the surrounding area, including architecture, topography, natural vegetation, and/or landscaped environment.

iv. Be the minimum size needed to obtain coverage objectives. Height or size of the proposed Alternative Tower Structure should be minimized as much as possible.

v. Be sited in a manner that is sensitive to the proximity of the facility to residential structures, neighborhoods, and residential zoning district boundaries.

vi. Take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses.

c. **Towers**

i. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards and City design approval processes, be painted a neutral color so as to reduce visual obtrusiveness.

ii. Wherever possible, Towers shall locate to utilize existing landforms, vegetation, and structures to aid in screening the facility from view, or otherwise blending in with surrounding built and natural environment.

iii. Monopole support structures shall taper from the base to the tip.
iv. All Towers, excluding Alternative Tower Structures in the Right-of-Way, shall be enclosed by security fencing or wall and shall also be equipped with an appropriate ant-climbing device.

v. Towers shall be subject to the height restrictions of each zoning district. Notwithstanding anything in this Chapter to the contrary, Towers are prohibited in the Right-of-Way.

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Roof and Building Façade Mounted Antennas—WCFs:

1. Building façade mounted antennas shall not protrude horizontally more than 2 feet from the building wall and shall be painted or treated to match the building or structure to which the antenna is attached.

2. Building façade mounted antennas shall not exceed the height of the parapet or the roofline, whichever is greater.

3. The total of all visible building façade mounted antennas may not exceed the greater of 10 percent of the square footage of the building façade or 25 square feet per façade.

C. Roof Mounted Antennas:

1.i. Roof mounted antennas and accessory equipment shall be painted or treated to match the façade of the building to which they are attached in order to minimize visibility from adjacent residential land uses and/or from public sidewalks.

u.ii. Roof-mounted WCFs may be approved only where an Applicant sufficiently demonstrates that a wall mounted WCF is inadequate to provide service. By filing an application for a roof-mounted WCF, an Applicant is certifying agreement to the City’s determination that the height extensions described in this subsection d. are the maximum heights that will allow the WCF to be Camouflaged, and that any additional increase in height will undermine the Camouflage nature of the site. Roof or building mounted facilities are not permitted on any single-family residential structures.

2.iii. Maximum height. Roof mounted antennas and accessory equipment shall not exceed the height of the penthouse or mechanical equipment room to which the antennas are attached.

3—

4. Antennas not mounted on a penthouse or mechanical equipment room shall be set back at least 5 feet from the exterior wall of a building.
5.iv. The maximum height of a roof mounted antenna that is not mounted on a penthouse or mechanical equipment room is equal to the distance the antenna is set back from the exterior wall up to a maximum height of 10 feet above the taller of either roofline or parapet of the building to which the antenna is attached.

vi. All rooftop equipment and Antennas must be adequately screened where feasible from a technical, construction, design and engineering perspective.

vii.-vi. Building façade mounted antennas shall not protrude horizontally more than 2 feet from the building wall and shall be painted or treated to match the building or structure to which the antenna is attached.

4. A.vii. Building façade mounted antennas shall not exceed the height of the parapet or the roofline, whichever is greater.

viii. The total of all visible building façade mounted antennas may not exceed the greater of 10 percent of the square footage of the building façade.

ix. Antennas on Existing Support Structures:
   In single-family and two-family zone districts: The mounting of an additional antenna or antennas on an existing support structure, including any existing support structure that is nonconforming with regards to height, may be permitted provided that the height of the existing structure may not be increased by more than 15 percent.

   In non-single-family and two-family zone districts: The mounting of an additional antenna or antennas on an existing support structure may be permitted provided that the height of the existing structure may not be increased above 60 feet without triggering the review requirements as outlined for New Freestanding Support Non-Stealth Structures in Section 17.10.3.2.

17.10.3.3: New Freestanding Support Non-Stealth Structures
Review Requirements:
New freestanding support structures of 60 feet in height or less may be allowed in any zone district other than a single-family or two-family district if reviewed and approved in accordance with the site plan procedures identified in Article 2.

New freestanding support structures of more than 60 feet in height may be allowed in any zone district other than a single-family or two-family district if reviewed and approved in accordance with the site plan procedures identified in Article 2.
New freestanding support structures of any height located on public property, right-of-way, or utility property that will support street lights, public facilities or equipment in addition to wireless facilities may be allowed in any zone district if reviewed and approved in accordance with the special use permit and site plan procedures identified in Article 2. Examples include, but are not limited to, municipal communication facilities, athletic field lights, traffic lights, and other light structures.

Existing support structures including but not limited to municipal communication facilities, athletic field lights, traffic lights, and other light structures on local streets shall be limited to a maximum 15-foot height extension.

The maximum height for any new freestanding support structure shall be 60 feet, or the maximum building height allowed in the subject zoning district, whichever is greater.

When adjacent to a property that is zoned residential or contains a residential use or structure, new freestanding support structures must be setback from property at least the minimum setback required by the zone district where the structure is located or 50 percent of the support structure height, whichever is greater.

New freestanding support structures shall be enclosed by security fencing 6 feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the City may waive such requirements if the Director determines that the waiver will not create an increased risk to public health or safety.

B. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

C. New free standing support structures shall be designed to accommodate a minimum number of colocations based upon their height.

1. Support structures between 45 feet and 100 feet in height shall support at least two telecommunications providers;

2. Support structures greater than 100 feet and up to 150 feet in height shall support at least three telecommunications providers; and

3. Support structures greater than 150 feet in height shall support at least four telecommunications providers.

D. New freestanding support structures over 60 feet in height shall not be located within 1000 feet from any existing freestanding support structure that is over 60 feet in height, unless the applicant has shown to the satisfaction of the City that colocation is impracticable and that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.
17.10.3.4: Other Wireless Facility Types

The Director may apply the standards defined for new wireless facilities on existing structures or new freestanding support structures to any wireless facility type that is not directly addressed in these regulations as appropriate to minimize the potential adverse effects of wireless service facilities.

17.10.3.6: Accessory Equipment

- **E. Related Accessory Equipment**
  - In order of preference, ancillary support equipment and/or accessory equipment for a WCF shall be located either within a building, underground, in a rear yard or on a screened rooftop area. Ground-mounted facilities that are located within the front or side yard or public right-of-way shall be undergrounded, unless the applicant demonstrates that undergrounding is not technologically feasible, and located so as to be screened by landscaping, in close proximity to existing above ground utilities (such as electrical tower or utility poles), light poles, trees of comparable height, water tanks, and other areas where the ground mounted facility will be designed and screened to blend with the existing natural or built surroundings.

- **A. Utility and Power Lines. All utilities at wireless telecommunication's facilities shall be installed underground whenever possible, as determined by the Department of Public Works, and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code, where appropriate, as well as City regulations applicable to excavations in public streets.**

- **B. Excluding Small Cell Facilities in the Right-of-Way, the buildings, shelters, cabinets, and other accessory components shall be setback a minimum of 15 feet from each property line with a residential zone district or a lot containing a residential structure, or shall meet all setback requirements of the underlying zone districts, whichever results in the greater setback, and shall be grouped as closely as technically possible.**

- **C. Total footprint coverage area of the accessory equipment shall not exceed 500 square feet per provider, with a maximum of 1500 square feet total for three or more providers.**

- **D. No accessory equipment or accessory structure shall exceed 20 feet in height.**

**Commented [Secondpas38]:** Accessory Equipment is used in the definitions (no definition of “related”)

**Commented [Secondpas39]:** As adopted by City of Larkspur and appears to preserve enough flexibility for operators.

**Commented [Secondpas40]:** Can this be feasibly shorter? Example, an 8ft cabinet is taller than a person and takes considerable real estate if not undergrounded.
E.vi. Accessory equipment shall be painted a neutral color and enclosed by security fencing 6 feet in height and shall be landscaped with a buffer of plant materials that effectively screens the view of the accessory equipment from adjacent residential property and from the adjacent street; provided, however, that the City may waive such requirements, if the Director determines that the waiver will not (1) create an increased risk to public health or safety or (2) create a negative visual impact to adjacent residential property or from the adjacent street. Accessory equipment, including but not limited to remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the Accessory Equipment shall use Camouflage Design Techniques.

E.vii. No accessory equipment or accessory structures shall be sited in a manner that reduces the parking or landscaped areas for other principal uses on the parcel below the minimums required by the Zoning Ordinance.

17.10.4: Abandonment and Removal

If a support structure is abandoned and remains abandoned for a period longer than 12 consecutive months, the City may require that the support structure be removed. The City shall first provide written notice to the owner of the support structure of the requirement for removal and give the owner the opportunity to take such action(s) as may be necessary to reinstate the active use of the support structure within 30 days of receipt of the written notice. If the owner of the support structure fails to reinstate the active use of the support structure within the 30-day period, the owner of the support structure shall be required to remove the same within six months. Approval.
It is the intent of the City to provide for approval of WCFs administratively in cases where visual impacts are minimized, view corridors are protected, appropriate Camouflage and Concealment Design Techniques are employed to avoid adverse impacts on the surrounding area, and they are designed, maintained, and operated from the date of first installation and all times the WCF is thereafter operated, at all times to comply with the provisions of this Chapter and all applicable local, state and federal laws. Notwithstanding the approval of an application for Eligible Facilities Request as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in municipal code and any other applicable regulations.

1. Special Use Permit. Any application for a WCF which does not comply with the provisions of this Chapter may seek approval of a Special Use Permit by submitting an application to Planning Commission.

   a. All special use permit applications for a new wireless telecommunications facility shall contain a demonstration that the facility will be sited so as to minimize visual intrusion as much as possible, given the facts and circumstances involved, and will thereby have the least adverse visual effect on the environment and its character and on the residences in the area of the new wireless telecommunications facility.
b. Fifteen days prior to any Planning Commission hearing on a Special Use Permit for any WCF, notice shall be sent by the Applicant by mail of the location, time, and place of such hearing to all property owners within a 1,300-ft radius of the facility, using names and addresses appearing on the latest adopted tax roll of the county. The notifying radius shall be measured from the outer boundary of the subject parcel, or for those facilities in the public right of way, from the outer boundary of the closest parcel adjacent to the subject public right of way site.

c. Notice of the Planning Commission hearing for Special Use Permit shall also be made by posting a notice in a publicly visible location on the property in question at minimum fifteen days prior to such hearing.

Collocation and Separation Required. No new Towers, excepting Small Cell Facilities in the Right-of-Way, shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application, and sufficient separation of Towers is achieved. Evidence may consist of the following:

- No existing WCFs with a suitable height are located within the geographic area required to meet the Applicant’s engineering requirements;
- Existing WCFs do not have sufficient structural strength to support applicant’s proposed WCF;
- The Applicant’s proposed WCFs would cause electromagnetic interference with the existing WCFs or the existing WCF would cause interference with the Applicant’s proposed WCF;
- The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for Collocation;
- Towers over 90 feet in height shall not be located within one-quarter mile from any Existing Tower that is over 90 feet in height, unless the Applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant’s needs.

Setbacks. The following minimum setback requirements shall apply to all WCFs except for Alternative Tower Structures in the Right-of-Way; provided however, that the City may reduce standard setback requirements if the applicant demonstrates that the goals of this Section can be met through Performance Options or through Alternative Compliance, or through a Variance process. A Tower shall meet the greater of the following minimum setbacks from all property lines:

- The setback for a principal building within the applicable zoning district;
- Twenty-five percent (25%) of the facility height, including WCFs and Related Accessory Equipment; or
- For sites within 100 feet of residential uses, facilities over 30 feet in height shall have a minimum setback from all adjacent residential property lines of one (1) foot for every foot in height.
17.10.5 Penalty for Offenses.

In the event of a violation of this ordinance or any of the terms and conditions of use permit or other approval issued pursuant to this ordinance, and in addition to any other remedy available to the City at law or equity, the City may impose and collect, and the holder of the permit for wireless telecommunications facilities shall pay to the City, civil penalties in an amount as determined by the Department of Public Works, per day, until the violation or violations are abated to the satisfaction of the City.

17.10.6 City Council Review.

In January of each year City Council shall set a date within the year to review and update as needed this Article of the Lakewood Zoning Code.

17.10.7 Private Enforcement.

A. In addition to any other remedy available to the city under this Code, at law or in equity, violations of this Section 17.10 may be remedied as follows:

1. The city attorney or city prosecutor may bring a civil action to enforce this section and to obtain the remedies specified below or otherwise available in equity or at law.

2. Any person acting for the interests of himself, herself, or itself, or of its members, or of the general public (hereinafter “a private enforcer”) may bring a civil action to enforce this section with the remedies specified below, if both the following requirements are met:

   a. The action is commenced more than sixty (60) days after the private enforcer gives written notice of an alleged violation of this section to the city attorney and to the alleged violator.

   b. No person acting on behalf of the city has commenced or is prosecuting an action regarding the violation(s) which was or were the subject of the notice on the date the private action is filed.

3. A private enforcer shall provide a copy of his, her, or its action to the city attorney within seven days of filing it.

4. Upon settlement of or entry of judgment in an action brought pursuant to paragraph (7) of this subsection, the private enforcer shall give the city attorney a notice of that settlement or judgment. No private enforcer may settle such an action unless the city attorney or the court determines the settlement to be reasonable in light of the purposes of this section. Any settlement in violation of this requirement shall be set aside upon motion of the city attorney or city prosecutor to a court of competent jurisdiction.

5. Upon proof of a violation of this section, the court shall award the following:

   a. Appropriate injunctive relief and damages in the amount of either:

      i. Upon proof, actual damages;

      ii. With insufficient or no proof of damages, a minimum of five hundred dollars ($500.00) for each violation of this section (hereinafter “statutory damages”).
Unless otherwise specified in this section, each day of a continuing violation shall constitute a separate violation. Notwithstanding any other provision of this section, no private enforcer suing on behalf of the general public shall recover statutory damages based upon a violation of this section if a previous claim brought on behalf of the general public for statutory damages and based upon the same violation has been adjudicated, whether or not the private enforcer was a party to that earlier adjudication.

b. Restitution to the appropriate party or parties of gains obtained due to a violation of this section.

c. Exemplary damages, where it is proven by clear and convincing evidence that the defendant is guilty of oppression, fraud, malice, or a conscious disregard for public health and safety.

d. Attorney's fees and costs reasonably incurred by a successful party in prosecuting or defending an action.

Any damages awarded in an action brought by the city attorney or city prosecutor shall be paid into the city's general fund, unless the court determines that they should be paid to a damaged third party.

6. Upon proof of at least one violation of this section, a private enforcer, the city prosecutor, city attorney, any peace officer or code enforcement official may obtain an injunction against further violations of this section or, as to small claims court actions, a judgment payable on condition that a further violation of this section occur within a time specified by the court.

7. Notwithstanding any legal or equitable bar, a private enforcer may bring an action to enforce this section solely on behalf of the general public. When a private enforcer does so, nothing about such an action shall act to preclude or bar the private enforcer from bringing a subsequent action on his, her, or its own behalf based upon the same facts.

8. Nothing in this section shall prohibit a private enforcer from bringing an action to enforce this section in small claims court, provided the relief sought is within the jurisdiction of that court.

17.10.8 Severability.

Should any section, subsection, paragraph, sentence, clause or phrase of this Article of the Lakewood Zoning Code or application thereof to any person or circumstance, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter, or its application to any other person or circumstance, and, to this end, the provisions of this chapter are declared to be severable.
17.10.4 Review Procedures and Requirements

1.1 Worker Safety. The Company shall, on an annual basis, compile and transmit to City a report describing the safety conditions regarding workers performing installation, maintenance, following information. The information provided in this report shall not be labeled as confidential or proprietary information.

(a) A list of all companies employing the workers performing the relevant work pursuant to this Agreement for the prior year, including the Company itself, or another company or

(b) A description of the relationship between the Company and contracted companies, including whether the Company and contracted companies have a direct contractual relationship or whether work is subcontracted through another entity or entities, and if so, a description of such other entity or entities;

(c) Copies of all policies and procedures maintained by the Company and contracted companies related to safety standards for the relevant work, including, but not limited to, description of safety training requirements, copies of training materials, and description of any personal protective equipment required, provided that if policies and procedures have previously been provided pursuant to this Agreement, only revisions to such policies and procedures or new policies and procedures must be submitted after the date of original submittal;

(d) For the Company and each of the contracted companies, a description of each job title performing relevant work and a list of any certifications or licenses required of each job title;

(e) For the Company and each of the contracted companies, the total number of workers performing relevant work, disaggregated by job title, and for each job title, the number of workers with required certifications and licenses, along with a statement of whether each worker has required experience and training;

(f) Compensation insurance to the fullest extent required by applicable federal, Colorado State and Lakewood City Law;

(g) Documentation evidencing that the Company and any contracted company performing relevant work in the prior year, and any contracted company with which the Company intends to work with in the following year, are registered to do business in Colorado and properly licensed for the work to be conducted;

(h) To the extent permitted by law and policy of relevant investigatory agency, for the Company and each contracted company the Company has worked with in the prior year, the
number and a description of any open investigations against the Company or contracted company

(i) For the Company and each contracted company performing relevant work with in the prior year, a description of whether or not workers are required to or requested to execute arbitration agreements with the contracted company or Company, and if so, a copy of the arbitration agreements;

(j) For the company and each contracted company performing relevant work in the prior year, a list of all arbitration matters involving safety issues and copies of all resolutions, including agreement.
June 8, 2020

Mayor Adam Paul and Members of the City Council
City of Lakewood
480 South Allison Parkway
Lakewood, Colorado 80226

VIA EMAIL: CityCouncilMembers@Lakewood.org

RE: Item No. 9 - Ordinance O-2020-1
Amending Lakewood Municipal Code Title 12, and Article 10 of Title 17, to Reflect Changes in State and Federal Law Relating to Wireless Services and Communications

Dear Mayor Paul and Members of the City Council:

Thank you for the opportunity to review and comment on the City draft wireless code. AT&T appreciates the opportunity to work with you to establish a draft code that will provide your City and residents with a reliable wireless communication network while also protecting the City’s aesthetic values.

Skyrocketing Demand for Wireless Service
AT&T and other carriers are responding to an exponential increase in demand for wireless services as it represents the predominate communications infrastructure in the US. In fact, over 57.1% of homes in the US are wireless only and 61% of homes in Colorado are wireless only.ii Now more than ever, businesses increasingly depend on strong wireless service to carry them and their employees through the workday. Sixty-six percent (66%) of small businesses surveyed said they could not survive – or it would be a major challenge to survive – without wireless technology.iii

And, public safety is improved by the power of mobile communications. According to the National Emergency Number Association, 80 percent or more of 911 calls are made from wireless phones and that percentage is expected to continue growing.iv This is particularly important in Colorado where the majority of homes are wireless only.

Comments regarding Draft Code
AT&T respectfully requests that Lakewood consider the attached comments and suggestions regarding its draft code. Our specific concerns are detailed in our comments in the attached redline but generally include the following:

- Lack of consistency with federal law including the 2018 FCC Order 18-133v, Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, codified at 47 U.S.C. §1455(a), and the Telecommunications Act of 1996.

v
• Including code requirements that are intended to apply retroactively contrary to state law.

• Burdensome reporting requirements that violate the FCC 2018 Order to the extent the frequency of such obligations are unreasonable and not disclosed in advance.

• Establishing regulations related to RF technology, RF emissions exposure limits and NEPA requirements to the extent such regulations are preempted by federal law.

• Inconsistency with state law including:
  o Requirement of cost based fees
  o Provisions that preclude a city from delegating a municipal function

• Not including a relief valve for the permitting requirements.

• Establishing potentially technically infeasible placement requirements and preferences.

• Setting technically infeasible rooftop placement criteria that forces carriers to install free standing facilities where a properly designed rooftop facility would have worked.

Conclusion
AT&T urges you to consider consistency with federal and state laws and the public interest when drafting and establishing new ordinances. Local ordinances that conflict with state and federal law will stall or deter the deployment of wireless technology.

AT&T is eager to continue to work collaboratively with you and your staff to ensure Lakewood is well positioned to meet the needs of its visitors, residents and business owners while minimizing the impact to the community.

I appreciate your consideration.

Sincerely,

Guillermo Lambarri
State Director of External and Legislative Affairs for Colorado and Wyoming

CC: Kathy Hogsdon, City of Lakewood City Manager
    Benjamin B. Goldstein, Deputy City Manager
    Timothy P. Cox, City Attorney

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5 “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order (September 26, 2018).
Definitions from Section 13:

For the purposes of this chapter, the following words, phrases, and terms shall have the meanings set forth herein. Words not defined shall be given their common and ordinary 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, buildings, traffic signals, and similar alternative design mounting structures that are compatible with the natural setting and 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 title, including height limits as set forth in this title. This term also includes any Antenna or Antenna array attached to an Alternative Tower Structure. A stand-alone pole, including a replacement pole, in the Right-of-Way, streetlight, or traffic signal that accommodates Small Cell Facilities is considered an Alternative Tower Structure to the extent it meets the camouflage and concealment standards of this title.

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, all 5g, 4g, 4g LTE, and any higher gigahertz frequency antennas, 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 WCF: any person that submits an application to the City to site, install, construct, collocate, modify and/or operate a Wireless Communications Facility.

Amateur Radio Towers and Antennae: Broadcasting and receiving structures or devices used for personal pleasure or as a hobby.

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. Base Station does include, without limitation:

1. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the City under this Chapter 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 City under this title, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process.

Commented [ATT1]: The FCC has exclusive authority over technical and operational matters related to the provision of wireless services, including RF interference and emissions exposure limits. Also, it is not clear what calling out 4G and 5G adds to this definition. Those terms stand for 4th generation and 5th generation technologies and do not refer to a specific frequencies. 4G and 5G refer to technical capabilities provided through more advanced levels of technology.

Commented [ATT3]: This change renders this section inconsistent with 47 C.F.R. §1.6100(b)(7). If approved under a separate process, the facility is considered existing and so long as the other criteria are met, it would be considered an EFR. Recommend harmonizing local law with controlling federal law to avoid potential conflicts with interpretation between state and federal law. Including provisions that conflict with controlling federal law represent a risk to the City for claims related to such conflicts.
Lakewood Zoning Ordinance –
regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

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

Camouflage, Concealment, Or Camouflage Design Techniques: the designing of a WCF to alter its appearance in such a manner as to substantially integrate it into surrounding building designs and/or natural settings to minimize the visual impacts of the facility on the surrounding uses and ensure the facility is compatible with the environment in which it is located. A Wireless Communication Facility utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a utility tower, or (iii) uses a design which mimics and is consistent with the nearby natural or architectural features (such as a clock tower) 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: (1) mounting or installing a WCF on a pre-existing structure, and/or (2) 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. Co-location shall also include the location of communication facilities with other existing structures, including but not limited to water tanks, light standards, power poles, and other utility facilities and structures.

Director: The person, or that person’s designee, authorized by the City Manager to enforce and interpret this Zoning Ordinance.

Eligible Facilities Request: any request for modification of an Existing Tower or Base Station that it is not a Substantial Change, or that does not substantially change the physical dimensions of such tower or base station involving 1) collocation of new transmission equipment, 2) removal of transmission equipment, or 3) replacement of transmission equipment.

Eligible Support Structure: any Tower or Base Station as defined in this Section, provided that it is existing at the time the relevant application is filed with the City under this Section.

Evidence of Need: Evidence of Need: A coverage gap that exists when a remote user of those services is unable to either connect with the land-based national telephone network, or to maintain a connection capable of supporting a reasonably uninterrupted communication. When a coverage gap exists customers cannot receive and send signals, and when customers pass through a coverage gap their calls are disconnected.

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.

FCC: the Federal Communications Commission.

Hazardous Substance: any substance, chemical or waste that is identified as hazardous or toxic in any applicable federal, state or local law or regulation, including but not limited to petroleum products and asbestos.

Commented [ATT5]: This is not the correct standard that applies to the showing required for an effective prohibition. The 2018 FCC Order that adopts the “materially inhibit” standard applied in California Payphone Ass’n, 12 FCC Rcd 14191 (1997).
Interference: physical interference and radio frequency interference.

Micro Cell Facility or microcell: a small wireless facility that is no larger than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve(12) inches in height, and that has an exterior Antenna, if any, that is no more than eleven (11) inches in length.

Monopole: a single, freestanding pole-type structure supporting one or more Antennas.

Over the Air Receiving Device (OTARD): an Antenna used to receive video programming from direct broadcast satellites direct broadcast satellite service, including home satellites that are 1M or less in diameter, broadband radio services and television broadcast stations, but shall not include Antennas used for AM/FM radio, amateur (“ham”) radio, CB radio, Digital Audio Radio Services or Antennas used as part of a hub to relay signals among multiple locations.

Owner means a person with a legal or equitable interest in ownership of real or personal property.

Permit means a permit issued and described in accordance with Laws, which is used to regulate, monitor, and control the improvement, construction, or excavation activities, or other work or activity, occurring upon or otherwise affecting Licensor’s ROW, including ROW use, building, and electrical permits.

Physical Interference means where equipment, vegetation, or a structure causes reduced use of another’s prior mounted equipment, or an obstruction in a necessary line-of-sign path.

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 Right-of-Way (ROW): any public street, way, alley, sidewalk, median, parkway, or boulevard that is dedicated to public use.

Radio Antenna, Amateur: A noncommercial device that is used for transmitting and receiving electro-magnetic waves.

Radio Frequency Emissions Letter Radio Frequency Radiation (RFR) Study: a report letter from the Applicant providing emissions measurements detailed within this Article and certifying all WCFs that are the subject of the application are in compliance shall comply with federal standards for radio frequency emissions.

Radio Frequency Interference means the emission or conduction of radio frequency energy (or electronic noise) produced by electrical and electronic devices at levels that interfere with the operation of adjacent or nearby equipment.

Radio Tower, Amateur: A structure that supports an antenna.

READILY APPARENT. For purposes of determining whether a WCF is readily apparent, the phrase means that the facility, will be easily recognizable as a WCF in the discretion of the Director, 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

Commented [ATT11]: This standard is subjective and hard to define. The FCC Order requires that aesthetic requirements are preempted to the extent they are not (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance. FCC Order at ¶86.
Lakewood Zoning Ordinance – 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: an Alternative Tower Structure that is a newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or street light pole 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 Micro Cell Facility or to accommodate Collocation and replaces a pre-existing pole or structure.

Satellite Dish Antenna: A parabolic antenna intended to receive signals from orbiting satellites and other sources. Non-commercial dish antennas are defined as being less than four meters in diameter, while commercial dish antennas are usually those larger than four meters and typically used by broadcasting stations.

Setback: The minimum distance any building or structure must be separated from a specified point.

Sign: Any structure, which requires a permanent or temporary location, that has a visual display visible from a public right-of-way and is designed to identify, announce, direct or inform.

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 Towers (other than Towers in the Right-of-Way and Eligible Support Structures): the current boundaries of the leased or owned property surrounding the Tower or Eligible Support Structure and any access or utility easements currently related to the Site. A Site, for other Alternative Tower Structures, Base Stations, Micro Cell Facilities, and Small Cell Facilities in the Right-of-Way, is further restricted to that area comprising the base of the structure and to other related Accessory Equipment already deployed on the ground.

Small Cell Facility: a Wireless Communication Facility 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 no larger than seventeen cubic feet in volume. The following associated and accessory 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. Small cells may be attached to Alternate Tower Structures, Replacement Poles, and Base Stations. The definition of a Small Cell Facility shall also include a Micro Cell or Micro Cell Facility, as well as equipment for densifying technology.

Street: A public or private thoroughfare for vehicular traffic other than an alley or driveway.

Substantial Change for Eligible Facilities Request: 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:

(A) For Towers, other than Alternative Tower Structures or Towers in the Right-of-Way, it increases the height of the Tower by more than 10 percent (10%) or by the height of one (1) additional Antenna array, with separation from the nearest existing Antenna not to exceed twenty feet, whichever is greater lesser; for other Eligible

Commented [ATT12]: Definition of OTARD above states that home satellite antennas are 1m or less in diameter.

Commented [ATT14]: Changing this to “lesser” is inconsistent with 47 C.F.R. §1.6100(b)(7) which provides that a substantial change is the greater of 10% or 20 feet.
Lakewood Zoning Ordinance – Adopted January 26, 2015

Support Structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater.

(B) 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 ten (twenty (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 (6) feet.

(C) 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;

(D) 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 (10%) larger in height or overall volume than any other existing, individual ground cabinet associated with the structure;

(E) For any Eligible Support Structure, it entails any excavation or deployment outside the current Site;

(F) For any Eligible Support Structure, it would defeat the concealment elements of the Eligible Support Structure. For the purposes of this subsection (vi), a change that would undermine the concealment elements of this structure will be considered to defeat the concealment elements of the structure of

(G) 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 Wireless Facilities including, but not limited to, Monopoles, Alternative Tower Structures, Replacement Poles, and other freestanding self-supporting pole structures.

Toll and Tolling: 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, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes self-supporting lattice towers, guyed towers or Monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, Alternative Tower Structures and the like.
Lakewood Zoning Ordinance –
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, excluding OTARDS, 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 Equipment Shelter: An unattended structure such as a small building or cabinet(s) used to house equipment for a wireless communications facility associated with either a freestanding wireless communications facility or a structure or building mounted wireless communications facility.

Wireless Communications Facility or WCF: a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building, nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an Antenna or Antennas, Base Stations, support equipment, Alternative Tower Structures, Small Cell Facilities, and Towers. 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 title.

Wireless Communications Provider: A public or private company providing personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services.

Wireless Communications Site: Any use of property for antennae, equipment, and equipment shelter(s) employed in the reception, switching, and/or transmission of wireless telecommunication services including, but not limited to, paging, enhanced specialized mobile radio, personal communication services, microwave link antenna, cellular telephone, and other related technologies.

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ARTICLE 10: WIRELESS SERVICES AND COMMUNICATIONS

17.10.1: General

17.10.1.1: Purpose and Intent

This Article is intended to ensure that residents, public safety operations and businesses in the City have reliable access to personal wireless services and state of the art communications services in a way that reasonably preserves the aesthetic character and value of the community, and complies with Federal, State, and local laws, including but not limited to the National Environmental Policy Act (NEPA), the National Building Act, and the Americans with Disabilities Act (ADA).

It is the City’s intent to:

The City Council finds that these regulations are necessary to:

A. Provide for the managed development and installation, maintenance modification, and removal of wireless communications infrastructure in the City with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;

B. Minimize adverse visual effects of WCFs through thoughtful design, and siting, and installation, including but not limited to camouflage design techniques, appropriate and effective screening, and equipment undergrounding whenever appropriate;

C. Encourage the location of Towers and Wireless Communications Facilities on a building, or the joint use of new and existing ground mounted facility tower sites as a primary option so to in a manner that minimizes the total number of Towers needed throughout the community;

D. Require the collocation of WCFs wherever reasonably feasible;

E. Encourage owners and users of WCFs to locate them, to the extent possible, in areas where the adverse impact to the community, including real estate, is minimized;

F. Enhance the ability of wireless communications service technology providers to provide such services to the community quickly, effectively, and efficiently, and safely;

G. Effectively manage WCFs in the Public Right of Way;
Lakewood Zoning Ordinance – Adopted January 26, 2015

H. Manage amateur radio facilities and over-the-air devices in the City;

A.I. Ensure the City has sufficient wireless infrastructure to support public safety and emergency response communications throughout the City;

B. Ensure access to reliable personal wireless services throughout all areas of the City and in no event prohibit or have the effect of prohibiting the provision of personal wireless services;

C. Encourage the use of existing structures for the siting of facilities;

D. Encourage the location of new freestanding support structures in areas where any potential adverse impacts on the community will be minimized;

E. Minimize the potential adverse effects of wireless service facilities through the implementation of reasonable design, landscaping and construction practices; and

F. Conform to federal and state laws which exempt certain facilities, receiving dishes and antennas from local regulations.

17.10.1.2: Applicability

A. The standards in this Article shall control the design, location, alteration, installation apply to all Eligible Facilities Requests and maintenance WCF applications for Base Stations, Alternative Tower Structures, Towers, Micro Cells, and Small Cell Facilities as defined in Section 17.13.2 and further addressed herein.

B. The Requirements set forth in this Article shall not apply to:

1. Amateur radio Antennas that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive only Antennas, provided that the requirements that the height be no more than the distance from the base of all wireless service infrastructure in all zone districts. No provision the Antenna to the property lines is met.

2. Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to the effective date of the latest revision of this Article of the City of Lakewood Zoning Code shall be required to become compliant under this Article within 5 years, or at a point in time as negotiated by the City and facilities owner.

Commented [ATT20]: With the exception of certain safety requirements, the facility is subject to the permit and any conditions included with when issued. Regulations cannot be applied retroactively.

Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to the effective date of Ordinance #2019O-2020-1 shall not be required to meet the requirements of this Article unless otherwise specified.
applicable requirements of Section 17.10.3. Notwithstanding the foregoing, any modifications qualifying as an Eligible Facilities Requests shall be evaluated under this Section.

3. Miscellaneous Antennas. Antennas used for reception of television, multi-channel video programming and/or radio such as Over-the-Air Receiving Device (OTARD) Antennas, television broadcast band Antennas, satellite earth station antennae 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 to the property line are met.

   The Director or his or her designee has the authority to approve modifications to the height restriction related to OTARD Antennas and OTARD antenna structures, if in the reasonable discretion of the City, modifications are necessary to comply with federal law.

4. A temporary WCF installed upon the declaration of a state of emergency by the federal, state, or local government, and upon or a written determination that such temporary WCF is specifically serving an emergent need of the general health, safety, and welfare of residents by need of the City, subject to approval by the City Council. Such WCF shall be subject to this Article immediately upon lifting the respective state of emergency or reasonable ability to obtain such written determination within 72 hours.

5. A temporary WCF installed for the purpose of providing sufficient coverage for a special event, subject to administrative approval by the City.

   A. The siting of Distributed Antenna Systems (DAS) or wireless facilities located within and intended to provide wireless coverage within a structure.

   B. Any dish antenna less than 40 inches in diameter located in a residential zone district; or

   C. Any dish antenna less than 80 inches in diameter located in any other zone district.

17.10.2: Wireless Facilities – By Zone District

Table 17.4.1 identifies where the different types of wireless facilities are permitted as primary or accessory uses, by right or with a special use permit, and where these uses are prohibited in each zone district within the City of Lakewood.

17.10.3: Wireless Facility Operational Standards

17.10.3.1: Wireless Stealth Facilities

A. Review Requirements:

   The installation of new wireless stealth facilities on any non-single-family or two-family structure may be allowed in any zone district if reviewed and approved in accordance with the Review of Supplemental Standards procedures identified in Article 2. The Director shall exercise discretion in applying the standards outlined for all new wireless
stealth facilities, where such standards are determined to be necessary to minimize the potential adverse effects of wireless service facilities. At a minimum the following standards shall apply:

1. The dimensions of the stealth facility must reasonably approximate the dimensions of the object they are being disguised as, and

2. The location of the stealth facility must be in concert with its surroundings.

17.10.3.2: New Wireless Facilities on Existing Structures

A. Review Requirements:

The installation of new wireless facilities on

A. Federal Requirements. All WCFs shall meet the current standards and regulations of the Federal Aviation Administration (FAA), the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Unless preempted by federal law, failure to meet such revised standards and regulations within 30 days of the City’s determination of such failure shall constitute grounds for the removal of the WCF by the City or owner at the WCF owner’s expense.

B. Permission to Use Public Right-of-Way or City-owned Public property. Prior to WCFs being sited in the ROW, the Applicant shall have an executed license agreement with the City, granting a non-exclusive license to use the Public Right-of-Way. Attachment of WCFs on an existing or replacement structures 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, and Site specific approval pursuant to 17.10.4. The Applicant shall remain the owner of, and solely responsible for any WCF installed in the ROW. Prior to, or concurrently with, seeking land use approval for a WCF on Public Property, the Applicant shall execute a lease agreement with the City.

C. 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. If upon inspection, the City concludes that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have 30 days from the date of notice to bring such WCF into compliance by providing to the City an independent, third-party engineering certification paid for by the Applicant, that such Towers meet all building and safety codes of the City of Lakewood. The Applicant shall fully cooperate in arranging access for the inspection and may participate in the inspection. Upon good cause shown by the owner and meeting reasonable safety considerations, the City’s Chief Building Official Director may extend such compliance period not to exceed 90 days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the City may be allowed remove such WCF at the owner’s expense.

Commented [ATT26]: The applicant may not remain the owner of the facility in certain instances.
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a. Each wireless communication facility which contains trees, foliage or other landscaping elements, whether or not used as screening, shall be maintained in good condition at all times in accordance with the approved landscape plan, and the owner or operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping as promptly as reasonably possible. Amendments or modifications to the landscape plan shall be submitted for approval to the Director.

b. Certification must be provided upon request by the City that the proposed facility will at all times comply with all applicable requirements and standards pertaining to electromagnetic and/or radio frequency radiation.

Commented [ATT28]: Multiple requests within a short time frame would be unreasonable. Recommend that this be limited to one time per year.
D. Emergency. In the event of an emergency or to protect the public health or safety, prior to the City accessing or performing any work on a facility on which a WCF Owner has installed Equipment, City may require WCF Owner to deactivate such Equipment if any of City’s employees or agents must move closer to the Equipment than the FCC’s recommended minimum distance. In such case, City will contact WCF Owner to request immediate deactivation.

E. Non-Interference. The following provisions shall apply to ensure and/or avoid interference (both physical interference and Radio Frequency Interference) resulting from Licensee’s installation, operation and/or maintenance of its Equipment:

a. Radio Frequency Interference. All WCF Owners shall ensure that the Equipment will not cause Radio Frequency Interference with Wireless Communication Facilities or devices, cable television, broadcast radio or television systems, satellite broadcast systems, or City traffic, public safety or other communications signal equipment existing at the time of installation of the Equipment.

b. Existing Uses. WCF Owners shall not interfere in any manner with the existing uses of City property including Rights-of-Way, and including sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electric and telephone wires, streetlight fixtures, cable television, and other telecommunications, utility, and municipal property without the express written approval of the Owner(s) of the affected property or properties.

c. City Communications. WCF Owners shall not interfere in any manner with current or future City or other governmental public safety communication.

d. Remedies. If Interference occurs and continues for a period in excess of 24 hours following notice to the interfering party via telephone, the City may require the interfering party to reduce power or cease operations of the interfering equipment until the Interference is cured.

F. Relocation, Abandonment and Removal. After the WCF is constructed, if a WCF has not been in use for a period of three months, the owner of the WCF shall notify the City of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is contracted and is not operated for a continuous period of six months shall be considered abandoned. The City, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within 630 days of receipt of written notice from the City. If such WCF is not removed within said 630 days, the City may remove it at the owner’s expense and any zone district if approved permits for the WCF shall be deemed to have expired. For any public project, a WCF may be required to relocate at WCF Owner’s expense.

Commented [ATT30]: 30 days may not be enough time to remove the facility, especially if demo permits are required or due to inclement weather or any other unforeseen factors that might cause a delay.
G. Hazardous Materials. No Hazardous materials shall be permitted in association with WCFs, except those necessary for the operation of the WCF and only in accordance with all applicable laws governing such materials.

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

I. Site Safety from Unauthorized Access. All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically, all antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

J. Authority to Inspect Facilities. In order to verify that the holder of a special use permit or other approval for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, and building codes, laws, ordinances and regulations and other applicable requirements, the City may designate persons to conduct an inspection on its behalf of all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

K. The owner or operator of any wireless communications facility shall maintain with the City, at all times, current contact and site information. Applicant shall notify City of any changes to the information submitted within thirty days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:
   a. Identity, including name, address, and telephone number, and legal status of the owner of the facility including official identification numbers and FCC certification, and, if different from the owner, the identity and legal status of the person or entity responsible for operating the facility;
   b. Name, address and telephone number of a local contact person for emergencies;
   c. Type of service provided;
   d. Identification signs, including emergency phone numbers of the utility provider, shall be posted at all communication facility sites.

L. Each owner or operator of a wireless communications facility shall routinely and regularly, no less than annually, inspect each site to ensure compliance with the standards as set forth in this section.

Commented [ATT31]: An inspection is already part of the permitting process. Compliance would be addressed through the code enforcement process. To the extent the intent is to authorize random inspections with no basis, this provision is burdensome and unreasonable.
17.10.4 Review Procedures and Requirements

A. Permit Required.
No new WCF shall be constructed and no Collocation or modification to any WCF may occur except after a written request from an Applicant, reviewed and approved by the City in accordance with this Chapter. All WCFs except Eligible Facilities Requests which are reviewed under subsection (a)(3) of this Section, shall be reviewed pursuant to the following procedures. All WCF permits shall expire and be of no further force and effect 180 days following the date of approval unless, prior to the date of expiration: (1) Construction has been diligently pursued towards completion of the project, or (2) 180-day extension of the permit has been 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 City'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.

B. Bond Required.
Prior to issuance of any permit, the Applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the City a bond, or other form of security acceptable to the City Attorney as to type of security, and the form and manner of execution, in the amount as determined by the Department of Public Works for construction of a tower facility or a co-location on an existing tower or other structure, and with such sureties as are deemed sufficient by the City Attorney to assure the faithful performance of the terms and conditions of this chapter and conditions of any special use permit, including payment of costs of future demolition of an abandoned tower or other facilities. The full amount of the bond or security shall remain in full force and effect while the facility is in existence and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit or other approval.

C. Insurance Required.
1. Except as provided in or an supplemented by any franchise agreements, Right of Way Agreement, Master License Agreement or Franchise Agreement, a telecommunications carrier shall secure and maintain public liability, property insurance, and umbrella coverage in at least the following amounts:
   a. Public liability: $2,000,000 per person per occurrence
   b. Property damage: $2,000,000 per any one claim
   c. Umbrella liability: $5,000,000
2. The public and personal liability and property damage insurance policy shall specifically include the City, its employees, agents, and members of the City Council as additional insureds.
3. The public and personal liability and property damage insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State of Colorado.
business in the State and which has one of the three highest or best ratings from the Alfred M. Best Company.

4. The public liability and property damage insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days written notice in advance of the cancellation of the policy.

5. Renewal of replacement policies or certificates shall be delivered to the City as least 15 days before expiration of the insurance which such policies are to renew or be replaced.

6. Before a telecommunications system provides telecommunications service to subscribers, the telecommunications carrier shall deliver the policies or certificates representing the insurance to the City as required herein.

7. Worker’s compensation within statutory limits and employer’s liability insurance with limits of not less than $1,000,000

8. The liability insurance policies required by this section shall be maintained by the grantee throughout the term of the telecommunications license or franchise. The policy may not be canceled nor the intention not to renew be stated until 90 days receipt by the City, by registered mail, or a written notice addressed to the City Engineer of such intent to cancel or not to renew. Within 60 days after receipt by the City of said notice, the grantee shall obtain and furnish to the City replacement insurance policies meeting the requirements of this section.

9. Grantee shall provide the City with evidence of insurance for each of the coverage’s described above at least 10 days prior to construction and/or occupancy of any site subject to this chapter.

D. Emissions Requirements.

1. Per Submittal Requirements within this Article, any new facility application or request involving a substantial change to an existing facility will be required to provide a statement of Radio Frequency Radiation Study (RFR) confirming current assessed Radio Frequency (RF) exposure limits if such new WCF or substantial change to an existing WCF increases Radio Frequency from its own facility, or increases Radio Frequency in combination with other facilities.

2. The City reserves the right to require an annual Radio Frequency report to be provided to the Department of Public Works upon request for any facilities subject to the National Environmental Policy Act (NEPA).

The City and/or its assigned agents reserve the right to measure, at random, the radio frequency emissions of any facility and to review or revoke any permit under this Article if a wireless cell facility demonstrably increases signal output above the Uncontrolled/General Population Maximum Permissible Exposure (MPE) limits imposed by the FCC (47 CFR Sec. 2.1).

3. Any operational or technological changes to an approved WCF that affects the facility’s radio frequency emissions shall be reported promptly to the City.

E. Review Procedures for certain all WCFs, including Base Stations, Alternative Tower Structures, Small Cell Facilities, and Alternative Tower Structures within Public Rights-of-Way. Applications for these WCF facilities shall be reviewed by the Public Works

Commented [ATT37]: The City’s authority per the Telecom Act of 1996 is limited to the placement, construction, and modification of wireless services. The regulation of RF emissions is the exclusive authority of the FCC.

Commented [ATT38]: This provision would be preempted by federal law as it constitutes an attempt to regulated operational and technical aspects of a wireless facility which is subject to the comprehensive and exclusive jurisdiction of the FCC and federal law.
Department for conformance to this Section and using the Design Review procedures set forth in Section 17.10.5 for WCFs in the Right-of-Way that are found to have a significant visual impact (i.e. proximity to historical sites), be incompatible with the structure of surrounding area, or not meet the intent of these provisions, the City may refer the application to Planning Commission for a Special Use Permit of Supplemental Standards Determination.

F. Review Procedures for WCFs, including Towers. Towers, other than those defined or excepted in (E) above, must apply for Special Use Permit Review approval. These WCFs shall be reviewed for conformance using the procedures set forth in Section 17.10.5. 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 City.

G. Review Procedures for Eligible Facilities Requests.

1. Eligible Facilities Requests shall be considered a permitted use, subject to administrative review. The City shall prepare, and from time to time revise and make publicly available, an application form which shall require submittal of information necessary for the City to consider whether an application is an Eligible Facilities Request. Such required information shall include, without limitation, whether the project:

   a. Constitutes a Substantial Change;
   b. Violates a generally applicable law, regulation, or other rule codifying objective standards reasonably related to public health and safety.

i. Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Director shall review such application to determine whether the application so qualifies for an Eligible Facilities Request. Timeframe for Review. Subject to the Tolling provisions of subparagraph d. below, within 60 days of the date on which an Applicant submits an application seeking approval under this Section, the City shall approve the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable codes.

2. Review Procedures for certain WCFs, including Towers. Towers, other than those defined or excepted in (1) above, must apply for Special Use Permit Review approval. These WCFs shall be reviewed for conformance using the procedures set forth in Section 17.10.5. 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 City.

Review Procedures for Eligible Facilities Requests.
Eligible Facilities Requests shall be considered a permitted use, subject to administrative review. The City shall prepare, and from time to time revise and make publicly available, an application form which shall require submittal of information
necessary for the City to consider whether an application is
an Eligible Facilities Request. Such required information shall
include, without limitation, whether the project:
Constitutes a Substantial Change;
b. Violates a generally applicable law, regulation, or other rule codifying objective
standards reasonably related to public health and safety.

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

Upon receipt of an application for an Eligible Facilities Request
pursuant to this Section, the Director shall review such application to
determine whether the application so qualifies for an Eligible
Facilities Request.

Timeframe for Review. Subject to the Tolling provisions of
subparagraph d. below, within 60 days of the date on which an
Applicant submits an application seeking approval under this Section,
the City shall approve the application unless it determines that the
application is not covered by this Subsection, or otherwise in non-
conformance with applicable codes.

3. Tolling of the Timeframe for Review. The 60-day review period begins to run
when the application is filed, and may be Tolled only by mutual agreement of the
City and the Applicant, or in cases where the Director determines that the
application is incomplete:

1. To toll the timeframe for incompleteness, the City must provide
written notice to the Applicant within 30 business days of receipt
of the application, specifically delineating all missing documents or
information required in the application; such delineated
information is limited to documents or information meeting the
standard under paragraph (a)(i) above.

2. The timeframe for review begins running again the following
business day after the Applicant makes a supplemental written
submission in response to the City’s notice of incompleteness;

3. Following a supplemental submission, the City will notify the
Applicant within 10 business days if the supplemental submission
did not provide the information identified in the original notice
delineating missing information. The timeframe is Tolled in the
case of second or subsequent notices pursuant to the procedures
identified in paragraph (d.)(i). In the case of a second or
subsequent notice of incompleteness, the City may not specify
missing information or documents that were not delineated in the
original notice of incompleteness.

4. Failure to Act. The City shall make every effort to review any request seeking
approval for an Eligible Facilities Request within the herein applicable timeline
unless, working with the Applicant, a new timeframe is established. In the event
the City fails to act on a request seeking approval for an Eligible Facilities
Request under this Section within the timeframe for review, or the timeframe
agreed upon with the Applicant (accounting for any Tolling), the request shall be
deemed granted. The request becomes effective when the Applicant notifies the City in writing after the review period, including allowed extensions, has expired (accounting for any Tolling) that the application has been deemed granted.

Interaction with Telecommunications Act Section 332(c)(7). If the City determines that the Applicant’s request is not an Eligible Facilities Request as delineated in this Chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC’s Shot Clock order, will begin to run from the issuance of the City’s decision that the application is not a covered request. To the extent such information is necessary, the City may request additional information from the Applicant to evaluate the application under Section 332(c)(7) reviews.

The timeframe for incompleteness is tolled when the City provides written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph (a)(i) above.

Following a supplemental submission, the City will notify the Applicant within 10 business days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in paragraph (d.)(i.). In the case of a second or subsequent notice of incompleteness, the City may not specify missing information or documents that were not delineated in the original notice of incompleteness.

Failure to Act. The City shall make every effort to review any request seeking approval for an Eligible Facilities Request within the herein applicable timeline unless, working with the Applicant, a new timeframe is established. In the event the City fails to act on a request seeking approval for an Eligible Facilities Request under this Section within the timeframe for review, or the timeframe agreed upon with the Applicant (accounting for any Tolling), the request shall be deemed granted. The request becomes effective when the Applicant notifies the City in writing after the review period, including allowed extensions, has expired (accounting for any Tolling) that the application has been deemed granted.

Interaction with Telecommunications Act Section 332(c)(7). If the City determines that the Applicant’s request is not an Eligible Facilities Request as delineated in this Chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the
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FCC’s Shot Clock order, will begin to run from the issuance of the City’s decision that the application is not a covered request. To the extent such information is necessary, the City may request additional information from the Applicant to evaluate the application under Section 332(c)(7) reviews.

   a. Small Cell Facilities in the Right-of-Way shall be considered a permitted use, subject to administrative review as set forth in Subsection A.1.

   b. The City shall prepare, and from time to time revise, and make publicly available, an application form which shall require submittal of information necessary for the City to consider whether a project is eligible as a Small Cell Facility in the Right-of-Way, meeting certain criteria.

The application shall not require the Applicant to demonstrate a need or business case for any proposed modification or Collocation.

   c. Upon receipt of an application for a Small Cell Facility in the Right-of-Way pursuant to this Section, the Public Works Department shall review such application to determine whether the application is complete.

   d. Timeframe for Review. Within 90 calendar days of the date on which an Applicant submits an application seeking approval under this Section, the City shall take action on the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable code.s.

I. Submittal Requirements for all new WCFs, including Small Cell Facilities...

   1. In addition to submittal requirements of Chapter 17.2, the following supplemental items are required for all WCF applications:

      a. Project Description Summary. A brief project description for the proposed WCF, to include: 1) Number and sizes of antennas and approximate orientation, 2) copy of the respective FCC license, 3) heights of proposed facilities, 4) equipment enclosure type and size, 5) materials and colors of antennas and any equipment enclosure, 6) description of towers or other structures necessary to support the proposed facilities, 7) description of lighting, signage and landscaping proposed, and 8) other technical information regarding transmission equipment such as maximum power output and frequencies,

      b. 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;
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For the sole purpose of verifying compliance with the FCC radio frequency emission standards, an emissions report shall be submitted which measures the predicted and actual levels of electromagnetic field radiation emitted by the proposed facility operating alone and in combination with radiation emitted from other existing or approved facilities that can be detected at the proposed facility site. Radiation measurements shall be based on all proposed (applications filed and pending), approved, and existing facilities operating at maximum power densities and frequencies within a minimum 1300 ft radius of the proposed facility. The RFR Study shall identify the following:

1. the existing and predicted electromagnetic field radiation in table form, specifically delineating both the General Population Exposure and Occupational Exposure
2. any measures required to comply with the FCC standards for predicted exposure levels
3. a summary of the conclusions of the report, and
4. details for any signage, barriers or similar mitigation that is recommended or required.

The RFR Study shall be prepared by a qualified third-party expert. If mitigation is required by FCC radio frequency emission standards, the details for signage, barriers or other physical improvements shall also be included on the project plans prepared for the facility. It is the responsibility of the Applicant to determine the location and power of existing facilities;

Environmental Assessment. Pursuant to NEPA, any application wishing to construct a facility that uses an FCC license must submit an environmental assessment to the FCC, or alternately, certify to the City by written statement that such facility is categorically excluded per 47 C.F.R. § 1.1307. An environmental assessment is required if the proposed construction:

Will be in a wilderness area or wildlife preserve (generally on federal land);
Might affect threatened and endangered species or their habitat (Endangered Species Act);
Might affect properties included or eligible for inclusion in the National Register of Historic Places or Indian religious and cultural sites;
Will be in a flood plain;
Will involve “significant changes in surface features” during construction (e.g., wetlands, water diversion, deforestation);
Will be taller than 450 feet and so might affect migratory birds;
Involves high intensity lighting in a residential area; or
Would cause radio frequency emission exposure in excess of FCC-established limits.

Commented [ATT43]: The NEPA process is a federal review process that is independent from a local siting review. This type of regulation would also be preempted by the 2018 FCC Order to the extent it is unreasonable (as it duplicates a separate federal process) and represents the application of review criteria more burdensome than those applied to other types of infrastructure deployment. 2018 FCC Order, 18-133, ¶86.
Any Applicant seeking to build a WCF that falls into any category requiring an environmental assessment and seeking not to submit an environmental assessment, must obtain and provide a “findings of no significant impact” before site construction. Building without adhering to the legal requirements of 47 CFR 1.1301-1.1319 can constitute a violation of FCC rules and may subject the constructing party to potential enforcement action;

d. **Title Report.** For any wireless facility proposed to be installed on any private property, not owned or controlled by the City, the Applicant must submit a title report, issued within 30 days prior to the date the Applicant filed the application;

e. **Peer Review.** Prior to accepting an application as complete, the city may at its sole discretion require a peer review of the project be conducted by an independent qualified RF engineering consultant, as deemed necessary to confirm compliance with FCC radio frequency emission standards. The consultant shall be selected by the City and paid for by the project Applicant. If peer review is required, the application shall include sufficient information for the city-retained consultant to conduct such review for compliance with FCC radio frequency emission standards;

f. **Photo simulations.** The Applicant shall provide photo simulations of the proposed facility from key public viewpoints based upon consultation with city staff. Photo-simulations shall display existing and proposed views, and include the date(s) when the base photo was taken. excluding applications for small cell facilities;

g. **Noise Analysis.** A noise analysis for emergency generators or other noise-producing facilities;

h. **Landscape Plan.** A landscape and irrigation plan, showing all existing and proposed improvements, location of proposed plantings and type of landscape material, for proposed ground-mounted facilities including equipment cabinets;

i. **Elevations.** Elevations showing all sides of the proposed facility, and including the following information:
   1. Elevations and sections of the site displaying site topography, proposed facilities including towers, equipment shelter and existing buildings,
   2. Wall, roof, tower and antenna materials,
   3. Fencing, air conditioning units and outdoor lighting, if any,
   4. Rooftop or building features such as vents, chimneys and antennas, and
   5. Building or tower height as measured from natural grade.

j. **Inventory of Sites.** Each Applicant for a WCF shall provide to the City a narrative description and data in a format acceptable to the City showing the
Applicant’s currently proposed WCFs within the City, and outside of the City within one half-mile of its boundaries. This provision is not intended to be a requirement that the Applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the City. This information will be used to assist in the City’s comprehensive planning process, and promote Collocation by identifying areas in which WCFs might be appropriately constructed for multiple users. The City may share information regarding the location of sites and the owners or managers of such sites with other Applicants applying for administrative approvals or conditional permits under this section or other organizations seeking to locate WCFs within the jurisdiction of the City, provided however, that the City, is not, by sharing such information, in any way representing or warranting that such sites are available or suitable;

k. Load Certification. The owner of a proposed new tower shall provide certification with documentation (structural analysis) including calculations that the telecommunication facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, City, state and federal structural requirements for loads, including wind and ice loads;

l. Written Statement. Written representation that Applicant shall be responsible for paying all charges for any electricity furnished by a utility to Applicant and for charges for furnishing service to the Equipment. When the Equipment requires an electric meter as determined by the utility provider, the Applicant shall install or cause to be installed a separate electric meter on a ground mounted pedestal or on Applicant’s pad mounted equipment cabinet as required by the electric provider for the operations of its equipment;

m. Abandonment and removal Affidavits. Affidavits shall be required from the owner of the property and from the Applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of six (6) months.

J. Consolidated applications. The City shall allow a wireless provider to file a multi-site permit seeking approval for up to ten (10) permits for Small Cell Facilities at a given time. Each individual site shall be processed as a separate permit in order to facilitate recording site addresses, utility company requirements, and timely inspection scheduling. The City’s denial of any individual small cell facility is not a basis to deny the application as a whole or any other small cell facility incorporated within the consolidated application.

K. Consultants for Application Review. The City may hire a consultant and/or expert necessary to assist the City or any of its Departments in reviewing and evaluating the application for a facility, including the construction and modification of the site, once permitted, and any site inspections.
1. An Applicant shall deposit with the City escrow funds sufficient to reimburse the City for all reasonable costs of the City's consultant in providing expert evaluation and consultation to any agency of the City in connection with the review of any application, including any expert consultation services deemed necessary by the City and in an amount to be determined by the City. The placement of the deposit with the City shall occur at such later time as the City may direct. The City will maintain a separate escrow account for all such funds. The City's consultants/experts shall invoice the City Department employing its services related to the application. In the event that the amount held in escrow by the City is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall, upon request of the Applicant, be promptly refunded to the Applicant.

2. Escrow Amount. The total amount of the funds needed as set forth in this section may vary with the scope and complexity of the project, the completeness of the application, and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. When notified by the City that additional escrow is required, the Applicant may request copies of invoices paid to consultants and/or experts. If the Applicant finds errors in those invoices, the Applicant may ask the City to audit those specific items for reasonableness and may request relief therefrom.

3. Fee Cap. Notwithstanding the above, there shall be a fee cap as to the total consultant fees to be charged to the Applicant in a case, which shall be the greater of $17,000 or 10% of the highest annual lease payment to be made by the Applicant to the owner of the property under the lease authorizing placement of the wireless telecommunications facilities at a given site. However, the fee cap shall not apply as to any fees which the City determines to be attributable to the dilatory or otherwise bad faith actions of the Applicant in providing a complete application or in proceeding with a public hearing.

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

1. Conditions of Approval for WCF permits. In addition to any other conditions of approval permitted under federal and state law and this Code that the Director deems appropriate or required under this Code, all WCF permits under this subsection shall include the following conditions of approval:
   a. No Automatic Renewal. The grant or approval of a WCF permit shall not renew or extend the underlying permit term.
   b. Compliance with Previous Approvals. The grant or approval of a WCF permit shall be subject to the conditions of approval of the underlying permit.

Commented [ATT48]: Under Colorado law, fees must be cost based.
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c. As-Built Plans. The Applicant shall submit to the Director an as-built set of plans and photographs depicting the entire WCF as modified, including all transmission equipment and all utilities, within ninety (90) days after the completion of construction.

d. Indemnification. To the fullest extent permitted by law, the Applicant and any successors and assigns, shall defend, indemnify and hold harmless [the] city, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorney fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, related to the WCF permit and the issuance of any permit or entitlement in connection therewith. The Applicant shall pay such obligations as they are incurred by [the] city, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the city reasonably determines necessary to protect the city from exposure to fees, costs or liability with respect to such claim or lawsuit.

e. Compliance with approved plans. The proposed project shall be built in compliance with the approved plans on file with the Department of Public Works.

f. Violations. The WCF shall be developed, maintained, and operated in full compliance with the conditions of the WCF permit, any other applicable permit, and any law, statute, ordinance or other regulation applicable to any development or activity on the site. Failure of the Applicant to cease any development or activity not in full compliance shall be a violation of these conditions. Any violation of this Code, the conditions of approval for the small wireless facility permit, or any other law, statute, ordinance or other regulation applicable to any development or activity on the site may result in the revocation of this permit. The remedies specified in this section shall be cumulative and the city may resort to any other remedy available at law or in equity and resort to any one (1) remedy shall not cause an election precluding the use of any other remedy with respect to a violation.

g. In the event that a court of competent jurisdiction invalidates or limits, in part or in whole, Title 47, United States Code, section 1455, such that such statute would not mandate approval for the collocation or deployment granted or deemed granted under a WCF permit, such permit shall automatically expire twelve (12) months from the date of that opinion.

h. The grant, deemed-grant or acceptance of a WCF permit shall not waive and shall not be construed or deemed to waive the city's standing in a court of competent jurisdiction to challenge Title 47, United States Code, section 1455 or any WCF permit issued pursuant to Title 47, United States Code, section 1455 or this Code.
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2. Additional Notice to Neighbors. After an application to allow the installation of a wireless facility subject to the approval of a WCF permit pursuant to this Code is complete, the Applicant shall provide property owners notice of such installation pursuant to 17.10.4, (L),(1),(i),(1) of this Article. Failure of the city to provide notice pursuant to this subsection shall not be grounds to challenge a determination provided that the notice otherwise required by law has been provided.

1. Upon execution of any administrative decision approving or approving with conditions the application and prior to any construction, notice shall be sent by mail of the administrative approval by the Applicant to all property owners within a 1,300-ft radius of the facility, using names and addresses appearing on the latest adopted tax roll of the county. The notifying radius shall be measured from the outer boundary of the subject parcel, or for those facilities in the public right of way, from the outer boundary of the closest parcel adjacent to the subject public right of way site. Notice shall be sent no later than 15 day after such decision has been made by the City.

2. Notice of the administrative approval shall also be made within 15 days of such decision by posting a notice in a publicly visible location on the property in question.

M. Compliance with Applicable Law. Notwithstanding the approval of an application for new 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 the Municipal Code and any other applicable laws or regulations. In addition, all WCF applications shall comply with the following:

1. Comply with any permits or licenses 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. All wireless communication facilities and related equipment, including lighting, fences, shields, cabinets, and poles, shall be maintained in good repair, remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, so as to minimize occurrences of dangerous conditions or visual blight, and in no instance more than ten (10) calendar days from the time of notification by the City or after discovery by the owner or operator of the Site. Each wireless communication facility which contains trees, foliage or other landscaping elements, whether or not used as screening, shall be maintained in good condition at all times in accordance with
the approved landscape plan, and the owner or operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping as promptly as reasonably possible. Amendments or modifications to the landscape plan shall be submitted for approval to the Director. Notwithstanding the foregoing, any graffiti on WCFs located in the Public Rights-of-Way or on Public Property may be removed by the City at its discretion, and the owner and/or operator of the WCF shall pay all costs of such removal according to the City Municipal Code guidelines as set forth by the City within 30 days and after receipt of an invoice from the City.

Any failure by the city to enforce compliance with any applicable laws shall not relieve any Applicant of its obligations under this Code, any permit issued under this Code, or all other applicable laws and regulations.

17.10.5 Design Standards

A. Review Requirements. The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this Chapter as specified below; provided, however, that the City may waive these requirements if it determines that the goals of this Chapter are better served thereby. To that end, WCFs shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the City, consistent with other provisions of this Code. Notwithstanding the foregoing, the Planning Director shall have the authority to promulgate design standards for small cell facilities in the rights of way, which shall govern those types of WCFs. All current design standards as outlined in this section shall be employed and directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments, and shall be applicable to both newly constructed WCFs, permitted but not yet constructed WCFs, as well as pre-existing WCFs applying for a substantial change.

B. Camouflage/Concealment and Shrouding.

All WCFs and any Transmission Equipment shall, to the extent possible, use Camouflage Design Techniques including, but not limited to the use of materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF into the surrounding natural setting and built environment.

a. Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g. proximity to historic, natural, or aesthetically significant structures or areas, views, and/or community features or facilities). In such instances where WCFs are located in areas of high visibility, they shall (where possible) be designed to minimize their profile.

Commented [ATT54]: Recommend including a relief valve for

Commented [ATT55]: Regulations cannot be applied retroactively to existing facilities. That is not permitted under Colorado law.
b. The camouflage design may include the use of Alternative Tower Structures should the Public Works Department determine that such design meets the intent of this Code and the community is better served thereby.

c. All WCFs, such as Antennas, vaults, equipment rooms, equipment enclosures, and Tower structures shall be constructed out of non-reflective materials (visible exterior surfaces only).

2. Spacing and Collocation.
   a. Collocation Standards.
      i. New communication facilities shall be co-located with existing facilities and with other planned new facilities whenever feasible and aesthetically desirable. No new Towers, excepting Small Cell Facilities in the Right-of-Way, shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application, and sufficient separation of Towers is achieved. Evidence may consist of the following:
         
         i. No existing WCFs with a suitable height are located within the geographic area required to meet the Applicant’s engineering requirements;
         ii. Existing WCFs do not have sufficient structural strength to support Applicant’s proposed WCF;
         iii. The Applicant’s proposed WCFs would cause electromagnetic interference with the existing WCFs or the existing WCF would cause interference with the Applicant’s proposed WCF;
         iv. The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for Collocation;
         v. Towers over 90 feet in height shall not be located within one-quarter mile from any Existing Tower that is over 90 feet in height, unless the Applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant’s needs.

      ii. WCFs shall be designed and constructed to permit the facility to accommodate WCFs from at least two (2) wireless service providers on the same WCF, to the extent it is feasible in good faith based upon construction, engineering and design standards, except where such Collocation would materially compromise the design intent of the WCF, particularly visually.
iii. In order to facilitate co-location, conditions of approval for conditional use permits for new facilities shall require all service providers to cooperate in the siting of equipment and antennas to accommodate the maximum number of operators at a given site where found to be feasible and aesthetically desirable. Where feasible and aesthetically desirable, service providers are encouraged to co-locate with other facilities such as existing buildings, water tanks, light standards, and other utility structures where the co-location is found to minimize the overall visual impact.

iv. Service providers shall exhaust all reasonable measures to co-locate their communications facilities on existing towers, existing alternative building or other structures within the City, or with or within existing ancillary support equipment facilities prior to applying for new communication facility sites. The service provider shall provide evidence to the City that the provider has contacted all other potential providers who have, or who are reasonably likely to be, installing facilities within the vicinity of the proposed facility and has offered to participate in a joint installation project on reasonable terms. Such evidence should include but is not limited to copies of written requests and responses, along with any letters of rejection, stating the reason for rejection.

b. Spacing Standards. No new free-standing small cell facility shall be within 1,300-ft of another free-standing small cell facility on the right of way. These separation requirements do not apply to attachments made to existing alternative tower structures.

i. Exemptions. The Public Works Department may exempt an Applicant from these separation requirements if 1) the Applicant demonstrates Evidence of Need 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 1,300-ft from another small cell facility will meet the intent of reducing visibility and visual clutter of small cell facilities o the extent possible.

3. Location Preferences. Small Cell Wireless Facilities in the public roads shall be installed in the most highly preferred locations as listed below. Locations listed in order of most preferred locations to least preferred locations with the first location listed being most desirable:

a. Preferred Locations — Non-Residential zone districts, excepting parks, ordered from most preferred to least preferred:
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i. Parcels in the industrial zones, then
ii. Parcels in commercial zones;
iii. Parcels in the mixed use zones
iv. City owned or controlled parcels or public facilities, excepting parks and historic City-owned properties; then
v. Agricultural sites
vi. Any public road within a 1,500-foot radius of a day care center or school, as defined by sections 1596.78 of the Health and Safety Code and 26054 of the Business and Professions Code, respectively.
vii. Any public road within a 1,500-foot radius of a City, County, or State Park, open space area, or City sports field.
viii. Any public road adjacent to mixed-use sites with residential dwellings.
ix. Any public road right of ways located in an exclusively residential zoning district.

4. Preferred Locations — Residential Zones, Park, and Open Space Parcels. If a facility is proposed in a residential zone or adjacent to or on a parcel used for open space or park purposes, all facilities should be located according to the following preferences, ordered from most preferred to least preferred, with the first location listed being most desirable:

1) City owned or controlled parcels not for park or open space uses; then
2) Parcels that contain non-residential uses and do not contain residential or park or open space uses; then
3) Parcels that do not contain single-family homes, multi-family homes, or park or open space uses; then
4) City owned or controlled parcels; then
5) In the public right-of-way abutting a residential zone; then
6) All other parcels

a. When a lower ranked alternative is proposed, the application must include technical information demonstrating that a higher ranked option is not technically feasible in light of the provider’s service objectives.

5. Lights and other attachments.

a. WCFs shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purpose. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties or environs. Lighting shall be shielded or directed to the maximum extent so as to minimize the
amount of glare and light falling onto nearby properties, particularly residences.

b. All exterior lighting within equipment yards shall be mounted on poles or on the building wall below the height of the screen wall or fence.

c. No Tower shall have constructed on, or attached to, any additional platform, catwalk, crow's nest or like structure (other than those required by industry standards or federal regulations), except during periods of construction or repair.

d. Signs and advertising. The use of any portion of a Tower for signs or advertising devices other than public safety warnings, certification, or other requires seals on any wireless communication device or structure is prohibited. However, the telephone numbers to contact in an emergency shall be posted on each facility. Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration sign as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

e. Flush-mounting of antennas shall be employed wherever feasibly possible when such mounting does not detract from adjacent views or overall aesthetics.

f. To the extent possible, accessory equipment should be placed within the pole base rather than on the outside of the pole.

g. The use of small, decorative structures as mounting locations should be limited in historic districts.

6. Noise. Noise generated on the site must not exceed the levels permitted in the City of Lakewood Municipal Code, except that a WCF owner or operator shall be permitted to exceed such noise standards for a reasonable period of time during repairs, not to exceed two (2) hours without prior authorization from the City. If “Plainly Audible” noise nuisance complaints are received by the City, a site noise compliance, evaluation and mitigation report shall be submitted to the City within 30 days by Owner or Operator of WCF. Owner or Operator of WCF, at Owners

Commented [AT61]: Signage is regulated by federal law. By enacting signage regulations that are different from federal law creates the risk that the carrier would not be able to comply with both. The City, in multiple places, is already requiring AT&T to comply with all federal laws which would include adhering to all regulations associated with RF signage requirements.
expense, must make every effort to mitigate and return WCF into compliance within a reasonable time frame, not to exceed 90 days. If noise nuisance complaints are received by the City, a site noise report shall be submitted to the City within 30 days.

7. Landscaping Requirements.
   a. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the parcel.

   b. WCFs, excluding Small Cell Facilities mounted on existing structures with existing surrounding landscaping, unless otherwise required by the Public Works Department, shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from Rights-of-Way and adjacent properties. Where the City has requested additional landscaping, the City may require irrigation requirements for the landscaping.

   c. Critical Root Zone: To the extent possible, heritage trees and traditional landscaping designs should be preserved in the Public Right of Way. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

8. Screening Requirements.
   a. All equipment, not located within the Public Right-of-Way and not otherwise defined, shall be fully screened within a walled yard or placed in an enclosed building except in cases where a better design alternative exists. The yard shall be enclosed by a solid fence or wall of sufficient height to screen all miscellaneous equipment from view from the public Right-of-Way or adjacent properties and to provide security. Screening should not unnecessarily inhibit view from adjacent properties.

   b. All structures and improvements associated with the WCF shall be provided with adequate safety equipment and aesthetic treatments, including incorporating landscape screening noted in subsection 5, to be visually compatible with uses in the surrounding area.

   c. Roof-top mounted equipment shall be screened from off-site views to the extent practical by solid screen walls or the building’s parapet. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

Article 2. B.

   a. The following minimum setback requirements shall apply to all WCFs except for Alternative Tower Structures in the Right-of-Way; provided however, that the City may reduce standard setback requirements if the
Applicant demonstrates an Evidence of Need. Setback requirements shall be measured from the outer boundary of the subject parcel, or for those facilities in the public right of way, from the outer boundary of the closest parcel adjacent to the subject public right of way.

1. Non-Residential Zones: A Tower shall meet the greater of the following minimum setbacks from all property lines;
   a. The setback for a principal building within the applicable zoning district; or twenty-five percent (25%) of the facility height, including WCFs and related Accessory Equipment.

2. Residential Zones and Parcels: Any WCFs adjacent to Single Family Residential Uses shall be sited in a manner that evaluates the proximity of the facility relative to residential structures. Unless Applicant demonstrates that there is no other technically feasible alternative, WCFs over 30 feet in height shall have a minimum setback from all adjacent residential property lines of one (1) foot for every foot in height, or a minimum setback of 500-feet from any residential structure’s outer boundary, whichever is greater, unless the Applicant can prove that a shorter distance is necessary to provide service. If a shorter distance is necessary, the greatest setback distance that will accommodate service shall be employed.

   i. 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.

   ii. In the case of a corner lot, the WCF may be placed adjacent to the common side property line between adjoining residential properties, or on the corner formed by two intersecting streets.

   iii. If these siting requirements are not reasonably feasible from a construction, engineering, or design perspective, the Applicant may submit a written statement to the Public Works Department requesting the WCF be exempt from these requirements, and offer alternative locations reasonably meeting the intent of this section.

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

10. Design requirements specific to various types of WCFs.
a. Base Stations. 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 possible, including for example, without limitation, painting the Antennas and accessory equipment to match the structure. Additionally, any ground mounted equipment may be located in a flush-to-grade underground equipment vault if it is reasonably feasible from a construction, engineering, or design perspective.

b. Alternative Tower Structures, not in the Public Right-of-Way shall;
   i. Be designed and constructed to look like a building, facility, structure, or other commonplace item, such as but not limited to a tree, public art, or clock tower, typically found in the area.
   ii. Be camouflaged/concealed consistent with other existing natural or manmade features in or near the location where the Alternative Tower Structure will be located.
   iii. Be compatible with the surrounding area, including architecture, topography, natural vegetation, and/or landscaped environment.
   iv. Be the minimum size needed to obtain coverage objectives. Height or size of the proposed Alternative Tower Structure should be minimized as much as possible.
   v. Be sited in a manner that is sensitive to the proximity of the facility to residential structures, neighborhoods, and residential zoning district boundaries.
   vi. Take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses.

c. Towers
   i. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards and City design approval processes, be painted a neutral color so as to reduce visual obtrusiveness.
   ii. Wherever possible, Towers shall locate to utilize existing landforms, vegetation, and structures to aid in screening the facility from view, or otherwise blending in with surrounding built and natural environment.
   iii. Monopole support structures shall taper from the base to the tip.
iv. All Towers, excluding Alternative Tower Structures in the Right-of-Way, shall be enclosed by security fencing or wall and shall also be equipped with an appropriate ant-climbing device.

v. Towers shall be subject to the height restrictions of each zoning district. Notwithstanding anything in this Chapter to the contrary, Towers are prohibited in the Right-of-Way.

Roof and Building Façade Mounted Antennas: WCFs:
1. Building façade mounted antennas shall not protrude horizontally more than 2 feet from the building wall and shall be painted or treated to match the building or structure to which the antenna is attached.

2. Building façade mounted antennas shall not exceed the height of the parapet or the roofline, whichever is greater.

d. The total of all visible building façade mounted antennas may not exceed the greater of 10 percent of the square footage of the building façade or 25 square feet per façade.

C. Roof Mounted Antennas:

1.i. Roof mounted antennas and accessory equipment shall be painted or treated to match the façade of the building to which they are attached in order to minimize visibility from adjacent residential land uses and/or from public sidewalks.

1.ii. Roof-mounted WCFs may be approved only where an Applicant sufficiently demonstrates that a wall mounted WCF is inadequate to provide service. By filing an application for a roof-mounted WCF, an Applicant is certifying agreement to the City’s determination that the height extensions described in this subsection are the maximum heights that will allow the WCF to be Camouflaged, and that any additional increase in height will undermine the Camouflage nature of the site. Roof or building mounted facilities are not permitted on any single-family residential structures.

2.ii. Maximum height. Roof mounted antennas and accessory equipment shall not exceed the height of the penthouse or mechanical equipment room to which the antennas are attached.

3.

4. Antennas not mounted on a penthouse or mechanical equipment room shall be set back at least 5 feet from the exterior wall of a building.
Lakewood Zoning Ordinance – Adopted January 26, 2015

5.iv. The maximum height of a roof mounted antenna that is not mounted on a penthouse or mechanical equipment room is equal to the distance the antenna is set back from the exterior wall up to a maximum height of 10 feet above the taller of either roofline or parapet of the building to which the antenna is attached.

vi.v. All rooftop equipment and Antennas must be adequately screened where feasible from a technical, construction, design and engineering perspective.

vii.vi. Building façade mounted antennas shall not protrude horizontally more than 2 feet from the building wall and shall be painted or treated to match the building or structure to which the antenna is attached.

4.

A.vii. Building façade mounted antennas shall not exceed the height of the parapet or the roofline, whichever is greater.

viii. The total of all visible building façade mounted antennas may not exceed the greater of 10 percent of the square footage of the building façade.

ix. Antennas on Existing Support Structures:

In single-family and two-family zone districts: The mounting of an additional antenna or antennas on an existing support structure, including any existing support structure that is nonconforming with regards to height, may be permitted provided that the height of the existing structure may not be increased by more than 15 percent.

In non-single-family and two-family zone districts: The mounting of an additional antenna or antennas on an existing support structure may be permitted provided that the height of the existing structure may not be increased above 60 feet without triggering the review requirements as outlined for New Freestanding Support Non-Stealth Structures in Section 17.10.3.2.

17.10.3.3: New Freestanding Support Non-Stealth Structures

Review Requirements:

New freestanding support structures of 60 feet in height or less may be allowed in any zone district other than a single-family or two-family district if reviewed and approved in accordance with the site plan procedures identified in Article 2.

New freestanding support structures of more than 60 feet in height may be allowed in any zone district other than a single-family or two-family...
district if reviewed and approved in accordance with the special use permit and site plan procedures identified in Article 2.

New freestanding support structures of any height located on public property, right-of-way, or utility property that will support street lights, public facilities or equipment in addition to wireless facilities may be allowed in any zone district if reviewed and approved in accordance with the Site Plan procedures identified in Article 2. Examples include, but are not limited to, municipal communication facilities, athletic field lights, traffic lights, and other light structures.

Existing support structures including but not limited to municipal communication facilities, athletic field lights, traffic lights, and other light structures on local streets shall be limited to a maximum 15-foot height extension.

The maximum height for any new freestanding support structure shall be 60 feet, or the maximum building height allowed in the subject zoning district, whichever is greater.

When adjacent to a property that is zoned residential or contains a residential use or structure, new freestanding support structures must be setback from property at least the minimum setback required by the zone district where the structure is located or 50 percent of the support structure height, whichever is greater.

New freestanding support structures shall be enclosed by security fencing 6 feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the City may waive such requirements, if the Director determines that the waiver will not create an increased risk to public health or safety.

B. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

C. New freestanding support structures shall be designed to accommodate a minimum number of colocations based upon their height.

1. Support structures between 45 feet and 100 feet in height shall support at least two telecommunications providers;

2. Support structures greater than 100 feet and up to 150 feet in height shall support at least three telecommunications providers; and

3. Support structures greater than 150 feet in height shall support at least four telecommunications providers.

D. New freestanding support structures over 60 feet in height shall not be located within 1000 feet from any existing freestanding support structure that is over 60 feet in height, unless the applicant has shown to the satisfaction of the City that colocation is impracticable and that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.
17.10.3.4: Other Wireless Facility Types

The Director may apply the standards defined for new wireless facilities on existing structures or new freestanding support structures to any wireless facility type that is not directly addressed in these regulations as appropriate to minimize the potential adverse effects of wireless service facilities.

17.10.3.5:

e. Related Accessory Equipment

x.i. In order of preference, ancillary support equipment and/or accessory equipment for a WCF shall be located either within a building, underground, in a rear yard or on a screened rooftop area. Ground-mounted facilities that are located within the front or side yard or public right-of-way shall be undergrounded, unless the applicant demonstrates that undergrounding is not technologically feasible, and located so as to be screened by landscaping, in close proximity to existing above ground utilities (such as electrical tower or utility poles), light poles, trees of comparable height, water tanks, and other areas where the ground mounted facility will be designed and screened to blend with the existing natural or built surroundings.

A.ii. Utility and Power Lines. All utilities at wireless telecommunication’s facilities shall be installed underground whenever possible, as determined by the Department of Public Works, and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code, where appropriate, as well as City regulations applicable to excavations in public streets.

B.iii. The Excluding Small Cell Facilities in the Right-of-Way, the buildings, shelters, cabinets, and other accessory components shall be setback a minimum of 15 feet from each property line with a residential zone district or a lot containing a residential structure, or shall meet all setback requirements of the underlying zone districts, whichever results in the greater setback, and shall be grouped as closely as technically possible.

C.iv. Total footprint coverage area of the accessory equipment shall not exceed 500 square feet per provider, with a maximum of 1500 square feet total for three or more providers.

D.v. No accessory equipment or accessory structure shall exceed 1512 feet in height.
E.vi. Accessory equipment shall be painted a neutral color and enclosed by security fencing 6 feet in height and shall be landscaped with a buffer of plant materials that effectively screens the view of the accessory equipment from adjacent residential property and from the adjacent street; provided, however, that the City may waive such requirements, if the Director determines that the waiver will not (1) create an increased risk to public health or safety or (2) create a negative visual impact to adjacent residential property or from the adjacent street. Accessory equipment, including but not limited to remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the Accessory Equipment shall use Camouflage Design Techniques.

F.vii. No accessory equipment or accessory structures shall be sited in a manner that reduces the parking or landscaped areas for other principal uses on the parcel below the minimums required by the Zoning Ordinance.

17.10.4: Abandonment and Removal

If a support structure is abandoned and remains abandoned for a period longer than 12 consecutive months, the City may require that the support structure be removed. The City shall first provide written notice to the owner of the support structure of the requirement for removal and give the owner the opportunity to take such action(s) as may be necessary to reinstate the active use of the support structure within 30 days of receipt of the written notice. If the owner of the support structure fails to reinstate the active use of the support structure within the 30-day period, the owner of the support structure shall be required to remove the same within six months. Approval.
It is the intent of the City to provide for approval of WCFs administratively in cases where visual impacts are minimized, view corridors are protected, appropriate Camouflage and Concealment Design Techniques are employed to avoid adverse impacts on the surrounding area, and they are designed, maintained, and operated from the date of first installation and all times the WCF is thereafter operated, at all times to comply with the provisions of this Chapter and all applicable local, state and federal laws. Notwithstanding the approval of an application for Eligible Facilities Request as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in municipal code and any other applicable regulations.

1. Special Use Permit. Any application for a WCF which does not comply with the provisions of this Chapter may seek approval of a Special Use Permit by submitting an application to Planning Commission.

   a. All special use permit applications for a new wireless telecommunications facility shall contain a demonstration that the facility will be sited so as to minimize visual intrusion as much as possible, given the facts and circumstances involved, and will thereby have the least adverse visual effect on the environment and its character and on the residences in the area of the new wireless telecommunications facility.
b. Fifteen days prior to any Planning Commission hearing on a Special Use Permit for any WCF, notice shall be sent by the Applicant by mail of the location, time, and place of such hearing to all property owners within a 1,300-ft radius of the facility, using names and addresses appearing on the latest adopted tax roll of the county. The notifying radius shall be measured from the outer boundary of the subject parcel, or for those facilities in the public right of way, from the outer boundary of the closest parcel adjacent to the subject public right of way site.

c. Notice of the Planning Commission hearing for Special Use Permit shall also be made by posting a notice in a publicly visible location on the property in question at minimum fifteen days prior to such hearing.

Collocation and Separation Required. No new Towers, excepting Small Cell Facilities in the Right-of-Way, shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application, and sufficient separation of Towers is achieved. Evidence may consist of the following:

- No existing WCFs with a suitable height are located within the geographic area required to meet the Applicant’s engineering requirements;
- Existing WCFs do not have sufficient structural strength to support applicant’s proposed WCF;
- The Applicant’s proposed WCFs would cause electromagnetic interference with the existing WCFs or the existing WCF would cause interference with the Applicant’s proposed WCF;
- The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for Collocation;
- Towers over 90 feet in height shall not be located within one-quarter mile from any Existing Tower that is over 90 feet in height, unless the Applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant’s needs.

Setbacks. The following minimum setback requirements shall apply to all WCFs except for Alternative Tower Structures in the Right-of-Way; provided however, that the City may reduce standard setback requirements if the applicant demonstrates that the goals of this Section can be met through Performance Options or through Alternative Compliance, or through a Variance process. A Tower shall meet the greater of the following minimum setbacks from all property lines:

- The setback for a principal building within the applicable zoning district;
- Twenty-five percent (25%) of the facility height, including WCFs and Related Accessory Equipment;
- For sites within 100 feet of residential uses, facilities over 30 feet in height shall have a minimum setback from all adjacent residential property lines of one (1) foot for every foot in height.
17.10.5 **Penalty for Offenses.**

In the event of a violation of this ordinance or any of the terms and conditions of use permit or other approval issued pursuant to this ordinance, and in addition to any other remedy available to the City at law or equity, the City may impose and collect, and the holder of the permit for wireless telecommunications facilities shall pay to the City, civil penalties in an amount as determined by the Department of Public Works per day, until the violation or violations are abated to the satisfaction of the City.

17.10.6 **City Council Review.**

In January of each year City Council shall set a date within the year to review and update as needed this Article of the Lakewood Zoning Code.

17.10.7 **Private Enforcement.**

A. In addition to any other remedy available to the city under this Code, at law or in equity, violations of this Section 17.10 may be remedied as follows:

1. The city attorney or city prosecutor may bring a civil action to enforce this section and to obtain the remedies specified below or otherwise available in equity or at law.

2. Any person acting for the interests of himself, herself, or itself, or of its members, or of the general public (hereinafter “a private enforcer”) may bring a civil action to enforce this section with the remedies specified below, if both the following requirements are met:
   a. The action is commenced more than sixty (60) days after the private enforcer gives written notice of an alleged violation of this section to the city attorney and to the alleged violator.
   b. No person acting on behalf of the city has commenced or is prosecuting an action regarding the violation(s) which was or were the subject of the notice on the date the private action is filed.

3. A private enforcer shall provide a copy of his, her, or its action to the city attorney within seven days of filing it.

4. Upon settlement of or entry of judgment in an action brought pursuant to paragraph (7) of this subsection, the private enforcer shall give the city attorney a notice of that settlement or judgment. No private enforcer may settle such an action unless the city attorney or the court determines the settlement to be reasonable in light of the purposes of this section. Any settlement in violation of this requirement shall be set aside upon motion of the city attorney or city prosecutor to a court of competent jurisdiction.

5. Upon proof of a violation of this section, the court shall award the following:
   a. Appropriate injunctive relief and damages in the amount of either:
      i. Upon proof, actual damages;
      ii. With insufficient or no proof of damages, a minimum of five hundred dollars ($500.00) for each violation of this section (hereinafter “statutory damages”).

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Commented [ATT72]: This appears to delegate enforcement rights to private parties in violation of the state constitution prohibiting a City from delegating its authority in this manner.
Unless otherwise specified in this section, each day of a continuing violation shall constitute a separate violation. Notwithstanding any other provision of this section, no private enforcer suing on behalf of the general public shall recover statutory damages based upon a violation of this section if a previous claim brought on behalf of the general public for statutory damages and based upon the same violation has been adjudicated, whether or not the private enforcer was a party to that earlier adjudication.

b. Restitution to the appropriate party or parties of gains obtained due to a violation of this section.

c. Exemplary damages, where it is proven by clear and convincing evidence that the defendant is guilty of oppression, fraud, malice, or a conscious disregard for public health and safety.

d. Attorney's fees and costs reasonably incurred by a successful party in prosecuting or defending an action.

Any damages awarded in an action brought by the city attorney or city prosecutor shall be paid into the city's general fund, unless the court determines that they should be paid to a damaged third party.

6. Upon proof of at least one violation of this section, a private enforcer, the city prosecutor, city attorney, any peace officer or code enforcement official may obtain an injunction against further violations of this section or, as to small claims court actions, a judgment payable on condition that a further violation of this section occur within a time specified by the court.

7. Notwithstanding any legal or equitable bar, a private enforcer may bring an action to enforce this section solely on behalf of the general public. When a private enforcer does so, nothing about such an action shall act to preclude or bar the private enforcer from bringing a subsequent action on his, her, or its own behalf based upon the same facts.

8. Nothing in this section shall prohibit a private enforcer from bringing an action to enforce this section in small claims court, provided the relief sought is within the jurisdiction of that court.

**17.10.8 Severability.**

Should any section, subsection, paragraph, sentence, clause or phrase of this Article of the Lakewood Zoning Code or application thereof to any person or circumstance, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter, or its application to any other person or circumstance, and, to this end, the provisions of this chapter are declared to be severable.
Definitions from Section 13:

For the purposes of this chapter, the following words, phrases, and terms shall have the meanings set forth herein. Words not defined shall be given their common and ordinary 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, buildings, traffic signals, and similar alternative design mounting structures that are compatible with the natural setting and 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 title, including height limits as set forth in this title. This term also includes any Antenna or Antenna array attached to an Alternative Tower Structure. A stand-alone pole, including a replacement pole, in the Right-of-Way, streetlight, or traffic signal that accommodates Small Cell Facilities is considered an Alternative Tower Structure to the extent it meets the camouflage and concealment standards of this title.

**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, 5G, 4G, 3G, 2G, and any higher or lower frequency Antennas 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 WCF**: any person that submits an application to the City to site, install, construct, collocate, modify and/or operate a Wireless Communications Facility.

**Amateur Radio Towers and Antennae**: Broadcasting and receiving structures or devices used for personal pleasure or as a hobby.

**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. Base Station does include, without limitation:

1. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the City under this Chapter 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

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Commented [ATT1]: The FCC has exclusive authority over technical and operational matters related to the provision of wireless services, including RF interference and emissions exposure limits. Also, it is not clear what calling out 4G and 5G adds to this definition. Those terms stand for 4th generation and 5th generation technologies and do not refer to a specific frequencies. 4G and 5G refer to technical capabilities provided through more advanced levels of technology.

Commented [Secondpas2]: Strike

Commented [ATT3]: This change renders this section inconsistent with 47 C.F.R. §1.6100(b)(7). If approved under a separate process, the facility is considered existing and so long as the other criteria are met, it would be considered an EFR. Recommend harmonizing local law with controlling federal law to avoid potential conflicts with interpretation between state and federal law. Including provisions that conflict with controlling federal law represent a risk to the City for claims related to such conflicts.

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Document #5

This document contains the edits proposed by Lakewood Broadband, Council Member Gutwein, and AT&T.
2. Radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small-cell networks) that, at the time the relevant application is filed with the City under this title, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

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

Camouflage, Concealment, Or Camouflage Design Techniques: the designing of a WCF to alter its appearance in such a manner as to substantially integrate it into surrounding building designs and/or natural settings to minimize the visual impacts of the facility on the surrounding uses and ensure the facility is compatible with the environment in which it is located. A Wireless Communication Facility utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a utility tower, or (iii) uses a design which mimics and is consistent with the nearby natural or architectural features (such as a clock tower) 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: (1) mounting or installing a WCF on a pre-existing structure, and/or (2) 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. Co-location shall also include the location of communication facilities with other existing structures, including but not limited to water tanks, light standards, power poles, and other utility facilities and structures.

Director: The person, or that person’s designee, authorized by the City Manager to enforce and interpret this Zoning Ordinance.

Eligible Facilities Request: any request for modification of an Existing Tower or Base Station that it is not a Substantial Change, or that does not substantially change the physical dimensions of such tower or base station involving 1) collocation of new transmission equipment, 2) removal of transmission equipment, or 3) replacement of transmission equipment.

Eligible Support Structure: any Tower or Base Station as defined in this Section, provided that it is existing at the time the relevant application is filed with the City under this Section.

Evidence of Need: A coverage gap that exists when a remote user of those services is unable to either connect with the land-based national telephone network, or to maintain a connection capable of supporting a reasonably uninterrupted communication. When a coverage gap exists customers cannot receive and send signals, and when customers pass through a coverage gap their calls are disconnected.

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.

FCC: the Federal Communications Commission.

Hazardous Substance: any substance, chemical or waste that is identified as hazardous or toxic in any applicable federal, state or local law or regulation, including but not limited to petroleum products and asbestos.

Interference: physical interference and radio frequency interference.

Micro Cell Facility or microcell: a small wireless facility that is no larger than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve(12) inches in height, and that has an exterior Antenna, if any, that is no more than eleven (11) inches in length.

Monopole: a single, freestanding pole-type structure supporting one or more Antennas.

Over the Air Receiving Device (OTARD), an Antenna used to receive video programming from direct broadcast satellites direct broadcast satellite service, including home satellites that are 1M or less in diameter, broadband radio services and television broadcast stations, but shall not include Antennas used for AM/FM radio, amateur ("ham") radio, CB radio, Digital Audio Radio Services or Antennas used as part of a hub to relay signals among multiple locations.

Owner means a person with a legal or equitable interest in ownership of real or personal property.

 Permit means a permit issued and described in accordance with Laws, which is used to regulate, monitor, and control the improvement, construction, or excavation activities, or other work or activity, occurring upon or otherwise affecting Licensee’s ROW, including ROW use, building, and electrical permits.

Physical Interference means where equipment, vegetation, or a structure causes reduced use of another’s prior mounted equipment, or an obstruction in a necessary line-of-sign path.

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 Right-of-Way (ROW): any public street, way, alley, sidewalk, median, parkway, or boulevard that is dedicated to public use.

Radio Antenna, Amateur: A noncommercial device that is used for transmitting and receiving electro-magnetic waves.

Radio Frequency Emissions Letter: Radio Frequency Radiation (RFR) Study: a report-letter from the Applicant providing emissions measurements detailed within this Article and certifying all WOFs that are the subject of the application are in compliance shall comply with federal standards for radio frequency emissions.

Radio Frequency Interference means the emission or conduction of radio frequency energy (or electronic noise) produced by electrical and electronic devices at levels that interfere with the operation of adjacent or nearby equipment.

Radio Tower, Amateur: A structure that supports an antenna.

READILY APPARENT: For purposes of determining whether a WCF is readily apparent, the phrase means that the facility will be easily recognizable as a WCF in the discretion of the Director, viewing the facility as a whole and in the context of any adjacent improvements and

Commented [GAD6]: While this isn’t a term used in the ROW agreement, it is used in the code, and we do generally provide a definition in our MLA.

Commented [GAD7]: From MLA. Applies to ROW agreement, and new section on interference in Code.

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Commented [CC8]: Strike last part of this sentence. It is exempting (“shall not include”) relay hubs (receive AND transmitting devices). This may permit broadcasting mini towers on neighborhood homes. If you do not strike, you may be allowing mini antennas for a distributed antenna system via satellite. Ie, Satellite providers could offer customer discounts for using residential satellites as relay devices. Creates a lack of oversight. Can be addressed again at a future date.

Commented [GAD9]: From MLA, applies to new section of Code on interference.

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Commented [CC9]: Comment on the word "shall not include".

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Commented [GAD10]: From MLA, applies to new section on interference.

Commented [ATT11]: This standard is subjective and hard to define. The FCC Order requires that aesthetic requirements are preempted to the extent they are not (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance. FCC Order at ¶86.
Lakewood Zoning Ordinance –

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: an Alternative Tower Structure that is a newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or street light pole 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 Micro Cell Facility or to accommodate Collocation and replaces a pre-existing pole or structure.

Satellite Dish Antenna: A parabolic antenna intended to receive signals from orbiting satellites and other sources. Non-commercial dish antennas are defined as being less than four meters in diameter, while commercial dish antennas are usually those larger than four meters and typically used by broadcasting stations.

Setback: The minimum distance any building or structure must be separated from a specified point.

Sign: Any structure, which requires a permanent or temporary location, that has a visual display visible from a public right-of-way and is designed to identify, announce, direct or inform.

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 Towers (other than Towers in the Right-of-Way and Eligible Support Structures): the current boundaries of the leased or owned property surrounding the Tower or Eligible Support Structure and any access or utility easements currently related to the Site. A Site, for other Alternative Tower Structures, Base Stations, Micro Cell Facilities, and Small Cell Facilities in the Right-of-Way, is further restricted to that area comprising the base of the structure and to other related Accessory Equipment already deployed on the ground.

Small Cell Facility: a Wireless Communication Facility 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 no larger than seventeen cubic feet in volume. The following associated and accessory 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. Small cells may be attached to Alternate Tower Structures, Replacement Poles, and Base Stations. The definition of a Small Cell Facility shall also include a Micro Cell or Micro Cell Facility, as well as equipment for densifying technology.

Street: A public or private thoroughfare for vehicular traffic other than an alley or driveway.
Substantial Change for Eligible Facilities Request: 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:

(A) For Towers, other than Alternative Tower Structures or Towers in the Right-of-Way, it increases the height of the Tower by more than 10 percent (10%) or by the height of one (1) additional Antenna array, with separation from the nearest existing Antenna not to exceed twenty feet, whichever is greater lesser of other Eligible Support Structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is lesser greater.

(B) 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 ten (twelve 120 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 (6) feet.

(C) 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.

(D) 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 (10%) larger in height or overall volume than any other existing, individual ground cabinet associated with the structure.

(E) For any Eligible Support Structure, it entails any excavation or deployment outside the current Site.

(F) For any Eligible Support Structure, it would defeat the concealment elements of the Eligible Support Structure: For the purposes of this subsection (vi), a change that would undermine the concealment elements of this structure will be considered to defeat the concealment elements of the structure or

(G) For purposes of determining whether a Substantial Change exists, changes in height are measured from the original support structure in cases where deployments are on 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 Wireless Facilities including, but not limited to, Monopoles, Alternative Tower Structures, Replacement Poles, and other freestanding self-supporting pole structures.

Toll and Tolling: 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, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes self-supporting lattice towers, guyed towers or Monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, Alternative Tower Structures and the like.

Transmission Equipment: Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, Antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment, excluding OTARDS, 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 Equipment Shelter: An unattended structure such as a small building or cabinet(s) used to house equipment for a wireless communications facility associated with either a freestanding wireless communications facility or a structure or building mounted wireless communications facility.

Wireless Communications Facility or WCF: a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building, nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an Antenna or Antennas, Base Stations, support equipment, Alternative Tower Structures, Small Cell Facilities, and Towers. 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 title.

Wireless Communications Provider: A public or private company providing personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services.

Wireless Communications Site: Any use of property for antennae, equipment, and equipment shelter(s) employed in the reception, switching, and/or transmission of wireless telecommunication services including, but not limited to, paging, enhanced specialized mobile radio, personal communication services, microwave link antenna, cellular telephone, and other related technologies.
17.10.1: Purpose and Intent

17.10.1.2: Applicability

17.10.2: Wireless Facilities – By Zone District

17.10.3: Wireless Facility Standards

17.10.3.1: Wireless Stealth Facilities

17.10.3.2: New Wireless Facilities on Existing Structures

17.10.3.3: New Freestanding Support Non-Stealth Structures

17.10.3.4: Other Wireless Facility Types

17.10.3.5: Accessory Equipment

17.10.4: Abandonment and Removal
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ARTICLE 10: WIRELESS SERVICES AND COMMUNICATIONS

17.10.1: General

17.10.1.1: Purpose and Intent

This Article is intended to ensure that residents, public safety operations and businesses in the City have reliable access to personal wireless services and state of the art communications services in a way that reasonably preserves the aesthetic character and value of the community, and complies with Federal, State, and local laws, including but not limited to the National Environmental Policy Act (NEPA), the National Building Act, and the Americans with Disabilities Act (ADA).

It is the City’s intent to:

The City Council finds that these regulations are necessary to:

A. Provide for the managed development and installation, maintenance modification, and removal of wireless communications infrastructure in the City with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;

B. Minimize adverse visual effects of WCFs through thoughtful design, siting, and installation, including but not limited to camouflage design techniques, appropriate and effective screening, and equipment undergrounding whenever appropriate;

C. Encourage the location of Towers and Wireless Communications Facilities on a building, or the joint use of new and existing ground mounted facility tower sites as a primary option so to in a manner that-minimizes the total number of Towers needed throughout the community;

D. Require the collocation of WCFs wherever reasonably feasible;

E. Encourage owners and users of WCFs to locate them, to the extent possible, in areas where the adverse impact to the community, including real estate, is minimized;

F. Enhance the ability of wireless communications service technology providers to provide such services to the community quickly, effectively, and efficiently, and safely;

G. Effectively manage WCFs in the Public Right of Way:
H. Manage amateur radio facilities and over-the-air devices in the City:

A. Ensure the City has sufficient wireless infrastructure to support public safety and emergency response communications throughout the City;

B. Ensure access to reliable personal wireless services throughout all areas of the City; and in no event prohibit or have the effect of prohibiting the provision of personal wireless services;

C. Encourage the use of existing structures for the siting of facilities;

D. Encourage the location of new freestanding support structures in areas where any potential adverse impacts on the community will be minimized;

E. Minimize the potential adverse effects of wireless service facilities through the implementation of reasonable design, landscaping and construction practices; and

F. Conform to federal and state laws which exempt certain facilities, receiving dishes and antennas from local regulations.

17.10.1.2: Applicability

A. The standards in this Article shall control the design, location, alteration, installation and maintenance of WCF applications for Base Stations, Alternative Tower Structures, Towers, Micro Cells, and Small Cell Facilities as defined in Section 17.13.2 and further addressed herein.

B. The Requirements set forth in this Article shall not apply to:

1. Amateur radio Antennas that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive only Antennas, provided that the requirements that the height be no more than the distance from the base of all wireless service infrastructure in all zone districts. No provision in the Antenna to the property lines is met.

2. Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to the effective date of the latest revision of this Article of the City of Lakewood Zoning Code shall be required to become compliant under this Article within 5 years, or at a point in time as negotiated by the City and facilities owner.

Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to the effective date of Ordinance # 2019O-2020-1 shall not be required to meet the requirements of this Article shall apply to Chapter, other than the requirements of Section 17.10.3. Changes and additions to pre-existing WCFs (including trading out of Antennas for an equal number of Antennas) shall meet

Commented [ATT20]: With the exception of certain safety requirements, the facility is subject to the permit and any conditions included with when issued. Regulations cannot be applied retroactively.
applicable requirements of Section 17.10.3. Notwithstanding the foregoing, any modifications qualifying as an Eligible Facilities Request shall be evaluated under this Section.

3. Miscellaneous Antennas. Antennas used for reception of television, multi-channel video programming and/or radio such as Over-The-Air Receiving Device (OTARD) Antennas, television broadcast band Antennas, satellite earth station antennae 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 to the property line are met.

The Director or his or her designee has the authority to approve modifications to the height restriction related to OTARD Antennas and OTARD antenna structures, if in the reasonable discretion of the City, modifications are necessary to comply with federal law.

4. A temporary WCF installed upon the declaration of a state of emergency by the federal, state, or local government, and upon a written determination that such temporary WCF is specifically serving an emergent need of the general health, safety, and welfare of residents by need of the City, subject to approval by the City Council. Such WCF shall be subject to this Article immediately upon lifting the respective state of emergency.

or reasonable ability to obtain such written determination within 72 hours.

5. A temporary WCF installed for the purpose of providing sufficient coverage for a special event, subject to administrative approval by the City.

A. The siting of Distributed Antenna Systems (DAS) or wireless facilities located within and intended to provide wireless coverage within a structure.

B. Any dish antenna less than 40 inches in diameter located in a residential zone district; or

C. Any dish antenna less than 80 inches in diameter located in any other zone district.

17.10.2: Wireless Facilities – By Zone District

Table [17.4.1] identifies where the different types of wireless facilities are permitted as primary or accessory uses, by right or with a special use permit, and where these uses are prohibited in each zone district within the City of Lakewood.

17.10.3: Wireless Facility Operational Standards

17.10.3.1: Wireless Stealth Facilities

A. Review Requirements:

The installation of new wireless stealth facilities on any non-single-family or two-family structure may be allowed in any zone district if reviewed and approved in accordance with the Review of Supplemental Standards procedures identified in Article 2. The Director shall exercise discretion in applying the standards outlined for all new wireless facilities.
stealth facilities, where such standards are determined to be necessary to minimize the potential adverse effects of wireless service facilities. At a minimum the following standards shall apply:

1. The dimensions of the stealth facility must reasonably approximate the dimensions of the object they are being disguised as, and

2. The location of the stealth facility must be in concert with its surroundings.

17.10.3.2: New Wireless Facilities on Existing Structures

A. Review Requirements:

The installation of new wireless facilities on

A. Federal Requirements. All WCFs shall meet the current standards and regulations of the Federal Aviation Administration (FAA), the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Unless preempted by federal law, failure to meet such revised standards and regulations within 30 days of the City’s determination of such failure shall constitute grounds for the removal of the WCF by the City or owner at the WCF owner’s expense.

B. Permission to Use Public Right-of-Way or City-owned Public property. Prior to WCFs being sited in the ROW, the Applicant shall have an executed license agreement with the City, granting a non-exclusive license to use the Public Right-of-Way. Attachment of WCFs on an existing or replacement structures, 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, and Site specific approval pursuant to 17.10.4. The Applicant shall remain the owner of, and solely responsible for any WCF installed in the ROW. Prior to, or concurrently with, seeking land use approval for a WCF on Public Property, the Applicant shall execute a lease agreement with the City.

C. 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. If upon inspection, the City concludes that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have 30 days from the date of notice to bring such WCF into compliance by providing to the City an independent, third-party engineering certification paid for by the Applicant, that such Towers meet all building and safety codes of the City of Lakewood. The Applicant shall fully cooperate in arranging access for the inspection and may participate in the inspection. Upon good cause shown by the owner and meeting reasonable safety considerations, the City’s Chief Building Official or Director may extend such compliance period not to exceed 90 days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the City may be allowed to remove such WCF at the owner’s expense.
Lakewood Zoning Ordinance – Adopted January 26, 2015

a. Each wireless communication facility which contains trees, foliage or other landscaping elements, whether or not used as screening, shall be maintained in good condition at all times in accordance with the approved landscape plan, and the owner or operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping as promptly as reasonably possible. Amendments or modifications to the landscape plan shall be submitted for approval to the Director.

b. Certification must be provided upon request by the City that the proposed facility will at all times comply with all applicable requirements and standards pertaining to electromagnetic and/or radio frequency radiation.
Lakewood Zoning Ordinance – Adopted January 26, 2015

D. **Emergency.** In the event of an emergency or to protect the public health or safety, prior to the City accessing or performing any work on a facility on which a WCF Owner has installed Equipment, City may require WCF Owner to deactivate such Equipment if any of City’s employees or agents must move closer to the Equipment than the FCC’s recommended minimum distance. In such case, City will contact WCF Owner to request immediate deactivation.

E. **Non-Interference.** The following provisions shall apply to ensure and/or avoid interference (both physical interference and Radio Frequency Interference) resulting from Licensee’s installation, operation and/or maintenance of its Equipment:

   a. **Radio Frequency Interference.** All WCF Owners shall ensure that the Equipment will not cause Radio Frequency Interference with Wireless Communication Facilities or devices, cable television, broadcast radio or television systems, satellite broadcast systems, or City traffic, public safety or other communications signal equipment existing at the time of installation of the Equipment.

   b. **Existing Uses.** WCF Owners shall not interfere in any manner with the existing uses of City property including Rights-of-Way, and including sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electric and telephone wires, streetlight fixtures, cable television, and other telecommunications, utility, and municipal property without the express written approval of the Owner(s) of the affected property or properties.

   c. **City Communications.** WCF Owners shall not interfere in any manner with current or future City or other governmental public safety communication.

   d. **Remedies.** If Interference occurs and continues for a period in excess of 24 hours following notice to the interfering party via telephone, the City may require the interfering party to reduce power or cease operations of the interfering equipment until the Interference is cured.

F. **Relocation, Abandonment and Removal.** After the WCF is constructed, if a WCF has not been in use for a period of three months, the owner of the WCF shall notify the City of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is contracted and is not operated for a continuous period of six months shall be considered abandoned. The City, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within 60 days of receipt of written notice from the City. If such WCF is not removed within said 60 days, the City may remove it at the owner’s expense and any zone district if approved permits for the WCF shall be deemed to have expired. For any public project, a WCF may be required to relocate at WCF Owner’s expense.

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Commented [ksf30]: The “Emergency” and “Non-Interference” sections would ordinarily go in the MLA or ROW use agreement, and are included here because there are not in the current agreements that Lakewood is using.

Commented [ATT31]: 30 days may not be enough time to remove the facility, especially if demo permits are required or due to inclement weather or any other unforeseen factors that might cause a delay.
G. Hazardous Materials. No Hazardous materials shall be permitted in association with WCFs, except those necessary for the operation of the WCF and only in accordance with all applicable laws governing such materials.

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

I. Site Safety from Unauthorized Access. All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically, all antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

J. Authority to Inspect Facilities. In order to verify that the holder of a special use permit or other approval for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, and building codes, laws, ordinances and regulations and other applicable requirements, the City may designate persons to conduct an inspection on its behalf of all facets of said permit holder’s, renter’s, lessee’s or licensee’s placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

K. The owner or operator of any wireless communications facility shall maintain with the City, at all times, current contact and site information. Applicant shall notify City of any changes to the information submitted within thirty days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:
   a. Identity, including name, address, and telephone number, and legal status of the owner of the facility including official identification numbers and FCC certification, and, if different from the owner, the identity and legal status of the person or entity responsible for operating the facility;
   b. Name, address and telephone number of a local contact person for emergencies;
   c. Type of service provided;
   d. Identification signs, including emergency phone numbers of the utility provider, shall be posted at all communication facility sites;

L. Each owner or operator of a wireless communications facility shall routinely and regularly, no less than annually, inspect each site to ensure compliance with the standards as set forth in this section.
17.10.4 Review Procedures and Requirements

A. Permit Required

No new WCF shall be constructed and no Collocation or modification to any WCF may occur except after a written request from an Applicant, reviewed and approved by the City in accordance with this Chapter. All WCFs except Eligible Facilities Requests which are reviewed under subsection (a)(3) of this Section, shall be reviewed pursuant to the following procedures. All WCF permits shall expire and be of no further force and effect 180 days following the date of approval unless, prior to the date of expiration: (1) Construction has been diligently pursued towards completion of the project, or (2) 180-day extension of the permit has been 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 City’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.

B. Bond Required

Prior to issuance of any permit, the Applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, jointly required to execute and file with the City a bond, or other form of security acceptable to the City Attorney as to type of security, and the form and manner of execution, in the amount as determined by the Department of Public Works for construction of a tower facility or a co-location on an existing tower or other structure, and with such sureties as are deemed sufficient by the City Attorney to assure the faithful performance of the terms and conditions of this chapter and conditions of any special use permit, including payment of costs of future demolition of an abandoned tower or other facilities. The full amount of the bond or security shall remain in full force and effect while the facility is in existence and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit or other approval.

C. Insurance Required

1. Except as provided in or supplemented by any franchise agreements, Right of Way Agreement, Master License Agreement or Franchise Agreement/license, a telecommunications carrier shall secure and maintain public liability, property insurance, and umbrella coverage in at least the following amounts:
   a. Public liability: $2,000,000 per/person/per occurrence
   b. Property damage: $2,000,000 per any one occurrence
   c. Umbrella liability: $5,000,000

2. The public and personal liability and property damage insurance policy shall specifically include the City, its employees, agents, and members of the City Council as additional insureds.

3. The public and personal liability and property damage insurance policies shall be issued by an agent or representative of an insurance company licensed to do
business in the State and which has one of the three highest or best ratings from the Alfred M. Best Company.

4. The public liability and property damage insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days written notice in advance of the cancellation of the policy.

5. Renewal of replacement policies or certificates shall be delivered to the City at least 15 days before expiration of the insurance which such policies are to renew or be replaced.

6. Before a telecommunications system provides telecommunications service to subscribers, the telecommunications carrier shall deliver the policies or certificates representing the insurance to the City as required herein.

7. Worker’s compensation within statutory limits and employer’s liability insurance with limits of not less than $1,000,000.

8. The liability insurance policies required by this section shall be maintained by the grantee throughout the term of the telecommunications license or franchise. The policy may not be canceled nor the intention not to renew be stated until 90 days receipt by the City, by registered mail, or a written notice addressed to the City Engineer of such intent to cancel or not to renew. Within 60 days after receipt by the City of said notice, the grantee shall obtain and furnish to the City replacement insurance policies meeting the requirements of this section.

9. Grantee shall provide the City with evidence of insurance for each of the coverage’s described above at least 10 days prior to construction and/or occupancy of any site subject to this chapter.

D. Emissions Requirements

1. Per Submittal Requirements within this Article, any new facility application or request involving a substantial change to an existing facility will be required to provide a statement of Radio Frequency Radiation Study (RFR) confirming current assessed Radio Frequency (RF) exposure limits if such new WCF or substantial change to an existing WCF increases Radio Frequency from its own facility, or increases Radio Frequency in combination with other facilities.

2. The City reserves the right to require an annual Radio Frequency report to be provided to the Department of Public Works upon request for any facilities subject to the National Environmental Policy Act (NEPA).

   The City and/or its assigned agents reserve the right to measure, at random, the radio-frequency emissions of any facility and to review or revoke any permit under this Article if a wireless cell facility demonstrably increases signal output above the Uncontrolled/General Population Maximum Permissible Exposure (MPE) limits imposed by the FCC (47 CFR Sec. 2.2).

3. Any operational or technological changes to an approved WCF that affects the facility’s radio frequency emissions shall be reported promptly to the City.

E. Review Procedures for certain all WCFs, including Base Stations, Alternative Tower Structures, Small Cell Facilities, and Alternative Tower Structures within Public Rights-of-Way. Applications for these WCF facilities shall be reviewed by the Public Works

Commented [ATT38]: The City’s authority per the Telecom Act of 1996 is limited to the placement, construction, and modification of wireless services. The regulation of RF emissions is the exclusive authority of the FCC.

Commented [ATT39]: This provision would be preempted by federal law as it constitutes an attempt to regulated operational and technical aspects of a wireless facility which is subject to the comprehensive and exclusive jurisdiction of the FCC and federal law.
Department for conformance to this Section and using the Design Review procedures set forth in Section 17.10.5 for WCFs in the Right-of-Way that are found to have a significant visual impact (i.e., proximity to historical sites), be incompatible with the structure of surrounding area, or not meet the intent of these provisions, the City may refer the application to Planning Commission for a Special Use Permit of Supplemental Standards Determination.

F. Review Procedures for WCFs, including Towers. Towers, other than those defined or excepted in (E) above, must apply for Special Use Permit Review approval. These WCFs shall be reviewed for conformance using the procedures set forth in Section 17.10.5. 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 City.

G. Review Procedures for Eligible Facilities Requests.

1. Eligible Facilities Requests shall be considered a permitted use, subject to administrative review. The City shall prepare, and from time to time revise and make publicly available, an application form which shall require submittal of information necessary for the City to consider whether an application is an Eligible Facilities Request. Such required information shall include, without limitation, whether the project:

   a. Constitutes a Substantial Change;
   b. Violates a generally applicable law, regulation, or other rule codifying objective standards reasonably related to public health and safety.

Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Director shall review such application to determine whether the application so qualifies for an Eligible Facilities Request. Timeframe for Review. Subject to the Tolling provisions of subparagraph d. below, within 60 days of the date on which an Applicant submits an application seeking approval under this Section, the City shall approve the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable codes.

2. Review Procedures for certain WCFs, including Towers. Towers, other than those defined or excepted in (1) above, must apply for Special Use Permit Review approval. These WCFs shall be reviewed for conformance using the procedures set forth in Section 17.10.5. 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 City.

Review Procedures for Eligible Facilities Requests. Eligible Facilities Requests shall be considered a permitted use, subject to administrative review. The City shall prepare, and from time to time revise and make publicly available, an application form which shall require submittal of information necessary for the City to consider whether an application is an Eligible Facilities Request.
necessary for the City to consider whether an application is an Eligible Facilities Request. Such required information shall include, without limitation, whether the project:

Constitutes a Substantial Change;

b. Violates a generally applicable law, regulation, or other rule codifying objective standards reasonably related to public health and safety.

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

Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Director shall review such application to determine whether the application so qualifies for an Eligible Facilities Request.

Timeframe for Review. Subject to the Tolling provisions of subparagraph d. below, within 60 days of the date on which an Applicant submits an application seeking approval under this Section, the City shall approve the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable codes.

3. Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be Tolled only by mutual agreement of the City and the Applicant, or in cases where the Director determines that the application is incomplete:

1. To toll the timeframe for incompleteness, the City must provide written notice to the Applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application; such delineated information is limited to documents or information meeting the standard under paragraph [a](i) above.

2. The timeframe for review begins running again the following business day after the Applicant makes a supplemental written submission in response to the City’s notice of incompleteness.

3. Following a supplemental submission, the City will notify the Applicant within 10 business days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is Tollled in the case of second or subsequent notices pursuant to the procedures identified in paragraph [d.](ii). In the case of a second or subsequent notice of incompleteness, the City may not specify missing information or documents that were not delineated in the original notice of incompleteness.

4. Failure to Act. The City shall make every effort to review any request seeking approval for an Eligible Facilities Request within the herein applicable timeline unless, working with the Applicant, a new timeframe is established. In the event the City fails to act on a request seeking approval for an Eligible Facilities Request under this Section within the timeframe for review, or the timeframe agreed upon with the Applicant (accounting for any Tolling), the request shall be
5. Interaction with Telecommunications Act Section 332(c)(7). If the City determines that the Applicant’s request is not an Eligible Facilities Request as delineated in this chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC’s Shot Clock order, will begin to run from the issuance of the City's decision that the application is not a covered request. To the extent such information is necessary, the City may request additional information from the Applicant to evaluate the application under Section 332(c)(7) reviews.

The request becomes effective when the Applicant notifies the City in writing after the review period, including allowed extensions, has expired (accounting for any Tolling) that the application has been deemed granted. The request becomes effective when the Applicant notifies the City in writing after the review period, including allowed extensions, has expired (accounting for any Tolling) that the application has been deemed granted.
   a. Small Cell Facilities in the Right-of-Way shall be considered a permitted use, subject to administrative review as set forth in Subsection A.1.
   b. The City shall prepare, and from time to time revise, an application form which shall require submittal of information necessary for the City to consider whether a project is eligible as a Small Cell Facility in the Right-of-Way, meeting certain criteria.

   The application shall not require the Applicant to demonstrate a need or business case for any proposed modification or Collocation.

   c. Upon receipt of an application for a Small Cell Facility in the Right-of-Way pursuant to this Section, the Public Works Department shall review such application to determine whether the application is complete.

   d. Timeframe for Review. Within 90 calendar days of the date on which an Applicant submits an application seeking approval under this Section, the City shall take action on the application unless it determines that the application is not covered by this Subsection, or otherwise in non-conformance with applicable code.

I. Submittal Requirements for all new WCFs, including Small Cell Facilities.
   1. In addition to submittal requirements of Chapter 17.2, the following supplemental items are required for all WCF applications:
      a. Project Description Summary: A brief project description for the proposed WCF, to include: 1) Number and sizes of antennas and approximate orientation, 2) copy of the respective FCC license, 3) heights of proposed facilities, 4) equipment enclosure type and size, 5) materials and colors of antennas and any equipment enclosure, 6) description of towers or other structures necessary to support the proposed facilities, 7) description of lighting, signage and landscaping proposed, and 8) other technical information regarding transmission equipment such as maximum power output and frequencies.
      b. 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.

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Radio Frequency Emissions Letter

Radio Frequency Radiation (RFR) Study

For the sole purpose of verifying compliance with the FCC radio frequency emission standards, an emissions report shall be submitted which measures the predicted and actual levels of electromagnetic field radiation emitted by the proposed facility operating alone and in combination with radiation emitted from other existing or approved facilities that can be detected at the proposed facility site. Radiation measurements shall be based on all proposed (applications filed and pending), approved, and existing facilities operating at maximum power densities and frequencies within a minimum 1300 ft radius of the proposed facility. The RFR Study shall identify the following:

1. the existing and predicted electromagnetic field radiation in table form, specifically delineating both the General Population Exposure and Occupational Exposure
2. any measures required to comply with the FCC standards for predicted exposure levels
3. a summary of the conclusions of the report, and
4. details for any signage, barriers or similar mitigation that is recommended or required.

The RFR Study shall be prepared by a qualified third-party expert. If mitigation is required by FCC radio frequency emission standards, the details for signage, barriers or other physical improvements shall also be included on the project plans prepared for the facility. It is the responsibility of the Applicant to determine the location and power of existing facilities;

Environmental Assessment

Pursuant to NEPA, any application wishing to construct a facility that uses an FCC license must submit an environmental assessment to the FCC, or alternately, certify to the City by written statement that such facility is categorically excluded per 47 C.F.R. § 1.1307. An environmental assessment is required if the proposed construction:

- Will be in a wilderness area or wildlife preserve (generally on federal land);
- Might affect threatened and endangered species or their habitat (Endangered Species Act);
- Might affect properties included or eligible for inclusion in the National Register of Historic Places or Indian religious and cultural sites;
- Will be in a flood plain;
- Will involve "significant changes in surface features" during construction (e.g., wetlands, water diversion, deforestation);
- Will be taller than 450 feet and so might affect migratory birds;
- Involves high intensity lighting in a residential area; or
- Would cause radio frequency emission exposure in excess of FCC-established limits.

Commented [Secondpas43]: Section c. derived as adopted by City of Larkspur CA.

Commented [ATT44]: The NEPA process is a federal review process that is independent from a local siting review. This type of regulation would also be preempted by the 2018 FCC Order to the extent it is unreasonable (as it duplicates a separate federal process) and represents the application of review criteria more burdensome than those applied to other types of infrastructure deployment. 2018 FCC Order, 18-133, ¶86.
Any Applicant seeking to build a WCF that falls into any category requiring an environmental assessment and seeking not to submit an environmental assessment, must obtain and provide a "findings of no significant impact" before site construction. Building without adhering to the legal requirements of 47 CFR 1.1301-1.1319 can constitute a violation of FCC rules and may subject the constructing party to potential enforcement action:

d. **Title Report.** For any wireless facility proposed to be installed on any private property, not owned or controlled by the City, the Applicant must submit a title report, issued within 30 days prior to the date the Applicant filed the application;

e. **Peer Review.** Prior to accepting an application as complete, the city may at its sole discretion require a peer review of the project be conducted by an independent qualified RF engineering consultant, as deemed necessary to confirm compliance with FCC radio frequency emission standards. The consultant shall be selected by the City and paid for by the project Applicant. If peer review is required, the application shall include sufficient information for the city-retain consultant to conduct such review for compliance with FCC radio frequency emission standards;

f. **Photo simulations.** The Applicant shall provide photo simulations of the proposed facility from key public viewpoints based upon consultation with city staff. Photo-simulations shall display existing and proposed views, and include the date(s) when the base photo was taken, excluding applications for small cell facilities;

g. **Noise Analysis.** A noise analysis for emergency generators or other noise-producing facilities;

h. **Landscape Plan.** A landscape and irrigation plan, showing all existing and proposed improvements, location of proposed plantings and type of landscape material, for proposed ground-mounted facilities including equipment cabinets;

i. **Elevations.** Elevations showing all sides of the proposed facility, and including the following information:
   1. Elevations and sections of the site displaying site topography, proposed facilities including towers, equipment shelter and existing buildings,
   2. Wall, roof, tower and antenna materials,
   3. Fencing, air conditioning units and outdoor lighting, if any,
   4. Rooftop or building features such as vents, chimneys and antennas, and
   5. Building or tower height as measured from natural grade.

j. **Inventory of Sites.** Each Applicant for a WCF shall provide to the City a narrative description and data in a format acceptable to the City showing the
Applicant’s currently proposed WCFs within the City, and outside of the City within one half-mile of its boundaries. This provision is not intended to be a requirement that the Applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the City. This information will be used to assist in the City’s comprehensive planning process, and promote Collocation by identifying areas in which WCFs might be appropriately constructed for multiple users. The City may share information regarding the location of sites and the owners or managers of such sites with other Applicants applying for administrative approvals or conditional permits under this section or other organizations seeking to locate WCFs within the jurisdiction of the City, provided however, that the City, is not, by sharing such information, in any way representing or warranting that such sites are available or suitable:

k. **Load Certification.** The owner of a proposed new tower shall provide certification with documentation (structural analysis) including calculations that the telecommunication facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, City, state and federal structural requirements for loads, including wind and ice loads;

l. **Written Statement.** Written representation that Applicant shall be responsible for paying all charges for any electricity furnished by a utility to Applicant and for charges for furnishing service to the Equipment. When the Equipment requires an electric meter as determined by the utility provider, the Applicant shall install or cause to be installed a separate electric meter on a ground mounted pedestal or on Applicant’s pad mounted equipment cabinet as required by the electric provider for the operations of its equipment;

m. **Abandonment and removal Affidavits.** Affidavits shall be required from the owner of the property and from the Applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of six (6) months.

J. **Consolidated applications.** The City shall allow a wireless provider to file a multi-site permit seeking approval for up to ten (10) permits for Small Cell Facilities at a given time. Each individual site shall be processed as a separate permit in order to facilitate recording site addresses, utility company requirements, and timely inspection scheduling. The City’s denial of any individual small cell facility is not a basis to deny the application as a whole or any other small cell facility incorporated within the consolidated application.

K. **Consultants for Application Review.** The City may hire a consultant and/or expert necessary to assist the City or any of its Departments in reviewing and evaluating the application for a facility, including the construction and modification of the site, once permitted, and any site inspections.
1. An Applicant shall deposit with the City escrow funds sufficient to reimburse the City for all reasonable costs of the City’s consultant in providing expert evaluation and consultation to any agency of the City in connection with the review of any application, including any expert consultation services deemed necessary by the City and in an amount to be determined by the City. The placement of the deposit with the City shall occur at such later time as the City may direct. The City will maintain a separate escrow account for all such funds. The City’s consultants/experts shall invoice the City Department employing its services related to the application. In the event that the amount held in escrow by the City is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall, upon request of the Applicant, be promptly refunded to the Applicant.

2. Escrow Amount. The total amount of the funds needed as set forth in this section may vary with the scope and complexity of the project, the completeness of the application, and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. When notified by the City that additional escrow is required, the Applicant may request copies of invoices paid to consultants and/or experts. If the Applicant finds errors in those invoices, the Applicant may ask the City to audit those specific items for reasonableness and may request relief therefrom.

3. Fee Cap. Notwithstanding the above, there shall be a fee cap as to the total consultant fees to be charged to the Applicant in a case, which shall be the greater of $17,000 or 10% of the highest annual lease payment to be made by the Applicant to the owner of the property under the lease authorizing placement of the wireless telecommunications facilities at a given site. However, the fee cap shall not apply as to any fees which the City determines to be attributable to the dilatory or otherwise bad faith actions of the Applicant in providing a complete application or in proceeding with a public hearing.

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

1. Conditions of Approval for WCF permits. In addition to any other conditions of approval permitted under federal and state law and this Code that the Director deems appropriate or required under this Code, all WCF permits under this subsection shall include the following conditions of approval:
   a. No Automatic Renewal. The grant or approval of a WCF permit shall not renew or extend the underlying permit term.
   b. Compliance with Previous Approvals. The grant or approval of a WCF permit shall be subject to the conditions of approval of the underlying permit.
c. As-Built Plans. The Applicant shall submit to the Director an as-built set of plans and photographs depicting the entire WCF as modified, including all transmission equipment and all utilities, within ninety (90) days after the completion of construction.

d. Indemnification. To the fullest extent permitted by law, the Applicant and any successors and assigns, shall defend, indemnify and hold harmless [the] city, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including but not limited to, actual attorney fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, related to the WCF permit and the issuance of any permit or entitlement in connection therewith. The Applicant shall pay such obligations as they are incurred by [the] city, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the city reasonably determines necessary to protect the city from exposure to fees, costs or liability with respect to such claim or lawsuit.

e. Compliance with approved plans. The proposed project shall be built in compliance with the approved plans on file with the Department of Public Works.

f. Violations. The WCF shall be developed, maintained, and operated in full compliance with the conditions of the WCF permit, any other applicable permit, and any law, statute, ordinance or other regulation applicable to any development or activity on the site. Failure of the Applicant to cease any development or activity not in full compliance shall be a violation of these conditions. Any violation of this Code, the conditions of approval for the small wireless facility permit, or any other law, statute, ordinance or other regulation applicable to any development or activity on the site may result in the revocation of this permit. The remedies specified in this section shall be cumulative and the city may resort to any other remedy available at law or in equity and resort to any one (1) remedy shall not cause an election precluding the use of any other remedy with respect to a violation.

g. In the event that a court of competent jurisdiction invalidates or limits, in part or in whole, Title 47, United States Code, section 1455, such that such statute would not mandate approval for the collocation or deployment granted or deemed granted under a WCF permit, such permit shall automatically expire twelve (12) months from the date of that opinion.

h. The grant, deemed-grant or acceptance of a WCF permit shall not waive and shall not be construed or deemed to waive the city’s standing in a court of competent jurisdiction to challenge Title 47, United States Code, section 1455 or any WCF permit issued pursuant to Title 47, United States Code, section 1455 or this Code.

Commented [ATT51]: This is being reviewed by AT&T
2. **Additional Notice to Neighbors.** After an application to allow the installation of a wireless facility subject to the approval of a WCF permit pursuant to this Code is complete, the Applicant shall provide property owners notice of such installation pursuant to 17.10.4, (L),(1),(i),(1) of this Article. Failure of the city to provide notice pursuant to this subsection shall not be grounds to challenge a determination provided that the notice otherwise required by law has been provided.

1. Upon execution of any administrative decision approving or approving with conditions the application and prior to any construction, notice shall be sent by mail of the administrative approval by the Applicant to all property owners within a 1,300-ft radius of the facility, using names and addresses appearing on the latest adopted tax roll of the county. The notifying radius shall be measured from the outer boundary of the subject parcel, or for those facilities in the public right of way, from the outer boundary of the closest parcel adjacent to the subject public right of way site. Notice shall be sent no later than 15 days after such decision has been made by the City.

2. Notice of the administrative approval shall also be made within 15 days of such decision by posting a notice in a publicly visible location on the property in question.

**M. Compliance with Applicable Law.** Notwithstanding the approval of an application for new 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 the Municipal Code and any other applicable laws or regulations. In addition, all WCF applications shall comply with the following:

1. Comply with any permits or licenses 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. All wireless communication facilities and related equipment, including lighting, fences, shields, cabinets, and poles, shall be maintained in good repair, remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, so as to minimize occurrences of dangerous conditions or visual blight, and in no instance more than ten (10) calendar days from the time of notification by the City or after discovery by the owner or operator of the Site. Each wireless communication facility which contains trees, foliage or other landscaping elements, whether or not used as screening, shall be maintained in good condition at all times in accordance with...
the approved landscape plan, and the owner or operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping as promptly as reasonably possible. Amendments or modifications to the landscape plan shall be submitted for approval to the Director. Notwithstanding the foregoing, any graffiti on WCFs located in the Public Rights-Of-Way or on Public Property may be removed by the City at its discretion, and the owner and/or operator of the WCF shall pay all costs of such removal according to the City Municipal Code guidelines as set forth by the City within 30 days and after receipt of an invoice from the City.

Any failure by the city to enforce compliance with any applicable laws shall not relieve any Applicant of its obligations under this Code, any permit issued under this Code, or any other applicable laws and regulations.

17.10.5 Design Standards

A. Review Requirements. The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this Chapter as specified below; provided, however, that the City may waive these requirements if it determines that the goals of this Chapter are better served thereby. To that end, WCFs shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the City, consistent with other provisions of this Code. Notwithstanding the foregoing, the Planning Director shall have the authority to promulgate design standards for small cell facilities in the rights of way, which shall govern those types of WCFs. All current design standards as outlined in this section shall be employed and directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments, and shall be applicable to both newly constructed WCFs, permitted but not yet constructed WCFs, as well as pre-existing WCFs applying for a substantial change.

B. Camouflage/Concealment and Shrouding.

All WCFs and any Transmission Equipment shall, to the extent possible, use Camouflage Design Techniques including, but not limited to the use of materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF into the surrounding natural setting and built environment.

a. Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g., proximity to historic, natural, or aesthetically significant structures or areas, views, and/or community features or facilities). In such instances where WCFs are located in areas of high visibility, they shall (where possible) be designed to minimize their profile.
b. The camouflage design may include the use of Alternative Tower Structures should the Public Works Department determine that such design meets the intent of this Code and the community is better served thereby.

c. All WCFs, such as Antennas, vaults, equipment rooms, equipment enclosures, and Tower structures shall be constructed out of non-reflective materials (visible exterior surfaces only).

2. Spacing and Collocation
   a. Collocation Standards
      i. New communication facilities shall be co-located with existing facilities and with other planned new facilities whenever feasible and aesthetically desirable. No new Towers, excepting Small Cell Facilities in the Right-of-Way, shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application, and sufficient separation of Towers is achieved. Evidence may consist of the following:
         i. No existing WCFs with a suitable height are located within the geographic area required to meet the Applicant’s engineering requirements;
         ii. Existing WCFs do not have sufficient structural strength to support Applicant’s proposed WCF;
         iii. The Applicant’s proposed WCFs would cause electromagnetic interference with the existing WCFs or the existing WCF would cause interference with the Applicant’s proposed WCF;
         iv. The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for Collocation;
         v. Towers over 90 feet in height shall not be located within one-quarter mile from any Existing Tower that is over 90 feet in height, unless the Applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant’s needs.

      ii. WCFs shall be designed and constructed to permit the facility to accommodate WCFs from at least two (2) wireless service providers on the same WCF, to the extent it is feasible in good faith based upon construction, engineering and design standards, except where such Collocation would materially compromise the design intent of the WCF, particularly visually.
iii. In order to facilitate co-location, conditions of approval for conditional use permits for new facilities shall require all service providers to cooperate in the siting of equipment and antennas to accommodate the maximum number of operators at a given site where found to be feasible and aesthetically desirable. Where feasible and aesthetically desirable, service providers are encouraged to co-locate with other facilities such as existing buildings, water tanks, light standards, and other utility structures where the co-location is found to minimize the overall visual impact.

iv. Service providers shall exhaust all reasonable measures to co-locate their communications facilities on existing towers, existing alternative building or other structures within the City, or with or within existing ancillary support equipment facilities prior to applying for new communication facility sites. The service provider shall provide evidence to the City that the provider has contacted all other potential providers who have, or who are reasonably likely to be, installing facilities within the vicinity of the proposed facility and has offered to participate in a joint installation project on reasonable terms. Such evidence should include but is not limited to copies of written requests and responses, along with any letters of rejection, stating the reason for rejection.

b. Spacing Standards. No new free-standing small cell facility shall be within 1,300-ft of another free-standing small cell facility on the right of way. These separation requirements do not apply to attachments made to existing alternative tower structures.

i. Exemptions. The Public Works Department may exempt an Applicant from these separation requirements if 1) the Applicant demonstrates Evidence of Need 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 1,300-ft from another small cell facility will meet the intent of reducing visibility and visual clutter of small cell facilities to the extent possible.

3. Location Preferences. Small Cell Wireless Facilities in the public roads shall be installed in the most highly preferred locations as listed below. Locations listed in order of most preferred locations to least preferred locations with the first location listed being most desirable.

a. Preferred Locations—Non-Residential zone districts, excepting parks, ordered from most preferred to least preferred:

Commented [Secondpas58]: As adopted by City of Larkspur CA

Commented [ATT59]: This is an unreasonable separation requirement that will result in an effective prohibition of service especially given the limit range of higher frequencies used on small cells.

Commented [Secondpas60]: Many cities in Colorado adopted preferred location standards. This ultimately helps with designing a masterplan for the City. PLEASE REVIEW carefully the sequence of parcels.

Commented [ATT61]: Aesthetic requirements only apply to the extent technically feasible. Recommend limiting this to new poles rather than replacements to avoid a establishing an effective prohibition. From a practical perspective, small cells serve the immediate area where they are located, not allowing them in an area means that area will lack service. With a limited range, you cannot install small cells in an industrial zone and have it cover a residential zone. It is understood that there is a way to overcome this in some instances, however just including the preference order assumes that in certain cases it is feasible to do this when in fact it is not feasible.
Lakewood Zoning Ordinance – Adopted January 26, 2015

i. Parcels in the industrial zones, then
ii. Parcels in commercial zones;
iii. Parcels in the mixed use zones
iv. City owned or controlled parcels or public facilities, excepting parks and historic City-owned properties; then
v. Agricultural sites
vi. Any public road within a 1,500-foot radius of a day care center or school, as defined by sections 1596.78 of the Health and Safety Code and 26054 of the Business and Professions Code, respectively.

vii. Any public road within a 1,500-foot radius of a City, County, or State Park, open space area, or City sports field.

viii. Any public road adjacent to mixed-use sites with residential dwellings.
ix. Any public road right of ways located in an exclusively residential zoning district.

4. Preferred Locations—Residential Zones, Park, and Open Space Parcels. If a facility is proposed in a residential zone or adjacent to or on a parcel used for open space or park purposes, all facilities should be located according to the following preferences, ordered from most preferred to least preferred, with the first location listed being most desirable:

1) City owned or controlled parcels not for park or open space uses; then
2) Parcels that contain non-residential uses and do not contain residential or park or open space uses; then
3) Parcels that do not contain single-family homes, multi-family homes, or park or open space uses; then
4) City owned or controlled parcels; then
5) In the public right-of-way abutting a residential zone; then
6) All other parcels

a. When a lower ranked alternative is proposed, the application must include technical information demonstrating that a higher ranked option is not technically feasible in light of the provider's service objectives.

5. Lights and other attachments.

a. WCFs shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purpose. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties or environs. Lighting shall be shielded or directed to the maximum extent so as to minimize the
amount of glare and light falling onto nearby properties, particularly residences.

b. All exterior lighting within equipment yards shall be mounted on poles or on the building wall below the height of the screen wall or fence.

c. No Tower shall have constructed on, or attached to, any additional platform, catwalk, crow’s nest or like structure (other than those required by industry standards or federal regulations), except during periods of construction or repair.

d. Signs and advertising. The use of any portion of a Tower for signs or advertising devices other than public safety warnings, certification, or other requires seals on any wireless communication device or structure is prohibited. However, the telephone numbers to contact in an emergency shall be posted on each facility. Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration sign as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

e. Flush-mounting of antennas shall be employed wherever feasibly possible when such mounting does not detract from adjacent views or overall aesthetics.

f. To the extent possible, accessory equipment should be placed within the pole base rather than on the outside of the pole.

g. The use of small, decorative structures as mounting locations should be limited in historic districts.

6. Noise. Noise generated on the site must not exceed the levels permitted in the City of Lakewood Municipal Code, except that a WCF owner or operator shall be permitted to exceed such noise standards for a reasonable period of time during repairs, not to exceed two (2) hours without prior authorization from the City. If "Plainly Audible" noise nuisance complaints are received by the City, a site noise compliance evaluation and mitigation report shall be submitted to the City within 30 days by Owner or Operator of WCF. Owner or Operator of WCF, at Owner
expense, must make every effort to mitigate and return WCF into compliance within a reasonable time frame, not to exceed 90 days. If noise nuisance complaints are received by the City, a site noise report shall be submitted to the City within 30 days.

7. Landscaping Requirements.
   a. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the parcel.
   b. WCFs, excluding Small Cell Facilities mounted on existing structures with existing surrounding landscaping, unless otherwise required by the Public Works Department, shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from Rights-of-Way and adjacent properties. Where the City has requested additional landscaping, the City may require irrigation requirements for the landscaping.
   c. Critical Root Zone: To the extent possible, heritage trees and traditional landscaping designs should be preserved in the Public Right of Way. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

8. Screening Requirements.
   a. All equipment, not located within the Public Right-of-Way and not otherwise defined, shall be fully screened within a walled yard or placed in an enclosed building except in cases where a better design alternative exists. The yard shall be enclosed by a solid fence or wall of sufficient height to screen all miscellaneous equipment from view from the public Right-of-Way or adjacent properties and to provide security. Screening should not unnecessarily inhibit view from adjacent properties.
   b. All structures and improvements associated with the WCF shall be provided with adequate safety equipment and aesthetic treatments, including incorporating landscape screening noted in subsection 5, to be visually compatible with uses in the surrounding area.
   c. Roof-top mounted equipment shall be screened from off-site views to the extent practical by solid screen walls or the building’s parapet. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

Article 2. B

   a. The following minimum setback requirements shall apply to all WCFs except for Alternative Tower Structures in the Right-of-Way: provided however, that the City may reduce standard setback requirements if the
Applicant demonstrates an Evidence of Need. Setback requirements shall be measured from the outer boundary of the subject parcel, or for those facilities in the public right of way, from the outer boundary of the closest parcel adjacent to the subject public right of way.

1. Non-Residential Zones: A Tower shall meet the greater of the following minimum setbacks from all property lines:
   a. The setback for a principal building within the applicable zoning district; or twenty-five percent (25%) of the facility height, including WCFs and related Accessory Equipment.

2. Residential Zones and Parcels: Any WCFs adjacent to Single Family Residential Uses shall be sited in a manner that evaluates the proximity of the facility relative to residential structures. Unless Applicant demonstrates that there is no other technically feasible alternative, WCFs over 30 feet in height shall have a minimum setback from all adjacent residential property lines of one (1) foot for every foot in height, or a minimum setback of 500-feet from any residential structure’s outer boundary, whichever is greater, unless the Applicant can prove that a shorter distance is necessary to provide service. If a shorter distance is necessary, the greatest setback distance that will accommodate service shall be employed.

   i. 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.

   ii. In the case of a corner lot, the WCF may be placed adjacent to the common side property line between adjoining residential properties, or on the corner formed by two intersecting streets.

   iii. If these siting requirements are not reasonably feasible from a construction, engineering, or design perspective, the Applicant may submit a written statement to the Public Works Department requesting the WCF be exempt from these requirements, and offer alternative locations reasonably meeting the intent of this section.

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

10. Design requirements specific to various types of WCFs.
a. **Base Stations.** 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 possible, including for example, without limitation, painting the Antennas and accessory equipment to match the structure. Additionally, any ground mounted equipment may be located in a flush-to-grade underground equipment vault if it is reasonably feasible from a construction, engineering, or design perspective.

b. **Alternative Tower Structures, not in the Public Right-of-Way shall:**
   
   i. Be designed and constructed to look like a building, facility, structure, or other commonplace item, such as but not limited to a tree, public art, or clock tower, typically found in the area.
   
   ii. Be camouflaged/concealed consistent with other existing natural or manmade features in or near the location where the Alternative Tower Structure will be located.
   
   iii. Be compatible with the surrounding area, including architecture, topography, natural vegetation, and/or landscaped environment.
   
   iv. Be the minimum size needed to obtain coverage objectives. Height or size of the proposed Alternative Tower Structure should be minimized as much as possible.
   
   v. Be sited in a manner that is sensitive to the proximity of the facility to residential structures, neighborhoods, and residential zoning district boundaries.
   
   vi. Take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses.

c. **Towers**
   
   i. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards and City design approval processes, be painted a neutral color so as to reduce visual obtrusiveness.
   
   ii. Wherever possible, Towers shall locate to utilize existing landforms, vegetation, and structures to aid in screening the facility from view, or otherwise blending in with surrounding built and natural environment.
   
   iii. Monopole support structures shall taper from the base to the tip.
C. **Roof Mounted Antennas:**

1.:i. Roof mounted antennas and accessory equipment shall be painted or treated to match the façade of the building to which they are attached in order to minimize visibility from adjacent residential land uses and/or from public sidewalks.

2.ii. Roof-mounted WCFs may be approved only where an applicant sufficiently demonstrates that a wall mounted WCF is inadequate to provide service. By filing an application for a roof-mounted WCF, an applicant is certifying agreement to the City’s determination that the height extensions described in this subsection d are the maximum heights that will allow the WCF to be Camouflaged, and that any additional increase in height will undermine the Camouflage nature of the site. Roof or building mounted facilities are not permitted on any single-family residential structures.

2.iii. Maximum height. Roof mounted antennas and accessory equipment shall not exceed the height of the penthouse or mechanical equipment room to which the antennas are attached.

4. Antennas not mounted on a penthouse or mechanical equipment room shall be set back at least 5 feet from the exterior wall of a building.
5.iv. The maximum height of a roof mounted antenna that is not mounted on a penthouse or mechanical equipment room is equal to the distance the antenna is set back from the exterior wall up to a maximum height of 10 feet above the taller of either roofline or parapet of the building to which the antenna is attached.

v. All rooftop equipment and Antennas must be adequately screened where feasible from a technical, construction, design and engineering perspective.

vi. Building façade mounted antennas shall not protrude horizontally more than 2 feet from the building wall and shall be painted or treated to match the building or structure to which the antenna is attached.

vii. Building façade mounted antennas shall not exceed the height of the parapet or the roofline, whichever is greater.

vi. The total of all visible building façade mounted antennas may not exceed the greater of 10 percent of the square footage of the building façade.

ix. Antennas on Existing Support Structures:
In single-family and two-family zone districts: The mounting of an additional antenna or antennas on an existing support structure, including any existing support structure that is nonconforming with regards to height, may be permitted provided that the height of the existing structure may not be increased by more than 15 percent.

In non-single-family and two-family zone districts: The mounting of an additional antenna or antennas on an existing support structure may be permitted provided that the height of the existing structure may not be increased above 60 feet without triggering the review requirements as outlined for New Freestanding Support Non-Stealth Structures in Section 17.10.3.2.

17.10.3.3: New Freestanding Support Non-Stealth Structures
Review Requirements:
New freestanding support structures of 60 feet in height or less may be allowed in any zone district other than a single family or two-family district if reviewed and approved in accordance with the site plan procedures identified in Article 2.

New freestanding support structures of more than 60 feet in height may be allowed in any zone district other than a single family or two-family
New freestanding support structures of any height located on public property, right-of-way, or utility property that will support street lights, public facilities or equipment in addition to wireless facilities may be allowed in any zone district if reviewed and approved in accordance with the special use permit and site plan procedures identified in Article 2. Examples include, but are not limited to, municipal communication facilities, athletic field lights, traffic lights, and other light structures.

Existing support structures including but not limited to municipal communication facilities, athletic field lights, traffic lights, and other light structures on local streets shall be limited to a maximum 15-foot height extension.

The maximum height for any new freestanding support structure shall be 60 feet, or the maximum building height allowed in the subject zoning district, whichever is greater.

When adjacent to a property that is zoned residential or contains a residential use or structure, new freestanding support structures must be setback from property at least the minimum setback required by the zone district where the structure is located or 50 percent of the support structure height, whichever is greater.

New freestanding support structures shall be enclosed by security fencing 6 feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the City may waive such requirements, if the Director determines that the waiver will not create an increased risk to public health or safety.

B. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

C. New free standing support structures shall be designed to accommodate a minimum number of colocations based upon their height.

1. Support structures between 45 feet and 100 feet in height shall support at least two telecommunications providers;

2. Support structures greater than 100 feet and up to 150 feet in height shall support at least three telecommunications providers; and

3. Support structures greater than 150 feet in height shall support at least four telecommunications providers.

D. New freestanding support structures over 60 feet in height shall not be located within 1000 feet from any existing freestanding support structure that is over 60 feet in height, unless the applicant has shown to the satisfaction of the City that colocation is impracticable and that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant’s needs.
17.10.3.4: Other Wireless Facility Types

The Director may apply the standards defined for new wireless facilities on existing structures or new freestanding support structures to any wireless facility type that is not directly addressed in these regulations as appropriate to minimize the potential adverse effects of wireless service facilities.

17.10.3.5:

A. Related Accessory Equipment

In order of preference, ancillary support equipment and/or accessory equipment for a WCF shall be located either within a building, underground, in a rear yard or on a screened rooftop area. Ground-mounted facilities that are located within the front or side yard or public right-of-way shall be undergrounded, unless the Applicant demonstrates that undergrounding is not technologically feasible, and located so as to be screened by landscaping, in close proximity to existing above ground utilities (such as electrical tower or utility poles), light poles, trees of comparable height, water tanks, and other areas where the ground mounted facility will be designed and screened to blend with the existing natural or built surroundings.

B. Utility and Power Lines

All utilities at wireless telecommunication's facilities shall be installed underground whenever possible, as determined by the Department of Public Works, and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code, where appropriate, as well as City regulations applicable to excavations in public streets.

C. Excluding Small Cell Facilities in the Right-of-Way

The buildings, shelters, cabinets, and other accessory components shall be setback a minimum of 15 feet from each property line with a residential zone district or a lot containing a residential structure, or shall meet all setback requirements of the underlying zone districts, whichever results in the greater setback, and shall be grouped as closely as technically possible.

D. Total footprint coverage area of the accessory equipment shall not exceed 500 square feet per provider, with a maximum of 1500 square feet total for three or more providers.

E. No accessory equipment or accessory structure shall exceed 14 1/4 feet in height.

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Commented [Secondpas70]: Can this be feasibly shorter? Example, an 8ft cabinet is taller than a person and takes considerable real estate if not undergrounded.
E.vi. Accessory equipment shall be painted a neutral color and enclosed by security fencing 6 feet in height and shall be landscaped with a buffer of plant materials that effectively screens the view of the accessory equipment from adjacent residential property and from the adjacent street, provided, however, that the City may waive such requirements, if the Director determines that the waiver will not (1) create an increased risk to public health or safety or (2) create a negative visual impact to adjacent residential property or from the adjacent street. Accessory equipment, including but not limited to remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the Accessory Equipment shall use Camouflage Design Techniques.

E.vii. No accessory equipment or accessory structures shall be sited in a manner that reduces the parking or landscaped areas for other principal uses on the parcel below the minimums required by the Zoning Ordinance.

17.10.4: Abandonment and Removal

If a support structure is abandoned and remains abandoned for a period longer than 12 consecutive months, the City may require that the support structure be removed. The City shall first provide written notice to the owner of the support structure of the requirement for removal and give the owner the opportunity to take such action(s) as may be necessary to reinstate the active use of the support structure within 30 days of receipt of the written notice. If the owner of the support structure fails to reinstate the active use of the support structure within the 30-day period, the owner of the support structure shall be required to remove the same within six months. Approval.
It is the intent of the City to provide for approval of WCFs administratively in cases where visual impacts are minimized, view corridors are protected, appropriate Camouflage and Concealment Design Techniques are employed to avoid adverse impacts on the surrounding area, and they are designed, maintained, and operated from the date of first installation and all times the WCF is thereafter operated at all times to comply with the provisions of this Chapter and all applicable local, state and federal laws. Notwithstanding the approval of an application for Eligible Facilities Request as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in municipal code and any other applicable regulations.

1. Special Use Permit. Any application for a WCF which does not comply with the provisions of this Chapter may seek approval of a Special Use Permit by submitting an application to Planning Commission.

   a. All special use permit applications for a new wireless telecommunications facility shall contain a demonstration that the facility will be sited so as to minimize visual intrusion as much as possible, given the facts and circumstances involved and will thereby have the least adverse visual effect on the environment and its character and on the residences in the area of the new wireless telecommunications facility.
b. Fifteen days prior to any Planning Commission hearing on a Special Use Permit for any WCF, notice shall be sent by the Applicant by mail of the location, time, and place of such hearing to all property owners within a 1,300-ft radius of the facility, using names and addresses appearing on the latest adopted tax roll of the county. The notifying radius shall be measured from the outer boundary of the subject parcel, or for those facilities in the public right of way, from the outer boundary of the closest parcel adjacent to the subject public right of way site.

c. Notice of the Planning Commission hearing for Special Use Permit shall also be made by posting a notice in a publicly visible location on the property in question at minimum fifteen days prior to such hearing.

Collocation and Separation Required. No new Towers, excepting Small Cell Facilities in the Right-of-Way, shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application, and sufficient separation of Towers is achieved. Evidence may consist of the following:

- No existing WCFs with a suitable height are located within the geographic area required to meet the Applicant’s engineering requirements;
- Existing WCFs do not have sufficient structural strength to support applicant’s proposed WCF;
- The Applicant’s proposed WCFs would cause electromagnetic interference with the existing WCFs or the existing WCF would cause interference with the Applicant’s proposed WCF;
- The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for Collocation;
- Towers over 90 feet in height shall not be located within one-quarter mile from any Existing Tower that is over 90 feet in height, unless the Applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant’s needs.

Setbacks. The following minimum setback requirements shall apply to all WCFs except for Alternative Tower Structures in the Right-of-Way; provided however, that the City may reduce standard setback requirements if the applicant demonstrates that the goals of this Section can be met through Performance Options or through Alternative Compliance, or through a Variance process. A Tower shall meet the greater of the following minimum setbacks from all property lines:

- The setback for a principal building within the applicable zoning district;
- Twenty-five percent (25%) of the facility height, including WCFs and Related Accessory Equipment; or

For sites within 100 feet of residential uses, facilities over 30 feet in height shall have a minimum setback from all adjacent residential property lines of one (1) foot for every foot in height.
17.10.5 Penalty for Offenses.

In the event of a violation of this ordinance or any of the terms and conditions of use permit or other approval issued pursuant to this ordinance, and in addition to any other remedy available to the City at law or equity, the City may impose and collect, and the holder of the permit for wireless telecommunications facilities shall pay to the City, civil penalties in an amount as determined by the Department of Public Works, per day, until the violation or violations are abated to the satisfaction of the City.

17.10.6 City Council Review.

In January of each year City Council shall set a date within the year to review and update as needed this Article of the Lakewood Zoning Code.

17.10.7 Private Enforcement

A. In addition to any other remedy available to the city under this Code, at law or in equity, violations of this Section 17.10 may be remedied as follows:

1. The city attorney or city prosecutor may bring a civil action to enforce this section and to obtain the remedies specified below or otherwise available in equity or at law.

2. Any person acting for the interests of himself, herself, or itself, or of its members, or of the general public (hereinafter "a private enforcer") may bring a civil action to enforce this section with the remedies specified below, if both the following requirements are met:
   a. The action is commenced more than sixty (60) days after the private enforcer gives written notice of an alleged violation of this section to the city attorney and to the alleged violator.
   b. No person acting on behalf of the city has commenced or is prosecuting an action regarding the violation(s) which was or were the subject of the notice on the date the private action is filed.

3. A private enforcer shall provide a copy of his, her, or its action to the city attorney within seven days of filing it.

4. Upon settlement of or entry of judgment in an action brought pursuant to paragraph (7) of this subsection, the private enforcer shall give the city attorney a notice of that settlement or judgment. No private enforcer may settle such an action unless the city attorney or the court determines the settlement to be reasonable in light of the purposes of this section. Any settlement in violation of this requirement shall be set aside upon motion of the city attorney or city prosecutor to a court of competent jurisdiction.

5. Upon proof of a violation of this section, the court shall award the following:
   a. Appropriate injunctive relief and damages in the amount of either:
      i. Upon proof, actual damages;
      ii. With insufficient or no proof of damages, a minimum of five hundred dollars ($500.00) for each violation of this section (hereinafter "statutory damages").
Unless otherwise specified in this section, each day of a continuing violation shall constitute a separate violation. Notwithstanding any other provision of this section, no private enforcer suing on behalf of the general public shall recover statutory damages based upon a violation of this section if a previous claim brought on behalf of the general public for statutory damages and based upon the same violation has been adjudicated, whether or not the private enforcer was a party to that earlier adjudication.

b. Restitution to the appropriate party or parties of gains obtained due to a violation of this section.

c. Exemplary damages, where it is proven by clear and convincing evidence that the defendant is guilty of oppression, fraud, malice, or a conscious disregard for public health and safety.

d. Attorney's fees and costs reasonably incurred by a successful party in prosecuting or defending an action.

Any damages awarded in an action brought by the city attorney or city prosecutor shall be paid into the city's general fund, unless the court determines that they should be paid to a damaged third party.

6. Upon proof of at least one violation of this section, a private enforcer, the city prosecutor, city attorney, any peace officer or code enforcement official may obtain an injunction against further violations of this section or, as to small claims court actions, a judgment payable on condition that a further violation of this section occur within a time specified by the court.

7. Notwithstanding any legal or equitable bar, a private enforcer may bring an action to enforce this section solely on behalf of the general public. When a private enforcer does so, nothing about such an action shall act to preclude or bar the private enforcer from bringing a subsequent action on his, her, or its own behalf based upon the same facts.

8. Nothing in this section shall prohibit a private enforcer from bringing an action to enforce this section in small claims court, provided the relief sought is within the jurisdiction of that court.

17.10.8 Severability

Should any section, subsection, paragraph, sentence, clause or phrase of this Article of the Lakewood Zoning Code or application thereof to any person or circumstance, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter, or its application to any other person or circumstance, and, to this end, the provisions of this chapter are declared to be severable.
June 26, 2020

VIA EMAIL

Mayor Adam Paul and Members of the City Council
City of Lakewood
480 South Allison Parkway
Lakewood, Colorado 80226

Re: Item No. 9 - Ordinance O-2020-1
Amendment of Lakewood Municipal Code Title 12, and Article 10 of Title 17
Response to AT&T’s June 8, 2020 Correspondence

Dear Mayor Paul and Members of the City Council:

Our office represents two of your constituents, Ms. Lynn Judson and Ms. Carol Baum, who asked us to review AT&T’s June 8, 2020 letter and provide a legal analysis of AT&T’s comments on the City draft wireless code. It is our professional opinion that AT&T’s recommendations are unsupported and contrary to both the Telecommunications Act of 1996 (hereinafter the “TCA”) and clearly established principles of federal law throughout the entire United States.

Specifically, § 332(c)(7)(A) of the TCA, titled “General Authority,” explicitly preserved to any State, local government or instrumentality complete regulatory authority in connection with the placement of wireless communications facilities, subject to five (5) finite constraints outlined in § 332(c)(7)(B) of the TCA. As part of these limitations, state and local governments “shall not prohibit or have the effect of prohibiting the provision of personal wireless services.”

Despite Congress’s clear language, the comments in AT&T’s letter suggest that you disregard the General Authority section in the TCA and rely, instead, on the Federal Communications Commission’s September 26, 2018 Interpretative Order (hereinafter the “FCC”). The FCC’s Order, however, finds the effective prohibition of wireless services to mean any time a local government inhibits additional services or improvements to existing services.

1 See 42 U.S.C. § 332(c)(7)(B)(i)(II).
As set forth hereinbelow, the FCC’s Order—interpreting the meaning of “[having] the effect of prohibiting” language in subparagraph (B) of the TCA—lacks legislative authority to strip local governments of their power to regulate the placement of wireless facilities. Congress expressly preserved this power to the State and local governments under the TCA.

Furthermore, and on a more practical level, if the City of Lakewood applies the FCC’s Order in the way suggested by AT&T, the exception in § 332(c)(7)(B)(i)(II) would affirmatively wipe out the General Authority section of the TCA, twenty-four (24) years of Federal Courts’ decisions and smart planning provisions. Meanwhile, the City of Lakewood would be prevented from opposing every application submitted by wireless providers and site developers as soon as they allege either a purported need for additional services or improvements. Clearly, this lack of local power is not what Congress envisioned when promulgating the TCA, specifically its General Authority § 332(c)(7)(A).

Based on our professional expertise in this area, we earnestly urge you to disregard AT&T’s suggestions and/or anything in support of the FCC’s Interpretative Order.

PRELIMINARY STATEMENT

Regular executive branch agencies and independent agencies (e.g., the FCC) actively participate in the rulemaking process and enact interpretations about the statutes they administer. Generally, all agencies’ rules can be divided into three categories: (1) legislative or substantive rules; (2) non-legislative rules, which include interpretations and policy statements; and (3) organizational and procedural rules. Among these three distinct categories, only legislative or substantive rules are legally binding and possess “force of law”—provided, however, that the agency acts under congressionally delegated authority.

Therefore, the threshold issues in determining the legal significance of any agency’s regulations (e.g., the one the FCC promulgated on September 26, 2018) are (a) whether the rule is legislative, non-legislative or procedural in nature and (b) if the rule is legislative, “whether Congress intended to delegate to the agency the power to interpret with the “force of law” in the particular format that was used.”

The second part of this analysis cannot be accomplished without a brief discussion of the relevant history of the TCA of 1996. When Congress was contemplating the passage of the TCA in 1995, the U.S. House of Representatives initially proposed legislation that would have empowered the FCC to directly regulate the placement of wireless communications facilities. Notwithstanding this initial drafting, the U.S. House and Senate completely redrafted this language and, instead, intentionally allocated the authority to regulate the placement of wireless facilities to state and local governments, and instrumentalities.

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2 See https://www.fcc.gov/about-fcc/rulemaking-process.
As adopted, 47 U.S.C.A. § 332(c)(7)(A) explicitly preserved to States, local governments, and instrumentalities complete regulatory authority in their zoning and land use laws, subject to five (5) finite constraints outlined in subparagraph (B) of the TCA. Those limitations include the following:

(i) Local governments cannot unreasonably discriminate among providers of functionally equivalent services;⁶

(ii) Local governments cannot prohibit or have the effect of prohibiting the provision of personal wireless services;

(iii) Local governments must act upon any application to place, construct or modify a wireless facility within “a reasonable period of time;”⁷

(iv) Any decision to deny an application to place, construct or modify a wireless facility shall be in writing and be supported by substantial evidence contained in a written record;⁸ and

(v) Local governments cannot regulate the placement, construction, and modification of personal wireless service facilities based on the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission’s regulations concerning such emissions. TCA, § 332(c)(7)(B)

With Congress’s legislative intent and its clear statutory language in mind, it is axiomatic that the FCC’s September 26, 2018 Order is, at best, a legislative ruling under no congressionally delegated authority, and, at worse, nothing more than a non-binding interpretation that has no effect on the authority of local governments.

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⁶ As interpreted by the courts, this provision allows some discrimination among providers of equivalent services. Any discrimination need only be reasonable. Most courts have recognized that discrimination based on traditional bases of zoning regulation, such as preserving the character of the neighborhood and avoiding aesthetic blight, are reasonable and, thus, permissible, and a mere increase in the number of wireless antennas in a given area over time can justify differential treatment of providers. See, e.g., MetroPCS Inc. v. The City and County of San Francisco, 400 F.3d 715, 727 (2005); AT&T Wireless PCS v. City Counsel of The City of Virginia Beach, 155 F.3d. 423 (4th Cir. 1998).

⁷ On November 18, 1999, the FCC adopted an interpretative ruling (FCC 09-99) that imposed the following time frames within which local governments must act upon siting requests for wireless towers or antenna sites: (1) ninety (90) days for the review of collocation applications, and (2) one hundred-fifty (150) days for the review of siting applications for new facilities.

⁸ This provision mandates that, when a local government renders a decision upon an application seeking approval for the installation of a wireless facility, the local government must: (a) reduce its decision to a separate writing (i.e., a “written record”), and (b) base its decision upon “substantial evidence.” The written record requirement specifies that: (a) local governments issue their decisions in a writing, separate and apart from any transcript or record of the proceeding, and (b) the written decision must contain a sufficient explanation of the reasons for the denial to allow a reviewing Court to evaluate the evidence in the record supporting those reasons. See, e.g., MetroPCS v. City and County of San Francisco, 400 F.3d 715(2005). The decision must also be based upon “substantial evidence” that was placed into the record. Substantial evidence means “less than a preponderance but more than a scintilla of evidence” Orange County-Poughkeepsie Ltd P’ship v. Town of Fishkill, 84 F. Supp. 3d. 274 (2015), or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Cellular Tel. Co v. Town of Oyster Bay, 166 F.3d. 490 (2d Cir. 1999). Review under this standard is essentially deferential, such that Courts may neither engage in their own fact finding nor supplant a local zoning board’s reasonable determinations. See, e.g., American Towers, Inc. v. Wilson County, Slip Copy 59 Communications Reg. P & F 878 (U.S.D.C. M.D. Tennessee January 2, 2014)[3:10-CV-1196].
The FCC’s Order falls squarely within the category of non-legislative rules because it affirmatively interprets the meaning of “[having] the effect of prohibiting” in the TCA, § 332(c)(7)(B)(i)(II). Thus, the September 26, 2018 order has no “force of law” on State and local governments, as well as Federal Courts resolving disputes under subparagraph (B)(i)(II) of the TCA. In the alternative, it is beyond argument that the FCC acted without either an expressed or implied congressionally delegated authority. There is no indication, whatsoever, that Congress designated to the FCC any power to act. Absent such delegation, the FCC had no power to act and redefine, sua sponte, the legislative process of this country.

In the unlikely event that the FCC’s September 26, 2018 Order is deemed both legislative and authorized pursuant to an express delegation by Congress, the FCC’s interpretation is nonetheless contrary to the plain language of the TCA. The “General Authority” section of the FCA stands only for the proposition that “nothing in this Act shall limit or affect the authority of a State or local government or instrumentality,” subject to the five (5) limitations in subparagraph (B). See TCA, § 332(c)(7)(A).

Similarly, the FCC’s de novo interpretation of subparagraph (B)(i)(II) purportedly takes away the judicial power of federal judges to interpret questions of law under the TCA—i.e., disposing of twenty-four (24) years of precedents, including all the Circuit Courts’ standards for § 332(c)(7)(B)(i)(II), and every smart planning provision enacted by local zoning authorities.

Accordingly, the FCC’s September 26, 2018 interpretation should be disregarded in its entirety.

I. CONGRESS DID NOT EXPLICITLY DELEGATE INTERPRETATIVE AUTHORITY TO THE FCC AND, THUS, THE FCC’S SEPTEMBER 2018 INTERPRETATION DOES NOT POSSESS “FORCE OF LAW”

The FCC’s September 26, 2018 Order is a mere, non-binding interpretation that has no legal significance since Congress did not empower the FCC with any congressionally delegated authority and, concomitantly, expressed its intent unambiguously in the TCA. See Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984). “First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.” Id., at 843, 844.

Here, albeit the U.S. House of Representatives’ initial draft in 1995, the final version of the TCA took away the FCC’s power to directly regulate the placement of wireless communications facilities. Meanwhile, the U.S. House and Senate set forth specific limitations in § 332(c)(7)(B) and addressed the precise issue at stake in subparagraph (B)(i)(II). For any issues of applicability that might arise from the language in this section, Federal Courts—and not an independent agency with limited political accountability—has the exclusive power under the U.S. Constitution and established caselaw to resolve a potential dispute, as discussed in length in Section 2 infra.

The FCC lacks legislative power to determine the meaning of this subparagraph and resolve issues of applicability regarding the TCA of 1996. An informal interpretation of the TCA has no effect of law. See, e.g., Vietnam Veterans v. Secretary of Navy, 843 F.2d 528, 537-38 (D.C. Cir.
In the unlikely event that a court of law reaches a different conclusion, there is still no doubt that Congress has not “explicitly left a gap for the agency to fill,” thereby delegating its authority to the FCC to “elucidate a specific provision of the statute by regulation.” *Chevron*, at 843-844. In fact, the FCC cannot demonstrate a “gap” in the statute on the basis that § 332(c)(7)(B)(i)(II) is silent about technology—*i.e.*, in particular, “the 5G rollout.” New York district courts have plainly rejected this argument in connection with 4G LTE facilities in *Crown Castle NG East LLC v. The Town of Hempstead, et al.*, 2018 WL 6605857, at *6 (E.D.N.Y. December 17, 2018). In that matter at bar, Judge Brown relied on the definition of “personal wireless services” articulated by the Second Circuit in *Willoth* and ruled:

It is beyond question and dispute that the facilities at issue—4G nodes designed to connect with cellular phones, provide precisely this facility: they allow mobile, handheld telephones to utilize the national telephone network to place and receive calls to other mobile and landline telephones. Thus, the services provided in connection with these nodes constitute “personal wireless services” as defined by the plain terms of the statute and its construction by the Second Circuit in *Willoth*. *Id.*

In other words:

>[T]he statute, as construed by *Willoth*, does not distinguish between voice calls made using analog technology from those made using digital technology... The statute, the binding caselaw construing the statute and, for that matter, consumers placing or receiving phone calls, are unconcerned as to whether the communication system employs analog transmissions, digital signals, or frequency hopping, but care only that the call is successful. *Id. at 7* (quotation omitted).

However, given that technology has rapidly evolved in our society, and there is now a purported need to carry out “the 5G rollout” in force, the FCC reaches the bold and unsubstantiated conclusion that it has an expressed congressionally delegated authority to rewrite subparagraph (B)(i)(II) of the TCA—proposing a new test for “interpreting” the “effect of prohibiting” language within the same. This absurd notion has been rejected by Judge Spatt in *Clear Wireless LLC v. Building Dep’t of the Village of Lynbrook, et al.*, holding:


Accordingly, the FCC’s actions undermine the fundamental doctrine of separation of power⁹ and *stare decisis*, thwarting the constitutional balance of powers in favor of the legislative

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⁹ See *Gundy v. United States*, 139 S.Ct. 2116, 2142 (2019) (Gorsuch, dissenting) (expressing similar concerns when independent agencies exercise "unfettered discretion" and exceed their congressionally delegated rulemaking authority, ultimately reaching the conclusion that such practice should be held unconstitutional. In his lengthy dissenting opinion, Justice Gorsuch pointed out to other instances in which the SCOT addressed the boundaries of separation of power because, in his words, "[t]hese cases show that when separation of powers is at stake we don’t just throw up our hands...In all these areas, we recognize that ‘abdication is not part of the constitutional design.”).
branch without just reasoning or justification.

II. THE FCC’S ALLEGED “TECHNOLOGY GAP” IN THE TCA OF 1996 DOES NOT GIVE RISE TO AN IMPLICIT DELEGATION BY CONGRESS

It is well established that, under Chevron, the FCC’s congressionally delegated authority may be implied if, and only if, the statutory language of the TCA is either silent or ambiguous on the point at issue (a “gap”). 467 U.S. 837 (1984). As set forth herein, the FCC’s position that a “technology gap” gives its independent agency, subject to less political accountability, the power to rewrite subparagraph (B)(i)(II) is wholly meritless.

Subparagraph (B)(i)(II) of the TCA is neither glaringly silent nor ambiguous. Quite the contrary, it clearly refrains local governments from prohibiting or enacting local zoning regulations that have the effect of prohibiting the placement of wireless facilities throughout the United States. However, as customary with the vast majority of federal statutes, the statutory language leaves the judicial department the power to resolve any disputes arising from the TCA. Federal Circuits have, thus, elaborated their own tests to address potential questions of law in the application of the TCA of 1996, especially in connection with subparagraph (B)(i)(II).

Specifically, federal courts follow, for the most part, the standard articulated by the Second Circuit in Sprint Spectrum L.P. v. Willoth, which holds that “the Act’s ban on prohibiting personal wireless services precludes denying an application for a facility that is the least intrusive means for closing a significant gap in a remote user’s ability to reach a cell site that provides access to landlines.” 176 F.3d 630, 643 (2d Cir. 1999).

Under the Second Circuit’s standard, wireless providers or site developers could only force a local government to permit them to install a non-zoning-code compliant wireless facility if they could prove both that (1) they suffered from a significant gap in their personal wireless services, and (2) that their proposed installation was the least intrusive means of remedying that gap.11

Without question, the FCC cannot plausibly sustain an argument that the language in subparagraph (B)(i)(II) is ambiguous or that its wording needs some clarifications. The statute clearly preserved to local governments the powers to regulate wireless facilities, subject to five (5) limitations.

For any challenges arising under those limitations, like the interpretation of what Congress meant by “personal wireless services” discussed infra, the judicial branch is constitutionally entitled to “say what the law is.” Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177 (1803) (Marshall, C.J.); See Japan Whaling Ass’n v. Amer. Cetacean Soc’y, 478 U.S. 221, 230 (1986)

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10 Both the Third and Ninth Circuits follow, verbatim, the Second Circuit. Meanwhile, the First, Fourth and Seven Circuits have slight variations of the Second Circuit Court's test.

11 Where a local government has denied a zoning application for the installation of a new wireless facility, and the applicant sues the local government in federal court claiming that the denial has the effect of prohibiting the provision of personal wireless services in violation of Section 332(c)(7)(B)(i)(ii) of the TCA, the applicant has the burden of proving both (a) the existence of a significant gap in service coverage, and (b) that its proposed installation is the least intrusive means of remedying that gap and/or there are no less intrusive alternative sites available. See, e.g., Crown Castle NG West LLC v. Town of Hillsborough, 2018 WL 3777492, T-Mobile USA Inc. v. City of Anaortes, 572 F.3d.987 (9th Cir 2009). Where an applicant cannot meet that burden, any claimed violation of the effective prohibition provision of the TCA must fail. See, e.g., T-Mobile Northeast LLC v. Fairfax County Board of Supervisors, 672 F.3d 259 (4th Cir. 2012).
Interpreting congressional legislation is a recurring and accepted task for the federal courts. Under the Constitution, one of the Judiciary’s characteristic roles is to interpret statutes, and we cannot shirk this responsibility merely because our decision may have significant political overtones.

Similarly, as expressly discussed in Section 1, supra, the FCC cannot reasonably identify a “gap” in the statute that gives rise to an express or implied delegation by Congress. The TCA is simply not silent in any of its language.

In sum, the FCC acted under no implicit delegation by Congress, and its September 26, 2018 ruling is not binding on State and local governments.

III. IN THE ALTERNATIVE, THE FCC’S INTERPRETATION FAILED TO CONFORM WITH CONGRESSIONAL INTENT AND EFFECTIVELY WIPES OUT TWENTY-FOUR (24) YEARS OF CLEARLY ESTABLISHED FEDERAL LAW AND LOCAL ZONING REGULATIONS

Even assuming, arguendo, that the FCC’s modification of the TCA in its September 26 Order is a legislative rule pursuant to the agency’s delegated authority to make a binding interpretation, the FCC’s reading runs against Congressional Intent and is wholly unreasonable as a matter of public policy. Holding otherwise would allow the FCC to make a mockery of our legal system.

In the seminal case of Chevron, supra, the U.S. Supreme Court ruled that our judicial system is bound to accept an agency interpretation—acting under expressed or implied congressionally delegated authority—unless the regulation is either (a) manifestly contrary to the statute or congressional intent or (b) unreasonable, arbitrary or capricious. Remarkably, the FCC’s September 26, 2018 Interpretative Order fails in both standards.

First, for all the reasons mentioned supra, the Order is manifestly contrary to the TCA’s expressed language. Not only does the Order strip away the power Congress explicitly preserved to State and local governments under § 332(c)(7)(A), but it plainly contradicts Congress’s clear intent. Simultaneously, the FCC is radically changing the meaning of subparagraph (B)(i)(II) when Congress expressly spoke on the matter at issue.

Furthermore, the FCC’s September 24, 2018 Order is unreasonable, arbitrary and capricious because it effectively wipes out twenty-four (24) years of federal precedents and smart planning provisions enacted by State and local governments under § 332(c)(7)(A).

12 See, e.g., Ragsdale v. Wolverine World Wide, Inc., 535 U.S. 81, 91 (2002). [An agency may never exercise authority inconsistent with Congressional Intent, regardless of the issue the agency is seeking to address.]. See also Am. Library Ass’n v. F.C.C., 406 F.3d 689, 708 (D.C. Cir. 2005) and La. Pub Serv. Comm’n v. FCC, 476 U.S. 355, 90 (1986)[Courts have consistently held that agencies may only act within the authority given to them by Congress. The FCC, like other federal agencies, "literally has no power to act... unless and until Congress confers power upon it."], and See Cellular Tel. Co. v. Town of Oyster Bay, 166 F.3d 490, 495 (2d Cir. 1999) [under the powers preserved to local governments under the Telecommunications Act, aesthetics is an appropriate ground upon which a local government has the power to deny a zoning application for the installation of a wireless facility, so long as there is substantial evidence of negative aesthetic impact].

13 An argument can also be made that the FCC violated the National Environmental Policy Act (NEPA). Congress enacted the National Environmental Policy Act (hereinafter "NEPA") to "encourage productive and enjoyable harmony between man and his environment" and "promote efforts which will prevent or eliminate damage to the environment."
The order states, in relevant parts:

"[a]n effective prohibition occurs where a state or local requirement materially inhibits a provider’s ability to engage in any of a variety of activities related to the provision of a covered service. This test is not only when filing a coverage gap but also when densifying a wireless network, introducing new services or otherwise improving service capabilities...Thus, an effective prohibition includes materially inhibiting additional services or improving existing services." FCC Order 18-133 Adopted September 26, 2018 (emphasis added).

In practical terms, site developers are now carrying out the 5G rollout in force by pursuing the installation of tens of thousands of small cells and DAS systems—anywhere they please, at virtually any height they desire. In doing so, site developers simply assert to State and local governments that the site developer deems such installation and the height of the same, necessary, or desirable for a wireless carrier to "improve existing services" or to "provide additional services."

Based upon these simple assertions, site developers now try to argue that State and local governments cannot deny any applications because any such denial would constitute an effective prohibition of wireless services, which is prohibited under the TCA. Unquestionably, the FCC’s novel interpretation circumvents and ultimately gets rid of the Circuit Courts’ test for “the effect of prohibiting” language within subparagraph (B)(i)(II). This modus operandi is unconstitutional and creates confusion among State and local governments.

environment and biosphere and stimulate the health and welfare of man." United Keetoowah Band of Cherokee Indians in Oklahoma v. Fed. Commc’n.s Comm’n, 933 F. 3d 728, 734 (D.C. Cir. 2019). The objective of the NEPA is to assure a safe and healthful environment. See 42 U.S.C. §§ 4321, 4331. NEPA review "does not dictate particular decisional outcomes, but merely prohibits uninformed-rather than unwise-agency action." Id. Under 42 U.S.C. §4332, NEPA requires federal agencies to prepared detailed statements on potential environmental impacts of a proposed action that is considered a "major federal action." See also 47 CFR §1.1305. A "major federal action" is considered to be any action that significantly affects the quality of the human environment. See 42 U.S.C. §4332. See also 47 CFR §1.1305, which is specific to the FCC and requires that any commission action which is deemed to have a significant effect on the quality of the human environment requires an Environmental Impact Statement. At the very least an agency must prepare a preliminary Environmental Assessment to determine if there is any potential for a negative environmental effect and therefore an Environmental Impact Statement would be required. See 40 C.F.R. §1508.9. As explicitly set forth in 40 C.F.R. §1500.1(b) an agency must ensure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. According to the FCC's own website "[r]esponsibly for NEPA and compliance rests with the FCC." The FCC's most recent order eliminated NEPA review for small cells. The FCC decision to eliminate NEPA review for certain small cells was "based on the Commission's conclusion that such review was not statutorily requested and would impede the advance of 5G networks, and that its costs outweighed any benefits." United Keetoowah Band of Cherokee Indians in Oklahoma, 933 F.3d at 737. However, the FCC fails to assess any harms that could come from the densification of the use of small cells for 5G. Id. at 741.

Further the Court in Keetoowah notes that the FCC "does not reconcile its assertion that planned small cell densification does not warrant review because it will leave little to no environmental footprint" Id. at 742. Ultimately, the Court determined that the FCC's order deregulating small cells was arbitrary and capricious. Id.

See Sprint Telephony PCS LP v. County of San Diego, 543 F3d 571 (2008) (The FCC and the wireless industry are now working together to invoke the recent 2018 Orders of the FCC to argue that the Ninth Circuit's standard, similar to the one articulated by the Second Circuit in Sprint Spectrum, no longer applies, and that a violation under this section occurs if a provider simple deems its new proposed installation needed to either enhance existing wireless services, or to provide new ones).
In addition, as was to be expected, residential property owners and their families across the entire country are now waking up to find unregulated wireless facilities have been installed as close as several feet to a bedroom window, kitchen window, den or any other room in their home.

Therefore, the FCC’s September 26, 2018 Interpretation finds no support in our judicial and legislative system and goes as far as violating public policy.

CONCLUSION

It is our opinion that the City of Lakewood should not rely on the FCC’s September 26, 2018 Interpretative Order in drafting and enacting new ordinances concerning Wireless Services and Communications.

Yours,
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\(^5\) Under Cal. Rules of Professional Conduct, Rule 5.5, and Cal. Rules of the Court, Rule 9.48 "non-litigating attorneys temporarily in California to provide legal services," an attorney who is admitted by a federal court, but is not admitted in California, can still advise a client in this jurisdiction for issues involving federal law.
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Small Cell Design Manual – Lakewood, CO Revised 02/24/2020
BACKGROUND

Small cell facilities are low-powered antennas and related equipment installed by wireless communication providers, such as cell phone service providers, to deploy and improve personal wireless services to generally smaller geographic areas. Small cell facilities will initially provide 4G (LTE) voice and data service and will be modified with future 5G higher speed antennas and antenna equipment as technology changes.

Applicability

This Small Cell Design Manual is intended to provide an overview of the permit process, provide direction to preserve the aesthetic character of the community and ensure placement of poles and equipment does not create a safety hazard. Federal and state law requires cities to allow small cell facilities in the public right-of-way (ROW), which includes streets and sidewalks. The city of Lakewood recognizes that installing utility facilities in the public ROW is allowed; however, the city shall not be liable to owners or users of small cell facilities for any damage caused by those persons or entities.

All small cell facilities and associated accessory equipment shall meet the current standards and regulations of the Federal Aviation Administration ("FAA"), Federal Communications Commission ("FCC"), and any other agency of the federal or state government with the authority to regulate wireless services and equipment.

Deviations from this guide shall be reviewed on a case-by-case basis by the city of Lakewood and may be granted if these standards would result in a prohibition or effective prohibition of personal wireless service. The city may also permit a deviation from these standards when it finds the applicant’s proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these standards.
Design Standards
Small cell facilities shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the city. Applicants installing small cell facilities are highly encouraged to replace existing street lights with a dual-use (combination of small cell and street lighting) pole. The location of new dual-use or freestanding poles shall be done in a manner that minimizes impact to view corridors.

Wireless communication providers shall consider the aesthetics of the existing street lights and neighborhoods adjacent to proposed small cell locations prior to submitting an application to the city. When a small cell facility is installed in a neighborhood with unique street light characteristics, the design shall closely match the existing street light aesthetics. Unique assemblies may include mast arms, decorative pole bases, architectural luminaires, mounting heights, pole colors, etc., that deviate from these guidelines.

New small cell facilities must use camouflage design techniques that blend the facility with the natural and built environment. Lakewood has designated different colors by area of the city. In most areas, brown is the predominate color and is also used to replace galvanized street light poles. Districts subject to architectural design standards, such as Belmar and Denver West, use silver and other districts use black or green. Typically, the new or replacement pole color will be the same as the existing or adjacent street light poles. To verify the pole location, type, height, color, and fixture or to receive a Statement of No Objection (SONO) for XCEL please contact the city’s Transportation Engineering Division smallcell@lakewood.org or (303-987-7980).

Types of Small Cell Wireless Facilities
Lakewood has identified three different types of small cell installations that are permitted in the rights-of-way (Figure 1). These types include attachments to existing wooden power poles, replacement of existing metal street light poles (preferred method), and new freestanding metal pole installations. An overview of each type is shown in Sections 1 through 3 of this design manual. We are currently researching strand mounted requirements and they will be included in a future update. Please contact us if you currently have a location where strand mounting may be a better solution and we can discuss the case.
Figure 1: Types of Small Cell Facilities

1 Attached to Wooden Pole
2 Replacement of Street Lights
3 New Freestanding Poles
Small Cell Permit Process

Telecomm owned pole process

Is there a valid address?

YES

Is the facility in the Right-of-Way

YES

Complete Submittal to Permit Counter

Transportation Engineering
- Design Guidelines
- Traffic Control Plan

Public Works Review

Construction Inspection
- Field Check Location

Building Review
- Foundation Plan (TIA-222)
- CO P.E. Seal/Signature

Comments?

NO

Planning Contacts Applicant

Transportation Engineering

Comments?

NO

Planning Contacts Applicant

Transportation Engineering

Comments?

NO

Planning Contacts Applicant

YES

Permit Counter Issues Permit

Permit Counter Contacts Applicant
XCEL dual-use pole replacement process

Contact Transportation Engineering (TE)
smallcell@lakewood.org
303-987-7980

Location
Pole Type
Height
Color
Fixture

Is there a valid address?

TE issues SONO

Complete XCEL process for pole replacement per agreed attributes

Public way permit to install equipment on existing pole
- traffic control plan
- Show major equipment components

TE will get address assigned

Yes

Yes
1. ATTACHMENTS TO WOODEN POWER POLES

Overview
Small cell facilities may be deployed in the public right-of-way through the utilization of an existing wooden power or street light pole (Figure 2). They may be replaced with taller wooden poles to facilitate the small cell equipment as necessary, subject to zoning district height restrictions. All attachments to wooden power poles shall be approved by the city and Xcel Energy prior to installation. All equipment shall meet Xcel Energy’s utility requirements and the city’s Small Cell ROW Permit requirements. All equipment located within the ROW shall be located such that it meets city standards, ADA requirements, and does not obstruct, impede, or hinder usual pedestrian or vehicular travel.

Any existing luminaire shall be upgraded to LED and meet the city’s street lighting requirements. The designer can contact the city lighting tech for confirmation of required luminaire at smallcell@lakewood.org or 303-987-7980 with the current luminaire style and wattage.

Small wireless facilities shall also meet all requirements of the applicable Right-of-Way Use Agreement with the city.

Small cell facilities in the rights-of-way shall be removed and relocated at no cost to the city as provided in the city’s right-of-way use agreement.

Design Standards
All small cell carrier antennas and antenna equipment shall be mounted behind a shroud. Antennas that technically cannot be covered by a shroud shall have concealment built up to the antenna edge to create a uniform appearance aesthetically, if they stand off more than 6 inches from the pole face or farther than 6 inches combined from the pole edge extended. The small cell equipment shall be co-located and concealed by up to two shrouds, including the radio cabinet area and antenna area. The Xcel meter service and disconnect do not require shrouding.
The antenna shroud may alternatively be mounted to strand cable on an existing span, please contact the transportation engineering division at smallcell@lakewood.org or 303-987-7980 to review proposed aesthetics. No new overhead cable spans shall be created for the sole purpose of the small cell facility.
Figure 2: Small Cell Attached to Wooden Pole

Antenna Shroud

Equipment Shroud
### TABLE 1: SPECIFICATIONS FOR WOOD POLE INSTALLATIONS

<table>
<thead>
<tr>
<th>Specification</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Luminaire</td>
<td>Per Lakewood’s and Xcel’s requirements</td>
</tr>
<tr>
<td>Luminaire Mast Arm</td>
<td>Per Xcel Energy’s lighting standards</td>
</tr>
<tr>
<td>Luminaire Mounting Height</td>
<td>Same height as surrounding luminaires</td>
</tr>
<tr>
<td>Electrical service</td>
<td>Per Xcel Energy’s requirements</td>
</tr>
<tr>
<td>Grounding</td>
<td>Per Xcel Energy’s requirements</td>
</tr>
<tr>
<td>Separation of Service</td>
<td>All new conduit and cable shall be separated by owner in any pull boxes.</td>
</tr>
<tr>
<td>Utility Equipment</td>
<td>Per Xcel Energy’s requirements</td>
</tr>
<tr>
<td>Equipment Shroud</td>
<td>49” H x 19” W x 13” D maximum</td>
</tr>
<tr>
<td>Cantenna (if provided)</td>
<td>19” diameter x 80” height (maximum)</td>
</tr>
<tr>
<td>Antenna - Side mounted (if provided)</td>
<td>16” wide with height and depth not to exceed 9 cubic feet.</td>
</tr>
<tr>
<td>RF Equipment Disconnect</td>
<td>Per Xcel Energy’s requirements</td>
</tr>
<tr>
<td>Owner Identification</td>
<td>A 4” by 6” (maximum) plate with the carrier’s name, location identifying information, and emergency telephone number shall be permanently affixed to the equipment.</td>
</tr>
<tr>
<td>Color</td>
<td>Small cell facility accessory equipment and shrouds shall be colored gray or brown</td>
</tr>
</tbody>
</table>
2. REPLACEMENT OF METAL STREET LIGHT POLES (PREFERRED METHOD)

General Guidance
Existing street light poles may be replaced with the installation of a new dual-use or combination pole (Figure 3). This type of small cell facility is the city of Lakewood’s preferred method for supporting small cell deployments.

Existing street lights are typically owned by Xcel Energy; however, the city of Lakewood owns several hundred street light poles around the city that should be considered first for conversion to company owned dual-use poles. Xcel Energy owned dual-use poles that replace existing street lights shall meet Xcel Energy’s standards and Lakewood’s requirements. Dual-use poles shall be reviewed via the city of Lakewood’s Small Cell ROW Permit requirements. For company owned poles, to simplify and reduce construction costs, the luminaire on company owned poles will be powered by the same service as the small cell facility. Maintenance and power will be the responsibility of the pole owner. For Xcel Energy owned dual-use poles, the luminaire will be flat rated (billed to the City of Lakewood) and the small cell facility will be metered per Xcel Energy requirements. Xcel will continue to provide maintenance to the luminaire per tariff and franchise requirements.

Any existing luminaire shall be upgraded to LED and meet the city’s street lighting requirements. The designer can contact the city lighting tech for confirmation of required luminaire at smallcell@lakewood.org or 303-987-7980 with the current luminaire style and wattage.

Types of Poles Allowed
There are two main types of replacement street light poles. The first type (2.1) conceals all small cell carrier antennas and equipment internally to the pole and cantenna, behind a shroud or concealment. No separate ground level equipment shelters, cabinets or electrical panels shall be installed at each location unless all reasonable alternative pole locations and
underground locations have been explored and found by the city to be substantially lacking or technically infeasible. This type 2.1 pole is expected in most areas of the city.

The second type (2.2) is a dual-use pole (equipment cabinets) and will be allowed when the proposed area has adequate right-of-way width to safely house and conceal the associated equipment cabinet and power meter cabinet or on high speed roadways requiring breakaway features. To qualify for this installation, the applicant must demonstrate that the equipment cabinet is located at least 20’ from curb or 3’ behind a sidewalk and next to a fence or sound wall that is at least 2’ taller than the proposed cabinet. This dual-use pole (equipment cabinets) is expected to mainly be used on arterials where the roadway is separated from adjacent properties with fences or sound walls. It may be permitted in areas with extensive street furniture or areas where visual concealment is less necessary (drainage gulches, area adjacent to natural open spaces, etc.) in the City of Lakewood’s determination on a case by case basis.

**Design Standards**

All small cell facilities and accessory equipment shall meet Xcel Energy’s utility requirements (as applicable) and Lakewood’s aesthetic design requirements.

Dual-use small cell and street light applications and aesthetics must be approved by the city prior to installation. All new dual-use poles shall match or be substantially similar to the finishes, designs, colors, and other aesthetic characteristics already present in the existing poles or designated for the area.

All antennas and wiring shall be concealed within the vertical pole, within a cantenna, or behind a shroud mounted to the top of the pole structure. All cantennas and shrouds shall provide as complete concealment as possible to ensure concealed views of antennas, equipment, and other hardware. Antennas that technically cannot be covered by a shroud shall have concealment built up to the antenna edge to create a uniform appearance aesthetically, if they stand off more than 6 inches from the pole face or farther than 6 inches combined from the pole edge extended.

Type 2.1 poles shall have all equipment, meters, and wiring mounted internally. The antennas shall be concealed utilizing a cantenna, shrouding or similar camouflage design acceptable to the city. It is recognized that some installations may use a distributed power cabinet for multiple pole locations, eliminating the need for a meter and service at each pole location.
Type 2.2 poles shall have separate equipment cabinets and meters. The equipment cabinets shall use camouflage design techniques, including the use of materials, colors, screening, undergrounding, or other design options that will blend into the surrounding natural setting. Wherever possible, new small cell equipment cabinets shall utilize existing landforms, vegetation, and structure to aid in screening the facility from view and to blend in with surrounding built and natural environment and maintain a cohesive appearance.

Type 2.1 and 2.2 poles may have one separate 3 cubic foot equipment shroud or similar camouflage design acceptable to the city covering externally mounted equipment in addition to the cantenna. To qualify for this installation, the applicant must demonstrate that the additional technology cannot be integrated into the equipment cabinet and/or the cantenna or there are multiple carriers co-locating on the pole.
Figure 3: Type 2.1 and 2.2 Dual-Use Poles

Type 2.1: Equipment Hidden

Type 2.2: Equipment Cabinet
<table>
<thead>
<tr>
<th><strong>TABLE 2: SPECIFICATIONS FOR DUAL-USE POLE INSTALLATIONS</strong></th>
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<tbody>
<tr>
<td><strong>Pole Type</strong></td>
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<tr>
<td><strong>Pole Design Parameters</strong></td>
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<tr>
<td><strong>Equipment Cabinet Dimensions</strong></td>
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<tr>
<td><strong>Access Doors</strong></td>
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<td><strong>Luminaire</strong></td>
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<td><strong>Luminaire Mast Arm</strong></td>
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<td><strong>Luminaire Mounting Height and Pole Height</strong></td>
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<tr>
<td><strong>Electrical Service</strong></td>
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<td><strong>Separation of Service</strong></td>
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<td><strong>Ventilation</strong></td>
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<td><strong>Cantenna (if provided)</strong></td>
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<td><strong>Equipment Cabinet Area (if allowed)</strong></td>
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<td><strong>Owner Identification</strong></td>
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<td><strong>Color</strong></td>
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3. INSTALLATION OF FREESTANDING SMALL CELL POLE

General Guidance
Freestanding small cell poles are standalone structures located in the ROW (Figure 4). The use of freestanding small cell poles shall be the last option considered for a location.

Types of Poles Allowed
There are two main types with some minor variations for freestanding small cell poles.

The first type (3.1) conceals all small cell carrier antennas and equipment internally to the pole and cantenna, behind a shroud or concealment.

No separate ground level equipment shelters, cabinets or electrical panels shall be installed at each location unless all reasonable alternative pole locations and underground locations have been explored and found substantially lacking. This type of pole is rarely expected in most areas of the city as most situations will require a type 2.1 dual-use pole.

The second type (3.2) is a pole with separate equipment cabinets and will be allowed when the proposed area has adequate right-of-way width to safely house and conceal the associated equipment cabinet and power meter cabinet or on a high speed roadway requiring breakaway features and a type 2.2 pole is technically infeasible. To qualify for this installation, the applicant must demonstrate that the equipment cabinet is located at least 20’ from curb or 3’ behind a sidewalk and next to a six-foot or taller fence or sound wall and that there is not an existing street light that can be replaced. This dual-use pole (equipment cabinets) is expected to mainly be used on arterials where the roadway is separated from adjacent properties with fences or sound walls without street lights. It may be permitted in areas with extensive street furniture or areas where visual concealment is less necessary (drainage gulches, adjacent to natural open spaces, etc.) by the city of Lakewood’s determination on a case by case basis.
**Design Standards**

All small cell facilities and accessory equipment shall meet Xcel Energy’s utility requirements (as applicable) and Lakewood’s design aesthetics.

Freestanding small cell applications and aesthetics must be approved by Lakewood prior to installation. All new freestanding poles shall match or be substantially similar to the finishes, designs, colors, and other aesthetic characteristics already present in the existing poles or designated for the area.

All antennas and wiring shall be concealed within the vertical pole, within a cantenna, or behind a shroud mounted to the top of the pole structure. All cantennas and shrouds shall provide as complete concealment as possible to ensure concealed views of antennas, equipment, and other hardware. Antennas that technically cannot be covered by a shroud shall have concealment built up to the antenna edge to create a uniform appearance aesthetically, if they stand off more than 6 inches from the pole face or farther than 6 inches combined from the pole edge extended.

All Type 3 freestanding small cell poles shall be separated by at least 600 feet from another freestanding Type 3 Small Cell Pole, and shall meet all applicable requirements of Section 4 regarding placement.

Type 3.1 poles shall have all equipment, meters, and wiring mounted internally. The antennas shall utilize a cantenna, shroud or similar camouflage design acceptable to the city.

Type 3.2 poles shall have separate equipment cabinets and meters. The equipment cabinets shall use camouflage design techniques, including the use of materials, colors, screening, undergrounding, or other design options that will blend into the surrounding natural setting. Wherever possible, new small cell equipment cabinets shall utilize existing landforms, vegetation, and structure to aid in screening the facility from view and to blend in with surrounding built and natural environment and maintain a cohesive appearance.

Type 3.1 and 3.2 poles may have one separate 3 cubic foot equipment shroud or similar camouflage design acceptable to the city covering externally mounted equipment in addition to the cantenna. To qualify for this installation, the applicant must demonstrate that the additional technology cannot be integrated into the equipment cabinet and/or the cantenna or there are multiple carriers co-locating on the pole.
Figure 4: New Freestanding Poles

Type 3.1: Equipment Hidden
Type 3.2: Equipment Cabinet
<table>
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<tr>
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<td><strong>Color</strong></td>
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4. ACCESSORY EQUIPMENT AND PLACEMENT REQUIREMENTS

Placement Requirements
A dual-use small wireless facility and street light pole shall only be located where an existing street light pole can be removed and replaced or at a new location where it has been identified that a street light is necessary.

The location of all new small wireless poles or equipment cabinets, regardless of type, shall be subject to the following:

- Does not alter vehicular circulation or parking within the ROW
- Does not impede vehicular, bicycle, or pedestrian access or visibility along the ROW
- Located a minimum of 15 feet from existing street light, traffic signal or utility poles
- In general alignment with existing trees, utility poles, or street lights
- Equal distance between trees when possible, with a minimum of 15 feet separation such that no proposed disturbance shall occur within the critical root zone of any tree
- With appropriate clearance from existing utilities

When placed adjacent to a residential property, the small cell facility shall be placed in proximity to a common property line between adjoining residential properties, such that it minimizes visual impacts equitably among adjacent and nearby properties (Figure 5). When placed adjacent to a residential property located on a corner lot, the small cell facility shall be placed adjacent to a common property line between adjoining residential properties or on the corner formed by two intersecting streets (Figure 5).

If these placement requirements are not technically feasible, the applicant may submit a written statement to the Public Works Department requesting the small cell facility be exempt from these requirements and offer alternative locations reasonably meeting the intent of these standards and minimizing impacts among residential properties.

Replacement poles and new poles shall comply with the Americans with Disabilities Act, city construction and sidewalk clearance standards, city ordinances, and state and federal laws and regulations in order to provide a clear and safe passage within the rights-of-way.
Accessory Equipment

If pole-mounted locations are not available, ground-mounted antenna equipment shall use camouflage design techniques, including the use of materials, colors, screening, undergrounding, or other design options that will blend the new equipment into the surrounding setting. Accessory equipment shall be sited in a way that does 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.
DEFINITIONS

Definitions may also be referenced in Article 14 of the Lakewood Zoning Ordinance.

Accessory Equipment: Any small cell antennas and other wireless communication equipment serving or being used in conjunction with a small cell facility, including, but not limited to, nodes, antenna, cantenna, fiber optic cable, coaxial cable, wires, radios, conduit, pole, utility or transmission equipment, power supplies, generators, batteries, shroud, or other accessory components deemed by the wireless provider to be necessary to operate the wireless site.

Antenna - communications equipment that transmits or receives electromagnetic radio frequency signals used to provide wireless service.

Applicant - Any person that submits an application to the city to site, install, construct, collocate, modify, an/or operate a wireless communications facility.

Camouflage Design Techniques - The use of materials, colors, screening, undergrounding, or other design options that will blend the new equipment and existing pole into the surrounding setting.

Cantenna – that part of a small cell facility typically located at the top of small cell poles, that covers, shrouds, or otherwise camouflages that part of the facility used for the purpose of housing the antenna(s), antenna mount(s), cable connections, radio equipment and other hardware.

Dual-Use Pole – A pole that supports both street lighting and a small cell facility.


Freestanding Small Cell Pole - Any small cell facility that does not support electrical distribution, street lighting or other municipal purpose and is a height that is permitted in the Lakewood Municipal Code and/or in any license or permit agreement between the applicant and the city.

Owner - A person with a legal or equitable interest in ownership of real or personal property.

Public rights-of-way or ROW - Public roads, access ways, sidewalks, or similar facilities.

Small Cell Facility – each antenna is located inside an enclosure, real or imaginary, of no more than three (3) cubic feet and primary equipment enclosures are no larger than seventeen (17) cubic feet in volume. Associated equipment is not included in the calculation of the primary enclosure: electric meter, concealment, telecommunication demarcation box, back-up power
systems, grounding equipment, any permitted ground-based equipment, power transfer switch and cut-off switch.
DATE OF COUNCIL MEETING: JULY 27, 2020 / AGENDA ITEM NO. 11

To: Mayor and City Council

From: Jay N. Hutchison, Public Works Director, 303-987 7901

Subject: PERMIT FEES FOR WIRELESS CARRIER OR SMALL CELL FACILITIES IN THE PUBLIC WAY

SUMMARY STATEMENT: The attached resolution would establish certain fees for placement of wireless carrier and small cell facilities. City staff is seeking City Council’s approval of the resolution establishing the fees.

BACKGROUND INFORMATION: Lakewood collects fees for work in the public way at the time the permit is issued for the work. Placing and replacing poles in the public way for wireless carrier or small cell facilities is newly allowed and there are currently no fees established for this work. Current fees cover other work associated with the installation, such as potholes for locating existing utilities, installing lines, installing electrical meters, and installing above-ground and below-ground vaults or cabinets.

The proposed fee to place a new or replacement pole for a wireless carrier or small cell facility is $380.00 for each pole. The proposed fee to use an existing pole for a wireless or small cell facility is $190.00 for each use.

The proposed fees approximate the city’s costs to evaluate the proposed installation according to the design guidelines considered under Ordinance O-2020-1, to review plans for the installation, to review traffic control plans, to issue the permit and to inspect the installation during and after construction.

The fees described above and included in the proposed resolution were calculated in June 2019 and originally provided to City Council in January 2020. In June 2020 the calculation was updated to use current city costs based on the 2020 pay plan with a factor to account for overhead costs including employee benefits. The recalculated proposed fees are $575.00 to place a new or replacement pole and $290.00 to use an existing pole.

BUDGETARY IMPACTS: Permit fees collected for wireless carrier or small cell facilities will add to the total permit revenues.

STAFF RECOMMENDATIONS: Public Works recommends modifying the permit fee schedule to include the fees for wireless carrier or small cell facilities as set forth in the attached resolution.
Public Works further recommends amending the attached resolution to establish the permit fee for a new or replacement pole at $575.00 rather than $380.00 and to establish the permit fee for use of an existing pole at $290.00 rather than $190.00.

Public Works further recommends amending the attached resolution so that the fees become effective upon adoption of the resolution by City Council rather than on March 1, 2020 as included in the original resolution.

**ALTERNATIVES:** The City Council can choose to not establish the fees for wireless carrier or small cell facilities or to modify the fees from those proposed; however, these types of fees are limited to no more than the estimated cost of providing the service for which the fee is charged.

**PUBLIC OUTREACH:** Utility providers have been notified of the City Council’s consideration of the proposed fees.

**NEXT STEPS:** If the City Council approves the resolution, the fees will be included in the published fee schedule and fees will be collected with permits issued after March 1, 2020 for wireless carrier or small cell facilities.

**Permit fees adopted by City Council will be collected with permits issued after the resolution is approved.**

**ATTACHMENTS:** Resolution 2020-9

**REVIEWED BY:** Kathleen E. Hodgson, City Manager  
Benjamin B. Goldstein, Deputy City Manager  
Timothy P. Cox, City Attorney
A RESOLUTION

ESTABLISHING CERTAIN FEES FOR PLACEMENT OF WIRELESS CARRIER OR SMALL CELL FACILITIES WITHIN CITY OF LAKEWOOD PUBLIC WAY

WHEREAS, Section 12.04.080 of the Lakewood Municipal Code directs the City Council to establish by resolution fees for inspections of work within the City of Lakewood public way; and

WHEREAS, the City Council desires to establish fees for placement of wireless carrier or small cell facilities within the City of Lakewood public way.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The following fees are hereby established for placement of wireless carrier or small cell facilities in the public way, effective on March 1, 2020:

<table>
<thead>
<tr>
<th>PUBLIC WAY INSPECTIONS</th>
<th>PER UNIT FEE</th>
<th>MINIMUM FEE</th>
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<tbody>
<tr>
<td>Place or replace pole for wireless carrier or small cell facility</td>
<td>$380.00 each pole</td>
<td>$380.00</td>
</tr>
<tr>
<td>Use of existing pole to install wireless carrier or small cell facility</td>
<td>$190.00 each use</td>
<td>$190.00</td>
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</tbody>
</table>

SECTION 2. The preceding fees shall not be refunded in whole or in part, unless the application was accepted due to an error on the part of the City staff.

INTRODUCED, READ AND ADOPTED by a vote of _____ for and _____ against at a virtual regular meeting of the Lakewood City Council held on July 27, 2020 at 7 o’clock p.m.

__________________________________________
Adam Paul, Mayor

ATTEST:

_________________________  ___________________________
Michele Millard, City Clerk

APPROVED AS TO FORM:

_________________________
Timothy P. Cox, City Attorney

WHEREAS, on January 31, 2020, the United States Department of Public Health and Human Services Secretary declared a public emergency for the novel coronavirus (COVID-19) beginning on January 27, 2020; and

WHEREAS, on March 10, 2020, Colorado Governor Jared Polis declared a State of Disaster Emergency as the number of identified COVID-19 cases in Colorado increased, and announced numerous emergency measures to protect public health and safety; and

WHEREAS, the Jefferson County Department of Public Health has informed the City of Lakewood that the number of confirmed cases of COVID-19 in Jefferson County continues to increase; and

WHEREAS, the cost and magnitude of responding to and recovery from the impact of the COVID-19 Pandemic may be far in excess of the City’s available resources; and

WHEREAS, declaration of a local disaster emergency will assist and permit access to local emergency funds and Federal and State assistance, and will allow adjustments to policies, procedures, and ordinances to ensure the public’s health and welfare; and

WHEREAS, it is appropriate and in the interests of the public health and safety of the City and its residents to rapidly address community spread of COVID-19 and subsequent cascading impacts, such as economic distress, and to further protect the health and safety of the public by declaring a state of disaster in the City of Lakewood; and

WHEREAS, the situation is sufficiently serious that it has become necessary for the City Manager to declare a state of disaster within the City of Lakewood pursuant to Chapter 1.27 of the Lakewood Municipal Code, and to exercise the City Manager’s emergency powers set forth therein; and

WHEREAS, I have reviewed the situation, consulted with City of Lakewood Department Directors and the Jefferson County Director of Public Health, and verified the existence of the state of disaster cited below, and the necessity for me to take immediate, extraordinary action as outlined in this Proclamation.

NOW, THEREFORE, I, KATHLEEN E. HODGSON, AS CITY MANAGER OF THE CITY OF LAKEWOOD, COLORADO, DO PROCLAIM AND ORDER AS FOLLOWS:
SECTION 1. DECLARATION OF STATE OF DISASTER

A. Based on my review of the present circumstances and my consultations with City of Lakewood Department Directors, the Jefferson County Director of Public Health and the Director of the Colorado Department of Public Health and Environment, I have determined that a state of disaster exists requiring and authorizing me to exercise any or all of the emergency powers vested in me as City Manager by Lakewood Municipal Code Chapter 1.27 as described in this Proclamation. The issuance and execution of this Proclamation declaring a state of disaster shall automatically empower me as the City Manager to exercise any and all of the disaster and emergency powers and shall activate all relevant portions of the Emergency Plan and Management System. Nothing in this Proclamation shall be construed to limit or reduce the authority or powers available to the City Manager pursuant to Chapter 1.27, and all provisions of Chapter 1.27 shall remain in full force and effect regardless of whether those provisions are referenced herein.

B. I will be exercising the authority provided in Chapter 1.27 through the mechanisms identified therein, including through the promulgation of such regulations as I deem necessary to protect life and property and preserve critical resources, through the issuance of emergency orders, proclamations and other enactments and through the use and direction of City personnel, services and equipment and such additional acts necessary for the management of the state of disaster.

C. Pursuant to Lakewood Municipal Code section 1.27.071, it is unlawful for any person to violate or to knowingly fail to obey any order or regulation made or issued pursuant to that Chapter. Penalties for violations of any order or regulation promulgated by the City Manager or for violations of any provision of Chapter 1.27 shall be as set forth in Section 1.27.120 of the Lakewood Municipal Code.

SECTION 2. DISTRIBUTION OF DECLARATION OF STATE OF DISASTER

Once issued, this Proclamation shall be properly published and disseminated to the public and filed with the City Clerk and the City Council. A copy of this Proclamation shall be forwarded to the Colorado Division of Emergency Management and the Department of Local Affairs.

SECTION 3. DURATION OF DECLARATION OF STATE OF DISASTER.

Pursuant to LMC Section 1.27.060(D), the state of disaster declared by this Proclamation shall remain in effect until the City Manager declares by Proclamation that the threat of danger has passed or that the disaster conditions no longer exist, suggesting that the City Manager has the authority to declare a state of disaster of indefinite duration. However, Section 1.27.060(D) further provides that a declaration of a state of disaster cannot extend beyond seven days, unless a majority of the City Council approves a longer duration. Inasmuch as the COVID-19 disaster will obviously extend well beyond seven days, the City Manager intends to ask the City Council to vote, at its next meeting, to declare the state of disaster to continue indefinitely. In making the ultimate determination as to whether the danger has passed or the disaster conditions no longer exist, the City Manager may consider such factors as whether the state of Colorado's declaration of disaster has been terminated.

SIGNED THIS 17th DAY OF March

BY:

[Signature]
Kathleen E. Hodgson, City Manager
City of Lakewood, Colorado

ATTEST:

[Signature]
Michele Millard, City Clerk
City of Lakewood, Colorado