

AGENDA
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD, COLORADO
VIRTUAL MEETING
JUNE 8, 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>
or

Lakewood Speaks: <https://lakewoodspeaks.org/>

Phone Number for Public Comment: (1-346-248-7799)

Webinar ID: (990 7302 4331)

(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 – RESOLUTION 2020-21– APPOINTING LAURA KROEGER TO THE METRO WASTEWATER RECLAMATION DISTRICT BOARD OF DIRECTORS

ITEM 5 – PUBLIC COMMENT

ITEM 6 – 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 7 – ORDINANCE O-2020-18 – AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE 2020 CITY OF LAKWOOD ANNUAL BUDGET IN THE AMOUNT OF \$269,697 IN CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING PROGRAM FUNDS FROM THE BUREAU OF JUSTICE ASSISTANCE AND AUTHORIZING THE EXPENDITURE THEREOF

END OF CONSENT AGENDA

EMERGENCY ORDINANCE

ITEM 8 – ORDINANCE O-2020-17 – AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE 2020 CITY OF LAKWOOD ANNUAL BUDGET IN THE AMOUNT OF \$12,312,019 IN FUNDS DISTRIBUTED BY JEFFERSON COUNTY FROM THE CORONAVIRUS RELIEF FUND AND AUTHORIZING THE EXPENDITURE THEREOF AND FURTHER DECLARING AN EMERGENCY

ORDINANCES ON SECOND READING AND PUBLIC HEARINGS

ITEM 9 – CONTINUED ORDINANCE O-2020-16 – CREATING THE COVID-19 BUSINESS RELIEF AND RECOVERY GRANT PROGRAM AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE CITY OF LAKWOOD 2020 ANNUAL BUDGET IN AN AMOUNT NOT TO EXCEED THREE MILLION DOLLARS (\$3,000,000) FROM THE CARES ACT DOLLARS RECEIVED THROUGH JEFFERSON COUNTY AND AUTHORIZING THE EXPENDITURE THEREOF AND, FURTHER, DECLARING AN EMERGENCY

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

ITEM 11 – CONTINUED RESOLUTION 2020-9 – ESTABLISHING CERTAIN FEES FOR PLACEMENT OF WIRELESS CARRIER OR SMALL CELL FACILITIES WITHIN CITY OF LAKWOOD PUBLIC WAY – **MAY BE CONTINUED**

ITEM 12 – GENERAL BUSINESS

MOTION TO EXTEND EMERGENCY DECLARATION – I MOVE TO EXTEND THE DECLARATION OF DISASTER IN THE CITY OF LAKWOOD 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 JUNE 22, 2020, UNLESS EARLIER EXTENDED OR TERMINATED BY THE CITY COUNCIL.

ITEM 13 – MAYOR AND CITY COUNCIL REPORTS

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

ITEM 14 – ADJOURNMENT



Lakewood
Colorado

STAFF MEMO

DATE OF COUNCIL MEETING: JUNE 8, 2020 / AGENDA ITEM NO. 4

To: Mayor and City Council

From: Jay N. Hutchison, Public Works Director, 303-987-7901

Subject: A RESOLUTION APPOINTING LAURA KROEGER TO THE METRO WASTEWATER RECLAMATION DISTRICT BOARD OF DIRECTORS

SUMMARY STATEMENT: The City of Lakewood appoints two members to the board of the Metro Wastewater Reclamation District. This resolution would appoint Laura Kroeger to the board for a term ending in 2022. She would replace a director whose term ends on June 30, 2020 after many years of service.

Public Works is seeking City Council's approval of the resolution appointing Ms. Kroeger.

BACKGROUND INFORMATION: The City of Lakewood, like most cities in the Denver metropolitan area and many special districts, sends its sewage flow to the Metro Wastewater Reclamation District (MWRD), which owns and operates two major sewage treatment plants. The MWRD is governed by a board of directors appointed by MWRD member organizations, including Lakewood and various districts such as the Bancroft Clover Water and Sanitation District and the Alameda Water and Sanitation District.

Specific technical expertise in areas related to water, water quality and utilities is desirable when serving on the MWRD board. Experience working with the MWRD and its regulatory environment is also valuable. Metro Wastewater operates under a complex set of bylaws, rules and regulations governing the operation, use and service of the system, including Colorado Statutes, the Sewage Treatment and Disposal Agreement between the MWRD and users of the system as well as federal environmental regulations.

Laura Kroeger is a 22-year Lakewood resident with three children in Lakewood schools. She is a professional engineer with more than 24 years experience in the industry and a masters of science degree in civil engineering. Earlier in her career, Ms. Kroeger worked for a Lakewood-based consulting engineering firm managing and designing projects including for special districts in the water industry.

She currently serves as an Engineering Services Manager with the Mile High Flood District (MHFD), formerly known as the Urban Drainage and Flood Control District. The MHFD is a multi-county, Denver metropolitan area agency created by the state legislature. She has been with the MHFD for 16 years. Her current responsibilities include capital improvement projects, maintenance and fee-in-lieu programs of the district totally more than 40 million dollars per year.

Ms. Kroeger has also managed the MHFD's South Platte River program for several years. This experience is particularly relevant to this appointment because a key component was collaborating with the MWRD due to its treatment plant discharge being to the South Platte River. In all of these roles, she has had experience with the complex regulatory environment in which the MWRD also works. She also deals with the significant overlap between the MHFD's and the MWRD's shared interest in water quality.

The American Public Works Association (APWA) will soon benefit from her expertise on its national board and as she continues to serve as the technical director of the Leadership and Management group. She served for a number of years on the Colorado APWA chapter board. These experiences will serve the community well as she represents Lakewood on the Metro Wastewater Reclamation District board.

BUDGETARY IMPACTS: This appointment has no budgetary impacts.

STAFF RECOMMENDATIONS: Public Works recommends adoption of the resolution appointing Ms. Laura Kroeger to the Metro Wastewater Reclamation District board for a term ending on June 30, 2022.

ALTERNATIVES: City Council may adopt the resolution or reject the resolution.

PUBLIC OUTREACH: Normal City Council agenda publication has included this resolution

NEXT STEPS: None.

ATTACHMENTS: Resolution 2020-21

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

2020-21

A RESOLUTION

APPOINTING LAURA KROEGER TO THE METRO WASTEWATER RECLAMATION DISTRICT BOARD OF DIRECTORS

WHEREAS, the City of Lakewood (the "City") is a member of the Metro Wastewater Reclamation District (the "District") and as such appoints directors to the District board of directors (the "Board");

WHEREAS, technical expertise in areas related to water resources is particularly desirable for directors serving on the Board;

WHEREAS, Ms. Laura Kroeger's decades of experience in the water industry in the Denver metro area including technical and regulatory aspects make her well qualified to serve as a City appointed director on the Board; and

WHEREAS, the City Council hereby finds and determines that appointing Ms. Laura Kroeger to the Board is and shall be in the best interest of the residents of the City.

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

SECTION 1. Laura Kroeger is hereby appointed as a director of the Metro Wastewater Reclamation District Board to serve the term ending on June 30, 2022.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

INTRODUCED, READ AND ADOPTED by a vote of ____ for and ____ against at a virtual regular meeting of the Lakewood City Council held on June 8, 2020, at 7 o'clock p.m.

Adam Paul, Mayor

ATTEST:

Michele Millard, City Clerk

APPROVED AS TO FORM:

Timothy P. Cox, City Attorney



STAFF MEMO

DATE OF COUNCIL MEETING: JUNE 8, 2020 / AGENDA ITEM NO. 7

To: Mayor and City Council

From: Daniel J. McCasky, Chief of Police, 303-987-7100

Subject: **AN ORDINANCE AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE 2020 CITY OF LAKEWOOD ANNUAL BUDGET IN THE AMOUNT OF \$269,697 IN CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING PROGRAM FUNDS FROM THE BUREAU OF JUSTICE ASSISTANCE AND AUTHORIZING THE EXPENDITURE THEREOF**

SUMMARY STATEMENT: The Lakewood Police Department (“LPD”) is requesting City Council approval of a supplemental budget appropriation and authorization to expend Coronavirus Emergency Supplemental Funding (CESF) Program funding.

BACKGROUND INFORMATION: The United States Department of Justice, Bureau of Justice Assistance (BJA), Office of Justice Programs enacted the CESF Program to provide agencies with funding to help in preventing, preparing for, and responding to the coronavirus while providing law enforcement services. The funds from the CESF Program will help mitigate the impact of the COVID-19 pandemic. The BJA has determined that the City of Lakewood is eligible to receive \$269,697 in funds to support LPD’s response to the pandemic. This will be awarded based on an approved application for the direct allocation portion of the program.

The CESF grant announcement states specific permissible use of funds. To adhere to these guidelines, staff proposes the following estimates of expenses for each area. This list of expenditures is for the purpose of example and is not intended to be fully inclusive:

- Police Agent Overtime Cost (\$97,824) – The police department proposes to use these funds in several projects to include police agents who will work overtime hours designated for taking phone reports to reduce personal contact with citizens and for covering hours missed by agents who were quarantined and in self-isolation. The coronavirus pandemic has impacted the police academy recruit training schedule. Due to social distance requirements, additional instructors are needed for added days of training of police recruits at the Combined Regional Academy. The overtime hours and modified training schedules allows the academy to continue to operate and comply with social distancing.
- Specialized Equipment and Citizen Reporting Software (\$171,873) – This equipment, if approved for purchase, will help support social distancing requirements while maintaining operational efficiency and effectiveness. Communication equipment will be purchased to help ensure the proper and timely

notification of the public by providing directed messaging about virus prevention, virus response preparations and notifications for events such as testing sites, stay-at-home orders or any relevant city or state government announcements. Please see attached budget detail worksheet and program narrative for specific information.

BUDGETARY IMPACTS: This supplemental appropriation of \$269,697 is intended to offset non-budgeted costs related to COVID-19.

STAFF RECOMMENDATIONS: Staff recommends utilizing this grant funding to offset overtime costs, and the purchase of specialized equipment and citizen reporting software. These are essential to allowing our police department to perform their law enforcement duties in a manner that complies with state, and local mandates concerning social distancing which contributes to the prevention, preparation for, and response to COVID-19 and recovery costs related to this pandemic.

ALTERNATIVES: Failure to approve the ordinance amending the 2020 Budget appropriations for the Grant Fund would result in the City losing \$269,697. As a result, the 2020 Budget would need to absorb the additional costs of responding to the public health emergency with respect to COVID-19.

PUBLIC OUTREACH: This item will be promoted through the City's regular communication channels for matters that appear before City Council.

NEXT STEPS: Staff proposes the City Council adopt the ordinance amending the 2020 Budget appropriations for the Grant Fund.

ATTACHMENTS: Ordinance O-2020-18
Budget Detail Worksheet
Program Narrative

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

O-2020-18

AN ORDINANCE

AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE 2020 CITY OF LAKEWOOD ANNUAL BUDGET IN THE AMOUNT OF \$269,697 IN CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING PROGRAM FUNDS FROM THE BUREAU OF JUSTICE ASSISTANCE AND AUTHORIZING THE EXPENDITURE THEREOF

WHEREAS, Article XII, Section 8 of the City Charter allows City Council to make supplemental appropriations by ordinance during the fiscal year for unanticipated expenditures required for the operation of the City using monies not anticipated in the adopted budget that have become available to the City;

WHEREAS, the Lakewood Police Department ("LPD") has incurred, and will continue to incur numerous expenses in response to the Coronavirus pandemic;

WHEREAS, the United States Department of Justice, Bureau of Justice Assistance ("BJA"), Office of Justice Programs enacted the Coronavirus Emergency Supplemental Funding ("CESF") Program to provide law enforcement agencies with funding to help in preventing, preparing for, and responding to the Coronavirus pandemic while providing law enforcement services;

WHEREAS, the BJA has determined that LPD is eligible to receive \$269,697 in CESF Program funds to support its response to the Coronavirus pandemic;

WHEREAS, the purchasing policies set forth in Chapter 3.04.090 of the City of Lakewood Municipal Code require the City Council's approval of any unbudgeted purchase, and any purchase with a change in funding source, in excess of \$50,000;

WHEREAS, no additional money is being requested for this grant;

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. In accordance with Section 12.8 of the Lakewood Home Rule Charter, there is hereby appropriated to the Grant Fund \$269,697 in CESF Program funds for the purpose of supporting LPD's work in responding to the Coronavirus outbreak.

SECTION 2. In accordance with Lakewood Municipal Code section 30.04.090, the City Council hereby approves the unbudgeted expenditure of not more than \$269,697 for all purchases and programs related to LPD's Coronavirus response, as authorized by

the City Manager, in accordance with the CESF Program's grant announcement, which identifies the specific permissible uses of and guidance for expenditure of the CESF Program funds, and without returning to City Council for further authorization.

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

SECTION 4. 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 8th day of June, 2020; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 11th day of June, 2020; set for public hearing to be held on the 22nd day of June, 2020; read, finally passed and adopted by the City Council on the _____ day of June, 2020; and signed by the Mayor on the _____ day of June, 2020.

Adam Paul, Mayor

ATTEST:

Michele Millard, City Clerk

APPROVED AS TO FORM:

Timothy P. Cox, City Attorney

BUDGET DETAIL WORKSHEET**Lakewood Police Department****BJA FY 2020 Coronavirus Emergency Supplemental Funding****Title of Project: Coronavirus Prevention, Preparedness, and Response Needs**

All items, unless specifically noted for sole sourcing, will be procured through the open-competitive bidding process, following Standard City and County purchasing procurement and hiring guidelines. Equipment costs will be bid from American companies and/or products.

PERSONNEL SALARY

Personnel/Salary: Overtime to backfill positions and cover for coworkers who are quarantined and in self-isolation. Also overtime hours needed to cover added training days for police recruits at the Combined Police Academy.

| | |
|-------------------------------|-------------|
| 1262 hours x \$68.24 per hour | \$86,119.00 |
|-------------------------------|-------------|

PERSONNEL FRINGE BENEFITS

| | |
|-------------------|-------------|
| Medicare Benefits | \$11,705.00 |
|-------------------|-------------|

EQUIPMENT

| | |
|--|-------------|
| Mavic Dual Drone and accessories 2 X \$5,500 | \$11,000.00 |
| Matrice Drone \$35,000 each | \$35,000.00 |
| Flight Streaming hardware and software | |
| iPads 2 x \$401.49 | \$ 804.00 |
| Data plan for 1 year | \$ 1,000.00 |
| Traffic Signs - 2 X \$16,649 | \$33,298.00 |
| Wanco Signs – 2 X \$13,736 | \$27,472.00 |
| Traffic Sign Drawbar Jack with Wheel 2 X \$150 | \$ 300.00 |
| Electronic Kiosk for Sex Offender Registration | \$13,000.00 |
| Cop Logic Online Reporting System | \$49,999.00 |

SUMMARY

| | Item | Cost |
|----|------------------------|---------------------|
| A. | Personnel Salary | \$86,119 |
| B. | Personnel Fringe | \$11,705 |
| C. | Travel | |
| D. | Equipment | \$171,873 |
| E. | Supplies | \$0 |
| F. | Construction | \$0 |
| G. | Contractor/Consultants | \$0 |
| H. | Other | \$0 |
| I. | Indirect Costs | \$0 |
| | TOTAL | \$269,697.00 |

PROGRAM NARRATIVE

BJA FY 2020 Coronavirus Emergency Supplemental Funding

Lakewood Police Department

Title of Project: Coronavirus Prevention, Preparedness, and Response Needs

LAKWOOD POLICE DEPARTMENT

Personnel Overtime -- Patrol

Police agents will work overtime hours designated for taking phone reports to reduce personal contact with citizens. Overtime funds will also be used for covering hours missed by agents who were quarantined and in self-isolation.

Personnel Overtime – Training for Recruits

The coronavirus pandemic has impacted the police academy recruit training schedule. Due to social distance requirements, additional instructors are needed for added days of training of police recruits at the Combined Regional Academy. The overtime hours and modified training schedules allows the academy to comply with social distancing.

Specialized Equipment – To help promote social distancing

Our police department must comply with social distancing requirements while maintaining operational efficiency and effectiveness. Purchasing the following specialized equipment will support our efforts.

Observation equipment - Three drones and accessories will be purchased to allow for observation: Two Mavic Dual Drones will allow for distant observation on an active scene and reduce the need for agents to have personal contact with citizens. One Matrice Drone will provide long term observation over greater distances with greater detail. This equipment reduces the need for agents to physically deploy in an area. Furthermore, use of this technology will minimize the time spent in an area having assessed the situation remotely and planned a response. Drone flight streaming hardware and software will be purchased to allow the emergency operations center (EOC), command post and individuals in the field to view drone footage from a distance. This streaming technology

will also be used to alert citizens of warnings, advisories and any messages or mandates relating to COVID-19.

Communication equipment – The City of Lakewood is focused on our role in assisting the State of Colorado and supporting our residents with coronavirus prevention, preparation, and response efforts. As on-going challenge for any municipality is messaging and ensuring the proper and timely notification of our residents. Therefore, we are asking for assistance in acquiring multiple digital variable messaging signs (VMS) for that purpose.

The City of Lakewood borders the City of Denver and with a population nearing 160,000 residents, is the largest city within Jefferson County. Our population is one of the oldest in the region, with approximately one quarter of our residents over the age of 60. But nearly the same portion of our residents is school aged, at 19 years-old or younger. This diversity in population often means balancing a variety of resident needs with our messaging. Local television, print media, social media and digital magazines are just a few of the methods used to communicate with our residents. The City is continuing to experience the effects of state-wide population growth and with the transient nature of many who live on the front range of Colorado, we are sometimes challenged with connecting with residents who frequently are moving. One way we utilize effective and timely communication is through VMS signs.

The City of Lakewood has 1,350 roadway miles within its 44 square mile border and the Lakewood Police Department currently has only two VMS signs to deploy on our roadways. Included in these roadways are multiple major highways within the Denver Metropolitan Area, including Interstate-70, HWY W 6th Ave, HWY 285 and C470. Many commuters utilize these roadways when going to or from work and VMS signs in high traffic areas allows us to notify many in the community quickly, in ways that other mediums do not.

The Lakewood Police Department is often tasked with utilizing the VMS boards for providing messaging for many city non-public safety related activities and functions. With the unprecedented actions our country has taken to respond to the COVID-19 pandemic, it is important we are able to respond to our residents at a local level. Often, this means providing directed messaging about virus prevention, virus response preparations and notifications for events such as testing sites, stay-at-home orders or any relevant city or state government announcements. Further, the ability to provide factual, concise information from the City of Lakewood helps with providing consistent messaging when government sources are often competing with traditional news and social media to notify and educate the community with accurate information.

For the listed reasons, we request funding for four VMS signs, which would supplement our messaging efforts on the west side of the Denver metropolitan area. We are in an unprecedented time and need the tools to ensure our local government can support, educate and notify our citizens in a timely manner. When not used for COVID related messaging, we can update drivers with information about accidents, emergencies, traffic incidents and education.

Electronic Kiosk for Sex Offender Registration- Sex offender registration is currently a manual process that requires face to face interaction to complete. Due to social distance requirements, sex offenders who report to the Lakewood Police Department for required visits and registration can use an electronic kiosk reducing the need for employee contact. Currently there are 566 sex offenders who are required to register monthly, quarterly, or annually depending on their conviction and/or whether they are registering as transient/homeless. Having an electronic kiosk for sex offender registration would significantly help to promote social distancing and eliminate the current process of police agents engaging in face to face interaction with sex offenders.

Cop Logic Citizen Reporting Software System – The use of this system will help to promote efficient police agent deployment and workflow efficiencies during the pandemic while adhering to social distancing mandates. Citizens will have the ability to report various incidents and crashes online rather than coming into the Lakewood Police Department station. Examples of incident reporting would include lost/stolen tags, lost property, found property, theft, theft from auto, stolen auto, damage to property, destruction of property. Currently, police agents and/or other police department personnel conduct one-to-one interactions with citizens reporting these incidents.



Lakewood
Colorado

STAFF MEMO

DATE OF COUNCIL MEETING: JUNE 8, 2020 / AGENDA ITEM NO. 8

To: Mayor and City Council

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

Subject: AN ORDINANCE AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE 2020 CITY OF LAKEWOOD ANNUAL BUDGET IN THE AMOUNT OF \$12,312,019 IN FUNDS DISTRIBUTED BY JEFFERSON COUNTY FROM THE CORONAVIRUS RELIEF FUND AND AUTHORIZING THE EXPENDITURE THEREOF

SUMMARY STATEMENT: City of Lakewood Staff is requesting City Council approval of a supplemental budget appropriation and authorization to expend Coronavirus Relief Fund (CRF) funds distributed to the City through Jefferson County.

BACKGROUND INFORMATION:

The United States Congress enacted the Coronavirus Aid, Relief and Economic Security Act (“CARES”) Act to provide relief funds to individuals, businesses, and state and local governments. Following passage, Jefferson County received distributions of CRF monies to help mitigate the impact of the COVID-19 pandemic.

Jefferson County has determined that the City is eligible to receive \$12,312,019 in CRF monies (the “CRF Funds”) to support the City’s response to Coronavirus, as will be detailed in an intergovernmental agreement with Jefferson County.

Staff is continuing to monitor the evolving guidance from the Federal and County governments related to permissible uses of the CRF funds. While subject to ongoing changes, Staff proposes the following guidelines for spending. This list of expenditures is for purpose of example and is not intended to be fully inclusive:

- Community Response/Recovery – Distribute funds through grant programs to support the economic recovery of local business and aid local non-profit organizations providing goods or services to residents in response to Coronavirus.
 - Business Recovery Program
 - Community Recovery
- Local Government Response/Recovery – Aid in the direct response and recovery of the Coronavirus emergency, addressing the health and safety of employees and citizens.
 - Unemployment
 - Facility and equipment modifications
 - Telecommuting support

BUDGETARY IMPACTS: This supplemental appropriation of \$12,312,019 is intended to offset costs incurred by the City related to Coronavirus.

STAFF RECOMMENDATIONS: Staff recommends using the CRF Funds to offset response and recovery costs related to Coronavirus.

ALTERNATIVES: The alternative would be to not appropriate or authorize the expenditure of the CRF Funds. As a result, the additional costs of responding to the public health emergency with respect to COVID-19 would be absorbed by the City's already depleted General Fund.

PUBLIC OUTREACH: This item will be promoted through the City's regular communication channels for matters that appear before City Council.

NEXT STEPS: Staff proposes the City Council give permission to the City Manager to authorize expenditures of the CRF Funds in accordance with the requirements, guidance and limitations established by Jefferson County and the Federal government.

ATTACHMENTS: Ordinance O-2020-17

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

O-2020-17

AN ORDINANCE

AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE 2020 CITY OF LAKEWOOD ANNUAL BUDGET IN THE AMOUNT OF \$12,312,019 IN FUNDS DISTRIBUTED BY JEFFERSON COUNTY FROM THE CORONAVIRUS RELIEF FUND AND AUTHORIZING THE EXPENDITURE THEREOF AND FURTHER DECLARING AN EMERGENCY

WHEREAS, Article XII, Section 8 of the City Charter allows City Council to make supplemental appropriations by ordinance during the fiscal year for unanticipated expenditures required for the operation of the City using monies not anticipated in the adopted budget that have become available to the City;

WHEREAS, the City has incurred numerous expenses and is required to make multiple physical, procedural and programing-related modifications to its operations in response to the Coronavirus pandemic;

WHEREAS, following passage of the Coronavirus Aid, Relief and Economic Security Act (“CARES”) Act, Jefferson County received distributions of Coronavirus Relief Fund (“CRF”) monies to help mitigate the impact of the Coronavirus pandemic;

WHEREAS, the City has received from Jefferson County an initial payment of CRF funds in the amount of \$12,312,019 (the “CRF Funds”), which require a supplemental appropriation to the City’s Annual Budget to accomplish purchasing and programming actions; WHEREAS, the purchasing policies set forth in Chapter 3.04.090 of the City of Lakewood Municipal Code require the City Council’s approval of any unbudgeted purchase, and any purchase with a change in funding source, in excess of \$50,000;

WHEREAS, no additional money is being requested for this grant;

WHEREAS, the City Council hereby finds and determines that the federally mandated spending deadline of December 31, 2020, warrants the immediate passage of this Ordinance in order to protect the health, safety and welfare of the residents of the City;

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. In accordance with Section 12.8 of the Lakewood Home Rule Charter, there is hereby appropriated to the Grant Fund \$12,312,019 in CRF Funds for the purpose of supporting the City's work in responding to the Coronavirus outbreak.

SECTION 2. In accordance with Lakewood Municipal Code section 30.04.090, the City Council hereby approves the unbudgeted expenditure of not more than **\$12,312,019** for all purchases and programs related to the City's Coronavirus response, as authorized by the City Manager, in accordance with the requirements, guidance and limitations established by Jefferson County and the Federal government, and without returning to City Council for further authorization.

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

SECTION 4. 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 8th day of June, 2020; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 11th day of June, 2020; set for public hearing to be held on the 22nd day of June, 2020; read, finally passed and adopted by the City Council on the _____ day of June, 2020; and signed by the Mayor on the _____ day of June, 2020.

Adam Paul, Mayor

ATTEST:

Michele Millard, City Clerk

APPROVED AS TO FORM:

Timothy P. Cox, City Attorney



STAFF MEMO

DATE OF COUNCIL MEETING: MAY 11, 2020 / AGENDA ITEM NO. 7

JUNE 1, 2020/ AGENDA ITEM NO. 9

To: Mayor and City Council

From: Robert Smith, Economic Development Director, 303-987-7732

Subject: **COUNCIL CONSIDERATION OF COVID-19 BUSINESS RELIEF GRANT AND LOAN PROGRAM**

This ordinance was approved on 1st Reading by a vote of 11 ayes 0 nays.

SUMMARY STATEMENT: On March 16, 2020, the State of Colorado issued Public Health Order 20-22 mandating the closure of many businesses throughout the State in response to the Coronavirus (COVID-19) Pandemic. State and County Public Health Departments have subsequently issued Public Health Orders and amendments which have dramatically impacted most, if not all businesses operating within the City of Lakewood.

While these public health orders have been necessary to fight the COVID-19 pandemic, they have caused the sudden cessation, or near cessation, of most business activities within Lakewood. This has proven to be a great hardship for many business owners and individuals employed within Lakewood.

The COVID-19 Business Relief Grant and Loan Program will provide much needed financial relief to many businesses within the Lakewood currently coping with the extreme economic impacts resulting from the impacts of COVID-19.

BACKGROUND INFORMATION: Lakewood Economic Development is part of a group of 24 Metro Area Cities who have considered or are considering Grant/Loan Programs for their local businesses in response to the COVID-19 Pandemic. Currently, 16 Cities have developed a program. Lakewood is part of 8 cities which have currently not developed a program. Other Cities Programs range from \$100K on the low end to \$4M on the high end:

- Denver = \$4M
- Arvada = \$2.5M
- Aurora = \$1M
- Wheat Ridge = \$250K
- Centennial = \$220K

Some cities are implementing grants only programs, while other cities are implementing loans only programs, using a third party lender to administer the loans. A Third party not-for-profit lender is important so the cities don't become lenders, which would include closing the loans and service the collection of those loans. It is anticipated that third party not-for-profit lenders will charge a fee to service loans.

Financial assistance needs to be on a first come, first served basis, in this way there is no picking of "winner & loser" businesses. Money in the Proposed Lakewood program would come from the Economic

Development Fund, not the General Fund (Other cities have used funds from a variety of their internal resources). Demand for local business relief has been high in other cities:

- Westminster (grants): 95 applicants in first hour, 300 by the end of 1st day
- Arvada (loans): 157 applications in first two days; now complete with 250 applications
- Wheat Ridge (grants): Exhausted their available funds

BUDGETARY IMPACTS: Up to one million dollars (\$1,000,000) expended from the Economic Development Fund. This emergency expenditure was not included in the 2020 Budget approved by City Council in October of 2019.

STAFF RECOMMENDATIONS: City Council consideration and discussion of the proposed grant and loan program. Voting to approve a grant and loan program to provide expedited relief to many Lakewood businesses.

ALTERNATIVES:

- Council can vote not to approve any Business Relief Grant/Loan program at all.
- Council can amend the proposed program and vote to approve an amended program.
- Council can refer the proposed program back to staff to develop a different proposed program to be further consider by Council at a future date.

PUBLIC OUTREACH: Proper notice of this potential Council action was given.

NEXT STEPS: If approved, the City Manager will implement the COVID-19 Business Relief Grant and Loan Program as rapidly as possible.

ATTACHMENTS:

- Overview of Proposed COVID-19 Business Relief Grant and Loan Program
- Table of other Cities proposed and implemented programs

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

O-2020-16

AN ORDINANCE

CREATING THE COVID-19 BUSINESS RELIEF AND RECOVERY GRANT PROGRAM AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE CITY OF LAKEWOOD 2020 ANNUAL BUDGET IN AN AMOUNT NOT TO EXCEED THREE MILLION DOLLARS (\$3,000,000) FROM THE CARES ACT DOLLARS RECEIVED THROUGH JEFFERSON COUNTY AND AUTHORIZING THE EXPENDITURE THEREOF AND, FURTHER, DECLARING AN EMERGENCY

WHEREAS, on March 10, 2020, the Governor of the State of Colorado declared a statewide state of emergency in response to the novel coronavirus (COVID-19) (the "Coronavirus");

WHEREAS, on March 11, 2020 the World Health Organization declared the Coronavirus to be a worldwide pandemic;

WHEREAS, on March 14, 2020, the President of the United States declared a national emergency in response to the Coronavirus;

WHEREAS, on March 16, 2020, the State of Colorado issued Public Health Order 20-22 mandating the closure of many businesses throughout the State, including in Lakewood, in response to the Coronavirus pandemic;

WHEREAS, the City Council is empowered by Section 31-15-401(1)(b), C.R.S., to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease;

WHEREAS, on March 17, 2020, the Lakewood City Manager issued a Proclamation Declaring a State of Disaster as a result of the Coronavirus;

WHEREAS, State and County Public Health Departments have subsequently issued Public Health Orders and amendments that have dramatically impacted most, if not all, businesses operating within the City of Lakewood;

WHEREAS, the City Council finds that the public health regulations having been necessary to fight the COVID-19 pandemic have caused the sudden cessation, or near cessation, of most business activities within the City of Lakewood to the great hardship of many business owners and individuals employed within Lakewood;

WHEREAS, the City Council finds and determines that the adoption of this Ordinance is necessary to aid businesses within the City in coping with the extreme economic impacts resulting from the Coronavirus Response;

WHEREAS, the City Council further finds and determines that the adoption of this Ordinance is proper pursuant to its home rule authority under Colorado law;

WHEREAS, at its April 27, 2020, regular meeting, the City Council requested City staff to draft guidelines for a one-time grant and loan opportunity for business relief which guidelines are attached hereto as Exhibit A;

WHEREAS, because the purpose of establishing the COVID-19 Business Relief and Recovery Grants Program is to provide much-needed funding to businesses impacted by the Coronavirus response, the City Council desires to adopt this ordinance as an emergency ordinance and making such funding available as quickly as reasonably possible;

WHEREAS, pursuant to Chapter 1.27 of the City of Lakewood Municipal Code, during a declared emergency the City Manager is granted substantial authority and discretion to take certain actions necessary to mitigate against the impacts of the emergency; and

WHEREAS, one of the enumerated emergency powers invested in the City Manager is to "suspend or modify the provisions of any ordinance or waive compliance with procedures and formalities, including notices as may be prescribed by law;" and

WHEREAS, the City Council, recognizing the authority of the City Manager to waive the usual requirements for adoption of ordinances and wanting to ensure that the CARES Act funds are received and made available to the businesses while they are still in a position to be aided by the funds, has directed the City Manager and staff to prepare this ordinance for approval after only one reading, with the effective date being the date on which the ordinance is signed by the Mayor , as contemplated by Chapter 1.27 of the Lakewood Municipal Code ; and ;

WHEREAS, Article XII, Section 8, of the City Charter allows the City Council to make supplemental appropriations by ordinance during the fiscal year for unanticipated expenditures required for the operation of the City;

WHEREAS, approval of this Ordinance on first reading is intended only to confirm 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 foregoing recitals shall be integrated into this ordinance as if fully set forth herein; and

The COVID-19 Business Relief and Recovery Grants Program is hereby established as set forth in Exhibit A.

SECTION 2. In accordance with Section 12.8 of the Lakewood Home Rule Charter, there is hereby appropriated \$1,000,000 for the purpose of implementing the COVID-19 Business Relief and Recovery Grants Program.

SECTION 3. This Ordinance is necessary for the immediate preservation of the peace, health and safety of the residents of the City of Lakewood because it provides emergency funding to Lakewood businesses impacted by the COVID-19 Response. In light of the foregoing, and in view of the declaration of emergency originally made by the City Manager on March 17, 2020, the City Council hereby declares an emergency and invokes the powers invested in the City Manager so as to suspend and waive the procedures and formalities that are typically required for adoption of an ordinance and as such, this emergency ordinance shall be in full force and effect immediately upon its adoption after its first reading.

SECTION 4. The City Manager is hereby authorized and directed to take all actions reasonably necessary or desirable to immediately implement the business assistance program established herein.

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 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 11th day of May, 2020; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 14th day of May, 2020; set for public hearing to be held on the 1st day of June, 2020; continued to the 8th day of June, 2020; read, finally passed and adopted by the City Council on the _____ day of June, 2020; and signed by the Mayor on the _____ day of June, 2020.

Adam Paul, Mayor

ATTEST:

Michele Millard, City Clerk

APPROVED AS TO FORM:

Timothy P. Cox, City Attorney

**COVID-19 Business Relief and Recovery
Grants Program
EXHIBIT A**

The City of Lakewood is making a \$3,000,000 business relief and recovery fund available to award both large, qualifying grants and modest, random drawing grants to eligible Lakewood Businesses Funds.

Funds for the Program are to be encumbered from CARES Act dollars received through Jefferson County.

Individual Awards will be in one of two forms:

1. A one-time qualifying grant of up to \$30,000 per awardee; or
2. A one-time grant of \$3,000 per awardee, randomly selected from all eligible applications.

Generally, all Lakewood businesses will be eligible to apply for either a grant or a loan, so long as the business meets the following criteria:

- All elements of the grant application must be completed online with all required attachments. Incomplete applications or those applications without required attachments will not be eligible.
- Except as provided in this Exhibit A, an applicant must be a non-home-based business with a physical address within one of the City of Lakewood's non-residential zoning districts.
- Home-based businesses with more than \$75,000 in verified revenues in 2019 are also eligible.
- To be eligible for a Random Drawing Grant, a business must have been in operation on or before January 1, 2020. To be eligible for the large qualifying grants, the business must have been in operation on or before January 1, 2019.
- Applicants must be able to provide proof of ongoing business operations between May 15 and May 31, 2020.
- All businesses must be a registered business with the State of Colorado's Secretary of State's Office.
- All applicants must have a valid Employer Identification Number (EIN) and an active Lakewood Sales and/or Use Tax license, if issued, and must be in good standing with any City permits, licenses, fees or taxes as of March 1, 2020.
- Applicants must have no more than 25 full-time equivalent Full Time Employees (FTE).
- All applicants must have been forced to close temporarily or forced to dramatically limit operations due to the Public Health Orders related to the COVID-19 public health crisis, resulting in lost revenue.
- Businesses with more than one physical location in the City of Lakewood may apply for one location only for this program.

The following business are excluded and ineligible to apply:

- 501-C-3 non-profit organizations
- government organizations
- political organizations
- marijuana businesses
- residential living facilities

Businesses may apply by submitting an application online no earlier than 8:00 a.m. on a date to be determined and publicized, as well as no later than 11:59 p.m. on a date to be determined and publicized. A date and time stamp of submission will be attached to all applications as they are received.

Only complete applications will be considered eligible. Incomplete applications will not be considered.

All eligible applicants will be assessed for Qualifying Grants by using a weighted rubric. The amounts of qualifying grants will be in proportion to an applicant's revenue losses for the months of March and April, 2020, up to a maximum of \$30,000 and subject to funding availability.

All applicants who meet eligibility requirements will be assessed for qualifying large grants using the following weighted rubric. Companies will only be identified by their application number. Individual information identifying a business will be removed during the weighted assessment and applicants will only be assessed by the self-reported characteristics within the rubric. All self-reported responses in each grant application are subject to additional verification.

MAXIMUM WEIGHTED RUBRIC POINTS POSSIBLE: 14 pts

If the number of same score applicants exceeds the number of available qualifying awards, grants will be distributed by random drawing within the same scoring applicants.

| | | |
|-------------------------------------|------------------------------|-------|
| Years in business | 16 or more Years | 4 pts |
| | 11-15 Years | 3 pts |
| | 6-10 Years | 2 pts |
| | 1-5 Years | 1 pt |
| Number of employees | 1-5 employees | 1 pts |
| | 6-10 employees | 2 pts |
| | 11-25 employees | 3 pts |
| Hardest hit industries | Hotels (50 rooms or greater) | 4 pts |
| | Restaurants | 4 pts |
| | Retail Trades | 3 pts |
| | Health Care | 2 pts |
| | All other industries | 0 pts |
| Covid-19 Mitigation Expenses | \$5,001 and more | 3 pts |
| | \$1,001-\$5,000 | 2 pts |
| | \$0-\$1,000 | 1 pt |

All eligible applicants not receiving a Qualifying Grant will be entered into a random drawing for a \$3,000 one-time grant.

The application for the COVID-19 Business Relief and Recovery Grants Program will require responses to several prompts including, but not limited to:

- Business Name
- Business Address
- Business Owner/Contact
- Lakewood sales/use tax license number
- For what purpose(s) does the business intend to use the funds?
- Has the business applied for Federal, State or other business grant and/or loan programs?
- For which programs has the business applied? (PPP, EIDL, others)
- In a few sentences, what is the business's plan for continued viability through January 1, 2021, and beyond?
- Applications will require the submission a valid W-9 as an attachment

As part of the grant application, applicants will agree to:

- Provide copies of receipts for payments/purchases made with awarded funds.
- Promotion of the business's story after receiving awarded funds.
- Provide additional documents verifying information entered in the application, if requested.

Funds will be delivered within ten (10) days after being awarded the grant.

Grant proceeds will be paid directly to the awarded business.

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| Sponsor | General Goal | Total | Individual Awards | Eligible | App Form ? | Funds delivery | Web Link | Notes |
|---------|---|--------|---|---|------------|------------------|---|---|
| Arvada | <p>Emergency Business Recovery Initiative</p> <p>The City has created a \$2.5 million loan fund to help qualifying businesses stay afloat until funding from the Small Business Administration (through the CARES Act) becomes available.</p> <p>Loan proceeds may be used for any legitimate business expenses in accordance with state and federal law, including but not limited to: rent, payroll, inventory, and other monthly expenses.</p> | \$2.5M | <p>Up to \$10K no interest loan</p> <p>Qualifying businesses may apply for a loan of up to \$10,000.00 at no interest. Repayment of the loan will be deferred until Jan. 1, 2021. If 75 percent of the loan is paid by Dec. 31, 2021, the remaining 25 percent of the loan (up to \$2,500.00) will be forgiven. Each Borrower must agree to be bound by the terms and conditions of the Fund program.</p> | <ul style="list-style-type: none"> Is a non-home-based business with a physical address within the City of Arvada. Is a for-profit business. Has been in operation on Jan. 1, 2020. Has an active Arvada business license. Is in good standing with any City permits, licenses, fees or taxes as of March 1, 2020. Is a small business with no more than 50 full-time equivalent Full Time Employees (FTE) positions. Has been forced to temporarily close or forced to dramatically limit operations due to the Public Health Orders related to the COVID-19 public health crisis. Businesses with more than one physical location in the City of Arvada may apply for the program for one location only | Yes | Rapid deployment | ARVADA LOAN / GRANT PROGRAM | <p>Partnership from City of Arvada, AEDA and AURA</p> <p>Loan proceeds will be paid directly to the applicant business.</p> <p>Loans will be awarded generally on a first-come, first-served basis based on the time a qualifying business's application is filed with the City, subject to funding availability. However, the City reserves the right to award loan funds to support participation across every area of the City as well as to support diverse business types.</p> |

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| Sponsor | General Goal | Total | Individual Awards | Eligible | App Form ? | Funds delivery | Web Link | Notes |
|---------|--|---|--|--|------------|--|---|--|
| Aurora | Economic Relief Loan and Grant Program | \$1M In conjunction with Community Enterprise Development Services (CEDS) Finance. | Grants up to \$5K Loans \$5K to \$50K | <ul style="list-style-type: none"> Businesses based in Aurora with a physical location in the city (preferably with a storefront) Have 50 or fewer employees Be operating in Aurora for at least 12 months Have experienced a loss of income due to COVID-19 Retain at least one low- to moderate-income job with this assistance (moderate income means less than or equal to 80% of the Area Median Income (AMI); see chart below for reference) <p>Due to funding limitations, qualified applicants who submit complete financial information as requested also will be evaluated based on these additional factors: number of jobs retained for low- and moderate-income people; urgency of need for resources; provides goods or services needed by—and are affordable to—low- and moderate-income residents; located in or near urban renewal area; is a minority, woman and/or immigrant-owned business; and percent of income loss.</p> | YES | <p>Businesses that apply here will be evaluated initially to ensure minimum qualifications are met. Qualified applicants will be contacted no later than April 23 with additional information regarding how to submit financial documents securely.</p> <p>Planning on a second round of funding beginning on 5/6/2020</p> | AURORA LOAN & GRANT PROGRAM | <p>To qualify for a loan, businesses must meet these additional minimum requirements:</p> <ul style="list-style-type: none"> Minimum credit score of 600 with no recent judgments or bankruptcies and no significant collections No more than two outstanding liens/debt for the business Annual revenue to be \$2 million or less (prior to March 2020), with a 25% revenue decline in the same period 12 months prior Be in good standing with regulatory agencies The loan interest rate will be 2%, with the initial loan term not to exceed five years (or with modifications and/or extensions, go up to seven years). <p>Please note: Due to evaluation factors and funding limitations, applicants may meet minimum qualifications and submittal guidelines, but not receive funding.</p> |
| Bennett | No Grant/ Loan program at this time | | | | | | | |
| Boulder | Public / Private Seed Grant | \$250K (\$200K from City of Boulder \$50K from philanthropic donors) | \$2,500 One time grant | Boulder businesses | ? | | BOULDER CHALLENGE GRANT | Contact the Community Foundation at 303.442.0436 |

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| Sponsor | General Goal | Total | Individual Awards | Eligible | App Form ? | Funds delivery | Web Link | Notes |
|-------------------|--|---------|---|--|------------|------------------|--|---|
| Brighton | <p>Relief fund offering critical capital and coaching support to small businesses in Brighton in Response to the COVID-19 Pandemic, with additional support from Adams County to lower interest rates and waive fees</p> <p>Help stabilize vulnerable small businesses in Brighton, and therefore help retain jobs</p> | \$475K | <p>Up to \$25K</p> <p>Colorado Enterprise Fund's COVID-19 Relief Loan is available in amounts up to \$25,000, with up to six-year terms, and six-months interest-only payments, with quick turnaround when businesses have necessary documents ready.</p> | Brighton businesses with 40 or fewer employees, on a first-come, first-served basis. | Yes | Rapid deployment | BRIGHTON COVID-19 RELIEF FUND | <p>Collaboration with Colorado Enterprise Fund (CEF) & Adams County</p> <p>Resource to help small businesses weather the storm or bridge the gap to larger federal SBA resources. The loan is not intended to compete with the SBA CARES Act loans.</p> |
| Broomfield | <p>This program is intended to promote business success, resulting in employee retention, business and tax revenues, and sustaining business activity.</p> <p>Enhance Broomfield</p> | Unknown | \$7,500 | This program is for business owners within the City & County of Broomfield only. | Yes | Rapid deployment | BROOMFIELD ENHANCE BROOMFIELD SUPPORT FOR SMALL BUSINESSES | The Enhance Broomfield Modified Grant Program is designed to assist small businesses with support grants of up to \$7,500 per business. This program is intended to promote business success, resulting in employee retention, business and tax revenues, and sustaining business activity. |

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| Sponsor | General Goal | Total | Individual Awards | Eligible | App Form ? | Funds delivery | Web Link | Notes |
|------------|---|---|--|--|------------|-----------------------------|--|--|
| Centennial | Loan Program in collaboration with Colorado Enterprise Fund (CEF) | \$220K \$200K = Centennial; \$20K = CEF | <\$25K <6 Yr Term 6 months of interest only payments | Centennial Businesses Licensed to operate in Centennial Full compliance with all rules and regulations required by the City of Centennial Good standing with the City of Centennial; Been in existence before Feb. 15, 2020 and have generated revenue during the fiscal year 2019; At the time of application and throughout the term of the loan, a business must have its primary office/headquarters or operations within the City of Centennial, Colorado; Home-based businesses are ineligible; No restrictions on the type of business eligible for loans so long as the activities of the business are legal and in the best interests of the community; provided specifically, however, that marijuana businesses that are unlawful within the City of Centennial and sexually oriented businesses as described in Centennial's Land Development Code are ineligible. A business must file all standard Colorado Enterprise (CEF) application information and meet CEF's standard underwriting criteria for the type and size of the loan | Yes | Beginning week of 4/20/2020 | <u>CENTENNIAL SMALL BUSINESS LOAN FUND</u> | In Conjunction with the Colorado Enterprise Fund (CEF) |

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| Sponsor | General Goal | Total | Individual Awards | Eligible | App Form ? | Funds delivery | Web Link | Notes |
|---------------|-------------------------------------|--|--------------------------|-------------------|------------|----------------|---|--|
| Commerce City | No Grant/ Loan program at this time | | | | | | | |
| Denver | Immediate Assistance | \$4,000,000 [Has since Grown since beginning] | Up to \$7,500 / business | Denver Businesses | Yes | | <u>DENVER SMALL BUSINESS EMERGENCY RELIEF PROGRAM</u> | At \$7,500 per business, Denver will be able to assist 533 of the more than 10K businesses |

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| | | | | | | | | |
|------------------|--------------------------|--------|---|--|-----|----------------------|--|--|
| Edgewater | Rent/Mortgage Assistance | \$200K | First month: No more than 50% monthly rent/mortgage or \$2,500 whichever is less. Second Month: 100% monthly rent/mortgage or \$2,500 whichever is less. | <ul style="list-style-type: none"> • Current business license on or before March 17, 2020, • Physical location within the City of Edgewater's commercial districts • Have had its operations severely limited by the public health emergency, including but not limited to having been prohibited from onsite sales or service to the public, or prohibited from onsite consumption of foods or beverages, by one or more of the public health orders issued in connection with COVID-19; for purposes of this subsection, "severely limited" means that a business has had a monthly revenue decline of not less than fifty percent (50%), year over year for established businesses, month over month for new businesses, or based upon reasonable revenue estimates, as determined by the City of Edgewater, for businesses in existence for less than two consecutive months; • Owned by a Colorado resident, or be a corporation owned or controlled by a Colorado resident, that had no more than fifty (50) employees or independent contractors engaged in work for the business on March 17, 2020. • Have applied for a federal Small Business Administration loan or grant authorized under the Coronavirus, Aid, Relief, and Economic Security (CARES) Act, for a minimum of \$10,000. | Yes | Deadline is 5/8/2020 | SAVE SMALL BUSINESS PROGRAM | As a condition of each grant made under the business assistance program, the applicant must: 1. provide information as part of its grant application concerning each other application that it has made for state, federal and/or private aid, loans or other assistance in connection with the public health emergency; 2. provide information concerning its plan to remain in business, or to resume business operations, at the end of the public health emergency; and 3. in connection with any application for a second monthly grant under the program, provide detailed information concerning how the money was used to support ongoing business operations, or the resumption of business operations at the end of the public health emergency. 4. A completed W-9 (link to W-9 form - https://www.irs.gov/pub/irs-pdf/fw9.pdf) 5. Documentation showing monthly business rent amount (lease) or monthly business mortgage amount (statement or payment coupon) 6. Documentation that business owner is a Colorado resident or that business corporation is controlled by a Colorado resident 7. Information and details that a federal Small Business Administration loan has been applied for |
| | Economic Relief | | | | | | | |

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| Sponsor | General Goal | Total | Individual Awards | Eligible | App Form ? | Funds delivery | Web Link | Notes |
|-----------------|---|---|-------------------|--|------------|----------------|--|---|
| Englewood | This program provides grants up to \$2,000 for businesses that have been significantly impacted by this pandemic. | Funding for this grant is limited and is subject to closure once budgeted funds are expended. The City of Englewood is proud to announce that over 100 local businesses have received assistance through the COVID-19 Small Business Support and Recovery Grant. The application process has closed for this grant; | \$2,000 | <ul style="list-style-type: none"> • 25 employees or fewer. • Physical and publicly accessible location in the City of Englewood in a commercial or industrial district. • Experienced or projected to experience a decline in revenue between February 1, 2020 and April 15, 2020 as a result of COVID-19 pandemic. • Experienced or projected to experience a decline in employment as a result of the COVID-19 pandemic. • In good standing with the City of Englewood with regard to licensing and finance, including being current on sales and use tax payments. • Engaged in activities that are legal under city and state law. • Meet program technical requirements including ability to provide financial records to support grant request. • Registered with the Colorado Secretary of State's Office. • Ineligible: National chains and franchises, and regional businesses with more than 5 Colorado locations. Home-based businesses; non-profit organizations; and food trucks are also not eligible. | | | ENGLEWOOD BUSINESS RESOURCES | The grant review committee will evaluate your application and staff will assist you in identifying the most appropriate level of grant support for your business. |
| Federal Heights | No Grant/ Loan program at this time | | | | | | | |

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| Sponsor | General Goal | Total | Individual Awards | Eligible | App Form ? | Funds delivery | Web Link | Notes |
|---|---|---------|--|---|------------|-----------------|---|--|
| Glendale | Business Assistance | ? | \$2K | <ul style="list-style-type: none"> Physical, non-home-based location in the City of Glendale; Maximum of 25 employees; Holds a current Glendale Business License issued prior to March 1, 2020; As of March 1, 2020, is current on all sales, use, lodging, and occupational privilege tax payments to the City of Glendale; As of March 1, 2020, is current on water/wastewater payments to the City of Glendale; and Has experienced or is projected to experience a decline in revenues as a result of COVID-19. | Yes | Rapid Delivery | GLENDALE SMALL BUSINESS INTERIM RELIEF PROGRAM | <p>The Interim Assistance Office is open Monday – Friday, from 9:00 am – 1:00 pm. If you have any questions about the program or the application, please call Mike Kirby, Program Liaison, at 720-505-7868.</p> <p>Applications will be reviewed within 24 hours of receipt (during working hours noted above), and if your business qualifies for the assistance, you will be contacted via e-mail with instructions regarding payment.</p> |
| Golden Rent/ Mortgage Assistance | Assist with real estate payments Downtown Business Rent/ Mortgage Assistance | \$1.25M | \$2,000 or 50% of the monthly rent/mortgage payment for specific types of downtown business measurable impact by current economic conditions | Golden Businesses, principally in Downtown | Yes | After 4/30/2020 | GOLDEN BUSINESS RENT ASSISTANCE PROGRAM | <p>Capitalized from the URA and the DDA (places with funds.)Downtown Development Authority (DDA) is established by, but not specifically part of, City government. The DDA has its own funding sources and is authorized to work to ensure the economic vitality of a specific portion of downtown Golden within adopted boundaries. The DDA has taken an initial step to provide one-time rent or mortgage assistance grants for April 2020 for downtown businesses most impacted by COVID-19. If you have a downtown business directly impacted by the pandemic and need assistance, please fill out and submit the following online application. PLEASE BE SURE TO ATTACH YOUR LEASE OR MORTGAGE DOCUMENTS AS REQUESTED IN THE APPLICATION.</p> |

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| | | | | | | | | |
|-------------------------------------|--|--|--|--|-----|---|--|--|
| Golden Business Loan Program | | | <p>Businesses may apply for loans up to: 75% of 2019 city sales tax (3% tax rate) remittances up to a maximum of \$30,000 OR 2.25% of 2019 revenues up to \$30,000 (for businesses that don't pay City of Golden sales tax)</p> <p>Length of loan = 4 years (All loans will have the same period – January 1, 2021 thru December 31, 2024.)</p> <p>No interest accrues and no principal payments or interest are due until January 1, 2021.</p> <p>Interest rate starting January 1, 2021 = 3.25%.</p> <p>While no collateral will be required, the loan agreement will include a personal guarantee. A credit score review may be considered for approval</p> | <p>Retail/food service/lodging/personal services (i.e. spas, barbers, salons) and small healthcare providers (i.e.-dentists, massage therapists).</p> <p>Independently-owned local business in a property zoned Commercial or Industrial and with a physical establishment within the official City limits.</p> <p>Individually-owned franchises (including locally-owned/closely held LLC or similar) are eligible.</p> <p>Corporately-owned franchises are not eligible.</p> <p>Big box stores over 20,000 sf are not eligible.</p> <p>Home-based businesses are not eligible.</p> <p>Residential Short Term Rentals are not eligible.</p> <p>The applicant must be current on all Golden sales tax and fees, or under an approved payment plan.</p> <p>Borrower cannot be the subject of a bankruptcy proceeding.</p> | YES | <p>Applications will be accepted starting Friday, April 24, 2020 through close of business Tuesday, May 5, 2020. Applications will be available on this page.</p> <p>PLEASE SUBMIT APPLICATIONS THROUGH THE ONLINE PORTAL ONLY.</p> | <u>GOLDEN BUSINESS ASSISTANCE LOAN PROGRAM</u> | <p>The fund will quickly deploy loan-based recovery funds to small businesses in Golden struggling from the COVID-19 shutdown. Some businesses may be expected to repay these loan resources after they receive adequate funding from the federal stimulus programs administered by the Small Business Administration (SBA); however, many businesses would be expected to retain these recovery loans for the length of the term.</p> |
|-------------------------------------|--|--|--|--|-----|---|--|--|

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| Sponsor | General Goal | Total | Individual Awards | Eligible | App Form ? | Funds delivery | Web Link | Notes |
|-------------------|---|-------|-------------------|----------|------------|----------------|----------|--|
| Greenwood Village | No Grant/ Loan program at this time | | | | | | | |
| Jefferson County | No Grant/ Loan program at this time. TBD | TBD | TBD | TBD | Yes | TBD | | Enterprise Zone Contribution Project in the works. |
| Lakewood | No Grant/ Loan program at this time. TBD | TBD | TBD | TBD | Yes | TBD | | Under active discussion |
| Littleton | No Grant/ Loan program at this time | | | | | | | |

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| | | | | | | | | |
|------------|-----------------------------|--|--|---|-----|---|-------------|--|
| Northglenn | Business operating expenses | \$850K Elevate Small Business Grant Program - As Amended (Friendly amendments to: 1) provide grants in 2 half-month payments; 2) designate 3 Council members to sit on the Review Task Force; 3) utilize CARES Act funding for the program; and 4) add a statement regarding the City reserving the right to approve grants supporting businesses across all areas) | Up to \$6K 50% of two months lease or mortgage payments | <ul style="list-style-type: none"> Must have a physical Northglenn storefront business that has been in operation for at least three months prior to applying for the grant. Must be in good standing with the City of Northglenn for any permits, licenses, utilities, and taxes. Must have 25 or less FTE's. Documentation is required reflecting the annual payroll and number of FTE's prior to March 17, 2020. Businesses with multiple physical locations in the City of Northglenn may apply for the grant program for only one location. The FTE count shall be based only on the specific location applying for the grant. Corporately-owned national chains may not apply for the grant program. However, individually owned franchise operators are eligible. Businesses must demonstrate a financial need for this grant, which may include, but is not limited to: <ul style="list-style-type: none"> Documentation that they have been forced to temporarily close or its operations have been dramatically impacted due to COVID-19 public health orders. Provide 2019 monthly financials or 2019 tax documents. Provide support for the monthly rent or mortgage payment amount, such as an executed lease agreement or mortgage coupon. Preferences will be given to locally-owned and operated businesses. Documentation showing that they have applied for SBA grants/loans or other financing | Yes | Applications accepted through 7/15/2020 | NO LINK YET | Funded from General Fund Reserves Limited funds are available for this program, and applications would be based on a first-come, first-served basis, demonstrated financial need, and future business viability. Approximately 72 percent of the city's General Fund budget is from sales and use tax. The proposed grant program would be an investment in our business community's viability to continue doing business, the local economy, and our municipal tax base. <ul style="list-style-type: none"> Funds will be issued as a one-time grant to be used to pay for 50 percent of two months of lease or mortgage payments not to exceed a total of \$6,000 per qualified business. The grant funds shall be used solely for monthly base rent and any rent-related expenses, such as common area maintenance or reimbursement for insurance, utilities, and taxes that may be a part of normal rent. Monthly mortgage payments eligible for the grant include principal and interest. Grants are issued to qualifying businesses on a first-come, first-served basis until the fund is depleted. |
|------------|-----------------------------|--|--|---|-----|---|-------------|--|

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| Sponsor | General Goal | Total | Individual Awards | Eligible | App Form ? | Funds delivery | Web Link | Notes |
|----------|---|---------|--|--|------------|----------------|---|---|
| | | | | commitments to assist their future viability of operations due to lost revenue from COVID-19. | | | | |
| Parker | No Grant/ Loan program at this time | | | | | | | |
| Superior | | \$250K? | This grant program will provide either a \$5,000 or \$10,000 grant to immediately offset some of the economic impact due to the pandemic | Small businesses and restaurants with a brick-and-mortar presence in the community (not including home-based businesses). | Yes | | <u>SMALL BUSINESS EMERGENCY RELIEF GRANTS</u> | |
| Thornton | <p>Support for Businesses</p> <p>Approved applicants will be required to submit an end of year follow-up summary to include proof of expenditures to explain how funds were spent and the benefit it brought to the business.</p> <p>Businesses who do not submit the follow-up report by December 2020, will be automatically disqualified from receiving future grant funding from the Economic Development Office.</p> | \$1M | ? | <input type="checkbox"/> A commercial licensed business in Thornton; with a current commercial lease agreement, (lease agreement must be 1-year minimum commitment). <input type="checkbox"/> Business must have a designated workspace or private office space to be eligible. (Exclusions: non-profits, marijuana, liquor store businesses, residential living facilities and religious institutions.) <input type="checkbox"/> Located in non-residential zoning designations and not on public property. <input type="checkbox"/> Business must have applied for their Thornton commercial business license on or before March 15, 2020. <input type="checkbox"/> Business must be able to prove a minimum of 50% loss in revenue as a result of the COVID-19 crisis. <input type="checkbox"/> Business must have been current on their sales tax with the City of Thornton as of December 2019 | Yes | | <u>2020 EMERGENCY BUSINESS GRANT (COVID-19)</u> | <p>1) While Business Emergency Grant funding for the COVID-19 crisis allows for a maximum of \$10,000, not all businesses will receive the full \$10,000, but rather a portion up to \$10,000.</p> <p>2) If a business is denied funding, they may reapply after 30 days (if funding is still available).</p> |

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| Sponsor | General Goal | Total | Individual Awards | Eligible | App Form ? | Funds delivery | Web Link | Notes |
|--------------------|--|-----------|---|---|--|---|---|---|
| Westminster | Immediate assistance to satisfy short-term rent and mortgage obligations until other loans or funding sources can be secured through the federal relief package. | \$1.5M | \$7,500 Grant Funds would come as a one-time grant that would equal the lesser of (i) 50% of each of the next two months rent or mortgage payments, or (ii) \$7500.. | <ul style="list-style-type: none"> Business has been forced to temporarily close or forced to dramatically limit operations due to the Public Health Orders. Business must have been in operation at least six months prior to the application date, with a physical address located within the City of Westminster Must have an active Westminster business license. Business applying for grant must be a small business and may have no more than 50 full-time equivalent (FTE) positions. Businesses with more than one physical location in the City of Westminster may apply for the grant program for one location only For purposes of estimating FTE's, the FTE count shall be based only on the specific location applying for the grant. Corporately-owned national chains may not apply for the grant program. Business must be in good standing for any permits or licenses issued by the City of Westminster as of March 1, 2020. | Yes | The grant program would be retroactive, and the first two monthly rent or mortgage payments due between March 17 and May 30, 2020, are applicable | <u>WestyRISE BUSINESS GRANTS</u> | General Fund Reserves |
| Wheat Ridge | Business recovery program to aid Wheat Ridge small businesses during this time. Funds shall be used for operational needs such as business lease/mortgage payments, payroll, materials, supplies and services | \$250,000 | TBD | <ul style="list-style-type: none"> For-profit, independently owned businesses with a storefront in Wheat Ridge, franchises not eligible Up to 25 full-time equivalent employees Current City of Wheat Ridge Business License and in operation as of January 1, 2020 Have a demonstrated hardship due to COVID-19, such as a loss in revenue One-time grant per business Be in good standing with the City of Wheat Ridge as of February 1, 2020 (e.g., no City liens or judgments, etc.) | Yes Current City of Wheat Ridge Business License W-9 | Funding decision will be made within 10 days of receiving a completed application. Funding anticipated to be released within 1 week of approval. | <u>SMALL BUSINESS STABILIZATION PROGRAM</u> | Preference given to businesses who have sought assistance through other federal or state programs |

COVID Relief – Local Grant/Loan Funds

WORK PRODUCT – Subject to Change

| Sponsor | General Goal | Total | Individual Awards | Eligible | App Form ? | Funds delivery | Web Link | Notes |
|---|--------------|-------|-------------------|----------|------------|----------------|----------|--|
| Z-JUST TO NOTE: Several Cities have formally waived interest and penalties for late Sales Tax Filing | | | | | | | | Business sales taxes were due on Friday, March 20, 2020. However, if you reach out to the City's Finance Department before March 31, 2020 we will offer additional options for businesses to file sales tax payments to assist businesses struggling with cash flow: 1) businesses can set up payment plans for sales tax payments due, and 2) waive any penalties associated with failure to pay on time. Businesses should contact the Finance Department sales tax at 303-384-8024. |

Proposed COVID-19 Business Relief Grant & Loan Program

| | |
|-----------------------------|---|
| What: | The City of Lakewood is making a business relief fund available to award grants and loans to eligible Lakewood Businesses |
| Total: | \$1,000,000 \$200K in grants \$800K in loans (each inclusive of a potential \$2,500 grant) Funds would be encumbered from Lakewood's Economic Development Fund |
| Individual Awards: | <ul style="list-style-type: none"><input type="checkbox"/> A one-time grant of up to \$2,000 per awardee<ul style="list-style-type: none">- Or -<input type="checkbox"/> A one-time Loan of up to \$10,000 per awardee.<ul style="list-style-type: none">Loan Features:<ul style="list-style-type: none">• 0% interest• Two-year loan term• First payment deferred 6 months from loan closure.• If monthly payments are successfully made, on time, the last 25% of the loan will be converted to a grant, up to \$2,500 |
| Eligible Businesses: | <ul style="list-style-type: none"><input type="checkbox"/> Non-home-based business with a physical address within the City of Lakewood's non residential zoning districts. Home-based businesses are ineligible.<input type="checkbox"/> Business must have a designated workspace or private office space to be eligible. (Exclusions: non-profits (501-C-3), marijuana, residential living facilities, religious institutions & political organizations.)<input type="checkbox"/> In operation on Jan. 1, 2020.<input type="checkbox"/> Have an active Lakewood business license.<input type="checkbox"/> Is in good standing with any City permits, licenses, fees or taxes as of March 1, 2020.<input type="checkbox"/> No more than 50 full-time equivalent Full Time Employees (FTE) positions<input type="checkbox"/> Have been forced to temporarily close or forced to dramatically limit operations due to the Public Health Orders related to the COVID-19 public health crisis.<input type="checkbox"/> Businesses with more than one physical location in the City of Lakewood may apply for the program for one location only. |
| Application: | Yes. Will include: <ul style="list-style-type: none"><input type="checkbox"/> Have you applied for Federal, State and other business grant and/or loan programs?<input type="checkbox"/> For which programs has your business applied? (PPP, EIDL, Other, etc.)<input type="checkbox"/> In a few sentences, what is your business' plan for continued viability through to 1/1/2021 and beyond?<input type="checkbox"/> Agree to provide copies of receipts for payments/purchases made with awarded funds.<input type="checkbox"/> Agree to the promotion of your business' story after receiving awarded funds. |
| Funds delivery: | Within 10 Days of being awarded the grant or closing the loan. |
| Notes: | <ul style="list-style-type: none"><input type="checkbox"/> Grant and Loan proceeds will be paid directly to the applicant business.<input type="checkbox"/> Loans will be awarded generally on a first-come, first-served basis based on the time a qualifying business's application is filed with the City, subject to funding availability. However, the City reserves the right to award loan funds to support participation across every area of the City as well as to support diverse business types.<input type="checkbox"/> Loans will be completed and serviced through a third-party, not-for-profit business lender |



Lakewood
Colorado

REVISED
06/08/2020

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
JUNE 8, 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 emissions.”

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 charged 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

O-2020-1

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 8th day of June, 2020; read, finally passed and adopted by the City Council on the _____ day of June, 2020; and signed and approved by the Mayor on the _____ day of June, 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.

Title 12 [Streets and Sidewalks](#)

— [Chapter 12.04 Working in Public Ways](#)

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-~~915991-59~~ § 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:

- Style Definition: Normal: Font: (Default) +Body (Calibri), Font color: Auto, Left, Indent: Left: 0", First line: 0", Space After: 8 pt, Line spacing: Multiple 1.08
- Style Definition: Heading 1
- Style Definition: Heading 2
- Style Definition: footnote description
- Formatted: Font: Not Bold
- Formatted: Left, Indent: Left: 0", Right: 0", Space After: 0 pt
- Formatted: Font: Not Bold
- Formatted: Font: Not Bold
- Formatted: Space After: 0 pt, Tab stops: Not at 2.61"

- Formatted: Space After: 0 pt, Tab stops: Not at 2.44"

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;

C. Individual permits: permits granted to persons for one specific project in the public way. (Ord. O-94-17 § 3, 1994; Ord. O-82-59 § 1 (part), 1982; Ord. O-71-24 § 4, 1971).

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.

← **Formatted:** List Paragraph, Justified, Indent: Left: 0.25", Right: 0.13", Space After: 0.25 pt, Line spacing: Multiple 1.04 li

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 ~~selfinsurance-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).

Formatted: Space After: 0 pt, Keep with next, Tab stops: Not at 1.4"

12.04.060 —— Performance/warranty guarantee for permits.

A. 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. 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~~re-established in the amount of ten thousand dollars plus the amount of the demand made by the City.

C. 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.

Formatted: Space After: 0 pt, Tab stops: Not at 2.63"

Formatted: Right: 0", No bullets or numbering

12.04.060

-D. 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.

Formatted: Indent: Left: 0", Right: 0"

-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.

Formatted: Indent: Left: 0", First line: 0.5", Right: 0"

-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. 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.

Formatted: Space After: 0 pt, Tab stops: Not at 2.53"

B. 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,

Formatted: Right: 0", No bullets or numbering

1. Defects in workmanship:

2. 2. Settling of fills or excavations;

Formatted: Indent: First line: 0.25", Right: 0", No bullets or numbering

3. 3. Any unauthorized deviations from the approved plans and specifications;

4. 4. Failure to barricade;

5. 5. Failure to clean up during and after performance of the work;

6. 6. Any other violation of this chapter.

C. 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

Formatted: Right: 0", No bullets or numbering

Formatted: Footer, Right: 0", Tab stops: Not at 0.15" + 3.15" + 6.39"

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:

B. Inspections will occur as follows:

1. Public Improvement Agreement. Procedures for inspecting public improvements agreements shall be as specified in Chapter 14.13.

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.

3. 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 ~~his~~ 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. 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. 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

Formatted: Space After: 0 pt, Tab stops: Not at 2.07"

Formatted: Indent: Left: 0", Right: 0"

Formatted: Indent: First line: 0.25", Right: 0", No bullets or numbering

Formatted: Indent: First line: 0.5", Right: 0", No bullets or numbering

Formatted: Space After: 0 pt, Tab stops: Not at 0.49" + 1.75"

Formatted: Right: 0", No bullets or numbering

Formatted: Space After: 0 pt, Tab stops: Not at 0.49" + 1.55"

Formatted: Indent: Left: 0", Right: 0"

Formatted: Footer, Tab stops: Not at 3.02"

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. ~~O-82-82~~-59 § 1 (part), 1982; Ord. O-75-71 § 5, 1975).

Formatted: Indent: Left: 0", Right: 0"

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 public way. (Ord. O-82-59 § 1 (part), 1982; Ord. O-~~7124~~71-24 § 13, 1971).

Formatted: Indent: Left: 0", Right: 0"

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 the city to repair any damage. (Ord. O-~~941794-17~~ § 10, 1994; Ord. O-82-59 § 1 (part), 1982; Ord. O-75-71 § 6, 1975).

Formatted: Space After: 0 pt, Tab stops: Not at 2.88"

Formatted: Indent: Left: 0", Right: 0"

12.04.140 — Protection of property-

Formatted: Space After: 0 pt, Tab stops: Not at 1.72"

Formatted: Footer, Right: 0", Tab stops: Not at 0.15" + 3.15" + 6.39"

-The permittee shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The permittee shall, at ~~his~~its 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).

Formatted: Indent: Left: 0", Right: 0"

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.

Formatted: Space After: 0 pt, Tab stops: Not at 2.25"

Formatted: Indent: Left: 0", Right: 0"

~~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).

Formatted: Space After: 0 pt, Tab stops: Not at 2.14"

Formatted: Indent: Left: 0", Right: 0"

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.

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).

Formatted: Font: 11 pt

Formatted: Left, Indent: Left: 0", Right: 0", Space After: 0 pt, Line spacing: single

Formatted: Indent: Left: 0", Right: 0"

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-~~8259~~82-59 § 1 (part), 1982; Ord. O-71-24 § 19, 1971.)

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"+ 1.66"

Formatted: Indent: Left: 0", Right: 0"

Formatted: Footer, Tab stops: Not at 3.02"

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).

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 2.04"

Formatted: Indent: Left: 0", Right: 0"

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.

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 1.89"

Formatted: Indent: Left: 0", Right: 0"

—The City Engineer may waive the registration requirements for any owner of a singlefamilysingle-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).

Formatted: Indent: Left: 0", Right: 0", Space After: 0 pt, Line spacing: single

Formatted: Font: 11 pt

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-712471-24 § 22, 1971).

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 1.41"

Formatted: Indent: Left: 0", Right: 0"

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.

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 3.16"

Formatted: Indent: Left: 0", Right: 0"

Formatted: Indent: First line: 0.25", Right: 0", No bullets or numbering

12.04.220

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.

Formatted: Right: 0", No bullets or numbering

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.

Formatted: Footer, Right: 0", Tab stops: Not at 0.15"
+ 3.15" + 6.39"

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).

Formatted: Space After: 0 pt, Tab stops: Not at 1.6"

Formatted: Indent: Left: 0", Right: 0"

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-712471-24 § 25, 1971).

Formatted: Space After: 0 pt, Tab stops: Not at 1.18"

Formatted: Indent: Left: 0", Right: 0"

12.08.010

Chapter 12.08 - Major Street Plan and Master Plan

MAJOR STREET PLAN AND MASTER PLAN¹

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. O-94-17 § 19, 1994; Res. 75-68 § 2, 1975).

12.12.010

Chapter 12.12 - Street Improvement Policy

STREET IMPROVEMENT POLICY

¹Prior 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.

Formatted: Font: Not Bold

Formatted: Space After: 0 pt, Tab stops: Not at 1.84"

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

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

12.12.010 City street system Classification.

A. 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.

Formatted: Right: 0", No bullets or numbering

B. 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. 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.

D. D. All state highways in Lakewood, except freeways, are designated as a part of the city street system for determining cost responsibilities in Section 12.12.030. (Ord. O-94-17 §§ 202220-22, 1994; Ord. O-91-59 § 6 (part), 1991; Ord. O-85-63 § 1, 1985).

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

-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.

Formatted: Space After: 0 pt, Tab stops: Not at 2.91"

Formatted: Indent: Left: 0", Right: 0"

-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. 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.

Formatted: Space After: 0 pt, Tab stops: Not at 3.23"

Formatted: Right: 0", No bullets or numbering

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

Formatted: Footer, Tab stops: Not at 3.02"

4. 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.

Formatted: Indent: First line: 0.25", Right: 0", No bullets or numbering

12.12.030

2. 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.

Formatted: Indent: First line: 0.25", Right: 0", No bullets or numbering

3. 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:

| Classification | Right-of-Way | Streets | Sidewalk/Bikeways |
|-------------------------------------|----------------|----------------|-------------------|
| Major regional arterial streets | Property owner | Shared | Property owner |
| Arterial streets | Property owner | Shared | Property owner |
| Collector streets (major and minor) | Property owner | Property owner | Property owner |
| Local streets | Property owner | Property owner | Property owner |

-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.

Formatted: Indent: Left: 0", Right: 0"

D. 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

Formatted: Right: 0", No bullets or numbering

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. 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-right~~ 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.

42.12.030

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.

4. Cost sharing for the additional thickness requirement of a major regional arterial or arterial street shall be as specified in subsection C of this section.

← **Formatted:** Right: 0", No bullets or numbering

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.

← **Formatted:** Indent: Left: 0", First line: 0.5", Right: 0"

-Cost sharing for additional thickness requirements of a major regional arterial or arterial street shall be as specified in subsection C of this section. (Ord. O-98-38 § 5, 1998; Ord. ~~O-940-94~~-17 §§ 24-27, 1994; Ord. O-86-114 § 1, 1986; Ord. O-85-63 § 3, 1985).

12.17.010

12.17.010 Purpose.

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).

Formatted: Space After: 0 pt, Tab stops: Not at 0.15"
+ 1.1"

Formatted: Indent: Left: 0", Right: 0"

12.17.020 Revocable permit.

A. 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.

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 1.67"

Formatted: Right: 0", No bullets or numbering

B. 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 a 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).

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 1.4"

Formatted: Indent: Left: 0", Right: 0"

12.17.040

12.17.040 Sales tax deposit.

-A City 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).

Formatted: Space After: 0 pt, Tab stops: Not at 1.55"

Formatted: Indent: Left: 0", Right: 0"

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.

A. The width of sidewalk.

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

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

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

F. F. The accident history of the location.

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

Formatted: Space After: 0 pt, Keep with next, Tab stops: Not at 1.22"

Formatted: Indent: Left: 0", Right: 0"

12.17.060 —— Time.

A. 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. 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).

Formatted: Space After: 0 pt, Tab stops: Not at 1.08"

Formatted: Right: 0", No bullets or numbering

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).

Formatted: Space After: 0 pt, Tab stops: Not at 1.37"

Formatted: Indent: Left: 0", Right: 0"

12.17.080 —— Requirements.

—The permittee shall observe the following requirements:

A. A. Permittee shall not place any carts, tables, display structures or similar devices in the public right-of-way.

Formatted: Space After: 0 pt, Tab stops: Not at 1.41"

Formatted: Tab stops: Not at 2.14"

Formatted: Right: 0", No bullets or numbering

Formatted: Footer, Tab stops: Not at 3.02"

B. B. Permittee shall provide a four-foot minimum unobstructed area to allow access as required by the Americans with Disabilities Act.

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

12.17.080

D. D. Permittee shall not block any street signs.

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

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

Formatted: Right: 0", No bullets or numbering

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-977497-74 § 1, 1997).

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 1.9"

Formatted: Indent: Left: 0", Right: 0"

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).

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 1.6"

Formatted: Indent: Left: 0", Right: 0"

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).

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 1.29"

Formatted: Indent: Left: 0", Right: 0"

12.17.120 — Sanctions and appeal.

A. 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

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 1.84"

Formatted: Right: 0", No bullets or numbering

Formatted: Footer, Right: 0", Tab stops: Not at 0.15"
+ 3.15" + 6.39"

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-~~977497-74~~ § 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-2017-16 § 10, 2017; Ord. O-97-74 § 1, 1997).

Formatted: Indent: Left: 0", Right: 0"

Formatted: Space After: 0 pt, Tab stops: Not at 1.44"

Formatted: Indent: Left: 0", Right: 0"

Formatted: Space After: 0 pt, Tab stops: Not at 1.2"

Formatted: Indent: Left: 0", Right: 0"

Formatted: Space After: 0 pt, Tab stops: Not at 1.18"

Formatted: Indent: Left: 0", Right: 0"

Formatted: Footer, Tab stops: Not at 3.02"

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 often are 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).

Formatted: Indent: Left: 0", Right: 0"

12.18.020 Prohibitions-

A. **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:

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 1.48"

Formatted: Right: 0", No bullets or numbering

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

Formatted: Indent: First line: 0.25", Right: 0", No bullets or numbering

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. **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 2001-20 § 1, 2001).

Formatted: Right: 0", No bullets or numbering

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).

Formatted: Indent: Left: 0", Space After: 0 pt, Keep with next

12.19.010

Chapter 12.19 - Regulating the Administrative Approval of Minor Right of Way

Formatted: Left, Indent: Left: 0", Right: 0", Space After: 0 pt

Formatted: Space After: 0 pt, Tab stops: Not at 0.97"

Formatted: Indent: Left: 0", Right: 0"

Formatted: Footer, Right: 0", Tab stops: Not at 0.15"
+ 3.15" + 6.39"

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. 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. 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. C. A fee for processing the Revocable License Agreement shall be set by City Council resolution from time to time.

D. D. The revocable license agreement granted by the City is revocable at will by the City. (Ord. O-2005-5 § 2, 2005).

Formatted: Space After: 0 pt, Tab stops: Not at 2.01"

Formatted: Right: 0", No bullets or numbering

12.19.030 — Procedure for Approval.

A. A. An application form shall be obtained from the Department of Finance, Property Management Section.

B. B. The application form shall be completed and returned to Property Management for review with the applicable fee.

C. C. Property Management shall forward copies of the application to all appropriate departments for review and comment.

D. 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).

Formatted: Space After: 0 pt, Tab stops: Not at 1.77"

Formatted: Right: 0", No bullets or numbering

12.19.040 — Standards for Approval.

A. A revocable license agreement may be granted administratively only if the applicant meets the following criteria:

A. The proposed encroachment shall not create an obstruction to vehicle, bicycle or pedestrian traffic in any way.

Formatted: Space After: 0 pt, Tab stops: Not at 1.77"

Formatted: Right: 0", No bullets or numbering

Formatted: Indent: Left: 0", Right: 0"

B. B. The proposed encroachment shall not infringe upon any easement rights held by the City of Lakewood, other public agency or utility

C. C. The proposed encroachment shall not obstruct the sight triangle.

Formatted: Indent: Left: 0", Right: 0"

Formatted: Right: 0", No bullets or numbering

Formatted: Footer, Tab stops: Not at 3.02"

- D** D. The proposed encroachment shall not create or contribute to a safety hazard.
E 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. O-2005-5 § 2, 2005).

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 1.6"

Formatted: Indent: Left: 0", Right: 0"

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).

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 2.07"

Formatted: Indent: Left: 0", Right: 0"

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).

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"
+ 2.71"

12.20.010

Chapter 12.20

12.20.020— Regulation of Newspaper corrals at Belmar site. Corrals

12.20.010 — Purpose

A. 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

Formatted: Space After: 0 pt, Tab stops: Not at 1.87"

Formatted: Space After: 0 pt, Tab stops: Not at 1.32"

Formatted: Right: 0", No bullets or numbering

Formatted: Footer, Right: 0", Tab stops: Not at 0.15"
+ 3.15" + 6.39"

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. 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~~Corrals at Belmar Site-

A. 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. 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

Formatted: Font: 11 pt

12.20.030 — Criteria:

The Director shall use the following criteria in determining locations for newspaper corrals:

A. A. Newspaper corrals and their locations and access shall be in compliance with the Americans with Disabilities Act.

B. B. Newspaper corrals shall be in compliance with City regulations relating to traffic and pedestrian safety.

C. 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. D. There shall be a minimum of seven (7) newspaper corrals located within the Belmar Site.

12.20.040 — Permit required Required

A. 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.

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"+ 1.71"

Formatted: Right: 0", Space After: 0 pt, Line spacing: single, No bullets or numbering

B. 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.

Formatted: Right: 0", No bullets or numbering

C. 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 Obligations

A. 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.

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"+ 1.95"

Formatted: Right: 0", No bullets or numbering

Formatted: Font: 11 pt

B. 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.

Formatted: Space After: 0 pt, Tab stops: Not at 0.49"+ 3.01"

Formatted: Indent: Left: 0", Right: 0"

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

Formatted: Indent: Left: 0", Right: 0"

Formatted: Footer, Right: 0", Tab stops: Not at 0.15"+ 3.15" + 6.39"

applicant for a regular newspaper vending machine receives approval of the application. (Ord. O-2004-11 § 1, 2004).

12.20.070 — Application review. 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).

Formatted: Space After: 0 pt, Tab stops: Not at 1.71"
Formatted: Font: 11 pt
Formatted: Font: 11 pt
Formatted: Indent: Left: 0", Right: 0"

Formatted: Font: 11 pt
Formatted: Font: 11 pt

12.20.080 — Appeals of Permit Decisions

A. 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 Manager's or his designee's receipt of the written request for a hearing unless a later date is requested by the applicant.

Formatted: Space After: 0 pt, Tab stops: Not at 2.05"
Formatted: Right: 0", Space After: 0 pt, Line spacing: single, No bullets or numbering

B. 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 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).

Formatted: Indent: Left: 0", Right: 0", Space After: 0 pt, Line spacing: single

12.20.090 — Rules and regulations. 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).

Formatted: Space After: 0 pt, Tab stops: Not at 1.84"
Formatted: Indent: Left: 0", Right: 0", Space After: 0 pt, Line spacing: single

12.20.100 — Intent.

It is the intent of this Chapter to be interpreted liberally to ensure compliance with newspaper distributors' distributors' First Amendment rights. (Ord. O-2004-11 § 1, 2004).

Formatted: Space After: 0 pt, Tab stops: Not at 1.25"
Formatted: Indent: Left: 0", Right: 0"

12.20.110 — Severability.

Formatted: Space After: 0 pt, Tab stops: Not at 1.47"

Formatted: Footer, Tab stops: Not at 3.02"

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§ 4,§ 2004).

Formatted: Footer, Right: 0", Tab stops: Not at 0.15"
+ 3.15" + 6.39"

-

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 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..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.

Style Definition: Normal

Style Definition: Heading 1

Style Definition: Heading 2

Style Definition: Balloon Text: Font: (Default) Segoe UI

Lakewood Zoning Ordinance –

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.

Commented [GAD1]: 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 [GAD2]: From MLA. Applies to ROW agreement, and new section on interference in Code.

Formatted: Tab stops: 1.5", List tab

Lakewood Zoning Ordinance – Adopted January 26, 2015

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 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.

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.

Formatted: Tab stops: 1.5", List tab

Commented [GAD3]: From MLA, applies to new section of Code on interference.

Formatted: Tab stops: 1.5", List tab

Commented [GAD4]: From MLA, applies to new section on interference.

Lakewood Zoning Ordinance –

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 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; 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;

Lakewood Zoning Ordinance – Adopted January 26, 2015

- (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.

Lakewood Zoning Ordinance –

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

17.10.1: General 10-1

- 17.10.1.1: Purpose and Intent 10-1
- 17.10.1.2: Applicability 10-1

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 17 + Alignment: Left + Aligned at: 0.2" + Indent at: 0.2"

17.10.2: Wireless Facilities – By Zone District 10-1

17.10.3: Wireless Facility Standards 10-2

- 17.10.3.1: Wireless Stealth Facilities 10-2
- 17.10.3.2: New Wireless Facilities on Existing Structures..... 10-2
- 17.10.3.3: New Freestanding Support Non-Stealth Structures 10-3
- 17.10.3.4: Other Wireless Facility Types

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 17 + Alignment: Left + Aligned at: 0.2" + Indent at: 0.2"

..... 10-4

- 17.10.3.5: Accessory Equipment

..... 10-4

17.10.4: Abandonment and Removal 10-5

Lakewood Zoning Ordinance – Adopted January 26, 2015

Adopted January 26, 2015

This page intentionally left blank.

Lakewood Zoning Ordinance –

ARTICLE 10: WIRELESS SERVICES AND COMMUNICATIONS

Formatted: Indent: Left: 0"

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.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;

Formatted: List Paragraph, Indent: First line: 0", Space After: 0 pt, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.5", No widow/orphan control, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

Formatted: Font: Times New Roman, 12 pt

- 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 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 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.

Formatted: List Paragraph, Space After: 8 pt, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.74" + Indent at: 0.99"

Formatted: List Paragraph, Space After: 8 pt, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.74" + Indent at: 0.99"

- 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 10 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.

Formatted: List Paragraph, Space After: 8 pt, Line spacing: Multiple 1.08 li, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.74" + Indent at: 0.99"

Formatted: Font: Times New Roman, 12 pt

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.

Formatted: Indent: Left: -0.01", Line spacing: single

Formatted: Normal, Indent: Left: -0.01"

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 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. 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 allowedremove such WCF at the owner's expense.

← **Formatted:** Indent: Left: 0.24", Hanging: 0.26", Right: 1.29", No bullets or numbering

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.

Commented [ksf5]: 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.

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.

Formatted: Indent: Left: 0.5", No bullets or numbering

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 ~~the~~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.
3. Review Procedures for Eligible Facilities Requests.
 - 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

Commented [ksf6]: This is also language that we would ordinarily put in the MLA or ROW use agreement, and it is not in Lakewood's. Especially for small cells, you don't want one company obtaining multiple permits just to lock up the site, and then not build anything.

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.

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

- 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.

Lakewood Zoning Ordinance – Adopted January 26, 2015

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.

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.
 - 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.

Formatted: List Paragraph, Space After: 0 pt, Numbered + Level: 4 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.38" + Indent at: 1.5"

- 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:
- 1.i. Building facade 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.

Formatted: List Paragraph, Right: 0", Space After: 0 pt, Line spacing: Multiple 1.08 li, Numbered + Level: 4 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.38" + Indent at: 1.5"

Formatted: No underline, Underline color: Auto

Formatted: List Paragraph, Numbered + Level: 5 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Right + Aligned at: 1.75" + Indent at: 2"

Formatted: List Paragraph, Line spacing: single

- ~~2.i. Building facade mounted antennas shall not exceed the height of the parapet or the roofline, whichever is greater.~~
- ~~3. The total of all visible building facade mounted antennas may not exceed the greater of 10 percent of the square footage of the building facade or 25 square feet per façade.~~

C. Roof Mounted Antennas:

- 4.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.
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.iii. 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.
- iv. All rooftop equipment and Antennas must be adequately screened where feasible from a technical, construction, design and engineering perspective.
- v. Building facade 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 facade mounted antennas shall not exceed the height of the parapet or the roofline, whichever is greater.

Formatted: List Paragraph, Numbered + Level: 5 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Right + Aligned at: 1.75" + Indent at: 2"

Formatted: List Paragraph, Line spacing: single

Formatted: List Paragraph, Line spacing: Multiple 1.08 li, Numbered + Level: 5 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Right + Aligned at: 1.75" + Indent at: 2"

Formatted: List Paragraph, Line spacing: Multiple 1.08 li, Numbered + Level: 5 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Right + Aligned at: 1.75" + Indent at: 2"

Formatted: List Paragraph, Numbered + Level: 5 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Right + Aligned at: 1.75" + Indent at: 2"

Formatted: List Paragraph, Line spacing: single

Formatted: List Paragraph, Numbered + Level: 5 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Right + Aligned at: 1.75" + Indent at: 2"

The total of all visible building facade mounted antennas may not exceed the greater of 10 percent of the square footage of the building facade

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..

Formatted: List Paragraph, Line spacing: single

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 50 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.a. ~~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.i. 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.

B.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.

C.iii. No accessory equipment or accessory structure shall exceed ~~4512~~ feet in height.

Formatted: List Paragraph, Space After: 0 pt, Numbered + Level: 4 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.38" + Indent at: 1.5"

Formatted: List Paragraph, Right: 0", Numbered + Level: 4 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.38" + Indent at: 1.5"

Formatted: List Paragraph, Space After: 0 pt, Numbered + Level: 5 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Right + Aligned at: 1.75" + Indent at: 2"

Formatted: List Paragraph, Numbered + Level: 5 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Right + Aligned at: 1.75" + Indent at: 2"

Formatted: List Paragraph, Space After: 0 pt, Numbered + Level: 5 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Right + Aligned at: 1.75" + Indent at: 2"

- 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.

A.

17.10.4: Abandonment and Removal

If a support structure is abandoned and remains abandoned⁵ Standards 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.

← **Formatted:** Indent: Left: 0"; Line spacing: Multiple 1.08 li

~~This page intentionally left blank.~~

- 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:~~

Lakewood Zoning Ordinance – Adopted January 26, 2015

- 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.



Lakewood
Colorado

**REVISED
06/08/2020**

STAFF MEMO

DATE OF COUNCIL MEETING: JANUARY 27, 2020 / AGENDA ITEM NO. 13
APRIL 27, 2020 / AGENDA ITEM NO. 15
JUNE 8, 2020 / AGENDA ITEM NO. 11

To: Mayor and City Council

From: Jay 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.

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.

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: In addition to the item being promoted through the regular communication channels for an item coming before City Council, 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.

ATTACHMENTS: Resolution 2020-9

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

2020-9

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:

| PUBLIC WAY INSPECTIONS | | |
|---|--------------------|-------------|
| | PER UNIT FEE | MINIMUM FEE |
| Place or replace pole for wireless carrier or small cell facility | \$380.00 each pole | \$380.00 |
| Use of existing pole to install wireless carrier or small cell facility | \$190.00 each use | \$190.00 |

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 City Council held on June 8, 2020, at 7 o'clock p.m.

Adam Paul, Mayor

ATTEST:

Michele Millard, City Clerk

APPROVED AS TO FORM:

Timothy P. Cox, City Attorney



**PROCLAMATION OF THE CITY MANAGER OF THE CITY OF LAKEWOOD,
COLORADO DECLARING A STATE OF DISASTER AS A RESULT OF THE NOVEL
CORONAVIRUS (COVID-19)**

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:

Kathleen E. Hodgson, City Manager
City of Lakewood, Colorado

ATTEST:

Michele Millard, City Clerk
City of Lakewood, Colorado

