

Chapter 15.42

WIRELESS COMMUNICATIONS TOWERS AND FACILITIES

15.42.010: FINDINGS:

The communications act of 1934 as amended by the telecommunications act of 1996 ("the act") grants the federal communications commission (FCC) exclusive jurisdiction over the regulation of the environmental effects of radio frequency (RF) emissions from communications facilities and the regulation of radio signal interference among users of the RF spectrum. The regulation of towers and communications facilities will not have the effect of prohibiting any person from providing wireless communications services in violation of the act. (Ord. 2979, 2016: Ord. 2662, 2001)

15.42.020: PURPOSES:

- A. The general purpose of this chapter is to regulate the placement, construction, and modification of wireless communications facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless communications marketplace in the city.
- B. Specifically, the purposes of this chapter are:
1. To regulate the location of wireless communications facilities in the city;
 2. To protect residential areas and land uses from potential adverse impact of towers and other communications facilities;
 3. To minimize adverse visual impact of wireless communications facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
 4. To promote and encourage shared use/collocation of towers and antenna support structures as a primary option rather than construction of additional single use wireless communications facilities;
 5. To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of tower structures to support antenna and communications facilities;
 6. To avoid potential damage to property caused by wireless communications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound; and
 7. To ensure that wireless communications facilities are compatible with surrounding land uses to the greatest extent reasonably possible. (Ord. 2979, 2016: Ord. 2662, 2001)

15.42.30 : DEFINITIONS:

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ACOUSTICAL ENGINEER: A professional engineer with demonstrated education, accreditation and experience to perform and certify noise measurements.

ANTENNA: ~~Any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves including equipment attached to a tower or building for the purpose of providing personal wireless services. Antennas include the following types:~~ An apparatus, designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC for the transmission of writing, signs, signals, data, images, pictures, and sounds of all kinds, including the transmitting device and any on-site equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with that antenna and added to a tower, structure, or building as part of the original installation of the antenna. For most services, an antenna will be mounted on or in, and is distinct from, a supporting structure such as a tower, structure or building. However, in the case of AM broadcast stations, the entire tower or group of towers constitutes the antenna for that station. For purposes of this section, the term antenna does not include unintentional radiators, mobile stations, or devices authorized under 47 CFR Part 15.

~~Ancillary Antenna: An antenna that is less than twelve inches (12") in its largest dimension and that is not directly used to provide personal wireless communication services, e.g., a global positioning satellite antenna (GPS).~~

~~Directional (Panel) Antenna: Receives and transmits signals in a directional pattern typically encompassing an arc of one hundred twenty degrees (120°).~~

~~Omnidirectional (Whip) Antenna: Receives and transmits signals in a three hundred sixty degree (360°) pattern, and which is up to fifteen feet (15') in height and up to four inches (4") in diameter.~~

~~Parabolic (Dish) Antenna: A bowl shaped device that receives and transmits signals in a specific directional pattern.~~

ANTENNA SUPPORT STRUCTURE: Any building or structure other than a tower which can be used for location of communications facilities.

APPLICANT: Any person or entity that submits a siting application and the agents, employees, and contractors of such person or entity who applies for a wireless communications facility permit.

APPLICATION: The process by which the owner of a parcel of land within the city submits a request to develop, construct, build, modify, or erect a tower upon such parcel of land. Application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to the city concerning such a request.

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 term does not encompass a "tower" as defined in this section or any equipment associated with a tower.

A. The term includes, but is not limited to, 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.

B. The term includes, but is not limited to, radio receivers, antennas, coaxial or fiber optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems ("DAS") and small cell networks).

C. The term includes any structure other than a tower that, at the time the relevant application is filed with the city under this chapter, supports or houses equipment described under subsections A and B of this definition that has been reviewed and approved by the city.

BUILDING: Any permanent structure built for the shelter or enclosure of person, animals, chattels or property of any kind, which is permanently affixed to the land and which has one or more floors and a roof.

CARRIER: A company that provides wireless services.

COLLOCATION: ~~The mounting or installation of transmission equipment on an existing support structure for the purpose of transmitting and/or receiving signals for communications purposes.~~ The mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.

CONCEALMENT: The act of hiding something or preventing it from being known.

CONDITIONAL USE PERMIT: Uses that are allowed within a zoning district provided that certain standards (or "conditions") are met that will enhance the compatibility of the proposed use with other surrounding uses. Often conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of a specific proposal for a particular location. Application for a conditional use permit affords the city an opportunity to review the location, design, configuration, and potential impact of the proposed use on surrounding land uses.

DEPLOYMENT: The placement, construction, or modification of a personal wireless service facility.

DISTRIBUTED ANTENNA SYSTEM OR DAS: A network consisting of transceiver equipment at a central hub site to support multiple antenna locations throughout the desired coverage area.

ELIGIBLE FACILITIES REQUEST: Any request for modification of an existing tower or base station that, within the meaning of ~~the spectrum act~~ Section 6409(a) of the Spectrum Act (47 U.S.C. Section 1455(a), as interpreted by the FCC in its Report and Order No. 14-153 and regulated by 47 C.F.R. 1.40001, does not substantially change the physical dimensions of that tower or base station, and involves: a) collocation of new transmission equipment, b) the removal of transmission equipment, or c) the replacement of transmission equipment.

ELIGIBLE SUPPORT STRUCTURE: Any tower or base station that exists at the time the application is filed with the city.

EQUIPMENT ENCLOSURE: A small enclosed structure, shelter, cabinet, box, or vault at the base of the support system within which are housed batteries and electrical equipment.

EXISTING STRUCTURE: Previously erected support structure or any other structure, including but not limited to, base stations, buildings, transmission towers, utility poles, light poles, traffic signal poles, or similar structures to which wireless facilities can be attached.

~~FAA: The federal aviation administration.~~

FCC: The federal communications commission or successor agency.

~~FACADE ATTACHED ANTENNA: Any antenna directly attached or affixed to the elevation of a building, tank, tower, or other structure.~~

~~FULLY AUTOMATED WCF: A WCF with no on site personnel required for its daily operation.~~

~~GUYWIRE: Diagonal cables utilized to tie towers to the ground or other surfaces.~~

MONOPOLE: A single, freestanding pole-type structure supporting one or more antennas and include but is not limited to a utility pole and light pole.

~~NONAUTOMATED WCF: A WCF with on site personnel.~~

~~OMNIDIRECTIONAL (WHIP) ANTENNA: A wireless transmitting or receiving antenna that radiates or intercepts radio frequency (RF) electromagnetic fields equally well in all horizontal directions in a flat, two-dimensional geometric plan.~~

~~OWNER: Any person with fee title or a long term (exceeding 10 years) leasehold to any parcel of land within the city who desires to develop, or construct, build, modify, or erect a tower upon such parcel of land.~~

PHOTOSIMULATION: Computer generated photographs, renderings combining existing subject adjacent property conditions and improvements with proposed improvements.

PLANNING COVERAGE MAP: A map, maps, or plan on which are marked the service areas of other WCF sites operated by the applicant. The planning coverage map shall be considered exempt from disclosure pursuant to Idaho Code section 9-340(D) or as subsequently amended.

~~PUBLIC RIGHT OF WAY: Includes all public streets and utility easements owned by or dedicated to, the city of Pocatello, or other public entity.~~

~~REPLACEMENT: The replacement of transmission equipment, not the replacement of an existing wireless tower or the support structure on which base station equipment is located.~~ Constructing a new support structure of proportions and of equal height or such other height that would not constitute a substantial change to a pre-existing support structure in order to support a facility or to accommodate collocation and removing the pre-existing support structure.

RIGHTS-OF-WAY: The area in the City on, below, or above a roadway, highway, street, sidewalk, curb, lawn strip, alley, utility easement, lighting or drainage facility, or similar property, but not including federal interstate highway, that is reserved or dedicated for use as a public right-of-way or by or for the public. The "Public Right-Of-Way" includes all public streets and utility easements owned by or dedicated to, the City of Pocatello, or other public entity.

SERVICE AREA: Contained areas within which a wireless communication facility is able to transmit clear signals, generally circular in form.

SITE: For towers outside the right of way, means the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site (for other towers and all base stations). "Site" is restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

SMALL CELL FACILITIES: A facility mounted on structures 50 feet or less in height or on structures no more than 10 percent taller than adjacent structures with an antenna no more than three (3) cubic feet and a total wireless equipment no more than 28 cubic feet.

~~SMALL CELLS: Compact wireless base stations that contain their own transceiver equipment and function like cells in a mobile network but provide a smaller coverage area than traditional macrocells. Small cells shall meet the two (2) parameters in subsections A and B of this definition. For purposes of these definitions, volume is a measure of the exterior displacement, not the interior volume of the enclosures. Antennas or equipment concealed from public view in or behind an otherwise approved structure or concealment are not included in calculating volume.~~

~~A. Small Cell Antenna: Each antenna shall be no more than three (3) cubic feet in volume.~~

- B. ~~Small Cell Equipment: Each equipment enclosure shall be no larger than seventeen (17) cubic feet in volume. Associated conduit, mounting bracket or extension arm, electric meter, concealment, communications demarcation box, ground based enclosures, battery backup power systems, grounding equipment, power transfer switch, and cutoff switch may be located outside the primary equipment enclosure(s) and are not included in the calculation of equipment volume.~~

SPECTRUM ACT: Section 6409(a) of the middle class tax relief act and job creation act, 47 USC section 1455(a) (providing, in part, "... a state or local government may not deny, and shall approve, any eligible facilities request for a modification of any existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.").

STEALTH DESIGN: Technology that minimizes the visual impact of wireless communications facilities by camouflaging, disguising, screening, and/or blending into the surrounding environment. Examples of stealth design include, but are not limited to, towers disguised as trees, flagpoles, bell towers, and architecturally screened roof mounted antennas.

SUBSTANTIAL CHANGES: In the context of an eligible support structure, a modification of an existing tower or base station where any of the following criteria is met:

A. Type 1: For any eligible support structure:

1. It involves the installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or
2. It entails any excavation or deployment outside of the current site of the tower or base station; or
3. The proposed modification would cause the concealment/camouflage elements of the tower or base station to be defeated; or
4. The proposed modification would not comply with the conditions associated with the prior siting approval of construction or modification of the tower or base station, unless the noncompliance is due to an increase in height, increase in width, addition of cabinets, or new exaction that does not exceed the corresponding thresholds in this section.
5. Small cells mounted on structures 50 feet or less in height or on structures no more than 10 percent taller than adjacent structures with an antenna nor more than three (3) cubic feet and a total wireless equipment nor more than 28 cubic feet.

B. Type 2: For **an existing** tower located in the public rights of way and for all base stations:

1. The height of the tower or base station is increased by more than ten percent (10%) or ten feet (10'), whichever is greater;
2. There is added an appurtenance to the body of that structure that would protrude from the edge of that structure by more than six feet (6'); or
3. It involves the installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure; or
4. It involves the installation of any new equipment cabinets on the ground if there is no preexisting ground cabinet associated with that structure.

C. Type 3: For any new tower (**not in the public right-of-way**):

1. The height of the tower is increased by: a) more than ten percent (10%), or b) by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet (20'), whichever is greater; or

2. There is added an appurtenance to the body of the tower that would protrude from the edge of the tower by: a) more than twenty feet (20'), or b) more than the width of the tower at the level of the appurtenance, whichever is greater; or
3. Towers cannot be located in public rights of way.

SUPPORT STRUCTURE: A structure designed to support small wireless facilities including, but not limited to, monopoles, vertical facilities, utility poles, city owned traffic poles, billboards, and other freestanding self-supporting structures.

TOWER: Includes any structure built for the sole or primary purpose of supporting any wireless communications facility.

TRANSMISSION EQUIPMENT: Any equipment that facilitates transmission for any commission licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber optic cable, and regular and backup power supply.

UTILITY SUPPORT STRUCTURE: Utility poles or utility towers supporting electrical, telephone, cable or other similar facilities; streetlight standards; pedestrian light standards; traffic light structures and traffic sign structures.

WIRELESS COMMUNICATIONS FACILITY (WCF): Any facility that transmits and/or receives electromagnetic signals, including **small cells**, antennas, microwave dishes, parabolic antennas, directional antennas and other types of equipment for the transmission or reception of such signals, **and including**, towers or similar structures supporting the equipment, equipment buildings, shelters, cabinets, parking area, and other accessory development. However, communications facilities shall not include any satellite earth station antenna two meters (2 m) in diameter or less which is located in an area zoned industrial or commercial; or any satellite earth station antenna one meter (1 m) or less in diameter, regardless of zoning category. (Ord. 2979, 2016: Ord. 2662, 2001)

15.42.040: TYPES OF WCF PERMITS REQUIRED:

A. A type 1 WCF permit shall be required for an "eligible facilities request" which includes:

1. Collocation of new transmission equipment;
2. The removal of transmission equipment;
3. The replacement or modification of transmission equipment.
4. **Distributed antenna system and small cells**

B. A type 2 WCF permit shall be required for:

1. Any modification of an eligible support structure, including the collocation of new equipment, that substantially changes the physical dimensions of the eligible support structure on which it is mounted; or
2. Any collocation not eligible for a type 1 permit; or
3. Any roof mounted antenna and support system for an antenna not exceeding ten feet (10') above the highest portion of the roof; or

~~4. Placement of distributed antenna systems (DAS) and small cells;~~

5. A new tower located in the public right of way.

C. A type 3 WCF permit shall be required for siting of any new WCF tower that is not a collocation subject to a type 1 or 2 WCF permit as outlined in this section. (Ord. 2979, 2016)

15.42.050: WIRELESS FACILITY PERMIT PROCESS:

Type Of Wireless Facility	Time Line For City Review (Per Federal Law)	Deemed Granted (Per Federal Law)	Type of Permit
Collocations or modifications/replacement of wireless transmission equipment at an existing wireless tower or base station that do not "substantially change the physical dimensions of the existing wireless tower or base station" section 6409(a) facilities Distributed antenna systems and small cells	60 days after the application is submitted Can be extended by mutual agreement	Yes	Type 1 WCF permit Administrative review and approval by planning and development services director and/or his/her
Other collocations that "substantially change the physical dimensions of the existing wireless tower or base station" Roof mounted that do not qualify as existing base stations not to exceed 10 feet above the highest portion of the roof Distributed antenna systems and small cells	90 day review after application submitted	No	Type 2 WCF permit See section 15.42.090 of this chapter for zoning restrictions
New tower (not in public right of way) Roof mounted exceeding 10 feet above the highest portion of the roof	150 days after application submitted	No	Type 3 WCF permit See section 15.42.090 of this chapter for zoning restrictions

(Ord. 2979, 2016)

15.42.060: PERMIT REVIEW TIME PERIODS:

A. City Review Of Application Materials: The time frame for review of an application shall begin to run when the application is submitted, but shall be tolled if the city finds the application incomplete and

requests, **in writing**, that the applicant submit additional information to complete the application. Such requests shall be made within thirty (30) days of submission of the application. After submission of additional information, the city will notify the applicant within ten (10) days of this submission if the additional information failed to complete the application. **If the City deems an application or supplemental submission incomplete, it shall identify in its written notice to the applicant the information and or materials it considers missing from the application.**

- B. Type 1 Processing Time: For type 1 modifications or collocations, the city will act on the WCF application together with any other city permits required for a proposed WCF modification within sixty (60) days, adjusted for any tolling due to requests for additional information or mutually agreed upon **written** extensions of time.
1. If the city determines that the application does not qualify as a type 1 eligible facilities request, the city will notify the applicant of such determination in writing and will process the application as a type 2 WCF application.
 2. To the extent federal law provides a "deemed granted" remedy for type 1 WCF application(s) not timely acted upon by the city, no such application shall be deemed granted until the applicant provides notice to the city, in writing, that the application has been deemed granted after the time period in this subsection B has expired.
 3. Any deemed type 1 WCF application shall be subject to following conditions:
 - a. The approval of a type 1 WCF permit shall be subject to the conditions of approval of the underlying permit, except as may be preempted by the spectrum act.
 - b. The proposed project shall be built in compliance with the approved plans on file with the city of Pocatello.
- C. Type 2 Processing Time: For type 2 WCF permits, the city will act on the application within ninety (90) days, adjusted for any tolling due to requests for additional information or mutually agreed upon **written** extensions of time.
- D. Type 3 Processing Time: For type 3 WCF permits, the city will act on the application within one hundred fifty (150) days, adjusted for any tolling due to requests for additional information or mutually agreed upon **written** extensions of time.
- E. Denial of Application: In the event that the city denies a WCF application, the city will notify the applicant of the denial in writing outlining the reasons for the denial. (Ord. 2979, 2016)

15.42.070: MODIFICATIONS OR COLLOCATIONS OF ANTENNAS, DAS AND SMALL CELLS:

- A. To the extent possible not otherwise covered by subsection [15.42.040A](#) of this chapter, "eligible facilities requests", collocation, new WCF antenna arrays, DAS and small cells are permitted in all zoning districts via administrative approval provided that the antenna array or roof mounted antenna does not constitute a "substantial change" to an existing tower or base station.
- B. A type 1 application with applicable fees shall be submitted.
- C. If any support structure must be constructed to achieve the needed elevation or if the attachment adds more than ten feet (10') above the existing structure or roofline, the proposal is subject to a type 2 review and application. The limitation to constitute a "substantial change" to an existing tower or base station applies to cumulative increases and any previously approved additions to height made under

this section must be included in said measurement.

- D. Any equipment shelter, cabinet or ancillary equipment are subject to building setbacks as required in the underlying zoning district.
- E. Applicable building, mechanical, and electrical permits are required as determined by the building official.
- F. Distributed antenna systems and small cells:
 - 1. Permitted: Distributed antenna systems (DAS) and small cells are permitted in all zoning districts.
 - 2. Review: DAS and small cells are subject to approval via administrative review only, unless installation requires the construction of a new utility support structure or building. Type 2 review is required when the applicant proposes new utility support structure or building.
 - 3. Multiple Site DAS And Small Cells:
 - a. A single application may be submitted and permit may be used for multiple distributed antennas that are part of a larger overall DAS network.
 - b. A single application may be submitted and permit may be used for multiple small cells spaced to provide wireless coverage in a contiguous area. (Ord. 2979, 2016)

15.42.080: TOWER SHARING, COLLOCATION, PREFERRED TOWER LOCATIONS AND STANDARDS:

- A. Tower Sharing And Collocation: New WCF facilities shall, to the maximum extent feasible, collocate on existing towers or other structures of a similar height to avoid construction of new towers, unless precluded by zoning constraints such as height, structural limitations, inability to obtain authorization by the owner of an alternate location, or where an alternate location will not meet the service coverage objectives of the applicant.
- B. New Towers: Applications for a new tower must address all existing towers or structures of a similar height within one-half ($1/2$) mile of the proposed site as follows:
 - 1. By providing evidence that a request was made to collocate on the existing tower or other structure, with no success; or
 - 2. By showing that locating on the existing tower or other structure is infeasible with a detailed written explanation detailing why a new tower is required.
- C. Tower Height: Towers are exempt from the maximum height restrictions of the districts where located.
- D. Tower Setback, Base Station And/Or Accessory Facilities: Setbacks are required based on the underlying zoning as measured from property lines to the base of the tower. Setback requirements may be modified so that a tower can be placed so as to reduce its visual impact, e.g., adjacent to trees which may partially hide the tower.
- E. Separation: Towers shall be separated from all residentially zoned lands by a minimum of one hundred fifty feet (150') unless located on City owned property
- F. Lighting: Facility lighting shall be designed so as to meet, but not exceed, minimum requirements for security, safety or FAA regulations. Lighting of antennas or support structures shall be prohibited unless required by the FAA. All lighting shall be designed so as to avoid glare and minimize

illumination on adjacent properties and shall comply with all city regulations.

- G. Easements and Lease Agreements⁴: The boundaries of easements and lease areas for cell towers need to be monumented and a record of survey filed with the county.
- H. Substantial Change: A modification substantially changes the physical dimensions of a tower or base station if it meets any of the following:
 1. For towers outside of public rights of way ("ROW"), it increases the height of the tower by more than ten percent (10%) or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet (20'), whichever is greater;
 2. For **existing** towers in the ROW and all base stations, it increases the height of the tower or base station by more than ten percent (10%) or ten feet (10'), whichever is greater;
 3. For towers outside the ROW, it protrudes from the edge of the tower more than twenty feet (20'), or more than the width of the tower structure at the level of the appurtenance, whichever is greater;
 4. For **existing** towers in the ROW and all base stations, it protrudes from the edge of the structure more than six feet (6');
 5. It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets;
 6. It entails any excavation or deployment outside of the current site of the tower or base station;
 7. It would defeat the existing concealment/camouflage elements of the tower or base station; or
 8. It does not comply with conditions associated with the locality's prior zoning approval of construction or modification of the tower or base station, unless the noncompliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding "substantial change" thresholds. (Ord. 2979, 2016)

15.42.090: ZONING DISTRICTS AND LAND USE:

P = Permitted	R = Restricted
C = Conditional use permit	N = Not permitted

Zoning Category	Eligible Facilities	Substantial Changes	DAS And Small Cells	Roof Mounted <10'	Roof Mounted >10'	Utility Support Structure	New Tower In Public ROW	New Tower Not In Public ROW
All residential districts	P	C	P	p ³ 2	N	p ⁴ 3	N	C ⁵ 4

Mixed use districts ⁴	P	C	P	P	C	p43	N	C4
All commercial districts	P	P	P	P	P	p43	N	C
Research/business park	P	P	P	P	P	p43	N	C
Designated historic districts	R ²⁻¹	R ²¹	N	R ²¹				
Industrial	P	P	P	P	P	P	N	P

Notes:

~~Mixed use districts that do not have a residential component.~~

1. See section [15.42.100](#) of this chapter including exclusions.
2. Stealth design is required.
3. Height not to exceed 75 feet from grade to top of the structure; review and approval required from utility owner; exception: Such facilities may be ~~are not~~ permitted on city ~~or state~~ owned traffic signal poles or devices **provided approval is granted by Street Operations Department officials and conditions attached are adhered to.** State owned facilities require review and evidence of approval in written form as part of an application.
4. Stealth design required; city owned property only with a public hearing before the city council.

(Ord. 2979, 2016)

15.42.100: GENERAL REGULATIONS:

A. Certificate Of Appropriateness: Applications submitted for a WCF permit within a nationally recognized historic district or within two hundred fifty feet (250') of the boundary of a historic district, must be reviewed by the Pocatello historic preservation commission accompanied by a certificate of appropriateness which is provided to the state historic preservation office.

B. Exclusions:

1. There is an exclusion from FCC national historic preservation act (NHPA) review for collocations on existing utility structures including utility poles and electric transmission towers only where the deployment meets specified size limitations and involves no new ground disturbance.
2. There is an exclusion for collocations on utility structures where historic preservation review is currently required under existing rules solely because the structures are more than forty five (45) years old.
3. Collocations on buildings and other non-tower structures allow exclusions permitted with the following conditions:
 - a. There must be an existing antenna on the building or structure;
 - b. The new antenna must comply with all zoning conditions and historic preservation conditions

applicable to existing antennas in the same vicinity that directly mitigate or prevent adverse visual effects, such as camouflage requirements; and

c. The deployment must involve no new ground disturbance.

C. Standards And Regulations: All WCFs shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agencies of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the WCFs governed by this chapter shall bring said WCFs into compliance with the revised standards and regulations within six (6) months of the effective date of the revised standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring WCFs into compliance with such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense upon fifteen (15) days' written notice via normal first class mail. Compliance with the spectrum act section 6409(a), enacted as part of the middle class tax relief and job creation act of 2012, shall be adhered to.

D. Permitted: Only one WCF shall be permitted on any one utility pole. The antenna shall be either fully concealed within the utility pole or camouflaged to appear to be an integral part of the utility pole. An antenna not flush mounted on the side of the utility pole shall be centered on the top of the utility pole to which it is attached and utilize stealth design. (Ord. 2979, 2016)

15.42.110: CONDITIONAL USE PERMIT PROCEDURES:

Conditional use permit procedures shall be followed as outlined under [title 17](#) of this code. (Ord. 2979, 2016)

15.42.120: CONDITIONAL USE PERMIT STANDARDS:

A. Application: A CUP application shall be filed with the planning and development services department and include all fees outlined on the application.

B. Burden Of Proof: The burden of proof that the proposed conditional use complies with all criteria as listed below lies with the applicant. The applicant must prove their case with substantial and competent evidence.

C. Criteria For Review: The planning and zoning commission shall review the facts and circumstances of each proposal in terms of the following standards and determine whether there is adequate evidence showing that the requested use at the proposed location:

1. Is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this code unless modified through the CUP process;
2. Is consistent with the goals and policies of the comprehensive plan of the city;
3. Conditions may be placed resulting in the use being more compatible with existing and permitted land uses within the general area;
4. Could be adequately served by public facilities and services such as thoroughfares, transportation facilities, police and fire protection, drainage, refuse disposal, water/sewer and schools, to ensure that the proposed use would not be detrimental to public health, safety, and welfare;
5. Would not adversely affect the environment to a greater degree than had a use permitted outright by the ordinance been established;

6. Would not be detrimental to the public interests, health, safety, or welfare of the city in its proposed location, size, design, and operating characteristics.

D. Authority To Grant: The hearing body may approve, approve with conditions, or deny an application for a conditional use permit. The hearing body may impose any conditions necessary to accomplish the following:

1. The following items may be considered as part of an approved conditional use permit to help minimize potential adverse impacts on other developments and surrounding land use through the following:
 - a. Increased landscaping;
 - b. Screening and buffering;
 - c. Use of materials;
 - d. Colors to blend in with the use's surroundings;
 - e. Concealment requirements;
 - f. Increased setbacks beyond that required in the underlying zoning district;
 - g. Engineering reports including those consisting of noise, smoke, odor, vibration, or illumination;
 - h. Increased requirements for lighting and associated shielding;
 - i. Geological and environmental reports as needed;
2. Control the sequence and timing of development;
3. Control the duration of the construction period;
4. Require mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction;
5. Require that studies addressing demographic, economic, fiscal, traffic, engineering, geologic, and environmental concerns be conducted prior to granting approval. (Ord. 2979, 2016)

15.42.130: EXEMPT FACILITIES:

The following are exempt from this chapter:

- A. FCC licensed amateur (ham) radio facilities;
- B. Satellite earth stations, dishes and/or antennas used for private television reception not exceeding one meter (1 m) in diameter;
- C. A government owned WCF installed upon the declaration of a state of emergency by federal, state or local government, or by resolution of public necessity by the city council. Such facility shall comply with all federal and state requirements. The WCF shall be exempt from the provisions of this chapter for up to one week after the duration of the state of emergency;
- D. A temporary, commercial WCF installed for providing coverage of a special event such as news coverage of a sporting event. The WCF shall be exempt from the provisions of this chapter for up to

one week before and after the duration of the special event;

E. Eligible facilities requests as defined under the spectrum act. (Ord. 2979, 2016)

15.42.140: MAINTENANCE:

- A. Each permittee shall maintain its WCF in a good and safe condition, preserving the original appearance and concealment, disguise or screening elements incorporated into the design at the time of approval and in a manner which complies with all applicable federal, state, and local requirements. Such maintenance shall include, but not be limited to, such items as painting, repair of equipment, and maintenance of landscaping. If the permittee fails to maintain the facility, the city may undertake the maintenance at the expense of the permittee or terminate the permit, and remove the WCF at owner's expense, at its sole option upon fifteen (15) days' written notice via normal first class mail.
- B. Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Tower owners shall install and maintain towers, communications facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the national electrical safety code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property. All towers, communications facilities, and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person. All maintenance or construction of towers, communications facilities, or antenna support structures shall be performed by city and state licensed maintenance and construction personnel. All tower owners shall maintain the towers in compliance with current RF emission standards of the FCC.

If, upon inspection, the city concludes that the tower fails to comply with such codes or standards and constitutes a danger to person or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring the tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days constitutes grounds for the removal of the tower at the owner's expense upon fifteen (15) days' written notice via normal first class mail.

In the event that the use of a tower is discontinued by the tower owner, the tower owner shall provide written notice to the city of its intent to discontinue use and the date when the use shall be discontinued and the tower removed from the premises. (Ord. 2979, 2016: Ord. 2662, 2001)

15.42.150: MODIFICATIONS:

- A. Permit: A new permit must be obtained prior to any proposed change or addition to any WCF, provided that routine maintenance or replacement of any portion of the WCF with identical equipment in conformance with this chapter shall not require application for a new permit.
- B. Existing Uses: All WCFs existing on the date of passage of the ordinance codified herein shall be allowed to continue their operation as they presently exist, subject to the terms of this chapter relating to abandonment or discontinuance of use. Routine maintenance shall be permitted, but construction involving the replacement of support structure apparatus, antennas, or any exterior alteration must be done in compliance with the terms of this chapter.
- C. Exception: Emergency service WCFs may obtain a waiver from the city council if required for preserving the public health and safety. Issuance of the waiver shall require a public hearing and a finding on the part of the council that the modifications cannot comply without undue burden on the

15.42.160: ABATEMENT OR DISCONTINUANCE OF USE:

- A. Construction or activation of a WCF shall commence within ninety (90) days of approval of the WCF permit or the permit shall be null and void. A ninety (90) day written extension approval may be granted by the planning and development services department due to weather conditions or other extenuating circumstances beyond the control of the applicant as determined by the planning and development services department, after written request by the permittee.
- B. At such time that a licensed carrier plans to abandon or discontinue operation of a WCF, the carrier shall notify the city by first class U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the WCF shall be considered abandoned, effective the day of discontinuance.
- C. The carrier shall remove the WCF no later than ninety (90) days after the date of abandonment or discontinuation, properly dispose of all waste materials from the site in accordance with local and state solid waste disposal regulations, and restore the location to its before use state, landscaping and grading excepted. Removal shall include, but not be limited to, removal of antennas, support structures, equipment enclosures and security barriers from the subject property.
- D. If a carrier fails to remove a WCF in accordance with this section, the city may cause the facility to be removed and all expenses of removal, disposal, and restoration shall be paid by the owner of the land where the facility is located. (Ord. 2979, 2016: Ord. 2662, 2001)

15.42.170: COMPLIANCE WITH FEDERAL REGULATIONS:

All WCFs shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the WCFs governed by this chapter shall bring said WCFs into compliance with the revised standards and regulations within six (6) months of the effective date of the revised standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring WCFs into compliance with such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense upon fifteen (15) days' written notice via normal first class mail. (Ord. 2979, 2016: Ord. 2662, 2001)

15.42.180: ANTENNA SUPPORT STRUCTURE SAFETY:

The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas shall not be negatively affected by support structure failure, falling ice or other debris or interference. All support structures shall be fitted with anticlimbing devices, as approved by the manufacturers. (Ord. 2979, 2016: Ord. 2662, 2001)

15.42.190: SEVERABILITY:

If any clause, section, or other part of this chapter shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this chapter shall not be affected thereby, but shall remain in full force and effect. (Ord. 2979, 2016: Ord. 2662, 2001)

15.42.200: REPEALER:

All resolutions, ordinances or parts of ordinances in conflict herewith are hereby repealed. (Ord. 2979, 2016: Ord. 2662, 2001)