

ORDINANCE NO. 703

AN ORDINANCE of the City Council of the City of Lakewood, Washington: defining “wireless service facilities” (WSFs); adopting interim controls at LMC 18A.95 for wireless technology facilities, including small wireless facilities, in all zones; and setting a public hearing therefore.

WHEREAS, the City of Lakewood incorporated effective February 28, 1996; and,

WHEREAS, under Lakewood Municipal Code (LMC) Title 18A, wireless technology facilities are currently regulated under Chapter 18A.85; and

WHEREAS, on October 15, 2018, the Federal Communications Commission (FCC) issued *Declaratory* Ruling 18-133, “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment”; and,

WHEREAS, FCC Declaratory Ruling 18-133 has an effective date of January 14, 2019; and

WHEREAS, in FCC 18-133, the Commission held that: 1) the Clinton-era FCC's *California Payphone* decision is the appropriate standard for determining whether a state or local law operates as a prohibition or effective prohibition within the meaning of Sections 253 and 332; 2) the Commission held that fees are only permitted to the extent that they represent a reasonable approximation of a local government's objectively reasonable costs and are non-discriminatory, and the Commission also identified specific fee levels for the deployment of Small Wireless Facilities that presumptively comply with this standard; and 3) the Commission focused on a subset of other, non-fee provisions of state and local law that could also operate as

prohibitions on service, addressing state and local consideration of aesthetic concerns in the deployment of Small Wireless Facilities; and,

WHEREAS, any aesthetic regulations the City might enforce on small wireless facilities must comply with FCC 18-133 no later than April 13, 2019; and

WHEREAS, amendments to LMC Chapter 18A.85 are needed in order to comply with FCC 18-133; and,

WHEREAS, the City is currently conducting a comprehensive review and update of LMC Title 18A, with an anticipated completion date of June 17, 2019; and

WHEREAS, in order to ensure timely compliance with FCC 18-133, the City Council is authorized and wishes to define “wireless service facilities” in Section 18A.90.200 and wishes to establish the interim controls on wireless service facilities per a new LMC Chapter 18A.95 as allowed under sections 35A.63.220 and 36.70A.390 of the Revised Code of Washington.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD,
WASHINGTON, DO ORDAIN AS FOLLOWS:**

Section 1. Interim Controls established. That interim controls for wireless service facilities are hereby established via a new definition for “wireless service facilities” (WSFs) included in Section 18A.90.200 and a new LMC Chapter 18A.95, included herein, which replaces current LMC Chapter 18A.85.

Section 2. Public Hearing. That a public hearing on the proposal to establish interim controls on wireless service facilities within the City of Lakewood is hereby set for 7:00 p.m, or as soon thereafter as the matter may be heard, at the regular meeting of the Lakewood City Council on the 4th of February, 2019, at the Lakewood City Council Chambers, 6000 Main Street SW, Lakewood, Washington 98499.

Section 3. Term of Interim Controls. The interim controls imposed by this Ordinance shall become effective on the date hereof, and shall continue in effect for a period of six (6) months, unless repealed, extended or modified by the City Council after subsequent public hearing pursuant to RCW 35A.63.220 of 36.70A.390.

Section 4. Work Plan. During the effective period of the interim controls, the City will: consider the interim controls for inclusion in the comprehensive update of LMC Title 18A; implement a work plan, including reviewing for any needed amendments to be consistent with the rest of Title 18A sections as well as FCC 18-133; drafting resolutions and ordinances concerning Title 18A as needed for Planning Commission and City Council consideration; completing the required SEPA analysis for the proposed actions; and developing a public outreach plan as appropriate.

Section 5. Severability. If any sections, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property or circumstance, such invalidity or unconstitutionality or inapplicability shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance or its application to any other person, property or circumstance.

Section 6. Effective Date. That this Ordinance shall be in full force and effect upon passage and signatures hereon.

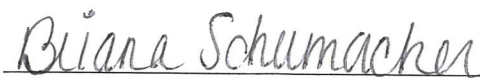
PASSED by the City Council this 22nd day of January, 2019.

CITY OF LAKEWOOD



Don Anderson, Mayor

Attest:



Briana Schumacher, City Clerk

Approved as to Form:



Heidi Ann Wachter, City Attorney

Chapter 18A.90 DEFINITIONS

18A.90.200

Wireless Service Facilities (WSF). Facilities for commercial mobile service and private mobile service as defined in Title 47 USC 153 and facilities for personal wireless service as defined in Title 47 USC 332(c)(7)(C), including all future amendments; also includes facilities for the transmission and reception of radio or microwave signals used for communication, telecommunication, cellular phone personal communications services, enhanced specialized mobile radio, any other services licensed by the FCC, and any other unlicensed wireless services. WSFs includes use of macro cells with relatively large antennas and towers. WSFs also include small wireless facilities (SWFs) as defined in 18A.95.010, as well as high-bandwidth and low-latency applications and through the growth of the Internet of Things that require the deployment of small cell networks and facilities to support increased usage and capacity.

~~*WIRELESS TELECOMMUNICATIONS FACILITIES (WTF), INCLUDING PERSONAL WIRELESS SERVICE.* Personal wireless service facilities, and facilities as defined in Title 47, United States Code, Section 332(c)(7)(C), including all future amendments, and also includes facilities for the transmission and reception of radio or microwave signals used for communication, telecommunication, cellular phone personal communications services, enhanced specialized mobile radio, any other services licensed by the FCC, and any other unlicensed wireless services.~~

CHAPTER 18A.95 WIRELESS SERVICE FACILITIES (WSFs)

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PART I New wireless service facilities (WSFs)

18A.95.010 Definitions.

For the purposes of Part I of this chapter, the terms used have the following meanings:

A. “Antenna height”, when referring to a tower or other Wireless Service Facilities (WSFs), means the vertical distance measured from the finished grade of the parcel at the base of the tower pad or antenna support structure to the highest point of the structure even if said highest point is an antenna. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

B. “Antenna support structure” means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

C. “Pole Extender” means a device that extends a utility pole or similar structure, the material of such structure being wood, composite, or otherwise, to the maximum height as permitted under this Title, without requiring the entire structure to be replaced, such that a small wireless facility may be located at the top of said structure and meet any required clearances as dictated by the structure owner.

D. “Shot clock” means the period of time in which a siting authority has to “act” on a small wireless facility application. “Act” means the granting of a small wireless siting application or the issuance of a written decision denying a small wireless siting application by the siting authority.

E. “Shroud” means any decorative covering used to conceal all small wireless facility base equipment.

F. “Small Wireless Facilities” (SWFs), or small cell facilities, mean facilities that are consistent with 47 CFR 1.1312(e)(2) and meet the following conditions:

(1) The facilities—

(i) are mounted on structures 50 feet or less in height including their antennas as defined in 47 CFR 1.1320(d), or

(ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or

- (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- (2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 CFR 1.1320(d)), is no more than 3 cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- (4) The facilities do not require antenna structure registration under 47 CFR 17.4;
- (5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
- (6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

G. "Small Cell Network" means a collection of interrelated small wireless facilities designed to deliver personal wireless services.

H. "Wireless Service Facilities" is defined in 18A.90.200.

18A.95.020 Purpose.

The purpose of this chapter is to accommodate an increased need for the development of enhanced wireless service facilities (WSF) capabilities and services while protecting the public health, safety, welfare, and property and aesthetic values, to the extent permitted by the federal Telecommunications Act of 1996. This section establishes criteria for the siting of WSFs, which promote collocation on existing and new towers and utility pole extensions in order to minimize the number of towers; manage the location and height of towers and antennae; minimize adverse visual impacts of towers through careful design, siting, landscaping, and other innovative camouflaging and screening techniques; and avoid potential damage or adverse impacts to adjacent properties through sound engineering practices and the proper siting and construction of antenna support structures.

18A.95.030 Applicability.

Wireless service facilities may be located upon properties in Lakewood only as provided herein. All proposals for WSFs made in the city, whether for new construction or for modification of existing facilities, shall be subject to these regulations, except those specifically exempted under LMC Section 18A.95.040.

Wireless service facilities existing before April 28, 1998, or those with permits issued by the City after April 28, 1998, but prior to the effective date of this title, which do not meet the requirements of this section shall be allowed to continue as they presently exist, but shall be considered nonconforming uses for the purposes of this title.

18A.95.040 Exemptions.

The following are exempt from the provisions of this chapter:

A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.

B. Antennae and related equipment no more than three (3) feet in height that are being stored, shipped, or displayed for sale.

C. Amateur radio station operators or receive-only antennae.

D. Home satellite services, including satellite dish antennae less than six and one-half (6 1/2) feet in diameter and direct-to-home satellite services, when used as an accessory use of the property.

E. Public safety WSFs and equipment, including the regional 911 system, radar systems for military and civilian communication and navigation, and wireless radio utilized for temporary emergency communications in the event of a disaster.

F. A mobile transmission facility or other temporary wireless service facility temporarily placed on a site for a period of thirty (30) days or less, unless an administrative use permit is obtained for an additional period or unless the City has declared an area-wide emergency.

G. Emergency or routine maintenance and repair of an existing WSF and related equipment, excluding structural work or changes in height or dimensions of antennae, towers, or buildings, provided that compliance with the standards herein is maintained.

H. WSFs installed on properties that are subject to the Chambers Creek Properties Joint Procedural Use Agreement, which shall instead be regulated to the terms and conditions of the interlocal agreement and design standards adopted thereunder, as administered by the City of University Place pursuant to interlocal agreement. If, at some point, the interlocal agreement is abandoned, such uses on the Lakewood portion of the Chambers Creek Properties shall once again be subject to the requirements set forth herein; provided, that any existing uses which do not meet these standards shall be considered to be and shall be regulated as nonconforming.

18A.95.050 Priority of locations.

The City's priorities for the location of new WSFs are listed below in order of preference, with the most preferred site listed first and the least preferred site listed last. The applicant must show that use of preferred site locations are not feasible in order to request a less preferred location. The applicant shall demonstrate, using engineering evidence satisfactory to the City, that all possible preferred locations and other WSF technology options have been exhausted before a less preferred site may be approved.

A. Mount antennae on utility poles within the right-of-way, public water towers, existing WSF towers or other public and/or non-residential buildings in commercial and industrial zoning districts.

B. Mount antennae on utility poles within the right-of-way, public water towers, existing WSF towers or other public or non-residential buildings in all zoning districts.

C. Locate antennae and new towers in the IBP, I1, and I2 zoning districts.

- D. Locate antennae and new towers in the C1 and C2 zoning districts.
- E. Locate antennae and new towers on non-residential property in the CBD, TOC, and PI zoning districts.
- F. Locate antennae and new towers on non-residential property in the NC1 and NC2 zoning districts.
- G. Locate antennae and new towers in the C3 zoning district.
- H. Locate antennae and new towers on non-residential property in the OSR1 and OSR2 zoning districts.
- I. Locate antennae and new towers on non-residential property in the MF1, MF2, MF3, and ARC zoning districts.
- J. Locate antennae and new towers on residential property in the CBD, TOC, PI, NC1, NC2, OSR1, OSR2, and ARC zoning districts.
- K. Locate antennae and new towers on residential property in MF1, MF2, and MF3 zoning districts.
- L. Antennae and new towers shall not be located in single-family residential zoning districts, except as allowed above, unless the applicant demonstrates that all other possible locations, collocations and wireless technologies cannot be modified to function within their grid system.

18A.95.060 General siting and design requirements.

The location and design of WSFs, including small wireless facilities, shall consider the impacts, including visual, of the facility on the surrounding neighborhood.

A. Siting. Any applicant who proposes to construct a new WSF, other than a small wireless facility, shall demonstrate, by engineering evidence satisfactory to the City, that the proposed facility is located at the least obtrusive and the most appropriate site available to prevent an effective prohibition of service. Facilities shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening and shall be designed to minimize any significant adverse impact on residential property.

B. Primary or accessory use. A WSF may be considered either a primary or an accessory use on a lot or parcel. A different use of an existing structure on the same lot shall not preclude the installation of a WSF on that lot.

C. Development. Development and construction of the site shall preserve the existing character of the site as much as possible. Existing vegetation should be preserved. When existing vegetation cannot be preserved, vegetation shall be improved by landscaping. Disturbance of the existing topography of the site shall be minimized.

D. Design. Facilities shall be architecturally compatible with the surrounding buildings and land uses in the zoning district and screened or otherwise integrated, through location and design, to blend in with the existing characteristics of the site.

E. FCC licensure. The City will only process WSF permit applications upon a satisfactory showing of proof that the applicant is a FCC-licensed telecommunications provider or that the applicant has agreements with a FCC-licensed telecommunications provider for use or lease of the facility.

F. Compliance with other laws. WSF service providers shall demonstrate compliance with FCC and FAA rules and regulations and all other applicable federal, state, and local laws, rules and regulations, including FAA and U.S. Air Force airspace maximum height criteria. Failure to maintain compliance with applicable standards and regulations shall constitute grounds for the City to remove a provider's facilities at the provider's expense.

G. Lot size. For purposes of determining whether the installation of a WSF complies with district development regulations including, but not limited to, setback requirements, lot-coverage requirements, and other development requirements, the dimensions of the entire lot shall control, even though the WSF may be located on leased parcel within that lot.

H. Height. Except as allowed by LMC Section 18A.95.090, Collocation, or LMC Section 18A.95.120, Conditional Use Permit, no WSF may exceed one hundred (100) feet in height. Further, the applicant must demonstrate, by engineering evidence satisfactory to the City, that the height requested is the minimum height necessary.

I. Security fencing. Excluding Small Wireless Facilities, WSFs shall be enclosed by security fencing not less than six (6) feet in height, constructed of masonry, solid wood or coated chain link with matching colored slats, designed to blend with the character of the existing neighborhood provided, however, that the Community Development Director or, where applicable, the Hearing Examiner may waive these requirements as appropriate. Access to the WSF shall be through a locked gate, and there shall be a universal key box at any such gates.

J. Landscaping. Excluding Small Wireless Facilities, WSFs shall be landscaped with a buffer of plant materials that effectively screens the view of the WSF compound pursuant to LMC Section 18A.95.150, Screening. Equipment shelters and cabinets for small wireless facilities shall be concealed in accordance with 18A.95.085.

K. Structure or rooftop mountings. Wireless service facilities mounted on existing structures or rooftops shall be designed and located so as to minimize visual and aesthetic impacts to the adjoining land uses and structures and shall, to the greatest extent practical, blend into the existing environment.

L. Aesthetics. Wireless service facilities shall meet the following requirements:

1. Unless a different color is required by the FCC or FAA, a WSF shall be painted a neutral color generally matching the surroundings or background to minimize its visual obtrusiveness.

2. At a WSF site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend into the existing natural and constructed environment.

M. View corridors. Due consideration shall be given so that WSFs do not obstruct or significantly diminish views of Mt. Rainier, Puget Sound, the Olympic Mountains or other scenic vistas.

N. Required parking. Off-street parking shall be determined by the director or designee. The amount of parking required to be provided shall be dependent on whether the cell site is fully automated, partially automated, or is not automated.

O. Lighting. If lighting is required for any WSF, then the lighting shall be of a type to cause the least disturbance to the surrounding area and which shall not cause glare skyward or beyond the property line.

P. Measurement. For purposes of measurement, WSF setbacks and separation distances shall be calculated and applied irrespective of jurisdictional boundaries.

Q. Franchises, licenses, and permits. Owners and/or operators of a WSF shall certify that they have obtained all franchises, licenses, or permits required by law for the construction and/or operation of the WSF system in the city and shall file a copy of all required franchises, licenses, and permits with the Community Development Department at the time of application. All applicable franchises, licenses and permits required for operation shall be maintained.

R. Signs. No signs shall be allowed on antennae or towers.

S. Backhaul providers. Backhaul providers shall be identified at the time of Right Of Way (ROW) Permit application and as a condition of ROW permit approval, and shall obtain and maintain all necessary approvals to operate as such, including holding necessary franchises, permits, and certificates. The method of providing backhaul, either wired or wireless, shall be identified.

T. Safety inspections. Each facility operator shall conduct all safety inspections in accordance with the EIA and FCC standards.

U. Equipment structures. Ground-level equipment, buildings, and the tower base shall be screened from public view. Equipment shelters and cabinets for small wireless facilities shall be concealed in accordance with 18A.95.085. All such structures shall be considered primary structures, not accessory structures, for the purposes of development regulations. The standards for the equipment buildings are as follows:

1. The maximum floor area shall be three hundred (300) square feet, and the maximum height shall be twelve (12) feet, unless the applicant demonstrates that the WSF and/or proposed collocation will require additional space or height to function within the provider's local network. The City may, at its sole discretion, approve multiple equipment structures or one (1) or more larger structures if it will result in a more aesthetically pleasing structure and/or site design or will further other public policy objectives.

2. The equipment building shall be located no more than fifty (50) feet from the tower or antenna, except under unique and unusual circumstances demonstrated by the applicant to the City's satisfaction or for other public policy considerations.

3. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified in this title or other City ordinances or regulations.

4. A WSF, including equipment buildings, antennae, and related equipment, shall occupy no more than twenty-five (25) percent of the total roof area of the building on which the WSF is mounted. The City may, at its sole discretion, increase the percentage of building coverage allowed, if collocation is achieved and an adequate screening structure is used.

5. Equipment buildings mounted on a roof shall be completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building. Equipment for roof-mounted antenna may also be located within the building on which the antenna is mounted.

6. If located in residential zones, equipment buildings shall be designed so as to conform in appearance with nearby residential buildings and equipment structures shall comply with the setback requirements of the zoning district.

18A.95.070 Siting and design requirements for structure-mounted WSF's.

A WSF, including a small wireless facility, mounted on and/or extending above a structure shall be subject to the following:

A. The antenna shall be architecturally compatible, to the maximum extent feasible, with the building and/or wall on which it is mounted, and shall be designed and located so as to minimize adverse aesthetic impact.

1. The antenna may be mounted on a wall of an existing building if it is mounted as flush to the wall as is technically possible and does not project further above the top of the wall on which it is mounted beyond that height necessary to fulfill the function of that site within the local network system.
2. The antenna may be mounted on a building roof if the City finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.

3. The antenna shall be constructed, painted, or fully screened to match, as closely as possible, the color and texture of the building and/or wall on which it is mounted.
4. No portion of the antenna or base station shall exceed the height limitations set forth in this section.

B. If an equipment shelter is present, the structure shall be architecturally and visually compatible with surrounding existing buildings, structures, vegetation, and uses in terms of color, size, and bulk. Such facilities will be considered architecturally and visually compatible if they blend with the surrounding buildings in architectural character and color and are camouflaged to disguise the facility. Equipment shelters and cabinets for small wireless facilities shall be concealed in accordance with 18A.95.085.

C. The maximum height of a utility pole extension shall be determined by the city engineer and director. The pole extension shall be designed such that the height of the utility pole is the minimum additional height necessary to support the antenna and the diameter of the utility pole required to support the antenna is not increased more than twenty (20) percent of the existing utility pole. Small wireless facility deployments on existing and replacement utility poles shall be regulated in accordance with LMA 18A.95.085.

D. An antenna attached to the roof or sides of a building at least thirty (30) feet in height, or on an existing tower, a water tank, or a similar structure, must be either:

1. An omnidirectional or whip antenna no more than seven (7) inches in diameter and extending no more than sixteen (16) feet above the structure to which it is attached.
2. A panel antenna no more than two (2) feet wide and six (6) feet long, extending no more than ten (10) feet above the structure to which it is attached.

18A.95.080 Tower siting and design requirements.

A. Setbacks. All towers, support structures and accessory buildings must satisfy the minimum setback requirements for the zoning district in which they are located, except under the following conditions:

1. Tower setback. A tower's setback shall be measured from the base of the tower to the property line of the parcel on which it is located. In the MF1, MF2, MF3, MR1, MR2, R1, R2, R3, and R4 zoning districts, where permitted, and on property abutting or adjacent to such districts, towers shall be set back from any property line in or abutting a residential zone a distance equal to one hundred (100) percent of tower height as measured from ground level, except for unusual geographic limitations or other public policy considerations, as determined at the City's sole discretion.
2. In all other zones, towers shall comply with a minimum setback of fifteen (15) feet from all property lines.
3. Right-of-way setback exception. The setback requirement may be waived if the antenna and antenna support structure are located in the public right-of-way.

B. Support systems setbacks. All guy wires, anchors, and other support structures must be located within the buildable area of the lot and not within the front, rear, or side yard setbacks or within the landscape screening buffer area and which shall be located no closer than fifteen (15) feet to any property line.

C. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required for any WSF, then the lighting must be of the type to cause the least disturbance to the surrounding area and shall not cause glare skyward or beyond the property line. If lighting is required for a tower, dual mode lighting shall be requested from the FAA when residential uses are located within five hundred (500) feet of the tower.

D. Monopole construction required. All towers shall be of a tapering monopole construction unless the provider can demonstrate that another type of tower would cause less impact to the surrounding property than a monopole structure and/or would otherwise further the purposes and goals of this section.

E. Inventory of existing sites. Each applicant for a tower shall provide an inventory of its existing WSF sites that are within the jurisdiction of the City and within one (1) mile of its borders, including specific information about the location, height, and design of each facility.

F. Building and safety standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is constructed and maintained in compliance with applicable City building codes and EIA standards, as amended. New construction and any improvements or additions to existing towers shall require submission of site plans stamped by a professional engineer licensed in Washington State, which demonstrate compliance with the EIA standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice provided to the owner of the tower, the owner shall have thirty (30) days to bring the tower into compliance with such standards. If the owner fails to bring the tower into compliance within thirty (30) days, the City may remove the tower at the owner's expense. If the structure is determined by the City to pose an imminent danger to the public, the City shall be entitled to abate the danger through the appropriate processes established by the City.

G. Antenna and support structure safety. The tower or antenna and its support structure shall be designed to withstand, at a minimum, a wind force of one hundred (100) miles per hour and one-half (1/2) inch of ice without the use of supporting guy wires. The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

H. Site selection and tower height. Towers shall be located to minimize their number, height, and visual impacts on the surrounding area in accordance with the following policies:

1. Tower height shall not exceed one hundred (100) feet in height except under the following conditions:

a. Collocation of two (2) or more service providers allows for additional height by using collocation height increment provisions.

b. A single service provider can demonstrate, via the conditional use permit criteria and all other applicable criteria in this section and this title, that a tower greater than one hundred (100) feet in height is necessary to provide service within its provider system.

2. The height of a tower shall have the least visual impact feasible and the height shall be no greater than necessary to achieve service area requirements and to provide for potential collocation; and

3. The owner or operator has demonstrated that the tower site selected provides, to the greatest extent feasible, the least visual impact on residential areas. This shall include an analysis of the potential impacts from other vantage points in the area to illustrate that the selected site and design provides the best opportunity to minimize the visual impact of the proposed facility.

4. The tower shall be sited to minimize solitary or prominent visibility when viewed from surrounding areas, especially residential areas. The facility shall be camouflaged to the maximum extent feasible.

I. Screening. Towers shall be significantly screened to the extent that it does not result in significant signal degradation. If there are no trees to provide screening, the site shall utilize significant camouflage or other design/construction methods satisfactory to the City, so as to provide compatible aesthetics on and around the site, to the fullest extent reasonably possible.

J. Separation distances between towers. Separation distances between towers shall be measured between the proposed tower and pre-existing towers. Measurement shall be from base of tower to base of tower, excluding pad, footing or foundation. The separation distances shall be measured by drawing or following a straight line between the nearest point on the base of the existing tower and the proposed tower base, pursuant to a site plan of the proposed tower. The separation distances shall be listed in linear feet. Separation distances between towers shall be one thousand five hundred (1,500) linear feet, except when both towers are lattice or guyed towers, then the separation distance shall be five thousand (5,000) linear feet, or one (1) of the towers is a monopole is less than one hundred (100) feet in height, then the separation distance shall be one thousand (1,000) linear feet; or, if the City designates areas where multiple towers can be located in closer proximity. The applicant shall provide an inventory of all WSF towers, despite ownership, within a one thousand five hundred (1,500) or five thousand (5,000) foot radius, as appropriate, around the proposed

tower site, and said inventory shall include the location, height and design style of each tower. The Director or Hearing Examiner, as applicable, may reduce tower separation distance requirements if written findings are made that the provider has demonstrated that the purposes and goals of this section or this title would be better served in doing so. However, the development of multiple tower locations on one (1) or more sites in close proximity, often referred to as “antenna farms,” are specifically prohibited, unless such a site has been so designated by the City Council.

K. Collocation priority. Collocation of antennae by more than one (1) provider on existing towers is preferred to the construction of new towers. New facilities shall be designed to accommodate collocation, unless the applicant demonstrates why such design is not feasible for technical reasons.

18A.95.085 Additional small wireless /distributed antennae system siting and design requirements

Small cell deployment includes small wireless facilities, microcells, and small cell networks. In addition to 18A.95.060, .070, and .080, the following provisions establish design and concealment standards for small wireless facilities and in appropriate situations, criteria for the establishment of standards for small cell deployments subject to a concealment element plan; provided, however, that any small cell, microcell, or small cell network component which is not exempt from SEPA review shall comply with LMC Title 14, Environmental Protection. These standards shall also apply to distributed antenna systems when equipment is installed outside of a building. Throughout this Section, unless context clearly provides otherwise, the term “small cell facilities” refers to small wireless facilities, small cell facilities, microcells, small cell networks, and distributed antenna systems.

A. Preferred Concealment Techniques: Small wireless facilities complying with the preferred concealment techniques described in this subsection shall be considered a permitted use. Facilities complying with the preferred concealment techniques in this subsection require a small wireless permit, subject to the Process I permit procedures in LMC 18A.02.502, Process Types - Permits. In addition, small wireless facilities located on or over the public right-of-way also require a right-of-way (ROW) use permit and franchise agreement and small wireless facilities located on or over the public ROW on City owned infrastructure require a franchise agreement, a pole lease agreement, unless the Director allows use of the public right-of-way and conditions thereof to be incorporated into a franchise agreement.

1. Building Attachment: Antennas may be mounted to a building if the antennas do not interrupt the building’s architectural theme.

a. Small wireless facilities attached to the side or roof of buildings shall employ a symmetrical, balanced design for all facade-mounted antennas. Subsequent deployments will be required to ensure consistent design, architectural treatment and symmetry when placing antennas on the structure’s exterior with any existing small wireless facilities on the same side of the structure.

- b. The interruption of architectural lines or horizontal or vertical reveals is prohibited unless demonstrated to be unavoidable.
- c. New architectural features such as columns, pilasters, corbels, or other ornamentation that conceal antennas may be used if it complements the architecture of the existing building.
- d. Small wireless facilities shall utilize the smallest mounting brackets necessary in order to provide the smallest offset from the building.
- e. Skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of the antennas. Exposed conduit, cabling and wiring is prohibited.
- f. Small wireless facilities shall be painted or colored to match or be compatible with the support structure and/or adjacent building surfaces.
- g. All installations of small wireless facilities shall have permission from the pole/structure owner to install facilities on such structure.

2. Projecting or Marquee Sign:

a. Small wireless facilities replicating a projecting or marquee sign shall be subject to the City of Lakewood's sign regulations. A sign permit is required unless the small wireless facilities are placed entirely within an existing sign.

b. All antennas shall be completely screened by the facade of the sign.

c. All cables and conduit to and from the sign shall be routed from within the building wall. Cable coverings may be allowed on the exterior of the building wall in limited circumstances in situations where they are minimally visible and concealed to match the adjacent building surfaces.

3. Parking Lot Lighting: Small wireless facilities are permitted as attachments to or replacements of existing parking lot light fixtures. The design of the parking lot light fixture shall be in accordance with LMC 18A.50.231 A.5 and 5.32.090; provided, that a pole extender up to four feet (4') in height may be utilized.

4. Street Light Poles and Traffic Signal Poles in Urban Design Focus Areas: For the purposes of this Section, urban design focus areas are those districts defined in Lakewood Comprehensive Plan Chapter 4, Urban Design and Community Character. In an urban design focus area, an existing street light pole or traffic signal pole (but not a wooden utility pole) may be replaced or added on to accommodate small wireless antennas and related equipment subject to the following requirements:

- a. Replacement street lights/traffic signal poles shall conform to the adopted streetscape design standard for the focus area. The replacement pole shall look substantially the same as the existing standard.
- b. Wherever compatible with the pole design and technologically feasible, all equipment shall be internal to the replacement street lighting standard. If equipment is not proposed to be placed internal to the replacement pole, a concealment element plan shall be submitted in accordance with the provisions of subsection B of this Section.
- c. No Illumination: Small wireless facilities shall not be illuminated.
- d. Signage is prohibited on all small wireless facilities and wireless support structures, including stickers, logos, text, and other non-essential graphics and information other than the owner identification unless required by FCC.
- e. Wiring, Cables and Conduit Requirements. All wiring and cables shall be housed within the support structure or pole and extended vertically within a flexible conduit, where possible. If wiring and cables are not proposed to be placed internal to the replacement pole, a concealment element plan shall be submitted in accordance with the provisions of subsection B of this Section.

Spools and/or coils of excess fiber optic or coaxial cables or any other wires shall not be stored on the pole except completely within the approved shrouds or equipment cabinets.

- f. Power supply and fiber optic connections.
 - i. Independent power and communication sources required. Small wireless facilities located on city-owned wireless support structures may not use the same power or communication source providing power and/or communication for the existing facility original to the purposes of the support structure. The independent power source must be contained within a separate conduit inside the support structure. The applicant shall coordinate, establish, maintain and pay for all power and communication connections with private utilities.
 - ii. Generators and Backup Battery: Generators are not permitted for small wireless facilities. A battery backup may be permitted through the submittal of a concealment element plan and subject to administrative conditional use permit review for the purpose of serving multiple small wireless facilities.
- g. Cabinet Location and Dimensions: In situations where interior concealment is not possible, equipment cabinets associated with small

wireless facilities shall be concealed in underground vaults, if either telecommunication or electrical utilities are underground. If this is not feasible, or other telecommunication or electrical utilities are not underground, equipment cabinets shall be mounted as close to the pole as possible to achieve required State Electrical Code safety clearances on the existing pole below the antennas. All equipment cabinets shall be concealed by a shroud if feasible; if not feasible, a concealment plan shall be submitted in accordance with subsection B of this Section. The equipment cabinet for small wireless facilities shall be the smallest amount of cabinet enclosure necessary to enclose the equipment. Disconnect switches may be located outside of the primary equipment cabinet. Any equipment not used in direct support of such operation shall not be stored on the site.

h. Meters. A line drop (no electrical meter enclosure) shall be utilized whenever possible. If this is not possible, use the narrowest electrical meter and disconnect available.

5. Utility Poles/Street Light Poles in Areas Other Than Urban Design Focus Areas and Exempt from Undergrounding: For installations outside of urban design focus areas as identified in the Lakewood Comprehensive Plan Chapter 4, Urban Design and Community Character, and exempt from City of Lakewood utility undergrounding requirements, small wireless antennas and related equipment may be attached to existing or replacement utility poles or street light poles if the antennas and related equipment meet the following requirements:

a. Height Restrictions: All small wireless facilities shall be in compliance with height restrictions applicable to poles and other structures proposed to be utilized. The City may approve minor deviations up to the minimum additional height needed to allow sufficient space for the required clearance from electrical utility wires when required to accommodate antennas at the top of a pole or a pole extender, which shall be no greater than the minimum necessary to achieve required safety clearances and pole owner requirements.

b. Replacement Poles: Replacement poles shall match height, width, color (to the extent possible, and material of the original or adjacent poles). The City may approve minor deviations up to the minimum additional height needed to allow sufficient space for the required clearance from electrical wires when required to accommodate antennas, and may also approve minor deviations up to fifty percent (50%) of the pole width or thirty inches (30"), whichever is greater, when housing equipment within the pole base. Replacement poles shall be located as close as possible to the existing pole, and the replaced pole shall be removed.

- c. Interior Concealment: Whenever technologically feasible, antennas and equipment shall be fully concealed within a light pole, or otherwise camouflaged to appear to be an integrated part of a light pole.
- d. Flush-Mounting and Pole-Top Antennas: In situations when interior concealment is demonstrated to not be possible, the small wireless facility shall, to the full extent permitted under the State electrical code and the utilities' requirements, be flush-mounted on the subject pole, which means mounting directly to the pole with a gap no more than four inches from the pole, or located at the top of the pole. Small wireless facility antennae shall be concealed or integrated into the design of the pole where feasible.
- e. Antenna Design: Where an enclosure is proposed to house an antenna, the antenna shall be located in an enclosure of no more than three (3) cubic feet in volume, or in case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of no more than three (3) cubic feet.
- f. Material and Color: If interior concealment described in subsection c, Interior Concealment, of this section is not possible, the small wireless facility shall to the maximum extent feasible match the color of the pole and shall be nonreflective.
- g. No Illumination: Small wireless facilities shall not be illuminated.
- h. Collocation on Wooden Utility Poles: Each wooden utility pole may not contain more than two small wireless facilities.
- i. Signage is prohibited on all small wireless facilities and wireless support structures, including stickers, logos, text, and other non-essential graphics and information other than the owner identification unless required by FCC.
- j. Wiring, Cables and Conduit Requirements. All wiring and cables shall be housed within the support structure or pole and extended vertically within a flexible conduit, where possible. If wiring and cables are not proposed to be placed internal to the replacement pole, a concealment element plan shall be submitted in accordance with the provisions of subsection B of this Section.
- k. Spools and/or coils of excess fiber optic or coaxial cables or any other wires shall not be stored on the pole except completely within the approved shrouds or equipment cabinets.
- l. Power supply and fiber optic connections.

- i. Independent power and communication sources required. Small wireless facilities located on city-owned wireless support structures may not use the same power or communication source providing power and/or communication for the existing facility original to the purposes of the support structure. The independent power source must be contained within a separate conduit inside the support structure. The applicant shall coordinate, establish, maintain and pay for all power and communication connections with private utilities.
- ii. Generators and Backup Battery: Generators are not permitted for small wireless facilities. A battery backup may be permitted through the submittal of a concealment element plan and subject to administrative conditional use permit review for the purpose of serving multiple small wireless facilities.
- m. Cabinet Location and Dimensions: In situations where interior concealment is not possible, equipment cabinets associated with small wireless facilities shall be concealed in underground vaults, if either telecommunication or electrical utilities are underground. If this is not feasible, or other telecommunication or electrical utilities are not underground, equipment cabinets shall be mounted as close to the pole as possible to achieve required State Electrical Code safety clearances on the existing pole below the antennas. All equipment cabinets shall be concealed by a shroud if feasible; if not feasible, a concealment plan shall be submitted in accordance with subsection B of this Section. The equipment cabinet for small wireless facilities shall be the smallest amount of cabinet enclosure necessary to enclose the equipment. Disconnect switches may be located outside of the primary equipment cabinet. Any equipment not used in direct support of such operation shall not be stored on the site.
- n. Meters. A line drop (no electrical meter enclosure) shall be utilized whenever possible. If this is not possible, use the narrowest electrical meter and disconnect available.

B. Concealment Element Plan:

1. Concealment Element Plan Required: Applications for proposed small wireless facilities installations which do not conform to a preferred concealment technique in subsection 1 of this Section shall submit a concealment element plan. The plan shall include the design of the screening, fencing, or other concealment technology for a base station, tower, pole, or equipment structure, and all related transmission equipment or facilities associated with the proposed wireless facility.
2. Purpose of Concealment Element Plan, Generally: Concealment element plans should seek to minimize the visual obtrusiveness of installations using

methods including, but not limited to, integrating the installation with architectural features or building design components, utilization of coverings or concealment devices of similar material, color and texture, or the appearance thereof, as the surface against which the installation will be seen or on which it will be installed.

Other concealment element approaches may include, but not be limited to, use of street furniture concealment products such as trash cans, benches, information kiosks, or other types of enclosures reasonably compatible to conceal ground level equipment. Additionally, the use of a concealment support or device, such as a clock tower, steeple, flagpole, tree, wayfinding sign, decorative pole with banner, artwork, street sign, or other applicable concealment structure may be approved.

3. Review of Concealment Element Plan for Nonsubstantial Change Collocations: Where a collocation is proposed that does not comply with a preferred concealment technique but does not constitute a major alteration, a concealment element plan shall be subject to administrative review to ensure the proposed collocation does not defeat the concealment features approved as part of the initial installation at that location.
4. Review of Concealment Element Plan for Initial Installations and Substantial Change Collocations: For initial installations and major alterations not complying with a preferred concealment technique, the concealment element plan shall be subject to administrative conditional use permit review.

C. New Poles: Within urban design focus areas and where undergrounding is not required, the installation of a new pole for the purpose of locating small wireless facilities is permitted only when the applicant establishes that:

1. The small wireless facility cannot be located on a site outside of the public right-of-way such as a public park, public property, or in or on a building whether by roof or panel-mount or separate structure; and
2. The small wireless facility cannot be located on an existing pole within the public right-of-way; and
3. The proposed facility complies with a preferred concealment technique or an approved concealment element plan.

D. Ground-Mounted Equipment Standards; ADA Compliance Required: To allow full use of the public right-of-way by pedestrians, bicycles and other users, and particularly in urban design focus areas and underground districts, all ground-mounted equipment shall be undergrounded in a vault meeting the City's construction standards or incorporated into street furniture or the base of a pole. The ground-mounted equipment and its enclosure shall be the smallest size necessary for operation of the small wireless facility. The location of ground-mounted equipment including street furniture, replacement poles and/or any new poles shall comply with the Americans with Disabilities Act (ADA), City construction standards, and State and Federal

regulations in order to provide a clear and safe passage within the public right-of-way.

E. Federal Regulatory Requirements:

1. These provisions shall be interpreted and applied in order to comply with the provisions of Federal law. By way of illustration and not limitation, any small wireless facility which has been certified as compliant with all FCC and other government regulations regarding the human exposure to radio frequency emissions will not be denied on the basis of radio frequency (RF) radiation concerns.
2. Small wireless facilities shall be subject to the requirements of this Code to the extent that such requirements:
 - a. Do not unreasonably discriminate among providers of functionally equivalent services; and
 - b. Do not have the effect of prohibiting personal wireless services within the City.
3. Small wireless facilities installed pursuant to the preferred concealment techniques or a concealment element plan may be expanded pursuant to an eligible facilities request unless the expansion substantially changes the physical dimensions of such tower or base station.

18A.95.090 Collocation.

To minimize adverse visual impacts associated with the proliferation of towers, collocation of WSFs on existing or new towers is promoted and encouraged as follows:

- A. To reduce the number of antenna support structures needed in the city in the future, new proposed support structures shall be designed to accommodate antennae for more than one user, unless the applicant demonstrates why such design is not feasible for technical reasons.
- B. Proposed facilities shall collocate onto existing towers wherever reasonably feasible. A new or additional administrative use or conditional use permit approval, as appropriate, is not required when a new service provider is added to an existing tower without modification or reconstruction of the tower. However, requirements for any and all other permits, licenses, leases, or franchise conditions must be satisfied, and the collocation must be accomplished in a manner consistent with the policies, siting and design criteria, and landscape and screening provisions contained in this section, as well as any applicable requirements of the original administrative use or conditional use permit and building permit.
- C. An existing tower may be modified or rebuilt to a taller height to accommodate collocation of an additional antenna without a new or additional administrative use or conditional use permit, as appropriate, and without additional distance separation, provided that:

1. The tower shall be of the same tower type as the existing tower, or of a less obtrusive design, such as a monopole.
2. The additional antenna shall be of a similar type as those on the existing tower;
3. The tower, if reconstructed, is placed on its existing site within fifty (50) feet of its existing location.
4. The tower conforms to or can be modified to conform to the applicable design and development standards in this section.
5. The tower is not located within a single-family or multifamily residential zone. A tower may not be increased in height without a new or additional administrative use or conditional use permit, as appropriate, in these zones.

D. The City may deny an application to construct new facilities if the applicant has not demonstrated by substantial evidence that a diligent effort has been made to collocate the facilities.

E. Collocation height increments. Collocated WSFs are eligible for additional height allowances if collocation occurs according to certain height and usage criteria.

1. To qualify for collocation height increments, the minimum required number of service providers must either be co-applicants and/or have valid lease agreements with the applicant for collocation, at the time of application. However, space reserved for future collocations may qualify for a maximum of one (1) additional service provider for the purpose of height increments, when at least two (2) providers have already located facilities on the tower or have valid lease agreements for such location. Additional height resulting from a height increment shall not require an additional distance separation.

2. In cases of space reservation, a first right-of-refusal, which is either executed or maintained while the provider's facilities and services are in use, to lease the area at the base of the tower and/or mount for other providers will meet the reservation requirement. The site plan shall reserve area for other providers' equipment near the base of the applicant's tower.

3. The additional height increment allowed for two (2) or more providers is thirty (30) feet above the base height. The additional height increment allowed for three (3) or more providers is fifty (50) feet above the base height and, for four (4) or more providers, is seventy (70) feet above the base height.

F. No WSF service provider or lessee or agent thereof shall fail to cooperate in good faith to accommodate collocation with competitors. If a dispute arises about the feasibility of collocating, the Community Development Director may require a third party technical study, at the expense of either or both parties, to resolve the dispute.

G. Collocation of small cell or small wireless facilities must also comply with LMC 18A.95.085.

18A.95.100 Permits required.

Unless specifically exempt, all wireless service facilities require either an administrative use or conditional use permit. Any WSF application that is not subject to administrative approval pursuant to LMC Section 18A.95.110, or an exemption pursuant to LMC Section 18A.95.040, Exemptions, shall require a conditional use permit pursuant to LMC Section 18A.95.120, Conditional Use Permit. In addition to these discretionary land use permits, additional permits including, but not limited to, a building permit, zoning certification, site development permit and if applicable, a right-of-way permit is required prior to site development and construction.

18A.95.105 Small Wireless Facility Permits Required.

A. Submittal Requirements: In addition to other permits or agreements (e.g., administrative conditional use permit, franchise, etc.) necessary for the installation of one or more small wireless facilities, applicants shall apply for a small wireless permit using the small wireless permit application form and submit the fee stipulated in the City of Lakewood Fee Schedule. The submittal shall also meet the following requirements:

1. The applicant shall provide a map identifying the location of the small wireless deployment.
2. The applicant shall provide specific locational information as specified within the small wireless permit application, and specify whether and where small wireless facilities are to be located on existing utility poles including City-owned light standards, or will utilize replacement utility poles, new poles, towers, existing buildings and/or other structures. Conduit and/or ground-mounted equipment necessary for and intended for use in the deployment shall also be specified regardless of whether the additional facilities are to be constructed by the applicant or leased from a third party.
3. The applicant shall provide a detailed schematics and visual renderings, including photo simulations, of the small wireless facilities shall be provided by the applicant.
4. Excluding utility poles, the applicant shall provide engineered plans stamped by a Washington State structural engineer.
5. The applicant shall specifically designate any element of a deployment which qualifies as an eligible facilities request. Such element may be addressed separately by the Director in order to comply with the requirements in LMC 18A.95, Wireless Communication Facilities.
6. The applicant shall provide written authorization of the owner of any pole or structure for the installation of its small wireless facilities on such pole or structure.

For City-owned poles or structures, the applicant shall submit a copy of a lease agreement from the City.

7. If the applicant proposes small wireless facilities located on or over the public right-of-way, the applicant shall submit a copy of a right-of-way use permit issued by the City, unless an existing franchise agreement authorizes the proposed small wireless facilities.
8. If the applicant proposes an element which is not exempt from SEPA review, the applicant shall simultaneously apply under Chapter 43.21C RCW and LMC Title 14, Environmental Protection.
9. The applicant shall submit a sworn affidavit signed by a radio frequency (RF) engineer with knowledge of the proposed project affirming that the small wireless deployment will be compliant with all FCC and other governmental regulations in connection with human exposure to radio frequency emissions for every frequency at which the small wireless facility will operate. If additional transmission facilities necessary to the small wireless facility, such as microwave backhaul, are to be provided by a third party, then the small wireless permit shall be conditioned on an RF certification showing the cumulative impact of the RF emissions of the entire installation. The applicant may provide one emissions report for the entire small wireless deployment if the applicant is using the same small wireless facility configuration for all installations within that batch, or may submit one emissions report for each subgroup installation identified in the batch.
10. The applicant shall provide proof of FCC and other regulatory approvals required to provide the service(s) or utilize the technologies sought to be installed.
11. The applicant shall submit a traffic control plan for any small wireless facilities located on or over the public right-of-way.
12. The applicant shall submit a tentative work schedule, if approved.

B. Administration:

1. Shot clocks commence the day after a small wireless facility application is submitted. For siting agencies that require pre-application processes, shot clocks commence when an application is proffered to the citing authority. If the shot clock ends on a legal holiday, the City has until the next business day to complete the determination.

TABLE A: Small Wireless Facility Shot Clocks	
60 day shot clock:	90 day shot clock:
▪ <u>Collocation on existing infrastructure</u>	▪ <u>Collocation on new infrastructure</u>
▪ <u>Multiple collocation on existing infrastructure</u>	▪ <u>Collocation on new and existing infrastructure</u>

When a shot clock expires with no action taken by the siting authority, the applicant may file a formal complaint proceeding with the FCC or file a case in state or federal court.

Tolling Period: A shot clock is stopped if an applicant submits an incomplete small wireless facility application and the siting authority notifies the applicant of the deficiencies on or before the 10th day following the submission of the application. Importantly, the siting authority's notification must clearly and specifically identify the items deficient in the application and the specific rules or regulations creating the obligations to submit these items. The stopped shot clock resets on the day after the applicant resubmits an application addressing the outlined deficiencies to the siting authority.

For any subsequent application (re)submittal, the shot clock would pause while the applicant is responding to proper notification of a deficient application and would continue on the day after the applicant resubmits an application addressing the outlined deficiencies to the siting authority.

2. The Administrator may approve, deny or conditionally approve all or any portion of the sites proposed in the small wireless permit application. The denial of one or more small wireless facility locations within a submittal shall not be the sole basis for a denial of other locations proposed within the same application.

3. Prior to issuance of a small wireless permit, the applicant shall pay the actual administrative expenses incurred by the City that are directly related to the City's review of the application, including plan inspection, and approval, as authorized by RCW 35.21.860(1)(b), as may be amended.

18A.95.110 Administratively approved WSFs.

The Director may administratively approve the WSF uses listed in this subsection, after an applicant has submitted a complete administrative use permit application and provided all information required by the City.

A. Administratively approved uses. The following uses may be approved after conducting an administrative review:

1. Industrial/commercial zones. Locating WSFs, including the placement of additional buildings or other supporting equipment used in connection with WSFs, that meet the required separation distances and that do not exceed one hundred (100) feet in height for a single user and one hundred thirty (130) feet in height for two (2) or more users in the C1, C2, C3, NC1, NC2, IBP, I1, I2, and PI zoning districts.

2. Antennae on existing structures. Locating a WSF, other than a tower, as an accessory use by attachment to any non-residential building or structure in any zoning district, provided that:

a. The WSF does not extend more than twenty (20) feet above the highest point of the structure if a whip antenna, or ten (10) feet above the highest point of the structure if other than a whip antenna.

b. The WSF complies with all applicable building codes.

c. All associated equipment is placed either within the same building or in a separate structure that matches the existing building or structure in character and materials.

3. Facilities within allowable building height. Locating WSFs, including placement of additional buildings or other supporting equipment used in connection with the WSF, in the MF1, MF2, MF3, TOC, CBD zoning districts, so long as the WSF does not exceed the allowable building height for that district.

4. A mobile transmission facility or other temporary WSF for more than thirty (30) days. Upon a proper showing of extreme necessity (for example, if repair or modification of an existing WSF clearly and legitimately cannot be completed within 30 days), locating a mobile transmission facility at a single location for more than thirty (30) calendar days shall be allowed; however, purely economic convenience shall not be considered a viable factor in making this determination.

B. Authority to waive certain requirements. In connection with the administrative use permit approval, the Director may, in order to encourage camouflaging and collocation of WSFs, administratively reduce separation distance requirements between WSFs by up to thirty (30) percent in Commercial and Industrial zones if the provider demonstrates that the purposes and goals of this section would be better served in so doing.

C. Additionally, in order to encourage the use of the least obtrusive type of WSF, the Community Development Director may administratively permit the reconstruction of any existing WSF to a less obstructive form.

D. Appeal. An appeal to a final decision of the Director issued hereunder shall be heard by the Hearing Examiner in accordance with the requirements of LMC 18A.120, Part IV, Appeals/reconsiderations.

18A.95.120 Conditional Use Permit.

Application for a conditional use permit shall be subject to the procedures and requirements of LMC 18A.110 Part II, Conditional Use Permits, LMC 18A.120 Part III, Public Notice Requirements, and LMC Section 18A.120.310, Public Notice Framework, except as modified by this section. Conditional use permits shall be required for the following WSFs:

A. Tower height. Locating WSFs that exceed one hundred (100) feet in height for a single user or one hundred thirty (130) feet in height for two (2) or more users.

B. Amateur radio antennae. Locating amateur radio antennae or towers that exceed seventy (70) feet in height.

C. Locating WSFs on existing structures. Placement of WSFs on existing structures that will exceed the height limitations in LMC Section 18A.95.110(A)(2)(a), Antennae on Existing Structures.

D. Wireless service facilities exceeding allowable building height. Locating WSFs, including towers, that exceed the allowable building height limitations in the MF1, MF2, MF3, TOC, and CBD zoning districts.

E. Tower construction under allowed separation distances. Locating towers that do not meet the separation distance requirements in LMC Section 18A.95.080(J), Separation distances between towers, or that do not meet administratively approved separation distance limits in LMC Section 18A.95.110(B), Authority to waive certain requirements.

F. Wireless service facilities that are located on public property, and are:

1. Separate from existing structures on property owned, leased, or otherwise controlled by the City or other governmental entity.
7. Attached to existing structures exceeding the height limitations in LMC Section 18A.95.110(A)(2)(a), Antennae on existing structures, on property owned, leased, or otherwise controlled by the City or other governmental entity.

G. Any other WSF application that is not subject to administrative approval pursuant to LMC Section 18A.95.110, Administrative approved WSFs, or an exemption pursuant to LMC 18A.95.040.

18A.95.130 Factors for granting conditional use permits for towers.

A. In addition to the conditions of LMC 18A.110, Part II, Discretionary Approvals, Conditional Use Permits, the following factors shall be taken into consideration when reviewing a CUP application for a WSF tower. The Hearing Examiner shall make written findings to approve, deny, modify or condition an application on the basis of these factors:

1. Height of the proposed tower.
2. Proximity of the tower to residential structures and residential zoning district boundaries.
3. Nature of uses on adjacent and nearby properties.
4. Surrounding topography.
5. Surrounding tree coverage and foliage.
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
7. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.

8. Collocation of other service providers on the proposed tower.
9. Obstruction of or interference with views.
10. Consistency with the purpose and goals set forth in this section.

B. Authority to waive certain requirements. In connection with this conditional approval, the Hearing Examiner may, in order to encourage camouflaging and collocation of WSFs, waive separation distance requirements between WSFs by up to seventy (70) percent in Commercial and Industrial zones if the provider demonstrates that the purposes and goals of this section would be better served.

C. Availability of suitable existing towers, other structures, or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the satisfaction of the Hearing Examiner that no existing tower, structure, or alternative technology that does not require the use of towers can accommodate the applicant's proposed WSF. An applicant shall submit information related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed WSF shall address the following:

1. No existing WSF is located within the geographic area that meets applicant's engineering requirements.
2. Existing WSFs are not of sufficient height to meet applicant's engineering requirements.
3. Existing WSFs cannot practically be reconstructed to provide sufficient structural strength to support applicant's proposed antenna and related equipment.
4. Electromagnetic interference would occur between two (2) or more WSF systems.
5. The fees, costs, or contractual provisions required by the owner in order to share an existing WSF or to adapt an existing WSF for collocation are unreasonable. Fees or costs that exceed new WSF development shall not be presumed to render sharing facilities unsuitable.
6. Other limiting factors render existing WSFs unsuitable.
7. An alternative technology that does not require the use of towers or structures would be unsuitable. Costs of alternative technology that exceed new WSF development shall not be presumed to render the technology unsuitable.

18A.95.135 Factors for granting conditional use permits for small wireless facilities.

The following criteria shall be considered in determining whether to issue an administrative conditional use permit for a small wireless facility; however, the Director may waive or reduce the burden on the applicant of one or more of these criteria if the Director concludes that the goals of LMC 18A.95, Wireless Communication Facilities, are better served by the applicant's proposal:

- A. Height and Design: The height of the proposed tower and/or antenna as well as incorporation of design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- B. Proximity to Surrounding Uses: The nature of uses on adjacent and nearby properties and the proximity of the tower and/or antenna to residential structures and residential district boundaries.
- C. Nature of Surrounding Uses: The nature of uses on adjacent and nearby properties. The proposed use at the proposed location shall not result in substantial or undue adverse effects on adjacent property.
- D. Topography and Vegetation: The surrounding topography and tree canopy coverage.
- E. Impacts: The potential noise, light, glare, and visual impacts.

18A.95.140 Siting and permit requirements for WSF use on public property.

A. Priority of WSF placement. Where public property is sought to be utilized for WSFs, priority will be given to the following entities in descending order:

- 1. City of Lakewood.
- 2. Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the City of Lakewood, and private entities with a public safety agreement with the City of Lakewood.
- 3. Other governmental agencies, for uses which are not related to public safety.
- 4. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services, specialized mobilized radio, enhanced specialized mobilized radio, data, Internet, paging, and similar services that are marketed to the general public.

B. Minimum requirements. The placement of wireless service facilities on City-owned property must comply with the following requirements:

- 1. The facilities shall not interfere with the purpose for which the City-owned property is intended.
- 2. The facilities shall have no significant adverse impact on surrounding properties.

3. The applicant shall obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other provisions and safeguards deemed necessary by the City. The City shall determine appropriate fees after considering comparable rates in other cities, potential expenses, risks to the City, and other appropriate factors.

4. The applicant shall submit a letter of credit, cash guarantee, or other security acceptable to the City to cover the costs of removing the facilities.

5. The antennae or tower shall not interfere with other users who have a higher use priority on the public land pursuant to LMC 18A.70.670(A), Property of WSF Placement.

6. The lease shall provide that, in the case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice, the City may require the applicant to remove the facilities at the applicant's expense.

7. The applicant shall reimburse the City for any related costs incurred by the City because of the presence of the applicant's facilities.

8. The applicant shall obtain all necessary land-use approvals.

9. The applicant shall cooperate with the City's objectives to promote and encourage collocation.

10. The applicant shall comply with the requirements and conditions set forth in any administrative or conditional use permits, or decision of a reviewing body.

11. The applicant shall comply with requirements for maintenance of the facility site, including but not limited to keeping lawns mowed, providing litter control and maintaining trees and other vegetation in a healthy state.

C. Special requirements for parks. The use of City-owned parks for WSFs brings with it special concerns due to the unique nature of these sites. The placement of a WSF in a park shall be allowed only when the following additional requirements are met:

1. The applicant has clearly demonstrated to the satisfaction of the City that the following additional criteria are met:

a. Placement of the WSF shall conform to the requirements of the Critical Areas and Resource Lands Ordinance.

b. Visual impacts shall be mitigated to the fullest extent reasonably possible.

c. Accommodations shall be included in the design and placement of the WSF to ensure that there will be no disruption of normal public use of the park.

d. Placement of the WSF in a public park is absolutely necessary for the effective operation of the applicant's system, and that placement at other alternate sites would not be reasonably possible.

2. The Director has made a recommendation, based on the approval criteria, to the City Council regarding the WSF proposed to be located in the park.

3. The City Council has considered the Director's recommendation in relation to the request and the applicable criteria, and has given consent for such use of the park.

18A.95.150 Landscaping and screening.

A. Landscaping. Wireless service facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the WSF compound. The City may also require any combination of existing vegetation, topography, walls, decorative fences or other features, in addition to landscaping, necessary to achieve the desired level of screening of the site. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping may not be required. Landscaping is not required for WSFs mounted on rooftops or on the top of other structures; however, other methods of screening may be required to be utilized.

B. Screening. The visual impacts of a WSF shall be mitigated through landscaping or other screening materials at the base of a WSF and/or compound. The following landscaping and buffering shall be required around the perimeter of the compound. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent possible and may be used as a substitute for or as a supplement to landscaping requirements.

1. Evergreen trees, a minimum of twelve (12) feet tall at planting, shall be planted in two (2) rows around the perimeter of the fence. The trees shall be planted so that the trees are staggered in the rows to provide maximum screening and are located no further apart than fifteen (15) feet on center.

2. A row of bushes at least thirty (30) inches high at planting and which is capable of growing into a continuous hedge to at least forty eight (48) inches in height within two (2) years shall be planted no more than four (4) feet on center, in front of the tree line referenced above.

3. Groundcover shall be planted such that it will completely cover the soil within the landscape area within eighteen (18) months of planting, generally one (1) gallon size plants planted no more than eighteen (18) inches on center.

4. In the event that landscaping is not maintained at the level required herein or as required in any administrative use or conditional use permit, the City may, after giving thirty (30) days' advance written notice, establish and/or maintain the landscaping and bill both the owner and lessee of the site for such costs until such costs are paid in full.

5. The Director or, where applicable, the Hearing Examiner, may modify these requirements if the goals of this section would be better served.

18A.95.160 Nonconforming uses.

A. Pre-existing WSFs shall be allowed to continue their usage as they presently exist. Emergency repairs and routine maintenance shall be permitted on pre-existing WSFs. Any construction, alteration or modification other than repair or maintenance on a pre-existing WSF shall comply with the requirements of this section.

B. Damage or destruction not the fault of owner/occupant. Legal nonconforming WSFs that are damaged or destroyed without fault attributable to the owner or entity in control may be rebuilt without first having to obtain an administrative use or conditional use permit and without having to meet separation requirements. The type, height, and location of the tower on-site shall be of the same type and intensity as the original facility or of a less obtrusive design, such as a monopole. Construction to rebuild the facility shall comply with all current applicable building codes and building permits shall be obtained prior to construction, and within one hundred eight (180) days from the date the facility is damaged or destroyed. If no building permit is obtained or if the permit expires, the WSF shall be deemed abandoned as specified in LMC Section 18A.95.170(A) Abandonment.

18A.95.170 Non-use or abandonment.

A. Abandonment.

1. The owner or operator of any abandoned WSF shall notify the City of Lakewood, in writing, at least thirty (30) days prior to the date of discontinuation of operation or abandonment of a WSF. In the event that a licensed carrier fails to give notice, the facility shall be considered abandoned upon the City's discovery of discontinuation of operation or upon a determination by the City of the date abandoned, and subsequent notice of the City's determination of abandoned status to the WSF owner and/or operator.

2. Except as provided in LMC Section 18A.95.170(A)(3), an owner or operator shall have ninety (90) days from the date of abandonment within which to reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility.

3. If abandonment occurs due to the relocation of an antenna to a lower point on the antenna support structure, a reduction in the effective radiated power of the antenna or a reduction in the number of transmissions from the antennae, then the operator of the tower shall have six (6) months from the date of effective abandonment to collocate another service on the tower. If another service provider is not added to the tower, then the operator shall dismantle and remove, within thirty (30) days, that portion of the tower which resulted from a collocation height increment and/or exceeds the minimum height required to function satisfactorily. City approval for that portion of the tower shall automatically expire two hundred ten (210) days from the date of abandonment if the collocation is not completed or upon completion of the dismantlement and removal of that portion of the tower that is no longer being utilized, whichever comes first.

4. Except as provided in this section, changes which are made to WSFs that do not diminish their essential role in providing a total system shall not constitute abandonment. However, in the event that there is a physical reduction in height of substantially all of the providers' towers in the city or surrounding area, then all of the towers within the city shall similarly be reduced in height.

B. Dismantlement and Removal of Facility. If the abandoned WSF, including all accessory structures, antenna, foundation, and other associated appurtenances are not removed within the required time period, the City may remove the WSF and all associated development at the provider's expense. If there are two (2) or more providers collocating on a facility, this provision shall not become effective until all providers cease using the facility, except as provided in LMC 18A.70.685(A)(3).

C. Except as provided in LMC 18A.95.170(A)(3), City approval for the facility shall automatically expire ninety (90) days from the date of abandonment if the WSF is not reactivated or upon completion of the dismantlement and removal of the WSF, whichever comes first.

D. Security and Lien. Prior to the commencement of demolition, each applicant shall post sufficient security in the form of a cash guarantee or assignment of funds in a form acceptable to the City, cashier's check, or cash, to cover the estimated cost of demolition or removal of the tower and support structures, including complete site restoration. If, for any reason, the posted funds are not adequate to cover the cost of removal, then the City may charge the facility owner or operator with the City's total cost incurred in removing the abandoned structures. If the owner or operator fails to make full payment within thirty (30) calendar days, then the amount remaining unpaid shall become a lien on the facility property.

18A.95.180 Expert review.

Wireless service providers use various methodologies and analyses, including geographically-based computer software, to determine the specific technical parameters of their services and low power mobile radio service facilities, such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. In certain instances, a technical expert may need to review the technical data submitted by a service provider and/or applicant. The City may require a technical review as part of a permit application process. The costs of the technical review shall be borne by the service provider and/or applicant.

The selection of the technical expert shall be at the City's sole discretion, with a provision for the provider and interested parties to comment on the proposed expert and review the expert's professional qualifications. The expert review is intended to address the technical aspects of the proposed facilities at a specific location and/or a review of the providers' methodology and equipment used. Based on the results of the expert review, the City may require additional information to be submitted as part of the application process. The expert review shall address the following:

A. The accuracy and completeness of submissions.

B. The applicability of analysis techniques and methodologies.

C. The validity of conclusions reached.

D. Any specific technical issues raised by the City.

18A.95.190 Controlling provisions.

To the extent that any provision of this chapter is inconsistent or conflicts with any other City ordinance, this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the City.

PART II Eligible wireless communication facilities modifications

18A.95.200 Definitions.

For the purposes of Part II of this chapter, the terms used have the following meanings:

- A. “Base Station” means 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 herein or any equipment associated with a tower. “Base station” includes, 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.
 2. Radio transceivers, 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).
 3. Any structure other than a tower that, at the time the relevant application is filed with the City under this section, supports or houses equipment described in subsections (A)(1) and (2) of this section that 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 that support. The term does not include any structure that, at the time the relevant application is filed with the City under this section, does not support or house equipment described in subsections (A)(1) and (2) of this section.
- B. “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. Collocation of small wireless facilities must comply with 18A.95.085 as well as the remainder of LMC Chapter 18A.95.
- C. “Eligible Facilities Request” means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:
1. Collocation of new transmission equipment;
 2. Removal of transmission equipment; or
 3. Replacement of transmission equipment.
- D. “Eligible Support Structure” means 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.

E. “Existing” in terms of a constructed tower or base station means it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process; provided, that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this section.

F. “Site”, for towers other than towers in the public rights-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, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

G. “Substantial Change” means a modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10 percent or more than 10 feet, whichever is greater;

2. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

3. 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; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure;

4. It entails any excavation or deployment outside the current site;

5. It would defeat the concealment elements of the eligible support structure; or

6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided, however, that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in subsections (g)(i) through (iv) of this section.

H. “Transmission Equipment” means 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.

I. “Tower” means any structure built for the sole or primary purpose of supporting any 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.

18A.95.210 Purpose.

This chapter implements Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”), as interpreted by the Federal Communications Commission’s (“FCC” or “Commission”) Acceleration of Broadband Deployment Report and Order, which requires a state or local government to approve any eligible facilities request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station.

18A.95.220 Application review.

A. Application. The City shall prepare and make publicly available an application form which shall be limited to the information necessary for the City to consider whether an application is an eligible facilities request. The application may not require the applicant to demonstrate a need or business case for the proposed modification.

B. Type of Review. Upon receipt of an application for an eligible facilities request pursuant to this chapter, the City shall review such application to determine whether the application so qualifies.

C. Time Frame for Review. Within 60 days of the date on which an applicant submits an application seeking approval under this chapter, the City shall approve the application unless it determines that the application is not covered by this chapter.

D. Tolling of the Time Frame for Review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by the City and the applicant, or in cases where it is determined that the application is incomplete. The time frame for review is not tolled by a moratorium on the review of applications.

1. To toll the time frame for incompleteness, the City must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.

2. The time frame for review begins running again when the applicant makes a supplemental submission in response to jurisdiction’s notice of incompleteness.

3. Following a supplemental submission, the City will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this subsection (d). Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

E. Interaction with Section 332(c)(7). If the City determines that the applicant's request is not covered by Section 6409(a) as delineated under this chapter, the presumptively reasonable time frame 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)10, pursuant to the limitations applicable to other Section 332(c)(7) reviews.

F. Failure to Act. In the event the City fails to approve or deny a request seeking approval under this chapter within the time frame for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

G. Remedies. Applicants and the City may bring claims related to Section 6409(a) to any court of competent jurisdiction.