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# CITY OF LITTLE FALLS

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## BOARD OF ADJUSTMENT/ PLANNING COMMISSION

November 13, 2017





**AGENDA**  
**PLANNING COMMISSION**  
 Conference Room, City Hall  
 November 13, 2017, 6:30 p.m.

P	A	Member	P	A	Member
		Kleinschmidt, James			Schulte, Ray
		Esse, Robert			Czech, Joe
		Gosiak, Frank			Oleson, Ben (Zoning Administrator)
		Hanfler, Jeremy			Kimman, Greg (City Engineer)
		Schilling, Kara			

**CALL TO ORDER:** Planning Commission Chairperson

**ADOPT THE AGENDA:** November 13, 2017

**APPROVAL OF MINUTES:** October 9, 2017

**PUBLIC HEARINGS:**

- 1) Amendment to City Code, Chapters 7.07 (Right of Way Regulation). The purpose of the amendment is to modify City regulations consistent with changes adopted in May 2017 by the state legislature to MN Statutes 237 regarding “small wireless facilities” and “wireless support structures” located within the public right-of-way. The proposed changes would specify construction and locational requirements, permitting procedures, fees and exemptions to the regulations.
  - a. Applicant: City of Little Falls Planning Commission.
  
- 2) Amendment to City Code, Chapters 11.02 (Definitions), 11.05 (Zoning Districts and Map) and 11.10 (Communications Towers). The purpose of the amendments are to clarify the regulation of “small wireless facilities” and “wireless support structures” within the City and distinguish such improvements from those regulated by Section 11.10 (Communications Towers). The proposed changes would specify construction and locational requirements, permitting procedures and exemptions to the regulations.
  - a. Applicant: City of Little Falls Planning Commission.

**OLD BUSINESS:**

**NEW BUSINESS:**

**NEXT REGULAR MEETING:** Monday, December 11, 2017

**ADJOURNMENT:**



**MINUTES**  
**PLANNING COMMISSION**  
 Conference Room, City Hall  
 October 9, 2017, 6:30 p.m.

P	A	Member	P	A	Member
x		Kleinschmidt, James	x		Schulte, Ray
x		Esse, Robert	x		Czech, Joe
	x	Gosiak, Frank	x		Oleson, Ben (Zoning Administrator)
	x	Hanfler, Jeremy	x		Kimman, Greg (City Engineer)
	x	Schilling, Kara			

**CALL TO ORDER:** The Planning Commission Meeting was called to order by Kleinschmidt at 6:30 p.m.

**ADOPT THE AGENDA:** A motion was made by Schulte, seconded by Esse to adopt the agenda as presented. Motion carried.

**APPROVAL OF MINUTES:** A motion was made by Czech, seconded by Schulte, to adopt the minutes of September 11, 2017 as presented. Motion carried.

**PUBLIC HEARINGS:**

- 1) Amendments to the official City of Little Falls zoning map, as referenced in Chapter 11.05.B of the Little Falls City Code and the City’s Comprehensive Plan, which currently identifies the area for “Business Park” use to “Highway Commercial”. The purpose of the amendments are to rezone properties which are currently zoned I (Industrial District) to B-2 (Noncentral Business District). The properties proposed for rezoning are parts or all of Parcel IDs 48.6840.000, 48.6838.000, 48.6841.000, 48.6868.000, and 48.6846.000.

- a. Applicant: City of Little Falls Planning Commission.

Oleson explained the request to rezone the relevant properties so as to provide a better buffer between the residential properties to the west and the industrial properties to the east.

The public hearing was opened at 6:33pm. No public comment was received. Kimman noted that staff received several calls with questions about the proposal, but no statement of concern after explanations were given. The public hearing was closed at 6:34 pm.

A motion was made by Schulte, seconded by Esse to recommend approval of the proposed rezonings, as presented. Motion carried unanimously.

- 2) Amendments to City Code, Chapter 11 (Land Use Regulations). The purpose of the amendments are to re-adopt Sections 11.64 (Temporary Family Health Care Dwellings), 11.07.J (Portable Storage Units), 11.07.A.2.c.4 (Off Street Parking and Loading Spaces), 11.02 (Definitions) and various other sections previously adopted in 2015 and 2016 and inadvertently eliminated as part of a recent comprehensive update to Chapter 11. The ordinances would opt the City of Little Falls out of Minnesota Statutes 462.3593 which defines and regulates temporary family health care dwellings, establish regulations regarding the placement of portable storage units, establish parking requirements for buildings with two or more uses and eliminate language conflicting with previous updates to Chapter 5.30 of the City Code.

- a. Applicant: City of Little Falls Planning Commission.

Oleson explained the proposed amendments to the City Code, which had been previously adopted, but inadvertently eliminated during a comprehensive update to Chapter 11.

The public hearing was opened at 6:38pm. No public comments were received. The public hearing was closed at 6:39 pm.

A motion was made by Schulte, seconded by Czech to approve the amendments to the City Code, as presented. The motion passed unanimously.

- 3) Amendment to City Code, Chapter 11.05.D.2 (R-1 One and Two Family Residential District – Conditional Uses). The purpose of the amendment is to modify or eliminate a requirement that hours for “additional food service” at bed and breakfasts be limited to between 8:00am and 4:00pm.

- a. Applicant: City of Little Falls Planning Commission.

Oleson explained the request to amend the City Code requirements relating to the hours of operation allowed for bed and breakfast facilities with “additional food service”. He noted that previous ordinance amendments perhaps rendered the current restrictions on hours unnecessary or at least not as necessary.

The public hearing was opened at 6:46pm. Robin Hensel (807 1<sup>st</sup> Street SE) commented with concerns that the issue of hours of operation should be handled by amending existing conditional use permits rather than by ordinance and that the ordinance amendment would benefit one of the City Council members and therefore be a conflict of interest. Raquel Lundberg (301 3<sup>rd</sup> Street SE) noted that she owns a bed and breakfast and that she has the right to speak on ordinance amendments as a citizen and affected business owner despite her position on the City Council. She explained her use of “additional food service” and the ways in which the limited hours limited her ability to serve customers and run her business. The public hearing was closed at 6:56 pm.

A motion was made by Schulte, seconded by Esse to approve the elimination of the limits on the hours of operation for bed and breakfasts with additional food service, noting that restricted hours could still be imposed on future requests if necessary as part of the conditional use permit request, but that previous amendments to the City Code allowing for the use of on-street parking to serve additional food service guests lessened the need for restricted hours. Motion passed unanimously.

#### **OLD BUSINESS:**

#### **NEW BUSINESS:**

- 1) Discussion – Small Cell Equipment Ordinance

Oleson explained the intent to present a proposed ordinance relating to small cell equipment placement in public right of way at the November meeting, due to recent changes to state law.

**NEXT REGULAR MEETING:** Monday, November 13, 2017

**ADJOURNMENT:** A motion was made by Schulte, seconded by Czech, to adjourn at 7:19 p.m. Motion carried.

## STAFF REPORT

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**Application:** Amendment to City Code, Chapters 7.07 (Right of Way Regulation). The purpose of the amendment is to modify City regulations consistent with changes adopted in May 2017 by the state legislature to MN Statutes 237 regarding “small wireless facilities” and “wireless support structures” located within the public right-of-way. The proposed changes would specify construction and locational requirements, permitting procedures, fees and exemptions to the regulations.

**Applicant:** City of Little Falls Planning Commission

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### **Background Information:**

) **Proposal:** The proposal is to amend the city’s regulations regarding use of the public right of way to allow for “small cell” technology equipment to be installed. The ordinance is necessitated both by recent changes to state law regarding the placement of “small wireless facilities” and “wireless support structures” in the right of way and also due to the increasing proliferation and need for such facilities to serve the demand for wireless services.

The state law changes essentially allow such facilities as permitted uses in the right of way, but allow for municipalities to adopt requirements regarding procedures of approval (particularly when the right of way is adjacent to or within residential or historic districts), fees for the placement of such facilities and other items. The state law will become effective January 1, 2018.

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**Applicable Statutes/Ordinances:** Section 7.07 of the City Code (Right of Way Regulation)

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**Planning Commission/Board of Adjustment Direction:** The Planning Commission may recommend to the Council approval of the proposed ordinance amendments, some of the proposed amendments, or none. If the Commission wishes to take more time for review of certain proposed amendments, it may table those and recommend passage of others. Note however, that the City Council has the ability to choose to adopt regulations with or without Planning Commission input, since the changes are not zoning regulations.

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**Staff Comments:** As the Planning Commission/Board of Adjustment considers this application, Staff would make the following comments:

1. Staff has not received any comments on the proposed ordinance amendments, at the writing of this Staff Report.
  2. The City can still adopt regulations after January 1, 2018; in this case the City would have to allow any small wireless facilities/communications towers within the right of way as a permitted use until such time as it has adopted an ordinance.
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**Proposed Amendments:** The proposed amendments to Section 7.07 are attached.

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7.07: RIGHT OF WAY REGULATION:

Street openings, closings and excavations, placement and maintenance of utilities shall be governed by the following provisions:

A. Election To Manage The Public Right Of Way: In accordance with the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects, pursuant to this section, to manage rights of way within its jurisdiction. This section shall not be construed as granting any right of way user a right to construct facilities on land dedicated to public use as a park, recreational area or city facility. This section shall not be construed to supersede rules or regulations of other governmental entities controlling rights of way within the city.

B. Definitions: The definitions included in Minnesota statutes section 237.162, as amended, and Minnesota rule 7819.0100, subparagraphs 1 through 25, as amended, are hereby adopted by reference and are incorporated into this chapter as if set out in full.

C. Street Openings And Closings; Permit Required: No person or public right of way user may obstruct or excavate any right of way without first having obtained the appropriate permit from the city. The city may issue the following types of permits:

1. Excavation Permit: An excavation permit is required to excavate that part of the right of way described in such permit and to hinder free and open passage over the specified portion of the right of way by placing facilities described therein, to the extent and for the duration specified therein. A permit is not required to excavate a hole for utility poles.

2. Obstruction Permit: An obstruction permit is required to hinder free and open passage over the specified portion of right of way by placing equipment described therein on the right of way for more than eight (8) hours, to the extent and for the duration specified therein. An obstruction permit is not required if a public right of way user already possesses a valid excavation permit for the same project.

3. Small wireless facility permit. A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right-of-way, t the extent and for the duration specified therein.

D. Delay Penalty: In accordance with Minnesota rule 7819.1000, subparagraph 3, the city shall establish and impose a delay penalty for unreasonable delays in right of way excavation, obstruction, patching or restoration. The delay penalty shall be established from time to time by city council resolution.

E. Permit Display: Permits issued under this section shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

F. Permit Applications: Application for a permit is made to the city. Right of way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

1. Registration with the city pursuant to this chapter;
2. Submission of a completed permit application form, including all required attachments to said permits, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities of the utility applying for the permit;
3. Payment of money due the city for:
  - a. Permit fees and any applicable degradation fees;
  - b. Prior obstructions or excavations;
  - c. Any undisputed loss, damage or expense suffered by the city because of applicant's prior excavations or obstructions of the rights of way or any emergency actions taken by the city.
4. Registrants may jointly apply for permits to excavate or obstruct the right of way at the same place and time, in which case a single permit fee shall apply. It is the responsibility of the joint applicants to determine the portion of the fee each will pay and to include that information on the application.

5. ~~Application~~ Action on small wireless facility permit application.

a. Deadline for action. The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

b Consolidated applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by the director, provided that all small wireless facilities in the application:

- a. Are located within a two-mile radius;
- b. Consist of substantially similar equipment; and
- c. Are to be placed on similar types of wireless support structures.

-In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

6. Tolling of deadline. The 90-day deadline for action on a small wireless facility permit application may be tolled if:

- a. The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension;
- b. The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt of the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information; or
- c. The city and small wireless facility applicant agree in writing to toll the review period.

G. Issuance Of Permit; Conditions:

1. Permit Issuance: If the applicant has satisfied the requirements of this chapter, the city shall issue a permit.
2. Reasonable Conditions: The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right of way and its current use, including the recovery of any unusual management costs not recovered through the standard permit fee, including the cost of assigning a police officer to provide traffic management, or the cost of assigning a field observer.
3. Routine Obstructions And Excavations: The city may approve a permit plan which, among other conditions, allows for routine excavations and obstructions without separate notice and separate compensation for projects.

4. Small wireless facility conditions. In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:

a. A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application:

b. No new wireless support structure installed within the right-of-way shall exceed 5040 feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety, and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 5040 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit:

c. No wireless facility may extend more than 10 feet above its wireless support structure:

d. Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way:

e. Where an applicant proposes collocation on a decorative wireless support structure, sign, or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance, or intended purpose of such structure: and

f. The small wireless facility shall have limited exposed cabling and mounting hardware. It shall also match the wireless support structure it is attached to in color and, as close as practicable, in material and design.

g. The small wireless facility shall not interfere with public safety wireless telecommunications.

h. Small wireless facilities in the right-of-way shall be removed and relocated at the City's request and at no cost to the City when the City Engineer determines that removal and relocation is necessary to prevent interference with:

- (1) present or future City use of the right-of-way for a public project;
- (2) the public health, safety, or welfare; or
- (3) the safety and convenience of travel over the right-of-way.

i. A small wireless facility attached to an existing wireless support structure shall not block light emanating from the wireless support structure and shall not otherwise interfere with the original use of the wireless support structure.

j. Ground-mounted equipment associated with the small wireless facility is prohibited unless the applicant can show that ground-mounted equipment is necessary for the operation of the small wireless facility. If ground-mounted equipment is necessary, it shall comply with the provisions of City Code Section 11.06, subd. 9, and shall also meet the following standards:

(1) Ground-mounted equipment shall be placed below grade unless not technically feasible;

(2) Ground-mounted equipment shall not disrupt traffic or pedestrian circulation and shall not interfere with vehicle and pedestrian intersection sight lines;

(3) Ground-mounted equipment shall not create a safety hazard;

(4) If placed above grade, ground-mounted equipment shall be separated from the nearest ground-mounted equipment on the same block by a minimum of 330 feet unless the equipment is placed underground, or unless waived by the City Engineer;

(5) If placed above grade, ground-mounted equipment shall be limited to three (3) feet in height and twenty-eight (28) cubic feet in cumulative size.

k. Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

l. New wireless support structures erected for the siting of small wireless facilities in the right-of-way adjacent to any residential zoning district established in Chapter 11 of the City Code or any historic preservation district established by federal or state law or city ordinance require a conditional use permit in accordance with the requirements and procedures established in Chapter 11 of the City Code.

5. Small wireless facility exemptions. No small wireless facility permit is required to conduct the following activities in the right-of-way.

a. Routine maintenance of a small wireless facility;

b. Replacement of a small wireless facility that is substantially similar or small in size, weight, height, and wind or structural loading than the small wireless facility being replaced;

c. Installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes.

If any of the above activities will obstruct the right-of-way, the small wireless facility permit holder shall provide notification to the City at least ten (10) days in advance of such activity.

6. Small wireless facility agreement. A small wireless facility shall only be collocated on a wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require the payment of the following:

a. Up to \$150.00 per year for rent to collocate on the city structure;

b. \$25.00 per year for maintenance associated with the collocation: and

c. A monthly fee for electrical service as follows:

(1) \$73.00 per month per radio node less than or equal to 100 maximum watts:

(2) \$182.00 per radio node over 100 maximum watts: or

(3) The actual costs of electricity, if the actual costs exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter, or affect any then-existing agreement between the city and the applicant.

#### H. Registration Requirement:

1. Registration: As of the effective date hereof, any public right of way user which owns or controls a facility within any public right of way, or any portion thereof, shall register with the city. Registration shall be deemed completed upon the public right of way user submitting to the city the information specified in this subsection.

2. Information Required: The information provided to the city at the time of registration shall include, but not be limited to:

a. Each registrant's name, gopher one call registration certificate number, address, and e-mail address if applicable, and telephone and facsimile numbers, current information regarding how to contact a local representative in an emergency, including name, address and e-mail address, shall be provided at the time of registration. A local representative or designee shall be accessible for consultation at all times.

b. A certificate of insurance or self-insurance:

(1) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self-insurance acceptable to the city;

(2) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the: a) use and occupancy of the right of way by the registrant, its officers, agents and employees; and b) placement and use of facilities and equipment in the right of way by the registrant, its officers, agents and employees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

(3) Either naming the city as an additional insured as to whom the coverage required herein is in force and applicable and for whom defense will be provided as to all such coverage, or otherwise providing evidence satisfactory to the director that the city is fully covered and will be defended through registrant's insurance for all actions included in Minnesota rule 7819.1250;

(4) Requiring that the city be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term;

(5) Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage in the amount of two million dollars (\$2,000,000.00).

c. The city may require a copy of the actual insurance policies if necessary to ensure the city that the policy provides adequate third party claim coverage and city indemnity and defense coverage for all actions included in the indemnity required by Minnesota rules part 7819.1250.

d. Such evidence as the director may require to determine that the registrant is authorized to do business in the state.

e. A copy of the registrant's order granting a certificate of authority from the Minnesota public utilities commission, or other authorization or approval from the applicable state or federal agency, where the registrant is lawfully required to have such authorization or approval certificate from said commission, or other state or federal agency.

3. Notice Of Changes: The registrant shall keep all of the information listed above current by providing to the city information of changes within thirty (30) days following the date on which the registrant has knowledge of any change.

4. Existing Franchise Agreements: To the extent that the above requirements are dealt with in an existing franchise agreement or ordinance with a permit applicant, the terms of the franchise agreement or ordinance shall govern.

I. Reporting Obligations: Each registrant shall, at the time of registration and by February 1 of each year, file with the city a construction and maintenance plan for underground facilities. Such plan shall list all known future projects that would require excavation of the right of way. The plan shall contain an estimated beginning and end date for the excavation; and, to the extent known, a general description of the affected right of way. The city shall prepare a composite list of all projects that have not been filed as trade secrets under state law, including projects planned by the city, which list will be available for inspection.

#### J. Permit Fees:

1. Excavation Fees: The city shall establish the excavation permit fee annually by resolution which shall be in an amount sufficient to recover the following costs:

a. The city management costs;

b. Degradation fee in lieu of restoration, if applicable.

2. Obstruction Permit Fee: The city shall establish the obstruction permit fee which shall be in an amount sufficient to recover the city management costs.

3. Small Wireless Facility Permit: The City shall establish the permit fee annually by resolution which shall be in an amount sufficient to recover the following costs:

a. Management costs;

b. Engineering, make-ready, and construction costs associated with the collocation of small wireless facilities.

34. Nonrefundable: Permit fees that were paid for a permit that the city has revoked are not refundable.

45. Application To Franchises: Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right of way user in the franchise. Franchise fees may not exceed amounts set by state law.

56. Payment of permit fees: No excavation permit, obstruction permit, or small wireless facility permit shall be issued without payment of the applicable fees. The city may allow applicant to pay such fees within 30 days of billing.

#### K. Right Of Way Patching And Restoration:

1. Restoration Standards: Restoration of an excavation shall comply with the requirements of Minnesota statutes and with Minnesota rules.

2. Timing: The work to be done under the excavation permit, and the patching and restoration of the right of way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonable and a permit extension or a new permit is granted.

3. Patch And Restoration: Permittee shall restore the public right of way and assume all costs therefor, unless the permittee obtains a degradation permit. The city, at its own option, may be responsible for any paving.

a. Permittee Restoration: If the permittee restores the right of way, the city may require, at the time of application for an excavation permit, a performance bond in an amount, as determined by the city, to cover the cost of repair and restoration. The permittee shall determine the type of security it will provide in accordance with the provisions of Minnesota rule 7819.3000. If twenty four (24) months after completion of the restoration of the right of way, the city determines that the right of way has been properly restored, the posted security will be released.

b. City Restoration: If the city restores the right of way, the permittee shall pay the costs thereof within thirty (30) days of billing. If following such restoration, the roadway surface, boulevard, sidewalk, curb or related infrastructure settles due to permittee's improper backfilling, the permittee shall, at its option, either correct the defect or pay to the city, within thirty (30) days, all costs associated with correcting the defective work.

c. Degradation Fee In Lieu Of Restoration: In lieu of right of way restoration, a permittee may elect to pay a degradation fee. However, the permittee shall remain responsible for replacing and compacting the subgrade and aggregate base material in the excavation and the degradation fee shall not include the cost to accomplish these responsibilities.

4. Standards: The permittee shall perform backfilling, patching and restoration according to the standards contained in Minnesota rule 7819.1100, or other successor rule by the Minnesota public utilities commission.

5. Duty To Correct Defects: The permittee shall correct defects in patching or restoration of the public right of way. The obligation to correct defects in turf establishment is limited to twelve (12) months following its completion. The permittee shall, upon written notification from the city, correct all noncomplying restoration work, to the extent necessary under state law and Minnesota rules part 7819.1100. The correction work shall be completed within ten (10) calendar days of the receipt of the notice from the city, not including days during which work cannot be done due to circumstances constituting force majeure or of unseasonable or inclement weather.

6. Failure To Restore: If the permittee fails to restore the right of way in the manner and to the condition required by this section, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do such work. In that event, the permittee shall pay to the city, within thirty (30) days of billing, the cost of restoring the right of way. If permittee fails to pay as required, the city may proceed at law or equity to collect the amount owed.

L. Supplemental Applications And Permit Extensions: No public right of way user may excavate or obstruct the right of way beyond the date or area specified in the permit, unless such public right of way user: 1) makes a supplementary application for another right of way permit; and 2) a new permit or permit extension is granted. An extension of time or area can, at the discretion of the city, be granted orally and without application or a separate permit fee.

1. Limitation On Area: A right of way permit is valid only for the area of the right of way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must, before working in that greater area:

- a. Make application for a permit extension; and
- b. Be granted a new permit or permit extension. The city may orally waive the requirement for a permit extension or the payment of an additional fee.

2. Limitation On Dates: A right of way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. A supplemental application must be submitted before the permit end date. The city may orally waive the requirement for a permit extension or the payment of an additional fee.

M. Denial Of Permit:

1. Health, Safety And Welfare: The city may deny a permit for failure to meet the requirements and conditions of this section, or if the city determines that the denial is necessary to protect the health, safety and welfare, or when necessary to protect the right of way and its current use.

2. Limitation Of Space: To protect health, safety and welfare, or when necessary to protect the right of way and its current use, the city may prohibit right of way users from a particular right of way after taking into consideration the public's needs for the particular utility service, the condition of the right of way, the time of year with respect to essential utilities, the protection of existing facilities in the right of way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

3. Procedural requirements: The denial or revocation of a permit must be made in writing and must document the basis for the denial. The City must notify the applicant or right-of-way user in writing within three business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the City and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The City must approve or deny the resubmitted application within 30 days after submission.

N. Inspection:

1. Notice Of Completion: When the work under any permit hereunder is completed, the permittee shall, at the option of the city, furnish a completion certificate in accordance with Minnesota rule 7819.1300. The permittee shall, if required by the city and not already provided through another filing made within one year of completion of the project, submit to the city as built drawings showing any deviations from the permit approved plan that are greater than plus or minus two feet ( $\pm 2'$ ).

2. Site Inspection: Permittee shall make the work site available to city personnel and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

O. Authority Of City: At the time of inspection, the city may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well being of the public. The city may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the city that the violation has been corrected. If such proof has not been presented within the required time, the city may revoke the permit.

P. Mapping Data:

1. Information Required: All permittees shall, if required by the city, provide mapping information in accordance with Minnesota rules, as follows:

a. The location of registrants' mains, cables, conduits, switches and related equipment and facilities, with the location identified based on:

(1) Offsets from property lines, and distances from the centerline of the public right of way as determined by the city; or

(2) Coordinates derived from the coordinate system being used by the city; or

(3) Any other system agreed upon by the registrant and the city;

b. The type and size of the equipment;

c. A description of aboveground appurtenances;

d. A legend explaining symbols, characters, abbreviations, scale and other data shown on the map; and

e. The location of any facilities to be abandoned, if applicable, in conformance with Minnesota statutes. A right of way user is not required to provide or convey mapping information or data in a format or manner that is different from what is currently utilized and maintained by that user, but may be charged the cost of converting the information to the city format.

2. Submittal Requirements: Within six (6) months after the effective date hereof and upon request by the city, all registrants which own or control facilities within public rights of way within the city on the effective date hereof shall submit detailed mapping data in accordance with this subsection for all facilities and equipment located within the public right of way. Following initial mapping, all registrants shall submit detailed mapping data by April 1 of every year for all new facilities located within public rights of way in the city during the preceding year.

At the request of any public right of way user, information required by the city which qualifies as "trade secret" data under Minnesota data practices act shall be protected accordingly.

**Q. Work Done Without Permit:**

1. Emergency Situations: Each person with facilities in the right of way shall reasonably notify the city of any event regarding its facilities which it considers to be an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within three (3) business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this section for the actions it took in response to the emergency.

The permitting requirements shall not apply if the repair is made within the hole of the permitted excavation.

2. Nonemergency Situations: Except in an emergency, any public right of way user who, without first having obtained the necessary permit, obstructs or excavates a right of way must subsequently obtain a permit, and as a penalty pay double the normal fee for said permit, pay double all the other fees required by this code, deposit with the city the fees necessary to correct any damage to the right of way and comply with all of the requirements of this section.

3. Work Done According To Maintenance Plan: A permit is not required for routine maintenance work done according to a plan filed previously with and approved by the city.

**R. Revocation Of Permits:**

1. Substantial Breach: The city reserves its right, as provided herein, to revoke any right of way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- a. The violation of any material provision of the right of way permit;
- b. An evasion or attempt to evade any material provision of the right of way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- c. Any material misrepresentation of fact in the application for a right of way permit;
- d. The failure to complete the work in a timely manner, unless a permit extension is obtained, or unless the failure to complete work is due to reasons beyond the permittee's control; or
- e. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to this chapter.

2. Written Notice Of Breach: If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

3. Response To Notice Of Breach: Within a reasonable amount of time after receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city, that

will cure the breach. Permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

4. Reimbursement Of City Costs: If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection.

S. Installation Requirements, Location Of Facilities:

1. Applicable Law: The installation, placement, location and relocation of facilities must comply with other applicable law, including Minnesota rules 7819.3100, 7819.5000 and 7819.5100.

2. Corridors: The city may assign specific corridors within the right of way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the city expects will someday be located within the right of way. All excavation, obstruction or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue. Existing facilities located outside of a corridor are not required to relocate into the corridor.

3. Relocation Of Facilities: A permittee shall promptly, and at its own expense, with due regard to seasonal working conditions, permanently remove and relocate any facility in the public right of way when it is necessary to prevent interference, and not merely for the convenience of the city, in connection with:

- a. A present or future city use of the public right of way for a public project;
- b. The public health or safety; or
- c. The safety and convenience of travel over the public right of way. The permittee shall restore any public rights of way in accordance with this section.

T. Damage To Other Facilities: When the city does public right of way work and finds it necessary to maintain, support or move facilities to protect from damage, the city shall notify the local representative as early as is reasonably possible. The facility owner or excavator will be responsible for protection of the facility as provided by Minnesota statutes.

U. Right Of Way Vacation:

1. Reservation Of Right By Easement: If the city vacates a public right of way which contains the equipment or facilities of a public right of way user and the vacation does not require the relocation of the equipment or facilities, the city shall reserve an easement for utilities.

2. Relocation Of Facilities: If the vacation requires the relocation of the public right of way user's equipment or facility and the vacation proceedings are initiated for a public project, the public right of way user shall pay the relocation costs. If the vacation proceedings are for other than a public project, the initiating person or persons shall pay the relocation costs.

V. Indemnification And Liability:

1. Limitation Of Liability: Upon the issuance of a public right of way permit, the city does not assume any liability:

- a. For injuries to persons, damage to property or loss of service claims by any party; or

b. For claims or penalties of any sort resulting from the installation, presence, maintenance or operation of equipment or facilities by registrants or permittees or activities of registrants or permittees.

2. Indemnification: A registrant or permittee shall indemnify, keep and hold the city, its officials, employees and agents, free and harmless from any and all costs, liabilities and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its equipment and facilities, or out of any activity undertaken in or near a public right of way, whether or not any act or omission complained of is authorized, allowed or prohibited by a public right of way permit. The foregoing does not indemnify the city for its own negligence, except for claims arising out of or alleging the city's negligence in issuing the permit or in failing to properly or adequately inspect or enforce compliance with a term, condition or purpose of a permit. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant, permittee or city, and the registrant or permittee, in defending any action on behalf of the city, shall be entitled to assert in any action every defense or immunity that the city could assert on its own behalf.

#### W. Abandoned Facilities:

1. Notification: A permittee shall notify the city when facilities are, or are intended to be, abandoned. If the abandonment is related to the cessation of service in the city by the right of way user, the city may require the right of way user to post a bond in an amount sufficient to reimburse the city for reasonably anticipated costs to be incurred in removing the equipment and facilities if the right of way user fails to do so.

2. Removal Of Abandoned Facilities: Any public right of way user who has abandoned facilities in any right of way shall remove them if required because they interfere with other right of way repairs, excavation or construction, unless this requirement is waived by the city. (Ord. 34, 5th Series, eff. 5-21-2001)



## STAFF REPORT

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**Application:** Amendment to City Code, Chapters 11.02 (Definitions), 11.05 (Zoning Districts and Map) and 11.10 (Communications Towers). The purpose of the amendments are to clarify the regulation of “small wireless facilities” and “wireless support structures” within the City and distinguish such improvements from those regulated by Section 11.10 (Communications Towers). The proposed changes would specify construction and locational requirements, permitting procedures and exemptions to the regulations.

**Applicant:** City of Little Falls Planning Commission

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### **Background Information:**

) **Proposal:** The proposal is to amend the city’s regulations regarding use of private land for “small cell” technology equipment to be installed. The ordinance is intended to clarify how “small cell” technology will be regulated - as opposed to “large cell” technology that was the focus of Section 11.30 (Communications Towers) when it was adopted by the City more than 8 years ago.

Small cell technology is technology that allows cell phone companies to provide coverage to “gaps” in their service area and/or to help reduce congestion on the larger towers in areas experiencing heavy use of data. In many cases, the equipment is placed within public right of way, but in other instances it is necessitated on private property.

The recent state law changes (see previous agenda item) affect only the placement of this technology on public right of way; it does not address how cities should handle the technology on private property. The proposed ordinances would clarify how these private property installations would be handled.

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**Applicable Statutes/Ordinances:** Sections 11.02 and 11.05 of the City Code (Zoning Districts and Map)

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**Planning Commission/Board of Adjustment Direction:** The Planning Commission may recommend to the Council approval of the proposed ordinance amendments, some of the proposed amendments, or none. If the Commission wishes to take more time for review of certain proposed amendments, it may table those and recommend passage of others.

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**Staff Comments:** As the Planning Commission/Board of Adjustment considers this application, Staff would make the following comments:

1. Staff has not received any comments on the proposed ordinance amendments, at the writing of this Staff Report.
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**Proposed Amendments:** The proposed amendments to Section 11.02 and 11.05 are attached.

D. R-1 One and Two Family Residential District:

1. Permitted uses within any R-1 One and Two Family Residential District: No structure or land shall be used, except for one or more of the following uses:

- a. One- and two-family dwellings.
- b. Rural and urban agriculture, market gardens, nurseries or greenhouses, including the sale of products raised on the premises; provided, that no products are exhibited for sale within fifteen feet (15') of any street right-of-way.
- c. Public and private parks, playgrounds, athletic fields and other recreation uses of a supporting nature to parks and playgrounds.
- d. Essential services, buildings and structures.
- e. The renting of rooms by a resident family for lodging purposes only, and for not more than two rooms in a one-family dwelling.
- f. Residential and nonresidential programs as regulated by MN Statutes 245A.11 and 245A.14, as amended, except where such programs are considered a multifamily residential use by said statutes.
- h. A home occupation upon issuance of a home occupation permit. All home occupation permits must meet the following criteria:
  1. The home occupation shall be engaged in only by persons residing within the dwelling or building within which the home occupation is conducted;
  2. The home occupation shall be conducted within the principal residence, within a designated area not comprising more than ten percent (10%), or one room, of the total floor area of the residence;
  3. There shall be no evidence of the home occupation, other than signs permitted under Chapter 5.30 of the City Code, visible outside the structures;
  4. The home occupation shall not include over the counter, retail sales of merchandise produced off the property;
  5. No more than three (3) parking spaces shall be used by the persons conducting the home occupation and customers at any one time;
  6. The home occupation shall not generate additional motor vehicle or pedestrian traffic beyond normal residential use;
  7. No equipment or process shall be used in the home occupation which generates noise, vibration, glare, dust fumes, odors, or creates visual or electrical interference with radio or television reception outside the home.
  8. No materials, supplies or stock in trade will be stored outside the area designed for the home occupation;
  9. The occupation shall not involve materials or mechanical equipment which are not part of normal residential use;
  10. The home occupation shall not involve commercial delivery service other than parcel service and United States mail;
  11. The home occupation shall not involve the use of explosives or highly combustible materials or the storage of hazardous materials;

12. Home occupation permits are not transferable.

13. No home occupation shall be operated from an accessory structure or garage, except by conditional use;

14. Home occupation permits are subject to review for compliance with this Chapter. Should a violation occur, the permit is subject to revocation.

i. New small wireless facilities, provided that they shall be:

1. Not located within a historic district established by federal or state law or city ordinance as of the date of application for a small wireless facility permit.

2. Attached to the roof of an existing building such that it does not have a height greater than ten feet (10') above the highest point of the roofline or otherwise is not readily visible from a public right-of-way or adjoining residential-zoned property;

3. Served by underground power and communication lines, unless otherwise approved by the City Engineer where underground installation is not feasible.

2. Conditional Uses in any R-1 One and Two Family Residential District: No structure or land shall be used for the following uses, except by conditional use permit:

a. Public and private schools.

b. Churches, parish houses and other structures located on the same site which are integral parts of the church proper.

c. Commercial daycares.

d. Buildings used exclusively for government purposes, whether city, county, state or federal, provided that no vehicle or equipment storage or repair shall be performed.

e. Home occupations by conditional use permit, including licensed non-residential programs considered a permitted multi-family use by Minnesota Statutes 245A.14, as amended from time to time:

1. A home occupation which does not meet the criteria in subsection D.1.h. of this Section may be conducted following the issuance of a conditional use permit for a home occupation.

2. In reviewing an application for a conditional use permit for a home occupation, the City shall consider the impact of the proposed home occupation on the character of the neighborhood, and shall impose such conditions as shall limit or eliminate such impact. In reviewing the impact of the proposed home occupation, the City shall consider such issues as the amount of space devoted to the occupation, the number of individuals participating in the occupation, the noise, glare and/or odor produced by the occupation, the street and/or pedestrian traffic generated by the occupation, and any other factors which impact on the residential character of the neighborhood. In the event that the City determines that the adverse impact cannot be limited or eliminated, the City shall deny the conditional use permit.

3. Conditional use permits for home occupations are not transferable and are subject to revocation in the event that the permit holder conducts the home occupation contrary to the conditions placed on it in the conditional use permit.

1. Parking must meet the requirements of Section 11.07 of this Chapter. In addition, must provide off street parking for all dining guests.
2. All guestrooms must be contained in the principal building.
3. Dining facilities are not open to the public but limited to residents, employees and registered guests or dining guests by appointment only.
4. Dining will be limited to ten (10) persons or less.
5. The facility must be licensed by Morrison County Public Health and/or the Minnesota Department of Health.
6. Bed and breakfast uses in residential areas must be located at least six hundred feet (600') apart (approximately two blocks).
7. The facility must be inspected by the State Fire Marshall and the City Building Inspector every three (3) years at the time of license renewal by the Minnesota Department of Health.
8. the facility, if located in a residential zone district, shall appear outwardly to be a single-family dwelling, giving no appearance of a business use and is allowed a maximum of eight (8) square feet of signage.
9. The conditional use permit shall be transferable with the property pursuant to Subsection 11.04D of this Chapter.

m. Multiple dwellings containing not more than four (4) dwelling units; provided, however, that the building to be used was in existence on the effective date hereof, and will provide a gross floor area of at least five hundred (500) square feet per dwelling unit and the City Council finds that by reason of its size and design or lack of demand, it cannot be beneficially used for any of the purposes for which buildings may lawfully be used under the provisions of this Subsection and that when altered, in order to adopt it to the new use, the building will conform in character and type to other residences in the immediate neighborhood; and further provided, that the house to be converted is located on a lot with an area of at least nine thousand (9,000) square feet, plus six hundred fifty (650) square feet for each dwelling unit.

n. New small wireless facilities or wireless support structures for the siting of small wireless facilities, not located in an historic district established by federal or state law or city ordinance as of the date of application for a small wireless facility permit, provided that the wireless support structure shall:

1. Be no taller than 40 feet in height;
2. Meet minimum setbacks from property lines that would be applicable to a sign under Section 5.30 of the City Code;
3. To the extent possible, have an antenna that is shrouded or camouflaged;
4. Be constructed from earth-tone aluminum, or as otherwise approved by the City Engineer; and
5. Be served by underground power and communication lines, unless otherwise approved by the City Engineer where underground installation is not feasible.

o. New small wireless facilities or wireless support structures for the siting of small wireless facilities, located in an historic district established by federal or state law or city

ordinance as of the date of application for a small wireless facility permit, provided that the small wireless facility or wireless support structure shall be:

- 1. No taller than 40 feet in height;
- 2. All communication equipment shall be housed inside of the pole or support structure such that it is not visible from the outside;
- 3. Meet minimum setbacks from property lines that would be applicable to a sign under Section 5.30 of the City Code;
- 5. Constructed from aluminum and of a color that matches the pole or structure on which it is located as closely as practicable, or as otherwise approved by the City Engineer; and
- 6. Served by underground power and communication lines. The structure shall not be served by any above-ground power or communication lines, unless otherwise approved by the City Engineer where underground installation is not feasible.

p. Other uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the City Council. In making its determination, the City Council shall consider factors related to the intensity of use, parking needs, level and type of traffic generated, hours of operation (including loading/unloading times), noise, odor, glare and other nuisance characteristics, and other factors that may be relevant to making a determination as to whether a particular use is of the same general character as a permitted or conditional use.

- 3. Permitted Accessory Uses in Any R-1 One and Two Family Residential District: No accessory structure or use of land shall be permitted, except for one or more of the following:
  - a. Private garages and parking spaces.
  - b. Signs as regulated in Chapter 5 of this City Code.
  - c. Private swimming pool, tennis court or other recreational activity intended for the private use of the occupants of the dwellings located on the same site as the recreational use.
  - d. Buildings temporarily located for the purpose of construction on the premises for a period not to exceed the time necessary for completion of said construction.
  - e. Any other use customarily considered to be accessory to the foregoing permitted uses.
- 4. Lot Area, Floor Area, Height, Lot Width and Yard Requirements:
  - a. No structure or building shall exceed three (3) stories or forty feet (40') in height, except as provided for in this Chapter.
  - b. The following minimum requirements shall be observed subject to additional requirements, exceptions and modifications contained in this Chapter.

Lot Size		Lot Width	
Interior Lot	Corner Lot	Interior Lot	Corner Lot
11,000 square feet	12,000 square feet	80 feet	80 feet

Principal Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setback, Interior Lot	Side Yard Setback Exterior Lot
One- and Two-Family Structures	30 feet	30 feet	5-feet	15 feet
Three and Four Family Structures	30 feet	30 feet	10 feet	15 feet
Five or Higher Family Structures	30 feet	30 feet	15 feet	15 feet
Accessory Structure	30 feet	10 feet	5 feet	15 feet

H. R-4 Manufactured Homes Residential District:

1. Permitted Uses:

- a. Any use permitted in the R-3 District.
- b. “Manufactured Homes”, as defined in Section 11.02 of this Chapter.
- c. Motels.

2. Conditional Uses:

- a. Recreation vehicles and manufactured home sales.
- b. Retail or service outlets intended to serve occupants of the permitted uses.
- c. Any use permitted as conditional in the R-3 District.

3. Permitted Accessory Uses:

- a. Administrative offices, recreation buildings and facilities, laundry and other uses of a supporting nature to a manufactured home park.
- b. Temporary parking of recreational vehicles for occupancy; provided, that recreational vehicles shall be parked in a designated recreational camping area as defined in Minnesota Statutes 327.14, Subdivision 8.
- c. Sings as regulated in Chapter 5 of this City Code.

4. Lot Area, Floor Area, Height, Lot Width and Yard Requirements:

a. No structure or building shall exceed two (2) stories or thirty feet (30’) in height, except as provided in this Chapter.

b. The following minimum requirements shall be observed, subject to additional requirements, exceptions and modifications contained in this Chapter.

1. Minnesota Statute 327.10-327.28 Manufactured Home Parks and Camping Area.

2. Minnesota Rule 4630 governing manufactured home parks and recreational camping area.

I. B-1 Central Business District:

1. Permitted Uses:

a. Any permitted or conditional use in the R-1, R-1C or R-3 District, except as limited in this Section.

b. Food trucks, for periods of time not exceeding 12 hours on any calendar day, provided that it is located on the same lot as an operating business.

c. Any business or commercial establishment that is not specifically prohibited and as otherwise limited in this Section, including retail establishments, food service establishments, on and/or off sale liquor establishments, personal services, professional services, equipment and auto repair services, entertainment and amusement services, lodging services including hotels and motels.

d. Public and semi-public buildings, including a post office, a fire hall, or a city hall.

e. Private clubs.

f. New small wireless facilities, provided that they shall be:

1. Not located within a historic district established by federal or state law or city ordinance as of the date of application for a small wireless facility permit.

2. Attached to the roof of an existing building such that it does not have a height greater than highest point of the roofline or otherwise is not readily visible from a public right-of-way or adjoining residential-zoned property;

3. Attached to a tower, pole, sign, light or other similar structure which has been legally permitted, which has been granted a conditional use permit, or which exists as a legal conforming structure, such that it does not have a height greater than the maximum allowable height for the zoning district in which it is constructed.

4. Served by underground power and communication lines, unless otherwise approved by the City Engineer where underground installation is not feasible.

g. New wireless support structures for the siting of small wireless facilities, provided that the wireless support structure shall be:

1. Not located within a historic district established by federal or state law or city ordinance as of the date of application for a small wireless facility permit.

2. No taller than 40 feet in height;

3. Meet minimum setbacks from property lines that would be applicable to a sign under Section 5.30 of the City Code;

4. To the extent possible, have an antenna that is shrouded or camouflaged;

5. Constructed from earth-tone aluminum, or as otherwise approved by the City Engineer; and

6. Served by underground power and communication lines. The structure shall not be served by any above-ground power or communication lines, unless otherwise approved by the City Engineer where underground installation is not feasible.

## 2. Conditional Uses:

a. Any use that provides more than fifty (50) parking spaces or is required to provide more than fifty (50) parking spaces.

b. Any use where outdoor storage will exceed five hundred (500) square feet or where outdoor storage within fifty (50) feet of a residentially used or zoned property is not entirely screened from said residential property and public streets or alleys within fifty (50) feet of said residential property.

c. Any use where a drive-thru or drive-up window is within fifty (50) feet of a residentially used or zoned property is not entirely screened from said residential property and public streets or alleys within fifty (50) feet of said residential property.

d. Light assembly or light manufacturing.

e. Other uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the City Council. In making its determination, the City Council shall consider factors related to the intensity of the use, parking needs, level and type of traffic generated, hours of operation, (including loading/unloading times), noise, odor, glare and other nuisance characteristics, pollution potential and other factors that may be relevant to making a determination as to whether a particular use is of the same general character a permitted or conditional use uses of the same general character as permitted or conditional uses listed above, provided they are deemed fittings or compatible to the district by the Planning Commission.

f. New small wireless facilities or wireless support structures for the siting of small wireless facilities, located in an historic district established by federal or state law or city ordinance as of the date of application for a small wireless facility permit, provided that the small wireless facility or wireless support structure shall be:

1. No taller than 40 feet in height;

2. All communication equipment shall be housed inside of the pole or support structure such that it is not visible from the outside;

3. Meet minimum setbacks from property lines that would be applicable to a sign under Section 5.30 of the City Code;

5. Constructed from aluminum and of a color that matches the pole or structure on which it is located as closely as practicable, or as otherwise approved by the City Engineer; and

6. Served by underground power and communication lines. The structure shall not be served by any above-ground power or communication lines, unless otherwise approved by the City Engineer where underground installation is not feasible.

3. Permitted Accessory Uses:

a. Any use permitted as accessory in the B-1 district as regulated herein.

4. Lot Area, Height, Lot Width and Yard Requirements: The following minimum requirements shall be observed, subject to additional requirements, exceptions and modifications contained in this Chapter.

Lot Size		Lot Width	
Interior Lot	Corner Lot	Interior Lot	Corner Lot
2,000 square feet	3,000 square feet	25 feet	25 feet