

TOWN OF SUPERIOR  
ORDINANCE NO. O-5  
SERIES 2019

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR AMENDING SECTION 16-1-70 AND ARTICLE 31 OF CHAPTER 16 OF THE SUPERIOR MUNICIPAL CODE, CONCERNING WIRELESS COMMUNICATIONS FACILITIES

NOW BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, THAT:

Section 1. Section 16-1-70 of the Superior Municipal Code is amended by the deletion of the definitions of Antenna, Eligible facilities request, Pole-mounted facility, Tower, and Wall-mounted facility.

Section 2. The title of Article XXXI, Chapter 16 of the Superior Municipal Code is amended to read as follows:

~~"Telecommunication Facilities~~ *Wireless Communications Facilities"*

Section 3. Section 16-31-10 of the Superior Municipal Code is hereby amended as follows:

**Sec. 16-31-10. Purposes and applicability.**

(a) Purposes. The purposes of this Article are:

(1) To minimize the adverse impacts of ~~WCFs-telecommunications facilities~~;

(2) To locate ~~WCFs-telecommunications facilities~~ in nonresidential areas;

(3) To minimize the total number of ~~WCFs telecommunications facilities~~ in the community;

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(5) To ensure that ~~WCFs telecommunications facilities~~ minimize adverse visual impacts through careful design, appropriate siting, landscape screening, and innovative camouflaging techniques;

\* \* \*

(8) To avoid damage to adjacent properties from tower failure through careful engineering and locating of tower structures; ~~and~~

(9) To encourage the attachment of antennae to existing *WCF telecommunication facility* structures; and

(10) To effectively manage *WCFs in the public rights-of-way*.

(b) Applicability. This Article shall apply to all *WCFs telecommunications facilities* except any tower or antenna owned and operated by a federally licensed amateur radio station operator or used exclusively as a receive-only facility.

**Section 4.** Article XXXI of Chapter 16 of the Superior Municipal Code is hereby amended by the addition of a new Section 16-31-12, to read as follows:

**Sec. 16-31-12. Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

*Antenna* means a device used to transmit or receive radio or electromagnetic waves including without limitation panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, and other similar devices and configurations, and exterior apparatus designed for telephone, radio, or television communications through the sending or receiving of wireless communications signals.

*Applicant* means a person that submits an application to the Town to site, install, construct, collocate, modify or operate a *WCF*.

*Eligible telecommunications facilities request* means any request for modification of an existing tower or base station that involves the co-location of new transmission equipment, the removal of transmission equipment or the replacement of transmission equipment.

*Equipment* means any antennas and other wireless communications equipment, including without limitation equipment shelters and cabinets, nodes, antennas, fiber optic cable, coaxial cable, wires, frequencies, technology, conduits and pipes, poles, towers and associated and appurtenant equipment necessary to operate the *WCF*.

*Pole-mounted facility* means a *WCF* with antennae that are mounted and supported entirely on a legally existing traffic signal, utility pole, street light, flagpole, electric or transmission line support tower or other similar structure.

*Roof-mounted facility* means a *WCF* that is mounted and supported entirely on the roof of a legally existing building

*Small wireless facility* means a WCF where each antenna is located inside an enclosure of no more than three cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements that could fit within an imaginary enclosure of no more than three (3) cubic feet; and primary equipment enclosures are not larger than seventeen (17) cubic feet in volume.

*Tower* means a structure that is designed and constructed primarily built for the sole or primary purpose of supporting one or more any FCC-licensed or authorized antennas and their associated facilities, including: structures that are constructed for wireless communications services including without limitation private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; the associated site; and self-supporting lattice towers, guy towers or monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and alternative tower structures.

*Transmission equipment* means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including without limitation radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply, and including equipment associated with wireless communications services including without limitation private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

*Wall-mounted facility* means any WCF that is mounted and supported entirely on the wall of a legally existing building, including the walls of architectural features such as parapets, chimneys and similar appurtenances.

*Wireless communications facility or WCF* means a facility used to provide personal wireless services, as defined in 47 U.S.C. § 332(c)(7)(C), or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public through licensed or unlicensed frequencies, or wireless utility monitoring and control services, including antennae, support equipment, alternative tower structures, and towers, but excluding the following:

- i. A facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building;
- ii. A device attached to a building, serving that building only and that is otherwise permitted;
- iii. The support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use; and

iv. Mobile transmitting devices used by wireless service subscribers, such as vehicle or hand-held radios/telephones and their associated transmitting antennae.

**Section 5.** Section 16-31-70 of the Superior Municipal Code is hereby amended to read as follows:

**Sec. 16-31-70. Abandonment.**

A ~~WCF telecommunications facility~~ that is not operated for a continuous period of one hundred eighty (180) consecutive days shall be considered abandoned, and the special use permit or administrative approval shall expire. The owner of any abandoned ~~telecommunications facilities~~ WCF shall remove the same within ninety (90) days of the date of abandonment.

**Section 6.** Section 16-31-90 of the Superior Municipal Code is hereby amended as follows:

**Sec. 16-31-90. Town-owned property and public rights-of-way.**

Any ~~WCF telecommunications facility~~ located on Town-owned property or within any public right-of-way shall not exceed forty (40) feet in height.

**Section 7.** Article XXXI of Chapter 16 of the Superior Municipal Code is hereby amended by the addition of a new Section 16-31-100, to read as follows:

**Sec. 16-31-100. Small wireless facilities.**

(a) Height. No small wireless facility, including associated equipment, shall exceed forty (40) feet in height.

(b) Review and approval.

(1) Small wireless facilities are permitted within the public right-of-way in all zone districts, subject to execution of a license agreement and adherence to the requirements of this Section.

(2) Applications for small wireless facilities shall be submitted to the Town Manager.

(3) The following associated equipment may be located outside of the primary equipment enclosure for a small cell facility, if so located, will not be included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch.

(c) Time limitations.

(1) For a small cell facility using a new structure, subject to the tolling provisions of subsection (3), within 90 days of the date on which an applicant submits an application under this Section, the Town shall act on the application. The 90-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the Town and the applicant, or in cases where the Director determines that the application is incomplete. To toll the timeframe for incompleteness, the Town must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in this application. The timeframe for review begins running again when the Applicant makes a supplemental written submission in response to the Town's notice of incompleteness. Within 10 days of a supplemental submission, the Town will notify the applicant if the supplemental submission did not provide the information identified in the original notice delineating missing information. In case of a second or subsequent notice of incompleteness, the Town may not specify missing information or documents that were not delineated in the original notice of incompleteness.

(2) For a small cell facility using a preexisting structure, subject to the tolling provisions of subsection (3), within 60 days of the date on which an applicant submits an application under this Section, the Town shall act on the application. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the Town and the applicant, or in cases where the Director determines that the application is incomplete. To toll the timeframe for incompleteness, the Town must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in this application. The timeframe for review begins running again when the Applicant makes a supplemental written submission in response to the Town's notice of incompleteness. Within 10 days of a supplemental submission, the Town will notify the applicant if the supplemental submission did not provide the information identified in the original notice delineating missing information. In case of a second or subsequent notice of incompleteness, the Town may not specify missing information or documents that were not delineated in the original notice of incompleteness.


(3) If the Town fails to act on an application under this Section within the timeframe for review (accounting for any tolling), the application shall be deemed approved, effective on the date when the applicant notifies the Town in writing that the review period has expired and that the application has been deemed approved.

**Section 8.** **Severability.** If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees


hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

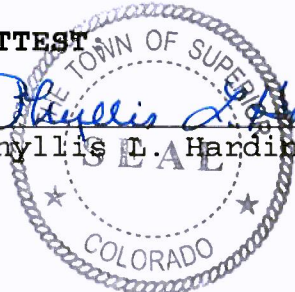
Section 9. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 25th day of February, 2019.

  
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Clint Folsom, Mayor

ATTEST

  
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Phyllis L. Hardin, Town Clerk-Treasurer

The seal is circular with a double-line border. The outer ring contains the text "TOWN OF SUPERIOR" at the top and "COLORADO" at the bottom, separated by two stars. The center of the seal features the word "SEAL" in a stylized font.