



**Town of Paonia  
214 Grand Avenue  
Tuesday, February 17, 2026 5:00 PM  
Ad Hoc Short-Term Rental Committee Agenda**

A) Agenda Items

- 1) Summary of Short Term Rental Survey Results
- 2) Drafting a Facilitator Contract to Be Considered by the Board of Trustees
- 3) Discussion of the Glenwood Springs Accessory Tourist Rental & Use Specific Standards

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**RE: STR Ad-Hoc Committee**


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**From** Stefen Wynn <StefenW@townofpaonia.com>

**Date** Fri 2/13/2026 12:27 PM

**To** Paonia <paonia@townofpaonia.com>

**Cc** Samira V <SamiraV@townofpaonia.com>

 1 attachment (133 KB)  
admin\_20260213\_133108.pdf;

**STR Committee –**

I need to correct my scoring, as referenced in the prior email below. I've scanned and attached my committee candidate scoring sheet, including my handwritten notes, which confirm the following totals: Jaylene and Sam were tied for first with 31 points each; Julie and Deborah were tied for second with 27 points each. The final totals for candidates as scored by me, Trustee Stelter and Former Trustee Swartz are: Sam – 114; Julie – 94; Jaylene – 90; and Deborah – 89.

I also want to reiterate, clearly and without ambiguity, that I've never stated that I don't value the perspective of someone who lives outside of Town regarding STR matters. That assertion is incorrect, and harmful to the process. Instead, I said that I value the perspective of someone that owns an STR in Town, but lives outside of Town since they were very involved in the referendum election process.

I take this issue seriously because statements made on the record are often repeated and treated as fact without verification. When that happens, it can derail productive discussion, influence decision making in unintended ways, and unnecessarily damage my professional credibility within our greater 'Paonia' community. I'm asking that the record accurately reflect both my scoring and my prior statements for the upcoming STR Committee meeting next week.

In Public Service,



**Stefen Wynn, M.P.A.**  
*ICMA-CM*  
**Paonia Town Administrator  
& Treasurer**

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Table 1

*No STR owner*

*Ms. Presentation*

*For STR (owner)*

Scale of 0 being none to 10 being exceptional	Julie	Deborah	Samantha	Oana	Jaylene
1) Knowledge of STRs - <i>Best Practices</i>	5	5	5		6
2) Expressed openness to finding a path forward	7	6	7		5
3) Previous involvement at Town Council or Master Plan meetings relating to STRs	3	6	6		6
4) Brings a unique perspective	<i>super host</i> 6	<i>owner-occupied</i> 6	7		<i>hope home raised</i> 8
5) Thoroughness/thoughtfulness of their application and/or presentation	6	4	6		6
Total					
Trustee Stelter					
Trustee Swartz					
Town Administrator Wynn	27	27	31		31
Total	94 0	89 0	114 0	0	90 0

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## STR Ad-Hoc Committee

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From Stefen Wynn <StefenW@townofpaonia.com>

Date Wed 2/11/2026 5:00 PM

To Paonia <paonia@townofpaonia.com>

Cc Samira V <SamiraV@townofpaonia.com>

Hi STR Committee –

I spoke with Kathy on Monday and confirmed that she can't be a facilitator for our discussions. She did agree that Scott Brown might be a good choice and Trustee Tarnow also recommended Ilene Roggensack or Julie Sapena as potential facilitators. I'd also like to draw attention to a comment that was made by a public spectator that wasn't truthful. I never said that I didn't value her opinion because she was out of Town at any point during any meeting. In fact, during the meeting that we were interviewing for the resident committee members, she was my second choice, but was ultimately not chosen by the rest of the committee. My rankings were: Sam, Jaylene, Julie, Deborah – I thought it was very important to have an out of town STR owner on the committee. So, I think that it's really important that if there is public participation that it be open, honest, accurate, and factual.

I'd also like to make sure that we address 'the Augusta Rule' that Jaylene's husband brought up during the meeting. It is an IRS tax rule known as: 26 US Code ?280A and is specific to INCOME TAX and allows someone to rent their PRIMARY HOME for up to 14 days without reporting the income to the IRS. This doesn't preclude anyone from paying sales tax, lodging tax, or licensing fees, and it appears to have been brought up to erroneously combine two separate issues into one. My personal opinion is that there needs to be more structure during these committee meetings so that we can actually get some work done rather than chasing red herrings throughout all of the meetings.

For reference, I've included links to previous meetings so that you can watch them and see what was previously discussed for those that couldn't attend.

Below are the links to previous meetings:

9/2/2025 STR Meeting: [https://youtu.be/6jAn8IP-5\\_w](https://youtu.be/6jAn8IP-5_w)

1/29/2026 STR Meeting: <https://youtu.be/CZMLVEzmG1c>

2/3/2026 STR meeting: <https://youtu.be/ADtcdOEQJz8>

The Board of Trustees agreed to allow for the following as it relates to a facilitator and it will be on our next agenda. "directing staff and the str adhoc committee to move forward with obtaining a facilitator to be selected by the committee and to provide a draft contract or fee arrangement to be brought to the Board of Trustees for approval at a later date, and to see this discussion as an agenda item on the next Board of Trustees meeting." So we have some work to accomplish at our next meeting. I'm putting all of this writing since I may not be able to attend next Tuesday, Sam and Ruben will be your point of contact for the agenda.

In Public Service,



**Stefen Wynn, M.P.A.**  
*ICMA-CM*  
**Paonia Town Administrator  
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*“Words or phrases cannot be read in isolation but must be read within the context of the entire statutory scheme.”*

*Thermo Dev., Inc. v. Central Masonry Corp.*, 195 P.3d 1166, 1168 (Colo. App. 2008).

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## Glenwood Springs


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From Stefen Wynn <StefenW@townofpaonia.com>

Date Thu 2/12/2026 4:39 PM

To Stefen Wynn <StefenW@townofpaonia.com>

Cc Samira V <SamiraV@townofpaonia.com>; Ruben Santiago <RubenS@townofpaonia.com>

 1 attachment (60 KB)

070.030.030\_\_Use\_Specific\_Standards..docx;

Hi STR AD HOC COMMITEEE –

Below and attached are items that were discussed during the last meeting to review from Glenwood Springs.

### **Single Bedroom Owner-Occupied STR:**

(7) *Accessory Tourist Rental.*

a. *Applicability and Intent.* The requirements of this Subsection shall apply to any residential dwelling unit or a portion of a residential dwelling within the City. This Subsection is applicable within a Planned Unit Development unless specifically identified as a prohibited use by the Planned Unit Development.

b. *Owner Responsibilities.*

1. The owner of the property or a resident manager must reside within one (1) of the bedrooms within the dwelling unit which is to be used as the accessory tourist rental and shall be present on the premises for the duration of the rental.

2. The owner shall collect and pay all applicable local, state, and federal taxes including sales and lodging taxes.

3. The owner is responsible for ensuring the accessory tourist rental meets all applicable local, state, and federal regulations. For example, C.R.S. ? 38-45-101 et seq. requiring carbon monoxide alarms in a residential property.

4. The owner is responsible for obtaining all required licenses in accordance with Title 050 of the Municipal Code.

c. *Use and Occupancy Restrictions.*

1. Parties renting the designated bedroom for transient rental shall have access to a private or shared full bathroom.

2. Guest stays may only occur within the dwelling unit that the owner or resident manager occupies.

3. The use is limited to one (1) designated bedroom with a maximum occupancy for two (2) people.

4. The bedroom used for guest stays shall not include a kitchen or partial kitchen.

5. Occupancy of the accessory tourist rental shall be established by International Property Maintenance Code (IPMC) and shall be listed on the accessory tourist rental permit.

6. Residential units eligible for an accessory tourist rental permit shall not be issued or hold permits for another land use that would further impact traffic at the site of the accessory tourist rental, including special use permits for another land use per the applicable zoning designation of the property, or a license or permit issued through another regulatory agency; except that properties issued a special

use permit for a single family dwelling in the Hillside Preservation district or home occupation permit shall be eligible for an accessory tourist rental permit.

7. On properties with an accessory dwelling unit, only the primary dwelling on the property shall be eligible for an accessory tourist rental permit and the owner or resident manager must reside in the dwelling unit used as the accessory tourist rental.

8. In a multifamily building under single ownership, no more than ten (10) percent but at least one (1) unit may be permitted as an accessory tourist rental provided the owner or the resident manager occupies the accessory tourist rental.

d. *Operation.*

1. All vehicles associated with the single family residence and accessory tourist rental use shall be parked in designated parking areas, such as driveways and garages, or on-street parking, where permitted. No parking shall occur on lawns or sidewalks.

2. The owner shall be responsible for ensuring that the accessory tourist rental complies with Section 100.010.060 of the Municipal Code, Garbage, Refuse, and Trash Collection. Owners and resident managers shall make arrangements for proper garbage, refuse, and trash collection.

3. The following information must be posted in a prominent and visible location in the designated bedroom permitted as an accessory tourist rental:

i. City of Glenwood Springs' license(s) and accessory tourist rental permit;

ii. Contact information for owner and/or resident manager, including phone number for twenty-four-hour response to emergencies;

iii. Description of location of fire extinguishers and emergency egress; and

iv. Any other information deemed necessary by the Director or Building Official to ensure the public's health and safety.

4. All advertising of an accessory tourist rental, including advertising on website vacation booking sites, shall display the City of Glenwood Springs accessory tourist rental permit number and business license number.

e. *Permit Procedures.*

1. *Limitation to Either Short-Term Rental or Accessory Tourist Rental.* A property owner may not be issued both an accessory tourist rental permit and a short-term rental permit on the same property at the same time; however, should an owner wish to change the use of a permitted accessory tourist rental, he or she may do so by filing an application for a short-term rental permit in accordance with Subsection 070.030.030(e)(9). Upon issuance of a new short-term rental permit, the pre-existing accessory tourist rental permit is automatically revoked.

2. *Application Requirements.* The owner shall submit the application on the form provided by the Director and shall pay the application fee set by City Council resolution.

3. *Issuance of Permit.* All accessory tourist rental uses shall require a permit from the Director. Such permit shall only be issued after the residential dwelling unit and bedroom designated for transient lodging has been approved in accordance with the Municipal Code. The accessory tourist rental permit shall specify any terms and conditions of the permit. All permits shall be issued to the owner of the property. A change in ownership shall necessitate the issuance of a new permit. Permits shall be issued for a period of two (2) years and shall expire at the end of odd numbered years.

4. *Revocation of Permit.* An accessory tourist rental permit may be revoked at any time by the Director without following the hearing process in Section 070.010.080(e)(2) should it be determined that the use is not being operated in compliance with this section or any other section of the Municipal Code. An accessory tourist rental permit shall be revoked automatically upon the third cumulative conviction of a property owner, tenant, or guest for a violation occurring upon the premises of a provision in Articles 100.010 or 100.020 with respect to the accessory tourist rental.

5. *Penalties for Violations.* Any violation of this section occurring upon the premises shall be subject to a fine of two hundred fifty dollars (\$250.00) for the first offense, five hundred dollars (\$500.00) for the second offense, seven hundred fifty dollars (\$750.00) for the third offense, and one thousand dollars (\$1,000.00) for the fourth offense and all subsequent offenses. Each day's continuing violation shall be a separate and distinct offense. Notwithstanding any penalty provision of this Code or any fines adopted pursuant to this Code to the contrary, the penalty for any offense that also constitutes a violation

of similar state law shall not exceed the penalty provided for by the applicable provisions in the Colorado Revised Statutes.

A permit holder who fails to collect lodging taxes on an accessory tourist rental during the permit period shall not be permitted to renew the permit for the next two-year permit cycle.

## **STR**

### **(9) Short-Term Rental.**

a. *Intent.* The City of Glenwood Springs recognizes that there are benefits to allowing owners of residential units within the City to rent their dwelling units for periods of time less than thirty (30) days. Short-term rental of dwelling units bring additional visitors to the City, can allow owners to recoup housing costs, and provides revenues for the City through the additional tax collections. The provision of short-term rentals offers additional diversification to the resort and travelling professional accommodations market. However, due to the potential for adverse impacts, short-term rentals must be regulated by the City to protect the health, safety, and welfare of owners, neighbors, and visitors.

#### b. *Applicability.*

1. The requirements of this Subsection shall apply to any residential dwelling unit within the City. This Subsection is applicable within a Planned Unit Development unless the short-term rental of property is specifically identified as a prohibited use by the Planned Unit Development.

2. This Subsection does not apply to any dwelling unit permitted as an Accessory Dwelling Unit.

3. The City of Glenwood Springs is not a party to and does not enforce any private covenants. Private covenants may restrict the ability for owners to engage in short-term rentals.

#### c. *Owner Responsibilities.*

1. The owner shall designate a natural person located within a thirty-minute distance of the short-term rental who is available twenty-four (24) hours per day, seven (7) days per week, to serve as the local responsible party for the short-term rental and to immediately respond to any issues arising from the short-term rental. The designated responsible party may be the owner of the property. The owner shall notify the Director in writing of the designation of the responsible party within five (5) days of such designation or modification of any such designation.

2. The owner or responsible party shall collect and pay all applicable local, state, and federal taxes including sales and lodging taxes.

3. The owner or responsible party is responsible for ensuring the short-term rental meets all applicable local, state, and federal regulations. For example, C.R.S. ? 38-45-101 et seq. requiring carbon monoxide alarms in residential property.

4. The owner or responsible party is responsible for obtaining all required licenses in accordance with Title 050 of the Municipal Code.

#### d. *Use and Occupancy Restrictions.*

1. Occupancy limitations of a short term rental shall be established by the International Property Maintenance Code (IPMC) and shall be indicated on the short term rental permit.

2. On properties with an accessory dwelling unit, only the primary dwelling on the property shall be eligible for a short-term rental permit.

3. In a multifamily building under single ownership, no more than ten (10) percent but at least one (1) unit may be permitted as a short-term rental.

4. In all areas outside the City's General Improvement District (GID), as the GID may be amended from time to time, the total number of short-term rentals shall be limited to five (5) percent of the City's total free market residential units as determined by the State Demography Office. In addition, a short-term rental unit shall be located a minimum of two hundred fifty (250) feet from any other short-term rental unit. This two hundred fifty-foot limitation shall not apply to units in a multifamily building under single ownership, to parcels whose boundaries are not entirely contained within the two hundred fifty-foot buffer distance, or to units that received permits prior to the effective date of this subsection or to timely renewals of such permits. However, the five (5) percent cap on short-term rentals includes existing permitted units.

5. Within the GID, as it may be amended from time to time, the total number of short-term rentals shall be limited to fifteen (15) percent of the GID's total free market residential units as determined by the

Garfield County Assessor. In a multifamily building under single ownership, no more than two (2) units may be permitted as a short-term rental. GID short-term rental permits shall count towards the total permit number limit identified under Paragraph 4 above.

e. *Operation.*

1. All vehicles associated with the short-term rental use shall be parked in designated parking areas, such as driveways and garages, or on-street parking, where permitted. No parking shall occur on lawns or sidewalks.

2. The owner shall be responsible for ensuring that the short-term rental complies with Section 100.010.060 of the Municipal Code, Garbage, Refuse, and Trash Collection. Owners and resident managers shall make arrangements for proper garbage, refuse, and trash collection.

3. The following information must be posted in a prominent and visible location in the short-term rental:

i. City of Glenwood Springs' license(s) and short-term rental permit;

ii. Contact information for owner and/or resident manager, including phone number for twenty-four-hour response to emergencies;

iii. Description of location of fire extinguishers and emergency egress; and

iv. Any other information deemed necessary by the Director or Building Official to ensure the public's health and safety.

4. All advertising of a short-term rental, including advertising on website vacation booking sites, shall display the City of Glenwood Springs short-term rental permit number and business license number.

f. *Permit Procedures.*

1. *Limitation to Either Short-Term Rental or Accessory Tourist Rental.* A property owner may not be issued both a short-term rental permit and an accessory tourist rental permit on the same property at the same time; however, should an owner wish to change the use of a permitted short-term rental permit, he or she may do so by filing an application for an accessory tourist rental permit in accordance with Subsection 070.030.030(e)(7). Upon issuance of a new accessory tourist rental permit, the pre-existing short-term rental permit is automatically revoked.

2. *Application Requirements.* The owner shall submit the application on the form provided by the Director and shall pay the application fee set by City Council resolution.

a. At time of application, property shall have a Certificate of Occupancy for the property or unit which is subject of application.

b. At time of application, applicant shall provide proof of ownership in form approved by the Director.

c. Applicant shall be a natural person, aged eighteen (18) years or older, that holds a thirty-three (33) percent or greater interest in the ownership of the property.

d. Applicant shall complete the entire application process within six (6) months of complete application submittal with an additional six-month extension at discretion of the Director.

3. *Issuance of Permit.* All short-term rental uses shall require a permit from the Director. Such permit shall only be issued after the short-term rental application has been approved in accordance with the Municipal Code. The short-term rental permit shall specify any terms and conditions of the permit. All permits shall be issued to the owner of the property. A change in ownership shall necessitate the issuance of a new permit. Permits shall be issued for a period of two (2) years and shall expire at the end of odd numbered years.

4. *Neighborhood Notification.* Upon issuance of a short-term rental permit, the property owner shall be responsible for mailing public notification of the permit to owners of all real property within two hundred fifty (250) feet of any boundary or edge of the subject property or parcel. The property owner shall provide certification to the Director that proper notice has been provided, including a signed affidavit. The format of such certification shall be established by the Director.

5. *Revocation of Permit.* A short-term rental permit may be revoked at any time by the Director without following the hearing process in Section 070.010.080(e)(2) should it be determined that the use is not being operated in compliance with this section or any other section of the Municipal Code. A short-term rental permit shall be revoked automatically upon third cumulative conviction of a property owner,

tenant, or guest for a violation occurring upon the premises of a provision in Articles 100.010 or 100.020 with respect to the short-term rental.

6. **Penalties for Violations.** Any violation of this section occurring upon the premises shall be subject to a fine of two hundred fifty dollars (\$250.00) for the first offense, five hundred dollars (\$500.00) for the second offense, seven hundred fifty dollars (\$750.00) for the third offense, and one thousand dollars (\$1,000.00) for the fourth offense and all subsequent offenses. Each day's continuing violation shall be a separate and distinct offense. Notwithstanding any penalty provision of this Code or any fines adopted pursuant to this Code to the contrary, the penalty for any offense that also constitutes a violation of similar state law shall not exceed the penalty provided for by the applicable provisions in the Colorado Revised Statutes.

A permit holder who fails to collect lodging taxes on a short-term rental during the permit period shall not be permitted to renew the permit for the next two-year permit cycle.



**Stefen Wynn, M.P.A.**  
*ICMA-CM*  
**Paonia Town Administrator  
& Treasurer**

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*Thermo Dev., Inc. v. Central Masonry Corp.*, 195 P.3d 1166, 1168 (Colo. App. 2008).

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### **070.030.030 Use-Specific Standards.**

(a) *Generally.*

- (1) *Applicability.* Use-specific standards shall apply to all zoning districts unless otherwise noted.
- (2) *Cross-References in Table of Allowed Uses.* All uses with use-specific standards as indicated in the right-hand column of Table 030.1 shall comply with the applicable standards in this Section 070.030.030. All development shall also comply with the applicable standards in Article 070.040: Development Standards.
- (3) *Resolution of Conflicting Standards.* In case of a conflict between these use-specific standards and the standards in Article 070.040, Section 070.040.010 Development Standards, these use-specific standards shall apply unless otherwise noted.

(b) *Performance Standards for All Uses.*

(1) *Air Quality.*

- a. Uses that emit any air contaminant as defined by the federal government, State of Colorado, or Garfield County, shall comply with all applicable federal, state, and county standards concerning such emissions and with any other emission standards adopted by the City.
- b. No zoning approval or special use permit issued with respect to any use requiring a permit from a federal, state, county, or City agency with jurisdiction shall be valid until it has been certified to the City that the appropriate permits have been issued to the user and that the use is in compliance with all applicable air pollution laws.
- c. Noncompliance with any of the applicable air pollution laws shall be justification for revocation of any permits issued by the City.

(2) *Hazardous Materials Storage and Use.*

a. *General.*

1. The land use impacts for facilities that store or use hazardous materials in excess of the exempt amounts or maximum allowable quantities in control areas as specified in the Building and Fire Code are declared to be potentially harmful to the public health, safety, and welfare, or potentially damaging to the property values of adjacent properties.
  2. A special use permit shall be required for any commercial or industrial use involving the storage, handling, or use of hazardous materials when the quantity is in excess of the exempt amount or maximum allowable per control area, as specified in the Building or Fire Code.
- b. *Combustibles and Explosives.* The use, handling, storage, and transportation of combustibles and explosives shall comply with the Fire Code and all other provisions of the Municipal Code and applicable state and federal laws.
  - c. *Gases.* The escape or emission of any gas that is noxious, injurious, or destructive is unlawful and shall be immediately eliminated and, in addition, shall comply with the Municipal Code and all applicable state and federal regulations, including the federal Emergency Planning and Community Right to Know Act of 1986.

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- (3) *Excessive Heat and Humidity.* Uses and activities shall not produce any unreasonable, disturbing, or unnecessary emissions of heat or humidity at the property line of the site on which they are situated that cause material distress, discomfort, or injury to a reasonable person.
  - (4) *Odors.* Unless otherwise provided in this Subsection, uses and activities that produce continuous, regular, or frequent odors and/or emissions, detectable beyond the boundary of the property from which the odor originates, may be prohibited, in whole or in part, if the odor or emission in question is a known health risk or danger or if the Director judges such odor or emission to be harmful to the rights of others to enjoy their property.
  - (5) *Light and Glare.* All uses shall comply with the standards in Section 070.040.100, Exterior Lighting.
  - (6) *Noise.* All uses shall comply with the standards in Article 100.070 of the Municipal Code, Regulation of Noise.
  - (7) *Vibration.* No use or activity shall produce vibrations that are perceptible without instruments at the property line for more than three (3) minutes in any one (1) hour of the day between the hours of 7:00 a.m. and 8:00 p.m. Monday through Friday, or 8:00 a.m. and 6:00 p.m. Saturday and Sunday.
  - (8) *Evidence of Compliance.* The Director shall require such evidence of ability to comply with appropriate performance standards and mitigation measures as deemed necessary by the Director prior to issuance of a building permit and certificate of occupancy.
- (c) *Residential Uses.*
- (1) *Dwelling, Live-Work.*
    - a. Residential areas shall be located on upper floors above non-residential areas, or in the rear of the building behind non-residential areas.
    - b. The non-residential use shall be owned and operated by a resident of the live-work dwelling unit.
  - (2) *Mobile Home Park.*
    - a. *Size of a Mobile Home Park.* The area of a mobile home park shall be large enough to accommodate the designated number of mobile home spaces, necessary streets and roadways, parking areas for motor vehicles, and required drainage and stormwater facilities.
    - b. *Size and Placement of Mobile Home Spaces.*
      - 1. Each independent mobile home space shall contain a minimum area of two thousand five hundred (2,500) square feet and shall be at least forty (40) feet wide.
      - 2. Each dependent mobile home space shall contain a minimum area of one thousand (1,000) square feet and shall be at least twenty-five (25) feet wide.
      - 3. Where angular or modular spaces are provided in a mobile home park, each such space shall contain a minimum area of three thousand (3,000) square feet and shall be at least forty-five (45) feet wide.
      - 4. Each mobile home space shall abut on a driveway or other access with unobstructed access to a street.
      - 5. Each mobile home shall be placed upon a space in the mobile home park so that:
        - i. It is completely within the designated mobile home space;
        - ii. There is a minimum of fifteen (15) feet between mobile homes;
        - iii. It is not located within ten (10) feet of an exterior boundary of the mobile home park;

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- iv. It is not located within twenty-five (25) feet of a public right-of-way;
      - v. It does not obstruct any roadway, walkway, or easement;
      - vi. It is not located within five (5) feet from any roadway in the mobile home park; and
      - vii. No independent mobile home is located on a dependent mobile home space.
    - c. *Access.* Access roads within the mobile home park shall be provided for each mobile home space. Each access road shall provide for continuous forward movement, shall connect with a street or highway, and shall have a minimum width of twenty-five (25) feet when mobile home spaces are on one (1) side only. When mobile home spaces are on both sides of the access road, such road shall have a minimum width of forty (40) feet.
    - d. *Provisions for Dependent Mobile Homes.* Mobile home parks with dependent mobile homes shall accommodate such mobile homes by providing service buildings, sanitary facilities, and laundry facilities per the Municipal Code.
  - (3) *Personal Care Boarding Home.* Prior to issuing a special use permit for a personal care boarding home, the following conditions shall be met:
    - a. The applicant shall provide evidence of preliminary approval by the State of Colorado, Department of Public Health & Environment;
    - b. No structural or exterior decorative additions shall be allowed that will alter the residential character of the home or be otherwise incompatible with surrounding residences, except for those necessary to provide accessibility meeting ADA requirements;
    - c. No other similar home-based use shall be allowed on the property including child or adult day care and boarding homes;
    - d. Residents, exclusive of employed caregivers, shall not have their own personal vehicles on site, including the public street;
    - e. The home shall have one (1) kitchen and there shall be no provision for cooking in any other room, other than providing an alternative area for minimal food preparation such as heating or reheating food and beverages;
    - f. There shall be the appropriate number of licensed caregivers on site on a twenty-four-hour basis to properly care for residents, per State of Colorado licensing requirements; and
    - g. The home shall comply with all other city, state, and federal laws and regulations.
  - (d) *Public, Institutional, and Civic Uses.*
    - (1) *Child Care Center.* A child care center shall comply with the following conditions:
      - a. The applicant shall provide documentation of preliminary approval from the State of Colorado, Department of Human Services; and
      - b. Buffering of play areas through the use of fencing or a landscape screen in compliance with the height restrictions of this Code may be required when play areas are adjacent to residential uses.
    - (2) *Family Child Care Home (up to twelve (12) children).* A family child day care home shall comply with the same requirements for a child care center in Paragraph (1)a. above.
  - (e) *Commercial Uses.*
    - (1) *Kennel.*

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- a. All animals shall be confined within an enclosed area or on a leash at all times.
  - b. All boarded animals shall be kept within a totally enclosed structure between the hours of 10:00 p.m. and 7:00 a.m.
  - c. Any open or exercise run shall be at least fifty (50) feet from any adjoining property in a residential zoning district.
- (2) *Sale of Produce or Plants Raised on Premises.*
- a. The sale of produce or plants shall only include those grown on-site.
  - b. The sale of produce or plants shall not include marijuana or marijuana products.
  - c. No permanent structures shall be erected for sale of produce or plants.
- (3) *Veterinarian Hospital or Clinic.* A veterinarian hospital or clinic shall comply with the same requirements for a kennel in Paragraph (1) above.
- (4) *Adult Entertainment Establishment.*
- a. *Applicability and Intent.* These standards are intended to regulate sexually oriented businesses, promote the health, safety, morals, and general welfare of the citizens of the City, and establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City, thereby helping to reduce and eliminate the adverse secondary effects from such sexually oriented businesses. These standards have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of these standards to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the U.S. Constitution or the Colorado Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of these standards to condone or legitimize the distribution of obscene material. These standards shall not apply to those areas of an adult motel that are private rooms.
  - b. *Location Standards.*
    - 1. No adult entertainment use shall be located within five hundred (500) feet of the exterior boundary of any residential zoning district, church, public or private school, child care center, public community center, park, fairground, recreation center, publicly owned or maintained building opened for use by the general public, alcoholic beverage establishment located in the City at which alcoholic beverages are offered for sale for consumption on the premises, or area designated as an urban renewal project area pursuant to C.R.S. § 31-25-107. Further, no adult entertainment use shall be located within two hundred (200) feet of any arterial or major collector roadway.
    - 2. No adult entertainment use shall be located within one thousand (1,000) feet of any other adult entertainment use, whether such adult entertainment use is within or outside the City boundaries.
    - 3. The method of measurement for the one-thousand-foot restriction shall be computed by direct measurement from the exterior boundary of any area identified in these location requirements, or from the nearest property line of the property upon which an adult entertainment business or establishment, or other adult entertainment use is conducted, to the nearest property line of the property whereon the building in which an adult entertainment use is to occur.

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4. Only one (1) adult entertainment establishment use shall be permitted per building or, in other words, no building, premises, structures or other facility that contains any sexually oriented business shall contain any other kind of sexually oriented business therein.
- c. *Nonconforming Adult Entertainment Establishments.*
1. Any adult entertainment establishment operating at the effective date of this Code in violation of any relevant provisions of Title 050 or Title 070 of this Code shall be deemed a nonconforming use. An adult entertainment establishment that is deemed a nonconforming use shall be permitted to continue operating for an amortization period of six (6) months. Such nonconforming adult entertainment use shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. Notwithstanding the foregoing, any adult entertainment establishment deemed a nonconforming use shall apply for a license provided for by Article 050.070 of the Municipal Code within thirty (30) days of the effective date of this ordinance, or be subject to the relevant penalty provisions set forth herein and in Article 050.070 of the Municipal Code.
  2. An adult entertainment establishment lawfully operating as a conforming use pursuant to the receipt of zoning approval and obtaining a license is not rendered a nonconforming use by the location, subsequent to the grant or renewal of an adult entertainment establishment license, of any area identified in the location requirements above within the specific distancing requirements noted.
- d. *Site Layout and Design Standards.*
1. Advertisements, displays or other promotional material depicting adult entertainment uses shall not be shown or exhibited to be visible to the public from pedestrian sidewalks or walkways, or from other areas public or semi-public.
  2. All building openings, entries and windows shall be located, covered or screened to prevent a viewing to the interior from any public or semi-public area; for new construction, the building shall also be oriented to minimize any possibility of viewing the interior from public or semi-public areas.
- e. *Conduct and Operations.*
1. No licensee, manager, or employee mingling with the patrons of sexually oriented businesses or serving food or drinks shall be nude or in a state of nudity. It is a defense to prosecution for a violation of this Section that an employee of a sexually oriented business exposed any specified anatomical area during the employee's bona fide use of a restroom or during the employee's bona fide use of a dressing room that is accessible only to employees.
  2. No licensee, manager, or employee shall encourage or knowingly permit any person on the premises to engage in specified sexual activities, which conduct involving specified sexual activities is unlawful and shall be subject to criminal penalties, as set forth in the Municipal Code.
  3. It shall be unlawful for an adult entertainment establishment and/or a sexually oriented business to be opened for business, or for the licensee or any employee of a licensee to allow patrons upon licensed premises or permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service between the hours of 1:00 a.m. and 9:00 a.m. of any particular day. Further, it shall be unlawful and a person commits a misdemeanor if, working as an employee of a sexually oriented business, regardless of whether a license has been issued for said business under

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this ordinance, engages in a performance, solicits a performance, makes a sale, solicits a sale, provides a service, or solicits a service between the hours of 1:00 a.m. and 9:00 a.m. of any particular day.

4. It shall be unlawful for an adult entertainment establishment and/or sexually oriented business or for the licensee or any employee of a licensee, regardless of whether a license has been issued for said business under this ordinance, to knowingly allow any patron upon the premises to engage in a specified sexual activity while on said premises. It shall also be unlawful for any licensee or employee of an adult entertainment establishment, regardless of whether a license has been issued for said business under this ordinance, to engage in a specified sexual activity while on the premises of said adult entertainment establishment.
5. No one under twenty-one (21) years of age shall be admitted to any adult entertainment establishment where live nude entertainment and performances are featured, which live nude entertainment is characterized by the exposure of specified anatomical areas. Further, no one under eighteen (18) years of age shall be admitted to any adult entertainment establishment of any kind; and the foregoing minimum age limitations also apply to any employees, agents, servants or independent contractors working on the premises during the hours when adult entertainment is being presented.

f. *Violations and Penalties.*

1. Any person who operates or causes to be operated an adult entertainment establishment and who violates any provision contained in this Section or does not have a valid license is subject to a suit for injunction and is subject to civil and criminal penalties.
2. Except for the amortization period set forth hereinabove, each day of operation in violation of any provision of this ordinance shall constitute a separate offense.
3. Any adult entertainment establishment that engages in repeated or continuing violations of these regulations shall constitute a public nuisance. For purposes of these regulations, repeated violations shall mean three (3) or more violations of any provision set forth herein within one (1) year dating from the time of a new violation, and a continuing violation shall mean a violation of any provision set forth herein lasting for three (3) or more consecutive days.
4. Notwithstanding any penalty provision of this Code or any fines adopted pursuant to this Code to the contrary, the penalty for any offense that also constitutes a violation of similar state law shall not exceed the penalty provided for by the applicable provisions in the Colorado Revised Statutes.
5. Notwithstanding any other remedies at law or equity, the City Attorney may bring an action in the District Court for an injunction against the operation of such establishments in a manner that violates any of the provisions set forth herein.

(5) *Bar, Lounge, or Tavern.*

- a. Bars, lounges, or taverns within one hundred (100) feet of a residential zoning district require a special use permit.
- b. Bars, lounges, or taverns within one hundred (100) feet of a residential zoning district shall close any outdoor seating areas between the hours of 10:00 p.m. and 7:00 a.m.

(6) *Microbrewery, Distillery, or Winery.*

- a. Microbreweries, distilleries, or wineries within one hundred (100) feet of a residential zoning district require a special use permit.

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- b. Microbreweries, distilleries, or wineries within one hundred (100) feet of a residential zoning district shall close any outdoor seating areas between the hours of 10:00 p.m. and 7:00 a.m.

(7) *Accessory Tourist Rental.*

- a. *Applicability and Intent.* The requirements of this Subsection shall apply to any residential dwelling unit or a portion of a residential dwelling within the City. This Subsection is applicable within a Planned Unit Development unless specifically identified as a prohibited use by the Planned Unit Development.
- b. *Owner Responsibilities.*
  - 1. The owner of the property or a resident manager must reside within one (1) of the bedrooms within the dwelling unit which is to be used as the accessory tourist rental and shall be present on the premises for the duration of the rental.
  - 2. The owner shall collect and pay all applicable local, state, and federal taxes including sales and lodging taxes.
  - 3. The owner is responsible for ensuring the accessory tourist rental meets all applicable local, state, and federal regulations. For example, C.R.S. § 38-45-101 et seq. requiring carbon monoxide alarms in a residential property.
  - 4. The owner is responsible for obtaining all required licenses in accordance with Title 050 of the Municipal Code.
- c. *Use and Occupancy Restrictions.*
  - 1. Parties renting the designated bedroom for transient rental shall have access to a private or shared full bathroom.
  - 2. Guest stays may only occur within the dwelling unit that the owner or resident manager occupies.
  - 3. The use is limited to one (1) designated bedroom with a maximum occupancy for two (2) people.
  - 4. The bedroom used for guest stays shall not include a kitchen or partial kitchen.
  - 5. Occupancy of the accessory tourist rental shall be established by International Property Maintenance Code (IPMC) and shall be listed on the accessory tourist rental permit.
  - 6. Residential units eligible for an accessory tourist rental permit shall not be issued or hold permits for another land use that would further impact traffic at the site of the accessory tourist rental, including special use permits for another land use per the applicable zoning designation of the property, or a license or permit issued through another regulatory agency; except that properties issued a special use permit for a single family dwelling in the Hillside Preservation district or home occupation permit shall be eligible for an accessory tourist rental permit.
  - 7. On properties with an accessory dwelling unit, only the primary dwelling on the property shall be eligible for an accessory tourist rental permit and the owner or resident manager must reside in the dwelling unit used as the accessory tourist rental.
  - 8. In a multifamily building under single ownership, no more than ten (10) percent but at least one (1) unit may be permitted as an accessory tourist rental provided the owner of the resident manager occupies the accessory tourist rental.
- d. *Operation.*

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1. All vehicles associated with the single family residence and accessory tourist rental use shall be parked in designated parking areas, such as driveways and garages, or on-street parking, where permitted. No parking shall occur on lawns or sidewalks.
  2. The owner shall be responsible for ensuring that the accessory tourist rental complies with Section 100.010.060 of the Municipal Code, Garbage, Refuse, and Trash Collection. Owners and resident managers shall make arrangements for proper garbage, refuse, and trash collection.
  3. The following information must be posted in a prominent and visible location in the designated bedroom permitted as an accessory tourist rental:
    - i. City of Glenwood Springs' license(s) and accessory tourist rental permit;
    - ii. Contact information for owner and/or resident manager, including phone number for twenty-four-hour response to emergencies;
    - iii. Description of location of fire extinguishers and emergency egress; and
    - iv. Any other information deemed necessary by the Director or Building Official to ensure the public's health and safety.
  4. All advertising of an accessory tourist rental, including advertising on website vacation booking sites, shall display the City of Glenwood Springs accessory tourist rental permit number and business license number.
- e. *Permit Procedures.*
1. *Limitation to Either Short-Term Rental or Accessory Tourist Rental.* A property owner may not be issued both an accessory tourist rental permit and a short-term rental permit on the same property at the same time; however, should an owner wish to change the use of a permitted accessory tourist rental, he or she may do so by filing an application for a short-term rental permit in accordance with Subsection 070.030.030(e)(9). Upon issuance of a new short-term rental permit, the pre-existing accessory tourist rental permit is automatically revoked.
  2. *Application Requirements.* The owner shall submit the application on the form provided by the Director and shall pay the application fee set by City Council resolution.
  3. *Issuance of Permit.* All accessory tourist rental uses shall require a permit from the Director. Such permit shall only be issued after the residential dwelling unit and bedroom designated for transient lodging has been approved in accordance with the Municipal Code. The accessory tourist rental permit shall specify any terms and conditions of the permit. All permits shall be issued to the owner of the property. A change in ownership shall necessitate the issuance of a new permit. Permits shall be issued for a period of two (2) years and shall expire at the end of odd numbered years.
  4. *Revocation of Permit.* An accessory tourist rental permit may be revoked at any time by the Director without following the hearing process in Section 070.010.080(e)(2) should it be determined that the use is not being operated in compliance with this section or any other section of the Municipal Code. An accessory tourist rental permit shall be revoked automatically upon the third cumulative conviction of a property owner, tenant, or guest for a violation occurring upon the premises of a provision in Articles 100.010 or 100.020 with respect to the accessory tourist rental.
  5. *Penalties for Violations.* Any violation of this section occurring upon the premises shall be subject to a fine of two hundred fifty dollars (\$250.00) for the first offense, five hundred

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dollars (\$500.00) for the second offense, seven hundred fifty dollars (\$750.00) for the third offense, and one thousand dollars (\$1,000.00) for the fourth offense and all subsequent offenses. Each day's continuing violation shall be a separate and distinct offense.

Notwithstanding any penalty provision of this Code or any fines adopted pursuant to this Code to the contrary, the penalty for any offense that also constitutes a violation of similar state law shall not exceed the penalty provided for by the applicable provisions in the Colorado Revised Statutes.

A permit holder who fails to collect lodging taxes on an accessory tourist rental during the permit period shall not be permitted to renew the permit for the next two-year permit cycle.

(8) *Bed and Breakfast.*

a. *Location and Compatibility.*

1. Bed and breakfasts shall only be permitted in a building of a residential character. Any modifications made to the building to accommodate the bed and breakfast use shall be compatible with the architectural character of the structure and with the character of the neighborhood.
2. Bed and breakfast lodging shall not be allowed in any dwelling unit(s) permitted as an Accessory Dwelling Unit.

b. *Number of Bedrooms.* The total number of bedrooms, including the bedrooms occupied by permanent residents of the building, shall be limited to five (5).

c. *Operation.*

1. The structure shall be owner-occupied or shall be occupied by a resident manager.
2. Guest stays shall be limited to a maximum of thirty (30) days.
3. Any kitchen and dining facilities shall not be operated in the manner of a commercial restaurant and shall serve only residents and guests. No cooking facilities such as stoves, hot plates, or microwave ovens are permitted in the guest rooms.
4. Any signage on the subject property shall be non-illuminated, shall architecturally compliment the principal structure, and shall comply with applicable sign regulations in Section 070.040.110, Signs.
5. Other than serving guests, a bed and breakfast shall not conduct any other commercial activities such as for-profit private parties or receptions, retail sales, or similar activities.

(9) *Short-Term Rental.*

a. *Intent.* The City of Glenwood Springs recognizes that there are benefits to allowing owners of residential units within the City to rent their dwelling units for periods of time less than thirty (30) days. Short-term rental of dwelling units bring additional visitors to the City, can allow owners to recoup housing costs, and provides revenues for the City through the additional tax collections. The provision of short-term rentals offers additional diversification to the resort and travelling professional accommodations market. However, due to the potential for adverse impacts, short-term rentals must be regulated by the City to protect the health, safety, and welfare of owners, neighbors, and visitors.

b. *Applicability.*

1. The requirements of this Subsection shall apply to any residential dwelling unit within the City. This Subsection is applicable within a Planned Unit Development unless the short-

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term rental of property is specifically identified as a prohibited use by the Planned Unit Development.

2. This Subsection does not apply to any dwelling unit permitted as an Accessory Dwelling Unit.
3. The City of Glenwood Springs is not a party to and does not enforce any private covenants. Private covenants may restrict the ability for owners to engage in short-term rentals.

c. *Owner Responsibilities.*

1. The owner shall designate a natural person located within a thirty-minute distance of the short-term rental who is available twenty-four (24) hours per day, seven (7) days per week, to serve as the local responsible party for the short-term rental and to immediately respond to any issues arising from the short-term rental. The designated responsible party may be the owner of the property. The owner shall notify the Director in writing of the designation of the responsible party within five (5) days of such designation or modification of any such designation.
2. The owner or responsible party shall collect and pay all applicable local, state, and federal taxes including sales and lodging taxes.
3. The owner or responsible party is responsible for ensuring the short-term rental meets all applicable local, state, and federal regulations. For example, C.R.S. § 38-45-101 et seq. requiring carbon monoxide alarms in residential property.
4. The owner or responsible party is responsible for obtaining all required licenses in accordance with Title 050 of the Municipal Code.

d. *Use and Occupancy Restrictions.*

1. Occupancy limitations of a short term rental shall be established by the International Property Maintenance Code (IPMC) and shall be indicated on the short term rental permit.
2. On properties with an accessory dwelling unit, only the primary dwelling on the property shall be eligible for a short-term rental permit.
3. In a multifamily building under single ownership, no more than ten (10) percent but at least one (1) unit may be permitted as a short-term rental.
4. In all areas outside the City's General Improvement District (GID), as the GID may be amended from time to time, the total number of short-term rentals shall be limited to five (5) percent of the City's total free market residential units as determined by the State Demography Office. In addition, a short-term rental unit shall be located a minimum of two hundred fifty (250) feet from any other short-term rental unit. This two hundred fifty-foot limitation shall not apply to units in a multifamily building under single ownership, to parcels whose boundaries are not entirely contained within the two hundred fifty-foot buffer distance, or to units that received permits prior to the effective date of this subsection or to timely renewals of such permits. However, the five (5) percent cap on short-term rentals includes existing permitted units.
5. Within the GID, as it may be amended from time to time, the total number of short-term rentals shall be limited to fifteen (15) percent of the GID's total free market residential units as determined by the Garfield County Assessor. In a multifamily building under single ownership, no more than two (2) units may be permitted as a short-term rental. GID short-term rental permits shall count towards the total permit number limit identified under Paragraph 4 above.

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e. *Operation.*

1. All vehicles associated with the short-term rental use shall be parked in designated parking areas, such as driveways and garages, or on-street parking, where permitted. No parking shall occur on lawns or sidewalks.
2. The owner shall be responsible for ensuring that the short-term rental complies with Section 100.010.060 of the Municipal Code, Garbage, Refuse, and Trash Collection. Owners and resident managers shall make arrangements for proper garbage, refuse, and trash collection.
3. The following information must be posted in a prominent and visible location in the short-term rental:
  - i. City of Glenwood Springs' license(s) and short-term rental permit;
  - ii. Contact information for owner and/or resident manager, including phone number for twenty-four-hour response to emergencies;
  - iii. Description of location of fire extinguishers and emergency egress; and
  - iv. Any other information deemed necessary by the Director or Building Official to ensure the public's health and safety.
4. All advertising of a short-term rental, including advertising on website vacation booking sites, shall display the City of Glenwood Springs short-term rental permit number and business license number.

f. *Permit Procedures.*

1. *Limitation to Either Short-Term Rental or Accessory Tourist Rental.* A property owner may not be issued both a short-term rental permit and an accessory tourist rental permit on the same property at the same time; however, should an owner wish to change the use of a permitted short-term rental permit, he or she may do so by filing an application for an accessory tourist rental permit in accordance with Subsection 070.030.030(e)(7). Upon issuance of a new accessory tourist rental permit, the pre-existing short-term rental permit is automatically revoked.
2. *Application Requirements.* The owner shall submit the application on the form provided by the Director and shall pay the application fee set by City Council resolution.
  - a. At time of application, property shall have a Certificate of Occupancy for the property or unit which is subject of application.
  - b. At time of application, applicant shall provide proof of ownership in form approved by the Director.
  - c. Applicant shall be a natural person, aged eighteen (18) years or older, that holds a thirty-three (33) percent or greater interest in the ownership of the property.
  - d. Applicant shall complete the entire application process within six (6) months of complete application submittal with an additional six-month extension at discretion of the Director.
3. *Issuance of Permit.* All short-term rental uses shall require a permit from the Director. Such permit shall only be issued after the short-term rental application has been approved in accordance with the Municipal Code. The short-term rental permit shall specify any terms and conditions of the permit. All permits shall be issued to the owner of the property. A

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change in ownership shall necessitate the issuance of a new permit. Permits shall be issued for a period of two (2) years and shall expire at the end of odd numbered years.

4. *Neighborhood Notification.* Upon issuance of a short-term rental permit, the property owner shall be responsible for mailing public notification of the permit to owners of all real property within two hundred fifty (250) feet of any boundary or edge of the subject property or parcel. The property owner shall provide certification to the Director that proper notice has been provided, including a signed affidavit. The format of such certification shall be established by the Director.
5. *Revocation of Permit.* A short-term rental permit may be revoked at any time by the Director without following the hearing process in Section 070.010.080(e)(2) should it be determined that the use is not being operated in compliance with this section or any other section of the Municipal Code. A short-term rental permit shall be revoked automatically upon third cumulative conviction of a property owner, tenant, or guest for a violation occurring upon the premises of a provision in Articles 100.010 or 100.020 with respect to the short-term rental.
6. *Penalties for Violations.* Any violation of this section occurring upon the premises shall be subject to a fine of two hundred fifty dollars (\$250.00) for the first offense, five hundred dollars (\$500.00) for the second offense, seven hundred fifty dollars (\$750.00) for the third offense, and one thousand dollars (\$1,000.00) for the fourth offense and all subsequent offenses. Each day's continuing violation shall be a separate and distinct offense. Notwithstanding any penalty provision of this Code or any fines adopted pursuant to this Code to the contrary, the penalty for any offense that also constitutes a violation of similar state law shall not exceed the penalty provided for by the applicable provisions in the Colorado Revised Statutes.

A permit holder who fails to collect lodging taxes on a short-term rental during the permit period shall not be permitted to renew the permit for the next two-year permit cycle.

(10) *Extended Stay Hotels.*

- a. Each extended stay hotel unit shall have in place an individual kitchenette and at minimum a three-quarter ( $\frac{3}{4}$ ) bathroom. Kitchenettes shall include a cooking appliance that is a built-in cook-top or stove unit with a hood, storage cabinets, a refrigerator with a minimum of ten (10) cubic foot capacity, and a food preparation area of not less than four (4) square feet. Hot plates, griddles, microwaves or similar devices shall not be considered cooking appliances for the purpose of this Section. Two (2) sinks must be located within the unit, one (1) for use with the kitchenette, and one (1) for use with the lavatory.
- b. Extended stay hotels shall provide common laundry facilities consisting of washer and dryer machines made available to patrons for a fee. Laundry facilities shall be provided at a ratio of one (1) washer and dryer for every twenty (20) units.
- c. An outdoor wall-mounted sharp-cutoff luminaire shall be provided at each unit entrance with a manual lighting control switch at each entry door and other exterior lighting shall be in conformance with the International Building Codes.
- d. All improvements required by this section shall be maintained and in good repair at all times.
- e. No extended-stay rental agreement shall exceed one hundred eighty (180) consecutive days. Notwithstanding the foregoing, the provisions of this subsection (e) shall not apply when the extended-stay rental agreement is with a governmental or quasi-governmental entity.

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- f. The developer of an extended-stay hotel must provide a parking management plan that addresses parking permits, the number of vehicles allowed per lease, and mitigation plans for impacts to surrounding properties. The management plan shall be approved by the Community Development Director. No recreational vehicle or trailer shall be stored or parked within the parking lot provided at the hotel.
  - g. Thirty-five (35) percent of the development shall be deed restricted per Subsection 070.045.100(a). The average of all deed-restricted units in the development shall not exceed one hundred (100) percent of the maximum rents established according to the Colorado Housing and Finance Authority, Colorado County Income and Rent Table, as determined at the time each individual unit was leased. Maximum rent prices are updated annually.

(11) *Medical Marijuana Business.*

- a. *Purpose.* The City Council intends to regulate the use, acquisition, production, and distribution of medical marijuana in a manner consistent with Article XVIII, Section 14 of the Colorado Constitution, Article 10 of Title 44 Colorado Revised Statutes and any other applicable laws and regulations of the state. Nothing within this article is intended to promote or condone the production, use, sale, or distribution of medical marijuana other than in compliance with applicable state law.
- b. *License Required.* Medical marijuana businesses shall comply with the City Code Article 050.080.
- c. *Location of a Licensed Business.* Medical marijuana businesses shall be located in areas of the City only as allowed in the City Code. The ability to operate a medical marijuana business on any given property shall cease upon a three-year period of the use not occurring thereon. No medical marijuana business shall be located:
  - 1. Within one thousand (1,000) feet of any existing public or private school facility where classes are held for children aged kindergarten through the 12th grade; park designated in Section 090.030.010(b) excluding subsection (15); mental health facility; or drug treatment facility. The distance shall be computed by a straight line measurement from the nearest property line of the school property, park, mental health facility, or drug treatment facility to the nearest property line of the site housing the medical marijuana business;
  - 2. Within one thousand (1,000) feet of another medical marijuana business, retail marijuana business, or a marijuana cultivation facility. A medical marijuana business may locate on the same licensed premises as a retail marijuana business or marijuana cultivation facility of the same class and same ownership, only if the licensed premises meets the distance requirements from other medical marijuana businesses, retail marijuana businesses, and marijuana cultivation facilities. This distance shall be computed by a straight line measurement between property lines of the sites housing the two (2) facilities.
  - 3. In any zoning district not specifically allowed by the City Code.
- d. *Requirements Related to Operation of a Medical Marijuana Business.*
  - 1. Medical marijuana businesses shall meet all operational criteria for the procurement, dispensing, labeling, sanitation, security, and any other criteria as required by the state pursuant to the Colorado Marijuana Code and the City Code Article 050.080.
  - 2. In addition, all medical marijuana businesses shall comply with the following local restrictions:
    - i. Medical marijuana businesses shall limit their hours of operation to between 8:00 a.m. and 10:00 p.m. Monday through Sunday or as otherwise limited by state law;

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- ii. Medical marijuana businesses shall apply for a sign permit through the Community Development Department. All exterior signage associated with a medical marijuana business will meet the standards established in the Colorado Marijuana Code, the Code of Colorado Regulations, and in the City Code. In addition, no sign associated with a medical marijuana business shall use the word "marijuana," "cannabis," or any other word or phrase commonly understood to refer to marijuana or a graphic/image of any portion of a marijuana plant, or paraphernalia associated with medicinal marijuana use unless immediately preceded by the word "medical" or the message of such sign includes the words "for medical use" or "for medicinal purposes" in letters that are no smaller than the largest letter on the sign; and
  - iii. Marijuana plants, products, accessories, and associated paraphernalia contained in a medical marijuana facility shall not be visible from a public sidewalk, public street or right-of-way, or any other public place.
  - iv. No discernible odor shall be projected beyond the exterior walls of the licensed premises.

(12) *Retail Marijuana Business.*

- a. *Purpose.* The City Council intends to allow state-licensed retail marijuana businesses to exist in Glenwood Springs in accordance with Article XVIII, Section 16 of the Colorado Constitution, Article 10 of Title 44 Colorado Revised Statutes, and any other applicable state laws and regulations as well as the additional local licensing requirements and other restrictions set forth in the Glenwood Springs Municipal Code. Nothing within this article is intended to promote or condone the production, use, sale, testing or distribution of marijuana other than in compliance with applicable state law.
- b. *License Required.* Retail marijuana businesses shall comply with City Code Article 050.090.
- c. *Location of Licensed Business.* Retail marijuana businesses shall be located only in areas of the City as allowed in the City Code. The ability to operate a retail marijuana business on any given property shall cease upon a three-year period of the use not occurring thereon. No retail marijuana business shall be located:
  - 1. Within one thousand (1,000) feet of any existing public or private school facility where classes are held for children aged kindergarten through the 12th grade; park designated in Section 090.030.010(b) but excluding subsection (15); mental health facility; or drug treatment facility. The distance shall be computed by a straight line measurement from the nearest property line of the school property, park, mental health facility, or drug treatment facility to the nearest property line of the site housing the retail marijuana business;
  - 2. Within one thousand (1,000) feet of another retail marijuana business, medical marijuana business, or a marijuana cultivation facility. A retail marijuana business may locate on the same licensed premises as a medical marijuana business or marijuana cultivation facility of the same class and same ownership, only if the licensed premises is located to meet the distance requirements from other retail marijuana businesses, medical marijuana businesses, and marijuana cultivation facilities. This distance shall be computed by a straight line measurement between property lines of the sites housing the two (2) facilities; or
  - 3. In any zoning district not specifically permitted by the City Code.
- d. *Requirements Related to Operation of a Retail Marijuana Business.*

1. Retail marijuana businesses shall meet all operational criteria for the procurement, display, dispensing, labeling, sanitation, security, and any other criteria as required by the state pursuant to the CMC and the City Code Article 050.090.
2. In addition, all retail marijuana businesses shall comply with the following local restrictions:
  - i. Hours of operation shall be limited to between 8:00 a.m. and 10:00 p.m. Monday through Sunday; and
  - ii. A sign permit shall be obtained through the Community Development Department. All exterior signage associated with a retail marijuana business will meet the standards established in the Colorado Marijuana Code and in the City Code.
  - iii. Storage of retail marijuana shall be considered an accessory use. Not more than twenty-five (25) percent of the licensed premises of a retail marijuana business shall be used for such purposes.
  - iv. No discernible odor shall be projected beyond the exterior walls of the licensed premises.

(13) *Bank or Financial Institution.*

- a. In the M1, CO, RE, I1, I2, and IN districts, drive-through services require a special use permit.
- b. In the M2 district, drive-through services are prohibited.

(14) *Personal Service, General.*

- a. In the M1, CO, RE, I1, I2, and IN districts, drive-through services require a special use permit.
- b. In the M2 district, drive-through services are prohibited.

(15) *Recreational Vehicle Park.*

- a. *Dimensional Standards.*

<b>Table 030.2: RV Park Dimensional Standards</b>	
Maximum density	15 RV spaces per acre
Minimum RV space size	1,500 square feet
Minimum setback from RV to residential zoning district	50 feet
Minimum RV setbacks (to any accessory structure or to another RV space):	
Front	20 feet
Side	10 feet
Rear	15 feet
Minimum distance between RVs and accessory structures	10 feet
Minimum setback from access road and internal drives to RVs or accessory structures	5 feet
Maximum height of accessory structures	Lesser of two stories or 27 feet

- b. *Laundry Drying and Outdoor Storage Yards.* Laundry drying yards and outdoor storage yards shall be screened from view by an opaque hedge, wall, or fence not less than six (6) feet in height.

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- c. *Driveways and Access.*
1. Each recreational vehicle space shall front upon a common driveway of not less than twenty-four (24) feet in width which shall be lighted, paved, and maintained in a dust-proof condition. All entry driveways to the recreational vehicle park shall have clear and unobstructed access to a public street, and shall be lighted, paved, and maintained in a dust-proof condition.
  2. There shall be one (1) common access to the recreational vehicle park, and there shall be no individual access to an individual recreational vehicle space from any public street or alley. Additional emergency access may be required at the discretion of the City.
- d. *Parking and Storage.* No recreational vehicle, accessory recreational vehicle, boat, or other vehicle shall be stored or parked unattached on a drive within a recreational vehicle park. Special storage areas for such accessory vehicles shall be clearly designated within the recreational vehicle park and shall be screened from view by an opaque hedge, wall, or fence not less than six (6) feet in height.
- e. *Park Models.* Recreational vehicle spaces for park models shall not exceed thirty-five (35) percent of the total number of recreational vehicle spaces in the park. Under no circumstances shall park models be used as permanent residences within a recreational vehicle park.
- f. *Accessory Structures.* All accessory structures shall be permanently constructed and shall have a consistent architectural style.
- g. *Snow Removal.* Recreational vehicle parks designed, occupied, and used for business between November and May of a calendar year shall provide adequate areas for storage of snow.
- h. *Pet Area.* A separate pet walking area shall be located within the recreational vehicle park and shall be maintained in a sanitary condition.
- i. *RV Space Landscaping.* A minimum of one (1) five-gallon shade tree shall be planted per recreational vehicle space in the general vicinity of the space. The trees shall be selected to have a mature height of between twenty (20) and thirty (30) feet and a mature canopy of ten (10) to twenty (20) feet. Existing landscaping shall be preserved whenever possible and may be credited to offset the requirements set forth in this Subsection.
- j. *Operation.* The owner of any recreational vehicle park shall comply with the following operational requirements:
1. *Park Rules and Regulations.* The park owner shall disseminate to all park users written rules and regulations which are consistent with the requirements of the special use permit and with the requirements of this Code.
  2. *Twenty-Four-Hour Management.* The park owner shall provide twenty-four-hour on-site management of the park at all times the park is in use.
  3. *Park Use.* Except as set forth herein, the owner shall restrict park access and the use of accessory recreational facilities in the park to the occupants of the recreational vehicle spaces and their confirmed guests. Accessory recreational facilities in the park may be rented on a contract basis to other groups, but shall not be open for general public use.
  4. *Trash Collection.* Dumpsters shall be emptied daily during the months of May through September and twice weekly during the months of October through April.
- (16) *Liquor Store.* Drive-through services are prohibited in all zoning districts except for the M2 and CO districts.

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- (17) *Retail, General.* In the I2 district, retail sales exceeding ten (10) percent of the gross floor area of the structure and/or site shall require a special use permit.
- (18) *Automotive Fuel Sales and Service Station.* The following types of modifications to the site and use require a special use permit and approval from the Fire Department:
- a. Change of the number of fuel pumps;
  - b. Change of the location of fuel pumps; and
  - c. Change in the type of service or location of bulk fuel tanks.
- (19) *Automotive Sales or Leasing.*
- a. In the M2 district, automotive sales and leasing, including vehicles for sale, shall take place entirely indoors.
  - b. No vehicles for sale or lease may be parked or stored in the public right-of-way.
- (20) *Natural Medicine Treatment Center.*
- a. Operating Hours. Natural medicine treatment centers operations shall be limited to between the hours of 8:00 a.m. and 10:00 p.m.
- (f) *Industrial Uses.*
- (1) *Brewery or Bottling Plant.*
- a. In the M1, M2, M3, and RE districts, production, processing, and storage of all materials and equipment shall be located entirely within an enclosed building.
  - b. Loading and unloading of the manufactured products shall not occur between the hours of 9:00 p.m. and 8:00 a.m.
- (2) *Fabrication, Manufacturing, and Testing Facility.*
- a. This use shall not include the testing of marijuana products.
  - b. In the M1, M2, M3, and RE districts, fabrication, manufacturing, and testing facilities shall be limited to no more than ten thousand (10,000) gross building square footage and shall occur entirely within an enclosed building.
  - c. Except in the I2 district, loading and unloading of production material and manufactured products shall not occur between the hours of 9:00 p.m. and 8:00 a.m.
- (3) *Marijuana Cultivation.*
- a. No marijuana cultivation facility shall be located or operated:
    1. Within one thousand (1,000) feet of any existing public or private school facility where classes are held for children aged kindergarten through the 12th grade; park as designated in Section 090.030.010(b) but excluding subsection (15); mental health facility; or drug treatment facility. This distance shall be computed by a straight line measurement from the nearest property line of the school property; park as designated in Section 090.030.010(b) but excluding subsection (15); mental health facility; or drug treatment facility to the nearest property line of the site housing the marijuana cultivation facility.
    2. Within one thousand (1,000) feet of another marijuana cultivation facility, medical marijuana business, or retail marijuana business. A marijuana cultivation facility may locate on the same licensed premises as a medical marijuana business or retail marijuana business of the same class and same ownership, only if the licensed premises meets the distance

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requirements from other retail marijuana businesses, medical marijuana businesses, and marijuana cultivation facilities. This distance shall be computed by a straight line measurement between property lines of the sites housing the two (2) facilities.

3. In a zoning district where it is not specifically permitted by the City Code.
  - b. The ability to operate a marijuana cultivation facility on any given property shall cease upon a three-year period of the use not occurring thereon.
  - c. No discernible odor shall be projected beyond the exterior walls of the licensed premises.
- (4) *Mini-Warehouse or Storage.*
- a. *Design.*
    1. Doors to individual storage units shall not face any abutting street frontage.
    2. One-story buildings shall be a maximum of fifteen (15) feet in height.
  - b. *Other Activities.* No other residential or nonresidential activities shall take place on the premises other than the rental of storage units.
  - c. *Outdoor Storage.* Outdoor storage shall not be permitted other than for boats, trailers, or vehicles, which shall be stored in screened areas. Screening for such areas shall comply with Subsection 070.040.050(f).
- (5) *Solar Energy System, Large Scale.*
- a. For ground-mounted units, a minimum of twenty (20) percent of the site shall consist of landscaped areas. Use of pollinator plants is encouraged.
  - b. All ground-mounted units shall be screened from view of adjacent residential uses or districts, and from public rights-of-way pursuant to Subsection 070.040.050(f)(1)d, Screening Mechanical and Utility Equipment.
  - c. All large scale solar energy systems shall be required to comply with the procedures and policies of the City's Electric Department which may include execution of interconnection or purchase agreement.
- (6) *Natural Medicine Cultivation, Manufacturing, and Testing Facilities.*
- a. Location of a Licensed Business. No natural medicine cultivation, manufacturing, or testing facility business shall be located:
    - i. Within one thousand (1,000) feet of another natural medicine cultivation, manufacturing, or testing facility.
- (g) *Wireless Communication Facilities.*
- (1) *Purpose.* In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the Glenwood Springs City Council finds that these regulations are necessary to:
    - a. Provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the City with the goal of having the fewest number of wireless communication facilities ("WCF") required to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services including all of those who install, maintain, operate, and remove WCFs;

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- b. Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including, but not limited to, camouflage design techniques and undergrounding of WCFs and the equipment associated therewith;
  - c. Develop smaller, less intrusive WCFs to supplement existing larger WCFs;
  - d. Utilize wall mounted panel antennas;
  - e. Construct roof mounted antennas only when wall mounted antennas will not provide adequate service or are not otherwise feasible;
  - f. Locate towers in non-residential areas, in a manner that minimizes the total number of towers needed throughout the community;
  - g. Promote the collocation of WCFs on new and existing sites;
  - h. Locate antennas and towers, to the extent possible, in areas where the adverse impact on the community is minimized;
  - i. Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently;
  - j. Effectively manage WCFs in the right-of-way; and
  - k. Manage amateur radio facilities and over-the-air receiving devices in the City.
- (2) *Definitions.* For purposes of this subsection, the following terms shall be defined as follows:
- a. *Accessory Equipment.* Any equipment serving or being used in conjunction with a wireless communication facility ("WCF"), including, but not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or other structures, including fences.
  - b. *Alternative Tower Structure.* Manmade trees, clock or water towers, bell steeples, light poles, traffic signals, buildings, and similar alternative design mounting structures that are intended to be compatible with the natural setting and surrounding structures, and employ camouflage or concealment design techniques so as to make the presence of antennas or towers architecturally compatible with the surrounding area. This term also includes any antenna or antenna array attached to an alternative tower structure or replacement pole. A stand-alone monopole in the right-of-way that accommodates small cell facilities is considered an alternative tower structure to the extent the pole meets the camouflage and concealment standards of Subsection 070.030.030(g), Wireless Communication Facilities.
  - c. *Antenna.* Any device used to transmit and/or receive radio or electromagnetic radio frequency signals including, but not limited, to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one (1) or more elements, multiple antenna configurations, or other similar devices and configurations.
  - d. *Base Station.*
    - 1. A structure or equipment at a fixed location that enables Federal Communications Commission ("FCC") licensed or authorized wireless communications between user equipment and a communications network. The definition of base station does not include or encompass a tower as defined herein or any accessory equipment associated with a tower. Base station includes, without limitation:
      - i. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the

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relevant application is filed with the City pursuant to this article has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support; and

- ii. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks) that, at the time the relevant application is filed with the City has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
2. The definition of "base station" does not include any structure that, at the time the application is filed with the City under Subsection 070.030.030(g), Wireless Communication Facilities, does not support or house equipment described herein in Subparagraphs i. and ii. of this definition.
- e. *Camouflage, Concealment, or Camouflage Design Techniques.* Any measures used in the design and siting of a WCF with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF site utilizes camouflage, concealment, or camouflage design techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a flagpole, or (iii) uses a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree) or (iv) is incorporated into or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent.
  - f. *Collocation.* Mounting or installing a WCF on a pre-existing structure and/or modifying a structure for the purpose of mounting or installing a WCF on that structure. For purposes of eligible facilities requests, "collocation" means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
  - g. *Eligible Facilities Request.* Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such eligible support structure involving: (i) collocation of new transmission equipment, (ii) removal of transmission equipment, and/or (iii) replacement of transmission equipment.
  - h. *Eligible Support Structure.* Any tower or base station as defined in this Code, provided that it is existing at the time the relevant application is filed with the City under Subsection 070.030.030(g), Wireless Communication Facilities.
  - i. *Existing.* A constructed tower or base station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an eligible facilities request, provided that a tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.
  - j. *Micro Wireless Facility.* A small cell facility that is no larger than twenty-four (24) inches in length, fifteen (15) inches in width, twelve (12) inches in height, and that has an exterior antenna, if any, that is no more than eleven (11) inches in length.
  - k. *Monopole.* A single, freestanding pole-type structure supporting one (1) or more antennas.
  - l. *OTARD.* An over-the-air receiving device.

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- m. *OTARD Antenna.*
    - 1. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one (1) meter or less in diameter; or
    - 2. An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is one (1) meter or less in diameter or diagonal measurement; or
    - 3. An antenna that is designed to receive television broadcast signals.
  - n. *OTARD Antenna Structure.* Any pole, tower, or other structure designed and intended to support an OTARD antenna.
  - o. *Readily Apparent.* The facility, in the discretion of the Director, will be easily recognizable as a WCF to a reasonable person viewing the facility as a whole and in the context of any adjacent improvements and landscaping from publicly accessible locations when considering the character, scale, and height of nearby and surrounding natural or architectural features. Methods of design and construction that may assist in reducing the visibility of a facility and reaching a conclusion that a facility is not readily apparent include the use of color mimicking surrounding structures and landscaping, minimizing facility size to the greatest extent feasible, integrating the facility into any adjacent or attached improvements, and positioning the facility in a manner that limits the degree to which the facility projects away from any adjacent structures or landscaping. Due to differences in site characteristics, a determination that a particular WCF will not be readily apparent at one (1) location shall not establish a precedent for the same determination for a facility of the same or similar design or construction at a different location.
  - p. *Replacement Pole.* An alternative tower structure that is a newly constructed and permitted traffic signal, utility pole, streetlight, flagpole, electric distribution, or streetlight pole or other similar structure of proportions and of equal height to a pre-existing pole or structure in order to support a WCF or SCF or to accommodate collocation and remove the pre-existing pole or structure.
  - q. *Site.* For towers other than towers in the public rights-of-way, 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. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a state or local government, if the approval of the modification occurred prior to the passage of the Middle Class Tax Relief and Job Creation Act of 2012, Section 6409(a) (the Spectrum Act) or otherwise outside of the Section 6409(a) process.
  - r. *Small Cell Facility.* A WCF where the following conditions are met:
    - 1. The WCF is mounted on a structure fifty (50) feet or less in height including the antennas or is mounted on a structure no more than ten (10) percent taller than other adjacent structures or does not extend the existing structure on which it is located to a height of more than fifty (50) feet or by more than ten (10) percent, whichever is greater.
    - 2. Each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and all other wireless equipment associated with the structure, including the wireless

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equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than twenty-eight (28) cubic feet in volume.

3. The WCF does not require antenna structure registration under Part 17 of the FCC's rules, the WCF is not located on tribal lands as defined in 36 CFR 800.16(x), and the WCF does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b). A small cell facility includes a micro wireless facility.
- s. *Substantial Change.* A modification that substantially changes the physical dimensions of an eligible support structure, which meets any of the following criteria:
1. For towers other than alternative tower structures in the right-of-way, it increases the height of the tower by more than ten (10) percent or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten (10) percent or more than ten (10) feet, whichever is greater;
  2. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of this subsection;
  3. For towers other than towers in the right-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater for eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;
  4. 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 (4) cabinets; or for towers in the right-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other ground cabinets associated with the structure;
  5. It entails any excavation or deployment outside the current site, except that, for towers other than towers in the public right-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than thirty (30) feet in any direction. The site boundary from which the thirty (30) feet is measured excludes any access or utility easements currently related to the site; or would impair the concealment elements of the eligible support structure; or
  6. For any eligible support structure, 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, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in Paragraphs (1), (2), (3), and (4) of this definition; and
  7. For any eligible support structure, it does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards

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reasonably related to health and safety, or it does not comply with any relevant federal requirements.

- t. *Tower*. Any structure that is designed and constructed primarily built for the sole or primary purpose of supporting one (1) or more any Federal Communications Commission ("FCC")-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes self-supporting lattice towers, guy towers or monopole towers. The term also includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and such other similar structures.
  - u. *Transmission Equipment*. Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
  - v. *Wireless Communications Facility, or "WCF"*. A facility used to provide personal wireless services as defined at 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 via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an antenna or antennas, including, without limitation, directional, omni-directional and parabolic antennas, base stations, support equipment, alternative tower structures, and towers. It does not include 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. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand-held radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of Subsection 070.030.030(g), Wireless Communication Facilities.
- (3) *Applicability*.
- a. *Base Stations, Alternative Tower Structures, Small Cell Facilities, and Towers*. The requirements in this subsection shall apply to all WCF applications for base stations, alternative tower structures, small cell facilities, and towers as defined in Subsection 070.030.030(g)(7), Definitions, and further addressed herein.
  - b. *Exemptions*. The requirements set forth in this subsection shall not apply to:
    - 1. *Amateur Radio Antennas*. Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive-only antennas, provided that the height be no more than the distance from the base of the antenna to the property line is met.
    - 2. *Pre-Existing WCFs*. Any WCF for which a permit has been properly issued prior to November 1, 2017, shall not be required to meet the requirements of this subsection, other than the operational standards set forth in this subsection. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable operational standards set forth in this subsection.

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3. *Miscellaneous Antennas.* Antennas used for reception of television, multi-channel video programming and radio such as over the air reception devices ("OTARD") antennas, television broadcast band antennas, and broadcast radio antennas, provided that any requirements related to special uses of this Code and the requirement that the height be no more than the distance from the base to the property line are met. The Director has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the Director's reasonable discretion, modifications are necessary to comply with federal law.
  4. *Temporary WCFs.* A temporary, commercial WCF for the purposes of providing coverage of a special event such as news coverage, sporting event, or proclaimed disaster, subject to advance notice as practicable to, and approval by, the City, except that such facility must comply with all federal and state requirements. Said WCF may be exempt from the provisions of this chapter one (1) week before and one (1) week after the duration of the special event or a proclaimed disaster.
- (4) *Operational Standards.*
- a. *Federal Requirements.* All WCFs shall meet the current standards and regulations of the Federal Aviation Authority ("FAA"), the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are amended, then the owners of the WCF governed by this subsection shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense.
  - b. *Radio Frequency Standards.* All WCFs shall comply with federal standards for radio frequency emissions. If the City has or receives concerns regarding compliance with radio frequency emissions standards for a WCF, the City may request that the owner or operator of the WCF provide information demonstrating compliance. If such information suggests, in the reasonable discretion of the City, that the WCF may not be in compliance, the City may request and the owner or operator of the WCF shall then submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and which compares the results with established federal standards. If, upon review, the City finds that the facility does not meet federal standards, the City may require corrective action within a reasonable period of time, and if not corrected, may require removal of the WCF pursuant to this section. Any reasonable costs incurred by the City, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the carrier, owner, or operator.
  - c. *Signal Interference.* All WCFs shall be designed and sited, consistent with applicable federal regulations, so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and non-residential properties; nor shall any such facilities interfere with any public safety communications. The applicant shall provide a written statement from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems and shall allow the City to monitor interference levels with public safety communications during this process. Additionally, the owner or operator shall provide an updated written statement from a qualified radio frequency engineer certifying that no potential interference problems shall occur for changes made to the facility at least ten (10) days prior to such change and shall allow the City to monitor interference levels with public safety communications during the testing process.

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- d. *Legal Access.* In all applications for WCFs an applicant must warrant and represent that it has the written agreement of the owner of the property which is the subject of the application for legal access to and from the WCF and the applicant must also warrant and represent that it will have legal access to the utilities to operate and maintain the WCF.
  - e. *Operation and Maintenance.* To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the City concludes that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have thirty (30) days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the City's building official may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the City may remove such WCF at the owner's expense.
  - f. *Abandonment and Removal.* If a WCF has not been in use for a period of three (3) months, the owner of the WCF shall notify the City of the non-use and shall indicate whether re-use is expected within the ensuing three (3) months. Any WCF that is not operated for a continuous period of six (6) months shall be considered abandoned. The City, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within thirty (30) days of receipt of written notice from the City. If the WCF is not removed within said thirty (30) days, the City may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired.
- (5) *Design Standards.* The requirements set forth in this Subsection shall apply to the location and design of all WCFs governed by this Section as specified below; provided, however, that the City may waive these requirements if it determines that the goals of this Section are better served thereby. To that end, WCFs shall be designed and located to minimize the impact on the surrounding area and to maintain the character and appearance of the City, consistent with other provisions of the Code.
- a. *Camouflage/Concealment.* All WCFs and any transmission equipment shall, to the extent possible, use camouflage design techniques including, but not limited to, the use of materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF to the surrounding natural setting and built environment. Design, materials, and colors of WCFs shall be compatible with the surrounding environment. Designs shall be compatible with structures and vegetation on the same parcel and adjacent parcels.
    1. Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g. proximity to historic or aesthetically significant structures, views, and/or community features). In such instances where WCFs are located in areas of high visibility, they shall (where possible) be designed (e.g., depressed, located behind earth berms, or with accessory equipment placed underground) to minimize their profile.
    2. The camouflage design may include the use of alternative tower structures should the Director determine that such design meets the intent of the Code and the community is better served thereby.
    3. All WCFs, such as antennas, vaults, equipment rooms, equipment enclosures, and tower structures shall be constructed out of non-reflective materials (visible exterior surfaces only). Coloring of welds, bands, bolts, and the like, shall be of a similar color to the main WCF.
    4. When located adjacent to a commercial establishment, unless replacing an existing utility pole, WCFs shall not be located in front of store front windows, primary walkways, primary

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entrances or exits, or in such a way that it would impede a delivery to the building. WCFs should be located between properties as much as possible.

5. When located within a right-of-way, deployment shall not impede existing and future facilities, including sidewalks, stormwater infrastructure, water infrastructure, and electric infrastructure, and other infrastructure included in adopted City plans.
- b. *Wall-Mounted WCFs.* Wall-mounted WCFs shall not extend above the roofline unless mounted to a penthouse that is set back from the vertical face of the building.
  - c. *Roof-Mounted WCFs.* Roof-mounted WCFs shall be approved only where an applicant demonstrates a wall-mounted WCF is inadequate to provide service and shall be evaluated for approval based upon the following criteria:
    1. Roof-mounted whip antennas shall extend no more than twelve (12) feet above the parapet of any flat roof or ridge of a sloped roof or penthouse to which they are attached;
    2. Roof-mounted panel antennas shall extend no more than ten (10) feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted; and
    3. Other roof-mounted related accessory equipment shall extend no more than seven (7) feet above any parapet of a flat roof upon which they may be placed and shall not be permitted on a sloped roof, unless incorporated into the roof design using camouflage and concealment techniques, as approved by the Community Development Director on a case-by-case basis.
  - d. *Hazardous Materials.* No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.
  - e. *Siting.*
    1. No portion of any WCF may extend beyond the property line of the lot upon which it is located.
    2. Collocation. Collocation of facilities with other providers is encouraged. No WCF owner or operator shall unfairly or unreasonably exclude a competitor from using the same facility or location. Collocation can be achieved as either wall-mounted, roof-mounted or ground-mounted facilities. In designing or retrofitting towers, applicants are strongly encouraged to consider the possibility of present or future collocation of other WCFs by structurally overbuilding in order to handle the loading capacity of additional WCFs for the use of the applicant and for other wireless service providers to use as well. Applicants shall use good faith efforts to negotiate lease rights to other users who desire to use an approved WCF site. Collocation on an existing support structure shall be permitted as an accessory use. Projections of any type on the monopole, which are not antennas, are strongly discouraged.
      - i. Multiple use facilities are encouraged as well. WCFs and equipment may be integrated into existing, replacement of existing, or newly developed facilities that are functional for other purposes, such as flagpoles, church steeples, highway lighting, etc. All multiple use facilities shall be designed to make the appearance of the antennae as inconspicuous as possible.
      - ii. The collocation requirement may be waived by the Community Development Director upon a showing of one (1) of the following: Federal or state regulations prohibit the use; the proposed use will interfere with the current use; the proposed use will interfere with surrounding property or uses; the proposed

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user will not agree to reasonable terms; the collocation is not in the best interest of the public health, safety or welfare; or collocation is not reasonably feasible from a technological, construction or design perspective. Time needed to review a collocation request shall not greatly exceed that for a single applicant.

3. WCFs shall be sited in a location that does not reduce the parking for the other principal uses on the parcel below Code standards.
- f. *Lighting.* WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, it shall conform to other applicable sections of the Code regulating outdoor lighting. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.
- g. *Landscaping and Fencing.*
1. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the parcel below Code standards.
  2. WCFs shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from adjacent residential property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the site.
  3. In locations where the visual impact of the WCF would be minimal, the landscaping requirement may be reduced or waived altogether by the director.
  4. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as WCFs sited on large, wooded lots, natural growth around the site perimeter may be a sufficient buffer.
  5. No trees larger than four (4) inches in diameter measured at four and one-half (4½) feet high on the tree may be removed, unless authorized by the Director. To obtain such authorization, the applicant shall show that tree removal is necessary, the applicant's plan minimizes the number of trees to be removed and any trees removed are replaced at a ratio of two (2) to one (1).
  6. The WCF shall comply with all additional measures deemed necessary to mitigate the visual impact of the facility. Also, in lieu of these landscaping standards, the Director may allow use of an alternate detailed plan and specifications for screening WCFs, including fences, walls, sign and structural applications, manufactured devices and other features designed to screen, camouflage and buffer antennas, poles and accessory uses. The plan should accomplish the same degree of screening achieved by meeting the standards outlined herein.
- h. *Noise.* Noise generated on the site shall not exceed the standards permitted in the Code, except that a WCF owner or operator shall be permitted to exceed Code noise standards for a reasonable period of time during repairs, not to exceed two (2) hours without prior authorization from the City.
- i. *Additional Design Requirements.* Additional design requirements shall be applicable to the various types of WCFs as specified below:
1. *Base Stations.* If an antenna is installed on a structure other than a tower, such as a base station (including, but not limited to, the antennas and accessory equipment), it shall be of a neutral, non-reflective color that is identical to, or closely compatible with, the color of

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the supporting structure, or use other camouflage/concealment design techniques so as to make the antenna and related facilities as visually unobtrusive as possible.

2. *Alternative Tower Structures and Small Cell Facilities.*

- i. Shall be designed and constructed to look like a building, facility, or structure typically found in the area;
- ii. Shall be camouflaged/concealed consistent with other existing natural or manmade features near the location where the alternative tower structure or small cell facility will be located;
- iii. Height or size of the proposed alternative tower structure or small cell facility should be minimized as much as possible and shall be subject to the maximum height restrictions of the zoning district in which they are located, subject to a maximum height limit of sixty (60) feet;
- iv. Shall be sited in a manner that is least obtrusive to residential structures and residential district boundaries;
- v. Shall take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;
- vi. Shall be compatible with the surrounding topography, tree coverage, and foliage;
- vii. Shall be designed utilizing design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
- viii. Visual impacts of the proposed ingress and egress shall be minimized.

3. *Alternative Tower Structures and Small Cell Facilities Located in the Right-of-Way.* The following requirements apply in addition to those set forth in Subsection 070.030.030(g)(4)i.2:

- i. Shall be no more than five (5) feet higher (as measured from the ground to the top of the pole) than any existing utility pole or traffic signal within five hundred (500) feet of the pole or structure or a maximum of twenty-five (25) feet, whichever is lower;
- ii. Any new pole for an alternative tower structure or small cell facility shall be separated from any other existing WCF facility by a distance of a least six hundred (600) feet, unless deployed on an existing structure in the right-of-way. The Community Development Director may exempt an applicant from this requirement if: (i) the applicant demonstrates through technical network documentation that the minimum separation requirement cannot be satisfied for technical reasons, or (ii) the Community Development Director determines, when considering the surrounding topography, the nature of adjacent uses and nearby properties, and the height of existing structures in the vicinity, that placement of a wireless facility at a distance less than six hundred (600) feet from another wireless facility in the public right-of-way will meet the intent of reducing visibility and visual clutter of WCF facilities;
- iii. Shall be sized to minimize the negative aesthetic impacts to the right-of-way;
- iv. Pole-mounted components shall be located on or within an existing utility pole serving another utility or on or within a new utility pole where other utility

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distribution lines are aerial, if there are no reasonable alternatives, and the applicant is authorized to construct the new utility pole;

- v. Shall be camouflaged/concealed consistent with other existing natural or manmade features in the right-of-way near the location where the alternative tower structure will be located;
- vi. To the extent technically feasible, collocations are strongly encouraged to limit the number of poles in the right-of-way;
- vii. Shall, when located near a residential property, be placed adjacent to the common side yard property line between adjoining residential properties, such that the WCF minimizes visual impacts equitably among adjacent properties. In the case of a corner lot, the facility must be placed adjacent to the common side yard property line between adjoining residential properties, or on the corner formed by two (2) intersecting streets;
- viii. Shall be designed such that antenna installations on traffic signals are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered;
- ix. Facility antennas, mast arms, equipment, and other facilities shall be sized to minimize visual clutter;
- x. Any ground mounted equipment shall be installed in an underground or partially underground equipment vault (projecting not more than thirty-six (36) inches above grade), or collocated within a traffic cabinet of a design approved by the Director; and
- xi. Shall not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way. Must comply with the Americans with Disabilities Act and all applicable local, state, and federal law and regulations. No alternative tower structure nor small cell facility may be located or maintained in a manner that causes unreasonable interference. Unreasonable interference means any use of the right-of-way that disrupts or interferes with this use by the City, the general public, or other person authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that disrupts vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.
- xii. Equipment enclosures shall be located out of view to the extent technically feasible.

4. *Towers.*

- i. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the City;
- ii. Tower structures should use existing land forms, vegetation, and structures to aid in screening the facility from view or blending in with the surrounding built and natural environment;
- iii. Monopole support structures shall taper from the base to the tip;

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- iv. All towers, excluding towers in right-of-way, shall be enclosed by security fencing or wall at least six (6) feet in height and shall also be equipped with an appropriate anti-climbing device. No security fencing or any portion thereof shall consist of barbed wire or chain link material;
  - v. Towers shall be subject to the maximum height restrictions of the zoning district in which they are located, subject to a maximum height limit of sixty (60) feet. Towers in the right-of-way shall not exceed twenty-five (25) feet in height and shall meet all of the design requirements of alternative tower structures in the right-of-way;
  - vi. Towers should be sited in a manner that that is least obtrusive to residential structures and residential district boundaries where feasible;
  - vii. Towers should take into consideration the uses on adjacent and nearby properties and the compatibility of the tower to these uses;
  - viii. Towers should be designed utilizing design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
  - ix. Visual impacts of the proposed ingress and egress shall be minimized.
  - x. No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the applicant proposes to address with its tower application. Evidence submitted to demonstrate that no existing WCF can accommodate these needs may consist of the following:
    - a. No existing WCFs are of sufficient height and are located within the geographic area required to meet the applicant's engineering requirements;
    - b. Existing WCFs do not have sufficient structural strength to support applicant's proposed WCF;
    - c. The applicant's proposed WCFs would cause electromagnetic interference with the WCFs on the existing WCFs or the existing WCF would cause interference with the applicant's proposed WCF; and
    - d. The applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for colocation.
  - xi. A tower, located outside of the right-of-way, shall meet the greater of the following minimum setbacks from all property lines:
    - a. The setback for a principal building within the applicable zoning;
    - b. Twenty-five (25) percent of the facility height, including WCFs and transmission equipment; or
    - c. The tower height, including antennas, if the tower is in or adjacent to a residential district or residential zoned property.
    - d. Towers over forty (40) feet in height shall not be located within one-quarter ( $\frac{1}{4}$ ) mile from any existing tower that is over forty (40) feet in height, unless the applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.

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5. *Related Accessory Equipment.* Accessory equipment for all WCFs shall meet the following requirements:
- i. All buildings, shelter, cabinets, and other accessory components shall be grouped as closely as technically possible;
  - ii. The total footprint coverage area of the WCF's accessory equipment shall not exceed three hundred fifty (350) square feet;
  - iii. No related accessory equipment or accessory structure shall exceed twelve (12) feet in height; and
  - iv. Accessory equipment, including, but not limited to, remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the accessory equipment shall be camouflaged or concealed.
- (6) *Review Procedures and Requirements.* No new WCF shall be constructed and no collocation or modification to any WCF may occur except after a written request from an applicant, reviewed and approved by the Director in accordance with this subsection. Except as otherwise set forth herein, all WCFs shall be reviewed pursuant to the procedures set forth in this subsection:
- a. *Pre-application Conference.* The applicant shall conduct a pre-application conference with staff of the Community Development Department before submitting a WCF application. A pre-application conference is not required but is strongly encouraged to facilitate the efficient processing of WCF applications.
  - b. *Submittal Requirements.* In addition to an application form, signal interference letter, and payment of all application and review fees, as established by resolution of City Council, each applicant shall submit a scaled site plan meeting the requirements of the City's Engineering Standards; photo simulation, scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate qualified professionals, showing the location and dimension of all improvements, including antennas, support structures, transmission buildings and/or other accessory uses, and information concerning topography, radio frequency coverage, tower height, setbacks, drives, access, parking, fencing, landscaping, lighting, signs, adjacent uses, drainage, and other information deemed by the director to be necessary to assess compliance with this section. The applicant shall also submit a building permit application, contractor license application, and right-of-way permit application, grading permit application (as applicable), and any required Colorado Department of Transportation or State of Colorado permits for concurrent review and processing by the applicable City departments, as specified in the WCF Application Checklist prepared and released by the Community Development Department.
  - c. Prior to issuance of a building permit, applicant shall submit a structural integrity report from a professional engineer licensed in the State of Colorado documenting the following:
    1. Tower height and design, including technical, engineering, and other pertinent factors governing selection of the proposed design;
    2. Total designed capacity of the structure, including number and types of antennas to be installed; failure characteristics of the tower and demonstration that site and setbacks are of adequate size to contain debris in the event of failure; and
    3. Specific design and reconstruction plans to allow shared use. This submission is required only if the applicant intends to share use of the facility by subsequent reinforcement and reconstruction of the facility; and

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4. Specific design considerations for impact or breakaway characteristics as required in specific roadway rights-of-way.
- d. *License Fee.* No new WCF facility shall be constructed or collocated upon any tower or other structure in a right-of-way without agreeing to the payment of a license or access fee, as established by resolution of City Council, not to exceed the amount that would be authorized of an entity regulated pursuant to 47 U.S.C. § 224.
  - e. *Inventory of Existing Sites.*
    1. Each applicant for a WCF shall provide to the Director a narrative description, map, and a GIS compatible data file of the applicant's existing or then currently proposed WCFs within the City, and outside of the City within one (1) mile of its boundaries. In addition, to the extent permitted by applicable regulations, the applicant shall inform the City generally of the areas of the City in which it believes WCFs may need to be located within the next three (3) years. The inventory list should identify the site name, site address, and a general description of the facility (for example, rooftop antennas and ground mounted equipment). This provision is not intended to be a requirement that the applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the City. Rather, it is an attempt to provide a mechanism for the City and all applicants for WCFs to share general information, assist in the City's comprehensive planning process, and promote collocation by identifying areas in which WCFs might be appropriately constructed for multiple users.
    2. The City may share such information with other applicants applying for administrative approvals or special use permits under this section or other organizations seeking to locate WCFs within the jurisdiction of the City, provided however, that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
  - f. *Good Faith Effort to Satisfy Order of Preference.* Except for applications for small cell facilities located in the right-of-way and eligible facilities requests, an applicant shall submit documentation demonstrating a good faith effort to locate facilities in accordance with the following order of preference:

*First:* Collocated on existing structures such as buildings, communication towers, flagpoles, church steeples, cupolas, nonornamental street lights such as highway lighting, etc.

*Second:* In locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.

*Least:* On vacant ground or highly visible sites without significant visual mitigation and where screening or buffering is difficult at best.
  - g. *Special Use Permit Required.*
    1. In all zoning districts, applications for base stations and alternative tower structures not within the right-of-way, and towers may be permitted only upon acquisition of a special use permit in accordance with Subsection 070.060.050(e), Special Use Permit.
    2. All applications for towers shall demonstrate that other alternative design options such as base stations or alternative tower structures are not viable options as determined by the City. Notwithstanding anything in this subsection to the contrary, no towers located in the right-of-way shall exceed twenty-five (25) feet in height.
  - h. *Applications for Base Stations and Alternative Tower Structures within Right-of-Way.* In all zoning districts, each application for a base station or alternative tower structure within the right-of-way

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shall be reviewed and considered for approval by the Director for conformance with this subsection and the applicant's execution of a license agreement as approved by the Director.

- i. *Review Procedures for Wireless Communication Facilities.* Applications for WCFs shall be reviewed by the Director for conformance with this subsection and may be approved pursuant to a Master License Agreement or similar form of authorization or individually in accordance with the provisions of this subsection.
  1. *Time Periods for Review.* The City shall act on a siting application on or before the shot clock date for the application, as defined in Paragraph (5) of this subsection, Review Procedures for Wireless Communication Facilities, unless the applicant and the City agree to a different time period for review.
  2. *Shot Clock Period.* The shot clock period for a siting application is the sum of:
    - i. The number of days of the presumptively reasonable period of time for the pertinent type of application, pursuant to Paragraph (3) of this subsection, Review Procedures for Wireless Communication Facilities; plus
    - ii. The number of days of the tolling period, if any, pursuant to Paragraph (4) of this subsection.
  3. *Presumptively Reasonable Periods of Time.* The following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments in following categories:
    - i. Review of an application to collocate a small cell facility using an existing structure: Sixty (60) days.
    - ii. Review of an application to collocate a facility other than a small cell facility using an existing structure: Ninety (90) days.
    - iii. Review of an application to deploy a small cell facility using a new structure: Ninety (90) days.
    - iv. Review of an application to deploy a facility other than a small cell facility using a new structure: One hundred fifty (150) days.
    - v. Batching:
      - a. If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either Paragraph (3)(i) or (iii) of this subsection, Review Procedures for Wireless Communication Facilities, then the presumptively reasonable period of time for the application as a whole is equal to that for a single deployment within that category.
      - b. If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within Paragraph (3)(i) of this subsection and deployments that fall within Paragraph (3)(iii) of this subsection, then the presumptively reasonable period of time for the application as a whole is ninety (90) days.
  4. *Tolling Period.* Unless a written agreement between the applicant and the Department provides otherwise, the tolling period for an application (if any) is:
    - i. For an initial application to deploy small wireless facilities, if the Community Development Department notifies the applicant on or before the tenth day

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after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the Department to render the application complete.

- ii. For all other initial applications, the tolling period shall be the number of days from:
    - a. The day after the date when the Department notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation; until
    - b. The date when the applicant submits all the documents and information identified by the Department to render the application complete;
    - c. But only if the notice pursuant to Paragraph (4)(ii)(a) of this subsection, Review Procedures for Wireless Communication Facilities, is effectuated on or before the thirtieth day after the date when the application was submitted; or
  - iii. For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from:
    - a. The day after the date when the Department notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the Department's original request under Paragraph (4)(i) or (ii) of this subsection, Review Procedures for Wireless Communication Facilities; until
    - b. The date when the applicant submits all the documents and information identified by the Department to render the application complete;
    - c. But only if the notice pursuant to Paragraph (d)(3)(i) of this subsection is effectuated on or before the tenth day after the date when the applicant makes a supplemental submission in response to the Department's request under Paragraph (d)(1) or (2) of this subsection.
5. *Shot Clock Date.* The shot clock date for a WCF application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified pursuant to Paragraph (2) of this subsection, Review Procedures for Wireless Communication Facilities; provided, that if the date calculated in this manner is a legal holiday within the City, the shot clock date is the next business day after such date.
6. *Consolidated Applications.* The City shall allow a wireless provider to file a consolidated application for up to twenty (20) small cell facilities and receive a single permit for the small cell network. The City's denial of any individual small cell facility is not a basis to deny the application as a whole or any other small cell facility incorporated within the consolidated application.

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j. *Review Procedures for Eligible Facilities Requests.*

1. *Application.* In all zoning districts, eligible facilities requests shall be considered a permitted use subject to administrative review and determination by the Director. 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. Such information may include, without limitation, whether the request:
  - i. Would result in a substantial change; or
  - ii. Would violate a generally applicable law, regulations, or other rule reasonably related to public health and safety.

The application may not require the applicant to demonstrate a need or business case for the proposed modification or collocation.

2. *Type of Review.* Upon receipt of an application for an eligible facilities request pursuant to this section, the Director shall review such application to determine whether the application so qualifies.
3. *Timeframe for Review.* Subject to the tolling provisions of this subsection, Review Procedures for Eligible Facilities Requests, Tolling of the Timeframe for Review, within sixty (60) days of the date on which an applicant submits an application seeking approval under this subsection, the City shall approve the application unless it determines that the application is not covered by this subsection or is otherwise not in conformance with applicable codes.
4. *Tolling of the Timeframe for Review.* The sixty-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the City and the applicant, or in cases where the Director determines that the application is incomplete:
  - i. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application;
  - ii. The timeframe for review begins running again the following business day after the applicant makes a supplemental written submission in response to the City's notice of incompleteness; and
  - iii. Following a supplemental submission, the City will notify the applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in Paragraph i. above. In the case of a second or subsequent notice of incompleteness, the City may not specify missing documents or information that were not delineated in the original notice of incompleteness.
5. *Failure to Act.* In the event the City fails to act on a request seeking approval for an eligible facilities request under this subsection within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant becomes effective when the applicant notifies the City in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.
6. *Interaction with Telecommunications Act Section 332(c)(7).* If the City determines that the applicant's request is not an eligible facilities requests set forth in this subsection, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC's

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Shot Clock order and set forth above in Review Procedures for Wireless Communication Facilities, 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 Review Procedures for Wireless Communication Facilities.

- k. *Micro Wireless Facilities.* An application, application fee, and permit are not required for the installation, placement, operation, maintenance, or replacement of a micro wireless facility suspended on cable operator-owned cables or lines that are strung between existing utility poles in compliance with national safety codes. Cable operator shall have the meaning set forth in C.R.S. § 29-8-103(1), as amended. However, a right-of-way permit is required if the installation, placement, operation, maintenance, or replacement of a micro wireless facility:
  - 1. Involves working within a highway travel lane or requires the closure of a highway travel lane;
  - 2. Disturbs the pavement or a shoulder, roadway, or ditch line;
  - 3. Includes placement on limited access rights-of-way; or
  - 4. Requires any specific precautions to ensure the safety of the traveling public; the protection of public infrastructure; or the operation of public infrastructure; and such activities either were not authorized in, or will be conducted in a time, place, or manner that is inconsistent with, the approval terms of the existing permit for the facility or structure upon which the micro wireless facility is attached.
- l. *Abandonment and Removal.* Prior to approval, affidavits shall be required from the owner of the property and from the applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of six (6) months.
- m. *Decision.* Any decision to approve, approve with conditions, or deny an application for a WCF, shall be in writing and supported by substantial evidence in a written record. The applicant shall receive a copy of the decision.
- n. *Compliance with Applicable Law.* Notwithstanding the approval of an application for colocation as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in the Code and any other applicable regulations. In addition, all WCF applications shall comply with the following:
  - 1. Comply with any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF;
  - 2. Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;
  - 3. Be maintained in good working condition and to the standards established at the time of application approval; and
  - 4. Remain free from trash, debris, litter, noxious weeds, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten (10) calendar days from the time of notification by the City or after discovery by the owner or operator of the site. Notwithstanding the foregoing, any graffiti on WCFs located in the right-of-way or on other public property may be removed by the City at its discretion, and the owner or operator of the WCF shall pay all costs of such removal within thirty (30) days after receipt of an invoice from the City.

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- o. *Compliance Report.* Upon request by the City, the applicant shall provide a compliance report within forty-five (45) days after installation of a WCF, demonstrating that as installed and in operation, the WCF complies with all conditions of approval, all applicable Code requirements and standard regulations.
- (7) *Appeal of Director Decision.* Applicants may appeal the Director's decision in accordance with Section 070.060.070(c), Appeals.
  - (8) *Referral to Planning and Zoning Commission.* Except for WCFs in the right-of-way that meet all requirements of this subsection, the Director may refer the application to Planning and Zoning Commission for special use permit review if the Director finds the proposed WCF to have a significant visual impact (e.g., proximity to historic or designated view corridors, or on significant community features), or otherwise is substantially incompatible with the structure on which the WCF will be installed, or it does not meet the clear intent of this Subsection. The City shall notify the applicant of this referral as early as practicable and in no event more than fourteen (14) days prior to the Planning Commission hearing.
  - (9) *Special Use Permit Standards for Approval.* In addition to the design standards set forth in this subsection, WCFs subject to acquisition of a special use permit shall be reviewed in accordance with the procedure set forth in Subsection 070.060.050(e), Special Use Permit, subject to the following criteria:
    - a. *Base Stations.*
      - 1. Such facilities shall be architecturally compatible with respect to attachments, and colored to match the building or structure to which they are attached;
      - 2. The maximum protrusion of such facilities from the building or structure face to which they are attached shall be six (6) feet;
      - 3. Wall-mounted WCFs shall not extend above the roofline unless mounted to a penthouse; and
      - 4. Roof-mounted WCFs shall be approved only where an applicant demonstrates a wall mounted WCF is inadequate to provide service and evaluated for approval based upon the following criteria:
        - i. Roof-mounted whip antennas shall extend no more than twelve (12) feet above the parapet of any flat roof or ridge of a sloped roof or penthouse to which they are attached;
        - ii. Roof-mounted panel antennas shall extend no more than seven (7) feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted; and
        - iii. Other roof-mounted transmission equipment shall extend no more than seven (7) feet above any parapet of a flat roof upon which they may be placed and shall not be permitted on a sloped roof.
    - b. *Alternative Tower Structures.*
      - 1. Such structures shall be architecturally compatible with the surrounding area;
      - 2. Height or size of the proposed alternative tower structure should be minimized as much as practically possible;
      - 3. WCFs shall be sited in a manner that evaluates the proximity of the facility to residential structures and residential district boundaries;

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4. WCFs shall take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;
  5. Compatibility with the surrounding topography;
  6. Compatibility with the surrounding tree coverage and foliage;
  7. Compatibility of the design of the site, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
  8. Impact on the surrounding area of the proposed ingress and egress, if any.
- c. *All Other Towers.* The City shall within the framework of the review criteria set forth in this subsection consider the following factors in determining whether to issue a special use permit, although the City may waive or reduce the burden on the applicant of one (1) or more of these criteria if the City concludes that the goals of this Subsection are better served thereby.
1. Height or size of the proposed tower;
  2. Proximity of the tower to residential structures and residential district boundaries;
  3. Nature of uses on adjacent and nearby properties;
  4. Compatibility with the surrounding topography;
  5. Compatibility with the 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. Proposed ingress and egress; and
  8. No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the applicant proposes to address with its tower application. Evidence submitted to demonstrate that no existing WCF can accommodate these needs may consist of the following:
    - i. No existing WCFs with a suitable height are located within the geographic area required to meet the applicant's engineering requirements;
    - ii. Existing WCFs do not have sufficient structural strength to support applicant's proposed WCF;
    - iii. The applicant's proposed WCFs would cause electromagnetic interference with the WCFs on the existing WCFs or the existing WCF would cause interference with the applicant's proposed WCF; and
    - iv. The applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for colocation.

(Ord. No. 19-2018, § 2(Exh. A), 8-2-2018; Ord. No. 9-2019, §§ 2, 3, 7-18-2019; Ord. No. 27-2020, § 2(Exh. A), 11-19-2020; Ord. No. 3-2021, § 2(Exh. A), 5-20-2021; Ord. No. 18-2021, § 2(Exh. A), 1-6-2022; Ord. No. 04-2022, § 2(Exh. A), 3-3-2022; Ord. No. 18-2022, § 2(Exh. A), 7-21-2022; Ord. No. 20-2022, § 2(Exh. A), 9-1-2022; Ord. No. 28-2022, § 2(Exh. A), 12-1-2022; Ord. No. 15-2023, § 2(Exh. A), 10-5-2023; Ord. No. 9-2024, § 2(Exh. A), 5-16-2024; Ord. No. 13-2024, § 2(Exh. B), 7-18-2024; Ord. No. 6-2025, § 2(Exh. A), 3-6-2025; Ord. No. 11-2025, § 2(Exh. A), 4-3-2025)