



PLANNING & ZONING COMMISSION AGENDA

**PLANNING & ZONING COMMISSION
REGULAR MEETING
THURSDAY, February 25th, 2021
9:00 AM**

**Virtual Zoom Meeting
CITY HALL
201 S. CORTEZ STREET
PRESCOTT, ARIZONA**

The following agenda will be considered by the **PLANNING & ZONING COMMISSION** at its meeting to be held on **February 25th, 2021**, public may attend through the use of a technological device via Zoom teleconferencing. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

Join Zoom Webinar: <https://us02web.zoom.us/j/82078081794>

Dial by telephone (if computer audio not available):

1 346 248 7799 or
1 669 900 6833

Webinar ID: 820 7808 1794

- I. **CALL TO ORDER- Housekeeping- Please keep your phone on mute unless you are speaking in order to minimize background noise.**

Please identify yourself each time you speak so that we can record your comments in the minutes and properly count motions and votes.

II. **ATTENDANCE**

MEMBERS	
Don Michelman, Chair	Greg Lazzell
Ted Gambogi, Vice Chair	George Lee
Stan Goligoski	Butch Tracey
Thomas Hutchison	

III. **REGULAR AGENDA ITEMS**

1. Approval of the January 28, 2021 meeting minutes

IV. **DISCUSSION ITEMS**

1. **LDC21-001:** LDC21-001: Amendment to Land Development Code Article 2, Section 2.4.49. Telecommunications Facilities, to create development criteria to permit these facilities with an allowance for the height to exceed the zoning districts height in commercial and industrial zoning districts, require concealment, and screen equipment compounds.

V. **STAFF UPDATES**

V. **ADJOURNMENT**

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall and on the City's website on 2/19/2021 at 4:00 PM in accordance with the statement filed with the City Clerk's Office.

Sarah M. Siep

Sarah Siep, City Clerk

THE CITY OF PRESCOTT ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. With 72 hours advanced notice, special assistance can be provided for sight and/or hearing-impaired persons at this meeting. Reasonable accommodations will be made upon request for persons with disabilities or non-English speaking residents. Please call the City Clerk (928) 777-1272 to request an accommodation to participate in this public meeting. Prescott TDD number is (928) 445-6811. Additionally, free public relay service is available from Arizona Relay Service at 1-800-367-8939 and more information at www.azrelay.org.

- **MINUTES of the PRESCOTT PLANNING & ZONING COMMISSION MEETING held on January 28th, 2021 at 9:00 AM via ZOOM teleconferencing.**

I. CALL TO ORDER

Chair Don Michelman called the meeting to order at 9:10 a.m.

II. ATTENDANCE

COMMISSIONERS	STAFF MEMBERS
Don Michelman, Chair	Bryn Stotler, Community Dev. Director
Ted Gambogi, Vice Chair	George Worley, Planning Manager
Stan Goligoski	Tammy DeWitt, Community Planner
Thomas Hutchison	Kaylee Nunez, Recording Secretary
Gregory Lazzell	
George Lee, Absent	COUNCIL
Butch Tracey	Councilman Steve Sischka, Liaison
	Councilman Phil Goode
	Councilmember Rusing

III. REGULAR AGENDA ITEMS

1. Approval of the January 14th, 2021 Meeting Minutes.

Commissioner Lazzell moved to approve the January 14th, 2021 minutes, Commissioner Tracey seconded the motion. Motion passed (6-0).

2. LDC21-001- Discussion of a proposed update to Section 2.4.49 Telecommunications Facilities in the Land Development Code.

Community Development Director Bryn Stotler explained that the City's Land Development Code (LDC) has not been updated since 2003 and that a Council study session was held on October 27th to discuss options for adjusting the current telecommunications (wireless) facilities code. Ms. Stotler explained that three principle updates were requested by Council members as a result. They are:

- 1) Mandatory concealment (stealth designs) in residential areas
- 2) A stated preference for collocation and usage of already compromised site(s)
- 3) Requirement to screen ground infrastructure

Ms. Stotler also explained that this meeting is meant to be a 'discussion starter' only and that no final determinations will be made at this time.

Community Planner Tammy DeWitt also clarified that all material presented is rough draft only. Ms. Dewitt explained the City's current process for all new wireless facilities, which require a Special Use Permit (SUP) in all zoning districts. She also discussed how cell phone technology has changed immensely in the past 18 years and that towers have changed a lot as a result, including enhanced engineering that provides for 'self-collapse' (i.e., folding over on itself to reduce tower length if collapsed) as opposed to falling as a full-size tower in the event of a structural failure. There are two drafts being presented. The first draft is a complete rewrite of Prescott's existing wireless ordinance, which involves a complete replacement of the current LDC language. The second draft is an update or edit of Prescott's current adopted wireless ordinance.

Both drafts propose that wireless (telecommunications) facility height allowances be increased to the following:

- 50 feet in residential zoning districts (SF-6, SF-9, SF-12, SF-18, SF-35 & RE-1 ACRE)
- 60 feet in multifamily and light commercial zoning districts (MF-M, MF-H, SPC, MU, RO, NOB & DTB)
- 70 feet in commercial districts (BG & BR)
- 80 feet in industrial (IT, IL & IG)
- All residential, multifamily & light commercial and commercial districts will require that the telecommunications facilities be concealed. Concealment requirements in industrial districts could be considered.

Commissioner Hutchison inquired about a 2018 FCC directive and asked whether we (the City) were responding to that change. Ms. Stotler referred to Assistant City Attorney Matt Podracky for response. Mr. Podracky responded that the City is attempting to come into compliance with existing (federal) rules. There are five limitations the FCC places on local governments regarding wireless facilities. The federal government is working towards deregulation in regards to wireless technology. Mr. Podracky explained that this update is not in response to 2018 FCC changes per se, but changes to the law since the last LDC update in 2003 and the requests made by the Council in response to the October 27th study session. Mr. Podracky also included that the City changed the code two years ago to allow small cell towers in the right of way (ROW) with no zoning oversight; this was in response to state legislation.

Ms. DeWitt concluded that both proposed drafts create development criteria to allow telecommunications facilities to exceed current zoning district height requirements, and that all requests to exceed such will require Conditional Use Permits (CUPs) to be approved by the Board of Adjustment. Ms. DeWitt explained that staff chose the Board of Adjustment as they are a quasi-judicial board and review applications for relaxations of code requirements versus applications regarding land use decisions, which are traditionally made by the Planning & Zoning Commission. Ms. Stotler and Mr. Podracky both assured that CUPs have public noticing requirements and do allow for public input and participation.

Commissioner Lazzell agreed with tower height variances being reviewed by the Board of Adjustment. Mr. Lazzell asked whether a 50 foot tower would be allowed in a residential area by administrative application only under the new height allowances. Ms. DeWitt answered that it would. Mr. Lazzell expressed that it seems excessive, especially as permits are needed for less intensive projects in residential areas. He suggested the height be brought down to 30' in residential areas.

Commissioner Hutchison asked whether the City looked at comparable jurisdictions when drafting these proposals. Ms. Stotler explained that staff had presented samples of code from other communities in the October 27th Council study session. She stated that Council didn't appear to resonate with any of those approaches and, instead, put forth the three requested edits presented earlier. Ms. Stotler explained that staff drafted the aforementioned heights by right in accordance with historical (height) requests in the various zoning districts and in order to comply with existing federal framework.

Ms. DeWitt presented slides summarizing other comparable jurisdictions' telecommunication facilities codes, including Durango, Colorado, Payson and Flagstaff.

Commissioner Lazzell asked whether we could accommodate the natural characteristics of particular areas of town (i.e. tall pines vs. oaks) into the code.

Assistant City Attorney Podracky answered that doing so would be an appeal to aesthetics versus functionality. He explained that, per FCC regulations, local jurisdictions cannot 'prohibit nor have the effect of prohibiting the provision of personal wireless services'. Mr. Podracky seemed doubtful whether the City could potentially defend a denial based on such aesthetic bases and reasserted that the City cannot deny a cell tower application if it is 'the least intrusive means' to cover a 'significant gap' in personal wireless service.

Commissioner Goligoski stated that he feels the proposed height allowances modified to be by right are too generous, and the Planning & Zoning Commission should continue to review height exceptions as SUPs. Ms. Dewitt explained that the Board of Adjustment was opted for versus the Planning & Zoning Commission, because the Commission generally reviews land use decisions, whereas the BOA reviews development criteria, which height exceptions align more closely with.

Commissioner Goligoski also stated that draft option 2 seems 'cleaner' to him and that the terms facility and tower are interchanged frequently and should be separated, as they infer different uses.

Chair Michelman asked Mr. Podracky whether an appeal from the Board of Adjustment would go to the Superior Court, and if the applicant would have to hire an attorney in such an instance. Mr. Podracky answered that they would not *have* to hire an attorney, but should the case become complicated and require federal litigation, it might require professional counsel.

Chair Michelman also asked whether the difference between height allowances in single family versus multifamily zoning districts could be construed as discriminatory. Mr. Podracky offered that someone could certainly make that argument, but it would unlikely be a winning argument, as traditional zoning does have levels of 'allowable discrimination'. Ms. DeWitt answered that multifamily sites are typically 'more disturbed' than residential, which informed the proposal to allow for greater height in those areas.

Commissioner Lazzell commented that allowing different heights by right in different zoning districts is no different than doing so in different geographical areas. Ms. Stotler explained that we need to take into account that our zoning districts vary greatly in their topography, especially in residential areas.

Mr. Lazzell followed with an opinion that we should not take away from our residents' ability to speak on towers proposed in their area. Ms. Stotler explained that we are looking to 'strike a balance' between citizens' desires and fitting the federal framework.

Chair Michelman asked that each Commissioner comment on the proposed height allowances and the proposal to have height exceptions reviewed by the Board of Adjustment (versus Planning & Zoning Commission) under variance criteria.

- Commissioner Lazzell reiterated that he is in support of the changes to the multifamily, commercial and industrial height allowances, but feels that residential districts should have more public input. He supports applications for height exceptions being reviewed by the Board of Adjustment.

- Commissioner Goligoski expressed that he is in favor of cleaning up the code and likes the second presented draft. He also suggested that we should omit the height allowances altogether as they might limit the City's decisions, especially with continuing advances in technology.

- Commissioner Tracey would like to see a map of coverage provided by a 50' versus 30' tower provided in future applications, and is in agreement with Commissioners Lazzell & Goligoski regarding the height allowances.

- Commissioner Hutchison explained that decisions must be driven by hard data and that he is strongly supportive of the public being part of the process.

- Commissioner Gambogi agreed with the proposed height allowances and noted he supports height exception applications being reviewed by the Board of Adjustment

- Chair Michelman agreed with Commissioner Lazzell's opinion regarding height allowances; however, he feels all height exception applications should still be reviewed by the Planning & Zoning Commission as SUPs.

Director Stotler expressed that the Commission would not be voting on anything at this meeting, and that it seems the Commission is favoring a 'hybrid' of the two proposals.

Mr. Podracky re-capped that four Commission members are in favor of keeping review of applications for wireless facility height exceptions with the Planning & Zoning Commission (Michelman, Tracey, and Goligoski & Hutchison) and two Commissioners are in favor of having them reviewed by the Board of Adjustment (Gambogi & Lazzell).

IV. STAFF UPDATES

Community Development Director Bryn Stotler reiterated that we will be taking public comment at future meetings concerning this topic, and the Commission is free to continue its review at as many meetings as they deem necessary to arrive at recommendations for Council.

V. ADJOURNMENT

Chair Michelman adjourned the meeting at 10:27 AM

Kaylee Nunez, Recording Secretary

Don Michelman, Chair

Memo

Date: February 16, 2021
To: Chair and Planning and Zoning Commission Members
From: Tammy DeWitt, Community Planner
RE: LDC21-001: Telecommunication Facilities Land Development Code Update for the February 25, 2021 Commission meeting

Included in this packet is one (1) proposed version of a Land Development Code Amendment for Telecommunication Facilities on private property for consideration by the Commission at your February 25th meeting. The intent is to amend the code in order to create development criteria to permit these facilities with an allowance for the height to exceed the zoning districts height in the commercial and industrial zoning districts, require concealment, and screen equipment compounds. Any request to exceed the allowed height set by these amendments would require a Special Use Permit approved through a public hearing process by the City Council.

At the January 28th, 2021, Planning and Zoning Commission meeting, there were two documents presented to start a conversation and to get direction from the Commission on how they wanted Staff to proceed. From that meeting, it was understood that the Commission liked the draft based on the current code. The Commission agreed it should be updated with outdated language taken out, to update other criteria, residential zoning districts to maintain height restrictions of the zoning district, and that a SUP (Special Use Permit) approved by the City Council would be the process to approve waivers of height allowances.

In the packet is a copy of the current LDC code and of the proposed update. In regards to the main discussion about height allowances and processes, here is what is proposed based on the comments from the January 28th, 2021, Commission meeting:

3. Height

- a. Concealed Telecommunications Facilities that meet the height limitations for the underlying zoning district shall be permitted in the RE-1, SF-35, SF-18, SF-12, SF-9, SF-6, RT, MF-M, MF-H, SPC, MU, RO, NOB, and DTB zoning districts.
- b. Concealed Telecommunications Facilities that are less than 70 feet in height shall be permitted in the Commercial (BG and BR) zoning districts.
- c. New Support Structures up to 80 feet in height (with or without concealment) shall be permitted in all Industrial (IT, IL, and IG) zoning districts.

- d. In all districts, the City shall have the authority to vary the height restrictions listed in this section through a Special Use Permit upon the request of the applicant and a satisfactory showing of need for a greater height. With its Special Use Permit request the Applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the Satisfaction of the City Council.

Questions to consider for discussion:

1. Should the City consider creating an allowance for Telecommunications Facilities to exceed the zoning district height in any zoning district or should all height exceptions require a SUP?
2. Should the process to exceed the allowed height allowance in commercial and industrial districts be through the Special Use permit process to be approved by City Council or through the Variance process to be approved by the Board of Adjustment?
3. Should all telecommunications facilities, regardless of zoning district, be required to be concealed?

Staff is requesting the Chairman and Commission Members review the attachments and provide Staff with comments and suggestions. Please feel free to send comments before the meeting so we can research and be able to address at the February 25th Planning and Zoning Commission meeting.

2.4.49 / Telecommunications Facilities (Public, Civic and Institutional Use Categories, Utilities)

Telecommunications facilities, including commercial towers, antennas and wireless communication facilities and related facilities for one or more receivers, shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities, in accordance with the following standards.

A. Exemptions

Towers, antennas and wireless communication, and related facilities that are exempt from the requirements of this section include:

1. Those that are owned, operated or controlled by a governmental entity.
2. Those that are placed in City Rights-of-Way (See City Code 8-2-18).
3. Carrier on Wheels or Cell on Wheels (COW)- A portable self-contained Telecommunications Facility that can be moved to a location and set up to provide wireless facilities on a temporary or emergency basis when a natural disaster or State of Emergency has been declared. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.

B. General Provisions

1. Principal or Accessory Use

Antennas and towers may be considered either principal or accessory uses to the principal use of the property.

2. Appearance

- a. Towers and antennas shall conform to any applicable standards of the FCC, FAA, or other regulatory agencies, or be painted to reduce visual obtrusiveness and blend with the surroundings.
- b. Antenna and related electrical and mechanical equipment attached to alternative tower structures must be of a color compatible with the color of the supporting structure to make the antenna and related equipment visually unobtrusive.
- c. Improvements comprising a wireless communication facility shall, to the extent possible, use materials, colors, textures, screening, and landscaping blending them into the natural and surrounding setting.
- d. Towers shall not be artificially lighted unless required by the FAA or other applicable governmental authority. If lighting is required, the application shall contain a list of optional light devices and a statement of the reason for selection of the light device specified over each of the options. Economy and serviceability are among acceptable criteria for selection.

C. State and Federal Requirements

All towers, antennas and wireless communication facilities must meet or exceed standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate them or their components. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Section shall bring such towers and antennas into

compliance with such revised standards and regulations within six (6) months of the effective date of such standards and unless a different compliance schedule is mandated by controlling law.

D. Maintenance

Towers, antennas and wireless communication facilities shall be maintained in compliance with standards contained in applicable City building codes and the applicable health and safety standards established by the FCC, the City or other governmental bodies having jurisdiction, as amended from time to time.

Towers, antennas and wireless communications facilities which are not in compliance shall be removed at the owner's expense if not brought into compliance within 30 days after written demand by the City.

E. Signs

No signs shall be allowed on a tower or antenna, other than warning signs placed no higher than 6 feet above the base of the structure.

F. Engineered Design

Any information of an engineering nature that the applicant submits, whether civil, mechanical, structural or electrical, shall be certified by an Arizona Licensed Professional Engineer.

G. Modifications

Any modification to an existing facility shall require the existing facility to comply with all terms of this section and all other applicable codes and ordinances. Improvements to existing Telecommunications Facilities or Support Structures that result in a Substantial Increase to the existing structure. Collocation of new Telecommunications Facilities to an existing support structure without replacement of the structure shall not constitute a major modification.

Substantial Increase occurs when:

1. The mounting of the proposed antenna on an Existing Structure would increase the height of the Existing Structure by more than 10%, or by height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
2. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four (4), or more than one (1) new equipment shelter; or
3. The mounting of the proposed antenna would involve adding an appurtenance to the body of the Existing Structure that would protrude from the edge of the Existing Structure more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
4. The mounting of the proposed antenna would involve excavation outside the current Existing Structure and any access or utility easements currently related to the site.

H. Special Submission Requirements

Each application shall be accompanied by:

1. The address of the site;
2. The Assessors Parcel Number (APN) of the site and the zoning classification of the site;
3. A map of adjacent roadways;
4. A drawing of proposed means of access;
5. Elevation drawings of the exterior of each element of the proposed wireless communication facility;
6. A complete landscape plan;
7. Method of fencing;
8. Coloration;
9. Materials;
10. Illumination;
11. Camouflage;

I. Standards

1. Collocation

The policy of this Code shall be to encourage collocation to reduce the need for towers to serve particular geographical areas. Tower requests exceeding the Tower requests exceeding the zoning district permitted height of that height specified in this Section require a Special Use Permit. The ability to collocate additional carriers may be used as support for the granting of a Special Use Permit, at the City Council's discretion. Formal written collocation agreements consenting to the terms of the Special Use Permit approval will be required with Building Permit applications.

2. Setbacks

The following setback requirements shall apply to all new towers:

- a. Towers must be set back from any lot line a distance equal to at least 100 percent of the height of the tower unless a greater setback is required for the particular zone.
- b. Guy wires and accessory structures must satisfy the minimum zoning district setback requirements.

3. Height

- a. Concealed Telecommunications Facilities that meet the height limitations for the underlying zoning district shall be permitted in the RE-1, SF-35, SF-18, SF-12, SF-9, SF-6, RT, MF-M, MF-H, SPC, MU, RO, NOB, and DTB zoning districts.
- b. Concealed Telecommunications Facilities that are less than 70 feet in height shall be permitted in the Commercial (BG and BR) zoning districts.
- c. New Support Structures up to 80 feet in height (with or without concealment) shall be permitted in all Industrial (IT, IL, and IG) zoning districts.
- d. In all districts, the City shall have the authority to vary the height restrictions listed in this section through a Special Use Permit upon the request of the applicant and a satisfactory showing of need for a greater height. With its Special Use Permit request the Applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the Satisfaction of the City Council.

4. Removal

- a. Towers and antennas shall be removed, at the owner's expense, within 180 days of the discontinuance of use unless the City extends this time in writing.
- b. An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The Community Development Director may extend the time for removal or reactivation up to 60 additional days upon a showing of good cause. If the tower and antenna are not timely removed, the City may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the City may cause removal at the cost of the owner.
- c. Upon removal of the wireless telecommunication facility, the site shall be returned to its natural state and topography and vegetated consistent with the natural surroundings.

5. Concealed Telecommunications Facilities

- a. Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to the casual observer.
- b. Existing structures utilized to support the Antennas must be allowed within the underlying zone district.

J. Telecommunications-related Definitions

Telecommunications-related terms shall have the following meanings as used in this Section:

Table 2.4.51M

TELECOMMUNICATIONS-RELATED DEFINITIONS	
Term	Definition
Alternative tower structure	Vertical components not generally designed for use as antenna support structures including but not limited to structures such as church steeples, ballpark light poles and water towers.
Antenna	Any exterior device for transmitting and receiving wireless communication and mounted on a tower, alternative tower structure, building or structure and used for transmitting and receiving wireless communication for a fee to more than one provider at one time.
Certification	A written statement of the fact to be certified made under oath by the applicant and notarized. In the case of required engineering, plans specifications or documents sealed by an Arizona Registrant.
Collocation	Means use by 2 or more wireless communication providers located on the same tower or alternative tower structure.
Commercial Coverage	A single FCC licensee’s network of wireless communications facilities providing a level of service to all areas of the community which, when fully developed, will permit viable commercial operation.
FAA	the Federal Aviation Administration
FCC	the Federal Communications Commission
Height	The antennas and all related equipment shall be included in determining height.
Permanent Use	The active use of antennas for the commercial transmission and receipt of wireless communication intended at the time of its installation to be actively used for a period of not less than 3 years.
Tower	Any structure, including any supports, designed and constructed substantially for the purpose of being or supporting one or more antennas. Alternative tower structures shall be deemed a tower on the date a building permit is issued for modifications to enable its use as a tower.
Tower, Existing Facility	A tower, antennas or wireless communication facility in active use and for which a building permit has been properly issued and has not expired before the effective date of this Code.
Tower Height	The antennas and all related equipment shall be included in determining height. Refer to Sec. 2.7.3 for the definition of how height is measured.
Tower, Permanent Use	The active use of antennas for the commercial transmission and receipt of wireless communication intended at the time of its installation to be actively used for a period of not less than 3 years.
Tower Structure, Alternative	Vertical components not generally designed for use as antenna support structures including but not limited to structures such as church steeples, ballpark light poles and water towers.
Wireless	Any technology for transmitting communication through the air.

Table 2.4.51M

TELECOMMUNICATIONS-RELATED DEFINITIONS	
Term	Definition
Communication	
Wireless Communication Facility	Any combination of one or more antennas, towers and/or structures or equipment used for the transmission of wireless communication.

CURRENT PRESCOTT WIRELESS ORDINANCE
(FOR REFERENCE)

2.4.49 / Telecommunications Facilities (Public, Civic and Institutional Use Categories, Utilities)

Telecommunications facilities, including commercial towers, antennas and wireless communication facilities and related facilities for one or more receivers, shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities, and shall require a Special Use Permit in accordance with the following standards.

A. Purpose

These regulations are intended to provide for the development of wireless communication services to the community while:

1. Protecting residential areas and land uses from potential adverse impacts of towers and antennas;
2. Encouraging the location of wireless facilities in nonresidential areas;
3. Minimizing the total number of wireless communication sites throughout the community;
4. Encouraging the joint use of new and existing tower sites as a primary option rather than the construction of single-use towers;
5. Encouraging the users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact upon the community is minimal;
6. Encouraging users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design and siting, landscape screening, and innovative camouflaging techniques;
7. Enhancing the ability of the service providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
8. Considering the public health and safety associated with wireless communication facilities; and
9. Minimizing potential damage to adjacent properties from tower failure through proper engineering and careful siting of tower structures. In the furtherance of these goals the City shall give due consideration to the General Plan, the Zoning Code, and the Wireless Communication Plan for Central Yavapai County.

B. Exemptions

Towers, antennas and wireless communication, and related facilities that are exempt from the requirements of this section include:

1. Those not exceeding the maximum height and setback requirements of the underlying zoning district and used solely for transmissions by a single user and not otherwise restricted within that zone including, but not limited to, amateur radio and devices necessary for use of a subscription to a commercial wireless provider service.
2. Those that are owned, operated or controlled by a governmental entity.

C. General Provisions

1. Principal or Accessory Use

Antennas and towers may be considered either principal or accessory uses to the principal use of the property.

2. Lot Size

For purposes of determining whether the installation of a tower or antenna complies with district development regulations including, but not limited to, setback requirements, lot coverage requirements and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on a separately leased portion of the lot.

3. Appearance

- a.** Towers and antennas either shall maintain a galvanized steel finish or shall conform to any applicable standards of the FCC, FAA, or other regulatory agencies, or be painted to reduce visual obtrusiveness and blend with the surroundings.
- b.** Antenna and related electrical and mechanical equipment attached to alternative tower structures must be of a color compatible with the color of the supporting structure to make the antenna and related equipment visually unobtrusive.
- c.** Improvements comprising a wireless communication facility shall, to the extent possible, use materials, colors, textures, screening, and landscaping blending them into the natural and surrounding setting.
- d.** Towers shall not be artificially lighted unless required by the FAA or other applicable governmental authority. If lighting is required, the application shall contain a list of optional light devices and a statement of the reason for selection of the light device specified over each of the options. Economy and serviceability are among acceptable criteria for selection.

D. State and Federal Requirements

All towers, antennas and wireless communication facilities must meet or exceed standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate them or their components. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and unless a different compliance schedule is mandated by controlling law.

E. Maintenance

Towers, antennas and wireless communication facilities shall be maintained in compliance with standards contained in applicable City building codes and the applicable health and safety standards established by the FCC, the City or other governmental bodies having jurisdiction, as amended from time to time. Towers, antennas and wireless communications facilities which are not in compliance shall be removed at the owner's expense if not brought into compliance within 30 days after written demand by the City.

F. Signs

No signs shall be allowed on a tower or antenna, other than warning signs placed no higher than 6 feet above the base of the structure.

G. Site Development Standards

Except as provided in this section, all building and use processes and requirements, including height restrictions applicable in the applicable zone, shall apply to towers, antennas and wireless communication facilities.

H. Engineered Design

Any information of an engineering nature that the applicant submits, whether civil, mechanical, structural or electrical, shall be certified by an Arizona Licensed Professional Engineer.

I. Modifications

Any modification to an existing facility shall require the existing facility to comply with all terms of this section and all other applicable codes and ordinances.

J. Performance Criteria

The following characteristics are deemed consistent with the purposes of this section and will be afforded favorable weight in considering the application:

- 1.** Existing structures will be preferred over new structures;

2. New structures which appear to be structures commonly found within that zone are preferred over apparent wireless structures;
3. Wireless communication facilities, which cannot be readily observed from adjacent streets, are preferred;
4. Heights that do not exceed height limitations for the underlying zoning district. Heights in excess of permitted heights in the zone may be approved by Special Use Permit pursuant to Sec. [9.9](#);
5. Collocation of multiple uses on a single wireless communication facility will have significant favorable weight in evaluating the application;
6. Network development plans which achieve the fewest number of wireless communication facilities of all users reasonably necessary for commercial coverage;
7. Location in the least restrictive zone;
8. Suitability of the location for collocation of governmental public service wireless communication facilities.

K. Special Submission Requirements

Each application shall be on a form provided by the City and shall be accompanied by:

1. The address of the site;
2. The Assessors Parcel Number (APN) of the site and the zoning classification of the site;
3. A map of all properties within 300 feet of the proposed site together with a mailing list of all property owners within such 300 feet and stamped envelopes pre-addressed to each such property owner;
4. A map of adjacent roadways;
5. A drawing of proposed means of access;
6. Elevation drawings of the exterior of each element of the proposed wireless communication facility;
7. A complete landscape plan;
8. The setback distance between the proposed wireless communication facility and nearest residential unit, and residentially zoned properties within 300 feet of the wireless communication facility;
9. The separation distance from other towers described in the inventory of existing sites, their type of construction and the owner's name and address;
10. Method of fencing;
11. Coloration;
12. Materials;
13. Illumination;
14. Camouflage;
15. Certification that the applicant is licensed by the FCC to provide the service proposed and that the wireless communication facility, as represented in the application, will comply with all FAA, FCC and other applicable regulations;

16. A map of all locations owned, leased or operated by the applicant and their coverages which are located within 10 miles of the proposed site or which are capable of communication with the proposed site by wireless means;
17. A map of all collocation sites within 2 miles of the proposed site;
18. An inventory of towers, wireless communication facilities and alternative tower structures used by the applicant which are existing towers, antennas, wireless communications facilities which are facilities or for which application for approval has been submitted, and all additional sites the applicant intends to construct or utilize within 365 days following the date of the application, which are within the jurisdiction of this section or within 1 mile of the border thereof; the inventory shall include the location, height, and type of each;
19. Certification, as of the date of the application, that all wireless communication facilities within 25 miles of the proposed site which are owned, leased, or operated by any licensee who will use the proposed site, comply with all applicable FCC, FAA and other applicable regulations;
20. Certification of whether the applicant is applying for collocation treatment;
21. Certification that police, fire departments, public safety officials, water and sewer districts and local governments having jurisdiction within 5 miles of the site have been notified of the application;
22. Certification that no permitted site reasonably meets the needs of the applicant, listing all such sites within 5 miles of the proposed site and the reason each is not adequate for reasonable commercial coverage; and
23. A list of each wireless telecommunication facility with which the proposed site has the potential to interfere, including the name, address and phone number of the owner. Within 10 days following filing of the application, applicant shall file a certificate that each of the owners of facilities noted above has been given written notice of application.

L. Standards

In addition to other applicable standards of this Code, the following shall also be considered in determining whether to issue a Special Use Permit: height proposed, proximity to other uses, historic sites, landmarks, vehicle traffic routes, medical facilities, air routes, topographical features, utilities, access and suitability of alternative sites.

1. Collocation

The policy of this Code shall be to encourage collocation.

a. Preference

An applicant who certifies in writing that it will construct a tower suitable for collocating and, as a condition of zoning, or permit approval executes a written agreement (Collocation Agreement) with the City prepared by the City Attorney, consenting to application of the terms of this provision shall, unless waived by the applicant, receive preferential treatment for a final approval or rejection of its application after a complete and correct application, fee and all required documentation and information is filed.

b. Collocation Agreement

The Collocation Agreement shall provide for at least the following:

- 1) The applicant shall accept for collocation any FCC licensed wireless communication provider (Additional User) using any compatible technology on commercially reasonable terms considering all of the factors a reasonable tower leasing company would deem relevant in entering into such an agreement.
- 2) Any Additional User seeking collocation shall submit specifications for its equipment and use (Request) to the applicant and applicant shall, within 30 days thereafter, respond to such party in writing (Response) furnishing all technical requirements, which must be resolved before collocation. Copies of any such requests and responses shall be copied to the Community Development Director.

3) Applicant and the Additional User shall, thereafter in good faith, attempt to resolve any technical or business terms. If, after 30 days from the Response the Additional User believes the applicant has not negotiated in good faith, Additional User may submit in writing, a request for arbitration to applicant and the American Arbitration Association which shall designate a person knowledgeable in collocation of wireless communication carriers to act as arbitrator and decide all issues between the parties. Such arbitration shall be held within 30 days of the request for arbitration. Upon the written agreement of both parties, a different procedure for binding dispute resolution may be used. The result of the arbitration or other resolution method agreed to by the parties shall be binding and may not be appealed.

4) If the arbitrator certifies in writing to the City that the applicant has failed to comply with the decision of the arbitrator within 10 days of its issuance by the arbitrator, the use permit for the wireless communication facility in question shall be terminated and the wireless communications facility shall be removed within 30 days of the date of the arbitrators certification, failing which, the City shall have all of the remedies available to it for elimination of a use in violation of the zoning code.

5) The Additional Party, upon submitting the Request shall become a third party beneficiary to the Collocation Agreement.

6) The City shall not be a party to any contract between the applicant and the Additional Party, shall not be a required party, and shall not be made a party to any dispute or arbitration and applicant shall indemnify, defend and hold the City harmless from any cost, including reasonable attorney fees, associated with such matters.

7) A lease or other agreement containing the business terms proposed by the applicant for collocation shall be attached as an exhibit to the Collocation Agreement.

2. Setbacks

The following setback requirements shall apply to all towers for which a Special Use Permit is required; provided, however, standard setback requirements may be decreased if the goals of this Section would be better served thereby:

- a. Towers must be set back from any lot line a distance equal to at least 100 percent of the height of the tower unless a greater setback is required for the particular zone.
- b. Guy wires and accessory structures must satisfy the minimum zoning district setback requirements.

3. Height

Unless otherwise approved by City Council, tower height shall be limited to that established by the underlying zoning district.

4. Removal

- a. Towers and antennas shall be removed, at the owner's expense, within 180 days of the discontinuance of use unless the City extends this time in writing.
- b. An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The Community Development Director may extend the time for removal or reactivation up to 60 additional days upon a showing of good cause. If the tower and antenna are not timely removed, the City may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the City may cause removal at the cost of the owner.
- c. Upon removal of the wireless telecommunication facility, the site shall be returned to its natural state and topography and vegetated consistent with the natural surroundings.

5. Modification

No existing facility or wireless telecommunication facility may be changed or modified except as follows:

- a. The change or modification is required by a change in user or technology.

- b. The change does not increase the height of the tallest component above the height approved in the Special Use Permit or, in the case of an existing facility, its then current height.
- c. At the conclusion of the change or modification, the facility complies with all requirements of the building department.
- d. Each of the documents and certifications required for a Special Use Permit are given.

M. Telecommunications-related Definitions

Telecommunications-related terms shall have the following meanings as used in this Section:

Table 2.4.51M

TELECOMMUNICATIONS-RELATED DEFINITIONS	
Term	Definition
Alternative tower structure	Vertical components not generally designed for use as antenna support structures including but not limited to structures such as church steeples, ballpark light poles and water towers.
Antenna	Any exterior device for transmitting and receiving wireless communication and mounted on a tower, alternative tower structure, building or structure and used for transmitting and receiving wireless communication for a fee to more than one provider at one time.
Certification	A written statement of the fact to be certified made under oath by the applicant and notarized.
Collocation	Means use by 2 or more wireless communication providers located on the same tower or alternative tower structure.
Commercial Coverage	A single FCC licensee's network of wireless communications facilities providing a level of service to all areas of the community which, when fully developed, will permit viable commercial operation.
FAA	the Federal Aviation Administration
FCC	the Federal Communications Commission
Height	The antennas and all related equipment shall be included in determining height. See Sec. L.3 for the method of measuring height.
Permanent Use	The active use of antennas for the commercial transmission and receipt of wireless communication intended at the time of its installation to be actively used for a period of not less than 3 years.
Tower	Any structure, including any supports, designed and constructed substantially for the purpose of being or supporting one or more antennas. Alternative tower structures shall be deemed a tower on the date a building permit is issued for modifications to enable its use as a tower.
Tower, Existing Facility	A tower, antennas or wireless communication facility in active use and for which a building permit has been properly issued and has not expired before the effective date of this Code.
Tower Height	The antennas and all related equipment shall be included in determining height. Refer to Sec. 2.7.3 for the definition of how height is measured.
Tower, Permanent Use	The active use of antennas for the commercial transmission and receipt of wireless communication intended at the time of its installation to be actively used for a period of not less than 3 years.
Tower Structure, Alternative	Vertical components not generally designed for use as antenna support structures including but not limited to structures such as church steeples, ballpark light poles and water towers.
Wireless Communication	Any technology for transmitting communication through the air.
Wireless Communication Facility	Any combination of one or more antennas, towers and/or structures or equipment used for the transmission of wireless communication.