

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCILMEMBER WEAVER
COUNCIL BILL NO. 05
ORDINANCE NO. 1736
Series 2022

TITLE: AN ORDINANCE AMENDING SECTION 26-615 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING CMRS FACILITIES

WHEREAS, the City of Wheat Ridge, Colorado, is a Colorado home rule municipality, duly organized and existing pursuant to Section 6 of Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-101, the City, acting through its City Council is authorized to adopt ordinances for the protection of the public health, safety or welfare; and

WHEREAS, in the exercise of this authority the Council has previously adopted Section 26-615 of the Wheat Ridge Code of Laws concerning commercial mobile radio service (CMRS) facilities; and

WHEREAS, the Council wishes to amend Section 26-615 to more fully govern the design and placement of small cell CMRS facilities, including their placement on street rights-of-way.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Code of Laws Section 26-615.C.1.f concerning the review procedure for CMRS facilities is amended to read:

- f. Small cell CMRS facilities and networks in public rights-of-way and easements shall be reviewed by the **COMMUNITY DEVELOPMENT DEPARTMENT AND SHALL REQUIRE A BUILDING PERMIT. ADDITIONALLY, SUCH FACILITIES SHALL BE REVIEWED BY** the public works department and shall require a permit under section 21-101, et. seq.

Section 2. Code of Laws Section 26-615.H.2, subsections a, b, c, d, and e, concerning requirements for placement of small cell CMRS facilities in public rights of way, is amended to read:

H. *Standards for small cell facilities and networks.*

[...]

2. *Applicable requirements in public rights-of-way.* Small cell facilities and small cell networks in public rights-of-way shall comply in all respects with the following requirements:

a. *Location.* Small cell facilities are permitted in city rights-of-way, upon facilities in these rights-of-way and on public easements owned by the city under the following priority:

- (1) First, on a city-owned utility pole, which shall be removed and replaced with a pole designed to contain all antennae and equipment within the pole to conceal any ground-based support equipment and ownership of which pole is conveyed to the city.
- (2) Second, a city-owned utility pole with attachment of the small cell facilities in a configuration approved by the city.
- (3) Third, on a third-party owned utility pole, (with the consent of the owner thereof), with attachment of the small cell facilities in a configuration approved by the city.
- (4) Fourth, on a traffic signal pole or mast arm in a configuration approved by the city, or in the case of a CDOT facility, by CDOT.
- (5) Fifth, on a freestanding or ground-mounted facility which meets the definition of and requirements for an alternative tower structure in a location and configuration approved by the city.

THE PROPOSED LOCATION AND POLE TYPE SHALL BE JUSTIFIED IN THE PERMIT APPLICATION.

b. *Height.* All small cell facilities shall not exceed three (3) feet above the light pole, traffic signal or other facility or structure to which they are attached, or the maximum height in the relevant zone district, whichever is less. When new utility poles are proposed as an alternative tower, their height shall be similar to existing utility/light poles in the vicinity, **AS DETERMINED BY THE COMMUNITY DEVELOPMENT DIRECTOR.**

c. *Spacing **AND PLACEMENT.*** No small cell facility shall be located within one thousand feet (1000 ft) of any other such facility. **SMALL CELL FACILITIES SHALL BE LOCATED ON COMMON PROPERTY LINES, AS EXTENDED INTO THE RIGHT OF WAY, TO THE EXTENT FEASIBLE.**

d. *Design.* Small cell facilities shall be designed to blend with and be camouflaged in relation to the structure upon which they are located (e.g.: painted to match the structure or same material and color as adjacent **OR CITY-STANDARD utility poles).** **THE FINAL DESIGN AND COLOR SHALL BE SUBJECT TO APPROVAL BY THE CITY.**

e. *Permitting.* Small cell facilities and networks shall make application for a permit for work in the right-of-way under code section 21-11, et. seq., and for location and maintenance of such facility shall make application for a permit for use of the public right of way under code section 21-101, et seq. **IN ADDITION, ALL SMALL CELLS AND NETWORKS IN THE RIGHT-OF-WAY MUST MAKE APPLICATION FOR A BUILDING PERMIT. PRIOR TO SUCH APPLICATION, THE APPLICANT SHALL FIRST CONFIRM WITH THE COMMUNITY DEVELOPMENT DEPARTMENT THAT THE**

LOCATION IS ELIGIBLE. Small cell facilities and networks shall make application for location on private property through the building permit process. The city may accept applications for a small cell network, provided each small cell facility shall be separately reviewed.


Section 3. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Effective Date. This Ordinance shall take effect 15 days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 25th day of April, 2022, ordered it published with Public Hearing and consideration on final passage set for **Monday, May 23, 2022 at 7:00 o'clock p.m.**, as a virtual meeting and in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado if allowed to meet in person on that date per COVID-19 restrictions, and that it takes effect 15 days after final publication.


READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 7 to 0, this 23rd day of May 2022.

SIGNED by the Mayor on this 31 day of May, 2022.



Bud Starker, Mayor

ATTEST:



Stephen Kirkpatrick, City Clerk

Approved as to Form



Gerald E. Dahl, City Attorney

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