



## City of Laramie

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## MEMORANDUM

**Date:** November 23, 2020  
**To:** Laramie Planning Commission  
**From:** Derek T. Teini, AICP, Planning Manager  
**Subject:** TA-19-02 Small Cell Wireless

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At the September 28, 2020 Planning Commission meeting the Small Cell Wireless Regulations (TA-19-02) were presented to the Planning Commission. Following discussion at the meeting the item was continued so staff could provide further information to the Commission regarding the proposed regulations. Two items were requested by the Commission; additional review of the National League of Cities resolution and the proposed code and having further discussion with local business owners.

### **National League of Cities Resolution:**

The Commission requested that staff review the National League of Cities Resolution (Model Code) and compare it to the currently proposed draft regulations. At the meeting on September 28, 2020 the Commission did not provide staff any specific sections of the Model Code that they wanted staff to review or consider. In addition, staff requested through a follow-up email that the members of Planning Commission provide any specific sections of the Model Code they wanted us to review so staff could be prepared to discuss any of those recommended changes. At the writing of this staff report no requests were made the by any member of the Planning Commission or public related to sections of the Model Code that were desired. Based on the lack of direction from the Planning Commission staff has provided a "comparison draft" of the proposed code to the Model Code to address general differences and similarities between the two drafts.

In the attached "comparison draft" all sections of the code that are shown in green are generally comparable to the Model Ordinance and those sections in purple are not found in the Model Code. As you will be able to observe, most of the proposed draft code is comparable to the Model Code and includes similar sections, language and requirements. By no means is the proposed draft "word for word", however as you will have observed in a review of the model code, it does not recommended a "word for word" adoption. Furthermore, the City and the consultants were aware of the model code and as you will see is generally used as guidance for the proposed draft. Because of the technical nature of the document and time constraints related to available staff time a consultant was hired to ensure the proposed draft worked for Laramie. Staff also believes it is important to point out that the Model Code states the following:

"When Considering Adoption of This Model Code, Local Governments Should Consider That There May Be Federal, State or Local Laws That Could Limit Or Otherwise Affect

Various Terms And Provisions Set Forth Herein. Circumstances of Each Local Government May Require Modifications of This Model Code. The Model Code Is Not Intended to Provide Legal Advice and We Strongly Encourage Localities To Consult With An Attorney Before Adoption Any Portion Of This Model Code.”

The Model Code itself recommends that it not just be adopted, and thus staff has properly followed suit in order to tailor this code for Laramie. Finally, adoption of the Model Code as presented is not even possible. A brief review of the Model Code will show that many sections are not written or even completed in a format acceptable for adoption as code and instead recommends language tailored for your community and requires a community to prepare that language prior to consideration.

### **Further Discussion with Local Business Owners:**

The second item the Commission recommended was that City Staff have further discussions with local business owners (Melody Wireless, Union Wireless and Brett Glass (Lariat)). During the meeting staff addressed this recommendation and noted that Melody Wireless was the only business or provider mentioned during the discussion that the City had not solicited comments from. Staff also requested that Planning Commission provide any additional contacts they would like us to reach out to and to date none have been provided by any member of the Commission. Based on City Staff knowing no other business to contact or names of business that were provided by the Commission, the only additional contact not already made has been done with Melody Wireless. The City has made both phone and email contact with Melody Wireless. The current draft was provided to Melody Wireless on October 6, 2020 with no comments provided by them to date.

Additionally, the Commission requested that we reach out to Union Wireless, which we had already done on June 29, 2020. To date Union Wireless has not provided any comments to the City regarding the proposed draft or any other comments.

The last provider mentioned by the Commission was Lariat. Lariat, like all the other providers, was contacted in June of 2020 to provide comments related to the proposed draft. Lariat did not provide any specific changes except for one change related to “fixed wireless” facilities, which we incorporated into our working draft. Although, Lariat could have provided more comments, no further comments were provided by Lariat until staff made another direct request to Mr. Glass with Lariat following the September 28, 2020 Planning Commission meeting. Comments provided by Lariat were provided on October 9, 2020 and are attached (staff will address comments provided by Lariat below).

Finally, staff would like to reiterate the input process completed by the City related to this text amendment. During the drafting of the regulations staff and the consultant believed input from the providers would be important. After evaluating different drafts internally, a draft for public input was ready in June of 2020. This draft was provided to local and regional

contacts for comment and input; those contacts included, Verizon, AT&T, Union Wireless, Visionary and Lariat (Brett Glass). All contacts (except Lariat) provided staff and the consultant a “red lined” draft of the regulations. Follow-up meetings and correspondence was conducted with each group to go over the comments, address concerns and revise the draft we had provided. Up to this point many of the recommendations provided by the wireless providers have been incorporated into the current draft, however not all comments were. As with any draft, staff’s position is to provide recommendations that are in the best interest of the city, not necessarily the wireless providers, thus not all recommended changes were made. Following completion of this draft, it was once again distributed to providers for further comment and review. Only a few additional comments were made to this version and the version presented to the Planning Commission.

### **Proposed Draft Regulations:**

At the request of the Planning Commission, City Staff has completed a review of the Model Ordinance provided by the National League of Cities as well as solicited comments from providers as recommended in their motion.

As staff has noted above, a comparison draft was provided that clearly shows the Model Ordinance and key elements of it have been incorporated into the draft presented to the Planning Commission. Additionally, as suggest by the National League of Cities, any adopted regulations should be legally reviewed and tailored for each community, which River Oaks has been hired to do. Finally, no specific comments or suggestions were provided by the Planning Commission, thus none have been incorporated into the current draft.

Additionally, no further comments have been provided by the wireless providers, other than Lariat. Staff will address Lariat’s comments below in addition to other comments made during the September 28, 2020 Planning Commission meeting.

Based on the discussion held by the Planning Commission at their September 28, 2020 meeting and specific comments provided by Lariat staff would like to address some of the item noted:

1. Spelling of Collocate: Staff is correcting code adopted in 2010 that misspelled “collocate”. Collocate is correctly spelled throughout the whole rest of the document. No additional changes are recommended related to this item.
2. Tower Setback of 100% (Section 10): A setback of 100% vs 75% (current code) was proposed due in the current draft. It was being recommended by staff to modify this percentage so any tower was setback at least the height of the tower from adjoining property lines. Standards for tower height setback vary across the county with 100% being fairly common. Although staff believes this section should be modified, not

adopting this recommendation does not impact the needed changes related to Small Cell Wireless changes, so leaving it at 75% would still be acceptable.

3. Figure 15.14.130-3 (Section 13): As proposed in the draft, staff recommended modification of the figure text as shown in the ordinance for the purpose of having it align with how the text of the regulation is written. Currently the associated text (not the figure text) reads as follows, “Building mounted towers or antennas within twenty (20) feet from the nearest roof’s edge shall be camouflaged to minimize contrast from ground-level view as telecommunications devices or facilities, and shall include, but not be limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure or skyline behind the antenna, antennas integrated into architectural elements such as church spires or window walls, and antenna structures designed to resemble light poles or flag poles. (See Figure 15.14.130-3) (Ord. 1600 § 1, 2011). After review of the modification staff suggests the following amendment to address the confusion presented at the meeting. Amend the text as shown in figure 15.14.130-3 to state the following, “Rooftop towers and antennas shall be camouflaged if located within 20’ of the roof’s edge.” Staff believes this change clarifies the intent of the original change and is clearer than what was proposed by staff in the ordinance presented. Staff believes setbacks should remain in place as these standards have served the community well with no issues up to this point.
4. Section 15.14.130.P - Height: A comment from Lariat suggest that poles should be allowed to be 15 feet taller than the maximum building height of the zone. Staff does not agree with this recommendation and recommends leaving the language as presented. Wireless facilities that exceed the zoning district are required to go through the Conditional Use Process which include public notice. Staff believes this is a reasonable requirement and notifies the public of installations that are taller than what the zoning district allows. No additional changes are recommended related to this item.
5. Section 15.14.130.P.2.1 – Radio Frequency Emissions: A comment provided by Lariat suggests this section is illegal. The City does not agree with this statement nor does the regulation suggest circumventing FCC responsibilities. All that is being asked is that proof be provided that the facility meets required Radio Frequency Emissions established by the FCC. No additional changes are recommended related to this item.
6. Section 15.14.130.P.4.f – Internet: A comment provided by Lariat suggests the height and design section is illegal. Although the City does not fully agree with this statement these facilities are not the focus of these recommended changes and would suggest the following language for section 15.14.130.P.4.f, “Antennas attached to existing structures (such as commercial buildings, houses or apartments) for Internet purposes and used solely for occupants of the building for which the antennas are attached;” . In addition to this change, staff also recommends adding “...or property..” after building so internet across a property could be provided, such as in the instance of a multifamily site, mobile home development or other similar

development. It is important to leave this as an exemption but staff does not find it consequential to regulate height or design for these facilities, or for when wireless service is provided in a building or property.

7. Section 15.14.130.R.1 – Color: A comment provided by Lariat suggests that “light color only” be allowed. The code is currently written to allow for the antennas to be blended in based on the color of the host structure. Similar language is found in code already for other towers and equipment and has served the city well in the past. By not limiting the regulations to only a “light” color, other options can be presented on a case by case basis to appropriately blend the antenna into it’s surroundings. No additional changes are recommended related to this item.
8. Section 15.14.130.R.8 - Signage: It was suggested during the meeting by Mr. Glass that signage was prohibited on wireless facilities which is in violation of Federal Regulations. This statement is incorrect. 15.14.130.R.8 clearly states that “advertisement” signage is prohibited and “signage required by law...” is permitted. No additional changes are recommended related to this item.
9. Section 15.14.130.W – Independent and Technical and Legal Review: This section is not recommended for change by staff. This section provides the City the ability to hire needed technical expertise in the event it is needed in the review of a project. Although this section may be rarely used, it does allow the city, if needed this option to address technical review needs that fall outside the expertise of staff. No additional changes are recommended related to this item.

Staff would also like to note that it has reviewed the latest FCC ruling (October 27, 2020) and how it may affect our draft regulations. The regulations specify that transition equipment within 30 feet of the existing site boundary is permitted and must be permitted faster than if it was “new” equipment. Because we have removed “shot clocks” or how long we are permitted to review an application, this change has no effect on our proposed draft.

### **Conclusion:**

Based on the review of the Model Code, proposed draft ordinance, and all comments associated with the proposed draft, staff recommends no further changes to the draft that was presented to the Planning Commission at their September 28, 2020 meeting except for the potential change as noted in item 3 above.

Based on this staff recommends the following motion:

Move to recommend that the City Council **approve** an amendment to LMC 15.14.130 related to small wireless facilities, as shown in the attached draft Ordinance, amending Section 13 to read as follows, “Rooftop towers and antennas shall be camouflaged if located within 20’ of the roof’s edge.” and section 15.14.130.P.4.f to read as follows, “Antennas attached to existing structures (such as commercial buildings, houses or apartments) for

Internet purposes and used solely for occupants of the building or property for which the antennas are attached;” and based on findings of fact and conclusions of law.

Attachments:

- Planning Commission Memo
- Model Ordinance
- Lariat Comments