

**TOWN OF ERIE
PLANNING COMMISSION AGENDA ITEM
October 16, 2019**

SUBJECT: Resolution
Resolution No. P19-29: A Resolution Of The Planning Commission Of The Town Of Erie Recommending That The Board Of Trustees Approve An Ordinance Amending Title 10 Of The Erie Municipal Code Regarding Wireless Communication Facilities

CODE REVIEW: Erie Municipal Code, Title 10 UDC

PURPOSE: Review of recommended UDC Amendments to update the Town Wireless Communication Facility regulations to be in conformance with current Federal regulations.

DEPARTMENT: Planning and Development

PRESENTER: Deborah Bachelder AICP, Planning Manager/Deputy Director of Planning & Development

STAFF RECOMMENDATION: Approval

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Town of Erie Wireless Communication Facility (WCF) regulations in the UDC are not in full compliance with the current Federal regulations. The Town contracted with Kissinger & Fellman, P.C. to draft updated UDC regulations to meet the Federal requirements. The proposed UDC Amendment includes a new Chapter 13 and specific amendments to the other chapters of the UDC to remove the old regulations and modify existing language to accommodate the new Chapter that is dedicated to Wireless Communication Facility regulations.

Staff and the Town attorney have worked closely with Kissinger & Fellman on the WCF regulations and supports the proposed UDC Amendments. Additionally, the draft of the UDC Amendment was supplied to industry representatives and minor modifications were made based on their valuable input.

Proposed UDC Amendment

Below is a general outline of the major elements proposed in the UDC Amendment for the Wireless Communication Facility (WCF) regulations. The full UDC Amendment is provided in the Ordinance that is referenced in the Planning Commission's draft Resolution for approval.

WCF Types

Below are the types of WCF's that are regulated by the amended UDC regulations:

1. Eligible Facilities
An Eligible Facility is a modification to an existing Tower or Base Station that does not substantially change the physical dimensions of the Tower or Base Station.
2. Base Station Mounted
WCF's that are attached to a structure are considered Base Station Mounted WCF's. Examples of this type of WCF includes WCF's that are added to a commercial building and enclosed by an architectural element of the building; or WCF's mounted on a flat roof of a commercial building that is screened by an enclosure.
3. Alternative Tower Structures – Not in Right-of-Way
These WCF's are typically integrated into accessory elements on a site such as WCF's mounted on parking lot lights, flag poles or clock towers.
4. Alternative Tower Structures for Small Cell or Micro Cell Facilities in Right-of-Way
WCF's in a right-of-way are typically affixed to a street light, traffic signal or on a stand-alone pole in the right of way.
5. Tower Structures
A structure that is primarily built for the purpose of supporting a WCF is a Tower Structure.

Review Timelines

Specific types of WCF's have review timeframes regulated by the Federal government that are not accommodated in the Town's current UDC regulations. The required timeframes played a major role in determining the changes that are proposed for the review procedures.

Below are the required Federal review timeframes:

1. Eligible Facilities – 60 day review time
2. Small Cell Facility in the Right-of-Way – 90 day review time
3. Modifications or Collocations – 90 day review time
4. Other new WCF – 150 day review time

Review Procedures

The current WCF regulations, in the UDC, require that all facilities follow the Special Review Use review procedure. This can be a lengthy process that requires the land use applications to be reviewed by staff, and then to go to public hearings at both the Planning Commission and Board of Trustees. It would be difficult to impossible to follow this procedure based on the Federal requirements for review timeframes listed above.

To better accommodate the short review timeframes required by the Federal government, the UDC Amendment proposes the following Review Procedures:

1. Eligible Facilities

This type of facility has the shortest timeframe review requirement. Due to this restriction, Eligible Facilities will be required to submit for a Building Permit which would also be reviewed by the Planning Division for conformance with the WCF UDC regulations. The Building Permit application review process will allow both the Planning and Building divisions to review the application concurrently, significantly reducing the review timeframe to meet the Federal requirements.

2. Alternative Tower Structure and Base Station Mounted

The proposed review procedure for these types of facilities is similar to the Administrative Site Plan review process that we currently have in the UDC. Land use applications will be reviewed by staff and the final review decision will be made by the Planning & Development Director.

3. Tower Structures

Tower Structures are proposed to be reviewed in the same manner as a Planning Commission Site Plan. The land use application would be reviewed by staff and the Planning Commission will be the decision maker at a public hearing.

Design Standards:

The current UDC regulations for WCF's have limited design standards. The UDC Amendment has provided more detailed design standards based on the type of WCF. Below is overview of the general design standards that will be applied to the WCF's:

1. All WCF's are subject to camouflage, concealment, or camouflage design techniques that include such elements as use of materials, colors, textures, screening, undergrounding, landscaping, location or other design options to blend the WCF into its setting.
2. Collocation of WCF's is encouraged.
3. Lighting of WCF's is discouraged unless it is required by the FAA or if the WCF is lit by a source not installed for lighting the WCF.
4. Placement of the WCF's is a consideration in the design standards. WCF's are required to be sited away from residential structures.
5. Ground mounted accessory equipment has locational and screening requirements.

Approval Criteria

The following are the approval criteria of Section 7.21.C.9, Amendments to the Text of the Code that are to be considered when reviewing the proposed UDC Amendment.

1. The proposed amendment will promote the public health, safety, and general welfare;
2. The proposed amendment is generally consistent with the Town's Comprehensive Master Plan and the stated purposes of this UDC; and
3. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

Public Notice:

Public notice is not required for Title 10 UDC amendments before the Planning Commission.