

ORDINANCE NO. 414-2026

**AN ORDINANCE OF THE CITY OF THREE FORKS, MONTANA, ESTABLISHING
CHAPTER 30: SMALL CELL REGULATIONS TO TITLE 11 ZONING REGULATIONS OF
THE THREE FORKS CITY CODE**

WHEREAS, it is the City’s desire to promote the public health, safety and welfare, preserve the aesthetic character of the City, and to reasonably regulate the development and operation of wireless facilities to the extent permitted under State and Federal law.

WHEREAS, the City wishes to establish clear guidelines and standards and an orderly process for review intended to facilitate the deployment of wireless transmission equipment, to provide advanced communication services to the City, its residents, businesses and community at large.

WHEREAS, pursuant to §§7-1-4127 and 7-1-4131, MCA notice of public hearings for the first and second readings of this ordinance amendment were published in the Bozeman Daily Chronicle on 1/23/2026 and 2/27/2026, in the Belgrade News on 1/8/2026 and 1/26/2026, and in the Three Forks Voice on 1/28/2026 and 2/25/2026, as well as posted on the City website, City Facebook page, and around town at various physical locations as is City policy.

WHEREAS, the Zoning & Planning Board held a public hearing on January 15, 2026, to hear and make a recommendation for the City Council to consider adopting this ordinance.

NOW THEREFORE BE IT ORDAINED by the Three Forks City Council that the Three Forks, Montana City Code, be amended by adding a new Title 11 Zoning Regulations, Chapter 30 Establishing Small Cell Regulations to read as follows:

TITLE 11: ZONING REGULATIONS, CHAPTER 30: SMALL CELL REGULATIONS

11-30-1: PURPOSE AND INTENT:

It is the purpose of these provisions to delineate standards and siting criteria and establish procedures in order to promote health, safety and general welfare of the community from the uncontrolled siting of small cell facilities in locations that have significant adverse effects and cause irreparable harm. It is further the purpose of these provisions:

A. To protect the community’s visual quality and safety while facilitating the reasonable and balanced provision of wireless services. More specifically, it is the City’s goal to minimize the visual impact of wireless facilities on the community, particularly in and near downtown and residential zones and in and along highly visible corridors;

B. To promote the public health, safety and welfare, preserve the aesthetic character of the City, and to reasonably regulate the development and operation of wireless facilities to the extent permitted under State and Federal law;

C. To establish clear guidelines and standards and an orderly process for review intended to facilitate the deployment of wireless transmission equipment, to provide advanced communication services to the City, its residents, businesses and community at large; and

D. To provide regulations which are specifically not intended to, and shall not be interpreted or applied to, (1) prohibit or effectively prohibit the provision of wireless services, (2) discriminate among functionally equivalent service providers, or (3) regulate wireless facilities and transmission equipment on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with the standards established by the Federal Communications Commission.

11-30-2: DEFINITIONS:

As used in this Section, the following terms shall have the meanings set forth below:

A. ADMINISTRATIVE REVIEW: Review of an application by the City relating to the issuance of a permit to determine whether the issuance of a permit is in conformity with the applicable provisions of this Chapter.

B. ANTENNA: An exterior transmitting or receiving device mounted on a pole or other structure and used in communications that sends or receives wireless signals, radio frequencies or other signals.

C. APPLICANT: Any person engaged in the business of providing wireless services or the wireless infrastructure required for wireless services and who submits an application.

D. APPLICATION: A written request, on a form provided by the City, for a permit.

E. COLLOCATION: The mounting or installation of an antenna or other equipment on a pole or other structure for the purpose of transmitting or receiving radio frequency signals for communications purposes or modifying a pole or other structure for the purpose of mounting or installing an antenna or other equipment.

F. DECORATIVE POLE: A pole that is specially designed and placed for aesthetic purposes.

G. FCC: The Federal Communications Commission.

H. LAWS: Collectively, any and all Federal, State, or local law, statute, common law, code, rule, regulation, order, resolution or ordinance.

I. ORDINARY MAINTENANCE or REPAIR: Inspection, testing or repair that maintains functional capacity, aesthetic and structural integrity of a wireless facility and the associated structure or pole and that does not involve disturbing any portion of the Right-of-Way.

J. PERMIT: A permit issued and described in accordance with laws, which is used to regulate, monitor and control improvements, construction or excavation activities, or other work or activity within the Right-of-Way.

K. PERSON: An individual, corporation, limited liability company, partnership, association, trust or any other entity or organization excluding the City.

L. POLE: A legally constructed pole, such as a utility, lighting or similar pole made of wood, concrete, metal or other material located within the Right-of-Way.

M. PROVIDER: A wireless service provider or wireless infrastructure provider and includes any person that owns or operates wireless facilities within the Right-of-Way.

N. RIGHT-OF-WAY: The surface of and the space above and below the public streets and alleys, and public utility easements or other public ways of any type whatsoever, now or hereafter located and existing within the City, whether or not improved.

O. SMALL CELL FACILITIES or SMALL WIRELESS FACILITIES are facilities that meet each of the following conditions:

(1) The facilities—

(i) Are mounted on structures 50 feet or less in height including their antennas; or

(ii) Are mounted on structures no more than 10 percent taller than other adjacent structures; or

(iii) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(2) Each antenna associated with the deployment, excluding associated antenna equipment is no more than three cubic feet in volume;

(3) All other wireless equipment associated with the structure including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

(4) The facilities do not require antenna structure registration;

(5) The facilities are not located on Tribal lands; and

(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable federal safety standards.

P. STEALTH: A design that minimizes the visual impact of wireless facilities by camouflaging, disguising, screening or blending them into the surrounding environment. Examples of stealth design include, but are not limited to, facilities disguised as utility and light poles.

Q. SUBSTANTIAL CHANGE: As set forth in 47 CFR § 1.6100(b)(7).

R. TRANSMISSION EQUIPMENT: Equipment that facilitates transmission for any FCC-licensed or authorized wireless service, including, but not limited to, radio transceivers, antennas, microwave dishes, coaxial or fiber-optic cable, and regular and backup power supplies. The term includes equipment associated with wireless 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.

S. WIRELESS FACILITIES: An unstaffed facility or equipment for the transmission or reception of radio frequency (RF) signals or other wireless communications or other signals (including, but not limited to, cellular and Internet services) for commercial communications purposes, typically consisting of a group of antennas, a pole, transmission cables and other transmission equipment, backup power supplies, electric meters, coaxial cables, fiber optic cables, wires and related materials and equipment, including small cell facilities.

T. WIRELESS INFRASTRUCTURE PROVIDER: A person or entity, other than a wireless services provider, that builds or installs wireless transmission equipment, wireless facilities, poles or wireless support structures.

U. WIRELESS SERVICE: Any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

V. WIRELESS SERVICES PROVIDER: A person or entity who provides wireless services.

11-30-3: GENERAL PROVISIONS:

A. Exempt Facilities: The following are exempt from this Chapter:

1. FCC licensed amateur (ham) radio facilities;
2. Satellite earth stations, dishes and antennas used for private television reception;
3. A wireless facility installed upon the declaration of a state of emergency by the Federal, State or local government, or a written determination of public necessity by the City; except that such facility must comply with all Federal and State requirements. The wireless facility shall be exempt from the provisions of this Section for up to one month after the duration of the state of emergency;
4. A temporary, wireless facility installed for providing coverage of a special event such as news coverage or sporting event, subject to any required approvals by the City. The wireless facility shall be exempt from the provisions of this Chapter for up to two weeks before and one week after the duration of the special event;
5. Antennas attached to existing structures (such as office buildings, houses or apartments) for Internet purposes and used solely for occupants of the building to which the antennas are attached as long as the height limitations of the zoning district are not exceeded; and

6. City facilities, equipment and services, including, but not limited to, those involving police, fire, public health and safety.

B. Applicability: All new poles and antennas shall be subject to these regulations.

1. New poles exceeding the maximum height limitation of surrounding poles require a special review by the City and approval of a waiver or variance by the City.

2. Antennas attached to utility poles and street lights in the Right-of-Way shall not extend more than ten (10) feet above the highest point of the pole structure.

C. Applications:

1. The following shall apply for a permit under this Chapter on a form and in the manner prescribed by the City:

a. A person that provides wireless service.

b. A person that owns or otherwise makes available infrastructure required for wireless service.

2. Any application for a permit must include the following:

a. The name, business address, and point of contact for the applicant.

b. The location of the proposed or affected pole or small wireless facilities.

D. Permit(s) Required: No person shall develop, construct, modify or operate a pole or antennas or related equipment for commercial purposes in any Right-of-Way of the City prior to approval of its application for the requisite permit(s) by the City and issuance of the permit(s) by the City. Applicants shall submit their application for a permit to the Public Works Director and shall pay an application fee and permit fees in accordance with the City's fee schedule. Work shall be completed by dates as set forth in the permit(s).

E. Effect of Permit: A permit from the City authorizes an applicant to undertake only the activities specified in the application and permit, and in accordance with this Chapter. A permit does not authorize attachment to or use of existing poles or other structures in the Right-of-Way. A permittee or provider must obtain all necessary written approval from the owner of any pole or other support structure prior to any attachment or use and such written approval shall be submitted with the permit request. A permit does not create a property right for the applicant. The applicant shall not interfere with other uses or users of the Right-of-Way.

F. Ordinary Maintenance or Repair: A permit shall not be required for ordinary maintenance or repair. The provider or other person performing the ordinary maintenance or repair shall obtain any other permit required by applicable laws.

G. Bonds: Unless otherwise agreed to in writing by the City, a performance or construction bond or other form of surety acceptable to the City equal to at least one hundred fifty percent (150%) of the estimated cost of the work in the Right-of-Way shall be provided before the applicant commences work. The bond shall be released after City inspection and completion of construction to the City's satisfaction.

H. Collocation: It is the policy of the City to minimize the number of wireless support structures and to encourage the collocation of antennas of more than one wireless service provider on a single pole to the extent feasible.

I. Design Justification: At the time of filing an application, an applicant shall also provide a clear and complete written analysis that includes design drawings that explains how the proposed design complies with the applicable design standards under this Chapter to the maximum extent feasible. A complete design justification must identify all applicable design standards under this Chapter and provide a factually detailed reason why the proposed design either complies or cannot feasibly comply.

J. Requirements:

1. To the extent feasible, antennas shall be placed and colored to reasonably blend into the architectural detail and coloring of the host structure. Non-wooden poles shall be painted a color that best allows them to blend into the surroundings. The use of grays, blues, greens, bronze, browns or other site-specific colors are encouraged and may be appropriate; however, each case should be evaluated individually.

2. Security lighting for the equipment shelters or cabinets and other on the ground ancillary equipment is permitted, as long as it complies with the City Code.

3. Equipment shelters and cabinets and other on-the-ground ancillary equipment shall be screened with fencing or landscaping (other than in the Right-of-Way) or with another design as required by the City Code. Alternatively, where feasible, the applicant shall incorporate the cabinet and other equipment into the base of a new pole (for example, for a small wireless facility) provided there is adequate space in the Right-of-Way and that ADA sidewalk accessibility requirements can be met. All provisions of the ADA (including, but not limited to, clear space requirements) shall be met by the applicant.

4. All poles, antennas and related equipment must meet current standards and regulations of the FCC and any other agency of the Federal or State government with the authority to regulate poles, antennas and related equipment.

5. To ensure the structural integrity of poles, the poles must be maintained in compliance with industry standards and applicable codes and approved by a structural engineer licensed in the State.

6. No facilities may bear any signage or advertisement(s) other than signage required by law or expressly permitted or required by the City.

7. All poles, facilities and equipment in or near residential zones or the downtown area shall be sited and designed to minimize adverse visual impacts on surrounding properties and the traveling public to the greatest extent reasonably possible, consistent with the proper functioning of the poles, facilities and equipment. Such poles, facilities and equipment enclosures shall be integrated through location and design to blend in with the existing characteristics of the site. Such poles, facilities and equipment shall also be designed to either resemble the surrounding landscape and other natural features where located in proximity to natural surroundings, or be reasonably compatible with the built environment, through matching and complementary existing structures and specific design considerations such as architectural designs, height, scale, color and texture or be reasonably consistent with other uses and improvements permitted in the relevant zone.

8. Where technologically possible, applicants shall place the antennas and wiring inside the pole when erecting a new metal pole or replacing a current pole.

9. The applicant shall use stealth design to the maximum extent feasible unless otherwise approved by the City. Stealth and concealment techniques must be appropriate given the proposed location, design, visual environment, and nearby uses, structures, and natural features. Stealth design shall be designed and constructed to substantially conform to surrounding building designs or natural settings. Stealth design that relies on screening in order to reduce visual impact must screen all substantial portions of the facilities and equipment from view.

10. All pole-mounted transmission and reception equipment shall be mounted as close as technically possible to the pole so as to reduce the overall visual profile to the maximum extent feasible subject to applicable safety codes.

K. Construction Provisions:

1. All structures shall be constructed and installed to manufacturer's specifications and constructed to withstand wind speed as required by Industry standards.

2. To the extent feasible, new poles must be designed to match the existing light fixtures and other poles, and they shall serve a dual purpose (for example, a new streetlight, flag pole or banner display).

L. General Standards:

1. Small cell facilities shall not be installed unless the equipment and facilities are compliant with the City's aesthetic guidelines, as they may be amended from time to time.

2. A provider shall not construct or replace any equipment or facilities not clearly depicted in an application unless such is of comparable size, shape and color to that being replaced.

3. All work shall be performed in a professional manner consistent with the highest standards of workmanship.

4. Equipment and facilities shall be maintained in a good and safe condition and in a manner that complies with all applicable federal, State and local requirements.

5. In accordance with applicable law, equipment and facilities shall not be installed in any location in the Right-of-Way that causes any interference with the City's public safety radio system, traffic and emergency signal light system, or other City safety communications systems or system components.

6. Structures shall be constructed to meet all applicable code requirements.

M. Noise Study: A noise study shall be conducted at the sole cost and expense of the applicant if requested by the City, and the proposed site is in or within three hundred feet (300') of a residential district or the downtown area. The small wireless facility shall not impede upon the peaceful and quiet enjoyment of the surrounding area and shall not create a nuisance to pedestrian or vehicular traffic. If such occurs, the small wireless facility may be declared a nuisance and subject to abatement.

N. Traffic Control. Unless otherwise specified in the permit, the permittee shall erect a barrier around the perimeter of any excavation and provide appropriate traffic control devices, signs and lights to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be as described within a traffic control plan. The permittee shall maintain all barriers and other traffic control and safety devices related to an open excavation until the excavation is restored to a safe condition or as otherwise directed by the City.

O. Work in the Right-of-Way: All excavation within the Right-of-Way shall require a permit. All work performed in the Right-of-Way shall also be in accordance with Manual on Uniform Traffic Control Devices Standards and must be reviewed and approved by the Public Works Director before any work can begin.

P. As-Builts and Maps: The provider shall furnish to the City paper and electronic maps showing the location of its equipment in the Right-of-Way and as-builts after construction is completed.

Q. Safety and Due Care: The permittee shall employ due care during installation, maintenance or any other work and shall comply with all safety and construction requirements of applicable laws, City guidelines, standards and practices and any additional commonly accepted safety standards.

R. Interference: The providers' facilities, equipment and structures shall not physically interfere with any existing facilities, equipment or structures in the Right-of-Way, and they shall locate their lines and equipment in such a manner as not to interfere with the usual traffic

patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abut any Right-of-Way.

S. Locates: Before beginning any excavation in the Right-of-Way, the permittee shall comply with Montana Digline/ "One-Call Center"("Montana 811").

T. Compliance with Permit: All construction practices and activities shall be in accordance with the permit and approved final plans and specifications. The City and its representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements. All equipment that does not comply with the permit, the approved plans and specifications for the work, or the requirements of this Chapter, shall be removed at the sole expense of the permittee. The City may stop work in order to assure compliance with the provisions of this Chapter.

U. Restoration:

1. The provider, or its agent or contractor, shall restore, repair and replace any portion of the Right-of-Way or other public property that is damaged or disturbed by the provider's wireless facilities, infrastructure or work in or adjacent to the Right-of-Way or other public property as required in this Chapter and all other applicable laws and City policies.

2. If the provider fails to timely restore, repair or replace the Right-of-Way or other public property, the City or its contractor may do so and the provider shall pay the City's costs and expenses in completing the restoration, repair or replacement, including reasonable attorneys' fees and expenses.

V. Report: A written report will be prepared and signed by a professional engineer or qualified employee of the provider which assesses whether the proposed wireless facilities demonstrate compliance with the Radio Frequency emissions limits established by the FCC.

W. Inspections:

1. The City reserves the right to conduct an inspection of new or existing poles, antenna support structures, equipment, and facilities upon reasonable notice to the owner or operator to determine compliance with this Chapter and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with any construction standards set forth in the City Code, Federal and State laws and applicable Industry standards.

a. The City reserves the right to require the applicant to engage a qualified professional engineer at the applicant's sole cost and expense to conduct the inspection described in W1.

2. If, upon inspection, the City concludes that a pole, antenna support structure, equipment or facility fails to comply with codes or standards and constitutes a danger to persons or property, then upon written notice being provided to the owner or operator, the owner or operator

shall have sixty (60) days to bring such into compliance with the codes and standards. Failure to bring such into compliance within said sixty (60) days shall constitute grounds for removal at the owner's or operator's expense.

X. Maintenance: The poles, antenna support structures, equipment and facilities shall at all times be kept and maintained in good condition, order and repair by the person owning or operating the small cell facility so that the same do not constitute a nuisance to or a danger to the life or property of any person or the public.

Y. Indemnification: Each permit issued for a small cell facility, including, but not limited to, a pole, antenna support structure, equipment or facilities located in the Right-of-Way shall be deemed to have as a condition of the permit a requirement that the applicant and provider defend, indemnify and hold harmless the City and its officers, agents, employees, volunteers and contractors from any and all liability, damages, or charges (including attorneys' fees and expenses) arising out of claims, suits, demands, or causes of action as a result of the permit process, a granted permit, installation, construction, location, performance, operation, maintenance, repair, replacement, upgrade, removal or restoration of the small cell facility.

Z. Insurance: No person shall own or operate a small cell facility in the Right-of-Way without having secured and at all times maintain in place insurance coverage which conforms to the following:

A. Each telecommunications provider shall secure and maintain the following insurance policies insuring both the telecommunications provider and the City against claims for death or injuries to Persons, or damages to property which may arise from or in connection with the exercise of the rights, privileges, and authority granted to the telecommunications provider:

1. Comprehensive general liability insurance, written on an occurrence basis, with limits not less than:

a. \$3,000,000 for bodily injury or death to each Person; and

b. \$3,000,000 for property damage resulting from any one accident.

2. Automobile liability insurance for owned, non-owned and hired vehicles with a combined single limit of \$3,000,000 for each accident;

3. Worker's compensation within statutory limits and Employer's liability insurance with limits of not less than \$1,000,000;

4. Excess umbrella liability with limits of no less than \$5,000,000 per occurrence and in the aggregate.

B. Insurance shall be placed with insurers licensed to do business in the State with an A.M. Best's rating of A-VII or better. The liability insurance policies required by this subsection shall

be maintained by the telecommunications provider throughout the term of the permit, and such other period of time during which the telecommunications provider has telecommunications facilities in the public ways or is engaged in the removal of its telecommunications facilities. Failure to maintain such insurance shall be grounds for cancellation of the permit, Franchise, easement, lease or Agreement. The telecommunications provider shall furnish acceptable certificates of insurance, together with an endorsement naming the City, its elected and appointed officers, officials, agents, employees, representatives, consultants, and volunteers as additional insureds, to the City prior to the commencement of any work or installation of any telecommunications facilities pursuant to said permit(s).

C. The telecommunications provider's insurance shall be primary and noncontributory insurance with respect to the City. Any insurance maintained by the City shall be in excess of the telecommunications provider's insurance and shall not contribute with it. Maintenance of insurance shall not be construed to limit the liability of the telecommunications provider to the coverage provided by such insurance or otherwise limit the City's recourse to any remedy available at law or in equity.

D. In addition to the coverage requirements set forth in this subsection, the telecommunications provider must notify the City of any cancellation or reduction in said coverage at least forty-five (45) calendar days in advance in writing. At least fifteen (15) calendar days prior to said cancellation or reduction in coverage, the telecommunications provider shall obtain and furnish to the City replacement insurance and certificates of insurance meeting the requirements of this subsection.

E. All insurance coverage shall be kept in force while the telecommunications provider has any facilities in the City, and for one (1) year thereafter. Certificates of Insurance and Endorsements shall be provided to the City in writing.

F. All insurance policies shall contain a waiver of subrogation against the City for any claims arising out of the telecommunications provider's work or service. The telecommunications provider shall be responsible for all deductibles under the policies.

AA. Final Inspection and Site Condition:

1. Upon final inspection, if it is found that the pole, antenna support structure, equipment or facilities do not substantially comply with the approved plans and photo simulations, the provider shall make any and all such changes required to promptly bring them into compliance.

2. The pole, equipment, facilities and site, including all landscaping, must be maintained at all times in a neat and clean manner and in accordance with all approved plans. Graffiti shall be removed promptly by the owner or operator of the pole, equipment, facilities or site, as applicable.

BB. Permitted Use:

1. An antenna may be installed on an existing pole or support structure, but the installation of replacement or taller poles or new overhead wiring to accommodate the antennas will not be permitted without City approval.
2. A small cell pole must not be installed on or within sixty (60) feet of a single-family or multi-family dwelling unit.
3. The applicant shall provide proof that it is a licensed provider and will comply with all applicable federal, state and City laws and regulations, including those regarding wireless services.
4. Subject to the other requirements in this Ordinance, a small cell antenna may be attached to an existing pole or support structure owned or operated by the City in the Right-of-Way and shall be a permitted use.

11-30-4: ADDITIONAL REQUIREMENTS:

A. Agreement: Prior to installing in the Right-of-Way any small wireless facility, or any pole built for the sole or primary purpose of supporting a small wireless facility, a person shall enter into an Agreement with the City expressly authorizing use of the Right-of-Way for the small wireless facility or pole proposed to be installed.

B. General Terms:

1. The initial term of an Agreement shall be for up to ten (10) years. The Agreement may be renewed for an additional term subject to the mutual written agreement of the City and provider.
2. The Agreement authorizes the provider's non-exclusive use of the Right-of-Way for the sole purpose of constructing, installing, maintaining, modifying and operating small wireless facilities, including any pole built for the sole or primary purpose of supporting the small wireless facilities to provide the services expressly authorized in the Agreement, subject to applicable laws and this Section. The Agreement authorizes use only of the Right-of-Way in which the City has an actual interest. It is not a warranty of title or interest in any Right-of-Way and does not confer on the provider any interest in any particular location or to a superior or preferred location within the Right-of-Way.

C. Emergencies: In the event of an emergency, a provider or its duly authorized representative may work in the Right-of-Way prior to obtaining a permit, provided that the provider shall contact the City prior to commencing the work and shall apply for a permit as soon as reasonably possible, but not later than twenty-four (24) hours after commencing the emergency work. For purposes of this subsection, an "emergency" means a circumstance in

which immediate repair to damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property.

D. Batching: An applicant may simultaneously submit no more than five (5) sites for small wireless facilities in a single, consolidated application, provided that the proposed small wireless facilities are to be deployed on the same type of pole or structure using similar equipment within the City.

E. Design Standards: Subject to not exceeding the height limitation of the surrounding poles, all poles built for the sole or primary purpose of supporting small wireless facilities and the small wireless facilities may be approved through administrative review, subject to the wireless provider complying with reasonable and feasible considerations for the:

1. Height, shape, design and color for the poles and related equipment;
2. Number, location and styles of poles that may be installed or used;
3. Aesthetic approach for different types of poles and related equipment;
4. Construction of each small wireless facility, including powering and metering;
5. Structural integrity; and
6. Use of decorative poles, where necessary; and
7. Taking into account that, where applicable, that poles may be used by osprey and eagle for habitats.

F. Administrative Approval: Small wireless facilities in all zones are subject to approval via permits and administrative review unless otherwise provided in this Chapter or unless their installation requires the construction of a new pole or structure exceeding the height limitation of the surrounding poles (in which instance a waiver or height variance is required from the City Council). A permit is required for replacement support structures.

G. Site Development: All small wireless facilities shall be subject to the site development standards, permits and site plan requirements as prescribed herein. A site development application shall contain the following information:

1. Construction drawings showing the proposed method of installation;
2. The manufacturer's recommended installations, if any;
3. A diagram to scale showing the location of the small wireless facilities, property and setback lines, easements, power lines, all structures, and the required landscaping, if applicable; and

4. Photo simulations that include to-scale visual simulations that show unobstructed before-and-after construction, daytime and clear-weather views, from at least four angles, together with a map that shows the location of each view, including all equipment and cabling.

H. Public Notice: For purposes of this Chapter, any application for a small wireless facility which includes a new or replacement pole, a waiver or variance, or appeal of a request for a permit, requires public notice of at least ten (10) calendar days to all adjacent property owners and all owners of surrounding properties.

I. Notification to Utilities: Prior to the installation or construction of a small wireless facility within the Right-of-Way or a utility easement, the applicant or provider must notify all utilities located within such Right-of-Way or utility easement regarding the use of the Right-of-Way or easement.

J. Accessory Equipment: All accessory equipment or cabinets located at the base of a small wireless facility shall be located or placed underground where technically feasible. If that alternative is not available, then the accessory equipment shall be located and placed in an equipment cabinet that is:

1. Designed to blend in with existing surroundings, using architecturally compatible construction and colors; and
2. Located so as to be unobtrusive as reasonably possible consistent with the proper functioning of the facilities.

K. Decorative Poles: An applicant may not install a small wireless facility on a decorative pole or replace a decorative pole with a new decorative pole unless the City has determined, in its sole discretion, that each of the following conditions has been met:

1. The application qualifies for issuance of a permit; and
2. The attachments and replacement pole are in keeping with the design and color of the existing decorative pole.

L. Separation Distance: Small wireless facilities, including the poles, antennas and other equipment shall be separated and placed a minimum of three hundred (300) feet apart which is considered to be a reasonable separation distance. If a provider claims that this requirement is technically infeasible, it shall be the responsibility of the provider, on a site-specific basis, to demonstrate to the Public Works Director that this minimum separation distance prohibits or effectively prohibits the provision of the provider's wireless services.

11-30-5: EXCEPTION TO STANDARDS:

Except as otherwise provided in this Chapter, no small wireless facility shall be used or developed contrary to any applicable development standard unless a variance or waiver has been granted by the City.

11-30-6: MISCELLANEOUS:

A. Abandonment: If any small wireless facility, including any pole, antenna or equipment or other facilities, shall cease to be used for a period of one hundred eighty (180) calendar days, the City shall notify the owner or operator that the site will be subject to a determination by the City that the site has been abandoned. Upon issuance of a written notice by the City, the owner or operator shall have thirty (30) calendar days to show that the pole, antenna, equipment or other facilities have been in use or under repair during the period of apparent abandonment. In the event the owner or operator fails to make such a showing, the City shall issue a final determination of abandonment of the site and the owner or operator shall have forty-five (45) calendar days thereafter to dismantle and remove the pole, antenna, equipment and other facilities. If such does not occur, the City may do so and charge the costs thereof to the owner or operator of the pole, antenna, equipment and other facilities.

B. Independent Technical and Legal Review: Although the City intends for City staff to review applications to the extent feasible, the City may retain the services of an independent technical expert and attorney of its choice to provide technical and legal evaluations of permit applications. The third-party expert shall have recognized qualifications in the field of engineering or wireless facilities regulations. The expert's review may include, but is not limited to (a) the accuracy and completeness of the items submitted with the application; (b) the applicability of analysis and techniques and methodologies proposed by the applicant; (c) the validity of conclusions reached by the applicant; and (d) whether the proposed pole, antenna, equipment and other facilities comply with the applicable approval criteria set forth in this Chapter. The applicant shall pay the reasonable cost for any independent consultant fees through a deposit, estimated by the City, within ten (10) calendar days of the City's request. When the City requests such payment, the application shall be deemed incomplete for purposes of application processing timelines until the deposit is received. In the event that such costs and fees do not exceed the deposit amount, the City shall refund any unused portion within thirty (30) calendar days after the final permit is released or, if no final permit is released, within thirty (30) calendar days after the City receives a written request from the applicant. If the costs and fees exceed the deposit amount, then the applicant shall pay the difference to the City before the permit is issued. The independent consultant shall provide an itemized description of the services provided and related fees and charges.

C. Compliance with Laws: These regulations shall be subject to all applicable laws. If State or Federal law conflicts with these regulations in any material respect, and if such law preempts a provision in these regulations, then the City shall amend these regulations to comply with such law.

D. Appeal: If a permit is denied by the Public Works Director, the applicant may appeal the decision to the Mayor. If the Mayor denies an applicant's appeal, the applicant may then appeal such decision to the City Council.

E. Enforcement: Enforcement of these regulations shall be consistent with the City Code and shall also include, but not be limited to, stop work orders and injunctive relief, as a violation of these requirements may adversely affect the public health, safety and general welfare of the community.

F. Venue: Venue for any judicial dispute between the City and a provider shall be in District Court in Gallatin County.

G. Conflicts: In the event of a conflict between these Small Cell Regulations and any other regulations in the City Code, the Small Cell Regulations in this Chapter shall control.

11-30-7: SEVERABILITY:

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect the validity of any other provisions, all of which shall remain in full force and effect.

1st Reading and Approval: DATED this 10th day of February 2026.

Mayor Randy Johnston

Attest: Crystal Turner, City Clerk

2nd Reading and Approval: DATED this 10th day of March 2026.

Mayor Randy Johnston

Attest: Crystal Turner, City Clerk