

Title 8, Kootenai County Code
Chapter 5, (New) Article 5.3 and associated definitions
Wireless Communication Facilities

SECTION 1. That Section 8.2.105, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.105: USES OF RIGHT ON EXISTING PARCELS OF LESS THAN FIVE (5.00) ACRES: Parcels created prior to January 3, 1973 which are less than five (5.00) acres in size shall be regarded as conforming parcels for purposes of this title. However, only the following uses shall be permitted of right:

A. Primary uses.

1. General farming and forestry, provided that the minimum lot area for the keeping of livestock shall be three-fourths ($\frac{3}{4}$) acre. Domestic fowl are permitted only on parcels of 8,250 square feet or greater in size, and must be kept in a secure yard or other enclosure at all times.
2. One single-family dwelling, which may be a Class A or Class B manufactured home, with accessory buildings.

3. ~~Public safety~~ The following wireless communications facilities:

a. WCFs exempt from the requirements of chapter 5, article 5.3 of this title pursuant to subsection 8.5.302(C) of this title, except radio or television towers. The minimum parcel size for WCFs except amateur (ham) radio towers and satellite dishes less than 1 meter (39.37”) in diameter is two (2.00) acres.

b. Eligible facilities requests, subject to the standards set forth in section 8.5.309 of this title.

c. Collocations, subject to the standards and permitting requirements set forth in section 8.5.310 of this title.

4. Utility Complexes.

5. Utility Services.

B. Accessory Uses.

1. Home occupations, subject to the standards set forth in section 8.4.501 of this title.
2. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.
3. Cottage industries, subject to the standards set forth in section 8.4.504 of this title, on lots or parcels that are two (2.00) acres in size or greater.

4. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title, on lots or parcels that are two (2.00) acres in size or greater.

C. One (1) personal storage building not to exceed 5,000 square feet may be built prior to the establishment of one or more of the primary uses listed in subsection (A) of this section; provided, however, that a special notice permit shall be required for such personal storage buildings where the building will be 200 square feet or greater and the lot or parcel is less than one (1.00) acre in size, and such buildings shall not exceed 2,000 square feet. No special notice permit shall be required for a personal storage building if the building will be 400 square feet or less and the setback areas from the structure to the property lines are two (2) times the normally applicable setback distances. *See* section 8.2.110 of this article.

D. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

SECTION 2. That Section 8.2.106, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.106: USES OF RIGHT ON PARCELS OF FIVE (5.00) ACRES OR MORE: On parcels that are a minimum of five (5.00) acres in size, the following uses are permitted of right, provided that all uses shall leave sixty-five percent (65%) of the parcel as open space free from structures:

A. Primary uses.

1. General farming and forestry.
2. Sales of agricultural products produced on the premises or on parcels under common ownership. The amount of space dedicated to such use shall not exceed three hundred (300) square feet of building area.
3. One (1) single-family dwelling, which may be a Class A or Class B manufactured home, or one (1) two-family dwelling.
4. Publicly-owned parks, playgrounds, and recreational facilities.
5. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.
6. Processing plants, feed mills, packing plants, and warehouses for the purpose of processing, packing, and storage of agricultural products, employing regularly not more than ten (10) persons, but excluding meat, poultry, slaughterhouses, and commercial fertilizer manufacturing.
7. Dairy product manufacturing facilities.
8. Cemeteries, provided that they meet all standards of the Idaho Code and are approved by the Panhandle Health District.
9. ~~Public safety~~ The following wireless communications facilities:

a. WCFs exempt from the requirements of chapter 5, article 5.3 of this title pursuant to subsection 8.5.302(C) of this title.

b. Eligible facilities requests, subject to the standards set forth in section 8.5.309 of this title.

c. Collocations, subject to the standards and permitting requirements set forth in section 8.5.310 of this title.

10. Utility Complexes.

11. Utility Services.

B. Accessory uses. The following uses are allowed after one or more of the primary uses listed in subsection (A) above have been established:

1. Accessory buildings.

2. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title.

3. Temporary hardship use, subject to the standards set forth in section 8.4.302 of this title.

4. Home occupations, subject to the standards set forth in section 8.4.501 of this title.

5. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.

6. Cottage industries, subject to the standards set forth in section 8.4.504 of this title.

7. Non-commercial kennels, subject to the standards set forth in section 8.4.505 of this title.

C. One (1) personal storage building not to exceed 5,000 square feet may be built prior to the establishment of one or more of the primary uses listed in subsection (A) of this section ~~above~~.

D. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

SECTION 3. That Section 8.2.109, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.109: USES REQUIRING A CONDITIONAL USE PERMIT:

Agricultural Products Sales Stores

Airports or Airstrips

Automobile Wrecking Yards or Junkyards

Child Care Centers, Preschools, or Head Start Facilities

Commercial Fur Farms

Commercial Kennels
Commercial Resorts
Commercial Riding Arenas, Boarding Stables, or Equine Training Facilities
Feedlots
Fish Hatcheries or Fish Farms (Aquacultural facilities)
Golf Courses or Driving Ranges
Gun Clubs, Rifle Ranges, or Archery Ranges
Hospitals
Mini-Storage Facilities or Rental Warehouses
Nonprofit Trade or Business Associations
Places of Worship or Assembly
Privately Owned Recreational Facilities which are open to public use
Public Safety Facilities or Public Service Facilities
Racetracks
Residential Care Facilities
Resort Lodges, Retreat Centers, or Guest Ranches.
Restricted Surface Mining Operations
Schools
Sawmills, Shingle or Planing Mills, or Woodworking Plants
Slaughterhouses or Rendering Plants
Special Event Locations
Veterinary Hospitals or Clinics
Wholesale Greenhouses
Wireless Communication Facilities; ~~provided, however, that public safety Wireless communications facilities~~ except those permitted of right or subject to administrative approval pursuant to section 8.2.105 or 8.2.106 of this article.

SECTION 4. That Section 8.2.204, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.204: USES OF RIGHT ON EXISTING PARCELS OF LESS THAN FIVE (5.00) ACRES: Parcels created prior to September 1, 1978 which are less than five (5.00) acres in size shall be regarded as conforming parcels for purposes of this title. However, only the following uses shall be permitted of right:

A. Primary uses.

1. General farming and forestry, provided that the minimum lot area for the keeping of livestock shall be three-fourths ($\frac{3}{4}$) acre. Domestic fowl are permitted only on parcels of 8,250 square feet or greater in size, and must be kept in a secure yard or other enclosure at all times.

2. One single-family dwelling, which may be a Class A or Class B manufactured home, with accessory buildings.

3. ~~Public safety~~ The following wireless communications facilities:

a. WCFs exempt from the requirements of chapter 5, article 5.3 of this title pursuant to subsection 8.5.302(C) of this title, except radio or television towers. The minimum parcel size for WCFs except amateur (ham) radio towers and satellite dishes less than 1 meter (39.37") in diameter is two (2.00) acres.

b. Eligible facilities requests, subject to the standards set forth in section 8.5.309 of this title.

c. Collocations, subject to the standards and permitting requirements set forth in section 8.5.310 of this title.

4. Utility Services.

B. Accessory Uses.

1. Home occupations, subject to the standards set forth in section 8.4.501 of this title.

2. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.

3. Cottage industries, subject to the standards set forth in section 8.4.504 of this title, on lots or parcels that are two (2.00) acres in size or greater.

4. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title, on lots or parcels that are two (2.00) acres in size or greater.

C. One (1) personal storage building not to exceed 5,000 square feet may be built prior to the establishment of one or more of the primary uses listed in subsection (A) of this section; provided, however, that a special notice permit shall be required for such personal storage buildings where the building will be 200 square feet or greater and the lot or parcel is less than one (1.00) acre in size, and such buildings shall not exceed 2,000 square feet. No special notice permit shall be required for a personal storage building if the building will be 400 square feet or less and the setback areas from the structure to the property lines are two (2) times the normally applicable setback distances. *See* section 8.2.209 of this article.

D. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

SECTION 5. That Section 8.2.205, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.205: USES OF RIGHT ON PARCELS OF FIVE (5.00) ACRES OR MORE: On parcels that are a minimum of five (5.00) acres in size, the following uses are permitted of right, provided that all uses shall leave sixty-five percent (65%) of the parcel as open space free from structures:

A. Primary uses.

1. General farming and forestry.
2. Sales of agricultural products produced on the premises or on parcels under common ownership. The amount of space dedicated to such use shall not exceed three hundred (300) square feet of building area.
3. One (1) single-family dwelling, which may be a Class A or Class B manufactured home, or one (1) two-family dwelling.
4. Publicly-owned parks, playgrounds, and recreational facilities.
5. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.
6. Cemeteries, provided that they meet all standards of the Idaho Code and are approved by Panhandle Health District.
7. ~~Public safety~~ The following wireless communications facilities:
 - a. WCFs exempt from the requirements of chapter 5, article 5.3 of this title pursuant to subsection 8.5.302(C) of this title.
 - b. Eligible facilities requests, subject to the standards set forth in section 8.5.309 of this title.
 - c. Collocations, subject to the standards and permitting requirements set forth in section 8.5.310 of this title.
8. Utility Services.

B. Accessory uses. The following uses are allowed after one or more of the primary uses listed in subsection (A) above have been established:

1. Accessory buildings.
2. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title.
3. Temporary hardship use, subject to the standards set forth in section 8.4.302 of this title.
4. Home occupations, subject to the standards set forth in section 8.4.501 of this title.
5. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.

6. Cottage industries, subject to the standards set forth in section 8.4.504 of this title.

7. Non-commercial kennels, subject to the standards set forth in section 8.4.505 of this title.

C. One (1) personal storage building not to exceed 5,000 square feet may be built prior to the establishment of one or more of the primary uses listed in subsection (A) of this section ~~above~~.

D. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

E. Continued operation of airports or airstrips that were in existence on June 9, 2016. (Ord. 514, 10-4-17; Ord. 517, 1-31-18)

SECTION 6. That Section 8.2.208, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.208: USES REQUIRING A CONDITIONAL USE PERMIT:

Agricultural Products Sales Stores

Airports or Airstrips

Asphalt or Concrete Batch Plants

Automobile Wrecking Yards or Junkyards

Child Care Centers, Preschools, or Head Start Facilities

Commercial Fur Farms

Commercial Kennels

Commercial Resorts

Commercial Riding Arenas, Boarding Stables, or Equine Training Facilities

Explosive Manufacturing or Storage Facilities

Golf Courses or Driving Ranges

Gun Clubs, Rifle Ranges, or Archery Ranges

Hospitals

Mini-Storage Facilities or Rental Warehouses

Nonprofit Trade or Business Associations

Outdoor Theaters

Places of Worship or Assembly

Privately Owned Recreational Facilities which are open to public use

Public Utility Complex Facilities

Public Safety Facilities or Public Service Facilities

Racetracks

Residential Care Facilities

Resort Lodges, Retreat Centers, or Guest Ranches.

Restricted Surface Mining Operations

Sawmills, Shingle or Planing Mills, or Woodworking Plants

Schools

Special Event Locations

Veterinary Hospitals or Clinics

Wholesale Greenhouses

Wireless Communication Facilities; ~~provided, however, that public safety~~ Wireless communications facilities except those permitted of right or subject to administrative approval pursuant to section 8.2.204 or 8.2.205 of this article.

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SECTION 7. That Section 8.2.304, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.304: USES OF RIGHT ON EXISTING PARCELS OF LESS THAN 8,250 SQUARE FEET:

A. Parcels created prior to January 3, 1973 which are less than 8,250 square feet in size shall be regarded as conforming parcels for purposes of this title.

B. Uses Permitted of Right.

1. Primary Uses. Primary uses permitted of right shall be limited to one (1) single-family dwelling, which may be a Class A manufactured home, utility services, and public safety facilities.

2. Other Uses Permitted.

a. Accessory buildings.

b. Home occupations, subject to the standards set forth in section 8.4.501 of this title.

c. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

d. One (1) personal storage building not to exceed 2,000 square feet may be built prior to the establishment of one or more of the uses listed in paragraph (1) of this subsection; provided, however, that a special notice permit shall be required for such personal storage buildings where the building will be 200 square feet or greater. No special notice permit shall be required for a personal storage building if the building will be 400 square feet or less and the setback areas from the structure to the property lines are two (2) times the normally applicable setback distances. *See* section 8.2.310 of this article.

e. FCC licensed amateur (ham) radio facilities.

f. Satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter (39.37”) in diameter.

SECTION 8. That Section 8.2.305, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.305: USES OF RIGHT ON PARCELS OF 8,250 SQUARE FEET OR MORE BUT LESS THAN TWO (2.00) ACRES: Parcels created prior to February 8, 2005 that are a minimum of 8,250 square feet but less than two (2.00) acres in size shall be regarded as conforming parcels for purposes of this title. On such parcels, the following uses are permitted of right, provided that all uses shall leave sixty-five percent (65%) of the parcel as open space free from structures:

A. Primary Uses.

1. One (1) single-family dwelling, which may be a Class A manufactured home, or one (1) two-family dwelling.
2. Publicly-owned parks, playgrounds, or recreational facilities.
3. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.
4. Temporary office for the sale of real estate, for a period not to exceed two (2) years.
5. General farming and forestry, provided that the minimum area for the keeping of livestock shall be three-fourths ($\frac{3}{4}$) acre. Domestic fowl must be kept in a secure yard or other enclosure at all times.
6. Utility Services.

B. Accessory Uses. The following uses are allowed after one or more of the primary uses listed in subsection (A) above have been established:

1. Accessory buildings.
2. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title.
3. Temporary hardship use, subject to the standards set forth in section 8.4.302 of this title.
4. Home occupations, subject to the standards set forth in section 8.4.501 of this title.
5. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.
6. FCC licensed amateur (ham) radio facilities.
7. Satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter (39.37”) in diameter.

C. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

D. One (1) personal storage building not to exceed 2,000 square feet may be built prior to the establishment of one or more of the uses listed in subsection (A) of this section; provided, however, that a special notice permit shall be required for such personal storage buildings where the building will be 200 square feet or greater and the lot or parcel is less than one (1.00) acre in size. No special notice permit shall be required for a personal storage building if the building will be 400 square feet or less and the setback areas from the structure to the property lines are two (2) times the normally applicable setback distances. *See* section 8.2.310 of this article.

SECTION 9. That Section 8.2.306, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.306: USES OF RIGHT ON PARCELS OF TWO (2.00) ACRES OR MORE: On parcels that are a minimum of two (2.00) acres in size, the following uses are permitted of right, provided that all uses shall leave sixty-five percent (65%) of the parcel as open space free from structures:

A. Primary Uses:

1. General farming and forestry, provided that the minimum area for the keeping of livestock shall be three-fourths ($\frac{3}{4}$) acre. Domestic fowl must be kept in a secure yard or other enclosure at all times on parcels smaller than five (5.00) acres.
2. One (1) single-family dwelling, which may be a Class A manufactured home, or one (1) two-family dwelling.
3. Publicly-owned parks, playgrounds, or recreational facilities.
4. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.
5. Temporary office for the sale of real estate, for a period not to exceed two (2) years.
6. ~~Public safety~~ The following wireless communications facilities:
 - a. WCFs exempt from the requirements of chapter 5, article 5.3 of this title pursuant to subsection 8.5.302(C) of this title. The minimum parcel size for radio and television towers is five (5.00) acres.
 - b. Eligible facilities requests, subject to the standards set forth in section 8.5.309 of this title.
 - c. Collocations, subject to the standards and permitting requirements set forth in section 8.5.310 of this title.
7. Utility Services.

B. Accessory Uses. The following uses are allowed after one or more of the primary uses listed in subsection (A) above have been established:

1. Accessory buildings.
2. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title.
3. Temporary hardship use, subject to the standards set forth in section 8.4.302 of this title.
4. Home occupations, subject to the standards set forth in section 8.4.501 of this title.
5. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.
6. Cottage industries, subject to the standards set forth in section 8.4.504 of this title.
7. Non-commercial kennels, subject to the standards set forth in section 8.4.505 of this title.

C. One (1) personal storage building may be built prior to the establishment of one or more of the primary uses listed in subsection (A) of this section~~above~~. Such building shall not exceed 2,000 square feet on parcels of less than five (5.00) acres in size, and shall not exceed 5,000 square feet on parcels of five (5.00) acres or greater in size.

D. Continued operation of airports or airstrips that were in existence as of June 9, 2016.

E. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

SECTION 10. That Section 8.2.309, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.309: USES REQUIRING A CONDITIONAL USE PERMIT:

- Cemeteries
- Child Care Centers, Preschools, or Head Start Facilities
- Commercial Kennels
- Commercial Resorts
- Commercial Riding Arenas, Boarding Stables, or Equine Training Facilities
- Golf Courses or Driving Ranges
- Hospitals
- Medical or Dental Clinics
- Mini-Storage Facilities or Rental Warehouses
- Places of Worship or Assembly
- Privately-Owned Recreational Facilities which are open to public use

Public Safety Facilities or Public Service Facilities

Public Utility Complex Facilities

Residential Care Facilities

Resort Lodges, Retreat Centers, or Guest Ranches.

Schools

Veterinary Hospitals or Clinics

Wholesale Greenhouses

~~Wireless Communication Facilities; provided, however, that public safety Wireless communications facilities except those permitted of right or subject to administrative approval pursuant to section 8.2.304, 8.2.305, or 8.2.306 of this article. The minimum lot size for Wireless Communication Facilities in the Agricultural Suburban zone, including Public Safety Wireless Communication Facilities, shall be two (2.00) acres.~~

SECTION 11. That Section 8.2.404, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.404: USES OF RIGHT ON EXISTING PARCELS OF LESS THAN 8,250 SQUARE FEET:

A. Parcels created prior to January 3, 1973 which are less than 8,250 square feet in size shall be regarded as conforming parcels for purposes of this title.

B. Uses Permitted of Right.

1. Primary Uses. Primary uses permitted of right shall be limited to one (1) single-family dwelling, which may be a Class A manufactured home, utility services, and public safety facilities.

2. Other Uses Permitted.

a. Accessory buildings.

b. Home occupations, subject to the standards set forth in section 8.4.501 of this title.

c. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

d. One (1) personal storage building not to exceed 2,000 square feet may be built prior to the establishment of one or more of the uses listed in paragraph (1) of this subsection; provided, however, that a special notice permit shall be required for such personal storage buildings where the building will be 200 square feet or greater. No special notice permit shall be required for a personal storage building if the building will be 400 square feet or less and the setback areas from the structure to the property lines are two (2) times the normally applicable setback distances. *See* section 8.2.411 of this article.

e. FCC licensed amateur (ham) radio facilities

f. Satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter (39.37”) in diameter.

SECTION 12. That Section 8.2.405, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.405: USES OF RIGHT ON PARCELS OF 8,250 SQUARE FEET OR MORE BUT LESS THAN 9,900 SQUARE FEET: On parcels that are a minimum of eight thousand two hundred fifty (8,250) square feet but less than nine thousand nine hundred (9,900) square feet in size, the following uses are permitted, provided that all uses shall leave sixty-five percent (65%) of the parcel as open space free from structures:

A. Primary Uses:

1. One (1) single-family dwelling, which may be a Class A manufactured home.
2. Publicly-owned parks, playgrounds, or recreational facilities.
3. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.
4. Temporary office for the sale of real estate for a period not to exceed two (2) years.
5. Utility Services.

B. Accessory Uses. The following uses are allowed after one or more of the primary uses listed in subsection (A) above have been established:

1. Accessory buildings.
2. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title.
3. Temporary hardship use, subject to the standards set forth in section 8.4.302 of this title.
4. Home occupations, subject to the standards set forth in section 8.4.501 of this title.
5. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.
6. The keeping of domestic fowl, subject to the following limitations:
 - a. Male chickens (roosters) shall not be kept.
 - b. Domestic fowl must be kept in a secure yard or other enclosure at all times.

6. FCC licensed amateur (ham) radio facilities.

7. Satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter (39.37”) in diameter.

C. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

D. One (1) personal storage building not to exceed 2,000 square feet may be built prior to the establishment of one or more of the uses listed in subsection (A) of this section; provided, however, that a special notice permit shall be required for such personal storage buildings where the building will be 200 square feet or greater. No special notice permit shall be required for a personal storage building if the building will be 400 square feet or less and the setback areas from the structure to the property lines are two (2) times the normally applicable setback distances. See section 8.2.411 of this article.

SECTION 13. That Section 8.2.408, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.408: USES PROHIBITED: Except as permitted of right or with a conditional use permit or special notice permit as set forth in this article, the following uses are prohibited:

A. Commercial uses.

B. Industrial uses.

C. Manufacturing uses.

D. The keeping of livestock on parcels of less than three-fourths ($\frac{3}{4}$) acre in size.

E. The keeping of domestic fowl on parcels of less than 8,250 square feet in size.

F. Wireless communication facilities except FCC licensed amateur (ham) radio facilities and satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter (39.37”) in diameter.

SECTION 14. That Section 8.2.504, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.504: USES PERMITTED: The following uses are permitted of right, provided that all uses except public safety facilities shall leave sixty-five percent (65%) of the parcel as open space free from structures:

A. Primary Uses:

1. One (1) single-family dwelling or one (1) two-family dwelling. On parcels of not less than six thousand (6,000) square feet with frontage on a public road, one (1) Class A or Class B manufactured home may be used as a single-family dwelling.

2. Publicly-owned parks, playgrounds, or recreational facilities.

3. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.

4. Temporary office for the sale of real estate for a period not to exceed two (2) years.

5. Multiple-family dwellings are permitted of right on parcels of not less than twelve thousand square feet (12,000 sq. ft.) in size with frontage on a public road. There shall be a ratio of not less than three thousand square feet (3,000 sq. ft.) of land per dwelling unit.

6. Utility Services.

B. Accessory Uses. The following uses are allowed after one or more of the primary uses listed in subsection (A) above have been established:

1. Accessory buildings.

2. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title.

3. Temporary hardship use, subject to the standards set forth in section 8.4.302 of this title.

4. Home occupations, subject to the standards set forth in section 8.4.501 of this title.

5. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.

6. FCC licensed amateur (ham) radio facilities.

7. Satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter (39.37”) in diameter.

C. Temporary or intermittent recreational use of one (1) recreational vehicle, subject to the standards set forth in section 8.4.401 of this title.

SECTION 15. That Section 8.2.505, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.505: USES PROHIBITED: Except as permitted of right or with a conditional use permit or special notice permit as set forth in this article, the following uses are prohibited:

A. General commercial uses, except as specifically permitted in manufactured home parks under section 8.4.402 of this title.

B. Industrial uses.

C. Manufacturing uses.

D. The keeping of livestock or domestic fowl.

E. Wireless communication facilities except FCC licensed amateur (ham) radio facilities and satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter (39.37”) in diameter.

SECTION 16. That Section 8.2.603, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.603: USES PERMITTED: Unless a special notice permit is required pursuant to section 8.2.607 of this article, the following uses are permitted of right:

A. Primary Uses:

1. Any wholesale, retail or service business.
2. Public or private office buildings.
3. Any eating or drinking establishment, or other entertainment facility.
4. Hospitality businesses such as hotels, motels, condominium or vacation rental facilities, private resorts, commercial resorts, and meeting and convention facilities.
5. Transfer, storage, and warehouse facilities, and contractor storage. Storage shall comply with the requirements of section 8.4.605 of this title unless an alternative method of compliance is approved pursuant to section 8.4.606 of this title.
6. Recreational vehicle parks, subject to the standards set forth in chapter 4, article 4.4 of this title.
7. General farming and forestry, provided that the minimum lot area for the keeping of livestock shall be three-fourths ($\frac{3}{4}$) acre.
8. Universities, colleges, and vocational, trade, or private instructional schools, providing a specialized or single-item curriculum.
9. Places of worship or assembly.
10. Nonprofit trade or business associations.
11. Utility Complexes and Utility Services.
12. Recreational buildings.
13. Parks, playgrounds, golf courses, and other recreational facilities, whether publicly or privately owned.
14. ~~Public safety~~ The following wireless communications facilities:

a. WCFs exempt from the requirements of chapter 5, article 5.3 of this title pursuant to subsection 8.5.302(C) of this title. The minimum parcel size for radio or television towers is five (5.00) acres.

b. Eligible facilities requests, subject to the standards set forth in section 8.5.309 of this title.

c. Collocations, subject to the standards set forth in section 8.5.310 of this title.

15. Mobile commercial vehicles and temporary commercial structures, subject to the standards set forth in chapter 4, section 8.4.1410 of this title.

16. Resort Lodges, Retreat Centers, or Guest Ranches.

17. Public Safety Facilities.

18. Public Service Facilities.

19. Helipads, helicopter operation, and helicopter storage.

20. Residential uses, including single-family, two-family and multiple-family dwellings. Maximum density for residential uses shall be as set forth in section 8.2.503 of this chapter.

SECTION 17. That Section 8.2.606, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.606: USES REQUIRING A CONDITIONAL USE PERMIT:

Outdoor Theaters

Re-Entry Facilities

Special Event Locations

Solid Waste Transfer Stations that are not Public Utility Complex Facilities

Transitional Group Housing Facilities

Wireless Communication Facilities; ~~provided, however, that public safety~~ Wireless communications facilities except those permitted of right pursuant to section 8.2.603 of this article.

Zoos

SECTION 18. That Section 8.2.703, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.703: USES PERMITTED:

A. The following uses are permitted of right:

1. All surface and subsurface mining operations, including the processing of materials, necessary plants and offices, equipment, storage space and other facilities directly related to the mining operation.
2. General farming and forestry, provided that the minimum lot area for the keeping of livestock shall be three-fourths ($\frac{3}{4}$) acre.
3. One (1) residential structure for use as a caretaker's quarters.
4. Mobile commercial vehicles and temporary commercial structures, subject to the standards set forth in section 8.4.1410 of this title.
5. Utility Complexes and Utility Services.
6. Railroad cars, truck cargo containers and trailers.
7. Public Safety Facilities.
8. Public Service Facilities.
9. Helipads, helicopter operation, and helicopter storage.
10. ~~Public safety~~ The following wireless communications facilities:
 - a. WCFs exempt from the requirements of chapter 5, article 5.3 of this title pursuant to subsection 8.5.302(C) of this title. The minimum parcel size for radio or television towers is five (5.00) acres.
 - b. Eligible facilities requests, subject to the standards set forth in section 8.5.309 of this title.
 - c. Collocations, subject to the standards set forth in section 8.5.310 of this title.

B. Performance Standards.

1. Performance standards generally applicable within the Mining zone are set forth in section 8.4.1303 of this title.
2. Landscaping, screening and fencing shall comply with the standards set forth in chapter 4, article 4.6 of this title unless the parcel is located within the Airport Overlay zone or is expressly modified via approval of an alternative method of compliance pursuant to section 8.4.606 of this title.
3. Parking shall comply with the standards set forth in chapter 4, article 4.7 of this title unless the parcel is located within the Airport Overlay zone or is expressly modified via approval of an alternative method of compliance pursuant to section 8.4.705 of this title. (Ord. 546, 10-22-19)

C. Public Safety Facilities and Public Service Facilities. Public safety facilities and public service facilities may be located on a lot that is otherwise ineligible for building permits, and shall be exempt from the requirements of section 8.4.1303 of this title.

SECTION 19. That Section 8.2.705, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.705: USES REQUIRING A CONDITIONAL USE PERMIT:

Re-Entry Facilities

Solid Waste Transfer Stations that are not Public Utility Complex Facilities

Special Event Locations

Transitional Group Housing Facilities

Wireless Communication Facilities except those permitted of right pursuant to section 8.2.703 of this article.

SECTION 20. That Section 8.2.803, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.803: USES PERMITTED:

A. The following uses are permitted of right:

1. General farming and forestry, provided that the minimum lot area for the keeping of livestock shall be three-fourths ($\frac{3}{4}$) acre.
2. Publicly-owned parks, playgrounds, or recreational facilities.
3. Any commercial, manufacturing, or industrial use that complies with the performance standards set forth in chapter 4, sections 8.4.1304 and 8.4.1305 of this title and are not prohibited under section 8.2.804 of this article.
4. ~~Public safety~~ The following wireless communications facilities:
 - a. WCFs exempt from the requirements of chapter 5, article 5.3 of this title pursuant to subsection 8.5.302(C) of this title. The minimum parcel size for radio or television towers is five (5.00) acres.
 - b. Eligible facilities requests, subject to the standards set forth in section 8.5.309 of this title.
 - c. Collocations, subject to the standards set forth in section 8.5.310 of this title.
5. Racetracks, subject to the standards set forth in section 8.5.122 of this title.

6. Wholesale, retail or service businesses.
7. Mini-storage facilities or rental warehouses.
8. Transfer, storage, and warehouse facilities, and contractor storage. Storage shall comply with the requirements of section 8.4.605 of this title unless an alternative method of compliance is approved pursuant to section 8.4.606 of this title.
9. Railroad cars, truck cargo containers and trailers.
10. Mobile commercial vehicles and temporary commercial structures, subject to the standards set forth in chapter 4, section 8.4.1410 of this title.
11. Utility Complexes and Utility Services.
12. Golf courses and driving ranges.
13. Public Safety Facilities.
14. Public Service Facilities.
15. Helipads, helicopter operation, and helicopter storage. (Ord. 546, 10-22-19)

B. Performance Standards.

1. Performance standards generally applicable within the Light Industrial zone are set forth in sections 8.4.1304 and 8.4.1305 of this title.
2. Landscaping, screening and fencing shall comply with the standards set forth in chapter 4, article 4.6 of this title unless the parcel is located within the Airport Overlay zone or is expressly modified via approval of an alternative method of compliance pursuant to section 8.4.606 of this title.
3. Parking shall comply with the standards set forth in chapter 4, article 4.7 of this title unless the parcel is located within the Airport Overlay zone or is expressly modified via approval of an alternative method of compliance pursuant to section 8.4.705 of this title.

C. Public Safety Facilities and Public Service Facilities. Public safety facilities and public service facilities may be located on a lot that is otherwise ineligible for building permits, and shall be exempt from the requirements of sections 8.4.1304 and 8.4.1305 of this title.

SECTION 21. That Section 8.2.807, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.807: USES REQUIRING A CONDITIONAL USE PERMIT:

Above-ground storage of over five thousand (5,000) gallons (per site) of petroleum products
Automobile wrecking yards or junkyards

Gun clubs, rifle ranges, or archery ranges

Re-Entry Facilities

Slaughterhouses or rendering plant

Solid Waste Transfer Stations that are not Public Utility Complex Facilities

Special event locations

Transitional Group Housing Facilities

Wireless Communication Facilities; ~~provided, however, that public safety~~ Wireless communications facilities except those permitted of right pursuant to section 8.2.803 of this article.

SECTION 22. That Section 8.2.903, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.903: USES PERMITTED:

A. The following uses are permitted of right:

1. Any trade, industry, or processing facility of any type that complies with the performance standards set forth in chapter 4, sections 8.4.1304 and 8.4.1306 of this article and are not prohibited in section 8.2.904 of this article.
2. Recreational buildings.
3. Publicly-owned parks, playgrounds, or recreational facilities.
4. Golf courses and driving ranges.
5. Oil and gas drilling and extraction operations, and exploration operations involving ground disturbances, except as prohibited in section 8.2.904 of this article.
6. ~~Public safety~~ The following wireless communications facilities:
 - a. WCFs exempt from the requirements of chapter 5, article 5.3 of this title pursuant to subsection 8.5.302(C) of this title. The minimum parcel size for radio or television towers is five (5.00) acres.
 - b. Eligible facilities requests, subject to the standards set forth in section 8.5.309 of this title.
 - c. Collocations, subject to the standards set forth in section 8.5.310 of this title.
7. Racetracks, subject to the standards set forth in section 8.5.124 of this title.
8. Sexually oriented businesses, subject to the standards set forth in section 8.4.1202 of this title.

9. Transfer, storage, and warehouse facilities, and contractor storage. Storage shall comply with the requirements of section 8.4.605 of this title unless an alternative method of compliance is approved pursuant to section 8.4.606 of this title.

10. Railroad cars, truck cargo containers and trailers.

11. Mobile commercial vehicles and temporary commercial structures, subject to the standards set forth in chapter 4, section 8.4.1410 of this title.

12. Utility Complexes and Utility Services.

13. Public Safety Facilities.

14. Public Service Facilities.

15. Helipads, helicopter operation, and helicopter storage. (Ord. 546, 10-22-19)

B. Performance Standards.

1. Performance standards generally applicable within the Industrial zone are set forth in sections 8.4.1304 and 8.4.1306 of this title.

2. Landscaping, screening and fencing shall comply with the standards set forth in chapter 4, article 4.6 of this title unless the parcel is located within the Airport Overlay zone or is expressly modified via approval of an alternative method of compliance pursuant to section 8.4.606 of this title.

3. Parking shall comply with the standards set forth in chapter 4, article 4.7 of this title unless the parcel is located within the Airport Overlay zone or is expressly modified via approval of an alternative method of compliance pursuant to section 8.4.705 of this title.

C. Public Safety Facilities and Public Service Facilities. Public safety facilities and public service facilities may be located on a lot that is otherwise ineligible for building permits, and shall be exempt from the requirements of sections 8.4.1304 and 8.4.1306 of this title.

SECTION 23. That Section 8.2.906, Kootenai County Code, shall be, and is hereby amended as follows:

8.2.906: USES REQUIRING A CONDITIONAL USE PERMIT:

Above-ground storage of over five-thousand (5,000) gallons (per site) of petroleum products

Automobile wrecking yards or junkyards

Cement, gypsum, or asphalt plants

Explosives manufacturing or storage facilities

Gun clubs, rifle ranges, or archery ranges

Restricted surface mining operations

Slaughterhouses or rendering plants

Solid Waste Transfer Stations that are not Public Utility Complex Facilities

Special event locations

Wireless Communication Facilities; ~~provided, however, that public safety~~ Wireless communication facilities except those permitted of right pursuant to section 8.2.903 of this article.

SECTION 24. That Section 8.5.132, Kootenai County Code, shall be, and is hereby repealed.

SECTION 25. That Title 8, Chapter 5, Kootenai County Code, shall be, and is hereby amended by the addition of a **NEW ARTICLE**, to be designated as Title 8, Chapter 5, Article 5.3, Kootenai County Code, and to read as follows:

Article 5.3 Wireless Communication Facilities

8.5.301: PURPOSE: The purpose of this article is to delineate restrictions, development standards and siting criteria, and establish removal procedures in order to protect the unincorporated area of Kootenai County from the uncontrolled siting of wireless communication facilities in locations that have significant adverse effects and may 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 communication services. More specifically, it is the County's goal to minimize the visual impact of wireless communication facilities on the community, particularly in and near residential zones;

B. To promote and protect the public health, safety and welfare, preserve the aesthetic character of the unincorporated area of Kootenai County, and to reasonably regulate the development and operation of wireless communication facilities within the unincorporated area of the County to the extent permitted under state and federal law;

C. To minimize the impact of wireless communication facilities by establishing standards for siting design and screening;

D. To preserve the opportunity for continued and growing service from the wireless industry;

E. To accommodate the growing need and demand for wireless communication services;

F. To establish clear guidelines and standards and an orderly process for review of the proposed deployment of wireless transmission equipment intended to provide advanced communication services to the unincorporated area of Kootenai County, its residents, businesses and the community at large;

G. To ensure County zoning regulations are applied consistently with federal and state telecommunications laws, rules, regulations and controlling court decisions; and

H. 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. Unreasonably discriminate among functionally equivalent service providers, or
3. Regulate wireless communication facilities and wireless 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.

8.5.302: APPLICABILITY:

A. New Towers, Antennas, Distributed antenna systems (DAS) and Small Cells: All new towers, antenna arrays, DAS and small cells in the unincorporated area of Kootenai County shall be subject to the provisions of this article, except as otherwise provided herein.

1. A conditional use permit is required for all WCFs to be constructed on a new tower or building.
2. New antenna arrays meeting the requirements of subsection 8.5.304(K) of this article are permitted of right in the Commercial, Mining, Light Industrial and Industrial zones. A conditional use permit is required for new antenna arrays other than collocations in the Agricultural, Rural, and Agricultural Suburban zones and for those that do not meet the requirements of subsection 8.5.304(K) of this article in the Commercial, Mining, Light Industrial and Industrial zones. New antenna arrays are prohibited in the Restricted Residential and High Density Residential zones.
3. DAS and small cells are permitted of right in the Commercial, Mining, Light Industrial and Industrial zones. A conditional use permit is required for DAS and small cells in the Agricultural, Rural, and Agricultural Suburban zones. DAS and small cells are prohibited in the Restricted Residential and High Density Residential zones.

B. Preexisting towers and antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this article.

C. Exempt Facilities. The following are exempt from the provisions of this article:

1. FCC licensed radio and television towers. Radio and television tower sites shall be at least five (5.00) acres in size, and shall additionally be of adequate size to ensure that the tower will not adversely impact or damage neighboring property if a structural failure occurs.
2. FCC licensed amateur (ham) radio facilities.
3. Satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter (39³/₈"") in diameter.
4. Public safety WCFs.

5. A temporary, commercial WCF installed for providing coverage of a special event such as news coverage or sporting event, subject to administrative approval by the Director. The WCF shall be exempt from the provisions of this article for up to one week before and after the duration of the special event.

6. Other temporary, commercial WCFs installed for a period of up to ninety (90) days, subject to renewals at the Board's discretion; provided that such temporary WCF will comply with applicable setbacks and height requirements.

7. Ordinary maintenance and repair of a WCF.

D. Conflicts with Other Zoning Regulations. The provisions of this article are in addition to other regulations set forth in this title. In case of a conflict between regulations, the most restrictive will apply.

8.5.303: DISTRIBUTED ANTENNA SYSTEMS AND SMALL CELLS:

A. The siting preferences listed in section 8.5.307 of this article shall not apply, provided that the applicant complies with all applicable federal and state laws and regulations and the applicable provisions of this article.

B. Distributed antenna systems and small cells shall be subject to approval via right-of-way encroachment permits issued by the public agency with jurisdiction and via building and site disturbance permits, as applicable, issued by the Department. If their installation requires the construction of a new tower or building or the proposed facility is in the Agricultural, Rural or Agricultural Suburban zone, a conditional use permit shall also be required. A conditional use permit shall not be required for replacement utility support structures so long as the height of a replacement structure, including antennas, is no more than the greater of:

1. Fifteen feet (15') taller than the existing utility support structure; or
2. The minimum height necessary to provide the required safety clearances from transmission or distribution lines.

C. A single permit application may be used for multiple distributed antennas that are part of a larger overall DAS network. A single permit application may also be used for multiple small cells. A single license agreement may be used for multiple node locations in DAS and/or small cell networks.

8.5.304: GENERAL REQUIREMENTS:

A. Inventory of Existing Sites. Each applicant for a tower shall provide to the Director an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are within two (2) miles of the proposed site, including specific information about the location, height, and design of each tower or antenna. The Director may share such information with other applicants applying for building permits or conditional use permits pursuant to this article or other organizations seeking to locate antennas within the unincorporated area of Kootenai County;

provided, however that the Director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

B. Color. The antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure. Support towers shall be painted a color that best allows it to blend into the surroundings. The use of grays, blues, greens, dark bronze, browns or other site specific colors may be appropriate; however, each case should be evaluated individually.

C. Lighting. For support towers, only such lighting as is necessary to satisfy FAA requirements is permitted. White strobe lighting will not be allowed, unless specifically required by the FAA. Security lighting for the equipment shelters or cabinets and other on the ground ancillary equipment is also permitted, as long as it is appropriately down shielded to keep light within the boundaries of the Site.

D. State or Federal Requirements. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, and if WCF equipment is added either through collocation or replacement, then the owners of the towers and antennas governed by this article 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 regulations, unless a different compliance schedule is mandated or allowed by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

E. Development Permits. All wireless communication facilities shall be required to obtain a building permit and, if applicable, a site disturbance permit, and shall be subject to the site development standards prescribed herein. In addition to the application requirements of the applicable building codes, a building permit for a WCF shall include the following information:

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

F. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable building codes and the applicable industry standards for towers, as amended from time to time. If, upon inspection, the Director concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have forty-five (45) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said forty-five (45) days shall constitute grounds for the removal of the tower at the owner's expense.

G. Signs. No facilities may bear any signage or advertisement(s) other than signage required by law or expressly permitted or required by the County, the FCC, the FAA, or other agency with jurisdiction.

H. Visual Impact. All WCFs in residential zones and within two hundred feet (200') of residential zones 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 WCF. Such WCFs and equipment enclosures shall be integrated through location and design to blend in with the existing characteristics of the site. Such WCFs shall also be designed to either resemble the surrounding landscape and other natural features where located in proximity to natural surroundings, or be compatible with the built environment, through matching and complimentary existing structures and specific design considerations such as architectural designs, height, scale, color and texture or be consistent with other uses and improvements permitted in the relevant zone.

I. Use of Stealth Design. The applicant shall provide justification why it is not employing stealth design. Stealth design is required for macrocell facilities in residential zones, and to the extent shown in Table 5-301 of this article and as otherwise provided in this article. 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, so as to be visually unobtrusive. Stealth design that relies on screening wireless communication facilities in order to reduce visual impact must screen all substantial portions of the facility from view. Stealth and concealment techniques do not include incorporating faux-tree designs of a kind that are not native to the North Idaho region.

J. Building-Mounted WCFs.

1. All transmission equipment shall be concealed within existing architectural features to the maximum extent feasible. Any new architectural features proposed to conceal the transmission equipment shall be designed to mimic the existing underlying structure, shall be proportional to the existing underlying structure or conform to the underlying use and shall use materials in similar quality, finish, color and texture as the existing underlying structure.
2. All roof-mounted transmission equipment shall be set back from all roof edges to the maximum extent feasible consistent with the need for “line-of-sight” transmission and reception of signals.
3. Antenna arrays and supporting transmission equipment shall be installed so as to camouflage, disguise or conceal them to make them closely compatible with and blend into the setting or host structure.

K. Antenna Arrays. Wireless communication antenna arrays are permitted of right in the Commercial, Mining, Light Industrial and Industrial zones as long as they are located upon an existing structure (except on single-family houses, duplexes, signage or a building less than thirty (30) feet in height), that provides sufficient elevation for the array's operation without the necessity of constructing a tower or other apparatus to extend the antenna array more than fifteen feet (15')

above the structure. Installation on public property requires the execution of necessary agreements with the agency with jurisdiction. A conditional use permit is required for antenna arrays other than collocations governed by section 8.5.305 of this article in the Agricultural, Rural, and Agricultural Suburban zones and is required in the Commercial, Mining, Light Industrial and Industrial zones if a new support tower is needed to achieve the needed elevation. If a new equipment cabinet is to be installed, it must be screened if it is higher than the existing screened facility.

L. WCFs in Public Rights-of-Way.

1. Utility support structure – Mounted equipment. All pole-mounted transmission equipment shall be mounted as close as possible to the pole so as to reduce the overall visual profile to the maximum extent feasible.
2. License or agreement. For all WCFs to be located within a public right-of-way, the applicant must have a valid municipal agreement, license, franchise agreement, right-of-way agreement, encroachment permit or exemption otherwise granted by the agency with jurisdiction pursuant to applicable law before submitting a permit application for the WCF. If the applicant is willing to install its ancillary facilities underground, that determination shall be subject to administrative review by the Department.

M. Accessory Uses.

1. Accessory uses shall be limited to such structures and equipment that are necessary for transmission or reception functions, and shall not include broadcast studios, offices, vehicles or equipment storage, or other uses not essential to transmission or reception functions.
2. All accessory buildings shall be constructed of building materials equal to or better than those of the primary building on the site and shall be subject to applicable permits.
3. No equipment shall be stored or parked on the site of the tower unless used in direct support of the antennas or the tower or antennas that are being repaired.

N. Accessory Equipment. In residential zones, all accessory equipment located at the base of a WCF shall be located or placed (at the applicant's choice) in an existing building, underground, or in an equipment shelter or 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 possible consistent with the proper functioning of the WCF.

O. Site Design Flexibility. Individual WCF sites vary in the location of adjacent buildings, existing trees, topography and other local variables. Mandating certain design standards may result in a project that could have been less intrusive if the location of the various elements of the project could have been placed in more appropriate locations within a given site. Therefore, upon approval of the Board, the WCF and supporting equipment may be installed so as to best camouflage, disguise, or conceal them, to make the WCF more closely compatible with and blend into the setting or host structure.

P. General Standards and Construction Provisions.

1. Construction and wind speed requirements. All structures shall be constructed and installed to manufacturer's specifications, and constructed to withstand the minimum wind speed as required by the currently adopted International Building Code, as adopted pursuant to Title 7, Chapter 1 of this code.
2. Meeting current adopted building code. Structures shall be permitted and constructed to meet then-current building code requirements.
3. FCC and FAA regulations: All structures shall conform to applicable FCC and FAA regulations.
4. Setbacks: If any setback prescribed within this Code requires a greater distance than required of this article, the greater distance shall apply.
5. Landscaping, screening and fencing. Landscaping, screening and fencing of a WCF shall be as set forth in Chapter 4, Article 4.6 of this title.
6. New poles. To the extent technically feasible, new poles must be designed to match the existing street furniture, light fixtures and other poles, and they shall serve a dual purpose (for example, a new light fixture, flagpole or banner clips).
7. Other published materials. All other information or materials that the Department may reasonably require, from time to time, make publicly available and designate as part of the application requirements.

8.5.305: DETERMINATION OF NECESSITY OF A NEW TOWER; COLLOCATION OF FACILITIES:

- A. Policy. It is the policy of the County to minimize the number of wireless communication support towers in a manner consistent with providing coverage to as much of the land area of Kootenai County as economically and technologically feasible, and to encourage the collocation of antenna arrays of more than one wireless communication service provider on a single support tower.
- B. New Tower Placement Exceptions. No new tower may be constructed within one (1) mile of an existing tower unless it can be demonstrated that an existing tower is not available or feasible for collocation of an additional wireless communication facility, or that its specific location does not satisfy the operational requirements of the Applicant.
- C. Factors to be considered in determining whether an applicant has made the demonstration required in subsection (B) of this section include the following.
 1. Height of the proposed tower. Towers exceeding a height of seventy-five feet (75') shall be able to accommodate collocation of one (1) additional provider. Additional height to accommodate additional collocation may be approved if the applicant submits information certifying that the tower has capacity for at least two (2) additional providers. The applicant shall provide a letter indicating their good faith intent to encourage collocation on the tower.

2. Proximity of the tower to residential structures.
3. Nature of uses on adjacent and nearby properties.
4. Surrounding topography.
5. Surrounding tree coverage and foliage.
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
7. Proposed ingress and egress.
8. Existing WCF structures within one (1) mile of the tower site.
9. Existing towers or structures lacking strength. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
10. Electromagnetic interference. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
11. Unreasonable fees, costs, or contract provisions. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs of collocation that exceed the costs of new tower development are presumed to be unreasonable.
12. Other Limiting Factors. The applicant demonstrates that there are other limiting factors not enumerated herein that render existing towers and structures unsuitable.

D. Placement Provisions – Towers. Towers shall be located only in those areas described in Table 5-301 of this article, provided that towers that are proposed to be located in a residential zone or within one thousand feet (1,000') of a residential zone shall be subject to the siting priorities set forth for preferred tower locations in section 8.5.307 of this article.

E. Collocations. Collocation of antenna arrays on an existing tower and supporting equipment shall be permitted of right in the Commercial, Mining, Light Industrial and Industrial zones, and shall be permitted in the Agricultural, Rural and Agricultural Suburban zones upon administrative approval of the Director as set forth in section 8.5.310 of this article. Collocation of antenna arrays and installation of supporting equipment are prohibited in the Restricted Residential and High Density Residential zones.

**Table 5-301
New Tower Criteria**

Zone(s)	May be Located In Public Right-Of-Way (ROW)	Maximum Tower Height	Stealth Design	Setback From Property Lines (Does Not Apply Within ROW)
A, R, AS	No	150'	Required	20'
Commercial	Yes	150'	Required	50'
Mining, Light Industrial, Industrial	Yes	150'	Optional	50'
RR, HDR	Prohibited			

8.5.306: SETBACK REQUIREMENTS:

A. Notwithstanding the setbacks provided for in Table 5-301 of this article, when a residence is located on an adjacent property, the support tower structures shall be set back from property lines as required in that zone or a minimum of one foot (1') for every foot of tower height, whichever produces the greater setback, unless:

1. The setback is waived by the owner of the residence; or
2. The tower is constructed with breakpoint design technology. If the tower has been constructed using breakpoint design technology, the minimum setback distance shall be equal to one hundred ten percent (110%) of the distance from the top of the structure to the breakpoint level of the structure, or the applicable zone's minimum side setback requirements, whichever is greater. For example, on a one hundred foot (100') tall monopole with a breakpoint at eighty feet (80'), the minimum setback distance would be twenty-two feet (22') (one hundred ten percent (110%) of twenty feet (20'), the distance from the top of the monopole to the breakpoint) or the minimum side yard setback requirements for that zone, whichever is greater. Provided, that if an applicant proposes to use breakpoint design technology to reduce the required setback from a residence, the issuance of building permits for the tower shall be conditioned upon approval of the tower design by a structural engineer.

B. Except when located in the right-of-way, all equipment shelters, cabinets, or other on the ground ancillary equipment shall meet the setback requirement of the zone in which it is located.

8.5.307: PREFERRED TOWER LOCATIONS:

A. All new towers proposed to be located in a residential zone or within one thousand feet (1,000') of a residential zone are permitted only after application of the following siting priorities, ordered from most preferred (1) to least preferred (5):

1. Publicly owned or operated property and facilities other than rights-of-way;

2. The Light Industrial (LI) or Industrial (I) zones;
3. The Commercial (C) zone;
4. Public rights-of-way in the Agricultural (A), Rural (R), or Agricultural Suburban (AS) zones;
5. Parcels of land in the Agricultural (A), Rural (R), or Agricultural Suburban (AS) zones.

B. The applicant for a tower located in a residential zone or within one thousand feet (1,000') of a residential zone shall address these preferences in the alternative site analysis prepared pursuant to section 8.5.308 of this article.

8.5.308: APPLICATION REQUIREMENTS: Applications for any WCF requiring approval of a conditional use permit shall include the following:

A. A completed application form which identifies all applicants, site developers, and wireless carriers on whose behalf the application is being submitted, as well as the property owner of the proposed site, and contact information deemed sufficient for transmission of notices.

B. Fees, as established by resolution of the Board.

C. Consent of Property or Facility Owner. Where an applicant is not the owner of the real property upon which it seeks to install its equipment or facility, the applicant shall submit proof of authorization to occupy the proposed facility site. If the applicant is leasing all or a portion of real property upon which it intends to install its new facility or equipment, then the applicant shall provide a written copy of its lease with the owner of such property. The applicant may redact any financial terms contained within the lease, but it shall not redact any portion of the lease which details the amount of area leased, its duration, nor the specific portion of the real property which the applicant has obtained the right to occupy, access, or preclude others from entering.

D. Collocation Consent. A written statement will be signed by a person with legal authority to bind the applicant and the project owner which indicates whether the applicant is willing to allow other transmission equipment owned by others to collocate onto the proposed wireless communication facility whenever technically and economically feasible and aesthetically desirable.

F. A copy of the Applicant's FCC license or registration.

G. Visual Analysis. A color visual analysis that includes to-scale visual simulations that show unobstructed before-and-after construction daytime and clear-weather views from at least four (4) angles, together with a map that shows the location of each view, including all equipment and ground wires. If one or more balloon tests are performed, the data from such tests shall be incorporated into this analysis.

H. Design Justification. A clear and complete written analysis that explains how the proposed design complies with applicable design standards to the maximum extent feasible. A complete design justification must identify all applicable design standards and provide a factually detailed reason as to why the proposed design either complies or cannot feasibly comply.

I. Noise Study. A noise study, if the proposal is in or within two hundred feet (200') of residentially zoned property and is requested by the Department, for the proposed WCF and all associated equipment.

J. Site Plan and Supporting Documentation. Applications shall include a site plan and supporting documentation as follows:

1. A drawn-to-scale site plan clearly indicating the location, type, height and width of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to a city or area of impact), separation distances, adjacent roadways, photo simulations, a depiction of all proposed transmission equipment, proposed means of access, setbacks from property lines, elevation drawings or renderings of the proposed tower and any other structures, topography, parking, utility runs and other information deemed by the Director to be necessary to assess compliance with this article.
2. A legal description of the parent tract and leased parcel (if applicable).
3. The setback distance between the proposed tower and the nearest residential unit and the nearest residentially zoned property.
4. The separation distance from other towers described in the inventory of existing sites submitted pursuant to this article shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
5. A landscape plan showing specific landscape materials.
6. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
7. A description of compliance with all applicable federal, state and local laws.
8. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.

These materials shall be reviewed and signed by an Idaho-licensed professional engineer or a qualified employee of the applicant. The qualified employee of the applicant shall submit his or her qualifications with the application.

K. Technical Data.

1. Statement of Purpose and Propagation Maps. A clear and complete written statement of purpose which shall minimally include:
 - a. A description of the technical objective to be achieved;
 - b. A to-scale map that identifies the proposed site location and the targeted service area to be benefited by the proposed project; and

c. Full-color signal propagation maps with objective units of signal strength measurement that show the applicant's current service coverage levels from all adjacent sites without the proposed site, predicted service coverage levels from all adjacent sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent sites.

2. Drive Test Data and Maps.

a. For each frequency at which the carrier provides personal wireless services, the applicant shall conduct or cause to be conducted a drive test within the specific geographic areas in which any claimed gaps in coverage or capacity exist. The applicant shall provide the Department with the actual data recorded during such drive test, which shall include, in table format:

- i. the date and time for the test or test,
- ii. the location, in longitude and latitude of each point at which signal strength was recorded, and
- iii. each signal strength recorded, measured in dBm, for each frequency.

Such data is to be provided in a separate table for each frequency at which the respective carrier provides personal wireless services to any of its end-use customers.

b. The applicant shall also submit drive test maps depicting the actual signal strengths recorded during the actual drive test for each frequency at which the carrier provides personal wireless services to its end-use customers.

c. If an applicant claims that it needs a minimum signal strength (measured in dBm) to remedy its gaps in coverage or capacity, then for each frequency, the applicant shall provide three (3) signal strength coverage maps reflecting actual signal strengths in three (3) dBm bins, the first being at the alleged minimum signal strength, and two (2) additional three (3) dBm bin maps depicting signal strengths immediately below the alleged minimum signal strength claimed to be required. By way of example, if the applicant claims that it needs a minimum signal strength of -95 dBm to remedy its alleged gap in service, then the applicant shall provide maps depicting the geographic area where the gap is alleged to exist, showing the carrier's coverage at -95 to -98 dBm, -99 to -101 dBm and -102 to -104 dBm for each frequency at which the carrier provides personal wireless services to its end-use customers.

3. Denial of Service and/or Dropped Call Records. If and to the extent that an applicant claims that a specific wireless carrier suffers from a capacity deficiency or a gap in service that renders the carrier incapable of providing adequate coverage of its personal wireless services within the area proposed to be covered, then the applicant shall provide dropped call records and denial of service records evidencing the number and percentage of calls within which the carrier's customers were unable to initiate, maintain and conclude the use of the carrier's personal wireless services without actual loss of service or interruption of service.

4. Alternative Site Analysis.

- a. For towers in a residential zone or within one thousand feet (1,000') of a residential zone, the applicant must address the preferred tower locations set forth in section 8.5.307 of this article with a detailed explanation justifying why a site of higher priority was not selected. These tower location preferences must be addressed in a clear and complete written alternative site analysis that shows at least three (3) higher ranked, alternative sites considered that are in the geographic range of the service coverage objectives of the applicant, together with a factually detailed and meaningful comparative analysis between each alternative candidate and the proposed site that explains the substantive reasons why the applicant rejected the alternative candidate.
- b. A complete alternative site analysis provided under this subsection may include fewer than three (3) alternative sites so long as the applicant provides a factually detailed written rationale for why it could not identify at least three (3) potentially available, higher ranked, alternative sites.
- c. For purposes of disqualifying potential collocations or alternative sites for failure to meet the applicant's service coverage or capacity objectives, the applicant must provide the following:
 - i. A description of its objective, whether it be to close a gap or address a deficiency in coverage, capacity, frequency or technology;
 - ii. Detailed technical maps or other exhibits with clear and concise RF data to illustrate that the objective is not met using the alternative (whether it be collocation or a more preferred location); and
 - iii. A description of why the alternative (collocation or a more preferred location) does not meet the objective.

These materials shall be reviewed and signed by an Idaho-licensed professional engineer or a qualified employee of the applicant. The qualified employee of the applicant shall submit his or her qualifications with the application.

L. Radio Frequency (RF) Emissions Compliance Report.

1. A written report shall be prepared, signed and sealed by an Idaho-licensed professional engineer or a competent employee of the applicant which assesses whether the proposed WCF demonstrates compliance with the RF emissions limits established by the FCC. If the report is prepared by an employee of the applicant who is not an Idaho-licensed professional engineer, the report must be accompanied by documentation establishing the employee's relevant qualifications.
2. If it is anticipated that more than one carrier and/or user is to install transmitters into the facility, the report shall take into account anticipated exposure from all users on the facility and shall indicate whether the combined exposure levels would exceed the permissible general population exposure limits, or alternatively, the occupational exposure limits, where applicable.

3. The report shall provide the calculations with which the engineer determined the levels of RF radiation and/or emissions to which the facility will expose members of the general public.

8.5.309: ELIGIBLE FACILITIES REQUESTS:

A. Purpose. This section implements section 6409(a) of the Spectrum Act, 47 U.S.C. § 1455(a), as interpreted by the FCC in its Report and Order No. 14-153 and regulated by 47 C.F.R. § 1.40001, which require a state or local government to approve any eligible facilities request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station. Eligible facilities requests shall be governed solely by the provisions of this section and federal law.

B. Eligible facilities requests are permitted of right in all zones except the Restricted Residential and High Density Residential zones.

C. A building permit and, if applicable, a site disturbance permit, shall be required for all eligible facilities requests.

8.5.310: COLLOCATION APPLICATIONS:

A. Purpose. This section implements, in part, 47 U.S.C. § 332(c)(7) of the Federal Communications Act of 1934, as amended, as interpreted by the FCC in its Report and Order No. 14-153. Except when a shorter timeframe is otherwise required under this article, the following timeframes apply to collocation applications.

B. Application Review. The following procedure shall apply to all applications for administrative approval of a collocation when such approval is required.

1. Application. The Department shall prepare and make publicly available an application form, the requirements of which shall be limited to the information necessary for the Department to consider whether an application is a collocation request. The applicant shall provide a copy of its written collocation agreement with the owner of such pre-existing facility, from which it may redact any financial terms. The applicant shall also provide an engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure and explaining what modifications, if any, will be required in order to certify to the above.

2. Review. Upon receipt of an application for a collocation request pursuant to this section, the Director shall review such application, make a final decision to approve or disapprove the application, and advise the applicant in writing of the final decision. Such review shall be in accordance with section 8.8.204 of this title.

3. Timeframe for Review (“Shot Clock”). Within ninety (90) days of the date on which an applicant submits an application seeking approval of a collocation request under this section, the Director shall review and act upon the application, subject to the tolling provisions below.

4. Tolling of the Timeframe for Review. The ninety (90) day review period begins to run when the application is filed, and may be tolled only by mutual agreement between the Department

and the Applicant, or in cases where the Department determines that the application is incomplete.

a. To toll the timeframe for incompleteness, the Department must provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application.

b. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the Department's notice of incompleteness.

c. Following a supplemental submission, the Department will notify the applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

5. Failure to Act. In the event the Director fails to approve or deny a complete application under this section within the timeframe for review (accounting for any tolling), the applicant shall be entitled to pursue all remedies under applicable law.

6. The decision of the Director may be appealed pursuant to chapter 8, article 8.5 of this title.

8.5.311: NEW SITE OR TOWER APPLICATIONS:

A. Purpose. This section also implements, in part, 47 USC § 332(c)(7) of the Federal Communications Act of 1934, as amended, as interpreted by the FCC in its Report and Order No. 14-153.

B. Application Review. The following procedure shall apply to all applications for a conditional use permit for a new WCF site or tower.

1. Application. The Department shall prepare and make publicly available an application form, the requirements of which shall be limited to the information necessary for the Department to determine that the application is a request for a new site or tower. The application shall also contain all of the materials required pursuant to section 8.5.308 of this article.

2. Review. Upon receipt of an application for a request for a new site or tower pursuant to this section, the Hearing Examiner shall review the application, make a recommendation for approval or disapproval of the application, and advise the applicant in writing of the recommendation. The Board shall then review such application, make a final decision to approve or disapprove the application, and advise the applicant in writing of the final decision and the reasons therefor. Such reviews shall be in accordance with section 8.5.312 of this article and section 8.8.201 of this title.

3. Timeframe for Review ("Shot Clock"). Within one hundred fifty (150) days of the date on which an applicant submits an application seeking approval of a request for a new site or tower

under this section, the Board shall review and act upon the application, subject to the tolling provisions below.

4. Tolling of the Timeframe for Review. The 150-day review period begins to run when the application is filed, and may be tolled only by mutual agreement between the Director and the Applicant, or in cases where the Department determines that the application is incomplete.

a. To toll the timeframe for incompleteness, the Department must provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application.

b. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the Department's notice of incompleteness.

c. Following a supplemental submission, the Department will notify the applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

5. Denial or Failure to Act. In the event the Board denies, or fails to approve or deny, a complete application under this section within the timeframe for review (accounting for any tolling), the applicant shall be entitled to pursue all available remedies under applicable state or federal law.

8.5.312: DECISION CRITERIA:

A. An application for a conditional use permit required in this article shall be granted only if the following criteria are met:

1. All required findings set forth in subsection 8.8.201(C) of this title.
2. The application is consistent with the legislative intent set forth within Section 8.5.301 of this article.
3. The proposed installation will meet each of the applicable standards set forth in this article.
4. The proposed installation will not have a significant adverse aesthetic impact upon parcels that are located adjacent to, or in close proximity to, the proposed site, or any other parcels which are situated in a manner that they would sustain significant adverse aesthetic impacts by the installation of the proposed installation facility.
5. The proposed installation will not have a significant adverse impact upon the property values of parcels that are located adjacent to, or in close proximity to the proposed site, or parcels that are otherwise situated in a manner that would cause the proposed installation to inflict a significant adverse impact upon their value.

6. The proposed installation will be compatible with the uses and character of properties located adjacent to or in close proximity to the proposed site or other properties situated in a manner that would cause the proposed installation to be incompatible with their respective use.

7. The proposed installation will be compatible with and will not have an adverse impact upon, or detract from the use and enjoyment or character of, an historic property, historic site, and/or historic district, including but not limited to historic structures, properties and/or districts which are listed on, or are eligible for listing on, the National Register of Historic Places.

8. The proposed installation will be compatible with and will not have an adverse aesthetic impact upon, or detract from the use and enjoyment or character of, recognized aesthetic assets of the County, including but not scenic areas and/or scenic ridgelines, scenic areas, public parks, and/or any other traditionally or historically recognized valuable scenic assets of the County.

9. The proposed installation will have a sufficient fall zone or safe zone around the facility to keep neighboring parcels and the general public safe from potential dangers of structural failure, icefall, debris fall, and fire.

10. The applicant has mitigated the potential adverse impacts of the proposed facility to the greatest extent reasonably feasible. To determine mitigation efforts on the part of the applicant, the mere fact that a less intrusive site, location, or design would cause an applicant to incur additional expense is not a reasonable justification for an application to have failed to propose reasonable mitigation measures.

11. The applicant has established that a significant gap in personal wireless services exists for the wireless carrier(s) proposing to provide such services within the area to be covered. In rendering such determination, the hearing body shall consider the following factors:

- a. Whether each identified wireless carrier has adequate service in its personal wireless services at any frequency being used by the carrier to provide personal wireless services to its end-use customers,
- b. Whether any such alleged gap is relatively large or small in geographic size,
- c. Whether the number of the carrier's customers affected by the gap is relatively small or large,
- d. Whether or not the location of the gap is situated on a heavily or lightly traveled road, or sparsely or densely occupied area, and/or
- e. Whether the gap is relatively insignificant or otherwise relatively *de minimis* overall.

A significant gap cannot be established simply because the carrier's customers are currently using the carrier's personal wireless services, but the frequency at which the customers are using such services is not the frequency most desired by the carrier.

13. The applicant has established that the installation of the proposed WCF, at the specific site

proposed by the applicant, and the specific portion of the site proposed by the applicant, and at the specific height proposed by the applicant, is the least intrusive means of remedying whatever significant gap in coverage or capacity which the applicant has proved to exist. In rendering such determination, the hearing body shall consider the following factors:

- a. Whether the proposed site is the least intrusive location at which a facility may be located to remedy an identified significant gap in coverage or capacity, and the applicant has reasonably established a lack of potential alternative less intrusive sites and lack of sites available for collocation,
- b. Whether the specific location on the proposed site is the least intrusive portion of the site for the proposed installation,
- c. Whether the height proposed for the facility is the minimum height actually necessary to remedy an established significant gap in service,
- d. Whether or not an existing structure can be used to camouflage the facility and/or its antennas,
- e. Whether the proposed WCF mitigates adverse impacts to the greatest extent reasonably feasible, through the employment of stealth design, screening, use of color, noise mitigation measures, etc., and
- f. Whether or not there is a feasible alternative to remedy the gap through alternative technologies such as the installation of multiple antenna arrays as opposed to a single macrocell facility.

14. If a request for an exception to standards is part of the application, the decision criteria set forth in subsection 8.5.313(D) shall apply to such exception request.

B. The hearing body shall separately record each factual determination it makes in a written decision and shall reference, or make note of, the evidence based upon which it rendered each of its factual determinations.

C. Each factual determination made by the hearing body shall be based upon substantial evidence. For purposes of this subsection, “substantial evidence” shall mean such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. It means less than a preponderance but more than a scintilla of evidence.

8.5.313: EXCEPTIONS TO STANDARDS:

A. Applicability. Except as otherwise provided in this article (under site design flexibility), no WCF shall be used or developed contrary to any applicable development standard unless an exception has been granted pursuant to this section. These provisions apply exclusively to WCFs and are in addition to the generally applicable variance and administrative exception provisions set forth in section 8.8.203 of this title; provided, however, that the provisions of this section shall not be construed to provide an exception from the visual impact and stealth design requirements set forth in this article.

B. Procedure. A WCF exception is subject to approval by the Board in accordance with this section and section 8.8.203 of this title.

C. Submittal Requirements. An application for a wireless communication facility exception shall include:

1. A written statement demonstrating how the exception would meet the criteria set forth in this section.
2. A site plan that includes:
 - a. A description of the proposed facility's design and dimensions as it would appear both with and without the exception.
 - b. Elevations showing all components of the wireless communication facility as it would appear both with and without the exception.
 - c. Color simulations of the wireless communication facility after construction demonstrating compatibility with the vicinity as it would appear both with and without the exception.

D. Decision Criteria. An application for a wireless communication facility exception shall be granted only if the following criteria are met:

1. The criteria for variances set forth in section 8.8.203 of this title have been met.
2. The exception is consistent with the purpose of the development standard for which the exception is sought.
3. Based on a visual analysis, the design minimizes the visual impacts to residential zones through mitigating measures, including, without limitation, building heights, bulk, color, and landscaping.
4. The applicant demonstrates the following:
 - a. A significant gap in the coverage, capacity, or technologies of the service network exists such that users are regularly unable to connect to the service network, or are regularly unable to maintain a connection, or are unable to achieve reliable wireless coverage within a building;
 - b. The gap can only be filled through an exception to one or more of the standards in this article; and
 - c. The exception is narrowly tailored to fill the service gap such that the wireless communication facility conforms to the standards set forth in this article to the greatest extent possible.

d. For a new tower proposed to be located in a residential zone or within one thousand feet (1,000') of a residential zone, unless the proposal qualifies as a preferred location on County-owned or operated property or facilities, the applicant must also demonstrate that the manner in which it proposes to fill the significant gap in coverage, capacity, or technologies of the service network is the least intrusive on the values that this article seeks to protect.

8.5.314: REMOVAL OF ABANDONED ANTENNAS AND TOWERS: Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall so notify the Department in writing and remove the same within ninety (90) days of giving notice to the Department of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense, including all costs and attorney fees. Irrespective of any agreement between them to the contrary, the owner of such unused facility and the owner of a building or land upon which the WCF is located shall be jointly and severally responsible for the removal of abandoned WCFs and each WCF's foundation, if any. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

8.5.315: INDEPENDENT RF TECHNICAL AND LEGAL REVIEW: Although the Board intends for County staff to review applications to the extent feasible, the County may retain the services of independent RF and legal experts of its choice to provide technical and legal evaluations of permit applications for WCFs when they are subject to conditional use permitting or administrative review. The third party experts shall have recognized qualifications in their fields. 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 WCF complies with the applicable approval criteria set forth in this article.

The applicant shall pay the cost for any independent consultant fees through a deposit, estimated by the County, paid within ten (10) days of the County's request. When the County 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 County shall refund any unused portion within thirty (30) days after the final permit is released or, if no final permit is released, within thirty (30) days after the County 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 County before the permit is issued.

8.5.316: FINAL INSPECTION:

- A. A certificate of completion will only be granted upon satisfactory evidence that the WCF was installed in substantial compliance with the approved plans and photo simulations.

B. If it is found that the WCF installation does not substantially comply with the approved plans and photo simulations, the applicant shall make any and all such changes required to bring the WCF installation into compliance promptly and in any event prior to putting the WCF in operation.

8.5.317: COMPLIANCE:

A. All wireless communication facilities must comply with all standards and regulations of the FCC and any state or other federal government agency with the authority to regulate wireless communication facilities.

B. The site and Wireless Communication Facilities, including all landscaping, fencing and related transmission equipment must be maintained at all times in a neat and clean manner and in accordance with all approved plans.

C. All graffiti on wireless communication facilities must be removed at the sole expense of the permittee after notification by the County to the owner/operator of the WCF.

D. If any FCC, state or other governmental license or any other governmental approval to provide communication services is ever revoked as to any site permitted or authorized by the County, the permittee must inform the County of the revocation within thirty (30) days of receiving notice of such revocation.

E. Random RF Radiofrequency Testing.

1. At the operator's expense, the County may retain an engineer to conduct random unannounced RF radiation testing of WCFs to ensure that the facility continues to comply with the limits codified within 47 C.F.R. §1.1310(e)(1) *et seq.*

2. The County may cause such random testing to be conducted as often as the County may deem appropriate. However, the County may not require the owner and/or operator to pay for more than one test per facility per calendar year unless such testing reveals that one or more of the owner and/or operators facilities are exceeding the limits codified within 47 C.F.R. §1.1310(e)(1) *et seq.*, in which case the County shall be permitted to demand that the facility be brought into compliance with such limits, and to conduct additional tests to determine if, and when, the owner and/or operator thereafter brings the respective facility and/or facilities into compliance.

3. If the County at any time finds that there is good cause to believe that a personal wireless service facility and/or one or more of its antennas are emitting RF radiation at levels in excess of the legal limits permitted under 47 C.F.R. §1.1310(e)(1) *et seq.*, then it shall cause a Notice of Violation to be issued pursuant to chapter 8, article 8.6 of this title.

4. A hearing shall be scheduled before the Board at which the owner and/or operator of such facility shall be required to show cause why any and all permits and/or approvals issued by the County for such facility and/or facilities should not be revoked, and a fine should not be assessed against such owner and/or operator. Notice shall be sent, and the hearing shall be conducted, in accordance with chapter 8, article 8.5 of this title. At such hearing, the burden shall be on the County to show that, by a preponderance of the evidence, the facility's emissions

exceeded the permissible limits under 47 C.F.R. §1.1310(e)(1) *et seq.*

5. In the event that the County establishes same, the owner and/or operator shall then be required to establish, by a preponderance of the evidence, that a malfunction of equipment caused their failure to comply with the applicable limits through no fault on the part of the owner/operator.

6. If the owner and/or operator fails to establish same, the Board shall have the power to, and shall, revoke any special permit, variance, building permit, and/or any other form of zoning-related approval which the Board, Director, and/or any other representative of the County may have then issued to the owner and/or operator, for the respective facility. In addition, the Board may impose a fine of not less than \$1,000, nor more than \$5,000 for such violation of subparagraph I. hereinabove, or, in the case of a second offense within less than five (5) years, a minimum fine of \$5,000, nor more than \$25,000.

7. In the event that an owner or operator of one or more personal wireless facilities is found to violate the provisions of this subsection three or more times within any five (5) year period, then in addition to revoking any zoning approvals for the facilities which were violating the limits codified in 47 C.F.R. §1.1310(e)(1) *et seq.*, the Board shall render a determination within which it shall deem the owner/operator prohibited from filing any applications for any new wireless personal services facilities within the unincorporated area of the County for a period of five (5) years.

8.5.318: INDEMNIFICATION: Each permit issued for a WCF located on County property shall be deemed to have as a condition of the permit a requirement that the applicant defend, indemnify and hold harmless Kootenai County and its officers, agents, employees, volunteers, and contractors from any and all liability, damages, or charges (including attorney fees and expenses) arising out of claims, suits, demands, or causes of action as a result of the permit process, a granted permit, construction, erection, location, performance, operation, maintenance, repair, installation, replacement, removal, or restoration of the WCF.

SECTION 26. That the following definitions in Section 8.9.101, Kootenai County Code, shall be, and are hereby added or amended as follows:

ANTENNA: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that sends or receives digital signals, analog signals, radio frequencies or wireless communication signals. A device used in the sending and receiving of electromagnetic waves.

ANTENNA ARRAY: A single or group of antenna elements, not including small cell antennas, and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving wireless communication signals.

SECTION 27. That the following new definitions in Section 8.9.102, Kootenai County Code, shall be, and are hereby added as follows:

BACKHAUL NETWORK: The lines that connect a provider's towers or cell sites to one or more cellular telephone switching offices or long distance providers, or the public switched telephone network.

BASE STATION: A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this article or any equipment associated with a tower.

A. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

B. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small cell networks).

C. The term includes any structure other than a tower that, at the time the relevant application is filed with the Department under this article, supports or houses equipment described in this section that has been reviewed and approved under the applicable zoning or siting process, or under state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

D. The term does not include any structure that, at the time the relevant application is filed with the Department under this article, does not support or house equipment described in this section.

SECTION 28. That the following definition in Section 8.9.103, Kootenai County Code, shall be, and is hereby amended as follows:

COLLOCATION: The mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes. ~~The placement of additional antennas on an existing transmission tower or structure.~~

SECTION 29. That the following new definition in Section 8.9.104, Kootenai County Code, shall be, and is hereby added as follows:

DISTRIBUTED ANTENNA SYSTEM (DAS): A network consisting of transceiver equipment at a central hub site to support multiple antenna locations throughout the desired coverage area.

SECTION 30. That the following new definitions in Section 8.9.201, Kootenai County Code, shall be, and are hereby added as follows:

ELIGIBLE FACILITIES REQUEST: Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station.

ELIGIBLE SUPPORT STRUCTURE: Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the Department under this article.

EXISTING: For purposes of Chapter 5, Article 5.3 of this title, a tower or base station that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process; provided, however, that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is also existing for purposes of this definition.

SECTION 31. That the following new definition in Section 8.9.302, Kootenai County Code, shall be, and is hereby added as follows:

MACROCELL: An antenna or antennas mounted on a tower, ground-based mast, rooftop or other tower or structure, at a height that provides a clear view over the surrounding buildings and terrain.

SECTION 32. That the following definitions in Section 8.9.403, Kootenai County Code, shall be, and are hereby added or amended as follows:

SHOT CLOCK: The applicable period which is presumed to be a reasonable period within which the County is generally required to issue a final decision upon an application seeking approval of any permit for the installation or substantial modification of a personal wireless services facility or structure in compliance with 47 U.S.C. § 332(c)(7)(B)(ii).

SITE: The parcel of land on which development is occurring, will occur, or is proposed to occur. A right-of-way shall be considered a separate site from adjacent properties.

For purposes of Chapter 5, Article 5.3 of this title:

A. In relation to a tower that is not in a public right-of-way, “site” refers to the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

B. In relation to support structures other than towers, “site” refers to an area in proximity to the structure and to other transmission equipment already deployed on the ground.

SMALL CELL: A set of compact wireless equipment that contains its own transceiver equipment and functions like a cell in a wireless network but provides a smaller coverage area than a traditional macrocell.

STEALTH DESIGN: Technology that minimizes the visual impact of wireless communication facilities by camouflaging, disguising, screening or blending into the surrounding environment. Examples of stealth design include but are not limited to facilities disguised as trees (monopines), flagpoles, utility and light poles, bell towers, clock towers, ball field lights and architecturally screened roof-mounted antennas.

SUBSTANTIAL CHANGE: Any change that will likely cause a material or directly relevant bearing on the decision making process or on the reasonable expectations of the public, or of one or more agencies, with respect to information provided at the time of application.

For purposes of Chapter 5, Article 5.3 of this title, a modification that substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

A. For towers other than towers in public rights-of-way, it increases the height of the tower by more than ten percent (10%) or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet (20'), whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent (10%) or more than ten feet (10'), whichever is greater. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (47 USC § 1455(a));

B. For towers other than towers in public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet (20'), or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet (6');

C. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;

D. It entails any excavation or deployment outside the current site;

E. It would defeat the concealment elements of the eligible support structure; or

F. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in subsections A through D of this definition.

SECTION 33. That the following definitions in Section 8.9.501, Kootenai County Code, shall be, and are hereby added or amended as follows:

TOWER: Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications 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, and the associated site.

TOWER HEIGHT: The vertical distance measured from the base of the tower structure at grade to the highest point of the structure including the antenna. A lightning rod, not to exceed ten feet (10') in height, shall not be included within tower height.

TRANSMISSION EQUIPMENT TOWER: Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supplies. The term includes equipment associated with wireless communications 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. A tower such as a self-supporting lattice, monopole structure, or other similar construction, which elevates a wireless communication antenna and may also include accessory transmission and receiving equipment.

SECTION 34. That the following new definition in Section 8.9.502, Kootenai County Code, shall be, and is hereby added as follows:

UTILITY SUPPORT STRUCTURE: Utility poles or utility towers supporting electrical, telephone, cable or other similar facilities; street light standards; or pedestrian light standards.

SECTION 35. That the following definition in Section 8.9.503, Kootenai County Code, shall be, and is hereby amended as follows:

WIRELESS COMMUNICATION FACILITY (WCF): A staffed or unstaffed facility or location or equipment for the transmission or reception of radio frequency (RF) signals or other wireless communications or other signals for commercial communications purposes, typically consisting of one or more antennas or group of antennas, a tower or attachment support structure, transmission cables and other transmission equipment, and an equipment enclosure or cabinets, and including small cell technologies. Any facility designed and used for the purpose of transmitting, receiving, or relaying voice and data signals. WCFs include siting areas, transmission towers and antennas. This definition shall not include towers less than twenty feet (20') in height that are mounted upon another structure, or facilities with towers less than forty feet (40') in height above natural ground level. A public safety wireless communication facility is a WCF which is owned by a public entity and which provides emergency communications (911), fire, law enforcement, emergency medical services, or emergency management services, and is used for one or more of those purposes.

SECTION 36. That Section 8.9.602, Kootenai County Code, shall be, and is hereby amended as follows:

8.9.602: ABBREVIATIONS: For purposes of this title, the abbreviations set forth below shall have the following meanings:

ACOI	Area of City Impact
BM	Boise Meridian
BMPs	Best Management Practices

CC&Rs	Covenants, Conditions and Restrictions
EMS	Emergency Medical Services
LA	Landscape Architect
NPDES	National Pollution Discharge Elimination System
PE	Professional Engineer
PG	Professional Geologist
PUD	Planned Unit Development
<u>RF</u>	<u>Radio Frequency</u>
RV	Recreational Vehicle
WCF	Wireless Communication Facility

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