Moscow City Council

Regular Meeting
~Minutes~

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Laurie M. Hopkins
City Clerk

208.883.7015

Monday, November 2, 2020 **7:00 PM** **Council Chambers**
206 E. Third St.

The meeting was called to order at 7:00 p.m.
PRESENT: Mayor Bill Lambert, Art Bettge, Sandra Kelly, Maureen Laflin, Brandy Sullivan, Gina Taruscio, Anne Zabala
STAFF: Gary J. Riedner, Mia Bautista (Virtual), Bill Belknap (Virtual), David Schott, Dwight Curtis, Kyle Steele (Virtual), Brian Nickerson (Virtual), Amanda Argona, Jen Pfiffner (Virtual), Laurie M. Hopkins (Virtual)

PLEDGE OF ALLEGIANCE
Council Vice President Bettge led the Pledge of Allegiance.

REGULAR AGENDA

1. **Approval of Moscow City Council October 19, 2020 Minutes (ACTION ITEM) - Laurie M. Hopkins**

   Minutes presented for approval.

   PROPOSED ACTIONS: Approve minutes as presented; approve minutes with amendments; or take such other action deemed appropriate.

Bettge moved and Taruscio seconded approval of the minutes. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

2. **Staff Recognition Report - Gary J. Riedner**

None offered.

3. **Mayors Appointments (ACTION ITEM)**

None offered.

4. **Public Comment and Mayor's Response Period (limit 15 minutes)**

Mark Leeper, Disability Action Center, stated October was Disabilities month. In honor of Disabilities month, the group acknowledged the many accessibility points around town with a program called "ADA Rocks". Leeper presented Moscow Rocks poster and the Mayor accepted.

5. **Farmers Market Costume Contest Presentation – Amanda Argona**

Argona presented pictures of the Farmers Market costume contest participants and the winners

6. Citizen Commission Report - Moscow Tree Commission - David Schott / Ellis Eifert

Curtis congratulated David Schott for Arborist of the Year through the International Society of Arboriculture and presented the award. Schott thanked everyone for their support. He introduced Ellis Eifert to provide the Moscow Tree Commission annual report. Eifert presented the mission, duties and members of the Commission. The Commission events and programs included: hosting the arbor day event, the 27th year for Tree City USA, public outreach and will continue on sound tree pruning practices and downtown tree replacement plan.

7. Acceptance of Berman Estate Land Donation (ACTION ITEM) – David Schott

The City of Moscow has been approached by Hoey Graham, Personal Representative of the Estate of Katrina Berman, and John H. Norton, the attorney for the estate. Mrs. Berman's Will provided for a gift of land to the City of Moscow as a small addition to the western side of Berman Creekside Park. The parcel contains approximately 0.36 acres on the western edge of Berman Creekside Park and will add approximately thirty-two (32) feet to the western boundary of the park. This parcel lies directly west of the parcel of land previously donated to the City of Moscow in November of 1996. The proposed 0.36-acre parcel is expected to have similar conditions as the 0.73-acre parcel donated in 1996, encumbered with a conservation easement to the Palouse Land Trust. Under Idaho Law, any donation or transfer of real property to the City must be accepted by the City Council. Parks and Recreation staff recommends acceptance of the Berman Estate land donation. The Administrative Committee reviewed this on October 26 and recommended acceptance.

PROPOSED ACTIONS: Accept the Berman Estate land donation subject to a conservation easement.

Schott introduced the item as written above and provided photos of the area. The Council had no questions. Taruscio moved to approve the Berman Estate land donation subject to a conservation easement. Seconded by Laflin. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

8. Ordinance Amending Title 4, Chapter 3 of Moscow City Code Regarding Amendments to the Telecommunications Code to Establish Standards for Small Wireless Facilities (ACTION ITEM) - Mike Ray

Telecommunications service providers are currently in the process of deploying new cellular wireless technology, referred to as 5G/small cell, throughout the developed world. 5G/small cell high speed deployment will bring much higher data speeds and traffic through the use of higher-frequency radio waves, which have a shorter range than the frequencies used by previous cell phone towers. Since small wireless facilities have a shorter range, they require a greater number of facilities which are typically located in the public right-of-way. Telecommunications services are largely governed by the Federal Communications Commission (FCC) and the Telecommunications Act, but local governments are allowed to adopt certain regulations at the local level. With the likelihood of 5G/small cell deployment in Moscow at some point in the future, Staff has worked with the Planning and Zoning Commission to draft an ordinance that addresses 5G/small cell installations in the telecommunications code. The proposed ordinance would define small wireless facilities, re-organize certain sections, make minor grammatical changes, and insert small wireless facility standards. On September 9, 2020, the Planning and Zoning Commission conducted a public hearing upon the proposed ordinance and recommended approval to City Council with a minor modification. This item was reviewed by the Public Works/Finance Committee on October 12,

2020 and considered on first reading by the Council on October 19, 2020.

PROPOSED ACTIONS: Approve the proposed Ordinance on second reading under suspension of the rules requiring a third reading and that it be read by title and published by summary; or consider the Ordinance on second reading; or reject the Ordinance; or take such other action deemed appropriate.

Ray introduced the item. Sullivan asked about adding a Whereas that includes a preference to location and configuration. Bautista said a whereas would only show a preference and would not be enforceable from a legal standpoint. Ray provided a drafted whereas to include configuation preferences and a second whereas encouraging location preferences. See attached proposed amendments. Even with the additional whereas's, the City must allow 5G in residential districts in order to comply with the FCC. Another change to the proposed ordinance included the right to require annual emissions testing by a certified radio frequency engineer as permitted by federal and state regulations and if not in compliance, the requirement to be brought into compliance. FCC would determine who pays for the testing. Because they handle the licensing, permitting, certifying certain facilities and any equipment, the City may not be able to require annual testing. The City could test and submit the information to the FCC challenging the company but it would be at City expense. Bautista did not feel comfortable adding language that the companies have to pay for testing when they may not be required to do so per the FCC regulations.

Bettge felt the word "require" goes beyond the scope of the City. Sullivan suggested switching it out with the word "conduct". Bettge feels the location and co-location of equipment on existing structures is acceptable but doesn't like the whereas regarding prioritization of zones. He feels the language is debatable, complex and is not defensible. Kelly feels the wireless company will install a facility where needed, whichever zone. She favors moving roof-mounted and building-mounted preferences to be at the bottom of the list. Zabala likes that the whereas's address overall preferences, not as a regulation.

Ray explained building and roof mounted facilities are limited range and at a certain height ineffective. Colocation preference is based on aesthetics and impact of the area.

Taruscio feels both whereas's still sound like they are related to aesthetics and is not in support of either. Sullivan is in support of moving roof-mounted below existing utility pole mounting in the order of preferences.

Ray explained staff works within the policy and works with the applicant to follow through with Council policy on preference. Belknap clarified having these statements as recitations, staff will have no authority to direct placement on these criteria. When the code is codified, future planners will look at the ordinance, not go back and look at recitations when implementing code as the whereas's are not enforceable. Riedner added the whereas's only provide a background, legislative intent.

Bettge moved to approve the proposed Ordinance on second reading under suspension of the rules requiring a third reading and that it be read by title and published by summary with the deletion of both preference whereas's, the substitution of the word "require" to "conduct" in H.7.c.xi., and addition of the last sentence in H.7.c.xi. Taruscio seconded. Roll Call Vote: Ayes: Three (Bettge, Taruscio, Kelly). Nays: Three (Zabala, Sullivan, Laflin). Abstentions: None. Motion tied. Mayor Lambert voted Aye.

Riedner explained Council cannot waive the readings without a super majority of the council thus can only be considered on second reading. With the Mayor breaking the tie in favor, the ordinance would be considered on second reading and come back at the next meeting.

9. Stormwater Update – Kyle Steele

Steele explained the City received a Phase 2 stormwater permit from the U.S. Environmental Protection Agency, effective October 2019. The permit requires the development of a stormwater program and a number of control measures. The Council held a workshop in February 2020 where staff was directed to bring back an ordinance Spring 2020 with the possibility of assessing fees to fund the program in October 2020. Because of the pandemic and economic uncertainty, the funding mechanism implementation was put on hold until 2021. Staff has been busy with routine operations and maintenance of storm water, enhancing street sweeping, construction reviews and inspections, developing educational plans. Staff has developed seven lesson plans to roll out to the schools over the next year. Staff has created a video to provide the background of the system, physical infrastructure, what the City is doing now, what was identified in the fee study, and next steps going forward. A stormwater specific webpage is being developed which will have a link to the video and related documents.

10. Proposal to Develop Plan to Address Potential for Gender-Neutral Restroom Conversion (ACTION ITEM) - Jen Pfiffner

At the request of the Mayor in response to inquiries and encouragement from citizens and the Human Rights Commission, City staff has conducted preliminary research to determine the potential for converting city-owned restrooms to gender-neutral facilities where feasible. Preliminary research has been conducted to determine an approach to address that request. A review of gender-neutral restrooms in Idaho have been completed to provide background on how other municipalities have or have not addressed the conversion process. An inventory of the existing City of Moscow restroom facilities has also been completed. Facilities include City occupied buildings, City owned but not occupied buildings, and City parks facilities. Should staff receive direction to develop a plan, additional considerations initially identified (certainly not limited to) would include safety, privacy, number of fixtures, accessibility, etc. Additional considerations would include costs for conversion. Staff is seeking City Council direction to develop a phased planning approach for conversion of existing City restrooms to gender-neutral restrooms.

PROPOSED ACTIONS: Recommend Council approve development of a phased planning approach for conversion of existing City restrooms to gender-neutral restrooms, or provide staff further direction.

Pfiffner provided a comparison of several cities and if and how they are transitioning to gender neutral restrooms. Comparison information divided between gender-specific, family, and gender-neutral types included how many and location, whether they were built or converted, is there a policy it was based upon, if there was any public input and any future plans. See attached presentation. The discrimination policy statements from Boise and Idaho Falls are similar to Moscow's. A facility inventory was completed for Moscow parks, park portables, city-occupied facilities and city-owned facilities. Private single-user facilities could have locks installed or changed out and signage update. Blended options, for instance City Hall, could have gender neutral on the second floor and keep first and third gender

specific. A few facilities will need significant planning and possible construction/remodel. Chief Fry reports there has not been any negative issues reported from the Idaho Chiefs of Police Association.

Laflin fully supports creating a plan and using a name for the facilities that is generic so everyone feels welcome to use it. She feels it is important to know what the users and community feel about multi-stall gender-neutral restrooms prior to any conversion. Sullivan would like to move forward with the less complex changes such as switching out signage and locks. Bettge agrees moving forward on the single-stall and gender-neutrality in every place possible. Kelly feels this needs to move forward with the awareness of cost and planning on multi-stalls. Taruscio also agrees and wants to be sure public input is included in the planning.

Riedner confirmed the Council direction is for staff to develop a phased approach and bring it back through Administrative Committee.

Ken Faunce, Human Rights Commission Chair, commented the Commission realizes some bathrooms are more difficult and more expensive and appreciates the City reviewing options. He thinks it is extremely important the approach is in line with the nondiscrimination ordinance. This conversion makes Moscow a more inclusive city.

11. COVID / CARES Act Update and Direction (ACTION ITEM) – Gary J. Riedner

Staff will present an update regarding the City's current COVID-19 response, including authorization for reimbursements under the City's CARES Act allocation.

PROPOSED ACTIONS: Receive status report and authorize requests for reimbursements under the City's CARES Act allocation, or provide staff direction.

Riedner explained at the last Council meeting there was a discussion about metrics. Staff is proposing a special council meeting to take place Monday November 9 and will be gathering more data to review possible trends. He gave a brief history of the two allocations from the state. Staff has identified approximately $70,000 in specific PPE. The biggest need right now is the number of radios for fire department employees. The City has a radio initiative moving forward for replacement but do not have enough of the old ones where they wouldn't have to share. The City of Idaho Falls received preauthorization for replacmeent of radios due to inoperability and so fire personnel don't have to share. In regards to the business and non-profit short-term grant program discussion, Moscow lacks the staff to implement the program.

Laflin, were we able to use to pay for overtime the police officers worked. riedner, overtime last fiscal year was budgeted so not eligible for cares act reimbursement.

Bettge moved to authorize requests for reimbursements under the City's CARES Act allocation. Laflin seconded. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

REPORTS

City Council

Palouse Knowledge Corridor – Bettge said the group will present to Council soon. On the Washington side the focus is engineering and computer transition. From an Idaho side, focus should be agricultural

product value added and working on enhancing agricultural product use on the Palouse. They are also reviewing group name as it seems too restrictive.

Human Rights Commission – Laflin said the Commission is hosting two social justice forums: November 12 at 7:00 p.m. and December 8, 2020 at 5:00 p.m.

Mayor

The Mayor said he presented and attended the Palouse Basin Water Summit; attended the airport board meeting where it was reported flights are down 52% for the year, nationwide 63%; attended a terminal advisory group meeting, received 8 qualified RFP's and will narrow it down to four with the intent to have a contractor in place by end of this year.

Staff

Riedner reported A Street is open for traffic. Steel posts have been installed at the police station. Staff should be able to move into the Haddock building by March. The City received CBDG grant for Mountainview Park and Indian Hills Park for restrooms, pathways and parking.

ADJOURN

The meeting adjourned at 9:18 p.m.

Bill Lambert, Mayor

ATTEST:

Laurie M. Hopkins, City Clerk

CITY OF MOSCOW INCORPORATED JULY 12 1887 STATE OF IDAHO

ORDINANCE NO. 2020 -

AN ORDINANCE OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE AMENDMENT OF MOSCOW CITY CODE TITLE 4, CHAPTER 3; PROVIDING FOR THE AMENDMENT OF THE TELECOMMUNICATIONS CODE TO ESTABLISH STANDARDS FOR SMALL WIRELESS FACILITIES; PROVIDING THAT THE PROVISIONS OF THIS ORDINANCE BE DEEMED SEVERABLE; AND PROVIDING FOR THIS ORDINANCE TO BE IN FULL FORCE AND EFFECT FROM THE DATE OF ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, in 2001 the City first adopted regulations and development standards specific to telecommunications facilities and antenna towers; and

WHEREAS, since the telecommunications code was initially established there have been federal laws, regulations, and court decisions that have impacted the way telecommunications facilities are permitted and regulated, which is the basis for updating the City's telecommunication regulations; and

WHEREAS, the implementation of 5G technology will bring significantly higher data speeds and traffic through the use of higher-frequency radio waves, which have a shorter range than the frequencies used by previous cell phone towers; and

WHEREAS, since small wireless facilities have a shorter range by which they transmit data, they require a greater number of facilities which are typically located in the public right-of-way; and

WHEREAS, with the number and frequency of small wireless facilities that are needed to create a 5G network, the City wishes to encourage the location and co-location of transmission equipment on existing structures in order to reduce visual clutter, promote public safety, and reduce impacts to the existing built environment. The City's configuration preferences are as follows:

1. Co-location with existing facilities;
2. Roof-mounted;
3. Mounted on an existing utility pole or a new utility pole that will replace an existing utility pole;
4. Building-mounted;
5. Mounted on a new telecommunication tower; and

WHEREAS, in consideration of the aesthetic impacts of small wireless facilities upon the character of certain areas of the community, the City wishes to encourage the prioritization of the location of the facilities based upon the following preferences:

1. Commercial zoning districts;
2. Public right-of-way within commercial zoning districts;
3. Public right-of-way within residential zoning districts;
4. Residential zoning districts; and

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WHEREAS, the City's existing telecommunications code does distinguish between macrocell facilities and small wireless facilities; and

WHEREAS, establishing predictable and balanced regulations within the authority reserved for local governments is in the best interest of the City; and

WHEREAS, the City desires to update the telecommunications code to protect and promote the public health, safety and welfare of the community, to reasonably regulate wireless communication facilities aesthetics, and to protect and promote the character of the City in a manner consistent with State and Federal laws and regulations; and

WHEREAS, on September 9, 2020, the Planning and Zoning Commission conducted a public hearing upon the amendments contained herein and recommended approval to the City Council with minor modifications; and

WHEREAS, on October 19, 2020 the City Council conducted a public hearing and considered the amendments contained herein on first reading; and

WHEREAS, on November 2, 2020 the City Council considered and adopted the amendments contained herein on second reading;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MOSCOW, IDAHO, AS FOLLOWS:

SECTION 1: That Moscow City Code Title 4, Chapter 3 be amended as follows:

. . .

H. Telecommunications Facilities.

1. Applicability. This Section shall apply to antenna towers, antenna support structures, antennas and their ancillary facilities (telecommunications facilities) any of which ~~are~~ is used to provide commercial telecommunications services. This Section shall not apply to noncommercial antenna towers ~~exclusively used~~used exclusively as accessory to a residential use on the same lot.
2. Purpose. The provisions of this Section are intended to ensure that telecommunications facilities are located, installed, maintained and removed in a manner that:
    a. Minimizes the number of antenna towers throughout the community;
    b. Encourages the co-location of telecommunications facilities;
    c. Encourages the use of existing buildings, light or utility poles, water towers or other structures for antenna mounting and discourages construction of new antenna towers;
    d. Ensures that telecommunications facilities are located and designed to minimize visual impact on the surroundings; and
    e. Ensures that regulation of telecommunications facilities does not have the effect of prohibiting the provision of telecommunications services, does not unreasonably discriminate among functionally equivalent providers of such services, and allows the provision of adequate area coverage by such services.
3. Definitions.

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a. *Ancillary Facilities*. Buildings, cabinets, vaults, enclosures, equipment, and the like required for operation of telecommunications systems.
b. *Antenna*. Any device that transmits and/or receives radio waves, microwaves, or other electro-magnetic radiation for voice, data or video communications purposes including, but not limited to, television, AM/FM radio, micro-wave, cellular telephone and similar forms of communications.
c. *Antenna Support Structure*. Any structure or building not constructed primarily for the purpose of supporting an antenna but that supports an antenna as a secondary or accessory use.
d. *Antenna Tower*. Any structure or pole erected primarily for the purpose of supporting one or more antennas that are used to provide commercial wireless communications or telecommunications services.
e. *Antenna Tower Height.* The overall vertical length of the antenna tower above ground level.
f. *Co-location*. Placement of one or more antenna(s) on an antenna support structure or the placement of an antenna on an antenna tower on which one or more antennas are already located.
g. *Lattice Tower*. An antenna tower characterized by a framework of lateral or diagonal cross members that stabilize the tower.
h. *Monopole*. An antenna tower that consists of a single upright pole, which is self-supporting and without supports or guys wires.
i. *Small Wireless Facility.* A telecommunications facility that meets each of the following conditions:
    i. The structure on which the antenna facilities are mounted is:
        (a) Fifty (50) feet or less in height; or
        (b) No more than ten percent (10%) taller than other adjacent structures; or
        (c) Not extended to a height of more than ten percent (10%) above the height as a result of the co-location of new antenna facilities.
    ii. Each antenna (excluding associated antenna equipment) is no more than three (3) cubic feet in volume; and
    iii. All antenna equipment associated with the facility (excluding antennas) is cumulatively no more than twenty-eight (28) cubic feet; and
    iv. The facility does not require antenna structure registration under Part 17 of FCC regulations; and
    v. The facility does not result in human exposure to radiofrequency radiation in excess of the application safety standards specified in FCC Rule 1.1307(b) or any rule that subsequently replaces FCC Rule 1.1307(b).
h.j. *Telecommunications ~~facilities~~Facilities*. Antenna towers, antenna support structures, antennas and their ancillary facilities that are used to provide commercial wireless communications or telecommunications services.
i.k. *Temporary Antenna Tower*. An antenna tower established for the purpose of providing tele-communications services on a temporary basis for a special event or to temporarily replace an antenna tower while it is being repaired.

4. General Use Regulations
    a. The installation of lattice towers is prohibited, except as permitted as ~~lattice towers that qualify and are permitted as~~ temporary antenna towers subject to Section 4.d. herein.

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Replacement, relocation or alteration of non-conforming lattice towers shall be subject to the Nonconformity Regulations in Section 4-1-~~6~~ 7 of this Zoning Code.

b. A Conditional Use Permit shall be required before the installation, relocation, replacement, and/or alteration of an antenna tower that exceeds thirty-five ~~feet~~ (35~~'~~) feet in height in all Zoning Districts.

c. ~~Co-location shall be a permitted use if the property upon which such antenna is located is within one of the following Zoning Districts: U, RO, NB, RTO, CB, GB, MB, or I. An antenna may be co-located as a permitted use on existing antenna towers and antenna support structures in all zoning districts if the antenna extends no more than eighteen feet (18') above, and projects no more than eight feet (8') horizontally away from the existing tower or support structure. Colocation shall also be a permitted use on nonconforming antenna towers if the antenna extends no more than eighteen feet (18') above, and projects no more than eight feet (8') horizontally away from, the nonconforming antenna tower.~~ Except for small wireless facilities, which are subject to the standards contained in Section 6 herein, co-location shall be a permitted use within all zoning districts when located upon existing antenna towers and antenna support structures if the antenna extends no more than fifteen (15) feet above, and projects no more than eight (8) feet horizontally away from the existing tower or support structure. Any co-location of wireless facilities that exceed such limits shall require a Conditional Use Permit.

d. A temporary antenna tower as defined herein shall be a permitted use in all zoning districts, subject to site plan approval by the Zoning Administrator. The duration of the temporary antenna tower at the site shall not exceed the special event time or the time reasonably needed to repair the antenna tower in need of repair, as determined by the Zoning Administrator.

5. General Telecommunication Facility Development Standards

a. Prohibited Towers. The installation of telecommunications facilities utilizing lattice towers or towers requiring supporting guy wires shall be prohibited.

b. Antenna Tower Setback from Highway Right-of-Way. No antenna tower that exceeds sixty ~~feet~~ (60~~'~~) feet in height shall be permitted within five hundred ~~feet~~ (500~~'~~) feet of US Highway 95 and/or State Highway 8 rights-of-way unless the proposed site is in the U, MB, or I Zoning District, in which case the antenna tower shall be set back a minimum of one hundred ~~feet~~ (100~~'~~) feet from said right-of-way.

~~a.~~c. Antenna Tower Setback from Property Lines. Antenna towers shall be separated from the property line of any adjacent property zoned for residential uses at least a distance equal to the height of the antenna tower, and shall be separated from adjacent property lines in all other zones by at least a distance equal to one-half (1/2) the height of the antenna tower.

~~b.~~d. Security. Every telecommunications facility shall be protected from unauthorized access by appropriate security measures.

~~c.~~e. Lighting. No~~Every~~ antenna ~~and~~or antenna tower shall ~~not~~ be lighted unless required by the Federal Aviation Administration or other state or federal agency having such authority, and such lighting shall not be more than the minimum required by such agency.

~~d.~~f. Noise Reduction. ~~In any SR, R-1, R-2, R-3, or R-4 Zoning District, and in all other Zoning Districts when the adjacent property is zoned SR, R-1, R-2, R-3, or R-4 or~~

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~~occupied by a dwelling, hospital, school, library, or nursing home or similar use, noise generating equipment shall be sound-buffered by means of baffling, barriers, or other suitable means to reduce sound level measured at the property line to forty five decibels (45 dB).~~ Noise generating equipment shall be sound-buffered by means of baffling, barriers, or other suitable means to reduce sound level measured at the property line to no more than forty-five decibels (45 dB).

~~e.~~g. Signage. The placement of signage on antenna towers is prohibited, except for the placement of security signage, which shall not exceed six (6) square feet on each side of the antenna tower and shall not be located higher than six ~~feet~~ (6~~'~~) feet above grade. Additionally, one security sign not to exceed one (1) square foot may be provided on each fifty (50) lineal feet ~~(50')~~ of wall or fence enclosing the facility.

~~Antenna towers shall be separated from the property line of any adjacent property zoned SR, R-1, R-2, R-3, or R-4 at least a distance equal to the height of the antenna tower, and shall be separated from all other adjacent property lines at least a distance equal to one-half (1/2) the height of the antenna tower.~~

~~f.~~h. Aesthetic Considerations.

i. Antenna towers shall be painted a neutral color consistent with the natural or built environment of the subject site and the surrounding area unless otherwise required by ~~the Federal Aviation Administration or~~ any ~~other~~ State or Federal agency having such authority.

ii. Equipment shelters or cabinets shall have an exterior finish compatible with the natural or built environment of the subject site and the surrounding area and shall also comply with any design guidelines applicable to the particular zoning district in which the facility is located.

iii. Antennas and cables shall be of a color identical to or closely compatible with that of the structure to which they are attached unless otherwise required by the Federal Aviation Administration or any applicable state or federal agency. Telecommunications facilities located above ground in or directly adjacent to any ~~SR, R-1, R-2, R-3, and R-4 Zoning Districts~~ residential zoning district shall be surrounded by a minimum six (6) foot ~~(6')~~ high decorative wall constructed of brick, stone, or textured concrete block. Said wall shall be surrounded by a Type "A" Landscape Buffer Yard planted adjacent to said wall or fence or at an alternate location providing equal or better buffering. Telecommunications facilities in all other zoning districts shall be surrounded by a minimum six (6) foot ~~(6')~~ high wall or solid or slatted fence. Said fence or wall shall be surrounded by a Type "A" Landscape Buffer Yard planted adjacent to said wall or fence or at an alternate location providing equal or better buffering.

iv. Vehicle or outdoor storage on any antenna tower site is prohibited unless otherwise permitted by the Zoning District in which the tower is located.

v. At least one (1) on-site parking stall with a vehicle turnaround area shall be provided at each antenna tower site for temporary use by authorized personnel. The parking area and driveway to it shall consist of asphalt, concrete, or gravel.

vi. ~~Ancillary facilities located above ground for antennas in or directly adjacent to any SR, R-1, R2, R-3, or R-4 Zoning District shall be set back a minimum of twenty-five feet (25') from any SR, R-1, R-2, R-3, or R-4 zoned property, unless the applicant can demonstrate that the specific proposal will present no greater adverse~~

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~~visual and audio impacts to surrounding properties. Above ground ancillary facilities in any other Zoning District shall be located a minimum of fifty feet (50') from any SR, R-1, R-2, R-3, or R-4 zoned property, unless the applicant can demonstrate that the specific proposal will present no greater adverse visual and audio impacts to surrounding properties.~~ Ancillary facilities located above ground for antennas shall be set back a minimum of fifty (50) feet from any adjacent property that is either located within a residential zoning district or utilized for residential purposes, unless the applicant can demonstrate that the specific proposal will present no greater adverse visual and audio impacts to surrounding properties.

~~g.~~i. Co-~~Location~~ location Consent for New or Existing Antenna Towers.

i. Existing Antenna Towers. Prior to the issuance of any permit to relocate, alter or modify any antenna tower, the tower owner shall provide to the City a notarized written commitment to make said antenna tower available for use by others subject to technical and structural limitations and reasonable financial terms. The failure of an antenna tower owner to agree to shared use or to negotiate in good faith with potential users shall be unlawful and, among other remedies of the City, shall be just cause for the withholding of the issuance of future antenna tower permits to such an owner as well as revocation of antenna tower permits for any antenna tower on which co-location is refused or unreasonably hindered.

ii. New Antenna Towers. Any new or relocated antenna tower eighty ~~feet~~ (80~~'~~) feet or greater in height shall be designed and constructed to accommodate at least two (2) additional users unless a larger number of users needs to be accommodated as indicated by the response to the Notice provisions herein. As an alternative, a smaller tower may be approved if the tower owner commits in writing to "swap out" to a larger tower, or extend the tower, when needed to allow co-location space for additional service providers. A notarized written commitment to shared use as specified in Subsection 5.j.i~~6.a.~~ above shall be submitted to the Zoning Administrator by the antenna tower applicant. The failure of the owner of an antenna tower built with a capacity for shared use to negotiate in good faith with potential users shall be unlawful and shall be a violation of this Ordinance and, among other remedies of the City, shall be just cause for the withholding of the issuance of future antenna tower permits to such an owner as well as revocation of antenna tower permits for any antenna tower on which co-location is refused or unreasonably hindered.

~~h.~~j. Antenna Tower Inventories. Prior to the issuance of any permit to install, relocate, replace or alter any antenna tower, the tower owner shall furnish the Zoning Administrator an inventory of all of the owner's antennas and antenna towers in the City of Moscow and ~~the Area of City Impact~~ within one (1) mile of the City limit boundary. The inventory shall include the reference name or number, or other description of location including a site map(s), structure type, height, type of antenna tower(s) or antenna support structure(s) and height of all existing antennas and an assessment of available ground space for the placement of additional equipment shelters for potential future users.

~~i.~~k. Notice of Antenna Tower Permit Applications. The applicant for any new antenna tower permit shall have a copy of the application and a summary containing the height, design, location, type and frequency of antennas delivered by certified mail to all

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known and potential antenna tower users within the service area ~~as identified by a list maintained by the Community Development Department~~. Proof of such delivery of the summary shall be submitted with the permit application to the City. Such notification shall be so mailed no less than sixty (60) days prior to ~~Zoning Administrator decision or Board of Adjustment~~ the public hearing at which the application will be considered and shall specifically solicit co-location discussion between the applicant and recipients of the notice. The Zoning Administrator may establish a form required to be used for such notifications. Upon request, the Zoning Administrator shall place on a list the name and address of any user or prospective user of antenna towers to receive notification of applications. The failure of the party receiving such Notice to use this process or respond to any such Notice may be considered cause for denying requests by such party for antenna tower permits. Such response shall be provided in writing to the Zoning Administrator within forty-five (45) days of mailing and shall contain a statement specifying desire to co-locate on the applicant's proposed tower and a statement regarding the responder's ability to accommodate the needs of the applicant on an existing tower or support structure owned or operated by the responder. ~~Additionally, the Zoning Administrator shall cause notice of any required public hearing for a proposed antenna tower to be mailed to owners of property within six hundred feet (600') of the permit application site not less than sixty (60) days prior to the public hearing.~~

6. Small Wireless Facility Standards.
   a. Applicability. These standards shall apply to the installation of new small wireless facility antennas or the co-location of small wireless facilities on existing antenna support structures. The City Council may adopt additional small wireless facility design and construction standards by Resolution and the most restrictive provisions of either shall apply.
   b. Approvals. Small wireless facilities shall be subject to the administrative approval of the Zoning Administrator, or their designee, subject to the construction standards and permit and application process contained herein and as established by Resolution of the City Council.
   c. Co-location Upon Existing Antenna Support Structures. Co-location of small wireless facilities upon existing antenna support structures shall be a permitted use subject to the following standards.
      i. Height of co-location antennas. Small wireless facilities shall not extend more than five (5) feet above and two (2) feet horizontally from the existing antenna support structure.
      ii. Shrouding of antennas and supporting equipment. All small wireless facility antennas, attendant equipment, and cabling shall be shielded from view by equipment and cable shrouds and/or equipment enclosures that shall be colored gray (RAL 7074) or other similar color as approved by the City.
      iii. Maximum number of shrouds. Only one equipment shroud, containing all required small wireless facility equipment, shall be installed per antenna support structure. Except, one additional equipment shroud shall be allowed per pole if the antenna is located within the second equipment shroud.
      iv. Shroud mounting method. Small wireless facility shrouds may be either top or side mounted to an existing antenna support structure, or suspended from strand-

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mounted to aerial cables as may be approved by the utility cable owner in accordance with the standards contained herein.

(a) Side mounted. Side mounted equipment shrouds shall be located in such a manner as to not obstruct pedestrian access on adjacent sidewalks. Where side mounted equipment shrouds are placed above adjacent sidewalks a minimum clearance of eight (8) feet shall be maintained between the bottom of the shroud and mounting hardware and the walking surface. Where side mounted shrouds overhang the adjacent curb or roadway, a minimum clearance of fourteen (14) feet shall be maintained between the bottom of the equipment shroud or mounting hardware to the roadway surface. If the antenna is mounted to the side of the pole it shall be located inside a maximum shroud of 5.5 cubic feet in volume with a sixteen (16) inch maximum width.

(b) Top mounted. If the antenna shroud is located on top of the antenna support structure, the outer diameter shall be fourteen (14) inch maximum and the antenna shroud shall be no more than five (5) feet tall, including antenna, radio head, mounting bracket, and all other hardware necessary for a complete installation.

v. Obstruction of lighting prohibited. Shroud installations upon antenna support structures containing street lights shall not obstruct, interfere with, or diminish the light distribution and lighting levels of the street light fixture.

d. Replacement Combination Light and Antenna Towers.

i. Existing antenna support structures (such as light poles) may be replaced with new equivalent combination structures intended to accommodate the intended function of the existing antenna support structure and accommodate a small wireless facility subject to the following requirements:

(a) The replacement antenna support structure is of the same quality, color, design and style to be consistent with other existing support structures in the surrounding area subject to the approval of the Zoning Administrator;

(b) The replacement antenna support structure is of the same height as the existing support structure excluding the top mounted small wireless facility antenna which may exceed the height of the existing antenna support structure and which shall comply with the top mounted shroud standards contained herein;

(c) The replacement antenna support structure shall be designed to internally accommodate all necessary small wireless supporting equipment in accordance with the standards required of new small wireless facilities contained herein;

(d) The replacement of decorative and/or historic light fixtures shall not be permitted unless the applicant can demonstrate that the proposed replacement antenna support structure will not disrupt or interfere with the visual theme and style of lighting within the surrounding area.

e. New Small Wireless Facility Antenna Towers.

i. Maximum height. No new small wireless antenna tower may exceed forty (40) feet in height unless a Conditional Use Permit is received to exceed this height limitation.

ii. Antenna and equipment shrouding. New standalone or new and/or replacement combination light and small wireless antenna towers shall fully enclose and contain all the small wireless communications equipment, cabling, and antennas,

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and shall be of a style and color that is consistent with other similar light poles and fixtures within the surrounding area as approved by the City.

iii. Maximum number of shrouds. Only one equipment shroud, containing all required small wireless facility equipment, shall be installed per antenna tower.

iv. Minimum spacing between small wireless facility antenna towers. Small wireless facility antenna towers shall be located no closer than two hundred fifty feet (250') from any other small wireless facility antenna tower. This separation requirement shall not apply to co-locations upon existing antenna support structures or replacement combination light and small wireless antenna towers.

~~i.~~v. Antenna tower design. New small wireless antenna towers shall consist of a ten (10) inch galvanized straight steel pole, powder coated black over zinc paint, with a foundation base of sixteen (16) inches in diameter designed to accommodate all necessary supporting equipment and a top antenna shroud of no more than fourteen (14) inches in diameter. All tower components and antenna shrouds shall be painted a matching black color.

~~6.~~7. Permits Required

a. A building permit shall be required to construct, install, relocate, replace, or alter any antenna tower. An administrative zoning permit shall be required to locate or replace any antenna on an antenna tower or antenna support structure or for the installation of a small wireless facility. A Conditional Use Permit shall be required as specified in Section 4 herein.

b. An application for any of the above-mentioned permits shall include or be accompanied by all of the information necessary to determine and document compliance with the regulations established herein. Where no application or permit form exists, the application shall be in the form of a letter signed and dated by the applicant, and the permit issuance shall be in the form of a letter of approval signed and dated by the Zoning Administrator or a dated signature by the Zoning Administrator on the applicable site plan.

c. Specific permit application submittal requirements shall be determined by the Zoning Administrator and may include, but are not limited to, the following:

i. Permit application.

ii. Site plan.

iii. Elevation drawing(s) of the antenna tower or antenna support structure, antenna(s) and ancillary facilities.

iv. Photo simulations from three different perspectives of the installation site illustrating the anticipated visual appearance of the proposed wireless facility (not required for small wireless facilities).

v. Description of proposed and required lighting including light locations. Documentation of required lighting, as specified in Section 5.~~e~~e. herein, may be deferred until prior to issuance of building permit if not available at time of application submittal.

vi. Any plans necessary to depict structural requirements.

vii. Description of the number and types of antennas being proposed, as well as the expected or known capacity of the antenna tower in terms of the number of antennas the antenna tower can accommodate.

viii. Antenna tower or antenna location study specifying the search process by which

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the proposed site was chosen.

ix. Antenna tower inventory as specified in Section 5.j.~~6.c.~~ herein.

x. Notarized written commitment to allow co-location/shared use as specified in Section 5.i.i~~6~~ herein (not required for small wireless facilities).

xi. Documentation by a certified radio frequency engineer demonstrating compliance with current non-ionizing electromagnetic radiation (NIER) or radio frequency (RF) emissions standards as established by the Federal Communications Commission (FCC). Such documentation may be deferred until prior to issuance of building permit if not available at time of application submittal. Upon the construction of a small wireless facility, the City reserves the right to require annual NIER and RF emissions testing, as permitted by Federal and State regulations, by a certified radio frequency engineer to verify that the facility is in compliance with FCC standards. If the facility is found to not be in compliance with FCC standards, the City shall require the facility to be brought into compliance in accordance with the applicable Master License Agreement.

xii. Current FCC license to operate.

xiii. Documentation of a review by the Federal Aviation Administration (FAA) and/or the Aviation Division of the Idaho Transportation Department (ITD). Such documentation may be deferred until prior to issuance of building permit if not available at time of application submittal.

xiv. Name and address of the property owner, telecommunications service provider, and owner of the telecommunications facility on the permit application, and a written statement of approval of the application by the property owner.

xv. Description of proposed security measures as required in Section 5.~~b~~d. herein.

xvi. A tree protection plan prepared by a certified arborist if the installation of the wireless telecommunication facility will be located within the canopy of a street tree, or within a ten-foot radius of the base of such a tree.

~~7.~~8. Findings for Conditional Use Permit.

a. Before a Conditional Use Permit for an antenna tower may be issued, the applicant must demonstrate, and the Zoning Board of Adjustment must find, compliance with all of the following:

i. No existing antenna towers or antenna support structures within the necessary geographic area for the applicant's antenna tower meet the applicant's requirements considering (a) height, (b) structural integrity, or (c) that there are other prohibitive conditions that render existing antenna towers or antenna support structures within the applicant's required geographic area unsuitable.

ii. That the design of the antenna tower, including the antennas and ancillary facilities, minimizes visual impact and otherwise complies with provisions and intent of this Section.

iii. That the proposed antenna tower location minimizes the number and/or size of antenna towers or antenna support structures that will be required in the area.

iv. That the applicant has not previously failed to take advantage of reasonably available shared use opportunities or procedures provided by this Ordinance or otherwise.

These findings shall be required in addition to those required for the Reasoned Statement of Relevant Criteria and Standards provided in Section 4-8-4 of the Zoning

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Code.

~~8.~~9. Abandonment and Removal.

a. All telecommunications facilities shall be removed by the owner of the facility, by the operator of the facility, and/or by the property owner within six (6) months of the time that the facility has substantially ceased being used to provide telecommunications services to the public. Removal shall not be required when the owner or operator of the facility has, within the aforementioned six (6) months, filed with the City a written request to reuse the antenna tower and the City has approved such request. Such written request shall detail the circumstances that justify why the antenna tower should not be removed, why it will be unused for six (6) months or more, and shall commit to a date certain, not to exceed twelve (12) months from the date of last use, by which time the antenna tower will again provide telecommunications services to the public. Before issuance of an antenna tower permit, the applicant for any antenna tower permit shall provide to the City financial security, such as but not limited to an open-ended bond, to ensure removal of the antenna tower and ancillary facilities after the facility is no longer being used to provide telecommunications services to the public.

~~9.~~10. Affirmative Duty to Keep City Informed.

a. All telecommunications service providers having telecommunications facilities in the jurisdiction of the City shall be required to report in writing to the Zoning Administrator any change in the status of their operations. Change in status shall include, but is not limited to, the following:
   i. Change in or loss of license from the FCC to operate.
   ii. Receipt of notice of failure to comply with the regulations of any other authority having jurisdiction over the business or facility.
   iii. Change in ownership of the company that owns the telecommunications facilities or that provides telecommunications services.
   iv. Loss or termination of lease with the property owner or the owner of the telecommunications facilities.
   v. Abandonment of a facility or non-use of a facility for a period of six (6) months or longer.

b. All telecommunications service providers having facilities in the jurisdiction of the City shall file with the Zoning Administrator an annual written statement verifying continued use of each of their facilities in the City's jurisdiction as well as continued compliance with state and federal agency regulations.

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SECTION 5: SEVERABILITY. Provisions of this Ordinance shall be deemed severable and the invalidity of any provision of this Ordinance shall not affect the validity of remaining provisions. The remaining sections of Title 4 shall be in full force and effect.

SECTION 6: EFFECT ON OTHER ORDINANCES. Where the definitions contained in this Ordinance are in conflict with relevant portions of the City of Moscow, Idaho, Municipal Code, the definitions contained within those portions of the Moscow Municipal Code will be unaffected until such time, if any, as they are amended to be consistent with this Ordinance.

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SECTION 7: EFFECTIVE DATE. This Ordinance shall be effective upon its passage, approval, and publication according to law.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2020.

_____
Bill Lambert, Mayor

ATTEST:

_____
Laurie M. Hopkins, City Clerk

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GENDER-NEUTRAL RESTROOM CONVERSION PLANNING PROPOSAL

Preliminary Research

- A review of gender-neutral restrooms in Idaho has been completed to provide background on how other municipalities have or have not addressed the conversion process.
- An inventory of the existing City of Moscow restroom facilities.
- Should planning advance, additional considerations initially identified (certainly not limited to) to include safety, privacy, number of fixtures, accessibility, costs, etc.

Comparison Cities Gender Specific

City	How Many/Where	Purpose-Built/Converted	Policy	Public Input	Future Plans
Caldwell	None	None	No	No	No

Comparison Cities Family

City	How Many/Where	Purpose-Built/Converted	Policy	Public Input	Future Plans
Spokane	Some Parks	Purpose-Built and Existing	No	Requests for family are higher	More family, no plans for gender-neutral
Pullman	1 Old City Hall 1 Library	Existing private	No	No	No
Nampa	2 Rec Center	None	No	No	No
Pocatello	Some parks Zoo	Single stall permanents built to replace portables	No	No	No
Lewiston	1 City Hall 1 Library				
Meridian	9 Parks 4 Gym Facility 3 City Hall	Purpose-Built	No	No	No

Comparison Cities Gender Neutral

City	How Many/Where	Purpose-Built/Converted	Policy	Public Input	Future Plans
Boise	City hall Libraries 50% Fire Stations 50% Parks	Purpose-Built, may convert after new facility projects are completed	Non-Discrimination	None on gender neutral, great response from families	Goal is to have in all facilities.
Idaho Falls	2 Aquatic Center 6 Ice Arena 2 Rec Center 2 Portables Golf Course 3 Golf Course 4 Parks 6 Zoo	Purpose-Built	Non-Discrimination	No	Yes

Policy Statements

- City of Boise Code Title 5; Chapter 15
  - "Purpose: In order to ensure that all persons, regardless of sexual orientation and/or gender identity/expression enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing, commercial property and the use of public accommodations, the City has determined that discrimination on the basis of sexual orientation and gender identity/expression must be addressed, and appropriate legislation be enacted..."
- City of Idaho Falls – Title 5; Chapter 11
  - "...It is the intent of this Chapter that all persons be treated fairly and equally. It is the express intent of this Chapter to foster and support fair and equal treatment under the law to all people in the City. The denial of fair and equal treatment under the law in employment, housing, or public resort, accommodation, assemblage, and amusement due to sexual orientation or gender identity/expression is detrimental to the health, safety, and welfare of the City's occupants, because such damages a city's economic well-being..."

Moscow City Code

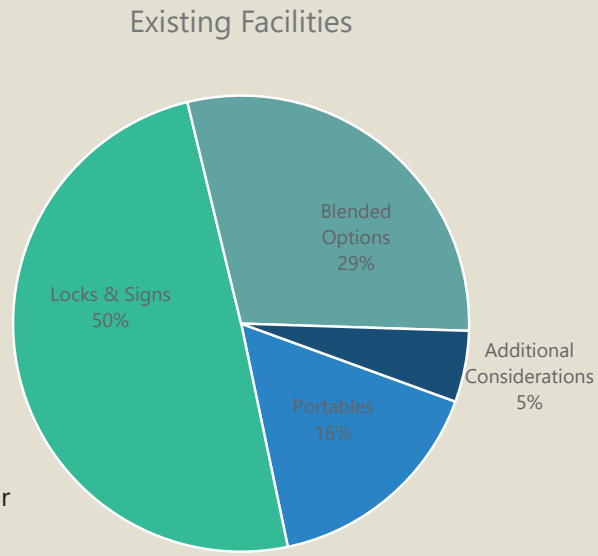
- City of Moscow Title 10; Chapter 19
  - "The City has determined that discrimination on the basis of sexual orientation and/or gender identity/expression shall be prohibited, as set out in this Chapter, in order to help ensure that all persons, regardless of sexual orientation and/or gender expression/identity, are afforded equal opportunities for employment, in housing, commercial property, and in the use of public accommodations…"

Facility Inventory

- Parks
  - Rotary Park
  - Lena Whitmore Park
  - East City Park
  - Ghormley Park
  - Downtown Restroom
  - Mountain View Park
  - MSDCP
  - Kiwanis Park
- Parks Portables
  - Anderson Frontier Park (ADA)
  - Berman Creekside Park (ADA)
  - West Palouse Properties (ADA)
  - Dog Park (ADA)
  - Eggan Youth Center (ADA)
  - Indian Hills Park (Non ADA)
  - Itani Park (ADA)
  - Lola Clyde Park (ADA)
  - Mountain View (Winter) / Ghormley (Summer) (ADA)
- City-Occupied Facilities
  - Hamilton Indoor Recreation Center
  - Eggan Youth Center
  - City Hall
  - Annex/Haddock Building*
  - Fire Station #2
  - Fire Station #3
  - HLAC
  - Paul Mann Building
  - Water Reuse and Reclamation Facility
  - Magyar Building
  - Water Operations
  - City Shop
  - Police Department
  - Fire Station #1
- City-Owned Facilities
  - 1912 Center
  - Library
  - Virgil Philips Farm
  - Animal Shelter
  - Intermodal Transit Center

Cursory Review

- Portables
  - 9 Seasonal - Parks
- Locks & Signs
  - 27 Private Single-User Facilities
- Blended Options
  - 8 Buildings
  - 16 Facilities
- Additional Considerations
  - Friendship Square
  - Mountain View Park
  - Intermodal Transportation Center



User Considerations

- Public Access
- Employee Access
- Accessibility
- Available Fixtures
  - Blended Options
  - Additional Considerations
- Safety – Police Chief James Fry
  - Idaho Chiefs of Police Association
    - No negative issues reported
  - Federal Bureau of Investigation (FBI)
- User Groups
  - 1912 Center
  - Library
  - Virgil Philips Farm
  - Animal Shelter
  - Intermodal Transit Center
  - Moscow Volunteer Fire Department
- Human Rights Commission

QUESTIONS?