



City of Woodland Park

City Council

February 2, 2023 at 7:00 PM

AGENDA

5:30 PM - Worksession of the City Council to review their Rules and Procedures for the 2023 year.

1. **CALL TO ORDER AND ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **CEREMONIES, PRESENTATIONS AND APPOINTMENTS**
 - A. Presentation and swearing in of three new Woodland Park Police Department Police Officers; Ofc. Kristyn Arseneau, Ofc. Samuel Dunbar, Ofc. Spencer Van Camp. (A)
(Presenter, Chief of Police Chris Deisler)
 - B. Celebration of 10 years of Service to the City of Woodland Park by Court Clerk Karla Collins.
(Presenter, Deputy City Manager/City Clerk Suzanne Leclercq)
 - C. Consideration of appointment to the Parks and Recreation Advisory Board.
(Presenter, Deputy City Manager/City Clerk Suzanne Leclercq)
4. **ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA**
5. **CONSENT CALENDAR**
 - A. Approval of minutes from the January 5 and January 19, 2023 City Council Meetings. (A)
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)
6. **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA (1)**
7. **UNFINISHED BUSINESS**
(Public Comment may be heard)
8. **ORDINANCES ON INITIAL POSTING**
(Public comment may be heard)
 - A. Consideration of Ordinance No. 1436, Series 2023, on initial posting, an Ordinance Amending Chapter 18.31 of the Woodland Park Municipal Code, Concerning an Expansion of the Woodland Station Overlay District Geographic Boundary Generally Located South of W. Midland Avenue and S. Pine Street Containing Approximately 2.70 Acres, and set the Public Hearing for February 16, 2023. (L) (Presenter, Planning Director Karen L. Schminke, AICP)
 - B. Consideration of Ordinance No. 1439, Series 2023, on initial posting, an Ordinance of the City Council for the City of Woodland Park, Colorado amending Title 5 of the Woodland Park Municipal Code, regarding Small Cell Facilities, to

Establish a Procedure for the Application, Review, and Siting of Small Cell Facilities and set the Public Hearing for February 16, 2023. (L)
(Presenter, City Attorney Geoff Wilson)

- C. Consider Ordinance No. 1438, Series 2023 on initial posting, an Ordinance Declaring the Instrument for Public Notification Process and Method for the City of Woodland Park for the Year 2023. (A)
(Presenter, Deputy City Manager/City Clerk Suzanne Leclercq)

9. PUBLIC HEARINGS

(Public comment may be heard)

10. NEW BUSINESS

(Public comment may be heard)

- A. Appointment of a Hearing Officer for the protest hearing of the Referendum Petition repealing Ordinance No. 1431, Series 2022.
(Presenter, Deputy City Manager/City Clerk Suzanne Leclercq)

11. REPORTS

(Public comment not necessary)

- A. Mayor's Report
- B. Council Reports
- C. City Attorney's Report
- D. City Manager's Report

12. ADJOURNMENT

Key to agenda abbreviations:

(A) Administrative- matters involving day-to-day decisions such as approving contracts, hiring staff and the procurement of goods and services. Administrative actions generally do not require formal actions by the elected body.

(L)Legislative- typically in the policy arena; legislative matters affect large areas and large groups of people, such as enacting dog regulations or amending the City code. Legislative action generally involves motions, resolutions and ordinances.

(QJ)Quasi-Judicial- apply general rules to a specific interest, such as zoning change affecting a single piece of property, or a special use permit. Quasi-Judicial actions generally involve adjudication, sometimes in writing, but not a resolution or ordinance. Decision for Quasi-Judicial proceedings are made exclusively based upon the testimony presented on the record. Ex-parte communication (communication outside the official hearing) between elected officials and citizens is not permitted on Quasi-Judicial



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM:

DATE: February 2, 2023

SUBJECT: Presentation and swearing in of three new Woodland Park Police Department Police Officers; Ofc. Kristyn Arseneau, Ofc. Samuel Dunbar, Ofc. Spencer Van Camp. (A)
(Presenter, Chief of Police Chris Deisler)

BACKGROUND:

RECOMMENDATION:

ATTACHMENTS: None



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM:

DATE: February 2, 2023

SUBJECT: Celebration of 10 years of Service to the City of Woodland Park by Court Clerk Karla Collins.
(Presenter, Deputy City Manager/City Clerk Suzanne Leclercq)

BACKGROUND:

RECOMMENDATION:

ATTACHMENTS: None



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM: Suzanne Leclercq, Deputy City Manager/City Clerk

DATE: February 2, 2023

SUBJECT: Consideration of appointment to the Parks and Recreation Advisory Board.
(Presenter, Deputy City Manager/City Clerk Suzanne Leclercq)

BACKGROUND: Following the resignation of Sue Janicki from the Parks and Recreation Advisory Board, an application was received from Christopher Gonzales to apply to the PRAB Board. Mr. Gonzales meets all of the requirements to apply for the PRAB Board and maintains experience and interests compatible with the PRAB Board.

RECOMMENDATION: Following an interview with the City Council Staff, recommends the appointment of Mr. Gonzales to the Parks and Recreation Advisory Board.

ATTACHMENTS: None



City of Woodland Park

January 5, 2023 at 7:00 PM

MINUTES

1. CALL TO ORDER AND ROLL CALL

Mayor LaBarre called the City Council Meeting to order at 7:00 PM.

The following Councilmembers were in attendance: Mayor LaBarre, Mayor Pro-tem Case, Councilmember Connors, Councilmember Nakai, Councilmember Neal, Councilmember Ott and Councilmember Zuluaga.

The following staff members were in attendance: City Manager Lawson, Deputy City Manager/City Clerk Leclercq, Planning Director Schminke(via zoom), Communication Specialist Kristen Higgenbotham and Deputy City Clerk Minton.

2. PLEDGE OF ALLEGIANCE

3. CEREMONIES, PRESENTATIONS AND APPOINTMENTS

A. Keep Woodland Park Beautiful 2022 Annual Report and Beautification Award. Postponed to the January 19, 2023 City Council Meeting.

B. Appointments to various Boards and Committees - Board of Adjustment, Planning Commission and Board of Review. (A)
(Presenter, Deputy City Manager/City Clerk Suzanne Leclercq)

City Clerk Leclercq shared the following information regarding the Boards and Committees applying for positions this evening.

Board of Adjustment - Leclercq reviewed that there are currently two available regular positions and two alternate positions available on this board. Leclercq reviewed with the Council that applicants must be at least 18 years old, a City resident for not less than one year and possess qualifications that are compatible with the Board's purpose and authority. Leclercq shared that the applicants must be available to meet on the third Monday of each month at 6:30 PM. Leclercq reported that she advertised as per the Council's policy on the City's website and Facebook. Leclercq also noted that she sent letters to both incumbents Lou Ramon and Nick Abercrombie encouraging them to re-apply. Leclercq reviewed that the two regular positions expire in 2026 and the two alternate positions expire in 2025. Leclercq shared that she had received applications from both of the incumbents and that they were both in the audience this evening and available for questions.

Following questions from the Council, the following motions were made.

Motion: To appoint Lou Ramon to the Board of Adjustment. Nakai/Ott. Motion carried 7-0.

Motion: To appoint Nick Abercrombie to the Board of Adjustment. Zuluaga/Nakai. Motion

carried 7-0.

City Clerk Leclercq administered the Oath of Office to Ramon and Abercrombie.

Planning Commission - Leclercq reviewed that there are currently four available position available for this commission. Interested applicants must meet the requirements for this opening. They must be at least 18 years old, a City resident for not less than one year and possess qualifications that are compatible with the Commission's purpose and authority. The applicants must also be available to meet on the second and fourth Thursday evenings at 6:50 pm each month. Leclercq shared as per the Council's policy, the City Clerk's office advertised on the City's Facebook page and City Website. The City Clerk also sent letters to incumbent Larry Larsen asking him to consider applying for re-appointment. Leclercq shared that she received an application from incumbent Larry Larsen as well as applications from Don Dezellem and DeAnn Betterman. Leclercq shared that they were all in the audience this evening and available for questions.

Following questions from the Council, the following motions were made.

To appoint Larry Larsen to the Planning Commission. Case/Connors. Motion carried 7-0.

To appoint Don Dezellem to the Planning Commission. Zuluaga/Connors. Motion failed 3-4 with Case, Neal, Nakai and Ott voting no.

To appoint DeAnn Betterman to the Planning Commission. Zuluaga/Connors. Motion tied. 3-3. Labarre, Case and Ott voting no. As a result of the tie, this item will be considered again at a future Council Meeting.

At this time, Councilmember Neal recused himself from the appointment of Ms. Betterman.

City Clerk Leclercq administered the Oath of Office to Larsen.

Board of Review - Leclercq shared that there are currently three available positions and two alternate positions available on this Board. Interested applicants must meet the requirements for this opening. They must be at least eighteen years old and possess the qualifications that are compatible with the board's purpose and authority. Applicants must be available to meet on the third Thursday of each month at 3:30 PM. Leclercq reported that the City clerk's Office had advertised these positions as per the Council's policy on the City's Facebook page and City website. Leclercq shared that she had sent letters to all of the incumbents encouraging them to re-apply. Leclercq shared that she had received an application from Jeff Cahill to re-apply and he was in the audience this evening and available for questions.

Following Council questions, the following motion was made.

Motion: To appoint Jeff Cahil to the Board of Review. Nakai/Case. Motion carried 7-0.

City Clerk Leclercq administered the Oath of Office to Cahill.

4. ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA

5. CONSENT CALENDAR

- A.** Approval of the December 1, 2022 Regular City Council Minutes.(A)
(Presenter, Deputy City Manager/City Clerk Suzanne Leclercq)

City Clerk Leclercq reviewed with the Council the meeting minutes from the December 1, 2022 City Council Meeting.

Motion: To approve the December 1, 2022 City Council minutes. Ott/Zuluaga. Motion carried 7-0.

6. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA (1)

Gene Harris spoke in regards to the STR petition and that Council needs to support the constitution/laws/ordinances of the City. They must make the correct vote to repeal the STR petition.

Jerry Penland spoke regarding the STR petition and that City Hall made a big mistake with licensing STR's and that none was watching. Penland shared that City Hall allowed lodging businesses in everyone's backyard.

Arnie Sparrins spoke regarding the success of the STR petition and that the people have spoken and the Council needs to now do the right thing.

7. UNFINISHED BUSINESS

(Public Comment may be heard)

8. ORDINANCES ON INITIAL POSTING

(Public comment may be heard)

9. PUBLIC HEARINGS

(Public comment may be heard)

- A.** Approval of a transfer of a Hotel and Restaurant Liquor License from Woodland Park Country Lodge to Sara Hutchison (Over Ice LLC), Woodland Country Lodge located at 730 Country Drive, Woodland Park, CO. (QJ)
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)

City Clerk Leclercq introduced the transfer of a Hotel and Restaurant Liquor License from Woodland Park Country Lodge to Sara Hutchison (Over Ice, LLC) to the Council. Ms. Hutchison was in the audience and shared her plans for her new business with the Council.

Mayor LaBarre opened the Public Comment portion of the Public Hearing. There being no Public Comment, Mayor LaBarre closed the Public Hearing and the following motion was made.

Motion: To approve the transfer of a Hotel and Restaurant Liquor License from Woodland Park Country Lodge to Sara Hutchison (Over Ice, LLC), Woodland Country Lodge located at 730 Country Drive, Woodland Park, CO. Case/Connors. Motion carried 7-0.

- B.** Approval of a transfer of a Hotel and Restaurant Liquor License from the Swiss Chalet to Roberto Calcagno, Swiss Operations LLC, located at 19273 East Highway 24, Woodland Park, CO. (QJ)
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)

City Clerk Leclercq introduced the transfer of a Hotel and Restaurant Liquor License from the Swiss Chalet to Roberto Calcagno, Swiss Operations LLC. Mr. Calcagno shared his plans with the Council for his new business.

Mayor LaBarre opened the Public Comment portion of the Public Hearing. There being no Public Comment, Mayor LaBarre closed the Public Hearing and the following motion was made.

Motion: To approve a transfer of a Hotel and Restaurant Liquor License from the Swiss Chalet to Roberto Calcagno, Swiss Operations LLC, located at 19273 East Highway 24, Woodland Park, CO. Nakai/Ott. Motion carried 7-0.

10. NEW BUSINESS

(Public comment may be heard)

11. REPORTS

(Public comment not necessary)

A. Mayor's Report

Mayor LaBarre and the rest of Council wished everyone a Happy New Year.

B. Council Reports

C. City Attorney's Report

D. City Manager's Report

12. ADJOURNMENT

There being no further City business and the time being 8:29 PM, Mayor LaBarre adjourned the City Council Meeting.

Respectfully submitted:

Suzanne Leclercq MMC, City Clerk

APPROVED THIS ____ DAY OF _____, 2022

Hilary LaBarre, Mayor



City of Woodland Park

January 19, 2023 at 7:00 PM

MINUTES

1. CALL TO ORDER AND ROLL CALL

Following a worksession with the City Council and Logan Simpson regarding the PRTOS Master Project Update, Mayor Labarre called the City Council Meeting to order at 7:00 PM.

The following Councilmembers were present: Mayor LaBarre, Mayor Pro-tem Case, Councilmember Connors, Councilmember Nakai, Councilmember Neal and Councilmember Zuluaga. Councilmember Ott appeared via zoom.

The following staff members were in attendance: City Manager Lawson, Deputy City Manager/City Clerk Leclercq, City Attorney Wilson, Finance Director Vassalotti, City Engineer Schmidt, Deputy City Manager/Director of Operations Wiley, Parks and Recreation Director Keating and Deputy City Clerk Minton.

2. PLEDGE OF ALLEGIANCE

3. CEREMONIES, PRESENTATIONS AND APPOINTMENTS

- A.** Celebration and Recognition of the Woodland Park High School Cheerleaders for their 3A State Championship win.

(Presenter Shaina Lampton, Head Coach and Kevin Burr, High School Principal)

Woodland Park High School Principal Kevin Burr and Cheerleading Coach Shaina Lampton introduced the Woodland Park High School Cheerleaders. Principal Burr congratulated the Cheerleaders on their win of the 3A State Cheerleading Championship. Mayor LaBarre and the Council congratulated the girls and coaches and Mayor LaBarre presented the team with Mayor's pins. The cheerleaders shared the video of their winning cheer and also performed a cheer for the Council and audience.

- B.** Thank you and appreciation to the Woodland Park Hockey Association.

(Presenter, Parks and Recreation Director Cindy Keating)

Parks and Recreation Director Keating shared with the Council all of the donations and work that the Woodland Park Hockey Association has contributed over the past years to the hockey rink and the hockey program. Keating introduced Landis Seabolt, who spoke about the hockey program. Mayor LaBarre and the Council thanked the hockey association and Mayor LaBarre presented them with Mayor Pins.

- C.** Keep Woodland Park Beautiful Annual Report and Beautification Award Presentation.

(Presenter, Sarah Horwood, Chairperson of the Keep Woodland Park Beautiful Committee)

Sarah Horwood, Chairperson of the Keep Woodland Park Beautiful Committee, shared KWPB's annual report with the Council. Horwood, on behalf of the Keep Woodland Park

Beautiful Committee, presented the Mayflower Chinese Restaurant with the 2023 Beautification award. Claudia Miller and Jeanette Horwood shared their ideas on ways that Highway 67 could be updated to keep from injuring/killing wildlife.

D. Appointments to the Board of Review and the Keep Woodland Park Beautiful Committee.

(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)

City Clerk Leclercq shared information on the openings on the Board of Review and the Keep Woodland Park Beautiful Committee.

Leclercq shared that there are currently three openings on the Board of Review and that she had received applications from the three incumbents, Derrick Carpenter, Mack McVicker and Jeff Smith. Following Council interviews of the applicants, the following motions were made.

Motion: To appoint Derrick Carpenter to the Board of Review. Neail/Nakai. Motion carried 7-0.

Motion: To appoint Mac McVicker to the Board of Review. Case/Nakai. Motion carried 7-0.

Motion: To appoint Jeff Smith to the Board of Review. Case/Neal. Motion carried 7-0.

City Clerk Leclercq shared that there are currently numerous openings on the Keep Woodland Park Beautiful Committee and that she had received an application from Mary Manka interested in applying. Following the Council's interview of Ms. Manka, the following motion was made.

Motion: To appoint Mary Manka to the Keep Woodland Park Beautiful Committee. Zuluaga/Nakai. Motion carried 7-0.

4. ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA

5. CONSENT CALENDAR

A. Approval of On Call Engineering and Land Use Development Services Contracts Between the City of Woodland Park, Basis, Baseline, JR Engineering, and Wilson and Co.

(Presenter City Engineer Ben Schmitt)

Mayor LaBarre introduced the following items on the Consent Calendar.

1. Approval of On Call Engineering and Land Use Development Services Contracts between the City of Woodland Park, Basis, Baseline, JR Engineering and Wilson and Company.
2. Approval of the November 2022 Statement of expenditures and authorize the Mayor to sign Warrants in payment thereof.
3. Approval of purchase of a valve maintenance trailer in the amount of \$76,868.
4. Approval of a contract with Velocity in the amount of \$1,296,939 for the construction of the DOVE pump station.
5. Approval of a contract with RH Borden and Company LLC in the amount of \$75,000 for the survey and investigation of the City's sanitary sewer system.

Following the Council's questions, the following motion was made.

Motion: To approve the Consent Calendar. Case/Neal. Motion carried 7-0.

B. Approve November 2022 Statement of Expenditures and authorize the Mayor to sign Warrants in

payment thereof.

(Presenter, Finance Director Aaron Vassalotti)

Approved all in one motion above.

- C.** Approval of purchase of a valve maintenance trailer in the amount of \$76,868.00.
(Presenter, Deputy City Manager/Director of Operations Kip Wiley)

Approved all in one motion above.

- D.** Approval of a contract with Velocity in the amount of \$1,296,939 for the construction of the DOVE water pump station.
(Presenter, Deputy City Manager/Director of Operations Kip Wiley)

Approved all in one motion above.

- E.** Approval of a contract with RH Borden and Company LLC in the amount of \$75,000.00 for the survey and investigation of the City's sanitary sewer system.
(Presenter, Deputy City Manager/Director of Operations Kip Wiley)

Approved all in one motion above.

6. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA (1)

The following individuals spoke on public comment on items not on the agenda.

1. Jeremy Lyons - spoke regarding the STR petition and that he felt people were misled into signing the petition.
2. Mary Sekowski - spoke regarding the STR petition and that she felt scare tactics were used to get people to sign the petition.
3. Rich Broyles - spoke regarding water taps.
4. Tim Northrup - shared a flow chart that was created regarding the process for a citizen's initiative if needed regarding STR's.
5. Arnie Sparnins - shared the success of the STR petition process.
6. Kitten Walker shared that she felt there was a volatile division in the Community and with the Council.

7. UNFINISHED BUSINESS

(Public Comment may be heard)

8. ORDINANCES ON INITIAL POSTING

(Public comment may be heard)

9. PUBLIC HEARINGS

(Public comment may be heard)

10. NEW BUSINESS

(Public comment may be heard)

- A.** Approve Resolution No.898 Establishing the Single Family Residential Water Tap Allotment for 2023.

(Presenter, Deputy City Manager/Director of Operations Kip Wiley)

Utility Director Kip Wiley shared with Council Resolution No. 898, Sereis 2023, Establishing the Single Family Residential Water Tap Allotment for 2023.

There being no questions from the Council, the following motion was made.

Motion: to approve Resolution No. 898 Establishing the Single Family Residential Water Tap Allotment for 2023. Zuluaga/Nakai. Motion carried 7-0.

11. REPORTS

(Public comment not necessary)

A. Mayor's Report

No report.

B. Council Reports

Mayor Pro-tem Case shared an up-date of the Parks and Recreation Advisory Board.

Councilmember Neala shared an up-date of the DDA.

Councilmember Neal shared an up-date of the KWPB Committee.

C. City Attorney's Report

No Report.

D. City Manager's Report

Deputy City Manager/City Clerk Leclercq shared an update of the petition process. Leclercq shared that she assembled a great team to assist her in the verification process of the petition and that the process should be completed by early next week.

12. ADJOURNMENT

There being no further city business, Mayor LaBarre adjourned the Council Meeting at 9:16 PM>

Respectfully submitted:

Suzanne Leclercq MMC, City Clerk

APPROVED THIS ____ DAY OF _____, 2022

Hilary LaBarre, Mayor



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM: Karen Schminke, Director of Planning & Building Services

DATE: February 2, 2023

SUBJECT: Consideration of Ordinance No. 1436, Series 2023, on initial posting, an Ordinance Amending Chapter 18.31 of the Woodland Park Municipal Code, Concerning an Expansion of the Woodland Station Overlay District Geographic Boundary Generally Located South of W. Midland Avenue and S. Pine Street Containing Approximately 2.70 Acres, and set the Public Hearing for February 16, 2023. (L) (Presenter, Planning Director Karen L. Schminke, AICP)

BACKGROUND: Consider a request by Beer Garden Lane Development LLC, and Park Contractor Storage LLC (Owners & Applicants) to add five additional parcels to the Woodland Station Overlay District. The subject parcels are located adjacent to the west boundary of the current overlay district location.

Per Chapter 18.31 of the Municipal Code, inclusion in the Woodland Station Overlay allows the developer to submit a site plan for administrative review for all uses within the CBD including those uses categorized as conditional uses. The developer is also allowed to propose parking ratios, setbacks and height standards. The purpose of the overlay is to allow for flexibility in applying the CBD standards and create a “village-like” character that is pedestrian friendly and a vibrant business environment.

RECOMMENDATION: Approve Ordinance No. 1436, Series 2023 on initial posting, an Ordinance Amending Chapter 18.31 of the Woodland Park Municipal Code, Concerning an Expansion of the Woodland Station Overlay District Geographic Boundary Generally Located South of W. Midland Avenue and S. Pine Street Containing Approximately 2.70 Acres, and set the Public Hearing for February 16, 2023.

ATTACHMENTS: 1. Ord 1436 WS Overlay Change 2023-0106

**CITY OF WOODLAND PARK, COLORADO
ORDINANCE NO. 1436, SERIES 2023**

**AN ORDINANCE AMENDING CHAPTER 18.31 OF THE WOODLAND PARK
MUNICIPAL CODE, CONCERNING AN EXPANSION OF THE WOODLAND
STATION OVERLAY DISTRICT GEOGRAPHIC BOUNDARY GENERALLY
LOCATED SOUTH OF W. MIDLAND AVENUE AND S. PINE STREET
CONTAINING APPROXIMATELY 2.70 ACRES.**

WHEREAS, the City of Woodland Park, Colorado (the “City”), is a Colorado home rule municipality, duly organized and existing pursuant to Section 6 of Article XX of the Colorado Constitution; and

WHEREAS, the City Council (the “Council”) has authority pursuant to the Home Rule Charter and C.R.S. §31-16-101, *et seq.* to adopt and enforce all ordinances and enact laws to govern and regulate the use of land within its territory; and

WHEREAS, pursuant to C.R.S. §31-23-301 *et seq.*, the City Council also possesses the authority to adopt and enforce zoning regulations; and

WHEREAS, by Ordinance 1075, Series 2007, the City Council established the new Overlay District in the Central Business District Zone entitled “Woodland Station Overlay District,” and

WHEREAS, Beer Garden Lane Development, LLC, has requested that their property be added to the Woodland Station Overlay District, and

WHEREAS, Park Contractor Storage, LLC, has requested that their property be added to the Woodland Station Overlay District, and

WHEREAS, the City Council of Woodland Park has determined that the properties in question be added to the Woodland Station Overlay District and is in the best interest of the citizens of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOODLAND PARK, COLORADO, AS FOLLOWS:

Section 1. The City Council incorporates the foregoing recitals as conclusions, facts, determinations, and findings by the City Council.

Section 2. The area of the Woodland Station Overlay District as originally established pursuant to Ordinance 1075, Series 2007, is hereby expanded by including the following properties:

(Account No. R0000700) Lot 6, Block 2 Bergstroms Addition & ½ Vacated Alley Adj Property (W. Midland Ave);
(Account No. R0000640) 24-12-69 Por SW4NE4 & ½ Vacated Alley Adj Property;

(Account No. R0021837) 24-12-69 PT SW4NE4;
(Account No. R0021835) 24-12-69 Por SW4 NE4; and
(Account No. R0000639) 24-12-69 PT S1/3 SW4 NE4 located S&E of MTRR ROW (225 S. West St);

and the boundaries of the Woodland Station Overlay District as originally established, are reestablished as shown on Exhibit A attached hereto and made a part of this Ordinance.

Section 2. *Severability.* The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 3. *Effective Date.* This ordinance shall be in full force and effect upon its publication as required by law.

PASSED BY CITY COUNCIL ON SECOND AND FINAL READING FOLLOWING PUBLIC HEARING THIS ____ DAY OF _____, 2023.

City of Woodland Park

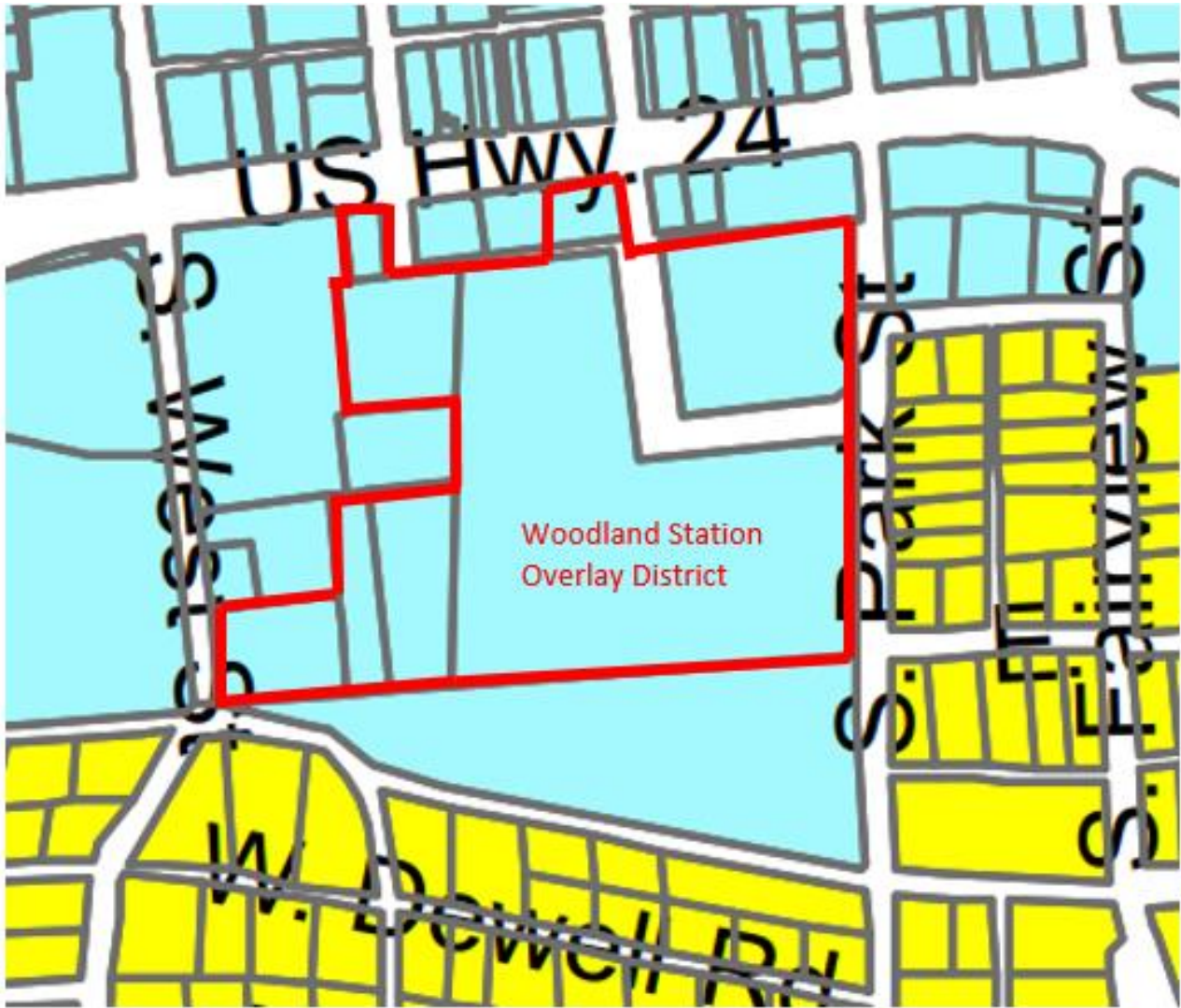
Hilary LaBarre, Mayor

ATTEST:

City Clerk, Suzanne Leclercq

Exhibit A

Woodland Station Overlay District
Boundary Revision Pursuant to Ordinance 1436, Series 2023



Memorandum

To: Woodland Park Mayor and City Council

From: Erica Romberg, Senior Associate

Date: January 24, 2023

Subject: Ordinance and Resolution regarding Small Cell Facilities

Ordinance Number 1439, an ordinance Amending Title 5 of the Woodland Park City Code, regarding small cell facilities, to establish a procedure for the application, review and siting of small cell facilities, and the accompanying resolution have been drafted for the City to adopt. In September of 2018 the Federal Communications Commission (FCC) adopted a declaratory ruling and order (“Small Cell Order”) that limited local governments’ ability to regulate the actual siting and placement of Small Cell Facilities. In addition to limiting local governments’ ability to regulate the actual siting and placement, the Small Cell Order also limited the recovery of fees and costs and went on to establish a presumptively valid fee schedule.

The rules created by the Small Cell Order are slightly in conflict with the current law under C.R.S. § 29-27-403 so in an effort to create clarity for the City, the amendments to the City Code (“the Code”) are proposed.

Within the attached Ordinance are the proposed amendments to Title 5 of the Code as it relates to creating a procedure for the application, review, and siting of small cell facilities and the variance approval criteria.

There is not fiscal impact associated with Ordinance Number 1439.

The City Attorney recommends the approval of Ordinance Number 1439, amending Title 5 of the Woodland Park City Code, regarding small cell facilities, to establish a procedure for the application, review, and siting of small cell facilities.

A City Councilmember should state, “I move to approve Ordinance Number 1439 on first reading and set the second reading and public hearing for _____.”

CITY OF WOODLAND PARK, COLORADO
ORDINANCE NO. 1439, Series 2023

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WOODLAND PARK,
COLORADO AMENDING TITLE 5 OF THE WOODLAND PARK MUNICIPAL
CODE, REGARDING SMALL CELL FACILITIES, TO ESTABLISH A PROCEDURE
FOR THE APPLICATION, REVIEW, AND SITING OF SMALL CELL FACILITIES**

WHEREAS, the City of Woodland Park, Colorado (the “City”) has been duly organized and is validly existing as a home rule city under Article XX, Section 6 of the Colorado Constitution and the City Charter;

WHEREAS, pursuant to C.R.S. § 31-15-401, the City possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety, and welfare;

WHEREAS, pursuant to C.R.S. § 31-23-301, the City possesses the authority to regulate and restrict the height, size, location, and uses of buildings and other structures in furtherance of the public health, safety, and welfare;

WHEREAS, the City Council finds it desirable and prudent to regulate the siting of Small Cell Facilities to provide for managed development, installation, maintenance, modification, and removal of Small Cell Facilities that is consistent with the City’s character and to protect the health, safety, and welfare of the public;

WHEREAS, at the same time, the City Council recognizes the importance of modern, reliable wireless connectivity for its residents and endeavors to not unreasonably or materially inhibit the development of a competitive wireless communications marketplace in the City;

WHEREAS, Small Cell Facilities, which are necessary for the delivery of new and evolving wireless technologies, provide network coverage to a smaller area than previous wireless technologies and, as such, must be deployed in greater numbers, often within the public right-of-way;

WHEREAS, pursuant to C.R.S. § 29-27-404(3), the siting, construction, and operation of Small Cell Facilities is a permitted use by right in any zone, subject to the exercise of local police powers;

WHEREAS, on September 26, 2018, the Federal Communications Commission (the “FCC”) adopted a Declaratory Ruling and Order (“Small Cell Order”) limiting the ability of local governments to regulate the siting and placement of Small Cell Facilities;

WHEREAS, the FCC Small Cell Order provided that local governments cannot “materially inhibit” the deployment of Small Cell Facilities;

WHEREAS, the FCC Small Cell Order provided that aesthetic standards adopted by local governments applicable to Small Cell Facilities must be reasonable and published in advance;

WHEREAS, the FCC Small Cell Order established “shot clocks” limiting the amount of time that local governments have to respond to Small Cell Facility applications, which in some respects conflict with the shot clocks for Small Cell Facilities established under C.R.S. § 29-27-403;

WHEREAS, the FCC Small Cell Order provided that local fees associated with the deployment of Small Cell Facilities must be limited to recovery of a regulatory entity’s actual costs, and established a presumptively valid fee schedule;

WHEREAS, pursuant to the Middle Class Tax Relief and Job Creation Act of 2012, the FCC, in an Order dated May 19, 2020 (“6409 Order”), promulgated specific regulations for applications for Wireless Communications Facilities that qualify as Eligible Facilities Requests, as that term is defined in the 6409 Order;

WHEREAS, some applications for Small Cell Facilities may qualify as Eligible Facilities Requests;

WHEREAS, pursuant to 47 U.S.C. 332(c)(7)(B)(i), local governments cannot regulate the placement, construction, or modification of any Wireless Communications Facility, including Small Cell Facilities, on the basis of the environmental effects of radio frequency emissions; and

WHEREAS, the City Council finds it desirable and appropriate, and in the best interest of the general health, safety, and welfare of its citizens to amend Title 5 of the Woodland Park Municipal Code (the “Code”), by creating a new Chapter 5.24, as it relates to the establishment of procedures for the application, review, and siting of Small Cell Facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOODLAND PARK, COLORADO, AS FOLLOWS:

Section 1. The foregoing recitals are hereby incorporated as conclusions, facts, determinations, and findings by the City Council.

Section 2. Chapter 5.24 of the Code, concerning small cell facilities, is hereby created to read as follows:

Chapter 5.24 - SMALL CELL FACILITIES

Sections:

5.24.010 - Definitions.

As used in this chapter, the following words and phrases shall have the meaning ascribed to them as follows, unless the context clearly indicates otherwise:

Base Station means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The definition of Base Station does not include or encompass a Tower as defined herein or any equipment associated with a Tower. Base Station does include, without limitation:

A. 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 that, at the time the relevant application is filed with the city, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

B. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small-cell networks) that, at the time the relevant application is filed with the city, has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

Camouflage or Camouflage Design Techniques means measures used in the design and siting of WCFs with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF site utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure, or (ii) is integrated in an outdoor fixture such as a flagpole, while still appearing to some extent as a WCF. This definition does not include Concealment Design Techniques where a facility is designed to look like something other than a WCF.

Concealment or Concealment Design Techniques means utilization of elements of stealth design in a facility such that the facility looks like something other than a WCF. Concealment can further include a design which mimics and is consistent with the nearby natural or architectural features (such as an artificial tree), is incorporated into existing permitted facilities (such as being attached to the exterior of such facility and painted to match it), or replaces existing permitted facilities (such as traffic signs or freestanding light standards) so that the presence of the WCF is not apparent. This definition does not include conditions that merely minimize visual impact but do not incorporate Concealment Design Techniques such that the facility looks like something other than a WCF.

Eligible Facilities Request means 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 involving:

- A. Collocation of new Transmission Equipment;
- B. Removal of Transmission Equipment; or
- C. Replacement of Transmission Equipment.

A request for modification of an Existing Tower or Base Station that does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or does not comply with any relevant federal requirements, is not an Eligible Facilities Request.

Eligible Support Structure means any Tower or Base Station as defined herein, provided that it is existing at the time the relevant application is filed with the city.

Small cell facility means a wireless service facility that meets both of the following qualifications:

A. Each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and

B. Primary equipment enclosures are no larger than seventeen (17) cubic feet in volume as measured on the exterior surface of the enclosure. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: Electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

Substantial Change means a modification substantially changes the physical dimensions of an Eligible Support Structure if, after the modification, the structure meets any of the following criteria:

A. For Towers, other than Towers in the right-of-way, it increases the height of the Tower by more than ten (10) percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna; for other Eligible Support Structures, including Towers in the right-of-way, it increases the height of the structure by more than ten (10) percent or more than ten (10) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna;

B. For Towers, it involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than twenty (20) feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for 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 (6) feet;

C. For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, as determined on a case-by-case basis based on the location of the Eligible Support Structure but not to exceed four (4) cabinets per application; or for 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 (10) percent larger in height or overall volume than any other ground cabinets associated with the structure;

D. For any Eligible Support Structure, it entails any excavation or deployment outside the current site;

E. For any Eligible Support Structure, it would defeat the Concealment elements of the Eligible Support Structure by causing a reasonable person to view the structure's intended stealth design as no longer effective;

F. For any Eligible Support Structure, it does not comply with the conditions associated with the siting approval of the construction or modification of the Eligible Support Structure or Base Station equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs (A), (B), and (C) of this definition.

For purposes of determining whether a Substantial Change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the Tower or Base Station.

Tower means any structure that is designed and 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. The term includes radio and television transmission towers, self-supporting lattice towers, guy towers, monopoles, microwave towers, common carrier towers, cellular telephone towers, and other similar facilities. Small Cell Facilities in rights-of-way are not Towers.

Transmission Equipment means 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 supply. 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.

Wireless Communications Facility or WCF means a facility used to provide personal wireless services as defined in 47 U.S.C. 332(c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building used for serving that building only. A WCF includes antennas (including without limitation, directions, omni-directions, and parabolic antennas), Base Stations, Transmission Equipment, Small Cell Facilities, Towers, and support equipment. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or handheld radios and their associated transmitting antennas.

5.24.020 - Purpose.

The purpose of this chapter is to regulate the placement, construction, and modification of

Small Cell Facilities to protect the health, safety, and welfare of the public and to provide for managed development, installation, maintenance, modification, and removal of Small Cell Facilities that is consistent with the city's character, while at the same time not unreasonably interfering with or materially inhibiting the development of a competitive wireless communications marketplace in the city.

5.24.030 - Scope and applicability.

No person shall construct a Small Cell Facility in the city except in compliance with the provisions of this chapter. Wireless communications providers shall request permission to locate Small Cell Facilities or modify existing Small Cell Facilities pursuant to the requirements of this chapter. The siting, mounting, placement, construction, and operation of Small Cell Facilities is a permitted use by right in any zone, provided that the conditions of this chapter are satisfied.

5.24.040 - Procedures for review.

A. Small Cell Facilities - Generally. No new Small Cell Facility shall be constructed except after a written request from an applicant, reviewed and approved by the city in accordance with the procedures set forth in this subsection (A), unless eligible for review as an Eligible Facilities Request as set forth in subsection (B).

1. Within ten (10) business days of receipt of an application for a new Small Cell Facility, the city manager shall provide written comments to the applicant determining completeness of the application and setting forth any modifications required to complete the application to bring the proposal into full compliance with the requirements of this chapter.

a. To toll the timeframe for incompleteness, the city must provide written notice to the applicant within ten (10) business days of receipt of the application, specifically delineating all missing documents or information required in the application.

b. The timeframe for review resets to zero (0) when the applicant makes a supplemental written submission in response to the city's notice of incompleteness.

c. Following a supplemental submission, the city will notify the applicant within ten (10) business days whether the supplemental submission provided the information identified in the original notice delineating missing information. If the application remains incomplete, the timeframe is tolled pursuant to the procedures identified in the foregoing paragraphs. In the case of a second or subsequent notice of incompleteness, the city may not specify missing information or documents that were not delineated in the original notice of incompleteness.

2. Subject to tolling, the city shall approve or deny an application for a new Small Cell Facility within ninety (90) calendar days of the date on which the city receives such an application.

B. Small Cell Facilities - Eligible Facilities Requests. No collocation of a Small Cell Facility nor modification to any existing Small Cell Facility shall occur except after a written request from an applicant, reviewed and approved by the city in accordance with the procedures for Eligible

Facilities Requests set forth in this subsection (B).

1. Upon receipt of an application for an Eligible Facilities Request, the city shall review such application to determine whether the application so qualifies. An application for an Eligible Facilities Request does not qualify as such if the modification would result in a Substantial Change to an Eligible Support Structure or would violate a generally applicable building, structural, electrical, or safety code or other law codifying objective standards reasonably related to public health and safety.

2. Subject to tolling, the city shall approve an Eligible Facilities Request within sixty (60) calendar days of the date on which the city receives such an application, unless it determines that the request is not properly classified as an Eligible Facilities Request. The sixty (60) calendar day review period begins to run when the application is filed with the city, and may be tolled by mutual agreement of the city and the applicant or where the city determines that the application is incomplete, as follows:

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

b. Upon notice of incompleteness to the applicant, the timeframe for review pauses. The timeframe for review begins running again, but does not reset to zero (0), when the applicant makes a supplemental written submission in response to the city's notice of incompleteness; and

c. Following a supplemental submission, the city will notify the applicant within ten (10) calendar 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 the foregoing paragraphs. In the case of a second or subsequent notice of incompleteness, the city may not specify missing documents or information that were not delineated in the original notice of incompleteness.

3. In the event the city fails to act on an Eligible Facilities Request within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant of approval becomes effective when the applicant notifies the city in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

C. The city manager shall be the final approval authority for all Small Cell Facilities and Eligible Facilities Requests and, upon approval, shall issue a permit to the applicant to deploy or modify a Small Cell Facility.

D. Where an applicant seeks approval for more than one (1) Small Cell Facility, the city shall allow the applicant, at the applicant's discretion, to file a consolidated application for Small Cell Facilities and receive a single approval for multiple Small Cell Facilities in a consolidated application. For a consolidated application, each Small Cell Facility within the consolidated application remains subject to review for compliance with the requirements of this chapter. The denial of any individual Small Cell Facility is not a basis to deny the consolidated application as a whole or any

other Small Cell Facility incorporated within the consolidated application.

E. The city manager may apply reasonable conditions to the approval of a Small Cell Facility application or an Eligible Facilities Request to ensure conformance with applicable design criteria or to advance a legitimate city interest related to health, safety, or welfare, except where the city's authority is limited with respect to Eligible Facilities Requests.

F. The approval under this chapter for any Small Cell Facility expires if the Small Cell Facility is not established within one (1) year of the approval or if it is abandoned or unused for a period of six (6) months.

5.24.050 - Application contents; fees.

A. An application for a Small Cell Facility or an Eligible Facilities Request shall include the following information and materials:

1. The applicant's name, address, and telephone number and the name, address, and telephone number of any representative authorized to act on behalf of the applicant.
2. A description of the property on which the Small Cell Facility is proposed for development.
3. A disclosure of the ownership of the property on which the Small Cell Facility is proposed for development, and a demonstration of the applicant's right to install a Small Cell Facility on such property.
4. An eight and one-half (8½) inches by eleven (11) inches vicinity map locating the subject property within the city.
5. A written description of the proposal and a written explanation of how the proposed Small Cell Facility complies with the requirements for Small Cell Facilities or, if applicable, Eligible Facilities Requests.
6. A signed statement from a qualified radio frequency engineer, certifying that a technical evaluation of proposed Small Cell Facility indicates no potential interference problems and that the site will comply with all applicable regulations for radio frequency emissions promulgated by the FCC.
7. A signed statement from the applicant certifying the accuracy of the information contained in the application.

B. An applicant for a Small Cell Facility or Eligible Facilities Request shall pay the required fees as set forth in the city's fee schedule. An application submitted without the required fees shall be deemed incomplete.

C. All applications are public records and the information contained therein is subject to disclosure, except such information that is protected from public disclosure by applicable law.

5.24.060 - Design standards.

Small Cell Facilities shall conform to the following design standards:

A. Trees. Existing trees shall be preserved to the maximum extent possible.

B. Height limitation. The maximum height of any Small Cell Facility shall either not exceed the maximum structure height established for the zoning district in which the facility is to be located or not extend beyond five (5) feet taller than any other utility poles or traffic signals within five hundred (500) feet of the proposed Small Cell Facility located within the same zone district.

C. Camouflage/concealment required. Small Cell Facilities shall, to the maximum extent possible, use Concealment Design Techniques, such as incorporating the facility into the built environment, using a pole painted a color consistent with other utility poles in the vicinity (with all antennas and related equipment located within the pole structure), or replacing existing permitted facilities with Small Cell Facilities located within the replaced poles, so that the presence of the Small Cell Facility is not apparent. Where Concealment Design Techniques are not possible, Small Cell Facilities shall utilize Camouflage Design Techniques. Camouflage Design Techniques include, but are not limited to using materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the site to the surrounding natural setting and built environment.

D. Non-reflective materials. The visible exterior surfaces of Small Cell Facilities, such as poles, antennas, vaults, and equipment enclosure structures shall be constructed out of or finished with non-reflective materials and shall be painted to match as closely as possible the color and texture of the vertical infrastructure on which it is mounted.

E. Equipment vaults below grade. Except for equipment that is expressly permitted above grade for a Small Cell Facility, equipment vaults and other Transmission Equipment shall be placed below grade when located within the right-of-way. Such equipment may be placed above grade outside of the right-of-way, provided Concealment/Camouflage Design Techniques are utilized.

F. Multiple users. To the extent practicable, all Small Cell Facilities shall be designed and constructed to permit such facilities to accommodate at least two (2) wireless service providers on the same facility.

G. Separation. All stand-alone Small Cell Facilities located within the right-of-way shall be separated from other stand-alone Small Cell Facilities by a distance of at least six hundred (600) feet. In determining compliance with this separation requirement, the city manager may consider approved and pending applications for other Small Cell Facilities.

H. Residential property. When located adjacent to a residential property, a Small Cell Facility must be placed in front of the common side yard property line between adjoining residential properties. In the case of a corner lot, a Small Cell Facility must be placed in front of the common side yard property line adjoining residential properties or on the corner formed by

two intersecting streets.

I. Any other administratively approved Small Cell Facility design standards adopted by the city manager.

5.24.070 - Operational standards.

A. Federal requirements. All Small Cell Facilities shall meet the current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the federal government with the authority to regulate Small Cell Facilities. If such standards and regulations are changed, then the owners of the Small Cell Facility shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the Small Cell Facility at the applicant's expense.

B. Radio frequency standards. All Small Cell Facilities shall comply with federal standards for radio frequency emissions.

C. Signal interference. All Small Cell Facilities shall be designed and sited, consistent with applicable federal regulations, so as not to cause interference with the normal operation of radio, television, telephone, public safety communications, and other services utilized by adjacent residential and non-residential properties.

D. Operation and maintenance. All Small Cell Facilities shall be maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the city concludes that a Small Cell Facility fails to comply with such codes and constitutes a danger to persons or property, then the city may take any action with respect to such violation as provided by applicable law, including removal of the Small Cell Facility at the applicant's expense.

E. Abandonment and removal. Any Small Cell Facility that is not used for a period of six (6) months or more shall be deemed to be abandoned. No applicant shall fail to remove a Small Cell Facility that is abandoned. If a Small Cell Facility applicant fails to remove an abandoned facility at the request of the city manager, the city may remove the Small Cell Facility at the applicant's expense.

F. Hazardous materials. No hazardous materials shall be permitted in association with Small Cell Facilities, except those necessary for the operation of Small Cell Facilities and only in accordance with all applicable laws governing such materials.

G. Collocation. No Small Cell Facility applicant shall unreasonably exclude a communications competitor from using the same facility or location. Upon request by the city manager, the applicant shall provide evidence explaining why collocation is not possible at a particular facility or location.

H. Compliance with other laws. All Small Cell Facilities shall meet the requirements of the city design and construction standards, the requirements of Title 12, "Streets and Sidewalks," and all other applicable local, state, and federal laws.

5.24.080 - Indemnification.

As a condition of its permit, the applicant for any Small Cell Facility shall, at its sole cost and expense, indemnify, hold harmless and faithfully defend the city, its officials, boards, commissions, commissioners, agents, and employees against any claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of its equipment authorized by this chapter. This indemnification requirement will apply whether the act or omission complained of is authorized, allowed, or prohibited by applicable law, except in cases where liability is solely caused by the negligence of the person or persons covered by the indemnity.

5.24.090 - Waiver.

The city manager shall have the authority to waive any requirement or standard set forth in this chapter if the city manager makes a determination that the specific requirement or standard is preempted by federal or state law. Prior to applying the waiver to any pending application, the city manager shall, in consultation with the city attorney, make a written preemption determination which written determination shall identify the specific requirement or standard that is being waived and cite to the specific federal or state law provision that preempts the specific city requirement or standard set forth in this chapter.

Section 3. *Severability.* The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 4. *Effective Date.* This ordinance shall be in full force and effect upon its publication as required by law.

PASSED BY CITY COUNCIL ON SECOND AND FINAL READING FOLLOWING PUBLIC HEARING THIS ____ DAY OF _____, 2022.

City of Woodland Park

Hilary LaBarre, Mayor Pro-Tem

ATTEST:

City Clerk, Suzanne Leclercq

CITY OF WOODLAND PARK, COLORADO
ORDINANCE NO. 1438, SERIES 2023

AN ORDINANCE DECLARING THE INSTRUMENT FOR PUBLIC NOTIFICATION PROCESS AND METHOD FOR THE CITY OF WOODLAND PARK FOR THE YEAR 2023.

WHEREAS, Charter Section 15.12 requires the City Council to annually determine and declare the instrument of notification to the public, by Ordinance; and,

WHEREAS, Charter Section 15.12 authorizes the City Council to determine and declare the instrument currently capable of providing the most information to Woodland Park residents, consistent with City budgetary constraints.

NOW, THEREFORE, THIS ORDINANCE:

THE CITY OF WOODLAND PARK, COLORADO, ORDAINS:

That an Ordinance entitled “AN ORDINANCE DECLARING THE INSTRUMENT FOR PUBLIC NOTIFICATION PROCESS AND METHOD FOR THE CITY OF WOODLAND PARK FOR THE YEAR 2023” be and the same is hereby adopted as follows:

Section 1. The City Council hereby finds and determines that the instrument currently capable of providing the most information to Woodland Park residents, consistent with City budgetary constraints shall be the City’s website www.city-woodlandpark.org.

Section 2. That the City Council hereby declares that Public Notices will be published in full on the City’s website for the Public to view.

PASSED BY CITY COUNCIL ON SECOND AND FINAL READING FOLLOWING PUBLIC HEARING THIS ____ DAY OF _____, 2023.

Hilary LaBarre
Mayor

ATTEST:

Suzanne Leclercq, MMC
City Clerk



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM: Suzanne Leclercq, Deputy City Manager/City Clerk

DATE: February 2, 2023

SUBJECT: Appointment of a Hearing Officer for the protest hearing of the Referendum Petition repealing Ordinance No. 1431, Series 2022.
(Presenter, Deputy City Manager/City Clerk Suzanne Leclercq)

BACKGROUND: As the Council will recall, the City Clerk's Office received a Referendum Petition on December 27, 2022. The City Clerk's Office concluded the verification of the petition on January 23, 2023 and deemed the Referendum Petition as sufficient.

As per CRS, section 31-11-110 (1) titled Protest - within forty days after an initiative or referendum petition is filed, a protest in writing under oath may be filed in the office of the clerk by any registered elector who resides in the municipality, setting forth specifically the grounds for such protest. As of the writing of this Staff Report, the City Clerk's Office has not received a protest but is expecting one anytime. The City Clerk has been contacted and made aware that one is forthcoming.

As per CRS, section 31-11-110 (3) titled Protest - Every hearing shall be held before the clerk with whom such protest is filed. The clerk shall serve as hearing officer unless some other person is designated by the legislative body as the hearing officer. The Colorado Municipal League in their Clerk's Election handbook states *"It is strongly suggested that someone outside the municipality be appointed to serve as the hearing officer."*

The City Clerk is requesting that an independent hearing officer be appointed for this hearing and is recommending Karen Goldman, MMC. Ms. Goldman is now a retired Clerk and has worked for the City of Aurora as their Deputy Clerk for over 30 years. Ms. Goldman currently works for CML as the Colorado Municipal Clerk Advisor, where clerks can directly contact her to ask her advice and guidance on job -related questions. Ms. Goldman has been a hearing officer on numerous petition protests and brings a wealth of experience to the process. The City Clerk will assist Ms. Goldman with the scheduling, hearing notices and subpoenas for this hearing.

RECOMMENDATION: Approve Karen Goldman MMC, as hearing officer for the protest of the petition repealing Ordinance No. 1431.

ATTACHMENTS: None