
NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo

MEETING DATE: April 14, 2026

TO: Board of Supervisors

FROM: **Brian Foss, Planning Director**

Subject: An Ordinance amending Section 12.03.080 – Communication Towers and Facilities and Section 12.05.060 – Use Permits, of the Nevada County Code (ORD25-2).

RECOMMENDATION: Adopt the Ordinance.

FUNDING: The proposed ordinance would not require any funding.

ATTACHMENTS:

1. Draft Ordinances amending Nevada County Code Title 12: Zoning Regulations Sections 12.03.080 - Communication Towers and Facilities and 12.05.060 – Use Permits.
 2. Redline Version of Proposed Amendments
 3. Visualization of space for towers with setbacks of 250, 500, and 1,000 feet
 4. February 26, 2026, Draft Planning Commission Minutes
 5. Public Comments – Included in Electronic Version Only
-

PROJECT DESCRIPTION: Public Hearing to consider the Nevada County Planning Commission’s unanimous vote (vote 5-0) at the February 26, 2026, meeting recommending the Board of Supervisors adopt amendments to Section 12.03.080 – Communication Towers and Facilities and Section 12.05.060 – Use Permits of the Nevada County Code. The amendments are to clarify definitions in the Ordinance to align with standard definitions used by the Federal Communications Commission; clarify “shot clock” permit processing timeline requirements; add projects that are exempt from County Planning review; add potential for emergency deployments of Cells on Wheels and emergency generators; require additional supporting information with project applications; increase setbacks for towers from 100% of tower height to 150% of tower height from property lines in all zoning districts except industrial; add radio frequency exposure monitoring requirements; add communication facility maintenance requirements; change the hearing body for communication facilities requiring a Use Permit from the Zoning Administrator to the Planning Commission; increase the required range of public notice for new communication facilities; and other minor changes to integrate amendments.

BACKGROUND:

The County Planning Department was directed by the Board of Supervisors to update the Communication Towers and Facilities Ordinance (CTFO) to align it with modern standards and promote Board objectives to expand broadband services. An ordinance that encouraged wireless and broadband development would be consistent with Board broadband expansion objectives from 2021 to 2025 and Policy 1.7.18 of the Nevada County General Plan which seeks to “encourage and support a sustainable and technologically current high-speed broadband transmission system that reliably connects Nevada County businesses and residences to national networks as a means to reduce transportation impact, improve air quality, enhance citizens’ quality of life and promote economic development.”

A broadband Program Environmental Impact Report was approved on February 28th 2023. The primary purpose of the PEIR was to analyze 2,230 miles of fiber-based infrastructure along public and private roadways and expedite future environmental reviews. The PEIR also included analysis and consideration of fixed-wireless infrastructure such as equipment (e.g., antennas, transceivers) mounted on rooftops of homes and businesses, and/or attached to existing or new utility poles or small-diameter telecommunications towers/masts. The inclusion of fixed-wireless infrastructure in the PEIR was to help facilitate the expansion of small low-cost broadband project by making the permitting process easier to progress the Board Objectives and the General Plan policy of expanded broadband

However, based on public comment expressed during controversial communication facility projects and during the Communication Tower and Facilities Ordinance (CTFO) amendment workshop, the purpose of the CTFO amendments became more oriented to ensuring the compatibility of new communication facilities with neighboring properties. Therefore, the ordinance amendments are meant to be a balance that allows for feasible development of communication facilities to expand cellular broadband in alignment with the standards of concerned members of the community.

PROPOSED ORDINANCE:

The following amendments are proposed to Sections 12.03.080 and 12.05.060 of the Nevada County Code:

Update to Ordinance purpose: The purpose of the ordinance was updated to reflect that the County regulation of communication facilities is intended to align with the federal laws established by the Federal Communications Commission (FCC).

Clarification of definitions in Ordinance to align with standard definitions used by the Federal Communications Commission: The ordinance amendment proposes updates the County definitions for alignment with the FCC definitions as much as feasible to reduce potential confusion or discrepancy while following FCC regulations. Terms such as the FCC shot clock, Eligible Facilities Request, or Small Cell Wireless Facility are commonly used and were added into the ordinance to provide clarity to readers of the Code.

Addition of projects that are exempt from County Planning review: Multiple classifications of projects are proposed to be exempt.

- New Small Cell Wireless Facilities (SCWF). A small cell wireless facility is required by the FCC to not exceed human radiofrequency exposure standards. Each antenna associated with the SCWF is required to be less than 3 cubic feet in volume and all other wireless equipment must be less than 28 cubic feet in volume. 28 cubic feet is less than half the volume of a phone booth. Many SCWFs are mounted on existing utility poles. Utility poles already typically include transformers, insulators, a capacitor bank, and surge arrestors. Additional small electronic devices, such as a SCWF, are not anticipated to create a substantial difference to the aesthetics or impact of utility poles. SCWFs are small and substantially similar to the minor antennae that are already exempt by the current Communication Tower Ordinance. SCWFs have already been evaluated by the adopted broadband Environmental Impact Report. The exemption for SCWF can help expand broadband and satisfy residents who want expanded cellular coverage through easier permitting.
- The replacement of existing equipment with similar equipment is proposed to be exempt, but subject to Operational Requirements such as radio frequency exposure compliance. Non-exempt equipment on communication towers is already reviewed during the Use Permit process or the ADP process.
- The amendments clarify that state and federally exempt facilities are also locally exempt. There is no practical change from this amendment.
- The ordinance amendment includes clarification that Over-The-Air Reception devices (OTARD) are exempt. OTARDs are personal reception devices for receiving broadcast television. The FCC's OTARD rule already protects consumer's ability to install antennas for receiving broadcast signals. Facilities for wireless reading of water, gas, or electrical meters are also exempt due to their small size and minimal impacts. These devices are exempted under the existing code, and these updates only provide clarification.

Add potential for emergency deployments of Cells on Wheels: Much of Nevada County is in a high wildfire severity zone. There is a possibility that a natural disaster or other emergency could affect a communication facility which would affect the ability of residents and emergency personnel in the area to connect to the people and services they need, impeding their ability to coordinate during an emergency or recover after an emergency. Cells on wheels are temporary and would only be allowed when an emergency is declared by federal, state, or local government, or when otherwise warranted by conditions that the Planning Director deems to constitute an emergency.

Add exemption for emergency standby generators: State laws specify the required review period for emergency generators is 10 days. Much of the review for emergency standby generators can be done during the building permit process rather than the land use entitlement process. During the building permit review, the standby generators will be evaluated for compliance with screening standards, noise standards, alignment with the existing conditions of approval, and applicable codes and regulations regarding the storage of hazardous materials. This would result in a more streamlined review of emergency standby generators.

Require additional supporting information with project applications: During public hearings for communication facilities and during the communication tower workshop, a desire for more information than currently required in applications was expressed by the public. Therefore, the ordinance amendments include additional application requirements to provide decision makers and the public information. The proposed ordinance would require more detailed justification about the improvements to the wireless network, a more detailed visual impact analysis, an alternative site analysis, applicant provided proof of neighborhood notice of the proposed project, and codified RF exposure report requirements.

Locational Standards: The current communication tower ordinance requires that communication towers be located to minimize their visibility and be “effectively unnoticeable”. “Effectively unnoticeable” was not intended to mean invisible so a clarification is proposed to change “effectively unnoticeable” to “effectively concealed to blend with the surrounding natural and built environment”. This is intended to allow towers when they are camouflaged to the greatest extent feasible and located in areas where they blend in.

Increase setbacks for towers from 100% of tower height to 150% of tower height from property lines in all zoning districts except industrial which will remain the same as the base zoning setbacks: During communication facility public hearings and during the CTFO workshop, members of the public requested that towers be setback further from property lines than the current 100% of tower height setback required in residential zoning districts. Setbacks from communication facilities and towers are important and desirable for the following reasons:

- Fall-zone protection: Although towers must meet the standards of the Nevada County Building Code, setbacks provide additional assurance that if a tower collapses or sheds components (ice, antennas, hardware), debris remains on the host parcel.
- Buffers incompatible uses: Setbacks help transition between industrial-type infrastructure and residential, agricultural, or recreational uses.
- Reduces visual dominance: Distance lessens perceived scale and visual clutter from adjacent properties and public rights-of-way
- Maintains neighborhood character: Supports compatibility with surrounding land uses and zoning intent.
- Allows space for landscaping and screening: Setbacks provide room for vegetation or fencing to mitigate visual impacts.
- Reduces noise and light impacts: Separation dampens effects from equipment cabinets, generators, and aviation or security lighting.
- Objective, defensible standard: Provides clear, measurable criteria that reduce discretionary disputes.

County staff used Ersi ArcMap to determine how increased setbacks of various distances would impact the number of parcels that a communication facility could be developed on. The GIS analysis was intended as a screening tool and was not an exhaustive analysis of all sites within the County where the development of a cell tower is feasible. Topography, site access, natural resource avoidance, zoning, network needs, access to utilities, construction constraints, and the willingness of a landowner to lease the site were not considered. Therefore, the analysis over estimates the number of parcels where a communication facility could be developed and does not underestimate.

With a 250-foot setback required from property lines, an estimated 12.21% of all the parcels in Nevada County would have enough space for a communication facility without encroaching into setbacks. With 500-foot setbacks required, this percentage drops to 3.93% and with 1,000-foot setbacks required the percentage drops to 1.23%. A visualization of this can be seen in Attachment 3.

The substantial limitation on eligible parcels that would result from a requirement for 1,000 foot setbacks is further supported when the land area needed to achieve those setbacks is considered. To have 1,000-foot setbacks on all four sides of a tower, the parcel would need to be at least 4 million square feet (2,000 feet multiplied by 2,000 feet) or 91.8 acres. It is likely the parcel would have to be larger because not many parcels in western Nevada county are a perfect square that could have the tower in the exact center. Some parcels larger than 91.8 acres may be narrower than 2,000 feet or could be irregularly shaped, which would not leave adequate room for compliance with 1,000 foot setbacks.

As discussed above, setbacks from communication tower and facilities are beneficial, so the proposed amendments seek to balance the benefits of setbacks while still allowing for the feasible development of communication towers and facilities. Therefore, a 150% setback is proposed with the ordinance amendment. A 150% tower height setback reduces the number of parcels where towers can be developed compared to the existing 100% setback that is required in residential zoning districts and still results in an adequate number of parcels where the development of a communication facility is feasible.

A 150% tower height setback is equal or more restrictive than the setback requirements of the other counties in the region. Although there are some caveats in each of the zoning ordinances, in general, El Dorado County requires 150% setbacks for parcels adjacent to residential; Sutter and Butte County require 100% setbacks; and Placer, Sierra, Yolo, and Yuba Counties only require compliance with the setbacks of the zoning district, which are often less than the height of a tower.

Add radio frequency emission monitoring requirements: Radio Frequency Emissions are one of the most frequently expressed concerns about communication facilities. However, Section 704 of the Telecommunications Act of 1996 states that, “No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions”. Nevada County’s current Communication Towers and Facilities Ordinance does not include a requirement for the applicant to provide certification that post antenna installation or modification radio frequency exposure does not exceed FCC standards. Although the County has limited authority to regulate towers that comply with RF standards based on RF exposure alone, the County can still ensure the towers follow the Federal RF standards. Therefore, it is proposed that after a tower is installed or modified, certification that the tower is in alignment with the FCC exposure standards shall be provided to the Planning Department.

Add communication facility maintenance requirements: During the March 2025 communication tower community workshop, a member of the public shared the issue that the communication towers disguised as monopines were deteriorating and spreading plastic debris. As a result, maintenance requirements were added to the county code. The requirements do not include monitoring or reporting requirements and any tower maintenance issues would have to be reported

to Nevada County Code Compliance. The codified maintenance requirements are intended to make code compliance enforcement against poorly maintained towers easier.

Increase the required range of public notice for new communication facilities: During recent communication facility hearings and during the community workshop, members of the public expressed concern that they were not being notified about proposed towers as much as they would like to be. The County Planning Department currently publishes notices for public hearings on the County website, in the local newspapers, and sends notices to people that requested to be notified. Additionally, Section 12.05.130 of the Nevada County code requires that all property owners within either 300 or 500 feet (depending on the zoning) be notified of upcoming public hearings. The current public notice process also requires that at least ten parcels are notified, which is achieved by expanding the notice range until at least ten parcels are noticed. In response to feedback received from the public, the public notice range is proposed to be doubled to 1,000 feet for communication facilities.

Change the hearing body for communication facilities requiring a Use Permit from the Zoning Administrator to the Planning Commission: During the community workshop, six people expressed opposition to proposed administrative approvals of Communication towers and facilities. Additionally, due to the controversial nature of communication facilities, it is now proposed that the hearing body of new communication facilities be the Planning Commission rather than the Zoning Administrator.

Addition of safety standards: A safety standards section was added to the Communication Towers and Facilities Ordinance. The section is brief and requires that all towers be designed by a qualified professional to align with the Building and Fire code requirements. The County building department and fire marshal already review towers during the land use entitlement and building permit process, so this addition further clarifies existing and ongoing requirements.

Defense and Indemnification Agreement: Nevada County Counsel requires a Defense and Indemnification Agreement (DIA) to be signed by the applicant of projects the County approves. The DIA requires that the applicant legally defend the County if it is sued for approving the project. This requirement is not currently codified, so a communication company determined they are not obligated to sign and return a DIA. As a result, it is proposed that the applicant be required by code to sign and return the DIA.

Other changes: Other minor changes and various clean ups are proposed to make the code read clearly and to integrate the amendments described above into the code.

Changes following July 9th Notice of Opportunity for Comments: In response to public comments received, the following changes were also made to the draft ordinance amendment:

- The criteria of the alternative analysis required with the application was updated with language from NC Safe Tech Ordinance.
- The criteria of the RF compliance report required with the application was modified to more closely align with the NC Safe Tech Ordinance.
- Defensible Space required by Public Resource Code 4291 was required to be shown on the site plan of the application, as recommended by the Truckee Fire Department.

- The required post installation and post modification radio frequency certification was corrected to reference exposure rather than emissions, as recommended by the Verizon attorneys.
- The definitions of Eligible Facilities Requests, base stations, and shot clock was updated to exactly match the FCC definitions.
- The permitting requirement section was updated to require encroachment permits for any work conducted within the public-right-of-way.
- It was clarified that all Eligible Facility Requests, not just EFR additions, need an Administrative Development Permit.
- In subsection A, one purpose was added and another was modified to align with the Nevada County Safe Tech Ordinance.
- Subsection F.4 of the Design Standards was updated to expand and clarify the screening and concealment requirements for communication facilities to be compatible with background landscapes.
- Subsection E.1.D of the Locational Standards was removed for clarity because the other code modifications made it irrelevant.
- Administrative Development Permit application requirements were added to subsection 12.03.080.D.2 because certain communication facility projects require ADPs and the ordinance did not specify what was required with an ADP application.
- D.1.a of Application Requirements was modified to change “licensed” engineer to “qualified” engineer and requires credentials for the preparation of coverage maps.
- The lighting section was updated to require that manual lights be turned off when staff is not on site.
- Temporary communication facilities needed for special events was added to uses requiring an Administrative Development Permit.
- The requirement for an applicant to submit a tolling agreement to suspend the shot clock was removed because that requirement violated the Spectrum Act.

COMMUNITY ENGAGEMENT, COORDINATION, AND NOTIFICATION:

In this subsection, information will be provided about the following:

- Efforts to engage the community when the process of drafting the CTFO ordinance amendment began.
- The concerns of the early public comments received and how the Planning Department addressed those comments while drafting the ordinance amendment.
- Details about how the draft of the ordinance amendment was released for public review.
- Information about number and nature of comments received in response to the release of the draft ordinance amendment, including information about the Nevada County Safe Tech Ordinance.
- Information about how County staff responded to the central themes of the comments on the ordinance.

The Nevada County Planning Department held a workshop on March 31, 2025 at the Eric Rood Administration Center to provide an overview of the proposed changes and to receive community guidance.

Many of the attendees of the workshop expressed concerns about communication towers. More specially, there was a desire for larger setbacks, all new tower applications being decided on by the Planning Commission, an increase in the range of public notice for proposed towers, increased RF testing and monitoring, and enhanced maintenance of communication facilities. The attendees provided 11 comment letters regarding the concerns they expressed at the workshop.

The CTFO was updated to resolve comments to the greatest extent feasible while maintaining development rights of landowners, allowing for the feasible development of towers, and aligning with FCC rules.

The Planning Department released the Draft Zoning Ordinance Amendments for public review and comment on July 9, 2025, for a 30-day period ending August 8, 2025. Outreach for the comment period included a variety of sources such as the local newspaper The Union, the County website, the County Facebook page, and the radio station KNCO. The Notice of Opportunity for Comments on the Proposed Zoning Ordinance was also mailed/emailed to everyone who attended the March 31st 2025 workshop, requested to be notified, or was in the County's notification list of more than 200 homeowners' organizations, community groups, stakeholder organizations, governmental entities, and tribal governments.

Following the July 9, 2025 release of the draft zoning ordinance amendments, the County received 51 unique public comment letters, including 10 requesting a simplified permitting process to expand wireless or broadband coverage, three from communications companies requesting clarification or expressing regulatory concerns, five from government agencies requesting clarification regarding resources under their jurisdiction, two supporting the ordinance as written, and two opposing communication facilities or objecting without explanation; the remaining 29 letters requested modifications to the proposed Communication Towers and Facilities Ordinance (CTFO), with common concerns discussed in the "Nevada County Safe Tech Ordinance" section. After release of the Planning Commission staff report and prior to the Planning Commission hearing, 45 additional comments were received expressing similar concerns.

During the ordinance development process, the County also received bulk email submissions, including 399 emails submitted through pre-filled OneClickPolitics webforms coordinated by Stop 5G, an initiative of Children's Health Defense Fund, 140 bulk emails received on November 1, 2024, and 1,402 additional bulk emails from 201 unique senders received after release of the staff report and prior to the Planning Commission hearing; examples are included as attachments, though the full set of 1,941 emails is not included.

Nevada County Safe Tech Ordinance: Members of the community, including many of those who attended the March 31, 2025 CTFO workshop, collaborated and formed a group called Nevada County for Safe Tech (NCST). NCST retained Stop5G Community Empowerment Consulting, a division of Children's Health Defense and developed an amended draft of the Nevada County Communication Towers and Facilities Ordinance that would appease their concerns. Many of the comments received requested specific elements of the NCST ordinance be adopted or requested that the entire NCST ordinance be adopted.

Nevada County staff reviewed the NCST ordinance closely and looked for specific items that would improve the County ordinance. County staff made changes to the proposed ordinance amendment that are discussed above in subsection "Changes following July 9th Notice of

Opportunity for Comments". However, some components proposed in NCST document were not integrated into the County draft amendment because those changes would likely make the development of communication towers and facilities infeasible and could possibly be an effective prohibition of communication towers and facilities.

One of the objectives of the Nevada County Zoning Regulations is to "provide for land use regulations that are clear, concise, enforceable, and effectively implement Nevada County General Plan provisions in a reasonable and balanced fashion." Overall, the staff's proposed CTFO amendment increases regulations on the development of communication towers and facilities but tries to find a balance that more aligns with Nevada County General Plan Policy 1.7.18 and Board of Supervisors Broadband objectives. General Plan Policy 1.7.18 seeks to "encourage and support a sustainable and technologically current high-speed broadband transmission system that reliably connects Nevada County businesses and residences to national networks as a means to reduce transportation impact, improve air quality, enhance citizens' quality of life and promote economic development". A Nevada County Board of Supervisors objective is to expand broadband access to improve economic development, education, and overall quality of life.

The discussion below explains why certain elements of the NCST ordinance were not included in the proposed amendments to the CTFO. As discussed above, the draft ordinance was modified to reflect the other public comments received.

Increased setbacks: The NCST ordinance proposal and comment letters expressed a desire for larger setbacks. There are a few variations that were requested, including 1000-foot or 1640 foot-setbacks from property lines, setbacks from residences or other sensitive receptors, communication facilities not being within two miles of each other, or setbacks that vary based on the zoning district generally ranging from 500 feet to 1,000 feet. The desire for larger setbacks was first heard during the March 31st 2025 workshop. As a result, the proposed ordinance includes setbacks equal to 150% of a towers height, which is a 50% increase over the current ordinance. Requiring setbacks any larger would likely result in the development of many potential communication facilities being infeasible. More discussion is provided above in subsection "Increase setbacks for towers from 100% of tower height to 150% of tower height from property lines in all zoning districts except industrial which will remain as the same as the base zoning setbacks".

Radio Frequency Exposure: Many comment letters expressed concern about radio frequency exposure. Some comments requested the County conduct research on RF, require clarification and guidelines about how RF testing will be conducted, share RF testing results, and adopt a precautionary principle for RF.

The regulation of radio frequency emissions and exposure is regulated by the Federal Communications Commission. County staff do not have the authority or the expertise to determine public exposure limits, determine the methodology for evaluating compliance with public exposure limits, or determine whether the scientific evidence regarding RF exposure is conclusive. The County relies on third party professional engineers to analyze and formally certify that the radio frequency emissions and exposure from proposed towers follow FCC standards.

The amended ordinance does propose clarification and additional requirements for radio frequency compliance reports, but it is not as extensive as some members of the public requested. County staff are concerned about creating RF compliance report requirements that are so specific they

conflict with the FCC methodology for determination of RF compliance. Additionally, RF is monitored and regulated by the FCC so the reports the County reviews are only informational. The proposed CTFO amendments include the requirement of post installation or modification RF exposure certification. All RF compliance reports the County receives can be requested with a Public Records Request.

Requests for restatements of regulations: Many comments expressed a desire for requirements that are already specified in the currently adopted Communication Tower and Facilities Ordinance or other local, state, and federal laws. These requirements will remain, and projects will continue to be reviewed for compliance with these requirements. These requirements include: application forms, site plans, payment of fees, owner authorization, consideration of radio frequency exposure during CEQA review, a third party verification of radio frequency exposure, review from the County Fire Planner and the appropriate local fire district, public notice of hearings for discretionary projects, allowing lights required by the Federal Aviation Administration on towers, noise mitigation, consideration of aesthetics, communication facility setbacks, communication facilities having backup power, communication facilities having to meet building codes, airport compatibility, maintenance of hazardous vegetation, the ability to appeal, following the CEQA process, a variance process, the definition of terms, the federal governments compliance with the National Historic Preservation Act, and the Facility and Maintenance Agreement. Any legal liability the communication facilities have will continue to exist regardless of whether the County requires specific insurance. The CTFO is not intended to be a comprehensive summary of every law associated with development. Laws that exist outside of the CTFO will continue to exist and be applied.

Small Cells: Comments were received opposing the exemption of small cell wireless facilities (SCWF). These SCWFs are small and substantially similar to the minor antennae that are already exempt by the current Communication Tower Ordinance. Additional small electronic devices, such as a SCWF, are not anticipated to create a substantial difference to the aesthetics or impact of utility poles. SCWFs have already been evaluated by the adopted broadband Environmental Impact Report. The exemption for SCWF can help expand broadband and satisfy residents who want expanded cellular coverage through easier permitting. Additional discussion is included in the New Small Cell Wireless Facilities (SCWF) subsection above.

Front yard communication facility ban. It was requested that no communication facilities be located immediately adjacent to, nor immediately across the street from, a front yard of any residential dwelling. In Nevada County, this would prohibit small cell wireless facilities in a large portion of the public right of way due to the front yard of many parcels being adjacent to the right of way. Placing a SCWF on existing poles in the public ROW is a low impact way to expand cellular coverage. Furthermore, it is proposed that larger communication facilities be set back 150% of their height from property lines, such as the front yard, which removes the need for a front yard communication facility ban.

Ban on monopines: Comments were received that recommend a ban on communication towers concealed as monopines. Monopine design is not specifically required but is an option to help achieve communication tower concealment and screening. The primary concern expressed by commenters is that the concealment elements of monopines (plastic or fiberglass foliage) deteriorate and fall off. This was brought to the County's attention at the March 31, 2025 workshop. As a result, the proposed CTFO amendment includes requirements for the lessee or

owner to remove debris from synthetic foliage that falls off. If this is not followed, the public can report the issue to Nevada County Code Compliance. An appropriately concealed tower, such as a monopine, has flexibility to be constructed in more locations than an unconcealed tower. A ban on monopines could result in less towers being built because it would be more difficult for the towers to blend in with the surrounding area as required by the design standards. Concealment is required by the County Code nearly everywhere except sites already developed with communication facilities.

ENVIRONMENTAL REVIEW:

The proposed amendments have been determined to be statutorily and categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15269(c), 15061(b)(3), 15301, 15302, 15303(d), 15304(e), and 15308, and are also covered under Sections 15162 and 15168 related to previously certified environmental review. The amendments primarily clarify and strengthen existing regulations governing communication towers and facilities and do not authorize new land uses beyond those already permitted under the zoning code. As such, the amendments are largely administrative and regulatory in nature and would not result in a direct or reasonably foreseeable physical change in the environment. Certain provisions, including increased setbacks, maintenance requirements, and radio frequency exposure requirements are also exempt as actions by a regulatory agency for the protection of the environment. Additionally, some facilities addressed in the amendments were previously analyzed in the February 2023 Program Environmental Impact Report, and no subsequent environmental review is required.

PLANNING COMMISSION ACTION:

On February 26, 2026, the Nevada County Planning Commission held a duly noticed public hearing to consider the proposed amendments to Section 12.03.080 – Communication Towers and Facilities and Section 12.05.060 – Use Permits of the Nevada County Code. The Planning Commission unanimously recommended the Board of Supervisors adopt the amendments and consider the following changes:

Applicability: The Planning Commission recommended that the Ordinance shall not apply to applications deemed complete but shall apply to applications that have been submitted but are deemed incomplete at the time of the effective date of the Ordinance. Staff updated the Ordinance as shown in Section C.7 to reflect this direction. All new applications would be subject to the amended Ordinance.

Radio Frequency Compliance Monitoring: The Planning Commission recommended that the CTFO amendments provide additional radio frequency monitoring requirements. Therefore, staff updated the Operational Requirements section of 12.03.080 to allow the County to require RF exposure testing for communication facilities if no testing to demonstrate ongoing FCC compliance has occurred within 12 months of the preparation date of the previous report.

Equipment Replacement: The Planning Commission recommended staff require an Administrative Development Permit for the replacement of existing equipment, such as old antennas, with similar equipment such as new antennas with the same dimensions. This direction was based on concern for the potential of increased RF exposure from the replacement equipment.

As a result, staff revised Section C – Permitting Requirements, Subsection 3 to require that the replacement of equipment with substantially similar equipment be subject to the Operational Requirements in Section I of the Ordinance. Section I requires maintenance and radio frequency monitoring requirements including a post-installation certification, a post-modification certification, and RF exposure testing as deemed necessary by the County. These certifications would be added as conditions of approval that are required prior to the finalization of a building permit. These updates to the proposed amendment are anticipated to resolve the Planning Commission’s concerns regarding excessive RF emissions from replacement equipment. Although the FCC reviews the RF exposure reports to ensure communication facilities align with Federal standards, requiring that equipment change outs meet the Operational Requirements in Section I allows the County to confirm that the RF exposure limits have not been exceeded.

Removal of Towers: The Planning Commission discussed adding decommissioning standards to the CTFO amendment in response to public concerns about potentially abandoned communication facilities. County Planning staff are not aware of abandoned communication facilities being a documented issue in Nevada County, even though such facilities have been permitted locally for decades. Based on staff’s review of prior permits, communication providers typically upgrade or replace existing towers rather than abandon them. This approach allows providers to continue using established infrastructure, utilities, and lease areas. In practice, providers generally seek to expand or improve coverage rather than discontinue service in an area where demand remains. Most communication facilities are constructed within defined lease areas on private property. If a facility were to be vacated, the property owner would likely require its removal pursuant to the lease agreement. In addition, the County already requires newly approved communication facilities to enter into a Facility and Maintenance Agreement as a standard Condition of Approval. This agreement obligates the facility owner to maintain the site in accordance with the Use Permit and Conditions of Approval, to provide written notice to the County if the facility is vacated, and to remove the facility within 12 months of vacating the site. If a facility is not maintained in compliance with its approvals, the County may pursue enforcement through the Code Compliance Division or through legal action, which is functionally similar to how a decommissioning requirement would be enforced.

SUMMARY:

The proposed amendments to Nevada County’s Communication Towers and Facilities Ordinance update local regulations to align with federal standards, respond to community concerns, and balance the County’s goals of expanding broadband with the desire for stricter oversight of wireless facilities. Key changes to the ordinance include:

- Clarifying FCC-based definitions.
- Updating “shot clock” permit timelines.
- Expanding application requirements.
- Allowing emergency deployments of temporary equipment.

- Exempting certain small or replacement installations from Planning review, with demonstration of radio frequency exposure compliance.
- Increasing tower setbacks to 150% of tower height.
- Strengthening maintenance standards.
- Requiring post-installation, post modification, and on-going radio frequency compliance certification.
- Doubling public notification distances to 1,000 feet.

Although community groups advocated stricter regulation in the Nevada County Safe Tech Ordinance, staff concluded that such measures may make communication facility development infeasible and conflict with General Plan broadband policies. The draft of the ordinance instead represents a balance that imposes more regulation while preserving the feasibility of broadband expansion. The amendments are recommended for adoption and are considered exempt from further CEQA review because they are primarily administrative, protective in nature, or already covered by the County's 2023 Broadband Program EIR.

RECOMMENDATION:

Staff recommends the Board of Supervisors take the following action:

- I. Project Action: Introduce, waive further reading, and adopt the Ordinance amending section 12.03.080 – Communication Towers and Facilities and Section 12.05.060 – Use Permits, of the Nevada County Code (ORD25-2) making Finding A.
 - A. The Board of Supervisors finds the project statutorily and categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15269(c), 15061(b)(3), 15301, 15302, 15303(d), 15304(e), 15308, 15162 and 15168. The amendments primarily clarify and strengthen existing regulations governing communication towers and facilities and do not authorize new land uses beyond those already permitted under the zoning code.

Item Initiated by: David Nicholas, Associate Planner

Approved by: Brian Foss, Planning Director