

Draft 4-04-18
ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 13 - TELECOMMUNICATION TOWERS AND ANTENNAS OF THE CITY ZONING ORDINANCE OF THE CITY OF GILLETTE; PROVIDING DEFINITIONS; PROVIDING FOR PERMITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 13 - Telecommunication Towers and Antennas of the Zoning Ordinance govern the City's regulation of wireless communication facilities; and

WHEREAS, federal laws, regulations, case law, wireless technology and consumer usage have reshaped the environment that wireless communication facilities are permitted and regulated; and

WHEREAS, federal laws and regulations governing local zoning standards and procedures for wireless communications have substantially changed since the adoption of Section 13 - Telecommunication Towers and Antennas of the Zoning Ordinance; and

WHEREAS, the City Council of the City of Gillette, Wyoming ("Council") desires to update local standards and procedures to protect and promote the public health, safety and welfare of the community, to reasonably regulate wireless communication facilities aesthetics, to protect and promote the City's unique character in a manner consistent with State and federal laws and regulations; and

WHEREAS, following appropriate procedures and public notice, on _____, 2018, the Planning Commission conducted a hearing on proposed amendments to Section 13 - Telecommunication Towers and Antennas and recommended that the City Council approve the proposed amendments; and

WHEREAS, on _____, the City Council conducted a lawfully-noticed public hearing and received the recommendations of the Planning Commission regarding a new Section 13 which modifies the code sections relating to wireless communication facilities.

NOW, THEREFORE, BE IT ORDAINED BY the City Council of the City of Gillette, Wyoming:

Section 1. Repealer and Amendments. Section 13 - Telecommunication Towers and Antennas of the Zoning Ordinance is hereby repealed and replaced with Section 13 - Wireless Communication Facilities.

Section 2. Purpose. The purpose of this ordinance is to establish guidelines for the siting of towers and antennas. To accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the purpose of this ordinance is as follows:

- (a) Facilitate the provision of wireless communication services to the residents and businesses of the city;
- (b) Minimize adverse visual effects of towers through careful design and siting standards;
- (c) Avoid potential damage to adjacent properties from tower failure through structural standards;
- (d) Maximize the use of existing and approved towers, buildings, and structures to accommodate new wireless communication antennas in order to reduce the number of towers needed to serve the community;
- (e) Protect the community's visual quality and safety while facilitating the reasonable and balanced provision of wireless communication services. Specifically minimize the visual impact of wireless communication facilities in and near residential zones;

- (f) Promote and protect the public health, safety and welfare, preserve the aesthetic character of the Gillette community, and to reasonably regulate the development and operation of wireless communication facilities within the city to the extent permitted under state and federal law;
- (g) Minimize the impact of wireless communication facilities by establishing standards for siting, design and screening;
- (h) Preserve the opportunity for continued and growth and service from the wireless industry;
- (i) Accommodate the need and demand for wireless communication services;
- (j) To establish guidelines, standards, and processes to review and facilitate the deployment of wireless transmission equipment for the purpose of providing advanced communication services to the City, residents, and businesses ;
- (k) Apply city zoning regulations consistent with federal and state telecommunications laws, rules, regulations and applicable case law; and
- (l) Avoid regulations that (1) prohibit or effectively prohibit the provision of wireless services, (2) unreasonably discriminate among functionally equivalent service providers, or (3) regulate wireless communication facilities and wireless transmission equipment on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with the standards established by the Federal Communications Commission.

Section 3. Definitions. As used in this Section, the following terms shall have the meanings set forth below:

- (a) "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used to send or receive digital signals, analog signals, radio frequencies or wireless communication signals.
- (b) "Antenna array" means a single or group of antenna elements, not including small cells, and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving wireless communication signals.
- (c) "Applicant" means any person engaged in the business of providing wireless communication services or the wireless communications infrastructure required for wireless communications services who submits an application.
- (d) "Base station" means a structure or equipment at a fixed location that enables Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this Section or any equipment associated with a tower.
 - (1) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - (2) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small cell networks).

- (3) The term includes any structure other than a tower that, at the time the relevant application is filed with the city under this section, supports or houses equipment described in this section that has been reviewed and approved under the applicable zoning or siting process, or under state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- (4) The term does not include any structure that, at the time the relevant application is filed with the state or the city under this section, does not support or house equipment described in this section.
- (e) "Collocation" means the mounting or installation of an antenna on a tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- (f) "Distributed Antenna System" or "DAS" means a network consisting of transceiver equipment at a central hub site to support multiple antenna locations throughout the desired coverage area.
- (g) "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:
 - (1) Collocation of new transmission equipment;
 - (2) Removal of transmission equipment; or
 - (3) Replacement of transmission equipment.
- (h) "Eligible support structure" means any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the city under this section.
- (i) "Existing" means a tower or base station that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.
- (j) "FAA" means the Federal Aviation Administration.
- (k) "FCC" means the Federal Communications Commission.
- (l) "Macrocell" means an antenna or antennas mounted on a tower, ground-based mast, rooftops and other towers or structures, at a height that provides a clear view over the surrounding buildings and terrain.
- (m) "Site" means, in relation to a tower that is not in the public right-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site. In relation to support structures other than towers, site means an area in proximity to the structure and to other transmission equipment already deployed on the ground.
- (n) "Small cells" mean compact wireless equipment that contain their own transceiver equipment and function like cells in a wireless network and meet the following criteria:
 - (i) Each antenna could fit within an enclosure of no more than three (3) cubic feet in volume; and
 - (ii) All other wireless equipment associated with the wireless communication facility is cumulatively no more than seventeen (17) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

- (o) “Stealth design” means technology that minimizes the visual impact of wireless communication facilities by camouflaging, disguising, screening or blending into the surrounding environment. Examples of stealth design include but are not limited to facilities disguised as trees (monopines), flagpoles, utility and light poles, bell towers, clock towers, ball field lights and architecturally screened roof-mounted antennas, or antennas attached to a structure and painted to match.
- (p) “Substantial change” means a modification that substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:
 - (1) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent (10%) or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings’ rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (47 U.S.C. Section 1455 (a));
 - (2) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;
 - (3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;
 - (4) It involves any excavation or deployment outside the current site;
 - (5) It would defeat the concealment elements of the eligible support structure; or
 - (6) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in (1) through (4).
- (q) “Tower” means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul and the associated site.
- (r) “Tower height” means the vertical distance measured from the base of the tower structure at grade to the highest point of the structure including the antenna. A lightning rod, not to exceed ten (10) feet in height, shall not be included within tower height.

- (s) "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 supplies. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- (t) "Utility support structure" means utility poles or utility towers supporting electrical, telephone, cable or other similar facilities; street light standards; or pedestrian light standards.
- (u) "Wireless Communication Facilities" or "WCF" means an unstaffed facility, location, or equipment for the transmission or reception of radio frequency (RF) signals or other wireless communications or other signals for commercial communications purposes, typically consisting of one (1) or more antennas or group of antennas, a tower or attachment support structure, transmission cables and other transmission equipment, and an equipment enclosure or cabinets, and including small cells.

Section 4. Applicability.

- (a) New WCFs, Towers, Antennas, DAS and Small Cells. All new WCFs, towers, antennas, DAS and small cells in the city shall be subject to these regulations. In subsequently annexed areas, tower owners are required to obtain a permit for their existing towers to the extent required under applicable law.
 - (1) New towers, base stations, DAS, and small cells in all zones require a zoning permit, a right-of-way or other permit.
 - (2) New antenna arrays meeting the requirements of Section 8 (q) are permitted with a building permit.
 - (3) DAS and small cells in the public right-of-way with a pole less than forty-five feet (45') in height are permitted pursuant to Section 15. If a pole in the public right-of-way exceeds forty-five feet (45') in height, then the applicant must seek an exception from the City Engineer.
 - (4) To the extent technically feasible, new poles must be designed to match the existing light fixtures and other poles, and serve a dual purpose (for example, a new light fixture, flag pole, or banner clips).
- (b) Antennas Mounted on Roofs and Walls. Antennas must meet the requirements of this section to be placed on roofs and walls. The applicant must submit a report prepared by a Wyoming-licensed professional engineer indicating whether the structure is suitable to safely accept the antennas at the same time as the final site and building plan.
- (c) Exempt Facilities. The following are exempt from this Section:
 - (1) FCC licensed amateur (ham) radio facilities are regarded as an accessory use and may extend to a maximum height of seventy-five (75) feet, provided that the tower is equipped with a lowering device (motorized and/or mechanical) capable of lowering the antenna to the maximum permitted height in the zoning district or area when not in operation; provided, however, the ham radio operator must notify the city in writing of its amateur radio facilities;
 - (2) Satellite earth stations, dishes, and/or antennas used for private television reception not exceeding one (1) meter in diameter;

- (3) A Cell On Wheels (COW) deployed upon the declaration of a state of emergency by the federal, state or local government, or a written determination of public necessity by the city; except that such facility must comply with all federal and state requirements. The COW shall be exempt from the provisions of this section for up to one (1) month after the duration of the state of emergency;
- (4) City-owned facilities not in a state of emergency, Emergency Warning Systems, Airport Guidance Systems, city SCADA and Mobile Tech Systems;
- (5) A temporary, commercial WCF installed for providing coverage of a special event such as news coverage or sporting event. The WCF shall be exempt from the provisions of this Section for up to three (3) weeks before and one (1) week after the duration of the special event;
- (6) Other temporary commercial WCFs installed for a period of up to ninety (90) days, subject to the city's discretion; provided that such temporary WCF will comply with applicable zoning, setbacks, and height requirements;
- (7) Antennas attached to existing structures (such as commercial buildings, houses or apartments) for Internet purposes and uses solely for occupants of the building for which the antennas are attached as long as the height limitations of the zoning district are not exceeded and the antenna design is satisfactory to the City; and
- (8) Routine maintenance and repair of antennas and other WCFs.

Section 5. Application Requirements. An application to locate WCFs on existing towers or structures must include:

- (a) The required fees established by City Council and referenced in Section 7.
- (b) Copies of all licenses and agreements required by law for the construction and operation of the WCF.
- (c) For new towers, a legal description and physical address of both the property and tower site (if applicable).
- (d) A scaled site plan clearly indicating the tower/antenna location, type and height of the proposed WCF facility, the location of the accessory building, on-site land uses and zoning, adjacent land uses and zoning, proposed means of access, distances from property lines, and elevation drawings of the proposed tower or antenna support structure.
- (e) A certification that the applicant will comply with all applicable federal, state, and local laws.
- (f) A certification that the site described in the application is located on an existing tower or structure and that the owner/operator agrees to the collocation on its facility.
- (g) All applications shall include a certificate from a Wyoming-licensed professional engineer that the tower and facilities comply with all applicable safety and building codes. In cases where existing structures are utilized, the certification shall include verification that the existing structure has been inspected and installation of WCFs will not impair the structural integrity upon which the WCF is installed.
- (h) A landscaping plan, method of fencing, finished color and other stealth applications and aesthetic mitigation measures for towers, antennas, and equipment buildings.

- (i) A color visual analysis that includes to-scale photo simulations showing unobstructed before-and-after construction daytime and clear-weather views from at least four (4) angles, together with a map that shows the location of each view, including all equipment and ground wires.
- (j) A written analysis explaining how the proposed design complies with the applicable design standards under this section. The analysis must identify all applicable design standards under this section and demonstrate that the proposed design either complies or cannot feasibly comply with this section.
- (k) Applications for new towers, sites, or for collocation that do not qualify as an Eligible Facilities Request shall include the following materials:
 - (1) The location and owner/operator names of all other tower or antenna support structures within one-half (1/2) mile of the proposed new tower location that could accommodate the applicant's antenna and documentation that the applicant was unsuccessful in efforts to install or co-locate its antenna and associated equipment on an existing tower or structure.
 - (2) Written certification by a Wyoming-licensed professional engineer that the proposed tower, antenna, and associated equipment cannot be installed or co-located on another tower or structure located within one-half (1/2) mile of the proposed site; and the equipment must be located at the proposed site in order to meet the coverage requirements of the applicant's system.
 - (3) For all new tower construction the applicant shall certify that sufficient excess capacity exists over the initial loading to allow at least one (1) additional provider to use the tower.
 - (4) A copy of the applicant's FCC license or registration.
 - (5) A color visual analysis that includes to-scale visual simulations that show unobstructed before-and-after construction daytime and clear-weather views from at least four (4) angles with a map that shows the location of each view, including all equipment and ground wires.
 - (6) A written analysis demonstrating that the proposed design complies with the applicable design standards under this section. The analysis must describe whether the design complies or cannot feasibly comply with all applicable design standards under this section.
 - (7) If the proposed tower is within two hundred (200) feet of residentially zoned property or in the downtown area, the applicant must provide a noise study.
 - (8) Applicants for a zoning permit for a tower shall submit the following information:
 - (i) A scaled site plan clearly indicating the location, type, height and width of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities or the County), separation distances, adjacent roadways, photo simulations, a depiction of all proposed transmission equipment, proposed means of access, setbacks from property lines, elevation drawings or renderings of the proposed tower and any other structures, contours, parking, utility runs, and other information deemed by the Development Services Director to be necessary to assess compliance with this Section.

- (ii) Legal description of the parent tract and leased parcel (if applicable).
- (iii) The setback distance between the proposed tower and the nearest residential unit and the nearest residentially zoned property.
- (iv) The separation distance from other towers described in the inventory of existing sites submitted pursuant to this Section shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
- (v) A landscape plan showing specific landscape materials.
- (vi) Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
- (vii) Written proof of compliance with all applicable federal, state and local laws.
- (viii) Identification of the entities providing the backhaul network for the tower(s) described in the application.
- (ix) A written statement of purpose including: (1) a description of the technical objective to be achieved; (2) a to-scale map that identifies the proposed site location and the targeted service area to be benefited by the proposed project; and (3) full-color signal propagation maps with objective units of signal strength measurement that show the applicant's current service coverage levels from all adjacent sites without the proposed site, predicted service coverage levels from all adjacent sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent sites. These materials shall be reviewed and signed by a Wyoming-licensed professional engineer or a qualified employee of the applicant. The qualified employee of the applicant shall submit his or her qualifications with the application.

Section 6. Facility Registration and Reporting. When the work on the facility or tower is completed, before operation begins, the owner/operator of the tower shall submit the following documentation to the Building Inspection Division:

- (a) **Certification.** Certification in writing by a Wyoming-licensed professional engineer that the tower is structurally sound and conforms to the requirements of the city's building codes and all other construction standards. The tower owner may be required to submit more frequent certifications if the City Engineer determines that the structural or electrical integrity of the tower may be jeopardized. The Engineering Certification must include an on-site inspection.
- (b) **Tower Information.** The name of providers located on the tower; the name, address, and telephone number of any owner.
- (c) **Registration Fee.** A registration fee, in addition to any other fee paid by the owner or operator of the tower or facility shall be paid to the city for all towers or facilities located within the City, and shall be submitted to the Development Services Department at the time of permitting.
- (d) **Annual Renewal Registration Fee.** An annual renewal registration fee shall be payable in accordance with Section 7.
- (e) **Inspections.** The city reserves the right upon reasonable notice to the owner/operator of the tower to conduct inspections to determine whether the tower, equipment and/or related buildings comply with the provisions of this code, applicable building codes, and local, state, and federal law.

Section 7. Fees.

- (a) All applicable fees shall be paid by all applicants for WCF facilities at the time of application or renewal:

	Type of Fee		Cost
(1)	Application Fee		As Per Section 5 of the Zoning Ordinance
(2)	Initial Registration Fee		\$500
(3)	Building Permit Fee		As Per Current Building Permit Fee Schedule
(4)	Annual Registration Renewal Fee		\$250
(5)	Right-of-Way Lease Fee		\$500 per Pole

- (b) Additional fees may be required depending on the circumstances of a particular project and may include:

- (1) A Fee for Use of city Property.
- (2) Agreement Fee.

Section 8. General Requirements.

- (a) Permit. Applicants requesting to construct, modify, collocate, or relocate any tower or antenna within the city shall submit an application to operate; apply for a building and zoning permit as applicable and pay associated fees and applicable franchise, revocable license, and removal security fee; and provide proof of insurance and bonding. No activity to construct, modify, or relocate a tower or antenna shall begin until all application and permits have been obtained and fees submitted.
- (b) District Regulations. Towers, antennas, and associated equipment and storage facilities are allowed in every zoning district in the city, subject to the particular provisions of each district. Towers may be permitted on a case by case basis as a special exception and in accordance with the city's comprehensive plan. Construction, modification or relocation of towers, antennas, and storage and facility structures are subject to the limitations and criteria outlined for the applicable zoning districts.
- (c) General Liability Insurance. All towers shall be covered by a general liability insurance policy in an amount not less than one million dollars (\$1,000,000) per occurrence.
- (d) Licenses or Agreements. Owners and operators of towers and communications facilities must certify that all licenses and agreements required by law for the construction and operation of a wireless communications system in the city have been obtained and file documentation of the licenses and agreements with the city. An owner and operator of a tower or communications facility must notify the city in writing within forty-eight (48) hours of any revocation or failure to renew any license or agreement. If the use of a tower or communications facility is discontinued the owner and operator shall provide written notice to the city of its intent to discontinue use and the date when the use shall be discontinued.
- (e) General Construction and Maintenance Requirements. All towers, antennas, support structures and accessory buildings constructed, modified or located within the city, and all wiring therefore, shall comply with the following requirements:

- (1) Towers shall be certified by a Wyoming-licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and National Electric Code as adopted by the City.
 - (2) Every tower shall be equipped with adequate danger warning signage to discourage climbing of the tower .
- (f) Inventory of Existing Sites. At least one time per year, each applicant for a macrocell tower shall provide to the Development Services Director an inventory of its existing towers, antennas, or sites approved for towers or antennas including specific information about the location, height, and design of each tower or antenna within the city or within one-half (1/2) mile of the border . The Development Services Director may share inventory information with other applicants applying for administrative approvals or zoning permits under this section and organizations seeking to locate antennas within the jurisdiction of the city. By sharing inventory information the Development Services Director is not representing or warranting that the sites are available or suitable.
- (g) Color. In addition to stealth requirements, the antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure. To the extent feasible, towers shall be painted a color that best allows it to blend into the surroundings. The use of grays, blues, greens, dark bronze, browns or other site-specific colors may be appropriate; however, each case should be evaluated.
- (h) Lighting. For support towers, only lighting that is necessary to satisfy FAA requirements is permitted. Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state agency. Light fixtures used to illuminate fields, parking lots, or similar areas may be attached to the tower when incorporated into the approved design of the tower. Security lighting for the equipment shelters or cabinets and other on the ground ancillary equipment is also permitted, if it is appropriately down shielded to keep light within the boundaries of the site.
- (i) State or Federal Requirements. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas.
- (j) Site Development Permit. In addition to other site plan requirements, all wireless communication facilities shall be required to obtain a site development permit and/or building permit and shall be subject to the site development standards prescribed herein. A site development permit shall contain the following information:
- (1) Construction drawings showing the proposed method of installation;
 - (2) The manufacturer's recommended installations, if any; and
 - (3) A diagram to scale showing the location of the wireless communication facility, property and setback lines, easements, power lines, all structures, and the required landscaping.
- (k) Building Codes; Industry Standards. The owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state and local building codes and the applicable industry standards for towers, as amended from time to time. Compliance with this section is subject to the city's code enforcement procedures. If, after inspection, the city determines that a tower fails to comply with city zoning code and constitutes a danger to persons or property, the owner shall have thirty (30) days to bring the tower into compliance with the code. Failure to bring a tower into compliance within thirty (30) days shall constitute grounds for the removal of the tower at the owner's expense.

- (l) Notice. For purposes of this section, all zoning permits shall require notice to abutting property owners, in addition to any other notice required by the city zoning code.
- (m) Signs. The use of any portion of a tower for signs other than warning or equipment information is prohibited.
- (n) Visual Impact. All WCFs shall be sited and designed to minimize adverse visual impacts on surrounding properties and the public to the greatest extent reasonably possible, consistent with the proper functioning of the WCF. WCFs and equipment enclosures shall be integrated through location and design to blend in with the existing characteristics of the site. WCFs shall be designed to resemble the surrounding landscape and other natural features or be compatible with the built environment through matching and complimentary existing structures and specific design considerations such as architectural designs, height, scale, color, and texture.
- (o) Use of Stealth Design. Stealth design is required in all zones, and concealment techniques must be appropriate given the proposed location, design, visual environment, and nearby uses, structures, and natural features. Stealth design shall be designed and constructed to substantially conform to surrounding building designs or natural settings. Stealth design that relies on screening wireless communication facilities to reduce visual impact must screen all substantial portions of the facility from view. Stealth and concealment techniques do not include incorporating faux-tree designs of a kind that are not native to the state. The applicant shall provide justification why it is not employing stealth design.
- (p) Building-mounted WCFs.
 - (1) All transmission equipment shall be concealed within existing architectural features to the maximum extent feasible. Any new architectural features proposed to conceal the transmission equipment shall be designed to mimic the existing underlying structure, shall be proportional to the existing underlying structure or conform to the underlying use and shall use materials in similar quality, finish, color and texture as the existing underlying structure.
 - (2) All roof-mounted transmission equipment shall be set back from all roof edges to the maximum extent feasible consistent with the need for "line-of-sight" transmission and reception of signals.
 - (3) Antenna arrays and supporting transmission equipment shall be installed to camouflage, disguise or conceal them to make them closely compatible with and blend into the setting or host structure.
- (q) Antenna Arrays. Wireless communication antenna arrays are permitted in any zone as long as they are located upon an existing structure excluding single family houses or other signage, or a building less than sixty [60] feet in height, that provides sufficient elevation for the array's operation without the necessity of constructing a tower or other apparatus to extend the antenna array is no more than fifteen [15] feet above the existing structure. Installation on city property requires the execution of necessary agreements.
- (r) WCFs in the Public Rights-of-Way.
 - (1) Utility support structure - mounted equipment. All pole-mounted transmission equipment shall be mounted as close as possible to the pole to reduce the overall visual profile.

- (2) WCFs located in public rights-of-way shall comply with the regulations and requirements for zoning. If a WCF is next to different zones the more restrictive zoning regulations shall apply.
 - (3) Right of Way Lease Agreement. For all WCFs to be located within the right-of-way, prior to submitting for a permit application, the applicant must have a valid municipal agreement, license, franchise agreement, right-of-way lease agreement, encroachment permit, or exemption granted by applicable law.
- (s) Accessory Uses for WCFs.
 - (1) Accessory uses shall be limited to structures and equipment that are necessary for transmission or reception functions. Accessory uses shall not include broadcast studios, offices, vehicles or equipment storage, or other uses not essential to the transmission or reception functions.
 - (2) All accessory buildings shall be constructed of building materials equal to or better than those of the primary building on the site and shall be subject to the applicable building or site plan approval processes.
 - (3) No equipment shall be stored or vehicles parked on the site of the tower, unless used in direct support of the tower or antenna being repaired.
- (t) Accessory Utility Buildings. All utility buildings accessory to a tower shall be designed to blend in with the surrounding environment and shall meet the minimum structure setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood or as otherwise provided for in the City's Landscape Ordinance.
- (u) Accessory Equipment. All accessory equipment located at the base of a WCF shall be located in an existing building, underground, or in an equipment shelter or cabinet that is (a) designed to blend in with existing surroundings, using architecturally compatible construction and colors; and (b) located to be as unobtrusive as possible consistent with the proper functioning of the WCF.
- (v) Site Design Flexibility. Individual WCF sites vary in the location of adjacent buildings, existing trees, topography, and other local variables. In accordance with the underlying zoning regulations the WCF and supporting equipment may be installed to best camouflage, disguise, or conceal the equipment to make the WCF more closely compatible with the setting or host structure.
- (w) General Standards and Construction Provisions. The Development Services Department shall review the following:
 - (1) All structures shall be constructed and installed to manufacturer's specifications and required setback provisions for the zoning districts.
 - (2) Structures shall be permitted and constructed to meet current building code requirements.
 - (3) All structures shall conform to FCC and FAA regulations, if applicable.
 - (4) If any setback requires a greater distance than required of this section, the greater distance shall apply.

- (5) In all zoning districts, the following additional landscaping shall be required in addition to what is required in the city zoning code:
 - (i) Equipment shelters and cabinets and other on the ground ancillary equipment shall be screened with landscaping as required for the zone in which they are located.
 - (ii) A fence no less than six (6) feet in height from the finished grade shall be constructed around each tower and around related support or guy anchors. Access shall only be through a locked gate. Any fence shall comply with the guidelines of the code.
- (6) All other information or materials that the city may reasonably require will be made available.
- (x) Radio Frequency (RF) Emissions Compliance Report. A written report will be prepared by a Wyoming-licensed professional engineer or a competent employee of the applicant, which assesses whether the proposed WCF demonstrates compliance with the RF emissions limits established by the FCC. The qualified employee of the applicant shall submit applicable qualifications with the application.
- (y) Term of Permit. After approval of a request to build a new tower or to locate facilities on an existing tower, the applicant shall commence construction within six (6) months of the date the application received its final approval. An applicant can petition the Development Services Department for an additional period of six (6) months, when it is demonstrated that construction has been delayed by circumstances beyond the control or responsibility of the applicant.

Section 9. Sharing Of Towers and Collocation of Facilities.

- (a) It is the policy of the city to minimize the number of towers and to encourage the collocation of antenna arrays.
- (b) No new macrocell tower may be constructed within one-half (1/2) mile of an existing tower, unless the Planning Commission finds that the existing tower is not available or feasible for collocation of an additional wireless communication facility, or that its specific location does not satisfy the operational requirements of the applicant. The Planning Commission shall consider the factors in subsection (c) of this section to determine whether the applicant has met its burden. This separation requirement does not apply to new poles constructed to support small cells if the new poles do not exceed the height limitation of the applicable zoning district.
- (c) Factors Considered by the Planning Commission in Granting Zoning Permits for Towers. In addition to any standards for zoning permit applications, the Planning Commission shall make a determination whether a tower exceeds the maximum height limitation of the affected zoning district. The Planning Commission and shall consider the following factors when determining whether to issue a zoning permit.
 - (1) Towers exceeding a height of fifty (50) feet shall be able to accommodate collocation of one (1) additional provider. Additional height to accommodate additional collocation may be approved if the applicant certifies the tower has capacity for at least two (2) additional providers. The applicant shall provide a letter indicating their good faith intent to encourage collocation on the tower.
 - (2) Nature of uses on adjacent and nearby properties.
 - (3) Surrounding topography.

- (4) Surrounding tree coverage and foliage.
 - (5) Whether existing structures are located within the geographic area that meet applicant's engineering requirements.
 - (6) Whether existing towers or structures have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (7) Whether the fees, costs, or contractual provisions required to share an existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - (8) Other limiting factors that render existing towers and structures unsuitable.
- (d) Zoning District Regulations. The following zoning district regulations shall apply in conjunction with the underlying zoning district regulations within the city's Zoning Ordinance.
- (1) R-1, R-2, R-3, R-4, R-S, R-R, M-H, E-MH⁶⁵, E-MH R-S⁶⁵ Residential Zoning Districts.
 - (i) Towers and antennas are allowed as an accessory use only.
 - (ii) Towers and antennas may be attached to any existing structure if the tower and the antenna does not extend above the highest point of the existing structure; and the tower, antenna, and support equipment are designed to blend into the surrounding environment as a stealth facility.
 - (iii) Antennas and towers may be located on city property if authorized by a revocable city lease.
 - (iv) There is sufficient spacing between towers on the property or on adjacent property to ensure fall zone safety.
 - (2) C-P, C-O, C-1, C-2, and C-3 Commercial Zoning Districts.
 - (i) Towers and antennas are allowed as an accessory use only.
 - (ii) Towers and antennas may be attached to any existing structure if the tower and the antenna does not extend more than thirty (30) feet above the highest point of the existing structure and the tower, antenna, and support equipment are designed to blend into the surrounding environment.
 - (iii) Antennas and towers may be located on city property if authorized by a revocable city lease.
 - (iv) There is sufficient spacing between towers on the property or adjacent property to ensure fall zone safety.
 - (3) A, Agricultural Zoning District, I-1 and I-2 Industrial Zoning Districts.
 - (i) Towers and antennas are allowed as a permitted use or as an accessory use.
 - (ii) Towers and antennas may be attached to any existing structure if the tower and antenna does not extend more than fifteen (15) feet above the highest point of the existing structure and the tower and antenna are designed to blend into the surrounding environment.

- (iii) Antennas and towers may be located on city property if authorized by a revocable city lease.
 - (iv) A tower may be located as an accessory use on a lot utilized for other permitted uses. A tower may be located as a permitted use on a parcel of land smaller than the minimum lot size required in the zoning district; The parcel of land is considered the "tower site". Only the tower site, is subject to all the requirements of this section.
- (4) Setbacks.
- (i) Towers up to one hundred (100) feet in height shall be setback on all sides a distance to the underlying front yard setback requirement in the applicable zoning district for structures, or one (1) foot for every foot of tower height (whichever is greater); towers in excess of one hundred (100) feet in height shall be setback one (1) additional foot per foot of tower height in excess of one hundred (100) feet; and,
 - (ii) Setback requirements for towers shall be measured from the base of the tower to the property line of the adjacent parcel.
 - (iii) If the tower has been constructed using breakpoint design technology, the minimum setback distance shall be equal to one hundred ten percent (110%) of the distance from the top of the structure to the breakpoint level of the structure, or the applicable zone's minimum side setback requirements, whichever is greater. For example, on a 100-foot tall monopole with a breakpoint at eighty feet (80'), the minimum setback distance would be twenty-two feet (22'), (110% of 20', the distance from the top of the monopole to the breakpoint) or the minimum side yard setback requirements for that zone, whichever is greater. If an applicant proposes to use breakpoint design technology the building permit for the tower shall be conditioned upon approval of the tower design by a Wyoming-licensed professional engineer.
- (5) New Towers. Except in the case of city-owned property or small cells in the right-of-way whose towers do not exceed the maximum height for the applicable zoning district, all requests for the construction of a new tower must be approved by the Planning Commission. The Planning Commission may approve an application if it finds that the proposed site is necessary and the proposed facility cannot be accommodated on an existing tower or structure within one-half (1/2) mile of the proposed site.
- (6) New towers shall be subject to the following height and usage criteria:
- (i) R-1, R-2, R-3, R-4, R-S, R-R, M-H, E-MH⁶⁵, E-MH R-S⁶⁵, Residential Zoning Districts.
 - (a) All new towers shall be a monopole;
 - (b) For a single user, up to forty (40) feet in height;
 - (c) For two (2) users, up to sixty (60) feet in height;
 - (d) For three (3) or more users, up to eighty (80) feet in height.

The Planning Commission may approve the construction of towers that are taller than the limits set forth in the preceding section, only if the applicant demonstrates that its use

cannot be accommodated on a complying tower, and that no other location exists on which a complying tower or antenna could be located.

(ii) C-P, C-O, C-1, C-2, and C-3 Commercial Zoning Districts.

- (a) All new towers shall be a monopole;
- (b) For a single user, up to forty (40) feet in height;
- (c) For two (2) users, up to eighty (80) feet in height;
- (d) For three (3) or more users, up to one hundred (100) feet in height.

The Planning Commission may approve the construction of towers that are taller than the limits set forth in the preceding section, only if the applicant demonstrates that its use cannot be accommodated on a complying tower, and that no other location exists on which a complying tower or antenna could be located.

(iii) I-1 and I-2 Industrial Zoning Districts. All new towers shall be designed and constructed to accommodate at least two (2) communication providers and are subject to the following height and usage criteria:

- (a) All new towers shall be a monopole;
- (b) For two (2) users, up to one hundred (100) feet in height;
- (c) For three (3) or more users, up to one hundred twenty (120) feet in height.

The Planning Commission may approve the construction of towers that are taller than the limits set forth in the preceding section, only if the applicant demonstrates that its use cannot be accommodated on a complying tower, and that no other location exists on which a complying tower or antenna could be located.

Section 10. Exceptions to Standards.

- (a) Applicability. Except as otherwise provided under Site Design Flexibility, no WCF shall be used or developed contrary to any applicable development standard unless an exception has been granted by the Planning Commission. These exceptions apply exclusively to WCFs. This subsection is not an exception to the Code's visual impact and stealth design requirements.
- (b) Procedure Type. A WCF's exception is subject to approval by the Planning Commission.
- (c) Submittal Requirements. An application for a wireless communication facility exception shall include:
 - (1) A written statement demonstrating how the exception would meet the criteria.
 - (2) A site plan including:
 - (i) A description of the proposed facility's design and dimensions with and without the exception.
 - (ii) Elevation drawings demonstrating the components of the wireless communication facility with and without the exception.

- (iii) Color simulations of the wireless communication facility after construction demonstrating compatibility with the vicinity with and without the exception.
- (d) Criteria. An application for a wireless communication facility exception shall be granted if the following criteria are met:
 - (1) The exception is consistent with the purpose of the development standard.
 - (2) The design minimizes the visual impacts to residential zones through mitigating measures, including, but not limited to, building heights, bulk, color, and landscaping.
 - (3) The applicant demonstrates:
 - (i) A significant gap in the coverage, capacity, or technologies of the service network exists and users are regularly unable to connect to the service network, or are regularly unable to maintain a connection, or are unable to achieve reliable wireless coverage within a building;
 - (ii) The service gap can only be filled through an exception to one (1) or more of the standards in Section 10; and
 - (iii) The exception is narrowly tailored to fill the service gap and allow the wireless communication facility, to the greatest extent possible, to conform to this section's standards.
 - (4)

Section 11. Use of City-Owned Land and Facilities.

- (a) Priority of Users. Priority to locate antennas and towers on city-owned land and facilities will be given as follows:
 - (1) City;
 - (2) Public safety agencies, including law enforcement, fire, and ambulance services, and private entities with a public safety agreement with the city;
 - (3) Other governmental agencies, for uses not related to public safety; and,
 - (4) Entities providing wireless services.
- (b) Minimum Requirements. The placement of antennas or towers for the provision of communication services on city-owned property must comply with the following requirements:
 - (1) The antennas or tower will not interfere with the purpose for which the city owned property is intended;
 - (2) The applicant shall furnish adequate liability insurance and execute a revocable lease agreement that compensates the city for the use of public land and other necessary provisions and safeguards. The fees shall be established by the city after considering comparable rates in other cities, potential expenses, risks to the city, or other factors affecting the value of the site;
 - (3) The applicant shall submit a letter of credit, performance bond, or other security acceptable to the city to cover the costs of the antenna or tower's removal;
 - (4) The antennas or tower cannot interfere with other users with higher priority;

- (5) The antennas or tower may be required to be removed at the user's expense upon reasonable notice;
 - (6) The applicant shall reimburse the city for any costs which the city incurs due to the presence of the applicant's antennas or tower; and
 - (7) The applicant shall submit and obtain all necessary application approvals. Requests for the use of city property shall be determined at the sole discretion of the City Council.
- (c) Special Requirements. The use of city-owned water tower sites and parks for antennas or towers is subject to additional requirements. The placement of antennas or towers on these city-owned sites will be allowed only when the following requirements are met.
- (1) Water Tower Sites - The placement of antennas or towers on a water tower will be allowed only when the city, at its sole discretion, is satisfied that the following requirements are met:
 - (i) The applicant's access to the facility will not increase the risks of contamination to the city's water supply;
 - (ii) There is sufficient room on the structure and on the grounds to accommodate the applicant's facility;
 - (iii) The presence of the facility will not increase the water tower maintenance costs to the city and will not exceed the structural integrity of the water tower or other structure;
 - (iv) The presence of the facility will not be harmful to the health of workers maintaining the water tower; and,
 - (v) The presence and operation of the facility will not adversely affect any other interest of the city.
 - (2) Parks - Because the presence of antennas or towers may conflict with park uses, antennas or towers will be determined on a case by case basis at the city's sole discretion.
- (d) Application Process. Applicants requesting to locate antennas or towers on city-owned property must submit a complete application and detailed plan that complies with the requirements of this section and any other information requested by the city.
- (e) Termination. The City Council may terminate any revocable lease if it is determined, in its sole discretion, that any of the following conditions exists:
- (1) A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use; or
 - (2) A user violates any of the standards of this Section or the conditions of the revocable lease.
- Except for emergency situations, at the city's sole discretion, the city will provide notice to the user of the intended termination, and provide an opportunity for the user to address the City Council regarding the proposed action.
- (f) Decision of City Council Final. The decision of the City Council to approve, deny, or revoke any request for a lease to use city property is final and not subject to review.

Section 12. Eligible Facilities Request.

- (a) Purpose. This Section implements Section 6409(a) of the Spectrum Act (47 U.S.C. Section 1455(a)), as interpreted by the FCC in its Report and Order No. 14-153 and regulated by 47 C.F.R. § 1.40001, which requires a state or local government to approve any Eligible Facilities Request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station.
- (b) Application Review.
- (1) Application. The city shall prepare and make publicly available an application form; the form shall be limited to the information necessary for the city to consider whether an application is an “Eligible Facilities Request”. The city may not require an applicant to submit other documentation intended to illustrate the need for any such wireless facilities or to justify the business decision to modify such wireless facilities.
 - (2) Review. The city shall review an application for an Eligible Facilities Request, approve or deny the application, and advise the applicant in writing.
 - (3) Timeframe for Review. Within sixty (60) days of the date of the application for an Eligible Facilities Request under this Section, the city shall review and act upon the application, subject to the tolling provisions below.
 - (4) Tolling of the Timeframe for Review. The sixty (60) day review period begins to run when the application is filed, and may be tolled only by mutual agreement between the city and the applicant, or if the city determines that the application is incomplete. The timeframe for review is not tolled by a moratorium on the review of applications.
 - (i) To toll the timeframe for incompleteness, the city must provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application.
 - (ii) The timeframe for review continues when the applicant makes a supplemental submission in response to the city’s notice of an incomplete application.
 - (iii) The city has ten (10) days after submission of supplemental information to notify the applicant that the supplemental submission did not provide the information identified in the original notice. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
 - (5) Failure to Act. In the event the city fails to act on a complete application within the timeframe for review, the request shall be deemed granted. The applicant must notify the city in writing after the review period has expired.

Section 13. Collocation Applications That Are Not Eligible Facilities Requests.

- (a) Purpose. This Section implements, in part, 47 U.S.C. Section 332(c)(7) of the Federal Communications Act of 1934, as amended, as interpreted by the FCC in its Report and Order No. 14-153. The following timeframes apply to collocations unless a shorter timeframe is required under applicable law.

(b) Application Review.

- (1) Application. The city shall make available an application form limited to the information necessary for the city to consider whether an application is a collocation request.
- (2) Review. Upon receipt of an application for a collocation request pursuant to this Section, the city shall review such application, make its final decision, and advise the applicant in writing.
- (3) Timeframe for Review. Within ninety (90) days of the date of an application , the City shall review and act upon the application.
- (4) Tolling of the Timeframe for Review. The ninety (90) day review period begins to run when the application is filed, and may be tolled only by mutual agreement between the city and the applicant, or if the city determines that the application is incomplete.
 - (i) The city must provide written notice to the applicant within thirty (30) days of receipt of the application specifically delineating all missing documents or information required in the application to toll the timeframe.
 - (ii) The timeframe for review continues when the applicant makes a supplemental submission in response to the city's notice of an incomplete application.
 - (iii) The city has ten (10) days to notify the applicant that the supplemental submission did not provide the information identified in the original notice . The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
- (5) Failure to Act. In the event the city fails to act on a complete application within the timeframe for review the applicant shall be entitled to pursue all remedies under applicable law.

Section 14. New Site or Tower Applications.

- (a) Purpose. This Section also implements, in part, 47 U.S.C. Section 332(c)(7) of the Federal Communications Act of 1934, as amended, as interpreted by the FCC in its Report and Order No. 14-153, for new sites or towers.

(b) Application Review.

- (1) Application. The city shall make available an application form limited to the information necessary for the city to consider whether an application is a request for a new site or tower.
- (2) Review. Upon receipt of an application for a request for a new site or tower pursuant to this section, the city shall review such application, make its final decision, and advise the applicant in writing.
- (3) Timeframe for Review. Within one hundred fifty (150) days of the date of an application under this section, the city shall review and act upon the application.

- (4) Tolling of the Timeframe for Review. The one hundred fifty (150) day review period begins to run when the application is filed and may be tolled only by mutual agreement between the city and the applicant, or if the city determines that the application is incomplete.
 - (i) The city must provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application to toll the timeframe.
 - (ii) The timeframe for review continues when the applicant makes a supplemental submission in response to the city's notice of an incomplete application.
 - (iii) The city has ten (10) days to notify the applicant that the supplemental submission did not provide the information identified in the original notice. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
- (5) Failure to Act. In the event the city fails to act on a complete application under this section within the timeframe for review, the applicant shall be entitled to pursue all remedies under applicable law.

Section 15. Distributed Antenna Systems and Small Cells.

- (a) Distributed antenna systems and small cells are allowed in all zones, regardless of the siting preferences listed in section 16. The applicant must comply with the height limitations of the affected zoning district and all federal, state, and local laws, and requirements.
- (b) Distributed antenna systems and small cells are subject to permitting and approval by administrative review. If distributed antenna systems and small cells are in the right-of-way, a right-of-way permit, and a zoning permit may be required if the installation requires the construction of a pole greater than the maximum allowed height. A zoning permit shall not be required for replacement utility support structures if the replacement utility support structure is similar in height and design.
- (c) A single permit application may be used for multiple distributed antennas that are part of a larger overall DAS network. A single permit application may also be used for multiple small cells. A single license agreement may be used for multiple node locations in DAS and/or small cell networks.

Section 16. Preferred Tower Locations.

All new macrocell towers in the city will be permitted in the following order:

- (1) Privately owned land in industrial zones;
- (2) Privately owned land in commercial zones;
- (3) Privately owned land in agricultural zones;
- (4) City-owned or operated property and facilities where a tower use is in line with the city's comprehensive plan or as otherwise allowed in the underlying zoning district per the city's Zoning Ordinance;

- (5) Parcels of land in residential zones;
- (6) All other property and facilities where a tower use is in line with the city's comprehensive plan or as otherwise allowed in the underlying zoning district per the city's Zoning Ordinance;
- (7) City rights-of-way, with required annual lease payments.

The applicant for a macrocell tower in city rights-of-way or on other property shall address the above preferences in an alternative sites analysis pursuant to section 17 .

Section 17. Alternative Sites Analysis Submittal Requirements.

(a) Alternative Sites Analysis.

- (1) For macrocell towers, the applicant must address the city's preferred tower locations by explaining why a site of higher priority was not selected. The city's tower location preferences must be addressed in a written alternative sites analysis demonstrating at least three (3) higher ranked alternative sites considered in the geographic range of the service coverage objectives of the applicant, and a meaningful comparative analysis between each alternative candidate and the proposed site explaining the reasons why the applicant rejected the alternative candidate.
- (2) A complete alternative sites analysis may include less than three (3) alternative sites if the applicant provides a detailed written explanation why it could not identify at least three (3) potentially available higher ranked alternative sites.
- (3) To disqualify potential collocations or alternative sites for failure to meet the applicant's service coverage objectives, the applicant shall provide: (a) a description of its objective, whether to close a gap or address a deficiency in coverage, capacity, frequency or technology; (b) technical maps or other exhibits with RF data to illustrate that the objective is not met using the alternative; and (c) a description of why the alternative does not meet the objective.

(b) Collocation Consent. A written statement must be signed by a person with authority to bind the applicant and the project owner indicating whether the applicant is willing to allow other transmission equipment to collocate with the proposed wireless communication facility .

(c) Review of the City Engineer. The City Engineer shall review all Alternative Sites Analyses regarding the location of towers in the city's rights-of-way. The approval and permitting of towers in the city's rights-of-way shall follow the guidelines of the City Engineer and the requirements of this Ordinance.

Section 18. Abandoned or Unused Towers. Towers not used for more than twelve (12) months shall be removed by the owner within ninety (90) days from the date of written notification from the city. Towers which are not maintained for more than six (6) months shall be removed by the owner within ninety (90) days from the date of written notification. A performance bond, cash, letter of credit, or other approved security shall be submitted for each tower to assure the removal of towers that are not maintained or abandoned,. The amount of security shall be based on the estimated cost of removing the tower, provided by a licensed Wyoming contractor in writing and submitted with the application. The city will add a ten percent (10%) contingency fee to the contractor's estimate. If the owner fails to remove any tower not maintained or abandoned, the city shall have the right to enter the premises and remove the tower without further notice to the owner. All removal costs shall be charged against the bond, cash, letter of credit, or other approved security and the owner.

Section 19. Emergency Action. The city may disconnect, dismantle, or otherwise remove any tower or communications facility that becomes an immediate hazard to the safety of persons or property, at the sole discretion of the City Administrator or his designee. The city shall notify the owner of any emergency action within twenty-four (24) hours. The owner and operator shall reimburse the city for the costs incurred by the city for action taken in accordance with this Section within thirty (30) days of receipt of an invoice from the city.

Section 20. Independent Consultant and RF Technical Review. The city may retain an independent consultant and/or an RF expert to evaluate permit applications for WCFs subject to zoning permits or administrative review.. The review may include, but is not limited to: (a) the accuracy and completeness of the items submitted with the application; (b) the applicability of analysis and techniques and methodologies proposed by the applicant; (c) the validity of conclusions reached by the applicant; and (d) whether the proposed WCF complies with the applicable approval criteria set forth in this section. The applicant shall pay the cost for independent consultant fees through a deposit, estimated by the city, to be paid within ten (10) days of the city's request. The application shall be deemed incomplete for purposes of application processing timelines until the deposit is received. If the cost does not exceed the deposit amount, the city shall refund any unused portion within thirty (30) days after the final permit is issued. If the permit application is withdrawn or the application is not permitted, the city shall refund any unused portion within thirty (30) days after the city receives a written request from the applicant. If the costs and fees exceed the deposit amount, the applicant shall pay the difference to the city within thirty (30) days of an invoice and before the permit is issued.

Section 21. Certificate of Occupancy.

- (a) A Certificate of Occupancy will be granted upon satisfactory evidence that the WCF was installed in substantial compliance with the approved plans and photo simulations.
- (b) If the WCF installation does not comply with the approved plans and photo simulations the applicant shall make the required changes to bring the WCF installation into compliance prior to operation of the WCF.

Section 22. Compliance.

- (a) All wireless communication facilities must comply with the standards and regulations of the FCC and all federal, state, and local laws.
- (b) The site and wireless communication facilities, including all landscaping, fencing and related transmission equipment must be maintained in accordance with all approved plans.
- (c) All graffiti on wireless communication facilities must be removed at the sole expense of the permittee after notification by the city to the owner/operator of the WCF.
- (d) If any federal, state, or local governmental license or any other governmental approval to provide communication services is revoked the permittee must inform the city of the revocation within thirty (30) days of receiving notice.

Section 23. Indemnification. Each permit issued for a WCF located on city property shall be deemed to have as a condition of the permit a requirement that the applicant defend, indemnify, and hold harmless the city and its officers, agents, employees, volunteers, and contractors from any and all liability, damages, or charges (including attorneys' fees and expenses) arising out of claims, suits, demands, or causes of action as a result of the permit process, a granted permit, construction, erection, location, performance, operation, maintenance, repair, installation, replacement, removal, or restoration of the WCF, or the applicant's negligence.

Section 24. Joint Planning Area.

- (a) Purpose and Applicability. The following regulations and standards apply only to the joint planning district between the city and the county within the planned district boundary and apply only to telecommunication facilities, utility facilities, and infrastructure as expressly identified in this section. If there is a conflict between this section and this Zoning Ordinance, the more restrictive requirements shall apply.
- (b) Telecommunications Facilities. This section establishes standards for placement of telecommunications facilities within the county's planned district boundary and regulates the installation of antennas and other wireless communication facilities consistent with federal law. This section also promotes and protects the public safety and public welfare of residents and contains regulations to minimize potential impacts of the installation of telecommunication facilities.
 - (1) Approval. A use permit is required for the following telecommunication facilities located within the county's planned district boundary:
 - (i) Any new telecommunication tower that is not part of a collocation.
 - (ii) Any collocation that increases the overall height of an existing tower in order to add antennas.
 - (iii) Any building- or roof-mounted antennas that are not screened from view.
 - (2) Exemptions. The following telecommunication facilities are exempt from the requirements of this section as specified below:
 - (i) A telecommunication facility shall be exempt from the regulations of this section if a permit issued by the Federal Communication Commission (FCC) specifically provides that the antenna is exempt from local regulation.
 - (ii) Satellite earth station (SES) antennas, which are two meters (6.5616 feet) or less in diameter or in diagonal measurement, located in any nonresidential zoning district. In order to reduce accidental tripping hazards and maximize stability of the structure, antennas shall be placed on top of buildings and as far away as possible from the edges of rooftops.
 - (iii) Parabolic antennas, direct broadcast satellite (DBS) antennas, and multi-point distribution service (MDS) antennas, which are one meter (3.2808 feet) or less in diameter or diagonal measurement, and television broadcast service (TVBS) antennas, if the antennas are located entirely on private property and are not located within the required front yard setback area.
 - (iv) Amateur radio antenna structures in the joint boundary, except as set forth below.
 - (3) Height Limits. Amateur radio antennas in any district may extend to a maximum height of seventy-five (75) feet, if the tower is equipped with a lowering device (motorized and/or mechanical).
 - (4) Location parameters. All antenna structures shall be located outside of all required setback areas.

- (5) Tower safety. All antennas shall be located within an enclosed fenced area or have a minimum five (5) foot-high tower shield at the tower base to prevent climbing. All active elements of antennas shall have a minimum vertical clearance of eight (8) feet.
- (6) Application Requirements. An application for the approval of a telecommunication facility shall include the following information in addition to all other information required for a Use Permit:
- (i) Visual simulations showing what the proposed facility will look like from the surrounding area as viewed from residential properties and public rights-of-way at varying distances, to assist the approving authority as defined in the county code and the public in assessing the visual impacts of the proposed facility and its compliance with the regulations of this section.
 - (ii) For wireless communication towers, a map or description of the service area of the proposed telecommunication facility and an explanation of the need for the facility.
 - (iii) For wireless communication towers, a map showing the locations and service areas of other telecommunication facility sites operated by the applicant and those that are proposed by the applicant that are close enough to affect service within the county. A written explanation of why adjacent existing wireless communication facilities could not be used for collocation shall be required. The explanation shall include documentation demonstrating that attempts have been made to co-locate with existing wireless communication facility sites.
 - (iv) Description of the proposed approach for screening all wireless communication facilities from public view including plans for installation and maintenance of buffering and sample exterior materials and colors. Where applicable, a plan showing existing surrounding landscaping, proposed landscaping, a landscape protection plan for construction, and a maintenance plan including an irrigation plan.
 - (v) For wireless communication towers, a narrative description and map showing the coverage area and location of the provider's existing wireless communication facilities and the proposed coverage area of the specific site that is the subject of the application.
 - (vi) Technical information explaining the reasons that a permit is being sought, the reasons that the subject site is considered necessary to accomplish the provider's coverage objectives, and the reasons that the proposed site is the most appropriate location under existing circumstances.
- (7) General Development Standards. The following general development standards shall apply to all wireless communication facilities:
- (i) All wireless communication facilities shall comply with all applicable requirements of the current county building code and county regulations, as well as other standards and guidelines adopted by the county.
 - (ii) To minimize the overall visual impact, new telecommunication facilities shall collocate with existing facilities, with other planned new facilities, and with other facilities such as water tanks, light structures, and other utility structures whenever feasible. To facilitate collocation, conditions of approval for use permits shall require all service providers to cooperate in the siting of equipment and antennas to accommodate the maximum number of operators at a site. The

applicant shall agree to allow future collocation of additional antennas and shall not enter into an exclusive lease for the use of the site.

- (iii) At least ten (10) feet of horizontal clearance shall be maintained between any part of the antenna and any power lines unless the antenna is installed to be an integral part of a utility tower or facility.
 - (iv) Site design. All facilities shall be designed to minimize the visual impact to the greatest extent possible, considering technological requirements, by means of placement, screening, and/or camouflage, to be compatible with existing architectural elements, landscape elements, and other site characteristics. The applicant shall use the smallest and least visible antennas possible to accomplish the owner/operator's coverage objective. A visual impact analysis is required to demonstrate how the proposed facility will appear from public rights-of-way.
 - (v) Safety design. All facilities shall be designed to be resistant to and minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions.
 - (vi) Location. Towers shall not be located in any required front or street side yard in any zoning district. The setback distance from any abutting street right-of-way or residential property line shall be equal to the height of the facility (tower and related equipment). Otherwise, the minimum setback distance from all other property lines shall be at least equal to one hundred percent (100%) of the height of the tower.
 - (vii) Height limit. The height limit for towers shall be consistent with the maximum building height of the zoning district of the subject parcel and any applicable Federal Aviation Administration regulations. Exceptions to the height limit may be granted when the applicable director (as defined in the county code) finds that reasonable alternatives do not exist to provide the necessary service. There is no height limit specified for collocations on existing structures, provided facilities are screened from view of abutting street rights-of-way or camouflaged by matching the color(s) and/or material(s) of the structure to which it is attached.
 - (viii) Lighting. The applicable director shall require approved lighting for towers and related equipment.
 - (ix) Landscape. The applicable director shall approve landscaping.
 - (x) Design/Finish. New towers shall have subdued colors and nonreflective materials that blend with the colors and materials of surrounding areas.
 - (xi) Advertising. The tower and related equipment shall not bear any signs or advertising devices other than certification, warning, or other required seals or signs.
- (8) Development Standards for Antennas (excluding amateur radio antennas). The following development standards shall apply to receive-only antennas (ground- and building-mounted), parabolic antennas, and satellite earth stations as defined in this section.
- (i) Antenna location. Parabolic antenna and satellite earth stations shall be ground-mounted in residential zoning districts. In all nonresidential zoning districts, the preference is for building-mounted antenna. No antenna shall be located in the required front or street side yard of any parcel unless entirely screened from pedestrian view of the abutting street rights-of-way (excluding alleys). In all zoning districts, ground-mounted antennas shall be situated as close to the

ground as possible to reduce visual impact without compromising their function and all portions of the structure/antenna shall be set back a minimum of six (6) feet from any property line.

- (ii) Height limit. The height limit for ground-mounted antenna is six (6) feet. The height may be increased to a maximum of fifteen (15) feet if the setback distance from all property lines is at least equal to the height of the antenna and if the structure is screened in accordance with subsection (iii). Building- and roof-mounted antenna shall not extend above the roofline, parapet wall, or other roof screen beyond a maximum of four (4) feet or extend out from the face of the building or other support structure by more than eighteen (18) inches.
 - (iii) Screening. Ground-mounted antennas shall provide screening to meet the approval of the applicable director. To facilitate collocations, screening will be reduced to fifty percent (50%) for placement of antennas on existing towers when there is no increase in the overall height of the tower.
- (9) Operation and Maintenance Standards. Non-ionizing electromagnetic radiation (NIER) exposure. To the extent permitted by law, no wireless communication facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. No facility or combination of facilities shall produce, at any time, power densities in any inhabited area that exceed the FCC's maximum permissible exposure (MPE) limits for electric and magnetic field strength and power density for transmitters or any more restrictive standard subsequently adopted by the federal government.
- (10) Removal Regulations. If a wireless communication facility is not operated for the provision of wireless communication services for a continuous period of three (3) months, the facility shall be deemed abandoned. The facilities shall be removed within thirty (30) days following the mailing of written notice. If two (2) or more providers of wireless communication services use the antenna support structure or related equipment, the period of nonuse under this section shall be measured from the cessation of operation at the location by all such providers. Failure to remove within the time required under these regulations shall constitute a violation of this section.
- (11) Effects of Development. The county shall not be liable if development within the county, after installation of a wireless communication facility impairs reception.

Section 25. Laws, Rules and Regulations. The amended sections, including Section 13, shall be subject to all applicable laws, rules, and regulations, and its terms and provisions shall be deemed to comport with any subsequent changes in applicable federal law.

Section 26. Severability. The various parts, sentences, paragraphs, sections, and clauses of this section are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the section shall not be affected thereby.

Section 27. Conflicts. These Wireless Communication Facilities regulations are in addition to other regulations in the Zoning Code. In the case of a conflict between the regulations in this ordinance and other regulations, the most restrictive shall apply.

WHEREUPON, a motion was passed and the Ordinance declared adopted this ____ day of _____, 2018.

CITY OF GILLETTE

Mayor

ATTEST:

City Clerk

FIRST READING:

SECOND READING:

THIRD READING:

PUBLISHED:

EFFECTIVE THE _____ DAY OF _____, 2018.

DRAFT