

AGENDA
PLANNING AND ZONING MEETING
March 15, 2018
6:00 P.M.
COUNCIL CHAMBERS
CITY HALL, 200 NORTH DAVID

Meetings can be viewed online at www.casperwy.gov on the Planning Commission web page.

PLANNING AND ZONING POLICY
PUBLIC STATEMENTS

1. Use of Cellular telephones is not permitted, and such telephones shall be turned off or otherwise silenced during the Planning and Zoning Meeting.
2. Speaking to the Planning and Zoning Commission (These guidelines are also posted at the podium in the Council Chambers).
 - Clearly state your name and address.
 - Please keep your remarks pertinent to the issue being considered by the Planning and Zoning Commission.
 - Please do not repeat the same statements that were made by a previous speaker.
 - Please speak to the Planning and Zoning Commission as you would like to be spoken to.
 - Please do not address Applicants or other audience members directly.
 - Please make your comments at the podium and directed to the Planning and Zoning Commission.
3. The City of Casper Planning and Zoning Commission is a volunteer body composed of members of the Casper Community, and appointed by the Casper City Council. The Commission acts as a quasi-judicial panel, making final decisions on some specific items, and recommendations to the City Council on others as dictated by law. The Commission may only consider evidence about any case as it relates to existing law. The Commission cannot make or change planning or zoning laws, regulations, policies or guidelines.

AGENDA

- I. CALL TO ORDER**
- II. MINUTES: January 18, 2018 Meeting**
- III. PUBLIC HEARINGS:**

- A. An Ordinance Amending Section 17.12.124 – Towers of the Casper Municipal Code; Providing Definitions; Providing for Permitted Locations; Providing for Permits; Providing for Severability; Providing for Repealer; and Providing for an Effective Date.

VI. COUNCIL ACTIONS:

The following item(s) have been approved by the City Council since the last Planning and Zoning Commission meeting.

Approve an Amendment to the New Delta Addition Subdivision Agreement Dated August 3, 1999.

Approve a Replat creating Meadow View Estates Addition No. 2, Lots 24 and 25, Block 3.

V. SPECIAL ISSUES:

VI. COMMUNICATIONS:

- A. Commission
- B. Community Development Director
 - 1) Old Business Items
 - 2) New Business Items
- C. Council Liaison
- D. Other Communications

VII. ADJOURNMENT

**PLANNING AND ZONING MEETING
THURSDAY, JANUARY 18, 2018
CITY COUNCIL CHAMBERS**

These minutes are a summary of the meeting. For full details view online at www.casperwy.gov on the Meetings and Agendas web page. The Planning and Zoning Commission held a meeting at 6:00 p.m., on Thursday, January 18, 2018, in the Council Chambers, City Hall, 200 North David Street, Casper, Wyoming.

Members Present: Bob King
 Fred Feth
 Randy Hein
 Don Redder
 Ryan Waterbury
 Susan Frank
 Erik Aune

Absent Members: None

Others present: Liz Becher, Community Development Director
 Craig Collins, City Planner
 Aaron Kloke, Planner I
 Dee Hardy, Administrative Support Technician
 Wallace Trembath, Assistant City Attorney
 Bob Hopkins, Council Liaison
 Cameron Santistevan, 4011 Swanton Avenue
 Jennifer Santistevan, 4011 Swanton Avenue

Bob Hopkins asked outgoing Commissioner James Holloway to join him at the podium. Mr. Hopkins read a letter signed by Mayor Pacheco thanking Mr. Holloway for his service on the Planning and Zoning Commission. He presented Mr. Holloway with a picture of Casper, and stated that Council appreciates the Planning and Zoning Commission.

Mr. Holloway thanked Mr. Hopkins and stated it was a privilege and pleasure to serve on the Planning and Zoning Commission.

II. ELECTION OF OFFICERS

Mr. Trembath called the meeting to order, explained the election process, and advised the Planning & Zoning Commission to elect a substitute presiding officer for the election process.

Mr. Trembath opened the floor for nominations for the position of substitute presiding officer. Mr. Waterbury nominated Mr. King for substitute presiding officer. Mr. Trembath asked for other nominations, there being none he called for a motion to close nominations. Mr. Hein moved to close the nominations. The motion was seconded by Mr. Hein. All those present voted aye. Mr. King was elected substitute presiding officer.

Mr. King opened the floor for nominations for the position of Vice-Chairman. Mr. King nominated Mr. Feth for Vice-Chairman. Mr. Feth declined the nomination. Mr. King nominated Mr. Waterbury for Vice-Chairman. Mr. King asked for other nominations, there being none he called for a motion to close nominations. Mr. Waterbury moved to close nominations. The motion was seconded by Mr. Feth. Mr. King asked members to cast their vote. All those present voted aye. Mr. Waterbury was elected Vice-Chairman for 2018.

Mr. King opened the floor for nominations for the position of Chairman. Mr. Redder nominated himself for Chairman. Mr. Hein moved to close the nominations. Mr. Redder seconded the motion. All those present voted aye. Mr. King asked members to cast their vote. All those present voted aye with the exception of Mr. Redder who abstained. Mr. Redder was elected Chairman for 2018.

III. MINUTES OF THE PREVIOUS MEETING

Chairman Redder asked if there were additions or corrections to the minutes of the September 28, 2017 Planning & Zoning Commission meeting.

Chairman Redder called for a motion to approve the minutes of the September 28, 2017 Planning & Zoning Commission meeting.

Mr. Waterbury made a motion to approve the minutes of the September 28, 2017 meeting. The motion was seconded by Mr. King. All those present voted aye with the exception of Mr. Redder and Mr. Aune who abstained. Minutes approved.

Chairman Redder asked if there were additions or corrections to the minutes of the December 14, 2017 Planning & Zoning Commission meeting.

Chairman Redder called for a motion to approve the minutes of the December 14, 2017 Planning & Zoning Commission meeting.

Mr. King made a motion to approve the minutes of the December 14, 2017 meeting. The motion was seconded by Mr. Hein. All those present voted aye with the exception of Mr. Waterbury and Mr. Aune who abstained. Minutes approved.

IV. PUBLIC HEARING

The first case this evening.

PLN-18-001-C – Conditional Use Permit application for the construction of a 2,450 square foot detached garage, in excess of the 1,500 square foot maximum permitted in an R-1 (Residential Estate) zoning district, on Lot 3, Longview #2 Addition, located at 4011 Swanton Avenue. Applicant: Cameron L. Santistevan.

Craig Collins, City Planner, presented a summary of the staff report which recommended that if, the Planning and Zoning Commission finds that the requested Conditional Use Permit meets the two (2) reasons and six (6) findings necessary for the approval of a Conditional Use Permit, found in Section 17.12.240 (G) and (H) of the Casper Municipal Code, as outlined below, staff recommends that the Planning and Zoning Commission articulate its findings, and apply the following conditions of approval:

1. Pursuant to Section 17.12.240(I) of the Casper Municipal Code, the Conditional Use Permit shall be “exercised,” and all conditions shall be met within one (1) year of the date of approval, or the Conditional Use Permit shall become null and void.
2. The detached garage shall be constructed in compliance with all Municipal Code requirements, including, but not limited to, the type of siding, maximum height, and the pitch of the roof.

Mr. Collins entered five (5) exhibits into the record for this case.

Chairman Redder opened the public hearing and asked for the person representing the case to come forward and explain the application.

Cameron and Jennifer Santistevan, 4011 Swanton Avenue, spoke in favor of this case.

Mr. Santistevan advised the addition of the oversized garage would accommodate their large family with multiple teenage drivers and store a camper, trailer, and classic cars. He stated that he would be a courteous neighbor by not parking in front of his neighbor’s homes.

Mr. King asked if Conditions #1-2 listed in the staff report were acceptable.

Mr. Santistevan stated that Conditions #1-2 listed in the staff report were acceptable.

Mr. Waterbury asked if they had visited with their neighbor next door.

Mr. Santistevan advised that he visited with the neighbor next door and several others with the exception of one or two, and after his visit they did not have any issues with him placing an oversized garage on his property.

Mr. Waterbury asked if the structure would be a steel.

Mr. Santistevan stated that the structure would be a pole building with lap siding and a steel roof. If those construction items were permissible.

Mr. Hein inquired about constructing an attached garage instead of the oversized detached garage.

Mr. Santistevan indicated that an attached garage would cover a bedroom window, and he noted that where parking was indicated in front of the proposed building would not be all concrete as Mrs. Santistevan would like some area designated as yard.

Mr. Aune asked what the height of the existing home was.

Mr. Santistevan stated the home consisted of a garden basement he guessed it as 12 feet in height with the peak of the roof around 15 feet.

Chairman Redder asked for anyone wishing to comment in favor of or opposition to this case.

There being no one to speak, Chairman Redder closed the public hearing and entertained a motion to approve, deny, or table PLN-18-001-C, regarding the zoning.

Mr. King made a motion to approve case PLN-18-001-C for the construction of a 2,450 square foot detached garage, in excess of the 1,500 square foot maximum permitted in an R-1 (Residential Estate) zoning district, on Lot 3, Longview #2 Addition, located at 4011 Swanton Avenue, with Conditions #1-2, for the two (2) Reasons and Findings A-F listed in the staff report. The motion was seconded by Mr. Waterbury.

There was discussion on:

- Massive size of the building.
- Compatibility within the neighborhood.
- Size of building is extreme to gain extra parking.
- Appreciative that the applicant visited with neighbors.

Chairman Redder asked members to cast their vote. All those present voted nay with the exception of Chairman Redder and Mr. King who voted aye. Motion failed.

Mr. Santistevan asked if he could address the Commission. Chairman Redder invited him to the podium. Mr. Santistevan asked what his options were since this failed.

Mr. Collins advised he has three (3) options: file an appeal with City Council, attach the garage to the home (this options does not require a Conditional Use Permit), and lastly construct the building within the 1500 square foot limit.

Mr. Waterbury commented that he did not want the applicant to feel picked upon. The Commission has to carefully weigh these decisions as they do not want to set a precedence.

The next case is:

An Ordinance Amending Section 17.12.120 of the Casper Municipal Code Pertaining to Fences, Walls, Hedges, Shrubs, Trees, Accessory Buildings and Accessory Uses.

Craig Collins, City Planner, presented a summary of the staff report and which recommends a Municipal Code Text Amendment to Section 17.12.120 of the Casper Municipal Code to allow residential properties to construct six (6) foot high fences in a front yard, when the front yard is located directly adjacent to a Commercial Use.

He stated that several months ago, the Planning and Zoning Commission was presented with a zone change request in North Casper, the purpose of which was to change the property from residential zoning to commercial zoning to allow the property owner to keep a six (6) foot fence she had constructed in violation of the City's front yard fencing height restrictions. The property owner's purpose in constructing the fence was to buffer her multi-family residential property from the commercial property directly adjacent to it. The zone change was ultimately approved by the City Council, which allowed the property owner to keep the fence; however, the City Council directed staff to amend the Municipal Code to allow residential properties that border commercial properties to construct a buffering fence along the entire common lot line between the two properties. This is a relatively simple amendment that staff believes will improve compatibility between dissimilar uses, but also, doesn't open up the possibility for every residential property in the City to construct a tall fence in the front yard.

The Planning and Zoning Commission is required to review all ordinance changes to Title 17 (Zoning Regulations) of the Municipal Code, and to send its recommendation to the City Council for consideration.

Chairman Redder asked if there was anyone in the audience wanting to give comments regarding amending Section 17.12.120 of the Casper Municipal Code.

Bob Hopkins, 405 South Beech Street, spoke in favor of this Ordinance Amendment.

There being no others to speak, Chairman Redder closed the public hearing and entertained a motion to approve, approve with conditions, deny, or table the Amendments to Section 17.12.120 of the Casper Municipal Code to allow residential properties to construct six (6) foot high fences in a front yard, when the front yard is located directly adjacent to a Commercial Use.

Mr. King made a motion to approve the Municipal Code Text Amendments to Section 17.12.120 of the Casper Municipal Code to allow residential properties to construct six (6)

foot high fences in a front yard, when the front yard is located directly adjacent to a Commercial Use and forward a “do pass” recommendation to City Council. The motion was seconded by Mr. Waterbury.

There was discussion on:

- Possibly creating an issue with a resident located on a corner lot.
- Site triangle for vehicles.
- Safety issue of trees and shrubs in the parkway.
- Good solution for this case and future cases.

Chairman Redder asked members to cast their votes. All those present voted aye. Motion carried.

V. COUNCIL ACTIONS:

Approved a Zone Change of the CPH Addition, Aryn Lane, West of Coffman Avenue to R-3 (One to Four Unit Residential).

Approve a Conditional Use Permit for a 100’ Cell Tower in a PH (Park Historic) Zoning District, Associated Site Plan for Construction of said Tower, and Authorize a Lease Agreement between the City of Casper and Verizon Wireless (VAW), LLC.

VI. SPECIAL ISSUES:

Appointment of two (2) Planning and Zoning Commissioners to the OYD (Old Yellowstone District) Advisory Board, for a one-year term ending December 31, 2018.

Chairman Redder asked if the two (2) gentlemen currently serving on the OYD (Old Yellowstone District) Advisory Board were interested in continuing their service. Mr. Redder advised that he would pass this year. Mr. Hein indicated he was interested in continuing his service. Chairman Redder asked if there were any other members of the Planning and Zoning Commission that may have an interest. Mr. Feth volunteered to serve on the OYD (Old Yellowstone District) Advisory Board. The Planning and Zoning representatives on the OYD (Old Yellowstone District) Advisory Board for 2018 are Mr. Hein and Mr. Feth.

VI. COMMUNICATIONS:

- A. Commission:
There were none.

B. Community Development Director:

Liz Becher stated that she had two (2) items this evening. The first being an invitation to the Parking Study Public Open House on Tuesday, February 13, 2018, City Hall Lobby and meet the consultants for the Parking Study on Wednesday, February 14, 2017. She noted the Parking Study project manager is Aaron Kloke, MPO (Metropolitan Planning Organization) Supervisor.

Ms. Becher advised that beginning in the month of February Planning and Zoning Trainings would return and be held during the lunch hour. She asked if there were any days of the week that did not work for any of them. Monday and the second Tuesday of each month were not good days. Generally Wednesday or Friday were good days of the week for training. She noted that we would be looking at dates and would keep the Commission updated. Mr. King requested Carpenterville, Indiana for a training topic.

C. Other Communications:

There were none.

D. Council Liaison:

Bob Hopkins, Council Liaison congratulated the newly elected Chairman and Vice Chairman. He thanked the Planning and Zoning Commission for all they do, and stated that Council appreciates them.

VII. ADJOURNMENT


Chairman Redder called for a motion for the adjournment of the meeting. A motion was made by Mr. Hein and seconded by Mr. King to adjourn the meeting. All present voted aye. Motion carried. The meeting was adjourned at 7:56 p.m.

Chairman

Secretary

March 9, 2018

MEMO TO: Don Redder, Chairman,
Members of the Planning and Zoning Commission

FROM: Liz Becher, Community Development Director 
Craig Collins, AICP, City Planner

SUBJECT: Municipal Code Text Amendment to Section 17.12.124 of the Casper Municipal Code Pertaining to Telecommunication Tower Regulations.

The demand for good cellular coverage and seamless connection to wireless broadband continues to grow. In response, wireless service providers estimate that next year alone, at least 150,000 new wireless telecommunication facilities will be installed nationwide, and more than 500,000 will be installed the following year to keep up with consumer demand for data and to deploy 5g networks.

The Telecommunications Act of 1996 states that local governments cannot “prohibit or have the effect of prohibiting wireless facilities,” but also preserves local zoning authority over the “placement, construction, and modification of wireless facilities.” Several other layers of law apply, and it appears clear that wireless telecommunication providers may locate in public rights of way.

While these new technologies are valuable to the community, City staff has concerns about preserving the integrity of the community and protecting its valuable property rights in its rights of way. Additionally, several factors make these new mini-towers different from traditional cell towers including: (1) location in City rights of way, instead of on leased or licensed public and private property; (2) the granting of utility status to distributed antenna system (“DAS”) contractors; (3) public safety concerns, and (4) the speed with which deployment is occurring.

City Council previously approved a contract with Thomas F. Duchon & Associates, Inc., d/b/a River Oaks Communications Corporation, to assist the City in updating its telecommunications ordinances and application packets, and allow for the new technology in accordance with federal law, while concurrently balancing the public interests in City rights of way. The consultant worked for several months, with City staff, to tailor the proposed ordinance to the needs of Casper, while being compliant with federal law, rules and regulations.

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 17.12.124 - TOWERS OF THE CASPER MUNICIPAL CODE; PROVIDING DEFINITIONS; PROVIDING FOR PERMITTED LOCATIONS; PROVIDING FOR PERMITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 17.12.124 - Towers of the Casper Municipal Code currently governs the City's regulation of wireless communication facilities; and

WHEREAS, federal laws, regulations and court decisions, wireless technology and consumer usage have reshaped the environment within which wireless communication facilities are permitted and regulated; and

WHEREAS, federal laws and regulations that govern local zoning standards and procedures for wireless communications have substantially changed since the City adopted Section 17.12.124 of the Casper Municipal Code; and

WHEREAS, the City Council of the City of Casper desires to update its 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 and Zoning Commission conducted a hearing on proposed amendments to Section 17.12.124 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 and Zoning Commission regarding this Section which modifies the Casper Municipal Code sections relating to wireless communication facilities.

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

Section 1. Repealer and Amendments. That existing Section 17.12.124 - Towers of the Casper Municipal Code is hereby repealed and a new Section 17.12.124 Wireless Communication Facilities Regulations ("Section") is inserted in its place.

Section 2. Purpose. The provisions of this Section shall be known as the Wireless Communication Facilities Regulations. It is the purpose of these provisions to delineate restrictions, development standards and siting criteria, and establish removal procedures in order to protect the City from the uncontrolled siting of wireless communication facilities in locations that have significant adverse effects and cause irreparable harm. It is further the purpose of these provisions:

- (a) To protect the community's visual quality and safety while facilitating the reasonable and balanced provision of wireless communication services. More specifically, it is the City's goal to minimize the visual impact of wireless communication facilities on the community, particularly in and near residential zones;
- (b) To promote and protect the public health, safety and welfare, preserve the aesthetic character of the Casper 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;
- (c) To minimize the impact of wireless communication facilities by establishing standards for siting design and screening;
- (d) To preserve the opportunity for continued and growing service from the wireless industry;
- (e) To accommodate the growing need and demand for wireless communication services;

- (f) To establish clear guidelines and standards and an orderly process for review intended to facilitate the deployment of wireless transmission equipment, to provide advanced communication services to the City, its residents, businesses and community at large;
- (g) To ensure City zoning regulations are applied consistently with federal and State telecommunications laws, rules, regulations and controlling court decisions; and
- (h) To provide regulations which are specifically not intended to, and shall not be interpreted or applied to, (1) prohibit or effectively prohibit the provision of wireless services, (2) unreasonably discriminate among functionally equivalent service providers, or (3) regulate wireless communication facilities and wireless transmission equipment on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with the standards established by the Federal Communications Commission.

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 in communications that sends or receives digital signals, analog signals, radio frequencies or wireless communication signals.
- (b) "Antenna array" means a single or group of antenna elements, not including DAS and 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 and who submits an application.
- (d) "Backhaul network" means the lines that connect a provider's towers or cell sites to one or more cellular telephone switching offices or long distance providers, or the public switched telephone network.
- (e) "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.
- (f) "Collocation" means the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- (g) "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.
- (h) "Downtown area" means the area is located in the downtown development district boundaries and the OYDSPC as shown on the zoning map.
- (i) "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.
- (j) "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.
- (k) "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.
- (l) "FAA" means the Federal Aviation Administration.
- (m) "FCC" means the Federal Communications Commission.
- (n) "Macrocell" means an antenna or antennas mounted on a tower, ground-based mast, rooftops and other structures, at a height that provides a clear view over the surrounding buildings and terrain.
- (o) "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.
- (p) "Small cells" mean compact wireless equipment that contain their own transceiver equipment and function like cells in a wireless network but provide a smaller coverage area than traditional macrocells.
- (q) "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.
- (r) "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 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10%

or more than ten feet, whichever is greater. Changes in height shall 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 original 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 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 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 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 10% larger in height or overall volume than any other ground cabinets associated with the structure;
 - (4) It entails 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).
- (s) "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.
 - (t) "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 feet (10') in height, shall not be included within tower height.
 - (u) "Transmission equipment" means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - (v) "Utility support structure" means utility poles or utility towers supporting electrical, telephone, cable or other similar facilities; street light standards; or pedestrian light standards.
 - (w) "Wireless Communication Facilities" or "WCF" means a staffed or unstaffed facility or location or equipment for the transmission or reception of radio frequency (RF) signals or other wireless communications or other signals for commercial communications purposes, typically consisting of one or more antennas or group of antennas, a tower or attachment support structure,

transmission cables and other transmission equipment, and an equipment enclosure or cabinets, and including small cell technologies.

Section 4. Applicability.

- (a) New Towers, Antennas, DAS and Small Cells. All new towers, antennas, DAS and small cells in the City shall be subject to these regulations.
- (b) Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Section, except as otherwise provided herein.
- (c) Exempt Facilities. The following are exempt from this Section:
 - (1) FCC licensed amateur (ham) radio facilities;
 - (2) Satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter in diameter;
 - (3) A government-owned WCF installed 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 WCF shall be exempt from the provisions of this Section for up to one month after the duration of the state of emergency;
 - (4) A temporary, commercial WCF installed for providing coverage of a special event such as news coverage or sporting event, subject to administrative approval by the City. The WCF shall be exempt from the provisions of this Section for up to one week before and after the duration of the special event; and
 - (5) 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 setbacks and height requirements.

Section 5. Tower Requirements.

- (a) All towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources, shall obtain a city building permit from the building inspector prior to construction or erection.
- (b) The design of all towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources shall comply with applicable sections of the most recent edition of the Building Code, as adopted by the City.
- (c) Preengineered and prefabricated towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources shall require certification of a Wyoming professional engineer, providing that the structure and installation are in accordance with manufacturer's recommendations. All drawings and installation instructions are subject to the approval of the chief building official or the designee thereof.
- (d) All non-preengineered and non-prefabricated towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources, including the substructure, shall be designed by a licensed professional engineer, registered in the state.
- (e) All towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources shall be installed and maintained in compliance with applicable federal, state and City codes.

- (f) All towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources shall be supported from a fixed location and nontransportable.

Section 6. Distributed Antenna Systems and Small Cells.

- (a) Distributed Antenna Systems and small cells are allowed in all zones by right (unless they involve the installation of a pole, tower or building) and except for the FC or OYD zones, as long as all other requirements of the zoning district are met along with stealth requirements, regardless of the siting preferences listed in Section 10 herein, provided the applicant also complies with all federal laws (such as the Americans with Disabilities Act) and State laws and requirements.
- (b) Distributed Antenna Systems and small cells in all zones are subject to approval by administrative review unless their installation requires the construction of a new pole, tower or building. A Conditional Use Permit shall not be required for stealth replacement utility support structures, so long as they are substantially 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 spaced to provide wireless coverage in a defined geographic area. A single license agreement may be used for multiple node locations in DAS and/or small cell networks.

Section 7. General Requirements.

- (a) Inventory of Existing Sites. Each applicant for a macrocell tower shall provide to the Community Development Department an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City or within one-half mile of the border thereof, including specific information about the location, height, and design of each tower or antenna. The Community Development Department may share such information with other applicants applying for administrative approvals or conditional use permits under this Section or other organizations seeking to locate antennas within the jurisdiction of the City; provided, however, that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (b) Color. The antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure. Support towers shall be painted a color that best allows it to blend into the surroundings. The use of grays, blues, greens, dark bronze, browns or other site specific colors may be appropriate; however, each case will be evaluated individually.
- (c) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the chief building official or the designee thereof may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding property owners. Security lighting for the equipment shelters or cabinets and other on the ground ancillary equipment is also permitted, as long as it is appropriately down shielded to keep light within the boundaries of the site.
- (d) State or Federal Requirements. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, and if WCF equipment is added either through collocation or replacement, then the owners of the towers and antennas governed by this Section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- (e) Building Permit. A building permit is required for all wireless communication facilities, and shall be subject to the site development standards prescribed herein. A site development plan 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 required landscaping.
- (f) Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable industry standards for towers, as amended from time to time. Compliance with this Section is subject to the Casper Municipal Code enforcement procedures, and other applicable provisions of the Casper Municipal Code. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower at the owner's expense.
- (g) Notice. For purposes of this Section, any conditional use permit or appeal of a conditional use shall require notice as required by the Casper Municipal Code.
- (h) Signs. No facilities may bear any signage or advertisement(s) other than signage required by law or expressly permitted/required by the City.
- (i) Visual Impact. All WCFs in residential uses and zones and within two hundred feet (200') of residential zones or in the downtown area shall be sited and designed to minimize adverse visual impacts on surrounding properties and the traveling public to the greatest extent reasonably possible, consistent with the proper functioning of the WCF. Such WCFs and equipment enclosures shall be integrated through location and design to blend in with the existing characteristics of the site. Such WCFs shall also be designed to either resemble the surrounding landscape and other natural features where located in proximity to natural surroundings, or be compatible with the built environment, through matching and complimentary existing structures and specific design considerations such as architectural designs, height, scale, color and texture or be consistent with other uses and improvements permitted in the relevant zone.
- (j) Use of Stealth Design. The applicant shall provide justification if it is not employing stealth design. Stealth design is required in all zones (for example, in residential zones, the OYD and the downtown area), 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, so as to be visually unobtrusive. Stealth design that relies on screening wireless communication facilities in order to reduce visual impact must screen all substantial portions of the facility from view. Stealth and concealment techniques do not include incorporating faux-tree designs of a kind that are not native to the City of Casper.
- (k) Building-mounted WCFs.
- (1) All transmission equipment shall be concealed within existing architectural features to the maximum extent feasible. Any new architectural features proposed to conceal the transmission equipment shall be designed to mimic the existing underlying structure, shall be proportional to the existing underlying structure or conform to the underlying use and shall use materials in similar quality, finish, color and texture as the existing underlying structure.

- (2) All roof-mounted transmission equipment shall be set back from all roof edges to the maximum extent feasible consistent with the need for "line-of-sight" transmission and reception of signals.
 - (3) Antenna arrays and supporting transmission equipment shall be installed so as to camouflage, disguise or conceal them to make them closely compatible with and blend into the setting or host structure.
- (l) Antenna Arrays. Wireless communication antenna arrays are permitted in any zone as long as they are located upon an existing structure (except on single family houses, signage or a building less than sixty feet [60'] in height), that provides sufficient elevation for the array's operation without the necessity of constructing a tower or other apparatus to extend the antenna array more than fifteen feet (15') above the structure. Installation on City property requires the execution of necessary agreements. However, if any support tower is needed to achieve the needed elevation, then a Conditional Use Permit is required. If a new equipment cabinet is to be installed, it must be screened if it is higher than the existing screened facility.
- (m) 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 so as to reduce the overall visual profile to the maximum extent feasible.
 - (2) License or agreement. For all WCFs to be located within the right-of-way, prior to submitting for a permit, the applicant must have a valid municipal agreement, license, franchise agreement, Right-of-Way agreement, encroachment permit or exemption otherwise granted by applicable law. If the applicant is willing to install its ancillary facilities underground, that determination by the City shall be subject to administrative review.
- (n) Accessory Uses.
- (1) Accessory uses shall be limited to such structures and equipment that are necessary for transmission or reception functions, and shall not include broadcast studios, offices, vehicles or equipment storage, or other uses not essential to 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 site plan approval.
 - (3) No equipment shall be stored or parked on the site of the tower, unless used in direct support of the antennas or the tower that is being repaired.
- (o) Accessory Equipment. In residential zones, all accessory equipment located at the base of a WCF shall be located or placed (at the applicant's choice) in an existing building, underground, or in an equipment shelter that is (a) designed to blend in with existing surroundings, using architecturally compatible construction and colors; and (b) be located so as to be unobtrusive as possible consistent with the proper functioning of the WCF.
- (p) Site Design Flexibility. Individual WCF sites vary in the location of adjacent buildings, existing trees, topography and other local variables. By mandating certain design standards, there may result a project that could have been less intrusive if the location of the various elements of the project could have been placed in more appropriate locations within a given site. Therefore, the WCF and supporting equipment may be installed so as to best camouflage, disguise them, or

conceal them, to make the WCF more closely compatible with and blend into the setting or host structure, upon approval by the Community Development Director or the designee thereof.

(q) General Standards and Construction Provisions.

- (1) All structures shall be constructed and installed to manufacturer's specifications, and constructed as required by the City's currently adopted Building Code, as amended, and required setback provisions as prescribed for the zoning districts.
- (2) Structures shall be permitted and constructed to meet the City's currently adopted Building Code requirements.
- (3) All structures shall conform to FCC and FAA regulations, if applicable.
- (4) If any setback as prescribed within this Code requires a greater distance than required of this Section, the greater distance shall apply.
- (5) **Landscaping and Fencing.** In all zoning districts, the following additional landscaping shall be required beyond that which is required for the zone in which it is located:
 - (i) Equipment shelters and cabinets and other on the ground ancillary equipment shall be screened with landscaping as required for the zone in which located or with another design acceptable to the Community Development Department. Alternatively, where technically feasible, the applicant shall incorporate the cabinet and other equipment into the base of a new pole (for example, for a small cell) provided there is adequate space in the right-of-way and that ADA sidewalk accessibility requirements can be met. All provisions of the ADA, including, but not limited to, clear space requirements, shall be met by the applicant.
 - (ii) The ground level view of towers shall be mitigated by additional landscaping provisions as established through the conditional use permit process. The use of large trees from the approved urban forestry list of recommended species or native conifers is required at the spacing specified for the specific trees chosen. Alternatively, a landscaping plan may be submitted with the conditional use permit and, if approved, shall take precedence over the foregoing requirement.
 - (iii) A site-obscuring fence (for example, wrought iron as opposed to barbed wire) no less than six feet (6') in height from the finished grade shall be constructed around each macrocell tower and around related support or guy anchors. Access shall only be through a locked gate. Any fence shall comply with the other design guidelines of the Casper Municipal Code.
- (6) **New Poles.** To the extent technically feasible, new poles must be designed to match the existing light fixtures and other poles, and they shall serve a dual purpose (for example, a new light fixture, flag pole or banner clips).
- (7) **Other Published Materials.** All other information or materials that the City may reasonably require, from time to time, make publicly available and designate as part of the application requirements.

(r) Insurance. All towers shall be covered by a General Liability insurance policy in an amount not less than five hundred thousand dollars (\$500,000).

(s) Location of WCFs. No WCFs may be located within ten (10) feet of a public utility (for example, water and sewer lines). If a WCF is located in a public right-of-way and the City needs the owner of the WCF to move the WCF, the owner will do so at no cost to the City.

- (t) Sites & Application Appointments. Each application may include up to ten (10) sites in the City. An in-person appointment with City Staff is required at the outset of the process for an application for multiple sites.

Section 8. Sharing Of Support Towers and Collocation of Facilities.

- (a) It is the policy of the City to minimize the number of macrocells and wireless communication support towers and to encourage the collocation of antenna arrays of more than one wireless communication service provider on a single support tower, provided that additional Building Code regulations may apply.
- (b) No new macrocell wireless communication support tower may be constructed within one-half mile of an existing macrocell support tower, unless it can be demonstrated to the satisfaction of the Community Development Director or the designee thereof that the existing macrocell support 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. Factors to be considered by the Community Development Director or the designee thereof in determining whether applicant has made this demonstration include those listed below in subsection (d).
- (c) The shared use of towers is encouraged. Applications for macrocells and towers which will, immediately upon completion, operate with more than one user may reduce setback requirements from adjacent nonresidential property. The setback from adjacent nonresidential property may be reduced by twenty-five percent when two users enter into a binding agreement prior to the issuance of the building permit. The setback from adjacent nonresidential property may be reduced by up to fifty percent when three or more users enter into a binding agreement prior to the issuance of the building permit. A binding agreement for the purposes of this subsection is one signed by all parties using the tower and by the affected landowners. This signed agreement will commit the users to occupy the tower immediately upon its completion. Notwithstanding the foregoing, fall zones shall be at least one foot for every foot of tower height subject to the breakpoint provisions herein.
- (d) Factors Considered in Granting Conditional Use Permits for Macrocells and Towers. In addition to any standards for consideration of conditional use permit applications pursuant to the Casper Municipal Code, the applicant must provide wet stamped plans for macrocell towers, and the Planning and Zoning Commission or City Council (as appropriate under Casper Municipal Code Section 17.12.240 (C)) shall consider the following factors in determining whether to issue a conditional use permit.
 - (1) Towers exceeding a height of 75 feet shall be able to accommodate collocation of one additional provider. Additional height to accommodate additional collocation may be approved if the applicant submits information certifying the tower has capacity for at least two additional providers. The applicant shall provide a letter indicating their good faith intent to encourage collocation on the tower.
 - (2) Proximity of the macrocell tower to residential structures and residential district boundaries.
 - (3) Nature of uses on adjacent and nearby properties.
 - (4) Surrounding topography.
 - (5) Surrounding tree coverage and foliage.
 - (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

- (7) Proposed ingress and egress.
 - (8) Whether existing structures are located within the geographic area that meet applicant's engineering requirements.
 - (9) Whether existing towers or structures have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (10) The applicant's proposed antennas would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - (11) Whether the fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - (12) Whether the applicant demonstrates that there are other limiting factors not enumerated herein that render existing towers and structures unsuitable.
- (e) Site Plan. In districts where towers are allowed, applicants are required to submit and be granted an approval for a site plan before a building permit will be issued. The standards set forth in the Tower Regulations Summary of this Section will be used to determine tower requirements and whether approval shall be granted or denied. Towers of one hundred twenty-one (121) feet or more require that site plan approval be granted by the City Council, following recommendation from the Planning and Zoning Commission. Both the City Council and the Planning and Zoning Commission may consider reductions to the setback requirements for such towers as a part of the site plan approval.
- (f) All towers that provide commercial wireless telecommunication service are required to submit a site plan to the City for approval. In addition to the standard site plan requirements (listed in Title 17, of the Casper Municipal Code), the following information must be supplied with the site plan or building permit application:
- (1) Identification of the intended user(s) of the tower;
 - (2) Site and landscape plans drawn to a one inch equals 10' for one acre or less and one inch equals 20' for sites larger than one acre;
 - (3) The general capacity of the tower;
 - (4) Proposed modifications to any structure, proposed transmission equipment and its location and areas where excavation is proposed;
 - (5) An analysis of the area containing existing topographical contours;
 - (6) The number and positioning of guy wires and antennas;
 - (7) Site plans must show the locations for at least two equipment buildings, even if the tower is proposed for a single user;
 - (8) For macrocell towers that are fifty feet or greater in height above the ground, a visual study depicting the zone within a three-mile radius, where any portion of the proposed tower could be seen (scaled vicinity maps);
 - (9) Details regarding painting and on-site lighting.
- (g) Placement Provisions - Towers. Towers shall be located only in those areas described in Table 1, provided that towers that are proposed to be located in a residential zone or within 200 feet of

a residential zone or in the downtown area shall be subject to the siting priorities set forth for preferred tower locations in Section 10.

**TABLE 1
TOWER REGULATIONS SUMMARY**

Zone	Permitted Height	Plan Com Approval	CC Approval	On Top of Buildings
R1-R6	50'	CUP	NA	NP
PH	50'	51'-120'	121' and greater	10 percent of building ht.
RPUD	50'	CUP	NA	10 percent of building ht.
CPUD	50'	51'-100'	NA	10 percent of building ht.
C1	50'	51'-100'	NA	10 percent of building ht.
C2	50'	51'-100'	NA	10 percent of building ht.
C3	50'	51'-120'	NA	10 percent of building ht.
C4	50'	51'-120'	NA	10 percent of building ht.
M1	100'	101'-120'	121' and greater	10 percent of building ht.
M2	100'	101'-120'	121' and greater	10 percent of building ht.
AG	50'	CUP	NA	10 percent of building ht.
FC	NP	NP	NP	NP
ED	50'	51'-150'	NA	10 percent of building ht.

NP = Not permitted (prohibited)

NA = Not applicable

RPUD = Residential PUD

CPUD = Commercial PUD

PERMITTED HEIGHT = Permitted with site plan approval from the community development director

PLAN COM APPROVAL = Permitted with site plan approval from the planning commission

CC APPROVAL = Permitted with site plan approval from the planning commission and the City Council

Notwithstanding anything in the Table to the contrary, in Residential, Educational and Park-Historic Districts, new towers shall be limited to the height of power poles if feasible. Prohibited uses in the Old Yellowstone District and South Poplar Street corridor include macrocell towers or any ground, roof or otherwise mounted pole, spire, structure or combination thereof that is fifteen (15) feet or greater in height above the ground, including supporting lines, cables, wires, braces, masts or other structures, for the purpose of mounting an antenna, meteorological device or cellular apparatus above ground unless an exception is granted pursuant to this Section.

(h) Macrocell towers used for the purpose of providing commercial wireless telecommunication services are permitted uses in all districts, except in the downtown area, FC districts, residential districts (R1-R6), residential planned unit developments (PUD), and the agricultural district (AG). However, a conditional use permit may be granted for small cells providing commercial wireless telecommunication services in residential districts (R1-R6), residential planned unit developments (PUD), and the agricultural district (AG). Additionally, towers which are placed on buildings must conform to the other requirements of this Section.

(i) All towers shall conform to the following dimensional requirements:

(1) On Top of Structures. Towers may not be located on top of buildings or structures in any residential districts. In nonresidential districts, towers are permitted on top of buildings or

structures (which are not tower accessory structures). The top of such towers shall not be more than ten percent (10%) of the building height above the building.

Section 9. Setback Requirements.

- (a) Setbacks. A building or structure with a tower shall maintain the normal setback requirements for the zone in which it is located, except as set forth in this subsection. If the tower is in a nonresidential zone, setbacks shall be as follows:
- (1) If the top of the tower is fifty feet or less in height above the ground, then, normal setbacks of the zoning district or structures shall apply, provided that the fall zone shall be at least one foot for every foot of tower height.
 - (2) If the top of the tower is more than fifty feet in height above the ground, the setback from the adjacent property line shall be one foot for every one foot in height, or shall be the normal setback of the zoning district, whichever is greater.
- (b) When a residence is located on an adjacent property, the support tower structures shall be set back from property lines as required by that zone or a minimum of one foot (1') for every foot of tower height, whichever produces the greater setback, unless:
- (1) the setback is waived by the owner of the residence; or
 - (2) the tower is constructed with breakpoint design technology. If the tower has been constructed using breakpoint design technology, the minimum setback distance shall be equal to one hundred ten percent (110%) of the distance from the top of the structure to the breakpoint level of the structure, or the applicable zone's minimum side setback requirements, whichever is greater. For example, on a 100-foot tall monopole with a breakpoint at eighty feet (80'), the minimum setback distance would be twenty-two feet (22') (110% of 20 feet, the distance from the top of the monopole to the breakpoint) or the minimum side yard setback requirements for that zone, whichever is greater. Provided, that if an applicant proposes to use breakpoint design technology to reduce the required setback from a residence, the issuance of building permits for the tower shall be conditioned upon approval of the tower design by a structural engineer.
- (c) All towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources shall comply with all setbacks within the district in which they are located. All towers and associated equipment shall not interfere with normal radio, television or telephone reception in the vicinity. Commercial messages shall not be displayed on any tower. Violations shall be considered zoning violations and shall be corrected under the enforcement provisions in the Casper Municipal Code.
- (d) All equipment shelters, cabinets, or other on the ground ancillary equipment shall meet the setback requirement of the zone in which it is located.

Section 10. Preferred Macrocell Tower Locations.

All new macrocell towers proposed to be located in a residential zone or within two hundred feet (200') of a residential zone or in the downtown area are permitted only after application of the following siting priorities, ordered from most-preferred (1) to least-preferred (7):

- (1) City-owned or operated property and facilities not in the downtown or residential zones and not including right-of-way;
- (2) industrial zones;
- (3) commercial zones;
- (4) other non-residential zones;

- (5) City rights-of-way in residential zones;
- (6) parcels of land in residential zones;
- (7) designated historic structures, downtown and neighborhoods with additional protection.

The applicant for a macrocell tower located in a residential zone or within two hundred feet (200') of a residential zone or in the downtown area shall address these preferences in an alternative sites analysis prepared pursuant to Section 11 below.

Section 11. Submittal Requirements.

(a) Alternative Sites Analysis.

- (1) For macrocell towers in a residential zone or within two hundred feet (200') of a residential zone or in the downtown area, the applicant must address the City's preferred macrocell tower locations with a detailed explanation justifying why a site of higher priority was not selected. The City's macrocell tower location preferences must be addressed in a clear and complete written alternative sites analysis that shows at least three (3) higher ranked, alternative sites considered that are in the geographic range of the service coverage objectives of the applicant, together with a factually detailed and meaningful comparative analysis between each alternative candidate and the proposed site that explains the substantive reasons why the applicant rejected the alternative candidate.
 - (2) A complete alternative sites analysis provided under this subsection may include less than three (3) alternative sites so long as the applicant provides a factually detailed written rationale for why it could not identify at least three (3) potentially available, higher ranked, alternative sites.
 - (3) For purposes of disqualifying potential collocations or alternative sites for the failure to meet the applicant's service coverage objectives, the applicant will provide: (a) a description of its objective, whether it be to close a gap or address a deficiency in coverage, capacity, frequency or technology; (b) detailed technical maps or other exhibits with clear and concise RF data to illustrate that the objective is not met using the alternative (whether it be collocation or a more preferred location); and (c) a description of why the alternative (collocation or a more preferred location) does not meet the objective.
- (b) Collocation Consent. A written statement will be signed by a person with the legal authority to bind the applicant and the project owner, which indicates whether the applicant is willing to allow other transmission equipment owned by others to collocate with the proposed wireless communication facility whenever technically and economically feasible and aesthetically desirable.
- (c) Documentation. Applications submitted under this Section for towers shall include the following materials:
- (1) Requirement for FCC Documentation. The applicant shall provide a copy of the applicant's FCC license or registration.
 - (2) Visual Analysis. A color visual analysis that includes to-scale visual simulations that show unobstructed before-and-after construction daytime and clear-weather views from at least four angles, together with a map that shows the location of each view, including all equipment and ground wires.

- (3) **Design Justification.** A clear and complete written analysis that explains how the proposed design complies with the applicable design standards under this Section to the maximum extent feasible. A complete design justification must identify all applicable design standards under this Section and provide a factually detailed reason why the proposed design either complies or cannot feasibly comply.
- (4) **Noise Study.** A noise study, if requested by the City and the proposal is in or within two hundred feet (200') of residentially zoned property or in the downtown area for the proposed WCF and all associated equipment.
- (5) **Additional Information Required.** Applicants for a Conditional Use Permit for a macrocell tower shall also 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, topography, parking, utility runs and other information deemed by the Community Development Department 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 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) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
 - (vi) A description of compliance with all applicable federal, state and local laws.
 - (vii) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
 - (vii) A description of the suitability of the use of existing towers or other structures to provide the services to be provided through the use of the proposed new tower.
 - (ix) A clear and complete written statement of purpose, which shall minimally include: (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.

- (d) Radio Frequency (RF) Emissions Compliance Report. A written report will be prepared, signed and sealed 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 his or her qualifications with the application.
- (e) Documentation of Completion of Work. To enable the City to keep accurate, up-to-date records of the placement of telecommunication towers and facilities within City limits, at the time the work on the facility or tower is completed, and before operation begins, the owner/operator of the tower shall submit documentation to the City's Building Department providing:
 - (1) Certification in writing that the tower is structurally sound and conforms to the requirements of the City's Building Code and all other construction standards set forth by the Casper Municipal Code, federal and state law by filing, a sworn and certified statement by an engineer to that effect. The tower owner may be required by the City to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized. The certification must be based upon on-site physical inspection.
 - (2) The name(s) and number of providers located on the tower, the type and use of any antenna located on the tower, and the name, address and telephone number of any owner, if there has been a change of ownership of the tower.
 - (3) An initial payment of a registration fee which shall be in addition to any other fee paid by the owner or operator of the tower or facility, for all towers or facilities located within the City, shall be required and shall be submitted to the City's Community Development Department at the time of submission of the documentation, as required in (e)(1) and (2) of this subsection.

Section 12. WCF Exceptions to Standards.

- (a) Applicability. Except as otherwise provided in Section 7. (p) above, (Site Design Flexibility), no WCF shall be used or developed contrary to any applicable development standard unless an exception has been granted pursuant to this subsection. These provisions apply exclusively to WCFs and are in lieu of the generally applicable variance and design departure provisions in this Code; provided this subsection does not provide an exception from this Section's visual impact and stealth design.
- (b) Procedure Type. A WCF's exception is subject to approval by the Planning and Zoning 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 that includes:
 - (i) Description of the proposed facility's design and dimensions, as it would appear with and without the exception.
 - (ii) Elevations showing all components of the wireless communication facility, as it would appear with and without the exception.
 - (iii) Color simulations of the wireless communication facility after construction demonstrating compatibility with the vicinity, as it would appear 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 for which the exception is sought.
 - (2) Based on a visual analysis, the design minimizes the visual impacts to zones through mitigating measures, including, but not limited to, building heights, bulk, color, and landscaping.
 - (3) The applicant demonstrates the following:
 - (i) A significant gap in the coverage, capacity, or technologies of the service network exists such that users are regularly unable to connect to the service network, or are regularly unable to maintain a connection, or are unable to achieve reliable wireless coverage within a building;
 - (ii) The gap can only be filled through an exception to one or more of the standards in this Section; and
 - (iii) The exception is narrowly tailored to fill the service gap such that the wireless communication facility conforms to this Section's standards to the greatest extent possible.
 - (4) For a new tower proposed to be located in a residential zone or within two hundred feet (200') of a residential zone or in the downtown area, unless the proposal qualifies as a preferred location on City-owned or operated property or facilities, the applicant must also demonstrate that the manner in which it proposes to fill the significant gap in coverage, capacity, or technologies of the service network is the least intrusive on the values that this Section seeks to protect.

Section 13. Removal of Abandoned Towers. Towers which are not used for a period of six months or more shall be removed by the owner within ninety days from the date of written notification by the City. To assure the removal of towers, which have not been maintained or have been abandoned, a performance bond, cash, letter of credit, or other approved security shall be submitted for each tower. The amount of the bond, cash, letter of credit, or other approved security shall be based on an estimate provided by a contractor licensed in the state of Wyoming, who shall estimate the cost of removing the tower. This estimation shall be provided in writing and submitted with the application. There will be a ten percent contingency fee added to the contractor's estimate. In the event the owner shall fail to remove any tower not maintained or abandoned, as provided in this subsection, the City shall have the right to enter the premises and remove such tower without further notice to owner, in which event, all removal costs shall be charged against the bond or security and the owner until satisfied.

Section 14. Emergency Circumstances. The City reserves the right to enter upon and disconnect, dismantle or otherwise remove any tower or telecommunications facility should same become an immediate hazard to the safety of persons or property due to emergency circumstances, as determined by the City Manager or his designee, such as natural or man-made disasters or accidents, when the owner of any such facility is not available to immediately remedy the hazard. The City shall notify any such owner of any such action within twenty-four hours. The owner and/or operator shall reimburse the City for the costs incurred by the City for action taken pursuant to this subsection.

Section 15. Inspections. The City reserves the right upon reasonable notice to the owner/operator of the tower to conduct inspections for the purpose of determining whether the tower, equipment, and/or related buildings comply with all provisions of the Casper Municipal Code, the applicable building codes or all other construction standards provided by local, state or federal law.

Section 16. Independent Consultant and RF Technical Review. Although the City intends for City staff to review applications to the extent feasible, the City may retain the services of an independent consultant and RF expert of its choice to provide evaluation of permit applications for WCFs, when they

are subject to conditional use permits or administrative review. The third party expert shall have recognized training and qualifications in the field of telecommunications or radio frequency engineering. The consultant's and RF expert's review may include, but is not limited to: (a) the accuracy and completeness of the items submitted with the application; (b) the applicability of analysis and techniques and methodologies proposed by the applicant; (c) the validity of conclusions reached by the applicant; and, (d) whether the proposed WCF complies with the applicable approval criteria set forth in this Section. The applicant shall pay the cost for any independent consultant fees through a deposit, estimated by the City, paid within ten (10) days of the City's request. When the City requests such payment, the application shall be deemed incomplete for purposes of application processing timelines until the deposit is received. In the event that such costs and fees do not exceed the deposit amount, the City shall refund any unused portion within thirty (30) days after the final permit is released or, if no final permit is released, within thirty (30) days after the City receives a written request from the applicant. If the costs and fees exceed the deposit amount, then the applicant shall pay the difference to the City within thirty (30) days and before the permit is issued.

Section 17. Final Inspection.

- (a) A certificate of completion will only be granted upon satisfactory evidence that the WCF was installed in substantial compliance with the approved plans and photo simulations.
- (b) If it is found that the WCF installation does not substantially comply with the approved plans and photo simulations, the applicant shall promptly make any and all such changes required to bring the WCF installation into compliance, and in any event prior to putting the WCF in operation.

Section 18. Compliance.

- (a) All wireless communication facilities must comply with all standards and regulations of the FCC and any State or other federal government agency with the authority to regulate wireless communication facilities.
- (b) The site and wireless communication facilities, including all landscaping, fencing and related transmission equipment must be maintained at all times in a neat and clean manner and in accordance with all approved plans.
- (c) All graffiti on wireless communication facilities must be removed at the sole expense of the permittee after notification by the City to the owner/operator of the WCF.
- (d) If any FCC, State or other governmental license or any other governmental approval to provide communication services is ever revoked as to any site permitted or authorized by the City, the permittee must inform the City of the revocation within thirty (30) days of receiving notice of such revocation.

Section 19. 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 Council, 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.

Section 20. Eligible Facilities Request.

- (a) Purpose. This Section 20 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 City may not require an applicant to submit any 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.** Upon receipt of an application for an Eligible Facilities Request pursuant to this subsection, the Community Development Director or the designee thereof, shall review such application, make its final decision to approve or disapprove the application, and advise the applicant in writing of its final decision.
- (3) **Timeframe for Review.** Within 60 days of the date on which an applicant submits an application seeking approval of an Eligible Facilities Request under this subsection, the City shall review and act upon the application, subject to the tolling provisions below.
- (4) **Tolling of the Timeframe for Review.** The 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 in cases where 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 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
 - (ii) The timeframe for review begins running again when the applicant makes a supplemental submission in response to the City's notice of incompleteness.
 - (iii) Following a supplemental submission, the City will have 10 days to notify the applicant if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this subsection. 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 approve or deny a complete application under this subsection within the timeframe for review (accounting for any tolling), the request shall be deemed granted provided the applicant notifies the City in writing after the review period has expired. Provided, however, the request is still subject to Section 25 (Standard Conditions of Approval).

- (c) Compliance Obligations Due to Invalidation. In the event that any court of competent jurisdiction invalidates all or any portion of Section 6409 or any FCC rule that interprets Section 6409 such that federal law would not mandate approval for any Section 6409 approval(s), such approval(s) shall automatically expire one year from the effective date of the judicial order, unless the decision would not authorize accelerated termination of previously approved Section 6409 approvals or the City grants an extension upon written request from the permittee that shows good cause for the extension, which includes without limitation extreme financial hardship. Notwithstanding anything in the previous sentence to the contrary, the City may not grant a permanent exemption or indefinite extension. A permittee shall not be required to remove its improvements approved under the invalidated Section 6409 approval when it has obtained the

applicable permit(s) or submitted an application for such permit(s) before the one-year period ends.

- (d) City's Standing Reserved. The City's grant or grant by operation of law of a Section 6409 approval does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409, any FCC rules that interpret Section 6409 or any Section 6409 approval.

Section 21. Collocation Applications.

- (a) Purpose. This Section 21 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. Except when a shorter timeframe is otherwise required under Section 20, the following timeframes apply to collocation.

(b) Application Review.

- (1) Application. The City shall prepare and make publicly available an application form.
- (2) Review. Upon receipt of an application for a collocation request pursuant to this subsection, the City shall review such application, make its final decision to approve or disapprove the application, and advise the applicant in writing of its final decision.
- (3) Timeframe for Review. Within 90 days of the date on which an applicant submits an application seeking approval of a collocation request under this subsection, the City shall review and act upon the application, subject to the tolling provisions below.
- (4) Tolling of the Timeframe for Review. The 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 in cases where the City determines that the application is incomplete.
 - (i) To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
 - (ii) The timeframe for review begins running again when the applicant makes a supplemental submission in response to the City's notice of incompleteness.
 - (iii) Following a supplemental submission, the City will notify the applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this subsection. 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 approve or deny a complete application under this subsection within the timeframe for review (accounting for any tolling), the applicant shall be entitled to pursue all remedies under applicable law.

Section 22. New Site or Tower Applications.

- (a) Purpose. This Section 22 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.
- (b) Application Review.
- (1) Application. The City shall prepare and make publicly available an application form.
 - (2) Review. Upon receipt of an application for a request for a new site or tower pursuant to this subsection, the City shall review such application, make its final decision to approve or disapprove the application, and advise the applicant in writing of its final decision.
 - (3) Timeframe for Review. Within 150 days of the date on which an applicant submits an application seeking approval of a request for a new site or tower under this subsection, the City shall review and act upon the application, subject to the tolling provisions below.
 - (4) Tolling of the Timeframe for Review. The 150-day review period begins to run when the application is filed, and may be tolled only by mutual agreement between the City and the applicant, or in cases where the City determines that the application is incomplete.
 - (i) To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
 - (ii) The timeframe for review begins running again when the applicant makes a supplemental submission in response to the City's notice of incompleteness.
 - (iii) Following a supplemental submission, the City will notify the applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this subsection. 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 approve or deny a complete application under this subsection within the timeframe for review (accounting for any tolling), the applicant shall be entitled to pursue all remedies under applicable law.

Section 23. Application Fees. In connection with the filing of an application, the applicant shall pay all applicable application fees, according to a City Resolution.

Section 24. Laws, Rules and Regulations. This Section shall be subject to all applicable laws, rules and regulations.

Section 25. Standard Conditions of Approval.

- (a) Applicability. In addition to all other conditions adopted by the City, all permits, whether approved by the City or deemed approved by the operation of law, shall be automatically subject to the conditions in this Section. The City shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances to protect public health and safety or allow for the proper operation of the approved facility consistent with the goals of this Section.

(b) Permit Term. A permit will automatically expire one year and one day from its issuance. Any other permits or approvals issued in connection with any collocation, modification or other change to a wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law.

Section 26. Severability. The various parts, sentences, paragraphs and clauses of this Section are hereby declared to be severable. If any part, sentence, paragraph 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 portions of the Casper Municipal Code. In case of a conflict between regulations, the most restrictive shall apply except as otherwise indicated.

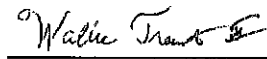
NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CASPER, WYOMING:

PASSED on 1st reading the day of , 2018.

PASSED on 2nd reading the day of , 2018.

PASSED, APPROVED, AND ADOPTED on third and final reading the _____ day of _____, 2018.

APPROVED AS TO FORM:



ATTEST:

Fleur D. Tremel
City Clerk

CITY OF CASPER, WYOMING
A Municipal Corporation

Ray Pacheco
Mayor