

ORDINANCE NO. 20-_____

AN ORDINANCE AMENDING SECTION 302 (DEFINITIONS OF USE TYPES) OF PART 3 (LAND USE TYPES AND CLASSIFICATIONS) OF ARTICLE 2 (BASIC PROVISIONS, DEFINITIONS AND LAND USE TYPES AND CLASSIFICATIONS) AND REPEALING AND REORDAINING PART 6 (COMMERCIAL MOBILE RADIO SERVICE (CMRS) REGULATIONS) OF ARTICLE 4 (SITE DEVELOPMENT STANDARDS) OF CHAPTER 7 (PLANNING, DEVELOPMENT AND BUILDING) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO WIRELESS COMMUNICATIONS FACILITIES

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 302 (Definitions of Use Types) of Part 3 (Land Use Types and Classifications) of Article 2 (Basic Provisions, Definitions and Land Use Types and Classifications) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

7.2.302: DEFINITIONS OF USE TYPES:

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I. Miscellaneous Type Uses:

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~~2. COMMERCIAL MOBILE RADIO SERVICE (CMRS) FACILITY: An unmanned facility consisting of antennas, support structures, equipment and equipment storage buildings used for the transmission, switching, and/or receiving of low power wireless telecommunication including, but not limited to, cellular, enhanced specialized mobile radio (ESMR), paging~~

~~and personal communication systems and point to point microwave. The following types of facilities are included within this definition:~~

2. WIRELESS COMMUNICATIONS FACILITY (WCF): A facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an Antenna or Antennas, Accessory Equipment, Alternative Tower Structures, and Towers. WCF does not include the Support Structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use, including light poles and utility poles owned by the City. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand held radios/telephones and their associated transmitting Antennas, nor does it include other facilities specifically excluded from this Section. Defined terms within this WCF definition shall have the meaning set forth in part 6 article 4 of this chapter.

a. ~~Freestanding Facility: A CMRS facility~~**WCF** that consists of a stand-alone ~~antenna support structure;~~ **and** antennas, **together with** ~~and~~ associated ~~Accessory Equipment~~ which may be housed in a separate storage structure. Freestanding facilities include, but are not limited to, wooden poles, steel monopoles, lattice towers, etc.

b. Stealth Freestanding Facility: A Freestanding Facility that uses Stealth Design Techniques is a Stealth Freestanding Facility.

~~cb. Roof And/Or Building Mounted Facility: A CMRS facility~~**WCF** where the antennas are mounted to the roof of an existing building (including rooftop appurtenances) ~~or to building faces.~~ Related ~~Accessory Equipment~~ may be located within the building, on the roof or ~~on the~~ ground.

d. Wall Mounted Facility: A WCF where the antennas are mounted to the face (or walls) of an existing building. Related Accessory Equipment may be located within the building or on the roof or ground.

ee. **SMALL CELL FACILITY:** A WCF where each antenna is located inside an enclosure of no more than three cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and primary equipment enclosures are not larger than seventeen cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosure, grounding equipment, power transfer switch and cut-off switch. For the avoidance of doubt, Small Cell Facilities may be attached to Alternate Tower Structures, Monopoles, and Support Structures.

~~d. **Stealth Freestanding Facility:** Freestanding CMRS facilities which have been designed to blend in with their natural or manmade setting allowing the presence of antennas, antenna arrays or towers to be substantially camouflaged or concealed. These structures would include, but are not limited to, manmade trees, clock towers, bell steeples, light poles, flagpoles, signs, electrical transmission facilities, water tanks or artistic structures.~~

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Section 2. Part 6 (Commercial Mobile Radio Service (CMRS) Regulations) of Article 4 (Site Development Standards) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is repealed and reordained as follows:

PART 6: WIRELESS COMMUNICATIONS FACILITIES (WCF) REGULATIONS

7.4.601: PURPOSE AND INTENT:

7.4.602: PERMIT REQUIREMENTS:

7.4.603: DEFINITIONS:

7.4.604: APPLICABILITY:

7.4.605: OPERATIONAL STANDARDS:

7.4.606: ZONES ALLOWED:

7.4.607: PROCESSING OF WCF APPLICATIONS:

7.4.608: REVIEW PROCEDURES AND REQUIREMENTS:

7.4.609: SITE SELECTION REQUIREMENTS:

7.4.610: DESIGN STANDARDS:

7.4.601: PURPOSE AND INTENT:

In order to accommodate the communication needs of residents and businesses while protecting the public, health, safety, and welfare of the community, the City finds that these regulations are necessary to:

A. Provide for the managed development and installation, maintenance modification, and removal of wireless communications infrastructure in the City with the fewest number of WCFs to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;

A. Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including but not limited to stealth design techniques and undergrounding of the equipment associated with WCFs where technologically feasible;

B. Encourage the deployment of smaller, less intrusive WCFs to supplement existing larger WCFs;

C. Encourage the use of wall-mounted panel antennas;

D. Encourage Roof Mounted antennas only when wall-mounted antennas will not provide adequate service or are not otherwise technologically feasible;

E. Encourage the location of Towers in non-residential areas in a manner that minimizes the total number of Towers needed throughout the community;

F. Encourage, strongly, the Collocation of WCFs on new and existing sites;

G. Encourage owners of Antennas and Towers to locate them, to the extent possible, in areas where the adverse impact to the community is minimized;

H. Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently; and

I. Effectively manage WCFs in the Right-of-Way.

7.4.602: PERMIT REQUIREMENTS.

Permit Required. No person, firm or corporation shall construct, establish or build, or cause to be constructed, established or built, a WCF without it being a permitted use or first having obtained approval of a conditional use, and first having obtained a lease (as applicable), pole attachment master license agreement (as applicable), and a building permit for this purpose.

7.4.603: DEFINITIONS

ACCESSORY EQUIPMENT: Any equipment serving or being used in conjunction with a WCF, including, but not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, fences or other structures.

ALTERNATIVE TOWER STRUCTURE: Man-made trees, clock towers, bell steeples, light poles, traffic signals, buildings, and similar alternative design mounting structures that are compatible with the natural setting and/or surrounding structures, and that camouflage or conceal the presence of antennas or towers so as to make them architecturally compatible with the surrounding area pursuant to this Part. This term also includes any antenna or antenna array attached to an Alternative Tower Structure. A stand-alone Monopole (including a Replacement Pole) in the Public Right-of-Way that accommodates Small Cell Facilities is considered an Alternative Tower Structure to the extent it meets the stealth and concealment standards of this part.

ANTENNA: Any device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devices and configurations, and exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of wireless communications signals.

CELL ON WHEELS: A mobile cell site that consists of an antenna tower and electronic radio transceiver equipment on a truck or trailer that is designed to boost reception as part of a larger cellular network and is temporary in nature.

COLLOCATION: The mounting or installation of transmission equipment on an existing WCF for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

COLLOCATION LETTER: A letter from the applicant, stating in detail why the proposed new WCF could not be collocated on another Structure within six hundred (600) feet of the proposed site. If another Structure is located within six

hundred (600) feet of the proposed site but collocation is technically infeasible, the collocation letter should be signed and certified by a qualified engineer. The collocation letter should also specify whether the proposed WCF can accept a collocation.

ELIGIBLE FACILITIES REQUEST: Any request for modification of a Wireless Communications Facility as provided for in Part 7, Article 4, Chapter 7 of this Code.

MICRO CELL FACILITY: A small wireless facility that is no larger than 24 inches in length, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, that is no more than 11 inches in length.

MONOPOLE: A single, freestanding pole-type structure supporting one or more Antennas.

RADIO FREQUENCY EMISSIONS LETTER: A letter from the applicant, signed by a qualified radio frequency engineer certifying all WCFs that are the subject of the application shall comply with federal standards for radio frequency emissions. As part of, or attached to the Radio Frequency Emissions Letter, an applicant shall include complete copies of any filings made at the FCC to demonstrate compliance with the federal standards, or if the applicant believes that the WCFs subject to the application are exempt from making such FCC filings, a complete description of the basis for such claimed exemption.

REPLACEMENT POLE: A newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or street light poles or other similar structure of similar proportions and of similar height to the pre-existing pole or structure in order to support a WCF or Small Cell Facility or to accommodate collocation and remove the pre-existing pole or structure.

SIGNAL NON-INTERFERENCE LETTER: A letter from the applicant signed by a qualified radio frequency engineer certifying that all WCFs that are the subject of the application shall be designed, sited and operated in accordance with applicable federal regulations addressing radio frequency interference.

STEALTH DESIGN TECHNIQUES or CONCEALMENT ELEMENTS: The use of design and siting to camouflage or conceal a WCF with the intent to minimize or eliminate the visual impact of the WCF on surrounding uses. A WCF site utilizes Stealth Design Techniques when it:

A. uses a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree placed near real trees of similar size); or

B. is incorporated into (including, without limitation, being attached to the exterior of such facilities and painted to blend in) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent.

SUPPORT STRUCTURE: A structure designed to support Small Cell Facilities including, but not limited to, Monopoles, Alternative Tower Structures, Replacement Poles, and other freestanding self-supporting pole structures.

TOLL AND TOLLING: To delay, suspend, or hold off on the imposition of a deadline, statute of limitations, or time limit.

TOWER: Any structure that is built for the sole or primary purpose of supporting one or more 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.

WIRELESS COMMUNICATIONS FACILITY (WCF): WCF, which includes Freestanding Facility, Stealth Freestanding Facility, Roof Mounted Facility and Wall Mounted Facility, is defined under Section 302, Part 3, Article 2 of this Chapter.

7.4.604: APPLICABILITY:

A. The requirements set forth in this Part shall apply to all WCF applications, non-eligible modifications, Small Cell Facilities, and Micro Cell Facilities.

B. This part shall not preempt underlying zoning regulations unless explicitly stated in this part or as required by federal and/or state law.

C. The requirements set forth in this Part shall not apply to:

1. Amateur radio antenna, Over-the-Air Receiving Device (OTARD), and residential television reception/antenna towers except as provided in the Operational Standards Section below.

2. Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to the effective date of this ordinance shall not be required to meet the requirements of this Part, other than the requirements of the

Operational Standards Section below. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of the Operational Standards Section below.

3. Miscellaneous Antennas. Antennas used for reception of television, multi-channel video programming and radio such as OTARD antennas, television broadcast band antennas, and broadcast radio antennas, provided that any requirements related to Accessory uses contained in Chapter 7 of this Code and the requirement that the height be no more than the distance from the base of the structure where it meets the ground to the property line are met. The Manager has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the City, modifications are necessary to comply with federal law.

4. A 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 Manager.

5. A temporary WCF installed for providing coverage of a special event such as news coverage or a sporting event, subject to a Temporary Use Permit.

7.4.605: OPERATIONAL STANDARDS:

A. Federal Requirements. All WCFs shall meet the current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC) and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency.

B. Permission to Use Right-of-Way. Only Small Cell Facilities (including Micro Cell Facilities) are permitted in the Right-of-Way. No other WCF sites are permitted in the Right-of-Way. For Small Cell Facilities in the Right-of-Way, the applicant shall execute a master license agreement with the City. Attachment of Small Cell Facilities on an existing traffic signal, street light pole, or similar structure shall require written evidence of a license, or other legal right or approval, to use such structure by its owner. Prior to, or concurrently with, seeking land use approval for

Small Cell Facilities in the Right-of-Way, the applicant shall execute a master license agreement with the City.

C. Operation and Maintenance. To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with the standards contained in applicable local building and safety codes and any federal law requirements in effect at the time of original installation or modification. If upon inspection at any time, the City concludes that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have thirty (30) days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the Manager may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the City may remove such WCF at the owner's expense.

D. Abandonment and Removal. If a WCF has not been in use for a period of six (6) months, the owner of the WCF shall notify the City of the non-use and shall indicate whether re-use is expected within the ensuing six (6) months. Any WCF that has not operated for a continuous period of twelve (12) months shall be considered abandoned. The City, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within sixty (60) days of receipt of written notice from the City. If such WCF is not removed within said sixty (60) days, the City may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired. Additionally, the City, in its sole discretion, shall not approve any new WCF application until the applicant who is also the owner or operator of any such abandoned WCF has removed such WCF or payment for such removal has been made to the City. The owner of the property and owner of the WCF shall be jointly responsible for the removal of a WCF that is abandoned or is unused for a period of twelve (12) months.

E. Hazardous Materials. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.

F. Collocation. No WCF owner or operator shall unreasonably exclude a telecommunications competitor from using the same facility or location. Upon request by the Manager, the owner or operator shall provide evidence explaining why collocation is not possible at a particular facility or site.

7.4.606: ZONES ALLOWED:

WCF uses are permitted or conditional uses as set forth in the applicable use tables under this Code. Notwithstanding anything else in this Code, Eligible Facilities Requests and Small Cell Facilities in the Right-of-Way are Permitted Uses in all zones. Specific requirements for WCFs may be included as a part of an FBZ regulating plan.

7.4.607: PROCESSING OF WCF APPLICATIONS:

Type Of Facility	Application
Residential zones:	
Nonstealth freestanding facility ⁶	CM1 ³
Roof/wall mount ¹ :	
10 feet or less above roofline ²	CM3 ⁵
More than 10 feet above roofline and less than maximum height of zone	CM2 ⁴
Located on single- and two-family dwelling units	CM1 ³
Stealth freestanding facility ⁶ :	CM2 ⁴
Nonresidential zones:	
Broadcasting tower	CM1 ³
Collocation on existing facility ⁸	CM3 ⁵
Nonstealth freestanding facility ⁷	CM1 ³
Roof/wall mount:	
10 feet or less above roofline ²	CM3 ⁵
More than 10 feet above roofline	CM2 ⁴
Stealth freestanding facility:	
Equal to or less than maximum height of zone	CM2 ⁴
Located within utility substations or within utility easements and exceeding the height of other vertical infrastructure by more than 4 feet	CM1 ³

Eligible Facilities Requests	CM4 ⁹
Small Cell Facilities in the Right-of-Way	CM5 ¹⁰

Notes:

1. Except with respect to Small Cell Facilities, Roof/wall mount on single- and two-family buildings shall only be permitted as a conditional use where the design, materials, color and location of the facilities blend in architecturally with the wall and substantially conceals the antennas and equipment.
2. The 10 foot extension above the building is allowed to exceed the maximum height limitation of the zone district if screened by existing screens or parapets as provided for in the design standards.
3. Conditional use (CM1) applications shall be subject to Planning Commission review as a conditional use in accordance with article 5, part 7 of this chapter and the findings of this article.
4. WCF development plan (CM2) applications shall be subject to administrative review in accordance with the development plan application and review procedures of article 5, part 5 of this chapter and the findings of this article and notice shall be provided as required by this Code.
5. WCF development plan (CM3) applications shall be subject to expedited administrative review in accordance with the development plan application and review procedures of article 5, part 5 of this chapter and the findings of this article. No public notice or site posting shall be required unless determined to be necessary by the Manager.
6. Within residential zones, applications for freestanding facilities (stealth and nonstealth) shall only be considered on multi-family, institutional, or nonresidential sites such as churches, schools, museums, etc. Except for Small Cell Facilities, freestanding facilities are not permitted in conjunction with a single- or two-family building.
7. In the PF and the APD zone, a nonstealth freestanding facility requires a CM2 development plan application.
8. Except for Eligible Facilities Requests, the collocation height shall be restricted to the maximum height of the zone district. If the height exceeds the maximum height of the zone district, an Administrative Waiver will be required.

9. Applications for Eligible Facilities Requests are reviewed pursuant to Part 7, Article 4 of this Chapter. No public notice or site posting shall be required unless determined to be necessary by the Manager.

10. Small Cell Facilities in the Right-of-Way (CM5) applications shall be subject to administrative review in accordance with the procedures and findings of this article. No public notice or site posting shall be required unless determined to be necessary by the Manager.

7.4.608: REVIEW PROCEDURES AND REQUIREMENTS:

A. No new WCF shall be constructed and no Collocation or modification to any WCF may occur except after a written request from an applicant is reviewed and approved by the City in accordance with this Chapter. All WCFs shall be reviewed pursuant to the following procedures. Some submittal requirements described herein may be satisfied for Small Cell Facility applications through a master license agreement or similar authorization executed with the City.

B. Submittal Requirements for all WCFs except Eligible Facilities Requests. An applicant shall submit a complete Application. In addition to an application form, each applicant shall submit:

1. All submittal fees,
2. A Signal Non-Interference Letter,
3. A Radio Frequency Emissions Letter,
4. A lease, license or other written permission from the owner of the site,
5. A scaled site plan, photo simulations (before and after), scaled elevation view, and line-of-sight drawing/rendering,
6. If the application is for a new WCF, a Collocation Letter,
7. Other supporting drawings, calculations, and other documentation, signed and sealed by appropriate qualified professionals, showing the location and dimension of all improvements, including information concerning topography, radio frequency coverage, Tower height, setbacks, drives, parking, fencing, landscaping, adjacent uses, drainage, and other information deemed by the Manager to be necessary to assess compliance with this Section.

8. Except for Small Cell Facilities in the right-of-way, prior to approval, affidavits shall be required from the owner of the property and from the applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of twelve (12) months.

C. Inventory of Existing Sites. For the first WCF application submitted to the City in a calendar year, the applicant shall provide to the Manager a narrative and map description of the applicant's existing or then-currently proposed WCFs within the City. If possible, this will include a before and after graphic or map showing coverage changes by the installation of the WCF. This provision is not intended to be a requirement that the applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the City and all applicants for WCFs to share general information, assist in the City's comprehensive planning process, and promote Collocation by identifying areas in which WCFs might be appropriately constructed for multiple users. The requirement of any inventory of existing sites may be satisfied for Small Cell Facility applications through a master license agreement or similar authorization executed with the City.

E. The Manager may share such information with other applicants applying for administrative approvals or conditional permits under this section or other organizations seeking to locate WCFs within the jurisdiction of the City, provided however, that the Community Development Department, is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

F. Review Periods. Subject to tolling as provided for below, and unless a longer review period is agreed to by the applicant, applications for WCF shall be subject to a review period as follows:

1. One-hundred and fifty (150) days for a new WCF other than a Small Cell Facility in the Right-of-Way;
2. Ninety (90) days for a Small Cell Facility in the Right-of-Way;
3. Ninety (90) days for modifications to, or collocations with, existing WCFs that do not qualify as an Eligible Facilities Request.

The application shall not be deemed to be approved by the City for failure to meet the review period.

G. Tolling of Review Period for all WCFs other than Eligible Facilities Requests. The review period begins to run when the application is filed and may be tolled

where the City determines that the application is incomplete, or by mutual agreement of the City and the applicant.

1. To toll the review period for incompleteness, the City must provide written notice to the applicant within thirty (30) days of receipt of the application.

2. The timeframe for review period continues running again when the applicant makes a supplemental written submission in response to the City's notice of incompleteness.

H. Decisions.

1. For applications other than Eligible Facilities Requests, the Manager shall review the application for conformance with the provisions in this Chapter and may approve, approve with conditions, or deny an application.

2. Each decision shall be in writing and supported by substantial evidence in a written record. The applicant shall receive a copy of the decision.

3. An approved application for a Small Cell Facility in the right-of-way shall expire after one (1) year if construction of the Small Cell Facility has not been completed.

I. Compliance with Applicable Law. Upon approval, all installation or modifications done to WCFs must be completed in accordance with all applicable building, structural, electrical, and safety requirements as set forth in City Code and any other applicable laws or regulations. In addition, all WCF applications shall comply with the following:

1. Comply with any permit or license issued by a local, state, or federal agency with jurisdiction over the WCF;

2. Comply with easements, covenants, conditions, restrictions and/or other title encumbrances on or applicable to the underlying real property;

3. Be maintained in good working condition and to the standards established at the time of application approval; and

4. Remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than thirty (30) calendar days from the time of notification

by the City or after discovery by the owner or operator of the site. Notwithstanding the foregoing, any graffiti on WCFs located in the rights-of-way or on other City-owned property may be removed by the City at its discretion and without liability to the City upon fourteen (14) days' notice to the owner/and or operator of the WCF. The owner and/or operator of the WCF shall pay all costs of such removal within thirty (30) days after receipt of an invoice from the City.

5. Compliance Report. Upon request by the City, the applicant shall provide a compliance report within forty-five (45) days after installation of a WCF, demonstrating that as installed and in operation, the WCF complies with all conditions of approval, applicable Code requirements and standard regulations.

7.4.609: SITE SELECTION CONSIDERATIONS:

A. Applicants shall consider the following types of sites, not in order of priority, as they select specific locations for WCFs:

1. On existing structures such as buildings, water tanks, existing towers, signs, etc.

2. On City owned or Colorado Springs Utility (CSU) sites which have been identified as appropriate locations for WCFs. Appropriate City and CSU sites are required to meet the following criteria:

a. The proposed WCF will not have an adverse impact upon the operational or security requirements for the site.

b. The site can accommodate a WCF in a manner which lessens the visual impact and increases the land use compatibility over privately held sites within the same vicinity.

3. In locations where the existing topography, vegetation, buildings or other structures provide the greatest screening potential.

B. Applicants are discouraged from locating Small Cell Facilities within a right-of-way that is less than fifty (50) feet wide or that is adjacent to residential structures or vacant land that is zoned or master planned for residential uses.

7.4.610: DESIGN STANDARDS:

A. The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this Article. To that end, WCFs shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the City, consistent with other provisions of this Code.

B. Stealth Design Techniques /Concealment Elements.

1. All WCFs and any transmission equipment shall, to the extent technically feasible, use Stealth Design Techniques including, but not limited to the use of materials, colors, textures, screening, undergrounding, or other design options that will blend the WCF to the surrounding natural setting and/or built environment. Design, materials and colors of WCFs shall be compatible with the surrounding environment. Designs shall be compatible with structures and vegetation located in the Right-of-Way and on adjacent parcels.

2. Stealth Design Techniques may be of heightened importance where findings of particular sensitivity are made (e.g. proximity to historic or aesthetically significant structures, views, and/or community features). Should the Manager determine that WCFs are located in areas of high visibility, they shall (where possible) be designed to minimize their profile (e.g., stealth design, camouflages, placed underground, depressed, or located behind earth berms).

3. Stealth Design Techniques may include the use of Alternative Tower Structures, if the Manager determines that such design meets the intent of this Code and the community is better served thereby.

4. All WCFs shall be constructed out of, or be finished with, non-reflective materials (visible exterior surfaces only).

C. Collocation. Except for Small Cell Facilities in the Right-of-Way, WCFs shall be designed and constructed to permit the facility to accommodate WCFs from at least two (2) wireless service providers on the same WCF, to the extent it is technologically feasible based upon construction, engineering and design standards, and except where such collocation would materially compromise the design intent of the WCF, including stealth design. Collocation requirements for Small Cell Facilities may be addressed in a master license agreement or in regulations promulgated pursuant to this Chapter.

D. Lighting. WCFs shall not be artificially lit, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a Support Structure

primarily used for lighting purposes. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties or environs. Lighting shall be shielded or directed to the maximum extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.

E. Noise. Noise generated on the site must not exceed the levels permitted in the Code, except that a WCF owner or operator shall be permitted to exceed Code noise standards for a reasonable period of time during repairs, not to exceed two hours without prior authorization from the City.

F. Landscaping and fencing requirements.

1. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the property below Code standards.

2. Excluding Small Cell Facilities deployed in the Right-of-Way, WCFs shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from any adjacent residential properties. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the site. In locations where the visual impact of the WCF would be minimal, the landscaping requirement may be reduced or waived by the Manager. Where the City has requested landscaping, the City may require irrigation.

3. Where fencing or screening is required by the Manager the fencing or screening material shall meet the standard of the zone district in which the WCF will be located. In no case may fencing material be primarily wire or metal except as allowed by the applicable zone district.

4. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as WCFs sited on large lots with an abundance of vegetation, including trees, natural growth around the site perimeter may be sufficient to buffer.

5. No trees larger than 4 inches in diameter measured at 4 ½ feet high from the ground may be removed, unless authorized by the Manager. To obtain such authorization the applicant shall show that tree removal is necessary, the applicant's plan minimizes the number of trees to be removed and any trees removed are replaced at a ratio of 2 to 1. The City shall designate a tree caliper requirement for all replacement trees. Additional landscaping required by the City will be maintained at the expense of the owner of the WCF.

G. Adjacent to residential uses. WCFs shall be sited in a manner that evaluates the proximity of the facility to residential structures and residential district boundaries. When placed adjacent to a residentially zoned property, the WCF shall be placed adjacent to the common side yard property line between adjoining residential properties, such that the WCF minimized visual impacts equitably among adjacent properties. In the case of a corner lot, the WCF may be placed adjacent to the common side yard property line between adjoining residential properties, or on the corner formed by two intersecting streets. All applicable setback requirements are still required to be met and cannot be exempted by this section.

H. Additional design requirements shall be applicable to the various types of WCFs and related Accessory Equipment as specified below:

1. Wall-Mounted WCFs.

a. Such facilities shall be architecturally compatible with and textured and colored to match the wall or structure to which they are attached. The antennas and equipment shall blend in with the wall to the maximum extent possible.

b. The antenna shall be mounted as flush to the wall as technically possible. The maximum protrusion of such facilities from the wall or structure face to which they are attached shall be six (6) feet.

c. Panel antenna shall not extend above the wall or parapet to which they are attached.

d. Wall-mounted antenna are not subject to a maximum mounting height above grade, provided they meet the standards above.

e. Accessory Equipment for wall-mounted antenna may be located on the roof of a building.

f. Wall-mounted facilities and accessory equipment meeting the standards above meet the requirements of this subsection are considered to use Stealth Design Techniques.

2. Roof Mounted WCFs.

a. All Roof Mounted WCFs and Accessory Equipment shall be fully screened from view with existing parapets or with the addition of architecturally compatible screening walls or other structures as viewed at ground level.

b. Any screen walls shall be set back from the parapet or roof edge so that visibility from the street or adjacent residential properties is minimized to the extent technologically feasible.

c. Roof Mounted WCFs and Accessory Equipment shall not be permitted on a sloped roof, unless it can be demonstrated that it is not visible from the street or adjacent residential areas.

d. Where permitted, Roof Mounted equipment that will be visible against the skyline shall be painted white, gray or some similar light shade that blends with the sky background as viewed from adjoining streets and neighboring properties.

e. Roof Mounted WCFs are subject to the following height regulations:

i. Roof Mounted antenna and equipment are not subject to a maximum height when proposed on an existing structure, provided that the applicant can demonstrate that all Roof Mounted antenna and Accessory Equipment can be located behind an existing parapet or existing screen wall that is at least as tall as the antenna and Accessory Equipment. Expansions to existing screen walls may be authorized by the Manager, if the applicant can demonstrate that any expansion does not result in any additional height and is in compliance with the design standards above or that the requested modification is an Eligible Facilities Request.

ii. Roof Mounted antenna and Accessory Equipment not meeting the screening standard above are subject to the lesser of the maximum building height for the zoning district or no more than ten (10) feet above the roof parapet.

3. Miscellaneous. If an antenna is installed on a structure other than a Tower or Alternative Tower Structure (including, but not limited to the antennas and Accessory Equipment), it shall be of a neutral, non-reflective color that is identical to, or closely compatible with, the color of the Supporting Structure, or uses other Stealth Design Techniques so as to make

the Antenna and related facilities as visually unobtrusive as technologically feasible, including for example, without limitation, painting the Antennas and Accessory Equipment to match the structure.

4. Alternative Tower Structures not in the Right-of-Way.

a. Alternative Tower Structures shall be designed and constructed to look like a building, facility, or structure typically found in the area;

b. Camouflage/concealment shall be consistent with other existing natural or manmade features in the near location where the Alternative Tower Structure will be located;

c. Such structures shall be architecturally compatible with the surrounding area;

d. Height or size of the proposed Alternative Tower Structure should be minimized to the extent technologically feasible;

e. WCFs shall be sited in a manner that evaluates the proximity of the facility to residential structures and residential district boundaries for aesthetic purposes;

f. WCFs should take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses for aesthetic purposes;

g. Compatibility with the surrounding topography;

h. Compatibility with the surrounding tree coverage and foliage;

i. Compatibility of the context and design of the site, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and

j. Impact on the surrounding area of the proposed ingress and egress, if any.

5. Alternative Tower Structures for Small Cell Facilities in the Right-of-Way. Alternative Tower Structures and associated Small Cell Facilities (including Micro Cell Facilities) may be deployed in the Right-of-Way through the utilization of a street light pole, distribution lines, utility poles,

traffic signal or similar structure. Such facilities shall remain subject to the applicable Alternative Tower Structures standards of approval noted above. Small Cell Facilities in the right-of-way are exempt from setbacks, but are subject to the following additional design criteria below:

- a. To the extent that an Alternative Tower Structure is a stand-alone vertical structure located in the Right-of-Way (such as a street light pole), pole-mounted equipment should be mounted on or within the pole or in a flush-to-grade underground equipment vault;
- b. To the extent reasonably feasible, be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the Alternative Tower Structure;
- c. Be sized to minimize the negative aesthetic impacts to the Right-of-Way;
- d. Be designed such that antenna installations on traffic signal standards are placed in a manner so that the size, appearance, and function of the signal will not be materially altered;
- e. Ground mounted equipment shall be located in a manner necessary to address both public safety and aesthetic concerns in the reasonable discretion of the Manager such as being screened from view, and may, where appropriate and to the extent it is technologically feasible based upon construction, engineering and design standards, require a flush-to-grade underground equipment vault;
- f. Not alter vehicular circulation or parking within the Right-of-Way or impede vehicular, bicycle, or pedestrian access or visibility along the Right-of-Way. The Alternative Tower Structure must comply with the Americans with Disabilities Act and every other local, state, and federal law and regulation;
- g. The Support Structure height (as measured from the ground to the top of the pole or structure) may not exceed the greater of (i) forty (40) feet or (ii) five (5) feet taller than any existing utility or traffic

signal pole within a radius of six hundred (600) feet of the pole or structure;

h. Unless the WCF is deployed on an existing structure in the Right-of-Way, new WCFs placed on poles in the Right-of-Way shall be separated from any other pole, Accessory Equipment or WCF in the Right-of-Way by a distance of at least six hundred (600) feet;

i. To the extent technically feasible, Collocations are strongly encouraged where other Support Structures are located in proximity; and

j. Equipment enclosures shall be located out of view as much as technically feasible and shall comply with the requirements of this Code (e.g. sight line criteria).

6. Towers.

a. Towers shall either maintain a non-reflective galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the City;

b. Tower structures should use existing land forms, vegetation, and structures to aid in screening the facility from view or blending in with the surrounding built and natural environment;

c. Monopole support structures shall taper from the base to the tip;

d. All Towers, excluding Alternative Tower Structures in the Right-of-Way, shall be enclosed by security fencing or wall at least six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.

7. Related Accessory Equipment. Accessory equipment for all WCFs shall meet the following requirements:

a. All buildings, shelter, cabinets, and other accessory components shall be grouped as closely as technically possible;

b. Except for Small Cell Facilities in the rights-of-way, the total footprint coverage area of the WCF's accessory equipment shall not exceed three hundred fifty (350) square feet per carrier, unless otherwise approved by the Manager.

I. Setbacks and Separation. All zone setbacks and separation requirements shall apply to WCFs except as specifically stated otherwise in this part. A Tower shall meet the greater of the following minimum setbacks from all property lines:

1. The setback for a principal building within the applicable zoning district;
2. Twenty-five percent of the facility height, including WCFs and Related Accessory Equipment; or
3. Five (5) times the Tower height, including antennas, if the Tower is in, or adjacent to, a residential district or school site, unless a conditional use is approved.

K. Administrative Waiver.

1. Any of the design standards may be waived or reduced by the Manager upon a determination that the purpose and intent of this part is better served thereby and that the application in question involves circumstances that are not generally applicable to WCFs of the same type. The Manager shall identify the specific purpose or intent, as set forth above, that is better served by the waiver and the circumstances that warrant a waiver.

2. If necessary to ensure that this Section does not have the effect of prohibiting the provision of wireless service, any of the design standards may be waived or reduced by the Manager upon written request from the applicant that demonstrates the following waiver criteria:

- a. The design standard prohibits or has the effect of prohibiting the provision of wireless service through the WCF at the location because the standard will not allow the technology to function at that location; and
- b. There is no existing nearby alternate structure for collocation or attachment that will provide the technological functionality and which otherwise meets the design standard sought to be waived; and

- c. The proposal for varying from the design standard represents a reasonable and best approximation of the specific standard sought to be waived; and
- d. The proposed alternative does not and will not constitute or create any public safety, health or welfare concern.

3. All waiver requests made by applicants shall be made in writing and supported by substantial evidence contained in a written record. Each of the criteria addressed above shall be addressed in the written request with references to supporting evidence. The Manager may require sworn affidavits be provided by qualified engineers to support any waiver requests based on technological requirements.

4. All waiver decisions shall be made in writing. If any design standard is approved for waiver, the WCF proposed shall nevertheless meet all other applicable design standards not specifically waived in the Manager's decision. Each waiver shall be site specific, and shall not apply to any type or kind of WCF generally.

5. If a waiver request is denied for failure to meet any of the criteria specified above and there is no alternative for installation of the WCF at the particular location in a manner that meets the applicable design standards, then such application for the WCF for such specific location shall be denied.

L. Additional Design Standards. The Manager is authorized to promulgate through administrative regulations, additional design standards for WCFs in the Manager's discretion.

Section 3. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 4. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____

day of _____, 2020.

Finally passed: _____

Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson, City Clerk