

ORDINANCE NO. 2018-023

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 17.60 OF THE
CASTLE ROCK MUNICIPAL CODE CONCERNING PERSONAL WIRELESS
SERVICE FACILITIES**

WHEREAS, the Town of Castle Rock is a home rule municipal corporation and is empowered to adopt ordinances as are necessary and convenient to protect the health, safety and welfare of the community; and

WHEREAS, House Bill 17-1193 was passed concerning the installation of small cell wireless facilities within local ROW; and

WHEREAS, the Town of Castle Rock Municipal Code does not address small cell wireless facilities; and

WHEREAS, wireless technology is constantly evolving and from time to time the Castle Rock Municipal Code should be updated to reflect new technologies; and

WHEREAS, the Town's Comprehensive Master Plan states that the Town should accommodate, where appropriate, community and regional telecommunications facilities to serve the needs of citizens, businesses and government while minimizing any negative environmental or aesthetic impacts associated with telecommunications facilities; and

WHEREAS, the Planning Commission and Town Council have conducted the required public hearings in accordance with the applicable provisions of the Town of Castle Rock Municipal Code.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. Repeal and Replacement. Chapter 17.60 of the Castle Rock Municipal Code is hereby repealed and replaced to read as follows:

**Chapter 17.60
Wireless Communication Facilities (WCFs)**

- 17.60.010** **Definitions**
- 17.60.020** **Policy statement**
- 17.60.030** **Applicability**
- 17.60.040** **Site selection**
- 17.60.050** **Design standards**
- 17.60.060** **Review procedures and requirements**
- 17.60.070** **Standards for approval**

- 17.60.080** **Operational standards**
- 17.60.090** **Reserved**
- 17.60.100** **Violations, penalties; Town remedies**

- 17.60.010** **Definitions.**

For the purpose of this Chapter, the following terms shall have the meaning ascribed to them below:

Alternative Tower Structure means man-made trees, clock towers, bell steeples, water towers, light poles, traffic signal poles, and similar alternative design mounting structures that are compatible with the surrounding natural setting and/or built environment and camouflage or conceal the presence of Antennas or Towers so as to make them architecturally compatible with the surrounding area pursuant to this Chapter 17.60. A Vertical Asset in the Right-of-Way that accommodates Small Cell Facilities or Micro Cell Facilities (including a Replacement Pole) is considered an Alternative Tower Structure to the extent it meets the camouflage and concealment standards of this Chapter.

Antenna means any exterior apparatus designed for telephonic, radio, data, internet or television communications through the sending and/or receiving of electromagnetic waves, including equipment attached to a Tower, Pole, or building for the purpose of providing personal wireless services including, for example, unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the FCC for "cellular," "paging," "enhanced specialized mobile radio," "low power mobile radio" and "personal communications services" telecommunications services.

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

1. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the Town under this Chapter, has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support; and

2. Radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and Small Cell networks) that, at the time the relevant application is filed with the Town under this Chapter has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

The definition of Base Station does not include any structure that, at the time the relevant application is filed with the Town under this Chapter, does not support or house equipment described in paragraphs 1 and 2 above.

Camouflage, Concealment, or Camouflage Design Techniques means a WCF that is camouflaged or utilizes Camouflage Design Techniques (when any measures are used) in the design and siting of a WCF with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF Site utilizes Camouflage Design Techniques when it: (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a flagpole, or (iii) uses a design which mimics and is consistent with the surrounding natural setting and/or built environment (such as an artificial tree), or (iv) replaces or is incorporated into (including without limitation being attached to the exterior of such features or facilities and being painted to match) an existing permitted facilities so that the presence of the WCF is not readily apparent.

Code means the Castle Rock Municipal Code, as amended from time to time.

Collocation means the mounting or installation of Transmission Equipment on an Eligible Support Structure, Alternative Tower Structure, Pole or Tower for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Distribution Line means a line or system of lines for distributing electric power or communications, strung above ground between utility poles.

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: (i) collocation of new Transmission Equipment, (ii) removal of Transmission Equipment, or (iii) replacement of Transmission Equipment.

Eligible Support Structure means any Tower or Base Station, provided it is existing at the time the relevant application is filed with the Town under this Chapter.

Existing Tower or Base Station means a constructed Tower or Base Station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time it was built. For example, a Tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Manager means the Town Manager or his/her designee.

Micro Cell or Micro Wireless Facility means 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 eleven inches in length. Micro Cells or Micro Wireless Facilities include both facilities located on Vertical Assets and facilities located on Distribution Lines.

Macro Cell or Macro Wireless Facility means any WCF failing to meet the definition of Micro Wireless Facility or Small Cell Facility.

Pole means light poles, traffic signal poles, utility poles, wooden electric distribution poles, or other similar poles and their fixtures located in the Public Right-of-Way.

Public Property means real property owned or controlled by the Town, excluding the Public Right-of-Way.

Public Right-of-Way or Right-of-Way means an area of land owned or controlled by the Town for the purposes of constructing, operating and maintaining public facilities such as streets, alleys, sidewalks, bike paths and landscaping for the needs of transportation, utilities, and other public infrastructure.

Radio Frequency Emissions Letter means a letter from the applicant certifying, all WCFs that are the subject of the application shall comply with federal standards for radio frequency emissions.

Replacement Pole means a newly constructed and permitted light pole, traffic signal pole, utility pole, flagpole, Distribution Line, or other similar structure of proportions and of equal height or such other height that would not constitute a Substantial Change which takes the place of an existing Pole in order to support a WCF or to accommodate collocation.

Shot Clock means the time periods required under applicable federal and/or state law for the Town to process applications for WCFs.

Signal Interference Letter means a letter from the applicant certifying, 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.

Site means the current boundaries of the leased or owned property surrounding a Tower or Eligible Support Structure and any access or utility easements currently related to the Site. For Alternative Tower Structures, Base Stations, Small Cells, and Micro Cells in the Right-of-Way, Site means the area comprising the base of the structure and other related accessory equipment already deployed on the ground.

Small Cell Facility means a WCF that meets both of the following qualifications:

1. Each Antenna is located inside an enclosure of no more than three cubic feet in volume or, in 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

2. Primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and, if so located is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosures, backup power systems, grounding equipment, power transfer switch, and cut-off switch, or

3. Is a Micro Cell Or Micro Wireless Facility.

Substantial Change for Eligible Support Structures means a modification Substantially Changes the physical dimensions of an Eligible Support Structure if after the modification, the structure meets any of the following criteria:

1. For Towers, other than Alternative Tower Structures in the Right of-Way or other Towers in the Right-of-Way, it increases the height of the Tower by more than ten percent 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 ten percent or more than ten feet, whichever is greater;

2. For Towers, other than Towers in the Right-of-Way, it involves adding an appurtenance to the body of the Tower that would protrude from 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 Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the side 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 Right-of-Way and Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;

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

5. For any Eligible Support Structure, it would defeat the concealment elements of the Eligible Support Structure. For the purposes of this subsection (v), a change which undermines the concealment elements of an Eligible Support Structure will be considered to defeat the concealment elements; or

6. For any Eligible Support Structure, it does not comply with conditions associated with the siting approval of the construction or modification of the Eligible Support Structure equipment, unless the non-compliance is due to an increase in height,

increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs (i), (ii), and (iii) of this Definition. For purposes of determining whether a Substantial Change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.

Tolling means the pausing or delaying of the Shot Clock.

Tower means any structure that is built for the sole or primary purpose of supporting FCC-licensed or authorized Antennas and their accessory equipment, including structures that are constructed for wireless communications services including, but not limited to, private broadcast, public safety services, unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated Site, self-supporting lattice towers or monopole towers. The term encompasses personal wireless service facilities, including radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, and the like.

Town-owned Poles means those Town-owned Poles located within the Public Rights-of-Way, including without limitation, light poles, traffic signal poles and Vertical Assets that are designated or approved by the Town as being suitable for placement of WCFs.

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 accessory 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.

Vertical Asset means a structure which is permanent, stationary, above ground and can support the attachment of WCFs.

Wireless Communications Facility or WCF means 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 Antenna(s), including without limitation, directional, omni-directional and parabolic Antennas, Base Stations, support equipment, Alternative Tower Structures, Small Cells, Micro Cells, and Towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service

subscribers, such as vehicle or hand-held radios/telephones and their associated transmitting Antennas, nor does it include other facilities specifically excluded from the coverage of this Chapter.

17.60.020 Policy statement.

A. The purpose of this Chapter is to provide specific regulations for the placement, construction and modification of WCFs. The provisions of this Chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of [conforming](#) WCFs, nor shall the provisions of this Chapter be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services. The goals of this Chapter are to encourage: (i) the location of WCFs in nonresidential areas; (ii) to minimize the total number of Towers throughout the Town; (iii) the joint use of new and existing Sites; (iv) users of Towers and Antennas to locate them, to the extent possible, in areas where the adverse impact on the Town is minimal; (v) users of Towers and Antennas to configure them in a way that minimizes the visual impact of the Towers and Antennas and does not create additional cost for the Town or negative impact to other existing Town needs or interests; (vi) WCFs to be situated and designed to minimize the impact on the surrounding neighborhoods and to maintain the character and appearance of the Town; and (vii) the ability of the providers of telecommunications services to provide such services throughout the Town quickly, effectively and efficiently. Accordingly, the Town Council finds that the promulgation of this Chapter is warranted and necessary to:

1. Manage the location of Tower WCFs in the Town.
2. Mitigate potential adverse impacts to residential areas and land uses.
3. Minimize visual impacts of WCFs through careful design, siting, landscape screening and innovative Camouflage Design Techniques.
4. Accommodate the growing need for WCFs.
5. Promote and encourage Collocation of existing and new Towers as a primary option rather than construction of additional single-use Towers, and to reduce the number of such structures needed in the future.
6. Consider the public health, safety and welfare of Towers to the extent allowed by the Telecommunications Act of 1996 and any other applicable law.
7. Avoid potential damage to adjacent properties through engineering and proper siting of Towers.
8. Effectively manage WCFs in the Public Right-of-Way.

B. All new WCFs shall comply with this Chapter after the date of passage of the ordinance.

C. All Towers existing on the date of passage of the ordinance shall be allowed to continue their usage as they are presently approved. Routine maintenance shall be permitted on such existing Towers.

17.60.030 Applicability.

A. The requirements set forth in this Chapter 17.60 shall apply to all applications for WCFs as defined in Section 17.60.010 and further addressed herein.

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

CB. The requirements set forth in this Chapter 17.60 shall not apply to:

1. Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive only Antennas, provided that the height of the antenna be no more than the distance from the base of the Antenna to the property line.

2. Any WCF which has received Town approval prior to June 19, 2018 shall not be required to meet the requirements of this Chapter 17.60, other than the requirements set forth in Section 17.60.080. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements set forth in 17.60.080. Notwithstanding the foregoing, any modifications qualifying as Eligible Facilities Requests shall be evaluated under Section. 17.60.060(A)(9) and (10).

3. Antennas used for reception of television, multi-channel video programming and radio (such as Over-the-Air Receiving Device (OTARD) Antennas) or television broadcast band Antennas and broadcast radio Antennas, provided that any requirements related to accessory uses contained in Title 17 of the Code are met and provided that the height of the Antenna be no more than the distance from the base of the antenna to the property line. The Town 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 Town, 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 Town.

5. A temporary WCF installed for providing coverage of a special event such as a news coverage or sporting event, subject to a Temporary Use Permit set forth in Chapter 17.16.030.

17.60.040 Site selection.

A. An applicant for a new WCF shall propose a location that best meets the goals set forth in 17.60.020. It is the Town's understanding that factors such as demand and topography will influence the site selection and technology used.

B. For a new WCF located in the Right-of-Way, it is the Town's preference that the applicant consider locating on an existing light pole, a new Pole, or Alternative Tower Structure before locating on any traffic signal poles. For any WCF to be located in the Right-of-Way the applicant must enter into a license agreement with the Town. If attaching to Town-owned Poles in the Right-of-Way the applicant must enter into a pole attachment agreement with the Town. In addition to the terms and conditions of said license, any WCF located in the Right-of-Way shall be in conformance with the standards set forth in this Chapter and the Town of Castle Rock Transportation Design Criteria Manual.

C. An applicant for a new WCF to be located in a residential zoning district, except for Small Cell Facilities located within Collector or Arterial designated Right-of-Way, shall demonstrate a diligent effort has been made to locate the WCF in other areas and due to valid considerations including, without limitation, physical constraints, or technological feasibility, no appropriate location is available. Unless otherwise preempted or restricted by federal law, no WCF shall be permitted on property designated as a historic landmark or within the Craig and Gould portion of the Historic Downtown Area without review and approval of the Historic Preservation Board.

D. No new Macro Cell Tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town that no existing WCFs can accommodate the needs the applicant proposes to address with its Macro Cell Tower application. Evidence submitted to demonstrate that no existing WCF can accommodate these needs may consist of the following:

1. No existing WCFs with a suitable height are located within the geographic area required to meet the applicant's engineering requirements.
2. Existing WCFs do not have sufficient structural strength to support applicant's proposed WCF.
3. The applicant's proposed WCFs would cause electromagnetic interference with the existing WCFs or the existing WCF would cause interference with the applicant's proposed WCF.
4. The applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for Collocation.
5. Macro Cell Towers over 90 feet in height shall not be located within one-quarter mile of any existing Tower that is over 90 feet in height, unless the applicant has demonstrated, to the satisfaction of the Town, that there are no reasonably suitable alternative sites in the requested geographic area which can meet the applicant's needs.

E. The Town may enter into or decline a lease for Public Property.

17.60.050 Design standards.

The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this Section as specified below; provided, however, that the Town may waive these requirements if it determines that the goals of this Section are better served thereby. WCFs shall be designed in accordance with all adopted design manuals such as, but not limited to, the Castle Rock Transportation Design Criteria Manual. Where design standards may be silent or not specific, the underlying zoning shall govern. To the extent consistent with applicable federal and state law, the ultimate design of WCFs shall achieve the goals set forth 17.60.020.

A. General Requirements. The following requirements shall be met by all WCFs:

1. Camouflage/Concealment. All WCFs and any Transmission Equipment shall, to the extent possible, use Camouflage Design Techniques including, but not limited to, the use of materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF into the surrounding natural setting and/or built environment. Designs shall be compatible with structures and vegetation on the same parcel and adjacent parcels.

a. Camouflage design 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 Town determine a WCF is located in an area of high visibility, such WCF shall (to the extent possible) be designed (e.g., camouflages, placed underground, depressed, or located behind earth berms) to minimize their profile.

b. The camouflage design may include the use of Alternative Tower Structures should the Town determine that such design meets the intent of this Chapter and the community is better served.

c. All WCFs and related components and accessory equipment shall be constructed out of non-reflective materials (visible exterior surfaces only).

2. Collocation. WCFs may be required to be designed and constructed to accommodate at least 2 wireless service providers on the same WCF, unless the Town approves an alternative design to the extent that Collocation is not feasible based upon construction, engineering and design standards. No WCF owner or operator shall unreasonably exclude a telecommunications competitor from using the same facility or location. Upon request by the Town, the owner or operator shall provide evidence explaining why Collocation is not possible on a particular WCF or Site.

3. Site Design.

a. Each WCF and related components and accessory equipment shall be completely contained within a single recorded property boundary, lot or tract.

b. Adequate parking shall be provided for the WCF. Any reduction in the approved parking for a principal use must be addressed through the submitted site plan and shall meet the minimum parking standards set forth in Chapter 17.54 of the Code. This section shall not apply to WCFs in the Right-of-Way.

c. WCFs shall not negatively impact other Right-of-Way uses, such as underground utilities, site lines, pedestrian and bicycle access, or create a roadside hazard, as determined by the Town.

4. Setbacks. The following minimum setbacks shall apply to all WCFs and related components and accessory equipment. A WCF shall meet the greater of the following minimum setbacks from all property lines:

a. For WCFs located outside of the Right-of-Way:

i. The setback for a principal building within the applicable zoning district.

ii. Twenty-five percent (25%) of the WCF height.

iii. The Tower height, including antennas, if the Tower is in or adjacent to a residential zoning district.

b. For WCFs located inside of the Right-of-Way:

i. WCFs shall meet all setback requirements set forth in the Town of Castle Rock Transportation Design Criteria Manual. For WCFs using existing Poles or Vertical Assets in the ROW, such set back requirements shall apply only to the extent technically feasible.

5. Lighting. WCFs shall not be artificially lit, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on an Alternative Tower Structure such as a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light trespass on surrounding properties, particularly residences.

6. Landscaping and fencing requirements.

a. WCFs may not modify any landscaping approved by a Site Development Plan without gaining approval to amend the previously approved Site Development Plan.

b. Except for Small Cell Facilities in the Right-of-Way, WCFs shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from adjacent residential property. The plant material should be consistent with the surrounding natural setting and/or built environment. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the site. Where the Town has requested landscaping, the applicant must comply with all Town landscape and irrigation regulations.

c. Where fencing for screening is required, such fencing material shall not be chain link or wire and must be a minimum of eight feet in height.

d. In locations where the visual impact of the WCF would be minimal or for Small Cell Facilities in the Right-of-Way, the landscaping requirement may be reduced or waived altogether by the Town.

e. 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, wooded lots, natural growth around the site perimeter may be a sufficient buffer.

f. No trees larger than 4 inches in diameter, measured at 4 ½ feet high on the tree, may be removed unless authorized by the Town. 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 Town shall designate a tree caliper requirement for all replacement trees. Additional landscaping required by the Town will be maintained at the expense of the owner of the WCF.

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

a. All buildings, shelters, cabinets, and other related components shall be grouped as closely as technically possible.

b. The total footprint of the accessory equipment shall not exceed 350 square feet.

c. No accessory equipment or accessory structure shall exceed 12 feet in height.

d. Accessory equipment including, but not limited to, remote radio units shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the accessory equipment shall be camouflaged or concealed.

e. Any ground mounted equipment shall be located in a manner necessary to address both public safety and aesthetic concerns in the reasonable discretion of the Town. The Town may, where appropriate and reasonably feasible based upon technical, construction and engineering requirements, require a flush-to-grade underground equipment vault.

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

B. Specific Design Requirements. Additional design requirements shall be applicable to the following WCFs as specified below:

1. Base Stations. Components installed on a structure other than a Tower, Alternative Tower Structure, or Pole, such as a Base Station (including, but not limited to the Antennas and accessory equipment) shall be of a neutral, non-reflective color that is identical to, or closely compatible with, the color of the supporting structure, or utilizes other camouflage/concealment design techniques to make the Antenna, Transmission Equipment and related accessory equipment as visually unobtrusive as possible. Base Stations shall also meet the following criteria:

a. Roof-mounted Antennas shall not extend above the parapet of a flat roof or ridge of a sloped roof to which they are attached unless fully screened.

b. Other roof-mounted Transmission Equipment shall not extend above the parapet of a flat roof upon which they may be placed unless fully screened, and shall not be permitted on a sloped roof.

c. Wall mounted components shall not extend above the roofline.

d. The maximum protrusion of components from the building or structure face to which they are attached shall be limited to 6 feet.

2. Alternative Tower Structures and WCFs located outside of the Public Right-of-Way. Alternative Tower Structures and WCFs shall:

a. Be designed and constructed to look like a building or structure typically found in the area.

b. Be camouflaged/concealed consistent with other existing natural or manmade features in or near the location where the Alternative Tower Structure will be located.

c. Be architecturally compatible with the surrounding area.

d. Be designed to minimize the height and size of the Alternative Tower Structure.

e. Be sited in a manner that evaluates the proximity of the facility to residential structures and residential zoning district boundaries.

f. Take into consideration the uses on adjacent and nearby properties and the compatibility of the WCF to these uses.

g. Be compatible with the surrounding topography.

h. Be compatible with the surrounding tree coverage and foliage.

i. Be compatible with the design of the site, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

j. Take into consideration the impact on the surrounding area of the proposed ingress and egress, if any.

3. Alternative Tower Structures located in the Public Right-of-Way. Alternative Tower Structures and associated Small Cells, or Micro Cells may be deployed in the Public Right-of-Way through the utilization of a Poles, Distribution Lines, or similar structures. Such WCFs shall remain subject to the Town of Castle Rock Transportation Design Criteria Manual, as applicable, and the Alternative Tower Structures standards of approval noted above, and subject to the following additional design criteria:

a. Any pole mounted components shall be located on or within a Pole.

b. Where Distribution Lines are aerial, pole-mounted components shall be located on an existing Pole or an existing Distribution Line.

c. To the extent reasonably feasible, be consistent with the size and shape of the pole-mounted equipment installed by communications companies on Poles near the Alternative Tower Structure.

d. Be sized to minimize the negative aesthetic impacts to the Public Right-of-Way.

e. Be designed such that antenna installations on a traffic signal pole are placed in a manner so that the size and appearance of the traffic signal pole will not be considerably altered.

f. Shall 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.

g. The Alternative Tower Structure must comply with the Americans with Disabilities Act and all local, state, and federal law and regulations.

h. Alternative Tower Structures may not be located or maintained in a manner that causes unreasonable interference. “Unreasonable interference” means any use of the Right-of-Way that disrupts or interferes with its use by the Town, the general public, or other person authorized to use or be present upon the Right-of-Way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the Right-of-Way that disrupts vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.

i. The Alternative Tower Structure shall not be 5 feet taller (as measured from the ground to the top of the pole) than any existing Pole within a radius of 500 feet of the Alternative Tower Structure.

j. The maximum height for an Alternative Tower Structure is 40 feet.

k. The Alternative Tower Structure shall be separated from any other existing Pole or ground-mounted accessory equipment in the Right-of-Way by a distance of at least 600 feet unless deployed on or is a Replacement Pole in the Public Right-of-Way. The Manager may exempt an applicant from these requirements if: (i) the applicant demonstrates through technical network documentation that the minimum separation requirement cannot be satisfied for technical reasons, or (ii) the Manager determines, when considering the surrounding topography; the nature of adjacent uses and nearby properties; and, the height of existing structures in the vicinity, that placement of a WCF at a distance less than 600 feet from another WCF will meet the intent of reducing visibility and visual clutter of WCFs to the extent possible.

l. To the extent reasonably and technically feasible, Collocations are strongly encouraged to limit the number of Alternative Tower Structures within the Right-of-Way.

m. Equipment enclosures shall be located out of view as much as possible and shall comply with the Transportation Design Criteria Manual criteria (e.g. sight line criteria).

n. When placed near a residential property, the Alternative Tower Structure shall be placed adjacent to the common side yard property line between adjoining residential properties, such that the Alternative Tower Structure minimizes visual impacts equitably among adjacent properties. In the case of a corner lot, the Alternative Tower Structure may be placed adjacent to the common side yard property line between adjoining residential properties, or on the corner formed by two intersecting streets.

4. Towers.

- a. Towers shall maintain a 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 Town.
- b. Tower structures should use existing land forms, vegetation, and structures to aid in screening the WCF from view or blending in with the surrounding natural setting and/or built environment.
- c. Monopole Tower structures shall taper from the base to the tip.
- d. All Towers shall be enclosed by security fencing or wall at least 8 feet in height and shall also be equipped with an appropriate anti-climbing device.
- e. Guy Tower structures are not permitted in the Town.
- f. Height and size of Tower should be minimized as much as possible.

17.60.060 Review procedures and requirements.

A. It is the intent of the Town to provide administrative approval of WCFs, other than Macro Cell Towers, in cases where visual impacts are minimized, view corridors are protected, WCFs utilize appropriate camouflage/concealment design techniques to avoid adverse impacts on the surrounding area, and WCFs are designed, maintained, and operated in compliance with the provisions of this Chapter and all applicable law. Notwithstanding the approval of an application for Collocation in connection with an Eligible Facilities Request as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in the Code and any other applicable regulations.

B. New WCFs shall not be constructed and Collocation or modification to existing WCFs may not occur until after a written request from an applicant and been reviewed and approved by the Town in accordance with this Chapter. All WCFs, except Eligible Facilities Requests which are reviewed under subsection 17.60.060.B.9 and 10, shall be reviewed pursuant to the following procedures:

- 1. Process Table. WCF classifications permitted in each property type must adhere to the following procedures.

Wireless Communication Facilities Process Table

	Micro	Small	Macro	Micro or Small Eligible Facilities Request	Macro Eligible Facilities Request	Macro Non-Eligible Facilities Request Collocation
Public ROW	Permit review	Permit review	Not permitted	Permit review	N/A	N/A
Private Property	SDP Admin review	SDP Admin review	USR Public Hearing	SDP Admin review	SDP Admin review	USR Public Hearing
Public Property	SDP Admin review	SDP Admin review	USR Public Hearing	SDP Admin review	SDP Admin review	USR Public Hearing

a. Permit Review - WCFs approved through a permit review process shall follow the appropriate permitting process outlined in the Town of Castle Rock Transportation Design Criteria Manual.

b. SDP Administrative Review - Shall be reviewed for conformance to this Chapter and the Code using the Site Development Plan review procedures set forth in Chapter 17.38 of the Code, even if the WCF is located on Public Property. Should it be determined the proposed WCF has a significant visual impact (i.e. proximity to historical sites) or is otherwise incompatible with the structure or surrounding area, or has not meet the intent of this Chapter, the application may be referred to Town Council for approval as a USR public hearing, after a recommendation by the Planning Commission.

c. USR Public Hearing - A Use by Special Review shall be reviewed for conformance to this Chapter and the Code using the Site Development Plan USR review procedures set forth in Chapter 17.38 of the Code. Upon the Town’s sole determination, a USR for a WCFs to be located on existing structures, other than Towers, may be expedited and be processed as an SDP Administrative Review if the WCF is fully enclosed or screened.

d. Unless otherwise preempted or restricted by federal law, no WCF shall be permitted on property designated as an historic landmark or within the Craig and Gould portion of the Historic Downtown Area without review and approval of the Historic Preservation Board.

2. Submittal Requirements. In addition to an application form, a lease agreement in its final form (or alternatively a memorandum of a lease), Signal Interference Letter, radio frequency emissions statement, and submittal fees, each applicant shall submit

a scaled site plan, photo simulation, scaled elevation view and other supporting drawings, calculations, and other documentation showing the location and dimension of all improvements, existing and proposed, including information concerning topography, radio frequency coverage, WCF height, setbacks, access, parking, fencing, landscaping, adjacent uses, drainage, removal affidavits, and other information deemed by the Town to be necessary to assess compliance with this Chapter. The applicant should refer to the Castle Rock Transportation Design Criteria Manual for additional submission requirements for WCFs in the Right-of-Way. Documents requiring signatures and seals by appropriate qualified professionals shall be provided by the applicant after approval of the application by the Manager.

3. Inventory of Existing Sites. Excluding applications for Eligible Facilities Requests, each applicant for a WCF shall provide a narrative and map description of the applicant's existing and proposed WCFs within the Town, and outside of the Town within one mile of the Town's municipal boundaries. In addition, the applicant shall inform the Town generally of the areas of the Town in which it believes WCFs may need to be located within the next three years. The inventory list shall identify the site name, site address, and a general description of the facility (i.e., rooftop Antennas and ground mounted equipment). 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 Town. Rather, it is an attempt to provide a mechanism for the Town and all applicants for WCFs to share general information, assist in the Town's comprehensive planning process, and promote Collocation by identifying areas in which WCFs might be appropriately constructed for multiple users. For small cells in the Right-of-way, this requirement may be addressed through a master license agreement or similar instrument. The Town may share such information with other applicants or other organizations seeking to locate WCFs within the Town's jurisdiction, provided however, that the Town is not, by sharing such information, representing or warranting that such sites are available or suitable.

4. Shot Clock. WCFs are subject to the shot clock provided in the table below, which are the time periods required under applicable federal and/or state law for the Town to process applications for WCFs. To the extent that these time periods are changed by future amendments to federal or state law, the Town shall operate under the then-existing time frames. For the purposes of this Chapter the shot clock begins to run upon the filing of an application by the applicant.

Wireless Communication Facilities Shot Clock Table

Micro-New or Non Eligible Facilities Request	Small-New or Non Eligible Facilities Request	Micro or Small Eligible Facilities Request	Macro-New	Macro Eligible Facilities Request	Macro Non Eligible Facilities Request Collocation
90 days	90 days	60 days	150 days	60 days	90 days

5. Tolling of the Timeframe for Review. The review period begins to run upon the filing of an application, and may be tolled only by mutual agreement of the Town and the Applicant, or in cases where the Town determines that the application is incomplete and provides notice of same to the applicant:

a. To toll the timeframe for incompleteness, the Town 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 for the respective facility type;

b. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the Town’s notice of incompleteness; and

c. Following a supplemental submission, the Town will notify the applicant within 10 days if the supplemental submission did not provide the missing documents or information identified in the original written notice. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in paragraph 5. In the case of a second or subsequent notice of incompleteness, the Town may not require missing documents or information which was not identified in the original notice of incompleteness.

6. Failure to Act. In the event the Town fails to act on a request seeking approval for an Eligible Facilities Request under this Chapter within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant becomes effective when the applicant notifies the Town in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

7. Interaction with Telecommunications Act Section 332(c)(7). If the Town determines that the applicant’s request is not an Eligible Facilities Request as delineated in this Chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC’s Shot Clock order, will begin to run from the issuance of the Town’s decision that the application is not a covered request. To the extent such

information is necessary, the Town may request additional information from the applicant to evaluate the application under Section 332(c)(7) reviews.

8. Compliance with Applicable Law. Notwithstanding the approval of an application for an Eligible Facilities Requests or Collocation as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building structural, electrical, and safety requirements as set forth in the Code and any other applicable laws or regulations. In addition, all WCF applications shall comply with the following:

- a. Any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF.
- b. Easements, conditions and/or restrictions on or applicable to the underlying real property.

9. Review Procedures for Eligible Facilities Requests.

a. Application. In all zoning districts, Eligible Facilities Requests shall be considered a use by right subject to review as outlined in the Process Table. The Town shall prepare an application form which shall be limited to the information necessary for the Town to consider whether an application is an Eligible Facilities Request. Such information may include, without limitation, whether the project:

- i. Would result in a Substantial Change.
- ii. Violates a generally applicable law, regulations, or other rule codifying objective standards reasonably related to public health, safety and welfare. The application may not require the applicant to demonstrate a need or business case for the proposed modification or Collocation.

b. Type of Review. Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Town shall review such application to determine whether the application so qualifies.

10. Decision. Any decision to approve, approve with conditions, or deny an application for a WCF or Eligible Facilities Request shall be in writing and supported by substantial evidence in a written record. The applicant shall receive a copy of the decision.

17.60.070 Standards for approval.

A. Permit Review. WCFs approved through the permit review process shall meet all standards in this Code, all applicable standards in the Town of Castle Rock Transportation Design Criteria Manual, and all other applicable technical criteria manuals.

B. SDP Administrative Review. WCFs approved through the SDP Administrative review process shall meet all standards in this Code.

C. USR Public Hearing. The Town shall consider the following for Use by Special Review approvals. The Town may waive or reduce these criteria if it concludes a waiver or reduction better suits the goals of this Chapter.

1. Height and size of the proposed WCF.
2. Proximity of the WCF to residential structures and residential zoning district boundaries.
3. Nature of uses on adjacent and nearby properties.
4. Compatibility with the surrounding topography.
5. Compatibility with the surrounding tree coverage and foliage.
6. Design of the WCF, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
7. Proposed access.

17.60.080 Operational standards.

A. Federal Requirements. All WCFs shall meet the current standards and regulations of the FAA, the 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 governed by this Chapter shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. To this effect, all applications for WCFs shall include, without limitation, the following:

1. A Radio Frequency Emissions Letter.
2. A Signal Interference Letter.

Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense.

B. Agreements and Legal Access. For WCFs in the Public Right-of-Way, the applicant shall execute a license agreement with the Town granting a non-exclusive license to use the Public Right-of-Way. Attachment of a WCF to Town-owned Poles and Vertical Assets in the Right-of-Way shall require a pole attachment agreement with the Town. Attachment of WCFs on other existing street light poles, or similar Poles in the Right-of-Way shall require written evidence of a license, or other legal right or approval. For WCFs on Public Property, the applicant shall execute a lease agreement with the Town. For WCFs on private property, the applicant must warrant and

represent that it has the written agreement of the owner of the property which is the subject of the application for legal access to and from the WCF and the applicant must also warrant and represent that it will have legal access to the utilities to operate and maintain the WCF.

C. Structural Integrity. To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the Town concludes that a WCF fails to comply with such codes and constitutes a danger to persons, property or the environment, then, upon written notice being provided to the owner of the WCF, the owner shall have 30 days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the Town may extend such compliance period not to exceed 90 days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the Town may remove such WCF at the owner's expense. If the WCF poses an immediate danger to persons, property, or the environment the Town may cause for the WCF to be immediately deactivated or removed. The Town will provide notice of such immediate deactivation or removal to the applicant as soon as practicable.

D. Noise. Noise generated on the site must not exceed the levels permitted pursuant to Chapter 9.16 of the Code.

E. Abandonment and Removal. If a WCF has not been in use for a period of 90 days, the owner of the WCF shall notify the Town of the non-use and shall indicate whether re-use is expected within the ensuing 90 days. Any WCF that is not operated for a continuous period of 180 days shall be considered abandoned. The Town, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within 30 days of written notice being provided by the Town. If such WCF is not removed within said 30 days, the Town may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired. The owner of the WCF and the property owner shall provide an affidavit acknowledging that it is responsible for the removal of a WCF that is abandoned.

F. Applicable Town Standards. Each WCF installed in the Right-of-Way including on Town-owned Poles within the Right-of-Way shall meet criteria and standards described in the Town of Castle Rock Transportation Design Criteria Manual and any other applicable technical criteria.

G. Site Maintenance. WCFs shall be maintained in good working condition and to the standards established at the time of application approval and 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 ten business days from the time of notification by the Town or after discovery by the owner or operator of the Site. Notwithstanding the foregoing, any graffiti on WCFs located in Public Right-of-Way or on other Public Property may be removed by the Town at its discretion, but not without prior notice to the owner or operator of the site with an opportunity to remove the graffiti. The owner and/or operator of the WCF shall pay all costs of such removal from the WCF within thirty days after receipt of an invoice from the Town.

H. Compliance Report. Upon request by the Town, the applicant shall provide a compliance report within 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.

17.60.090 Reserved.

17.60.100 Violations; penalties; Town remedies.

A. Any person who violates any of the provisions of this Chapter shall be punished by a fine of not more than \$1,000.00.

B. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continued or permitted by any such person.

C. In addition to receiving any fines or other monetary remuneration, the Town shall have the right to seek injunctive relief for any and all violations of this Chapter and all other remedies provided at law or in equity.

D. Before taking action, the Town will provide notice to the user of the alleged violation, and provide a reasonable opportunity for the user to either cease or cure the alleged violation or address the Town Council regarding such alleged violation. This procedure need not be followed in emergency situations.

Section 2. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

Section 3. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 5th day of June, 2018 by a vote of 6 for and 0 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this 19th day of June, 2018, by the Town Council of the Town of Castle Rock by a vote of __ for and __ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jennifer Green, Mayor

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

Bill Detweiler, Development Services Director

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