

ORDINANCE NO. 478

AN ORDINANCE ESTABLISHING SITING CRITERIA, METHOD OF REVIEW, APPLICATION GUIDELINES AND DEVELOPMENT STANDARDS FOR TELECOMMUNICATIONS FACILITIES AND DECLARING AN EMERGENCY.

WHEREAS, the Federal Telecommunications Act of 1996 is designed to reduce regulatory barriers and encourage competition among all types of telecommunications providers; and

WHEREAS, an increased number of service providers in the wireless communications field will result in the construction of ever-increasing numbers of antenna towers to accommodate the needs of telecommunications providers and users; and

WHEREAS, Section 704 of the Federal Telecommunications Act of 1996 specifically allows local zoning regulations pertaining to wireless telecommunications services as long as such regulations do not unreasonably discriminate among equivalent services and do not have the effect of prohibiting service; and

WHEREAS, the city of Wilsonville wishes to reduce the proliferation of individual towers through the encouragement of collocation and siting on existing suitable structures; to reduce the visual impact of towers through careful design, siting and screening; and to avoid damage to adjacent properties from tower failure and falling ice; and

WHEREAS, the city of Wilsonville wishes to encourage creativity in the placement and construction of wireless communication facilities which will be compatible with surrounding land uses; and

WHEREAS, the city of Wilsonville wishes to protect residential areas from the adverse visual impacts that would be created by a proliferation of such towers; and

WHEREAS, the city of Wilsonville wishes to allow the location of wireless communication facilities on city-owned property at the Elligsen Reservoir and at the Waste Water Treatment Plant;

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section I. Definitions

A. As used in this ordinance,

1. Aerial means a privately owned and operated antenna for non-commercial uses subject to height limitations as specified in WC Section 4.172. For purposes of this ordinance, "aerial" includes ham radio antennae and is not a "telecommunications facility."
2. Alternative tower structure means man-made structures such as clock towers, bell towers, church steeples, water towers, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennae and towers.
3. Exchange Carrier means a provider of telecommunications services.
4. Telecommunications facilities means facilities designed and used for the purpose of transmitting, receiving and relaying voice and data signals from various wireless communication devices. The following definitions apply to the regulation of telecommunications facilities:
 - a. Ancillary facilities: the structures and equipment required for operation of the telecommunication equipment, including but not limited to antennae, repeaters, equipment housing structure and ventilation or other mechanical equipment.
 - b. Antenna(e): any exterior apparatus, electrical conductor or group of electrical conductors, the surface of which is designed for telephonic, radio or television communications by sending and/or receiving radio-frequency or electromagnetic waves, including those sent and/or received by wireless communication facilities, Antennae include the following types:
 1. Omni-direction ("whip") antenna, which receives and transmits signals in a 360 degree pattern.
 2. Directional or Parabolic ("panel" or "disk") antenna, which receives and transmits signals in a directional pattern typically encompassing an arc of 120 degrees.
 3. Other, which means all other transmitting or receiving equipment not specifically described herein. Other antennae shall be regulated in conformity with the type of antenna described herein which most closely

resembles such equipment. For purposes of this ordinance, the term antenna shall not include ancillary antenna, which are antennae less than 12 inches in their largest dimension and are not directly used to provide personal wireless communication services.

- c. Attached wireless communication facility. A wireless communication facility that is affixed to an existing structure, e.g., an existing building wall or roof, mechanical equipment, or alternative tower structure.
- d. Attachment: An antenna or other piece of related equipment affixed to a transmission tower.
- e. Collocation: The use or placement of two or more antenna systems or platforms by separate FCC license holders on a single support structure, transmission tower or building.
- f. Equipment enclosures: A small structure, shelter, cabinet or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning and emergency generators.
- g. New facility The installation of a new transmission tower. New attachments are not new facilities.
- h. Pre-existing towers and pre-existing antennae: Any tower or antennae for which a building permit has been properly issued prior to the effective date of this ordinance.
- i. Support Structure: The structure to which wireless communication antennae and other necessary hardware are mounted. For purposes of this ordinance, the terms "support structure," "tower," and "transmission tower" shall be interchangeable. Support structures include, but are not limited to:
 - 1. Lattice Tower: A freestanding support structure which consists of an open framework of crossed metal braces on three or four sides which stabilize the tower and which is built without guy wires and ground anchors.
 - 2. Monopole: A freestanding support structure consisting of a single upright pole sunk into the ground and/or attached to a foundation and engineered to be self-supporting without guy wires or ground anchors.
 - 3. Guyed tower: A tower which is supported, in whole or in part, by the use of cables (guy wires) and ground anchors.

- j. Tower footprint: The area described at the base of a transmission tower as the perimeter of the transmission tower including the transmission tower foundation and any attached or overhanging equipment, attachments or structural members but excluding ancillary facilities and guy wires and anchors.
 - k. Tower height: The distance measured vertically from the highest point when positioned for operation to the lowest point, which is defined as the bottom of the base of the structure being measured at either roof level for a roof-mounted structure or at ground level for a freestanding structure. The height of a tower shall include the height of any antennae positioned for operation attached or which may be attached to the highest point on the tower.
 - l. Tower pad: The area encompassing the tower footprint, ancillary facilities, fencing and screening.
 - m. Wireless communication facilities (WCF): An unstaffed facility for the transmission and reception of radio or microwave signals used for commercial communications. WCFs are composed of two or more of the following components: (1) Antenna; (2) Support structure; (3) Equipment enclosures; and (4) security barrier.
- 5. Waste Water Treatment Plant: City-owned property identified as tax lot number 200 on Clackamas County tax roll map 3S IW 23DB.
 - 6. Elligsen Reservoir: City-owned property identified as tax lot number 700 on Washington County tax roll map 3S IW ICD.
- B. All other definitions contained in Wilsonville Code, Chapter 4, Section 4.001, are applied and incorporated herein.

Section II. Permitted, Conditionally Permitted and Prohibited Uses.

- A. Upon receipt of all appropriate land use approvals, wireless communications facilities shall be a conditional use in the following zones:
- 1. PDC (Planned Development Commercial)
 - a. In the Town Center Master Planning Area, only attached WCFs shall be permitted as a conditional use. Other WCFs are prohibited.
 - 2. PDI (Planned Development Industrial)
 - 3. PF (Public Facilities)
- B. Transmission towers are prohibited in the following zones:
- 1. R (Residential)

2. RA- 1 (Residential Agricultural), except for the Waste Water Treatment Plant property as provided for herein.
3. PDR (Planned Development Residential), except for the Elligsen Reservoir property, as provided for herein.
4. Antennae, equipment enclosures and attached WCFs shall be permitted as a conditional use in R, RA- I and PDR zones.

C. Wireless communication facilities are prohibited on all lands designated as primary open space.

D. Collocated WCFs shall be considered a permitted use on all existing or legally established transmission towers in all zones.

E. Satellite dish antennae shall be considered to be permitted outright in any zone, subject to the following limitations:

1. Dishes not exceeding one meter in diameter shall be permitted in any zone, provided they are not located within any area designated as Primary Open Space in the City's Comprehensive Plan.
2. Dishes greater than one meter in diameter shall only be permitted in a residential zone upon the granting of a conditional use permit, subject to the requirements and standards of Chapter 4, Sections 4.008 through 4.018, and 4.174 of the Wilsonville Code. Except, however, that the collocation of a dish greater than one meter in diameter on an existing tower within a residential zone shall be subject to the administrative review process as defined in Wilsonville Code, Chapter 4, Sections 4.009 and 4.010.
3. Dishes not exceeding two meters in diameter shall be permitted outright in any PDC, PDI or PF zone, provided that they are not located within any area designated as Primary Open Space in the City's Comprehensive Plan.
4. Dishes greater than two meters in diameter shall only be permitted in a residential zone upon the granting of a conditional use permit, subject to the requirements and standards of Chapter 4, Sections 4.008 through 4.018, and 4.174 of the Wilsonville Code. Except, however, that the collocation of a dish greater than one meter in diameter on an existing tower within a PDC, PDI or PF zone shall be subject to the administrative review process as defined in Wilsonville Code, Chapter 4, Sections 4.009 and 4.010.

Section 111. Method of Review.

A. Applications for collocation of WCFs shall be processed through an administrative review process as defined in Wilsonville Code, Chapter 4, Sections 4.009 and 4.010.

B. Applications for new or attached WCFs shall be processed through a conditional use process as defined in Wilsonville Code, Chapter 4, Sections 4.008 through 4.018.

Section IV. Application Requirements. In addition to all standard required application materials, an applicant for a new or attached WCF shall submit the following information:

A. A visual study containing, at a minimum, a vicinity map depicting where, within a half-mile radius, any portion of the proposed tower could be visible, and a graphic simulation showing the appearance of the proposed tower and accessory structures from two separate points within the impacted vicinity, accompanied by an assessment of potential mitigation measures, including relocation. Such points are to be mutually agreed upon by the planning director or the planning director's designee and the applicant.

B. A demonstration that technology to be used is the most current and least visually obtrusive available.

C. A landscape plan drawn to scale that is consistent with the need for screening at the site. Existing vegetation that is to be removed must be clearly indicated and provisions for mitigation included where appropriate.

D. A feasibility study for the collocation of telecommunication facilities as an alternative to new structures. The feasibility study shall include:

1. An inventory, including the location, ownership, height and design of existing WCFs within one-quarter mile of the proposed location of a new WCF. The planning director may share such information with other applicants seeking permits for WCFs, but shall not, by sharing such information, in any way represent or warrant that such sites are available or suitable.
2. Documentation demonstrating the availability of existing sites/facilities that meet the needs of the applicant. Each applicant shall make a good faith effort to contact the owner(s) of all existing or planned towers and shall provide a list of all owners

contacted in the area described in section IV.D(1), including the date, form and content of such contact.

3. Documentation as to why collocation is not practical or feasible on existing tall structures or existing towers within one-quarter mile of the proposed location of a new WCF. This documentation shall not be required for collocation proposals. Collocation shall not be precluded simply because a reasonable fee for shared use is charged or because of reasonable costs necessary to adapt the existing and proposed uses to a shared tower. The Planning Director and/or Development Review Board may consider expert testimony to determine whether the fee and costs are reasonable. Collocation costs exceeding new tower development are presumed to be unreasonable.

E. A report containing the following information:

1. A report from a professional licensed engineer documenting the following:
 - a. A description of the proposed tower height and design, including technical, engineering, economic and other pertinent factors governing selection of the proposed design. A cross-section of the tower structure shall be included.
 - b. The total anticipated capacity of the tower in terms of the number and types of antennae which can be accommodated. The applicant shall also describe any limitations on the ability of the tower to accommodate collocation. The applicant shall describe the technical options available to overcome those limitations and reasons why the technical options considered were not chosen to be incorporated.
 - c. Documentation that the proposed tower has sufficient structural integrity for the proposed uses at the proposed location in conformance with the minimum safety requirements as required by the State Structural Specialty Code, latest adopted edition at the time of the application.
 - d. Failure characteristics of the tower and demonstration that site and setbacks are of adequate size to contain debris.
2. A description of mitigation methods which will be employed to avoid ice hazards, including increased setbacks, and/or de-icing equipment.
3. Documentation demonstrating compliance with non-ionizing electromagnetic radiation emissions standards as set forth by the Federal Communications Commission.
4. A soils report if the property contains weak foundation soils or has landslide potential.
5. Written statements from the Federal Aviation Administration, the Aeronautics

Section of the Oregon Department of Transportation, and the Federal Communications Commission that the proposed tower structure complies with regulations administered by that agency or that the tower is exempt from those regulations.

F. A description of anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and potential safety impacts of such maintenance.

G. A signed agreement stating that the applicant will allow collocation with other users, provided all safety and structural requirements are met. This agreement shall also state that any future owners or operators will allow collocation on the tower. This agreement is not necessary if the applicant is collocating and does not own the facility or structure; however a consent to allow the owner to grant access to other users for the same structure or facility shall be required. Applicant shall also agree to lease available land on the tower site to other users when the shared potential of the tower is absorbed, if structurally and technically possible.

H. Applications for collocation shall be exempt from the requirements of subsections (A) through (G) of this section. Application for collocation shall be made in the form of a letter to the Planning Director requesting administrative review of a collocation proposal. Said letter shall include the exact location of the tower on which the WCF, documentation from a licensed professional engineer pursuant to Section IV(E)(1)(c), verifying that changes or additions to the tower structure will not adversely affect the structural integrity of the tower, and a graphic simulation showing the appearance of the proposed tower with collocated WCF and accessory structures from two separate points within the impacted vicinity.

1. The Planning Director may request any other information deemed necessary to fully evaluate and review the application and the potential impact of a proposed tower and/or antenna.

Section V. Development Standards. All new WCFs shall comply with the following standards.

A. Visual Impact

1. Tower Height. Freestanding WCFs shall be exempted from the height limitations.

pursuant to WC Section 4.172. This exemption notwithstanding, the height and mass of the transmission tower shall be the minimum which is necessary for its intended use, as demonstrated in a report prepared by a licensed professional engineer, and shall be freestanding where the site conditions permit. Unless the following requirements are specifically waived by the Development Review Board for purposes of mitigating visual impacts or improving compatibility with surrounding property: A WCF that is attached to an alternative tower structure may not exceed the height of the alternative tower structure; A WCF that is attached to an existing structure other than an alternative tower structure in a PDC, PDI or PF zone may not exceed the height of the existing structure by more than twenty (20) feet; and a WCF that is attached to an existing structure other than an alternative tower structure in an R, RA- 1 or PDR zone may not exceed the height of the existing structure by more than ten (10) feet.

2. Paint and finish.
 - a. Towers, antennae and associated equipment shall either maintain a galvanized steel finish or be painted a non-reflective, neutral color, as approved by the Development Review Board. Attached communication facilities shall be painted so as to be identical to or compatible with the existing structure.
 - b. Towers more than 200 feet in height shall be painted in accordance with the Oregon State Aeronautics Division and Federal Aviation Administration rules. Applicants shall attempt to seek a waiver of OSAD and FAA marking requirements. When a waiver is granted, towers shall be painted and/or camouflaged in accordance with subsection 2(a), above.
 - c. All ancillary facilities shall be colored or surfaced so as to blend the facilities with the surrounding natural and built environment.
 - d. Equipment enclosures and ancillary facilities, other than antennae, in R, RA- I and PDR zones shall be placed underground.
 3. Unenclosed storage of materials is prohibited.
 4. Other building facilities, including offices, vehicle storage areas or other similar uses not necessary for transmission or relay functions are prohibited, unless a separate land use application for such is submitted and approved.
- B. Site size.
1. The site on which a transmission tower is located shall be of a sufficient shape and size to provide adequate setbacks as contained in section V(C), below. Towers

may be located on sites containing other principal uses in the same buildable area as long as all of the other general requirements of this ordinance are met.

2. Tower pads shall be large enough and structurally sufficient to allow for additional collocated and ancillary facilities. This standard shall not apply to antennae attached to existing structures or towers located on rooftops.
- C. Separation and setbacks.
1. Freestanding WCFs shall be set back from any other property line by a distance equal to or greater than the tower height, unless this requirement is specifically waived by the Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.
 2. Freestanding WCFs located on sites containing other principal uses must maintain a minimum distance between the tower and other principal uses of the greater of 20% of the tower height or twenty-five (25) feet.
 3. A guyed tower located on sites containing other principal uses must maintain a minimum distance between the tower and other principal uses of the greater of 100% breakpoint or twenty-five (25) feet.
 4. Towers shall be separated from pre-existing towers by a distance of two hundred percent (200%) of tower height, or one hundred (100) feet, whichever is greater, unless this requirement is specifically waived by the Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.
 5. Towers and antennae mounted on rooftops or alternative tower structures shall be exempt from these minimum separation requirements.

D. Lighting. No lighting shall be permitted on transmission towers except that required by the Oregon State Aeronautics Division or the Federal Aviation Administration.

E. Signs. All signs are prohibited on WCFS, except for one non-illuminated sign, not to exceed two (2) square feet, which shall be provided at the main entrance to the facility stating owner's name and address, and contact name and phone number for emergency purposes.

F. Security. WCFs shall be enclosed by decay-resistant security fencing not less than six (6) feet in height and shall be equipped with an appropriate anti-climbing device. Fencing shall be compatible with other nearby fencing. Such requirements may be waived for

attached WCFS.

G. Landscaping. Landscaping shall be placed around the outside perimeter of the security fencing and shall consist of a fast growing vegetation that can be expected to reach a minimum height of six feet and form a continuous hedge within two years of planting. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height and would not affect the stability of the guys should they be uprooted. Landscaping shall be compatible with other nearby landscaping.

H. Collocation.

1. To encourage shared use of towers, no conditional use permit shall be required for the addition of antennae to an existing tower nor shall a conditional use permit be required for accompanying accessory uses, provided such additions have been approved pursuant to Section III(A) and IV(H) of this ordinance.
2. New WCFs shall be designed and constructed so as to accommodate future collocation. Towers shall be designed so as to accommodate a minimum expansion of three two-way antennae for every forty (40) feet of vertical tower.
3. The height of an existing support structure may be increased for the purpose of accommodating collocation without a conditional use permit, pursuant to Section III(A) and IV (H) of this ordinance, providing that there is no change to the type of tower and tower height is not increased by more than ten (10) feet. Such change in height may occur only one time per tower site and may occur only when the modification request has been initiated by a separate carrier.
4. All collocated facilities, and additions to existing towers undertaken pursuant to Section V(H)(1) and V(H)(3) of this ordinance, shall meet all requirements of the current edition of the State of Oregon Structural Specialty Code. A no-fee building permit shall be issued for such additions, provided that an application for collocation is approved, pursuant to Sections III(A) and IV(H) of this ordinance.
5. All collocated facilities shall be designed in such a way as to be visually compatible with the tower structures on which they are placed.
6. If a new tower is approved, the owner shall be required, as a condition of approval, to:
 - a. Record the agreement required in Section IV.L. with the Deeds Records Office in the Office of the County Recorder of the county in which the tower site is located;
 - b. Respond in a timely, comprehensive manner to a request for information from a

- potential shared use applicant;
- c. Negotiate in good faith for shared use by third parties; and
 - d. Allow shared use where the third party seeking such use agrees in writing to pay reasonable, pro rata charges for sharing, including all charges necessary to modify the tower and transmitters to accommodate shared use, and to observe whatever technical requirements are necessary to allow shared use without creating interference.
7. Such conditions shall run with the land and be binding on subsequent purchasers of the tower site.

Section VI. Pre-existing towers/non-conforming use. All WCFs operative prior to the effective date of this ordinance shall be allowed to continue their present usage as a nonconforming use and shall be treated as a non-conforming use pursuant to WC Sections 4.180 through 4.185. Routine maintenance and collocation shall be permitted on such existing towers.

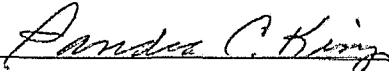
Section VII. Abandoned facilities. In the event that an owner discontinues use of a transmission facility for more than six consecutive months, the city may declare the facility abandoned and require the property owner to remove it. An abandoned facility may be declared a nuisance subject to the abatement procedures of Wilsonville Code Chapter 6. Delay by the city in taking action shall not in any way waive the city's right to take action. Upon written application prior to the expiration of the six-month period, the Planning Director may grant a six-month extension for reuse of the facility. Additional extensions beyond the first six-month extension may be granted by the Planning Director subject to any conditions required to bring the project into compliance with current law(s) and make compatible with surrounding development.

Section VIII. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section IX. Emergency declared. The unregulated siting of transmission towers in Wilsonville threatens lasting harm to citizens, properties and neighborhoods from visual blight and structurally deficient towers. As such, the City Council of the City of Wilsonville finds that an "emergency" exists that justifies the enactment of an emergency

ordinance. This ordinance shall be effective immediately upon its enactment, and shall expire on July 31, 1997, or at such time that the Oregon Land Conservation and Development Commission approves duly adopted changes to the Wilsonville Code governing the siting and construction of wireless telecommunication facilities, whichever comes first.

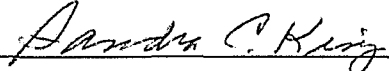
SUBMITTED to the Wilsonville City Council and read for the first and second time at a regular meeting thereof on the 3rd day of March, 1997, commencing at the hour of 7 p.m. at the Wilsonville Community Development Annex.


Sandra C. King, CMC, City Recorder

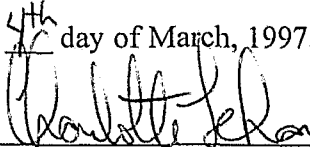
ENACTED by the City Council on the 3rd day of March, 1997, by the following votes:

YEAS: 5

NAYS: -0-


Sandra C. King, CMC, City Recorder

DATED and signed by the Mayor this ^{4th} day of March, 1997.


CHARLOTTE LEHAN, Mayor

SUMMARY of votes:

| | |
|---------------------|-----|
| Mayor Lehan | Yes |
| Councilor MacDonald | Yes |
| Councilor Luper | Yes |
| Councilor Helser | Yes |
| Councilor Barton | Yes |