

ORDINANCE NO. 479

AN ORDINANCE ESTABLISHING SITING CRITERIA, METHOD OF REVIEW, APPLICATION GUIDELINES AND DEVELOPMENT STANDARDS FOR TELECOMMUNICATIONS FACILITIES, REPEALING ORDINANCE NO. 478, AMENDING THE WILSONVILLE CITY CODE AND DECLARING AN EMERGENCY.

WHEREAS, the Federal Telecommunications Act of 1996 is intended 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 telecommunication services as long as such regulations do not unreasonably discriminate among equivalent services and do not have the effect of prohibiting service; and

WHEREAS, Section 207 of the Federal Telecommunications Act of 1996 specifically allows local zoning regulations pertaining to satellite dish antennae, within certain limits established by the Federal Communications Commission; 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

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, an emergency exists because wireless communication messages are being

"dropped" by companies providing service in the Wilsonville area due to a lack of appropriately sited facilities; and

NOW, THEREFORE, THE CITY COUNCIL OF 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 a structure such as a clock tower, bell tower, church steeple, water tower, light pole 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 definitions contained in section I(B) of this ordinance apply to the regulation of telecommunications facilities.
- B. Wilsonville Code Chapter 4, Section 4.001, is amended to include the following definitions, which shall be added to that section in their appropriate alphabetical order:
1. Ancillary facilities: the structures and equipment required for operation of the telecommunication equipment, including but not limited to antennae, repeaters, equipment housing structure, footings and foundations, and ventilation or other electrical or mechanical equipment.
 2. 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:

- a. Omni-direction ("whip") antenna, which receives and transmits signals in a 360 degree pattern.
 - b. Directional or Parabolic ("panel" or "disk") antenna, which receives and transmits signals in a directional pattern typically encompassing an arc of 120 degrees.
 - c. Satellite Dish antenna, which receives signals that are reflected off of satellites.
 - d. 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.
3. 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.
 4. Attachment: An antenna or other piece of related equipment affixed to a transmission tower.
 5. 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.
 6. 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.
 7. New facility: The installation of a new transmission tower. New attachments are not new facilities.
 8. 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.
 9. 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:
 - a. 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.
 - b. 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.

- c. Guyed tower: A tower which is supported, in whole or in part, by the use of cables (guy wires) and ground anchors.
- 10. 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.
- 11. 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.
- 12. Tower pad: The area encompassing the tower footprint, ancillary facilities, fencing and screening.
- 13. 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.
- C. 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.

Section 4.800 of the Wilsonville City Code shall be amended to read as follows:

“Section 4.800: Wireless Communication Facilities - Permitted, Conditionally Permitted and Prohibited Uses.

I. Permitted Uses.

- a. Towers and ancillary wireless communication facilities are permitted outright, subject to approval through the Type I Administrative Review process listed in Sections 4.009 and 4.010 of the Wilsonville Code, at the following locations:
 - i. Any property owned by the City of Wilsonville;
 - ii. Any property owned by the West Linn - Wilsonville School District;
 - iii. Any property owned by the Tualatin Valley Fire District;
 - iv. Any property within an electric utility substation.
- b. Collocated WCFs shall be considered a permitted use on all existing, legally

established, transmission towers in all zones.

- c. Satellite dishes not exceeding one meter in diameter shall be permitted in any zone, without requiring Administrative Review, provided they are not located within any area designated as Primary Open Space in the City's Comprehensive Plan.
- d. Satellite 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.
- e. WCFs attached to existing light, power, or telephone poles shall be permitted in all zones, subject to the development standards of Section 4.803, and subject to approval through the Type I Administrative Review process listed in Sections 4.009 and 4.010 of the Wilsonville Code.

2. Conditional Uses. Wireless communication facilities shall be allowed in all zones, upon approval of a conditional use permit pursuant to Section 4.174 of the Wilsonville Code, subject to the following limitations:

- a. In the Town Center Master Planning Area, only attached WCFs shall be permitted as conditional uses. Other WCFs are prohibited.
- b. Satellite dishes greater than one meter in diameter shall only be permitted in a residential zone upon the granting of a conditional use permit. 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 Type I administrative review process as defined in Wilsonville Code, Chapter 4, Sections 4.009 and 4.010.
- c. Satellite dishes greater than two meters in diameter shall only be permitted in a PDC, PDI or PF zone upon the granting of a conditional use permit. Except, however, that the collocation of a dish greater than two meters in diameter on an existing tower within a PDC, PDI or PF zone shall be subject to the Type I administrative review process as defined in Wilsonville Code, Chapter 4, Sections 4.009 and 4.010.

3. Prohibited uses.

Wireless communication facilities are prohibited on all lands designated as Primary Open Space in the City's Comprehensive Plan."

Section III. Application Requirements - new facilities.

Section 4.801 of the Wilsonville Code shall be amended to read as follows:

"Section 4.801. Application Requirements. In addition to all standard required application materials, an applicant for a new WCF shall submit the following information:

1. 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. Such points are to be mutually agreed upon by the planning director or the planning director's designee and the applicant.
2. Documentation of the steps that will be taken to minimize the visual impact of the proposed facility.
3. 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.
4. A feasibility study for the collocation of telecommunication facilities as an alternative to new structures. The feasibility study shall include:
 - a. An inventory, including the location, ownership, height and design of existing WCFs within one-half 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.
 - b. Documentation of the efforts that have been made to collocate on existing or previously approved towers. Each applicant shall make a good faith effort to contact the owner(s) of all existing or approved towers and shall provide a list of all owners contacted in the area, including the date, form and content of such contact.
 - c. Documentation as to why collocation on existing or proposed towers or location on an existing tall structure within one-half mile of the proposed site is not practical or feasible. 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.
5. A report containing the following information:
 - a. A report from a licensed professional engineer documenting the following:

- i. A description of the proposed tower height and design, including technical, engineering, and other pertinent factors governing selection of the proposed design. A cross-section of the proposed tower structure shall be included. If proposed tower is intended to accommodate future collocation, the engineer shall document that the design is sufficient for the purpose. If the proposed tower is not intended to allow for future collocation, the engineer shall provide an explanation of why it is not so intended.
 - ii. The total anticipated capacity of the tower in terms of the number and types of antennae which can be accommodated. The engineer shall also describe any limitations on the ability of the tower to accommodate collocation. The engineer shall describe the technical options available to overcome those limitations and reasons why the technical options considered were not used.
 - iii. Documentation that the proposed tower will have sufficient structural integrity for the proposed uses at the proposed location, in conformance with the minimum safety requirements of the State Structural Specialty Code, latest adopted edition at the time of the application.
 - b. A description of mitigation methods which will be employed to avoid ice hazards, including increased setbacks, and/or de-icing equipment.
 - c. Documentation demonstrating compliance with non-ionizing electromagnetic radiation emissions standards as set forth by the Federal Communications Commission.
 - d. Evidence that the proposed tower will comply with all applicable requirements of the Federal Aviation Administration, the Aeronautics Section of the Oregon Department of Transportation, and the Federal Communications Commission.
6. A description of anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and potential safety impacts of such maintenance.
7. If a new tower is approved, the owner shall be required, as a condition of approval, to:
- a. Record the conditions of approval specified by the City 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. Such conditions shall run with the land and be binding on subsequent

purchasers of the tower site.

8. 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 IV. Collocation.

Section 4.802 of the Wilsonville Code shall be amended to read as follows:

“Section 4.802 - Collocation. In order to encourage shared use of towers, all new WCFs shall comply with the following collocation standards.

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.
2. The height of an existing support structure may be increased for the purpose of accommodating collocation without requiring a discretionary review process by the City, provided that there is no change to the type of tower and tower height is increased by the minimum amount necessary to accommodate the collocated facilities. Increases in height exceeding ten (10) feet, but not more than twenty (20) feet, beyond the original design shall require the approval of a type I Administrative Review permit as provided in Sections 4.009 and 4.010 of the Wilsonville Code. Height increases of twenty (20) or more feet for the purpose of accommodating collocation shall require the approval of a conditional use permit.
3. All collocated facilities, and additions to existing towers, shall meet all requirements of the State of Oregon Structural Specialty Code, latest adopted edition. A building permit shall be required for such alterations or additions. Documentation shall be provided by a licensed professional engineer, verifying that changes or additions to the tower structure will not adversely affect the structural integrity of the tower.
4. All collocated facilities shall be designed in such a way as to be visually compatible with the tower structures on which they are placed.”

Section V. Development Standards.

Section 4.803 of the Wilsonville Code shall be amended to read as follows:

“Section 4.803 - Development Standards. All new WCFs shall comply with the following standards.

1. Visual Impact

- a. Tower Height. Freestanding WCFs shall be exempted from 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. A WCF that is attached to an alternative tower structure may not exceed the height of the alternative tower structure, unless findings are made by the Planning Director or Development Review Board that such an increase will have a de minimis impact on the appearance of the 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. 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.
 - i. The tower height of a freestanding WCF in R, PDR and RA zones may not exceed fifty (50) feet.
- b. Paint and finish.
 - i. Towers, antennae and associated equipment shall either maintain a galvanized steel finish or be painted a non-reflective, neutral color, as approved by the Planning Director or Development Review Board. Attached communication facilities shall be painted so as to be identical to or compatible with the existing structure.
 - ii. 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 “i”, above.
 - iii. All ancillary facilities shall be colored or surfaced so as to blend the facilities with the surrounding natural and built environment.
 - iv. Equipment enclosures and ancillary facilities, other than antennae, in R, RA- I and PDR zones shall be screened from public view or placed underground.
- c. Unenclosed storage of materials is prohibited.
- d. 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.

2. Site size.
 - a. The site on which a transmission tower is located shall be of a sufficient shape and size to provide adequate setbacks as specified 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.
 - b. Wherever possible, tower sites shall be large enough and structurally sufficient to allow for additional collocated and ancillary facilities, unless a finding is made by the Planning Director or Development Review Board that the tower will not accommodate future collocation. This standard shall not apply to antennae attached to existing structures or towers located on rooftops.

3. Separation and setbacks.
 - a. 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 Planning Director or the Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.
 - b. 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, unless this requirement is specifically waived by the Planning Director or Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.
 - c. 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, unless this requirement is specifically waived by the Planning Director or Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.
 - d. Towers and antennae mounted on rooftops or alternative tower structures shall be exempt from these minimum separation requirements. However, WCFs and related equipment may be required to be set back from the edge of the roof line in order to minimize their visual impact on surrounding properties.
 - e. Towers are prohibited in the required front yard, back yard or side yard setback of any lot in an R, PDR or RA-1 zone.

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

5. 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 a contact name and phone number for emergency purposes.

6. 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.

7. 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. Drought tolerant landscaping materials shall be required. 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.

8. Conflict with planned right-of-way. No WCF shall be located within a planned or existing public right-of-way, unless it is specifically designed for the purpose in a way that will not impede pedestrian or vehicular traffic. ”

Section VII. Pre-existing towers/non-conforming use. In order to encourage the collocation of antennae on existing towers, all WCFs operative prior to the effective date of this ordinance shall be allowed to continue in use without being considered to be nonconforming uses.

Section VIII. Abandoned facilities.

Section 4.804 of the Wilsonville Code shall be amended to read as follows:

“Section 4.804 - Abandoned Facilities.

1. 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.

2. The applicant for a new wireless communication facility shall provide an affidavit, signed by the property owner, indicating that the owner has read, and understands subsection 1, above.”

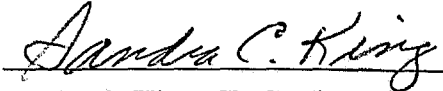
Section IX. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not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

Section X. Emergency Declared. In order to avoid having local calls “dropped” by providers of wireless communication services due to a lack of properly sited facilities, an emergency is hereby declared to exist. This Ordinance shall take effect immediately upon adoption by the City Council and signature by the Mayor.

Section XI. Code Provisions Superseded. If any section, subsection, sentence, clause, phrase or portion of this ordinance is found to conflict with any existing provision of Chapter 4 of the Wilsonville Code, the provisions of Ordinance No. 479 shall supersede those conflicting provisions of the Code.

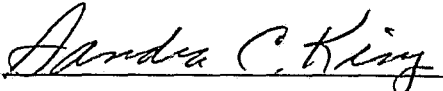
Section XII. Ordinance No. 478 Repealed. Ordinance No. 478, adopted as an interim emergency measure, is hereby repealed.

SUBMITTED to the Wilsonville City Council and read for the first time and second time at a regular meeting thereof on the 19th day of May, 1997, commencing at the hour of 7 o'clock p.m. at the Wilsonville Community Development Annex.



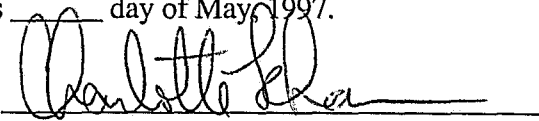
Sandra C. King, CMC, City Recorder

ENACTED by the City Council on the 19th day of May, 1997, by the following votes: YEAS: 5 NAYS: 0



Sandra C. King, CMC, City Recorder

DATED and signed by the Mayor this 19 day of May, 1997.



CHARLOTTE LEHAN, Mayor

SUMMARY of votes:

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