

ORDINANCE NO. 152

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, PERTAINING TO PERSONAL WIRELESS TELECOMMUNICATIONS FACILITIES AND INCLUDING A PURPOSE STATEMENT, DEFINITIONS, EXEMPTIONS, A POLICY STATEMENT, SITE SELECTION CRITERIA, PRIORITY OF LOCATIONS, SITING PRIORITY ON PUBLIC PROPERTY, CO-LOCATION AND DESIGN CRITERIA, PERMIT INSPECTION REQUIREMENTS AND LANDSCAPING REQUIREMENTS, NON-USE AND ABANDONMENT PROVISIONS, THIRD PARTY REVIEW, AND REMEDIES.

WHEREAS, Section 704 of the federal Telecommunications Act of 1996, 47 USC Sec. 332(c)(7), provides that local governments may, pursuant to their inherent zoning authority, regulate the placement, construction, and modification of personal wireless telecommunications service facilities, provided that the local governments do not unreasonably discriminate among providers of functionally equivalent services, or prohibit or have the effect of prohibiting the provision of personal wireless services; and,

WHEREAS, the City Council finds that personal wireless service facilities often require large structures or towers, whose height and footprint may not be compatible, as a matter of sound urban planning, with adjoining residential uses; and,

WHEREAS, the City Council further finds that the public interest is best served by enacting specific siting regulations which will provide for placement of personal wireless facilities in areas least likely to negatively affect residential property; and,

WHEREAS, the City is in the process of and will continue to identify potential sites which will allow for the placement of personal wireless telecommunications facilities subject to the criteria enumerated herein and elsewhere in City ordinances; and

WHEREAS, the City has established a legislative record including numerous examples of wireless ordinances from other jurisdictions, and involved both the public and personal wireless telecommunication service providers in drafting the text of this ordinance; and

WHEREAS, the City of University Place is in the process of codification of City Ordinances and for ease of integration into a codified form the City Council has determined to adopt these telecommunications provisions as a separate unnumbered Title; and

WHEREAS, zoning districts in the City are currently classified as set forth in Title ___ - Zoning. **NOW THEREFORE,**

**THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE,
WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1. Adding a new title to the University Place Municipal Code. A new Title ___ is hereby added to the University Place Municipal Code to read as follows:

PERSONAL WIRELESS TELECOMMUNICATIONS FACILITIES

CHAPTER:

- ___.01.001: Purpose
- ___.01.002: Definitions
- ___.01.003: Exemptions
- ___.01.004: Policy Statement
- ___.01.005: Industry Site Selection Criteria
- ___.01.006: Site Selection Criteria
- ___.01.007: Priority of Locations
- ___.01.008: Siting Priority on Public Property
- ___.01.009: Co-Location
- ___.01.010: Design Criteria
- ___.01.011: Permits Required
- ___.01.012: Inspection Requirements
- ___.01.013: Landscaping/Screening
- ___.01.014: Non-Use/Abandonment
- ___.01.015: Third Party Review
- ___.01.016: Remedies
- ___.01.017: Severability

- ___.01.001: **PURPOSE**

A. These standards were developed to protect the public health, safety, and welfare, to protect property values and minimize visual impact while furthering the development of enhanced telecommunication services in the city. These standards were designed to comply with the Telecommunications Act of 1996. The provisions of this Title are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This Title shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.

B. To the extent that any provision of this Title is inconsistent or conflicts with any other City ordinance this Title shall control. Otherwise, this Title shall be construed consistently with the other provisions and regulations of the City.

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C. In reviewing any application to provide personal wireless service or to install personal wireless service facilities, the City shall act within a reasonable period of time, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The City shall approve, approve with condition, or deny the application in accordance with the time frames set forth in Ordinance No. 130 and in accordance with other applicable ordinances.

.01.002: DEFINITIONS

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

“Abandonment” means: (1) to cease operation for a period of sixty (60) or more consecutive days; (2) to reduce the effective radiated power of an antenna by seventy-five percent for sixty (60) or more consecutive days; (3) to relocate an antenna at a point less than eighty (80) percent of the height of an antenna support structure; or (4) to reduce the number of transmissions from an antenna by seventy-five percent for sixty (60) or more consecutive days.

“Antenna” means any exterior apparatus designed for telephonic, radio, data, Internet, or television communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower or building for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for “cellular”, “enhanced specialized mobile radio” and “personal communications services”, telecommunications services, and its attendant base station.

“Antenna Height” means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

“Antenna Support Structure” means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

“Applicant” means any provider or any person, partnership, or company who files an application for any permit necessary to install, maintain, or remove a personal wireless service facility within the City.

“Camouflaged” means a personal wireless service facility that is disguised, hidden, or integrated with an existing structure that is not a monopole or tower, or a personal wireless service facility that is placed within an existing or proposed structure or, new structure, tower, or mount within trees so as to be significantly screened from view.

“Cell Site” or **“Site”** means a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to personal wireless services.

“City Center Area” means a circular area extending 700 feet in radius from the center of the intersection of 40th Street West and Bridgeport Way West, together with a rectangular area extending 450 feet east and west from the centerline of Bridgeport Way between 35th Street West and 44th Street West.

“Co-location” means the use of a personal wireless service facility or cell site by more than one personal wireless service provider.

“Conditional Use Permit” or **“CUP”** means a process and approval as described in City of University Place Ordinance No. 130 and in the Zoning Code, Title 79.

“COW” means “Cell on Wheels”

”Design” means the appearance of personal wireless service facilities, including such features as their materials, colors, and shape.

“EIA” means the Electronics Industry Association.

“Equipment Enclosure” means a 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, backup power supplies and emergency generators.

“FAA” means the Federal Aviation Administration.

“FCC” means the Federal Communications Commission.

“Governing Authority” means the City Council of the City of University Place.

“Hearing Examiner” means the duly appointed Hearing Examiner of the City.

“Modification” means the changing of any portion of a personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design.

“Mount” means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts: (i) Building mounted. A personal wireless service facility mount fixed to the roof or side of a building. (ii) Ground mounted. A personal wireless service facility mount fixed to the ground, such as a tower. (iii) Structure mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

“Personal Wireless Service,” “Personal Wireless Service Facilities,” and “Facilities” used in this Title, shall be defined in the same manner as in Title 47, United States Code, Section 332 (c)(7)(C), as they may be amended now or in the future and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

“Provider” means every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual which provides personal wireless service over personal wireless service facilities.

“Screening” means a personal wireless telecommunication facility such as a tower or mount placed amongst and adjacent to (within 20 feet) three (3) or more trees at least 75% of the height of the facility.

“Secondary Use” means a use subordinate to the principle use of the property, such as commercial, residential, utilities, etc.

“Security Barrier” means a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

“Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy 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, alternative tower structures, and the like.

“Unlicensed Wireless Services” means commercial mobile services that operate on public frequencies and do not need a FCC license.

___.01.003: EXEMPTIONS

The following are exempt from the provisions of this ordinance and shall be permitted in all zones:

A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.

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B. Antennas and related equipment no more than three feet in height that are being stored, shipped, or displayed for sale.

C. Radar systems for military and civilian communication and navigation.

D. Wireless radio utilized for temporary emergency communications in the event of a disaster.

E. Licensed amateur (ham) radio stations.

F. Satellite dish antennas less than two meters in diameter, including direct to home satellite services, when used as a secondary use of the property.

G. Routine maintenance or repair of a personal wireless service facility and related equipment, (excluding structural work or changes in height or dimensions of antennas, towers, or buildings) provided that compliance with the standards of this ordinance are maintained

H. Subject to compliance with all other applicable standards of this ordinance, a building permit application need not be filed for emergency repair or maintenance of a personal wireless service facility until thirty (30) days after the completion of such emergency activity.

F. A COW or other temporary Personal Wireless Telecommunications Facility shall be permitted for a maximum of 90 days or during an emergency declared by the City

__01.004: POLICY STATEMENT

The City, with increasing frequency, has been confronted with requests to locate towers and antennas. The purpose of this Title is to establish general guidelines for the siting of towers and antennas. The goals of this Title are to: (i) enhance the ability of personal wireless service providers to provide such services throughout the City quickly, effectively, and efficiently; (ii) encourage personal wireless service providers to locate towers and antenna in non-residential areas; (iii) encourage personal wireless service providers to co-locate on new and existing tower sites; (iv) encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal; and (v) encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact. Accordingly, the City Council finds that the promulgation of this Title is warranted and necessary:

A. To manage the location of towers and antennas in the city;

B. To protect residential areas and land uses from potential adverse impacts of towers;

C. To minimize adverse visual impacts of towers through careful design, siting, landscape screening, and innovative camouflaging techniques;

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D. To accommodate an increased need for towers to serve the wireless communications needs of city residents;

E. To promote and encourage co-location on existing and new towers as an option rather than construction of additional single-use towers, and to reduce the number of such structures needed in the future;

F. To consider the public health and safety of towers to the extent permitted by the Telecommunications Act of 1996; and

G. To avoid potential damage to adjacent properties through sound engineering practices and the proper siting of antenna support structures.

New Uses: All new antenna shall comply with this Title after the date of passage.

Existing Uses: All towers and antenna existing on the date of passage of this Title shall be allowed to continue as they presently exist, but will be considered non-conforming uses. Routine maintenance shall be permitted on existing towers and antennas. However, new construction other than routine maintenance on existing towers, antennas, buildings or other facilities shall comply with the requirements of this Title.

__01.005: RECOGNITION OF INDUSTRY SITE SELECTION CRITERIA: In establishing a new site, the industry requires a location that is technically compatible with the established network. A general area is to be identified based upon engineering constraints and the desired area of service. Specific locations within that general area will be evaluated using the following criteria which are not listed in order of priority:

- A. Topography as it relates to line of sight transmissions for optimum efficiency in telephone service.
- B. Availability of road access.
- C. Availability of electric power.
- D. Availability of land based telephone lines or microwave link capability.
- E. Leasable lands, and landlords who want facilities to be located on their properties consistent with zoning regulations.
- F. Screening potential of existing vegetation, structures and topographic features.
- G. Zoning that will allow low power mobile radio service

facilities.

- H. Compatibility with adjacent land uses.
- I. The least number of sites to cover the desired area.
- J. The greatest amount of coverage, consistent with physical requirements.
- K. Opportunities to mitigate possible visual impact.
- L. Availability of suitable existing structures for antenna mounting.

__01.006: SITE SELECTION CRITERIA

A. Any applicant proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall demonstrate by engineering evidence that the antenna must be located at the site to satisfy its function in the applicant's local grid system. Further, the applicant must demonstrate by engineering evidence that the height requested is the minimum height necessary to fulfill the site's function within the grid system.

B. Applications for necessary permits will only be processed when the applicant demonstrates either that it is an FCC-licensed telecommunications provider or that it has agreements with an FCC-licensed telecommunications provider for use or lease of the support structure.

C. Low power mobile radio service facilities shall be located and designed to minimize any significant adverse impact on residential property values. Facilities shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.

D. In all zones, location and design of facilities shall consider the impact of the facility on the surrounding neighborhood and the visual impact within the zone district. In all zones, towers shall be significantly screened by placing them in trees to the extent that it does not result in significant signal degradation.

__01.007 PRIORITY OF LOCATIONS

The order of priorities for locating new personal wireless service facilities shall be as follows:

- A. Place antennas and towers on public property if practical.

- B. Place antennas on appropriate rights of ways and existing structures, such as buildings, towers, water towers and smokestacks.
- C. Place antennas and towers in districts zoned Moderate Intensity Employment Center.
- D. Place antennas and towers in districts zoned Mixed Use Districts and Community Centers outside the City Center Area which do not adjoin or adversely impact residential neighborhoods.
- E. Place antennas and towers on other non-residential property.
- F. Place antenna and towers in the City Center Area
- G. Place antennas on multi-family residential structures exceeding thirty feet (30') in height.
- H. Place antennas and towers in Moderate Density Single Family and High Density Residential zones only if (a) locations are not available on existing structures or in non-residential districts; and (b) only on or in existing churches, parks, schools, utility facilities, or other appropriate public facilities.

1. An applicant that wishes to locate a new antenna support structure in a residential zone shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government facility, a private institutional structure, or other appropriate existing structures within a non-residential zone, and that due to valid considerations including physical constraints, and economic or technological feasibility, no appropriate location is available.

2. Applicants are required to demonstrate: (i) that they have contacted the owners of structures in excess of thirty feet (30') within a one-quarter (1/4) mile radius of the site proposed and which from a location standpoint could provide part of a network for transmission of signals; (ii) have asked for permission to install the antenna on those structures; and (iii) were denied for reasons other than economic feasibility.

3. The information submitted by the applicant shall include (i) a map of the area to be served by the tower or antenna, (ii) its relationship to other cell sites in the applicant's network, and (iii) an evaluation of existing buildings taller than thirty feet (30'), within one-quarter (1/4) mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals..

4. A Conditional Use Permit is required for all personal wireless facilities located in a residential zone.

__01.008 SITING PRIORITY ON PUBLIC PROPERTY

Where public property is sought to be utilized by an applicant, priority for the use of City-owned land for wireless antennas and towers will be given to the following entities in descending order:

1. City of University Place;
2. Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the City of University Place and private entities with a public safety agreement with the City of University Place;
3. Other governmental agencies, for uses which are not related to public safety; and
4. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), data, Internet, paging, and similar services that are marketed to the general public.

A. Minimum Requirements:

The placement of personal wireless service facilities on City-owned property must comply with the following requirements:

1. The facilities will not interfere with the purpose for which the City-owned property is intended;
2. The facilities will have no significant adverse impact on surrounding private property;
3. The applicant is willing to obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The City shall establish fees after considering comparable rates in other cities, potential expenses, risks to the City, and other appropriate factors;
4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the costs of removing the facilities;
5. The antennas or tower will not interfere with other users who have a higher priority as discussed in Section 01.008
6. The lease shall provide that, the applicant must agree that in the case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice, the City may require the applicant to remove the facilities at the applicant's expense;
7. The applicant must reimburse the City for any related costs which the City incurs because of the presence of the applicant's facilities;

8. The applicant must obtain all necessary land use approvals; and
9. The applicant must cooperate with the City's objective to encourage co-locations and thus limit the number of cell sites requested, or camouflage the site.

B. Special Requirements for Parks:

The use of City-owned parks for personal wireless service facilities brings with it special concerns due to the unique nature of these sites. The placement of personal wireless service facilities in a park will be allowed only when the following additional requirements are met:

1. The Parks and Recreation Commission has reviewed and made a recommendation regarding proposed personal wireless service facilities to be located in the park and this recommendation must be forwarded to the City Council for consideration;
2. In no case shall personal wireless service facilities be allowed in designated critical areas (except aquifer recharge areas) unless they are co-located on existing facilities.
3. Before personal wireless service facilities may be located in public parks, consideration shall be given to visual impacts and disruption of normal public use;
4. Personal wireless service facilities may be located in public parks that are adjacent to an existing commercial or industrial zone;
5. Personal wireless service facilities may be located in park maintenance facilities.

REQUIRED SUBMITTALS:

Application for Conditional Use Permit, Administrative Use Permit, Building Permit, and other related requests may include any combination of site plans, surveys, maps, technical reports, or written narratives necessary to convey the following information in addition to the requirements of City of University Place Ordinance No. 130 and other applicable ordinances:

1. Photosimulations of the proposed facility from affected residential properties and public rights-of-way at varying distances;
2. A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, and the proposed color(s) of the facility;

3. A signed statement indicating that (i) the applicant and landowner agree they will diligently negotiate in good faith to facilitate co-location of additional personal wireless service facilities by other providers on the applicant's structure or within the same site location and (ii) the applicant and/or landlord agree to remove the facility within sixty (60) days after abandonment;

4. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC Para. 1.1307, or, in the event that an FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment;

5. A site plan clearly indicating the location, type and height of the proposed tower and antenna, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures;

6. A current map and aerial showing the location of the proposed tower, a map showing the locations and service areas of other personal wireless service facilities operated by the applicant and those proposed by the applicant that are close enough to impact service within the City;

7. Legal description of the parcel, if applicable;

8. The approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

9. A landscape plan showing specific landscape materials;

10. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination;

11. A letter signed by the applicant stating the tower will comply with all FAA regulations and EIA Standards and all other applicable federal, state and local laws and regulations ;

12. A statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users;

13. Certification that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions;

14. The telecommunications company must demonstrate that it is licensed by the FCC if required to be licensed under FCC regulations;

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15. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC;

16. A full site plan shall be required for all sites, showing the tower, antenna, antenna support structure, building, fencing, buffering, access, and all other items required in this Title. The site plan shall not be required if the antenna is to be mounted on an existing structure; and

17. At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the City.

.01.009 CO-LOCATION

A. To minimize adverse visual impacts associated with the proliferation of towers, co-location of personal wireless service facilities on existing or new towers is encouraged - as follows:

1. Proposed facilities may, and are encouraged to, co-locate onto existing towers. Such co-location is permitted by right and new or additional Conditional Use Permit approval is not required, except that any other permit, license, lease, or franchise requirements must be satisfied, and the co-location must be accomplished in a manner consistent with the policy, site criteria, and landscape/screening provisions contained in this Title.

2. The Conditional Use Permit requirement for a facility may be waived in non-residential zones if the applicant locates the antenna on an existing structure or an existing tower. The applicant must submit detailed plans to the Planning Department for an Administrative Use Permit to determine if the Conditional Use Permit process and public hearing can be waived. No building permit will be issued until approval is granted by an Administrative Use Permit or Conditional Use Permit.

3. The City may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on an existing structure or tower.

4. To reduce the number of antenna support structures needed in the City in the future, new proposed support structures shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons.

5. Unless co-location is not feasible: (i) an applicant's site plan shall reserve an area for other providers' equipment near the base of the applicant's tower. A first right-of-refusal (which is either executed or maintained while the providers personal wireless facilities and services are in use) to lease the area at the base of the tower or mount for other providers will

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meet the reservation requirement. and (ii) the site plan for towers in excess of 100 feet above ground level must propose space for two comparable providers, while the site plan for towers 100 feet or less must propose space for one comparable provider. To provide further incentive for co-location, an existing tower may be modified as a matter of right to accommodate co-location without new or additional CUPs, provided the additional antenna shall be of the same type as that on the existing tower unless additional height requires a Conditional Use Permit and the following conditions are met:

a. Height: An existing tower may be modified or rebuilt to a taller height, not to exceed twenty feet over the tower's existing height and subject to the other provisions of this ordinance, including by way of example, and not limitation any applicable requirements or conditional use and building permits. The height change may occur only once per tower.

b. Except as set forth herein, no signs, banners or similar devices or materials may be attached to the tower, antenna support structures or antennas.

6. While co-location and the requirements herein are encouraged, co-Location shall not take precedence over the construction of shorter towers with appropriate screening.

01.0010: DESIGN CRITERIA

A. As provided above, new facilities shall be designed to accommodate co-location, unless the applicant demonstrates why such design is not feasible for economic, technical, or physical reasons.

B. Facilities shall be architecturally compatible with the surrounding buildings and land uses in the zoning district and screened or otherwise integrated, through location and design, to blend in with the existing characteristics of the site.

1. Setback: A tower's setback shall be measured from the base of the tower to the property line of the parcel on which it is located. In residential districts and residential land use areas, where permitted, towers shall be set back from all property lines a distance equal to 100% of tower height as measured from ground level, except for unusual geographic limitations or other public policy considerations, as determined in the City's sole discretion. All other towers shall comply with the minimum setback requirements of the area in which they are located in all other zoning districts, unless there are unusual geographical limitations or other public policy considerations as determined in the sole and absolute discretion of the City.

Such considerations shall include by way of illustration and not limitation, but are not limited to:

- a. Impact on adjacent properties;
- b. Alternative sites for personal wireless facilities; and

c. The extent to which screening and camouflaging will mitigate the affects of the personal wireless facilities.

2. Right of Way Setback Exception: The setback requirement may be waived if the antenna and antenna support structure are located in the City right-of-way.

3. View Corridors: Due consideration shall be given so that placement of towers, antenna, and personal wireless service facilities do not obstruct or significantly diminish views of Mt. Rainier, Puget Sound or the Olympic Mountains.

4. Color: Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.

5. Lights, Signals and Signs: No signals, lights, or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, in cases where there are residents located within a distance which is 300% of the height of the tower, then dual mode lighting shall be requested from the FAA.

6. Equipment Structures: Ground level equipment, buildings, and the tower base shall be screened from public view. The standards for the equipment buildings are as follows:

a. The maximum floor area is 300 square feet and the maximum height is 12 feet. Except in unusual circumstances or for other public policy considerations the equipment building may be located no more than 250 feet from the tower or antenna. Depending upon the aesthetics and other issues, the City, in its sole discretion, may approve multiple equipment structures or one or more larger structures.

b. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other City Ordinances.

c. Equipment buildings mounted on a roof shall have a finish similar to the exterior building walls. Equipment for roof-mounted antenna may also be located within the building on which the antenna is mounted.

d. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures.

Equipment buildings, antenna, and related equipment shall occupy no more than 25% of the total roof area of the building the facility is mounted on, which may vary in the City's sole discretion if co-location and an adequate screening structure is used.

The use must be approved on a site plan or final development plan, as applicable.

7. Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If those standards and regulations are changed, then personal wireless service providers governed by this Title shall bring their towers and antennas into compliance with the revised standards and regulations within three (3) months of their effective date or the timelines provided by the revised standards and regulations, whichever time period is longer. The revised standards and regulations are not retroactively applicable to existing providers, unless otherwise provided or permitted by Federal Law. Failure to bring towers and antennas into compliance with the revised standards and regulations shall constitute grounds for the City to remove a provider's facilities at the provider's expense.

8. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable City building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within thirty (30) days, the City may remove the tower at the owner's expense.

9. Structural Design: Towers shall be constructed to the EIA Standards, which may be amended from time to time, and to all applicable construction/building codes. Further, any improvements or additions to existing towers shall require submission of site plans stamped by a professional engineer which demonstrate compliance with the EIA Standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.

10. Fencing: A well-constructed wall, or wooden fence not less than six feet in height from the finished grade shall be provided around each personal wireless service facility. Access to the tower shall be through a locked gate. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by a minimum eight-foot-wide landscaping strip. All landscaping shall meet the standards of the City of University Place Ordinance No.79.

11. Tower and Antenna Height: The applicant shall demonstrate that the tower and antenna is the minimum height required to function satisfactorily. No tower or antenna that is taller than this minimum height shall be approved. No tower or mount shall exceed 60 feet in Moderate Density Single Family or High Density Residential zones or 110 feet in the Moderate Intensity Employment Center, Community Centers, or Mixed Use Districts. Towers or mounts shall not exceed 60 feet in the City Center Area.

A variance from the height limit may be granted if the applicant can show by clear and convincing evidence that the additional height is necessary to provide adequate service to the

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residents of the City and no other alternative is available. When granting a variance the Examiner shall require that a significant portion of the of the tower and related facilities be screened by existing trees or existing structures. In the City Center Area, a variance may only be granted in extraordinary circumstances.

Variances shall meet the requirements of Administration of Development Regulations (Ordinance 130) and the University Place Zoning Code except 19.75.040(D)(3 and 5) (Ordinance 79).

12. Antenna support structure safety: The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

13. Required parking: If the cell site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, arrangements for adequate off-street parking shall be made and documentation thereof provided to the City. Security fencing should be colored or should be of a design which blends into the character of the existing environment.

14. Tower Separation: In no case shall towers be located closer than 500 feet from another tower whether it is owned or utilized by applicant or another provider, unless the City designates areas where multiple towers can be located in closer proximity.

15. Antenna Criteria: Antenna on or above a structure shall be subject to the following:

a. The antenna shall be architecturally compatible with the building and wall on which it is mounted, and shall be designed and located so as to minimize any adverse aesthetic impact.

b. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless it must be for technical reasons. In no event shall an antenna project more than 16 feet above the roof line including parapets.

c. The antenna shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.

d. The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than the enclosure.

e. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color.

f. The structure must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.

g. Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the City, in the City's sole discretion.

h. For installations or buildings greater than thirty feet (30') in height, see other applicable provisions of this ordinance. In addition to the other requirements of this ordinance, on buildings thirty feet (30') or less in height, the antenna may be mounted on the roof if the following additional criteria are satisfied:

1. The City finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.

2. No portion of the antenna or base station causes the height of the building to exceed the limitations set forth herein.

3. The antenna or antennas and related base stations cover no more than an aggregate total of 25 percent of the roof area of a building, which may vary in the City's sole discretion, if co-locating and an adequate screening structure are used.

4. Roof mounted antenna and related base stations are completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.

5. No portion of the antenna may exceed sixteen (16) feet above the height of the existing building.

i. If a proposed antenna is located on a building or a lot subject to a site review, approval is required prior to the issuance of a building permit.

j. No antenna shall be permitted on property designated as an individual landmark or as a part of a historic district, unless such antenna has been approved in accordance with City Ordinances.

k. No personal wireless service provider or lessee or agent thereof shall fail to cooperate in good faith to accommodate co-location with competitors. If a dispute arises about the feasibility of co-locating, the City Manager may require a third party technical study, at the expense of either or both parties, to resolve the dispute.

l. No personal wireless service provider or lessee shall fail to assure that its antenna complies at all times with the current applicable FCC standards. After installation, but prior to putting the antenna in service, each provider shall submit a certification by an independent professional engineer to that effect. In the event that an antenna is co-located with another antenna, the certification must provide assurances that FCC approved levels of electromagnetic radiation will not be exceeded by the co-location.

m. No antenna shall cause localized interference with the reception of any other communications signals including, but not limited to, public safety, television, and radio broadcast signals.

n. No person shall locate an antenna or tower for wireless communications services upon any lot or parcel except as provided in this Title.

.01.011 PERMITS REQUIRED

Where a tower or antenna support structure will be 60 feet or less in height, in addition to the other provisions of this ordinance, an applicant will be required to obtain an Administrative Use Permit. In the event that a proposed tower or antenna support structure will be located in a residential zone, or an unscreened tower in the City Center Area, or will be more than 60 feet in height, in addition to the other provisions of this ordinance, an applicant will be required to obtain a Conditional Use Permit. With respect to the placement of antenna on a tower or antenna support structure, the requirements for a Conditional Use Permit or Administrative Use Permit will be applicable based on the height of the tower and antenna or mount and antenna unless this ordinance provides other requirements to the contrary.

Project permit review procedures are specified in City of University Place Ordinance No. 130. The following table specifies the permits required for the various types of personal wireless service facilities that meet the standards of this ordinance:

Type of facility	Type of Permit				
	Building	CUP	Site Development	Rights-of-Way Use	Administrative Use
Towers > 60 feet or towers or antenna in Moderate Density Single Family or High Density Residential zones	X (if applicable)	X	X	X (if applicable)	

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Structure mounted wireless facilities	X (if applicable)			X (if applicable)	X
Building mounted wireless facilities	X (if applicable))		X (if applicable)	X unless waived)
Modification of existing facilities to accommodate co-location	X (if applicable)	X (if applicable)	X (if applicable)	X (if applicable)	X (if applicable)

To meet the standards of this Ordinance, a personal wireless service facility must also comply with the other requirements under this Ordinance and with the following:

For antenna attached to the roof or sides of a building at least thirty feet (30') in height, an existing tower, a water tank, or a similar structure;

- A. The antenna must be either:
 1. An omnidirectional or whip antenna no more than 7 inches in diameter and extending no more than sixteen 16 feet above the structure to which they are attached; or
 2. A panel antenna no more than 2 feet wide and 6 feet long, extending above the structure to which they are attached by no more than 10 feet.

- B. Antennas mounted on existing structures in the Moderate Intensity Employment center, Community Center, City Center Area, or Mixed Use District, not exceeding 16 feet in height, do not require an Administrative Use Permit but may be permitted following a administrative review and submittal of an affidavit of compliance, with this Ordinance and other City regulations..

- C. Antenna, antenna arrays, and support structures not on publicly-owned property shall not extend more than sixteen 16 feet above the highest point of the structure on which they are mounted. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires. The antenna, antenna array, and their support structure shall be a color that blends with the structure on which they are mounted.

- D. Setback from Street: Unless there are unusual geographic limitations or other public policy considerations, as determined in the City's sole discretion, no such antenna, antenna array, or its support structure shall be erected or maintained closer to any street than the minimum setback for the zone in which it is located unless otherwise waived or exempt.

E. Guy wires restricted: No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except when used to anchor the antenna, antenna array, or support structure to an existing building to which such antenna, antenna array, or support structure is attached.

F. To the extent that antenna are attached to electric, phone or light poles and such antenna are no more than two feet (2') in height, administrative use and building permit review will be required, but such antenna shall not be subject to setbacks and screening requirements.

.01.012 INSPECTION REQUIREMENTS

Each year after a facility becomes operational, the facility operator shall conduct a safety inspection in accordance with the EIA and FCC Standards and within 60 days of the inspection file a report with the City Manager. Submission of a copy of FCC required, and duly filed, safety inspection report, or the facility operator's maintenance reports for the prior twelve months in the event no FCC report is required for such year, shall satisfy the requirements of this section.

.01.013 LANDSCAPING/SCREENING

A. Landscaping. Landscaping, as described herein, shall be required to screen personal wireless service facilities as much as possible, to soften the appearance of the cell site. The City may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

B. Screening. The visual impacts of a personal wireless service facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering shall be required around the perimeter of the tower and accessory structures, except that the City may waive the standards for those sides of the facility that are not in public view. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping requirements.

1. A row of evergreen trees a minimum of six feet tall at planting a maximum of six feet apart shall be planted around the perimeter of the fence; and

2. A continuous hedge at least 36 inches high at planting capable of growing to at least 48 inches in height within 18 months shall be planted in front of the tree line referenced above.

3. In the event that landscaping is not maintained at the required level, the City after giving thirty (30) days advance written notice may maintain or establish the landscaping and bill both the owner and lessee for such costs until such costs are paid in full.

__01.014 NON-USE/ABANDONMENT

A. Abandonment: No less than 30 days prior to the date that a personal wireless service provider plans to abandon or discontinue operation of a facility, the provider must notify the City of University Place by certified U.S. mail of the proposed date of abandonment or discontinuation of operation. In the event that a licensed carrier fails to give notice, the facility shall be considered abandoned upon the City's discovery of discontinuation of operation. Upon such abandonment, the provider shall have 60 days or additional period of time determined in the reasonable discretion of the City within which to:

1. Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or

2. In the event that abandonment as defined in this Ordinance occurs due to relocation of an antenna at a lower point on the antenna support structure, reduction in the effective radiated power of the antenna or reduction in the number of transmissions from the antennas, the operator of the tower shall have six months from the date of effective abandonment to co-locate another service on the tower. If another service provider is not added to the tower, then the operator shall promptly dismantle and remove that portion of the tower which exceeds the minimum height required to function satisfactorily. Notwithstanding the forgoing, changes which are made to personal wireless facilities which do not diminish their essential role in providing a total system shall not constitute abandonment. However, in the event that there is a physical reduction in height of substantially all of the providers towers in the City or surrounding area then all of the towers within the City shall similarly be reduced in height.

3. Dismantle and removal facility. If the tower, antenna, foundation, and facility are not removed within the sixty (60) days time period or additional period of time allowed by the City, the City may remove such tower, antenna, foundation, and related facility at the provider's expense. If there are two or more providers co-locating on a facility, except as provided for in the paragraph above this provision shall not become effective until all providers cease using the facility.

At the earlier of sixty (60) days from the date of abandonment without reactivating or upon completion of dismantling and removal, City approval for the facility shall automatically expire.

__01.015: THIRD PARTY REVIEW

Personal wireless service providers use various methodologies and analyses, including geographically-based computer software, to determine the specific technical parameters of their

services and low power mobile radio service facilities, such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. In certain instances, a third party expert may need to review the technical data submitted by a provider. The City may require a technical review as part of a permitting process. The costs of the technical review shall be borne by the provider.

The selection of the third party expert may be by mutual agreement between the provider and the City, or at the discretion of the City, with a provision for the provider and interested parties to comment on the proposed expert and review its qualifications. The expert review is intended to address interference and public safety issues and be a site-specific review of technical aspects of the facilities or a review of the providers' methodology and equipment used and not a subjective review of the site which was selected by a provider. Based on the results of the expert review, the City may require changes to the provider's application. The expert review shall address the following:

- A. The accuracy and completeness of submissions;
- B. The applicability of analysis techniques and methodologies;
- C. The validity of conclusions reached; and
- D. Any specific technical issues designated by the City.

___01.016 REMEDIES

A. Any person violating any of the provisions of this Title upon conviction shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment for a period of up to ninety (90) days, or by both such fine and imprisonment, for each day during which an offense occurs. .

B. In addition to receiving any monetary remuneration, the City shall have the right to seek injunctive relief for any and all violations of this Title, for relief under City Ordinance No. 100 and all other remedies provided at law or in equity.


___01.017 SEVERABILITY

A. If any section, sentence, clause or phrase of this Title shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Title.

B. One copy of this Title shall be available in the office of the City Clerk for use and examination by the public.

C. A summary of this Title consisting of its title shall be published in the official newspaper of the City. This Title shall be in full force and effect five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL ON JUNE 2, 1997



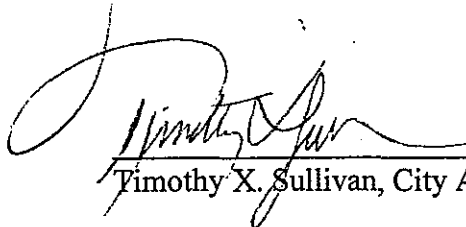
Linda Bird, Mayor

ATTEST:



Susan Matthew, City Clerk

APPROVED AS TO FORM:



Timothy X. Sullivan, City Attorney

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