

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATED TO ZONING PROVISIONS FOR RIGHT-OF-WAY ATTACHED WIRELESS COMMUNICATION FACILITIES; AND AMENDING SECTION 18.44.090, TABLE 44.01, AND SUBSECTIONS 18.02.180(W), 18.44.080(A), AND 18.44.100(B), OF THE OLYMPIA MUNICIPAL CODE.

WHEREAS, the Community Planning and Development Department received an application for a zoning code amendment to address the siting of new wireless technology called "small cell;" and

WHEREAS, small cell facility is defined in RCW 80.36.375(2) as a personal wireless services facility that meets certain qualifications; and

WHEREAS, the proliferation of personal wireless devices and the increase in data usage have resulted in an ever-increasing need for small cell technology to enhance coverage, improve speed and capacity, and reduce gaps in wireless coverage; and

WHEREAS, small cell facilities are designed to provide service in a limited geographic area and are located between 25 and 40 feet above ground; and

WHEREAS, utility poles and light posts within the public rights-of-way have been identified as resources for the deployment of small cell facilities; and

WHEREAS, existing zoning regulations adopted prior to small cell technology create challenges for siting small cell facilities within the City of Olympia; and

WHEREAS, the Olympia Planning Commission received a briefing on the proposed amendments to the Olympia Municipal Code on June 4, 2018, and held a duly-noticed public hearing on August 6, 2018; and

WHEREAS, following the public hearing and deliberations, on August 6, 2018, the Planning Commission recommended approval of the proposed amendments to the City Council; and

WHEREAS, this proposal is exempt from the State Environmental Policy Act (SEPA), as a land use decision consistent with the adopted Olympia Comprehensive Plan; and

WHEREAS, Chapter 35A.63 and 36.70 RCW and Article 11, Section 11 of the Washington State Constitution provide the legal basis for the City to adopt this Ordinance; and

WHEREAS, the City Council has duly considered the recommendations of the Planning Commission and City staff and determines it to be in the best interest of the City of Olympia to amend the Olympia Municipal Code to address the siting of small cell facilities;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 18.02.180(W). Olympia Municipal Code Subsection 18.02.180(W) is hereby amended to read as follows:

W. DEFINITIONS - SPECIFIC.

Waiver of a Certificate of Appropriateness, Waiver. A letter or other document which allows the building or zoning official to issue a permit for demolition.

Warehouse. A building primarily used for storage and distribution of products, equipment, or materials, which are not available for retail sale on the premises. "Warehousing" is the associated activity. Compare Mini-storage.

Welding and Fabrication. A business engaged in stamping or shaping pieces of metal which are then connected by heat until molten and fused, in order to manufacture, service, or repair sheet metal products.

Well-Adapted Drought-Tolerant Vegetation. Vegetation that is well adapted to current and anticipated environmental conditions in this region, and are not invasive.

Wellhead Protection Area. See OMC 18.32.205.

Wet pond. An artificial water body with a permanent water surface dug as a part of a surface water management system.

Wetland, habitat types or wetland types. Descriptive classes of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al 1978). These habitat types can include emergent, scrub-shrub or forested wetlands.

Emergent. A wetland with at least thirty (30) percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative stratum.

Forested. A wetland with at least twenty (20) percent of the surface area covered by woody vegetation greater than twenty (20) feet in height.

Scrub-shrub. A wetland with at least thirty (30) percent of its surface area covered by woody vegetation less than twenty (20) feet in height as the uppermost stratum.

Wetlands. See OMC 18.32.505.

Wetlands, Isolated. Those regulated wetlands which:

- a. Are outside of and not contiguous to any one hundred (100)-year floodplain of a lake, river or stream; and
- b. Have no contiguous hydric soil between the wetland and any surface water.

Wetlands Mitigation Bank. A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

Wetland - Mosaic. A wetland where each patch of wetland is less than one (1) acre; and each patch is less than one hundred (100) ft apart, on the average; and the areas delineated as vegetated wetland are more than fifty percent (50%) of the total area of the wetlands and the uplands together, or wetlands, open water, and river bars, all as defined in the Washington State Wetland Rating System for Western Washington (2014) as amended or revised.

Wholesale Sales or Trade. Establishments or places of business primarily engaged in selling merchandise to retailers.

Wildlife blind. A structure no larger than two hundred (200) square feet used for the observation of wildlife.

Wireless Communication Facility (WCF). Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, transmission cables, and equipment cabinets, and may include an antenna support structure. The following developments shall be deemed a WCF: developments containing new, mitigated, or existing antenna support structures, public antenna support structures, replacement antenna support structures, collocation on existing antenna support structures, attached wireless communications facilities, concealed wireless communication facilities, and non-concealed wireless communication facilities. Excluded from the definition are: non-commercial amateur radio, amateur ham radio and citizen band antennas, satellite earth stations and antenna support structures, and antennas and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities.

Specific types of WCFs include:

Attached WCF. An antenna or antenna array that is secured to an existing building or structure other than an antenna support structure - including light standards, transmission towers, utility poles, or the like - together with a) any accompanying pole or device which attaches it to the building or structure, b) transmission cables, and c) an equipment cabinet, which may be located either on the roof or inside/outside of the building or structure. An attached wireless communications facility is considered to be an accessory use to the existing principal use on a site. (See also Freestanding WCF.)

Concealed WCF, sometimes referred to as a stealth or camouflaged facility. A WCF, ancillary structure, or WCF equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two types of concealed WCFs: 1) attached and 2) freestanding. 1) Examples of concealed attached facilities include, but are not limited to the following: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure. 2) Concealed freestanding WCFs usually have a secondary, obvious function which may be, but is not limited to the following: church steeple, windmill, bell tower, clock tower, light standard, flagpole with or without a flag, or tree. (See also Non-concealed WCF.)

Freestanding WCF. Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, feed lines, and equipment cabinets, and may include an antenna support structure. A freestanding wireless communication facility includes, but is not limited to the following: guyed, lattice, or monopole antenna support structures. (See also Attached WCF.)

Non-concealed WCF. A wireless communication facility that is readily identifiable as such and can be either freestanding or attached. (See also Concealed WCF.)

ROW Attached Structure. A special case of an attached WCF, this is defined as a pole or other structure primarily used as an electrical transmission support structure for electrical, telephone, cable, or other wired services that can be or has been configured to support the antenna(s) and feedlines of one or more wireless service providers for use as a WCF.

Wireless Communications. Any personal wireless service, which includes but is not limited to: cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), and unlicensed spectrum services utilizing devices described in Part 15 of the FCC rules and regulations (e.g., wireless internet services and paging).

Wireless Facility, Small Cell. A wireless communications facility as defined in RCW 80.36.375(2).

Wireless Telecommunications Master Plan. A plan developed to enforce applicable development standards, state statutes, and federal regulations related to the deployment of wireless telecommunications infrastructure.

Workshops for Disabled People. Sheltered workshops and facilities which provide disabled people with opportunities for training, recreation, and/or employment. This may include assembly of products or any other activity allowed as a permitted use in the district.

Section 2. Amendment of OMC 18.44.080(A). Olympia Municipal Code Subsection 18.44.080(A) is hereby amended to read as follows:

18.44.080 Siting Alternatives Hierarchy

A. Siting of a wireless communications facility (WCF) (as herein defined) shall be in accordance with Section 18.44.090, Permitted Wireless Communications Facilities by Zoning District, and with the following siting alternatives hierarchy:

1. Concealed Attached Wireless Communications Facility
 - a. On City-owned property or rights-of-way of the City so designated as City Property
 - b. On other publicly-owned property or ROW

- c. On privately-owned property
- 2. Collocated or Combined on Existing Antenna Support Structure Facility
 - a. On City-owned property or rights-of-way of the City so designated as City Property
 - b. On other publicly-owned property or ROW
 - c. On privately-owned property
- 3. ROW-Attached Wireless Communications Facility Mounted on Existing-Utility Pole, Electricity Transmission Tower, or Light Post
 - a. On City-owned property or rights-of-way of the City so designated as City Property
 - b. On other publicly-owned property or ROW
 - c. On privately-owned property
- 4. Concealed Freestanding Wireless Communications Facility
 - a. On City-owned property or rights-of-way of the City so designated as City Property
 - b. On other publicly-owned property or ROW
 - c. On privately-owned property
- 5. Non-concealed Attached Wireless Communications Facility
 - a. On City-owned property or rights-of-way of the City so designated as City Property
 - b. On other publicly-owned property or ROW
 - c. On privately-owned property
- 6. Non-concealed Freestanding Wireless Communications Facility
 - a. On City-owned property or rights-of-way of the City so designated as City Property
 - b. On other publicly-owned property or ROW
 - c. On privately-owned property

Section 3. Amendment of OMC 18.44.090, Table 44.01. Olympia Municipal Code Section 18.44.090, Table 44.01 is hereby amended to read as follows:

Table 44.01 PERMITTED WIRELESS COMMUNICATION FACILITIES BY ZONING DISTRICT

Zoning District Group	Antenna Element Replacement	CONCEALED		Collocated or Combined on Existing WCF	ROW Attached Structure** - 34.5 kV+	Mitigation of Existing WCF	Expanding Existing Antenna Array	NON-CONCEALED	
		Attached WCF	Freestanding WCF					Attached WCF	Freestanding WCF
Group 1. INDUSTRIAL ZONES (I, LI)									
	P	P	P	P	P	P	P	P	P
Group 2. COMMERCIAL ZONES (AS, CSH, DB, GC, HDC-3, HDC-4, MS, UC, UW)									
	P	P	P	P	P	P	P	C	N
Group 3. MIXED USE ZONES (PUD, PO/RM, RMU, UR, UW-H)									
	P	P	C	P	P	C	C	N	N
Group 4. NEIGHBORHOOD ZONES (COSC, HDC-1, HDC-2, MHP, MR 7-13, MR 10-18, NC, NR, NV, R1/5, R4, R4-8, R6-12, RLI, RM-18, RM24, RMH, UV)									
	P	C	C	C	C	C	C	N	N
NATIONAL HISTORIC DISTRICTS and LOCAL, STATE, OR FEDERAL REGISTER PROPERTIES									
Groups 1-3	P	C	C	C	C	C	C	N	N
Group 4	P	N	N	N	N	N	N	N	N
SITES WITHIN 300 FEET OF GROUP 4 - NEIGHBORHOOD ZONES									
Groups 1-3	P	C	C	C	C	C	C	N	N
P - Permitted	C - Conditional Use Permit		N- Not Permitted						

* Notwithstanding the provisions of Table 44.01, any Eligible Wireless Facilities Modification subject to Chapter 18.46 is permitted outright.

** Small Cell Facilities attached to structures in the ROW are allowed as permitted uses except where listed as not permitted; provided such facilities shall have a Master Permit/Franchise approval per OMC Chapter 11.02 and have the approval of an administrative utility permit ensuring compliance with the Engineering Design and Development Standards (EDDS 2.060).

Section 4. Amendment of OMC 18.44.100(B). Olympia Municipal Code Subsection 18.44.100(B) is hereby amended to read as follows:

B. Attached Wireless Communication Facilities.

1. Generally.

- a. Height: The top of the attached WCF shall not be more than eighteen (18) feet above the existing or proposed building or structure.
- b. Setbacks: An attached WCF and its equipment compound shall be subject to the setbacks of the underlying zoning district. Antennas may extend a maximum of twenty-four (24) inches into the setback. However no antenna or portion of any structure shall extend into any easement other than a utility easement.
- c. Least visually obtrusive profile: Feed lines and antennas shall be designed to architecturally match the facade, roof, wall, or structure on which they are affixed so that they blend with the existing structural design, color, and texture. New antennas shall use the least visually obtrusive profile that will meet the network objectives of the desired coverage area. The visual obtrusiveness of the profile of an unobtrusive antenna or antenna array is ranked from least to most obtrusive as follows:
 - i. Flush-mounted antenna or antenna array
 - ii. Unconcealed single omni-directional (whip) antenna

2. Attached non-concealed WCFs.

- a. Allowable locations: Shall only be allowed on a building, on existing non-concealed antenna support structures and, where the applicant has an agreement with the applicable utility or other authority that exercises jurisdiction over the subject right of way, on electrical distribution poles, transmission towers, and existing ball park light poles, greater than fifty (50) feet in height, subject to approval of the designated staff or other appropriate agency designee and/or the utility company.
- b. Equipment compound or cabinets: Equipment compounds or cabinets for WCFs under this subsection shall be designed and located in such a manner as to not interfere with the subject right of way or its primary utilization.

3. ROW attached structures.

a. Allowable locations: Proposed facilities shall only be allowed where the applicant has an agreement with the applicable utility or other authority that exercises jurisdiction over the subject right of way, on ~~electrical transmission poles existing or replacement utility poles~~ and electricity towers carrying thirty-four and one-half kilovolts (34.5 kV) or greater, and greater than fifty (50) feet in height. In addition, small cell facilities are also allowed on light poles and existing or replacement utility poles less than fifty (50) feet in height. Location of proposed facilities are subject to approval of the designated staff or other appropriate agency designee and/or the utility company.

b. Equipment compound or cabinets: Equipment compounds or cabinets for WCFs under this subsection shall be designed, located, and screened or concealed in such a manner as to not interfere with the subject right of way or its primary utilization. Depending on site conditions, the review authority may require placement in an underground vault to provide for traffic safety, pedestrian access, or other right-of-way utilization requirements.

Section 5. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 6. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 7. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 8. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: