

Chapter 15.29 WIRELESS COMMUNICATIONS FACILITIES

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15.29.010 Purpose.

The purpose of this chapter is to establish general guidelines for the siting of wireless telecommunication facilities, including towers, antennas and support structures.

A. Goals. The goals of this chapter are to:

1. Enhance the ability of personal wireless service providers to provide such services throughout the city quickly, effectively, and efficiently;
2. Encourage personal wireless service providers to locate towers and antennas in nonresidential areas;
3. Encourage personal wireless service providers to co-locate on new and existing tower sites;

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.

“Protected areas” are: (a) the area commonly known as the Barge-Chestnut Neighborhood situated within the area bounded on the west by 36th Avenue, on the north by Summitview Avenue, on the east by 16th Avenue, and on the south by Tieton Drive; (b) established federal, state or local **historic** districts or **historic** district overlay zones; (c) proposed federal, state or local **historic** districts or **historic** district overlay zones filed for record with the federal, state or local agency with jurisdiction (hereafter “pending” **historic** district or overlay zones); (d) sites, buildings, structures or objects listed in the National Register of **Historic** Places; (e) state and local wildlife refuges, and permanently protected archeological sites; and (f) designated areas subject to preservation or protection through recorded conservation easement.

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

“Repairs and maintenance” means the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernible components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

“Right-of-way use permit” means the authorization by which the city grants permission to a service provider to enter and use the right-of-way at a specific location for the purpose of installing, maintaining, repairing, or removing identified facilities.

“Rights-of-way” means land acquired or dedicated for public roads and streets, as further defined in YMC 15.02.020, but does not include (a) structures, including poles and conduits, located within the right-of-way; or (b) federally granted railroad rights-of-way acquired under 43 USC Section 912, and related provisions of federal law, that are not open for motor vehicle use.

“Screening” means an opaque fence and/or evergreen landscaping that fully conceals the property it encloses.

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

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 or site satellite services, when used as a secondary use of the property.

G. Routine maintenance, replacement or repair of a personal wireless service facility and related equipment that does not constitute a modification; provided, that compliance with the standards of this chapter is maintained. Structural work or changes in height, type or dimensions of antennas, towers, or buildings are subject to the provisions of YMC [15.29.060\(A\)](#).

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

I. A COW or other temporary personal wireless telecommunications facility shall be permitted for a maximum of ninety days in any three hundred sixty-five day period or during an emergency declared by the city.

J. Telecommunications facilities of the city located upon city property and city utility poles and fixtures. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.040 Permits required.

The following table summarizes the permits required for the various types of personal wireless service facilities that meet the standards of this chapter:

Table 29-1		
Permit Table*		
Type of Use	Permit Type	Approval Type
Co-location/minor modification	Modification	Administrative (if minor modification)

(no substantial change)		
Co-location/major modification (substantial change in height)	Same as New Towers (depending on location)	Same as New Towers (depending on location)
New antenna (existing noncellular structures, industrial and commercial zoning districts)	Standard Wireless	Administrative
New tower (public or city-owned property)	Standard Wireless	Administrative/Lease
New tower (commercial or industrial zoning district, more than 300 feet from residential or protected area)	Standard Wireless	Administrative
New tower (in or within 300 feet of residential zoning)	Standard Wireless—if camouflaged by stealth Wireless	Administrative or Hearing Examiner

district)	CUP**—if not camouflaged by stealth	
New tower (in or within 300 feet of protected area)	Wireless CUP	Hearing Examiner
Any tower, antennas or modification not meeting standards of this chapter	Wireless Variance	Hearing Examiner
<p>* Applicable permits include building permits and other permits required for installation.</p> <p>** Wireless conditional use permit</p>		

(Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.050 Application submittal/fees.

- A. Standard Wireless Application. A complete application shall consist of the following:
1. A complete application form as provided by the community development department.
 2. The name, address, signature and contact information of the applicant:
 - a. If the applicant is not the landowner, applicant shall provide written authorization signed by the landowner authorizing the applicant to submit for permits on the landowner’s behalf. The written authorization signed by the landowner shall contain a statement and acknowledgement by the landowner that the landowner shall be deemed a co-applicant by virtue of such authorization.
 - b. If any applicant or co-applicant is a corporation, trust, association, or other organized group or legal entity, it shall provide the date of such creation, and, if a foreign corporation, a copy of the certificate of authority filed with the state of Washington, Secretary of State’s Office.

use permit or variance. Additionally, the administrator may require a balloon test for any new wireless facility for which the administrator finds that such test will enable the city to better determine appropriate means of camouflage or other conditions.

F. Facilities in or within Three Hundred Feet of Residential Zone or Protected Area. The following standards apply to wireless facilities within residential zoning districts, and within three hundred feet of residential zoning districts.

1. Due Diligence Requirements. Applications to place antennas and towers in residential zoning districts or within three hundred feet of residential zoned districts shall demonstrate that the requirements of YMC [15.29.050\(B\)\(2\)](#) have been met.

2. NEPA Requirements. Antennas and tower facilities proposed to be located in or within three hundred feet of an established or pending federal, state or local **historic** district or **historic** district overlay are facilities that may affect districts, sites, buildings, structures or objects significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of **Historic** Places. (See 16 U.S.C. 470w-5; 36 CFR Parts 60 and 800.) Applicant shall comply with applicable provisions of the National Environmental Policy Act (NEPA), including but not limited to the environment assessment provisions of 47 CFR 1.1307 et seq. and comply with any mitigations imposed therein.

3. Certificate of Appropriateness Required. New wireless facilities, and any modification to existing wireless facilities that constitutes a “substantial change” pursuant to subsection (A)(2) of this section, proposed to be located in a local **historic** district, **historic** district overlay, or other protected **historic** site, listed in the city of Yakima registry of **historic** places, require a certificate of appropriateness from the Yakima **historic** preservation commission in accordance with the procedures set forth in Chapter 11.62 YMC prior to the issuance of any permit for the construction, installation or major modification of wireless facilities in such areas.

G. Building Permits Required. Issuance of wireless facility permits under this chapter shall authorize issuance of any necessary and appropriate building permits to accomplish such modification, subject to compliance with applicable permit requirements and fees. Applicant shall submit complete applications for all other construction permits necessary to accomplish the construction.

H. Financial Security Required. The applicant shall provide a financial guarantee in the form of a bond or other financial instrument acceptable to the city in an amount sufficient to

antenna is mounted.

- ii. Equipment buildings, antenna, and related equipment shall occupy no more than twenty-five percent of the total roof area of the building the facility is mounted on, which may vary if co-location and adequate camouflage are used. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.080 Site selection standards.

A. Protected Areas. Protected areas are: (a) the area commonly known as the Barge-Chestnut Neighborhood situated within the area bounded on the west by 36th Avenue, on the north by West Summitview Avenue, on the east by 16th Avenue, and on the south by Tieton Drive; (b) established federal, state or local **historic** districts or **historic** district overlay zones; (c) proposed federal, state or local **historic** districts or historic district overlay zones filed for record with the federal, state or local agency with jurisdiction (hereafter "pending" **historic** district or overlay zones); (d) sites, buildings, structures or objects listed in the National Register of **Historic** Places; (e) state and local wildlife refuges, and permanently protected archeological sites; and (f) designated areas subject to preservation or protection through recorded conservation easement.

B. Discouraged Areas in B-2 and SCC Zoning Districts. New antenna and antenna support structures should be avoided in the following locations within the B-2 local business and SCC small convenience center zones when possible:

1. Within three hundred feet of residential areas.
2. Within three hundred feet of protected areas.

An applicant that wishes to locate in these areas shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a site, private institutional structure, or other appropriate existing structures more than three hundred feet from residential zoned districts or more than three hundred feet from a protected area, and that, due to valid considerations including physical constraints, and technological feasibility, no more appropriate location is available. Such antennas, towers and related facilities may be approved by the administrator, subject to the administrator's approval of camouflage or disguise by stealth. Such proposed structures are also subject to the balloon test and/or photo-simulation requirements of YMC [15.29.130](#) in order to assist the administrator in determining appropriate camouflage and/or stealth requirements.

C. Priority of Locations. The order of priorities for locating new personal wireless service

facilities shall be as follows:

1. Co-location (See YMC [15.29.060](#)(B) and (C)).
 2. Industrial zoning districts.
 3. Public property (See subsection E of this section).
 4. Existing structures—industrial and commercial zoning districts (e.g., buildings, towers, and water towers).
 5. Local business district (B-2) and small convenience center (SCC) zoning districts.
 6. Residential zoned districts.
 7. Protected areas.
- D. Site Selection Criteria.
1. Any applicant proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall evaluate different sites within a one-quarter-mile radius to determine which site will provide the best screening and camouflaging while providing adequate service to satisfy its function in the applicant's system. If the applicant proposes a site that does not provide the best opportunities for screening and camouflaging then the applicant must demonstrate why the facility cannot be located at the site where it can be best screened and camouflaged and why the antenna must be located at the proposed site.
 2. Wireless facility installations, including any 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 camouflage.
- E. Siting Priority on Public Property.
1. Order of Preference. Where public property is sought to be utilized by an applicant, priority for the use of government-owned land for wireless antennas and towers will be given to the following entities in descending order:
 - a. City of Yakima, except that any facilities proposed for location within the airport safety overlay (ASO) are further subject to the limitations and requirements of Chapter 15.30 YMC;

- b. Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the city of Yakima and private entities with a public safety agreement with the city of Yakima;
 - c. Other governmental entities, for uses that are not related to public safety; and
 - d. 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.
2. Subject to City Discretion. The placement of wireless service facilities on city-owned property is subject to the discretion of the city and approval of lease terms that are acceptable to the city, and must comply with the following requirements:
- a. The facilities will not interfere with the purpose for which the city-owned property is intended;
 - b. The facilities will have no significant adverse impact on surrounding private property, or any significant adverse impact is mitigated by screening, camouflage or other condition required by city;
 - c. The applicant shall obtain adequate liability insurance naming the city as loss payee and commit to a lease agreement that 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;
 - d. 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;
 - e. 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. Telecommunication facilities serving essential government services and other government agencies shall have priority over other users;
 - f. The applicant must reimburse the city for any related costs that the city incurs because of the presence of the applicant's facilities;

- g. The applicant must obtain all necessary land use approvals; and
- h. The applicant must cooperate with the city's objective to encourage co-locations and thus limit the number of cell sites requested.

F. **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 city parks commission has reviewed and made a recommendation regarding proposed personal wireless service facilities to be located in the park and this recommendation has been forwarded to the city council for consideration and approval;
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; and
3. Before personal wireless service facilities may be located in public parks, visual impacts and disruption of normal public use shall be mitigated. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.090 Safety and industry standards.

A. **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 wireless service providers governed by this chapter shall bring their towers and antennas into compliance with the revised standards and regulations within six months of their effective date or the timelines provided by the revised standards and regulations, whichever time period is longer. Failure to bring towers and antennas into compliance with the revised standards and regulations shall constitute grounds for revocation of permit.

B. **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 days to bring the tower into compliance with such