

**CITY OF WHITE SALMON WASHINGTON  
ORDINANCE NO. 2020-11-1068**

**AN ORDINANCE AMENDING WHITE SALMON MUNICIPAL CODE 17.78  
WIRELESS TELECOMMUNICATIONS TOWERS AND FACILITIES AND SETTING  
EFFECTIVE DATE**

**WHEREAS**, the City Council of the City of White Salmon finds that amendments to White Salmon Municipal Code 17.78 are necessary for the protection of the health and safety of the residents and the environment; and

**NOW, THEREFORE**, the City of White Salmon do ordain as follows:

**SECTION 1.** White Salmon Municipal Code (WSMC) Chapter 17.78 Wireless Telecommunications Towers and Facilities is hereby amended as follows:

Key: ~~**Bold and Strike through**~~ means repealed.     **Bold and underline** means new

Chapter 17.78 – Wireless Telecommunications Towers and Facilities

Sections:

17.78.010 - Findings.

- A. The Communications Act of 1934 as amended by the Telecommunication Act of 1996 ("the Act") grants the Federal Communications Commission (FCC) exclusive jurisdiction over:
1. The regulation of the environmental effects of radio frequency (RF) emissions from telecommunications facilities; and
  2. The regulation of radio signal interference among users of the RF spectrum.
- B. The city's regulation of wireless telecommunications towers and facilities in the city will not have the effect of prohibiting any person from providing wireless telecommunications services in violation of the Act.

17.78.015 - Purposes.

- A. The general purpose of this chapter is to regulate the placement, construction, ~~and~~ modification **and demolition** of wireless telecommunications towers and facilities in order to protect the health, safety, and welfare of the public, while at the same time encouraging the development of the competitive wireless telecommunications marketplace in the city.

B. The specific purposes of this chapter are:

1. To allow the location of wireless telecommunication towers and facilities in the city;
- 2. To regulate leasing of city-owned property to wireless operators;**
- ~~23.~~ To protect residential zones and visually sensitive areas from potential adverse impact of towers and telecommunications facilities;
- ~~34.~~ To minimize adverse visual impact of towers and telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
- ~~45.~~ To promote and encourage shared use/co-location of towers and antenna support structures as a primary option rather than construction of additional single-use towers;
- ~~56.~~ To promote and encourage utilization of technological designs that will eliminate or reduce the need for erection of new tower structures to support antenna and telecommunications facilities;
- ~~67.~~ To avoid potential damage to property caused by towers and telecommunications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound;
- ~~78.~~ To ensure that towers and telecommunications facilities are compatible with surrounding land uses; and
- ~~89.~~ To overcome the potential adverse impacts that poorly or unregulated telecommunications facilities could have on the public health, safety and welfare.

**17.78.018 – Definitions.**

**General. Words and terms in this section are included because of special or particular meanings as they are used in these regulations. The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.**

**"Antenna" means any pole, panel, rod, reflection disc including satellite earth station antenna as defined by 47 CFR Sections 1.4000 and 25.104, or similar device used for the transmission and/or reception of radio frequency signals.**

**"Antenna support structure" means any building or structure other than a tower which can be used for location of telecommunications facilities.**

**"Applicant" means any person that applies for approval from the city.**

**"Application" means the process by which the owner of a parcel of land within the city submits a request to develop, construct, build, modify, erect or use such parcel of land. "Application" includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to the city concerning such a request.**

**"Low-powered, networked telecommunications facilities" means those facilities with maximum transmitter peak output power that do not exceed one watt and are less than fourteen inches by sixteen inches by eight inches with an antenna no greater than thirty inches.**

**"Stealth" means relating to siting strategies and technological innovations designed to enhance compatibility with adjacent land uses by designing structures to resemble other features in the surrounding environment. "Stealth" techniques include architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to resemble light poles, power poles, flag poles, street standards, steeples, or trees, etc.**

**"Street right-of-way line" means the boundary line between a street and abutting property.**

**"Structure" means anything constructed in the ground, or anything erected which requires location on the ground or water, or is attached to something having location on or in the ground or water, but not including fences or walls used as fences six feet or less in height.**

**"Telecommunications facilities or wireless telecommunications facilities" means any antennas, cables, wires, lines, wave guides, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure.**

**"Tower or wireless telecommunications tower" means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports telecommunications facilities. The term "tower" shall not include amateur radio operators' equipment, as licensed by the FCC.**

17.78.020 - Exemptions.

The following shall be considered exempt structures or activities under this chapter:

- A. Parabolic or other similar antenna 39.37 inches (one meter) diameter or less regardless of zone;
- B. Parabolic or other similar antennas 78.74 inches (two meters) in diameter or less located in nonresidential zones;
- C. Panel, wave, or other similar antennas ten square feet or less regardless of zone;
- D. Whip or other similar antennas six feet in height and up to two inches in diameter;
- E. Antennas designed to receive local television broadcast signals regardless of zone category;
- F. Low-powered networked telecommunications facilities such as microcell radio transceivers located on existing utility poles and light standards within public right-of-way. Low-powered, networked telecommunications facilities shall comply with Chapter 17.78 WSMC;
- G. Industrial, scientific and medical equipment using frequencies regulated by the FCC;
- H. Military, federal, state and local government communication towers used for navigational purposes, emergency preparedness, and public safety purposes;
- I. Normal, routine, and emergency maintenance and repair of existing wireless communication facilities and related equipment which do not increase the size, footprint, or bulk of such facilities and which otherwise comply with city, state, and federal law and regulations;
- J. Cell on wheels (COW), which are permitted as temporary testing uses in nonresidential areas of the city for a period not to exceed thirty days, or in residential areas for a period not to exceed one day, or during a period of emergency as declared by the city.

17.78.025 - Development of towers.

- A. Towers may be located in any zone with approval of an unclassified use permit (UUP). Co-location shall be given first priority and may be required. The use of public properties shall be subject to approval by the city and the city's determination that the public's intended use of the site will not be unreasonably hindered. Application for an UUP shall be made to the planning ~~director~~ department in the manner provided in this chapter. An application to locate a new tower shall be accompanied by technical information identifying and documenting the need for such a location per subsection C of this section.
- B. Any tower proposed to be on public property owned by the City of White Salmon related to establishing a ground lease option shall be first approved by the City Council prior to submission of an application to the planning commission.**

**1. Information to be included with a request for a ground lease option shall include the following information:**

- a. Name, address and telephone number of the lessee of the parcel of land upon which the proposed tower is to be situated.**
- b. A site plan showing the location of the proposed tower and any supporting facilities.**
- c. A description of the type of tower including color photo simulations showing the proposed site with a photo realistic representation of the proposed tower and telecommunications facilities as it would appear viewed from the closest residential property and from adjacent roadways.**
- d. The height of the tower.**
- e. Where the tower connects to or relies on existing public facilities, such as mounting the tower on a city reservoir, the applicant shall provide preliminary engineering of the suitability and impacts of the proposed project on the city facilities.**
- f. An affidavit shall be submitted attesting to the fact that the applicant made diligent efforts to obtain permission to install or co-located the proposed telecommunications facilities on existing towers or antenna support structures located within the White Salmon-Bingen Urban Exempt Area, but, due to physical, economic, or technological constraints detailed in the affidavit, no such existing tower or antenna support structure is available or feasible.**

**BC.** Towers may not exceed the maximum height allowed for structures in any residential, local commercial or general commercial zone. In industrial, public, and riverfront planned district zones, towers shall be permitted to a height of sixty feet. Towers may be permitted in excess of the stated height limit to a maximum height of one hundred twenty feet only in accordance with a modification approved per Section 17.78.085 WSMC and subject to all conditions of approval applied through that process.

**CD.** An application to develop a new tower shall be by UUP and shall include the following information:

1. The name, address, and telephone number of the owner and lessee of the parcel of land upon which the proposed tower is to be situated. If the applicant is not the owner of the parcel of land upon which the proposed tower is to be situated, the

written consent of the owner shall be evidenced in the application. If the applicant is not the owner of the property, a copy of the preliminary lease agreement is required to be provided with the application. A copy of the final agreement shall be submitted prior to issuance of a building permit for the structure;

2. The legal description, parcel number, and address of the parcel of land upon which the proposed tower is to be situated;
3. The names, addresses, and telephone numbers of all owners of other towers or antenna support structures, capable of supporting the applicant's telecommunications facilities, within three hundred feet of the proposed tower site, including city-owned property;
4. A description of the design plan proposed by the applicant in the city. Applicant must identify whether or not it is utilizing the most compact, or least obtrusive, technological design, including microcell design, as part of the design plan. The applicant must demonstrate the need for the proposed tower and why design alternatives, such as the use of microcell, cannot be utilized to accomplish the provision of the applicant's telecommunications services;
5. An affidavit shall be submitted attesting to the fact that the applicant made diligent efforts to obtain permission to install or co-locate the proposed telecommunications facilities on existing towers or antenna support structures located within ~~a one-half mile radius of the proposed tower site~~ the White Salmon-Bingen Urban Exempt Area, but, due to physical, economic, or technological constraints, no such existing tower or antenna support structure is available or feasible.
6. A written statement by the applicant that the tower will accommodate co-location of additional antennas for future users at a reasonable, market-based cost. If accommodation of future co-location is not proposed, information must be submitted with the application detailing why future co-location is not possible;
7. Written technical evidence from an engineer(s) of the tower's capability of supporting additional telecommunications facilities comparable in weight, size, and surface area to the telecommunications facilities installed by the applicant on the proposed tower;
8. A written statement from an engineer(s) that the construction and placement of the proposed tower and telecommunications facilities will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and nonresidential properties;

9. It shall be a condition of the UUP approval that certification by the applicant will meet the standards set forth in Section 17.78.035, "Structural requirements";
10. A written statement by the applicant stating the tower and telecommunications facilities will comply with all FAA (**Federal Aviation Administration**) regulations and EIA (**Energy Information Administration**) standards and all other applicable federal, state and local laws and regulations;
11. In order to assist the planning ~~director~~ **department** and planning commission in evaluating visual impact, the applicant shall submit color photo simulations showing the proposed site with a photo realistic representation of the proposed tower and telecommunications facilities as it would appear viewed from the closest residential property and from adjacent roadways;
12. The city may require a qualified, independent third party review (by a city-approved consultant) to validate and review the technical information contained in the application submittals. The cost of such review shall be borne by the applicant;
13. The Act gives the FCC sole jurisdiction of the regulation of RF emissions and does not allow the city to condition or deny on the basis of RF impacts the approval of any telecommunications facilities (whether mounted on towers or antenna support structures) which meet FCC standards. In order to provide information to its citizens, the applicant ~~may~~ **shall** be required to provide copies of ongoing FCC information and RF emission standards for telecommunications facilities transmitting from towers or antenna support structures to the city for inclusion in the public record. The city shall make this type of information available to the public upon request. Applicants shall be required to submit information on the proposed power density of their proposed telecommunications facilities and demonstrate how this meets FCC standards;
14. At the time of site selection, the applicant shall demonstrate how the proposed site fits into its overall telecommunications network within the city. This shall include a service area coverage chart for the proposed tower and telecommunications facilities that depicts the extent of coverage and corresponding signal quality at the proposed tower height and at least one height lower than that proposed;
15. Construction schedule and completion date shall be provided to the city. Performance in accordance with the proposed construction schedule and completion date shall be required by condition of approval. When compliance with construction schedule is required, the applicant will be allowed to request extension of the construction schedule. City review of the extension request will include consideration of continued construction impacts on transportation patterns and surrounding land uses;

16. Copies of any environmental documents required by any federal, state, or local agency. These shall include the environmental assessment required by FCC Para. 1.1307, or, in the event that a FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment;
17. A full site plan shall be required for all towers, showing the location, the specific placement of the tower on the site, the type and height of the proposed tower, 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 facility, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, fencing, proposed color(s), and any other proposed structures;
18. Applicants for new communications towers shall contact all law enforcement, fire, and other public safety and emergency services agencies within the city prior to application submittal to determine whether or not the agencies are interested in co-location and, if so, what the agencies specifications are. If any such agency decides to co-locate, then any new towers approved under this chapter shall be designed for, and the owner shall not deny, co-location.

**DE.** The city shall review applications in a prompt manner and all decisions shall be made in writing and setting forth the reasons for approval or denial.

**EF.** Decisions on UUPs require a public hearing. The public hearing shall be conducted before the planning commission following which the planning commission shall render a decision supported by findings of fact and conclusions of law. Appeal of the planning commission's decision must be submitted within fourteen days to the planning department by ~~the city council~~ **a hearing examiner.**

#### 17.78.030 - Setbacks.

- A. Setback requirements for towers shall be measured from the base of the tower to the property line of the parcel of land on which it is located.
- B. Setback requirements may be modified, as provided in Section 17.78.085 WSMC, when placement of a tower in a location which will reduce the visual impact can be accomplished. For example, adjacent to trees, which may visually hide the tower.
- C. Unless exempt from Section 17.78.020 WSMC, telecommunications facilities shall be set back at least twenty-five feet from each lot line. The planning commission may grant a waiver of up to twenty-five percent of the setback requirement if it is determined that significant trees and other vegetation will be retained by reducing the setback.



- D. Towers in excess of the height allowed in each base zone per Section 17.78.025(B) and having received approval of a request for modification of development standards per Section 17.78.085; shall be set back one additional foot per each foot of tower height in excess of the tower height allowed in the base zone without a modification of development standards.

17.78.035 - Structural requirements.

It shall be a condition of the UUP that all towers must be designed and certified by an engineer to be structurally sound and, at a minimum, in conformance with the building code and any other standards set forth in this chapter. All towers shall be fixed to land.

17.78.040 - Separation or buffer requirements.

For the purpose of this section, the separation distances between towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed tower. The minimum tower separation distances from residentially zoned land and from other towers shall be calculated and applied irrespective of city jurisdictional boundaries.

- A. Proposed towers must meet the following minimum separation requirements from existing towers or towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to the zoning code:
  - 1. Monopole tower structures shall be separated from other telecommunications towers by a minimum of seven hundred fifty feet.
  - 2. Self-supporting or lattice tower structures shall be separated from other telecommunications towers by a minimum of one thousand five hundred feet.
- B. Tower separation distances from any property that is zoned residential shall be set back one foot for each foot of tower height.
- C. Separation or buffer requirements may be modified as provided in Section 17.78.085 WSMC.

17.78.045 - Method of determining tower height.

Measurement of tower height for the purpose of determining compliance with all requirements of this section shall include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto. Tower height shall be measured from average pre-construction grade.

17.78.050 - Illumination.

Towers shall not be artificially lighted except as specified by the Federal Aviation Administration (FAA). If lighting is demonstrated to be required by the FAA as the only means to achieve compliance with FAA safety standards, dual mode lighting shall be requested from the FAA. **All facility (other than towers) lighting shall be dark-sky compliant as required by the City of White Salmon Municipal Code 8.40 – Outdoor Lighting.**

17.78.055 - Exterior finish.

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the planning commission.

17.78.060 - Landscaping/stealth design.

- A.** All landscaping on a parcel of land containing towers, antenna support structures, or telecommunications facilities shall be in accordance with the applicable landscaping requirements in the zoning district where the tower, antenna support structure, **and/or** telecommunications facilities are located. The city may require on-site landscaping in excess of the requirements in the zoning code in order to enhance compatibility with adjacent land uses. Tower development shall preserve the pre-existing character of the site as much as possible. Towers and accessory equipment structures (equipment shelters and cabinets) shall be integrated through location, design, and color to blend in with the existing site characteristics to the extent practical. Existing vegetation around the facility shall be preserved to the extent possible or improved upon to provide vegetative screening.
- B.** The perimeter of a wireless communication support structure shall be enclosed by a fence or wall at least six feet in height. Evergreen trees shall be planted surrounding the support structure in a manner approved by the city. In any residential, local commercial, or general commercial zone, the monopole or lattice tower must be screened by existing vegetation when possible. Additional screening may be required to mitigate visual impacts to adjacent properties or public rights-of-way as determined by site-specific conditions. Ground equipment may be required to be located within a structure and the structure may be required to contain design elements (e.g., wood or wood look siding, pitched roof and overhangs) as deemed necessary to ensure compatibility between ground equipment and the surrounding neighborhood.

17.78.065 - Telecommunications facilities on towers and antenna support structures.

Telecommunications facilities may be permitted on any tower or antenna support structure. Application for a conditional use permit shall be made to the planning **director department** in the manner provided in this chapter for telecommunications facilities that are not exempt per Section 17.78.020 WSMC. The applicant shall, by written certification to the planning department, establish the following at the time plans are submitted for a building permit:

- A. A conditional use permit application to develop telecommunications facilities shall include the following:
1. The name, address, and telephone number of the owner and lessee of the parcel of land upon which the tower or antenna support structure is situated. If the applicant is not the owner of the parcel of land upon which the tower or antenna support structure is situated, the written consent of the owner shall be evidenced in the application;
  2. The legal description, parcel number, and address of the parcel of land upon which the tower or antenna support structure is situated;
  3. A description of the design plan proposed by the applicant. The applicant must identify whether or not it is utilizing the most compact, or least obtrusive, technological design, including microcell design, as part of the design plan;
  4. A written statement from an engineer(s) that the construction and placement of the telecommunications facilities will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and nonresidential properties;
  5. It shall be a condition of any conditional use permit approval that the applicant shall provide certification that the proposed structure will meet the standards set forth in Section 17.78.035 WSMC;
  6. A written statement by the applicant stating the telecommunications facilities will comply with all FAA (**Federal Aviation Administration**) regulations and EIA (**Energy Information Administration**) standards and all other applicable federal, state and local laws and regulations;
  7. In order to assist the planning ~~director~~ **department** and planning commission in evaluating visual impact, the applicant shall submit color photo-simulations showing the tower or antenna support structure with a photo-realistic representation of the proposed telecommunications facilities, as it would appear viewed from the closest residential property and from adjacent roadways;
  8. At the request of the planning ~~director~~ **department**, the city may require a qualified, independent third-party review (by a city-approved consultant) to validate and review the technical information contained in the application submittals. The cost of such review shall be borne by the applicant;
  9. The Act gives the FCC sole jurisdiction of the regulation of RF emissions and does not allow the city to condition or deny on the basis of RF impacts the approval of any telecommunications facilities (whether mounted on towers or

antenna support structures) which meet FCC standards. In order to provide information to its citizens, the applicant may be required to provide copies of ongoing FCC information and RF emission standards for telecommunications facilities transmitting from towers or antenna support structures to the city for inclusion in the public record. The city shall make this type of information available to the public upon request. Applicants shall be required to submit information on the proposed power density of their proposed telecommunications facilities and demonstrate how this meets FCC standards;

10. Construction schedule and completion date shall be provided to the city. Performance in accordance with the proposed construction schedule and completion date shall be required by condition of approval. When compliance with construction schedule is required, the applicant will be allowed to request extension of the construction schedule. City review of the extension request will include consideration of continued construction impacts on transportation patterns and surrounding land uses;
  11. Copies of any environmental documents required by any federal agency, if available. These shall include the environmental assessment required by FCC Para. 1.1307, or, in the event that a FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment;
  12. A full site plan shall be required for all sites, showing the location, the specific placement, type and height of the proposed telecommunications facilities, 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 telecommunications facilities, the location of existing towers and antenna support structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, fencing, proposed color(s), and any other proposed structures.
- B. Telecommunications facilities that are not appurtenant structures and that are located above the top of the antenna support structure shall be appropriately screened from view through the use of panels, walls, fences, setbacks from the edge of the antenna support structure or other screening techniques approved by the city. Screening requirements shall not apply to stealth antennas that are mounted below the top of the antenna support structure but which do not protrude more than eighteen inches from the side of such an antenna support structure.

#### 17.78.070 - Modification of existing towers.

- A. A tower existing prior to the effective date of the ordinance codified in this chapter, which was in compliance with the city's zoning regulations immediately prior to the effective date of the ordinance, may continue in existence as a nonconforming structure.

Such nonconforming structures may be modified ~~or demolished and rebuilt~~ without complying with any of the additional requirements of this chapter, except for Sections 17.78.040(B) (requiring that existing legal nonconforming facilities be considered when siting of new facilities is reviewed), 17.78.075, and 17.78.080 WSMC, provided that:

1. The tower is being modified ~~or demolished and rebuilt~~ for the sole purpose of accommodating, within six months of the completion of the modification ~~or rebuild~~, additional telecommunications facilities comparable in size to the discrete operating telecommunications facilities of any person currently installed on the tower and with a surface area not to exceed the previous facilities.
  2. An application for a development permit is made to the planning department which shall have the authority to issue a development permit without further approval. The grant of a development permit pursuant to this section allowing the modification ~~or demolition and rebuild~~ of an existing nonconforming tower shall not be consider a determination that the modified ~~or demolished and rebuilt~~ tower is conforming.
  3. The height of the modified ~~or rebuilt~~ tower and telecommunications facilities attached thereto does not exceed the existing height of the tower and facilities as of the date of the ordinance codified in this chapter or as hereinafter amended, whichever is higher.
- B. Except as provided in this section, a nonconforming structure or use may not be enlarged, increased in size. A nonconforming structure or use may not be discontinued in use for a period of more than one hundred eighty days without being brought into compliance with this chapter. This chapter shall not be interpreted to legalize any structure or use existing at the time the ordinance codified in this chapter is adopted which structure or use is in violation of the zoning code prior to enactment of this chapter.

**17.78.073 – Demolition and rebuilding of existing towers.**

**Towers that are proposed to be demolished and rebuilt shall comply with all sections in this chapter, as if a new tower is being constructed.**

17.78.075 - Certification and inspections.

- A. All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the building code and all other construction standards set forth by the White Salmon Municipal Code and federal and state law including FCC and National Electric Safety Code regulations. For new towers, such certification shall be submitted with an application pursuant to Section 17.78.025 "Development of towers" of this chapter.
- B. The city or its agents shall have authority to enter onto the property upon which a tower is located, to inspect the tower for the purpose of determining whether it complies with the

building code and all other construction standards provided by the White Salmon Municipal Code and federal and state law.

- C. The city reserves the right to conduct such inspections at any time, upon reasonable notice to the tower owner. In the event such inspection results in a determination that violation of applicable construction and maintenance standards, set forth by the White Salmon Municipal Code has occurred, remedy of the violation may include cost recovery for all costs incurred in confirming and processing the violation.

17.78.080 - Maintenance.

- A. Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- B. Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.
- C. All towers, telecommunications facilities, and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.
- D. All maintenance or construction of towers, telecommunications facilities, or antenna support structures shall be performed by licensed contractor.
- E. All towers shall maintain compliance with current RF emission standards of the FCC.
- F. In the event that the use of a tower is discontinued by the tower owner, the tower owner shall provide written notice to the city of its intent to discontinue use and the date when the use shall be discontinued.

17.78.085 - Modification of development standards.

- A. Notwithstanding the tower requirements provided in this chapter, a modification to the development standards may be approved by the planning commission as an unclassified use in accordance with the following:
  - 1. In addition to the requirement for a tower application, the application for modification shall include the following:
    - a. A description of how the proposed plan addresses any adverse impact that might occur as a result of approving the modification;

- b. A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the proposed modification;
  - c. A technical study that documents and supports the applicant's need (criteria submitted by the applicant) upon which the request for modification is based. The technical study shall be certified by an engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties;
  - d. For a modification of the setback requirement, the application shall identify all parcels of land where the proposed tower could be located, attempts by the applicant to contract and negotiate an agreement for co-location, and the result of such attempts;
  - e. The planning department may require the application to be reviewed by a qualified, independent engineer under contract to the city to determine whether the antenna study supports the basis for the modification requested. The cost of review by the engineer shall be reimbursed to the city by the applicant.
2. The planning commission shall consider the application for modification based on the following criteria:
- a. That the tower as modified will be compatible with and not adversely impact public health and safety of surrounding areas;
  - b. Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification;
  - c. In addition, the planning commission may include conditions on the site where the tower is to be located if such conditions are necessary to mitigate any adverse impacts which arise in connection with the approval of the modification.
- B. In addition to the requirements of subsection A of this section, in the following cases, the applicant must also demonstrate, with written evidence, the following:
- 1. In the case of a requested modification to the setback requirement. Section 17.78.030 WSMC, that the setback requirement cannot be met on the parcel of land upon which the tower is proposed to be located and the alternative for the applicant is to locate the tower at another site which is closer in proximity to a residentially zoned land or land that is more visually sensitive.
  - 2. In the case of a request for modification of the separation and buffer requirements of Section 17.78.040 WSMC, that written technical evidence from an engineer(s)

demonstrates that the proposed tower must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system, and that the applicant is willing to create approved landscaping and other buffers to screen the tower.

3. In the case of a request for modification of the height limit for towers or to the minimum height requirements for antenna support structures, that the modification is necessary to: (a) facilitate co-location of telecommunications facilities in order to avoid construction of a new tower; or (b) to meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer(s) that demonstrates that the height of the proposed tower is the minimum height required to function satisfactorily, and no tower that is taller than one hundred twenty feet shall be approved in any case.

#### 17.78.090 - Abandonment.

- A. If any tower shall cease to be used for a period of one hundred eighty consecutive days, the planning department shall notify the owner, with a copy to the applicant, that the site will be subject to a determination by the planning commission that such site has been abandoned. The owner shall have thirty days from receipt of said notice to show, by a preponderance of the evidence that the tower has been in use or under repair during the period. If the owner fails to show that the tower has been in use or under repair during the period, the city council shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the owner shall, within seventy-five days, dismantle and remove the tower.
- B. To secure the obligation set forth in this section, the applicant (and/or owner) shall post a performance bond for the purpose of ensuring adequate removal of the tower upon termination of its use. The performance bond shall be equal to or greater than one hundred fifty percent of the estimated cost of removal of the tower, but not less than five thousand dollars. Proof of performance bonds shall be submitted prior to final permit approval.

#### 17.78.095 - Temporary wireless service facility.

The use of a temporary wireless service facility may be permitted by the city. A temporary wireless service facility is the use of equipment such as a COW or an antenna on a bucket truck, crane, or other device capable of reaching the height necessary to evaluate the site for placement of a personal wireless facility. Such temporary facility may only be utilized in nonresidential areas of the city for a period not to exceed thirty days, or in residential areas for a period not to exceed one day for the purpose of evaluating the technical feasibility of a particular location for placement of a personal wireless facility or for providing communications during an emergency.

#### **~~17.78.100~~—Definitions.**



~~General. Words and terms in this section are included because of special or particular meanings as they are used in these regulations. The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.~~

~~"Antenna" means any pole, panel, rod, reflection disc including satellite earth station antenna as defined by 47 CFR Sections 1.4000 and 25.104, or similar device used for the transmission and/or reception of radio frequency signals.~~

~~"Antenna support structure" means any building or structure other than a tower which can be used for location of telecommunications facilities.~~

~~"Applicant" means any person that applies for approval from the city.~~

~~"Application" means the process by which the owner of a parcel of land within the city submits a request to develop, construct, build, modify, erect or use such parcel of land. "Application" includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to the city concerning such a request.~~

~~"Low powered, networked telecommunications facilities" means those facilities with maximum transmitter peak output power that do not exceed one watt and are less than fourteen inches by sixteen inches by eight inches with an antenna no greater than thirty inches.~~

~~"Stealth" means relating to siting strategies and technological innovations designed to enhance compatibility with adjacent land uses by designing structures to resemble other features in the surrounding environment. "Stealth" techniques include architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to resemble light poles, power poles, flag poles, street standards, steeples, or trees, etc.~~

~~"Street right of way line" means the boundary line between a street and abutting property.~~

~~"Structure" means anything constructed in the ground, or anything erected which requires location on the ground or water, or is attached to something having location on or in the ground or water, but not including fences or walls used as fences six feet or less in height.~~

~~"Telecommunications facilities or wireless telecommunications facilities" means any antennas, cables, wires, lines, wave guides, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure.~~

~~"Tower or wireless telecommunications tower" means a self supporting lattice, guyed, or monopole structure constructed from grade which supports telecommunications facilities. The term "tower" shall not include amateur radio operators' equipment, as licensed by the FCC.~~

17.78.110 - Severability.

That if any clause, section, or other part of this chapter shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this chapter shall not be affected thereby, but shall remain in full force and effect.

**SECTION 2: EFFECTIVE DATE**

This ordinance shall become effective five days after publication as provided by law.

**SECTION 3: SEVERABILITY**

If any part of this ordinance is declared unconstitutional or otherwise invalid for any reason, the remaining provisions shall be construed to be effective after removing the objectionable provision(s).

Passed by the Council and approved by the Mayor on this 18th day of November 2020.

ATTEST:

  
\_\_\_\_\_  
Marla Keethler, Mayor

  
\_\_\_\_\_  
Jan Brending, Clerk Treasurer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Kenneth E. Woodrich, City Attorney