

Chapter 17.44
Wireless Communication Facilities

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17.44.010 Purpose. This Chapter addresses the issues of location and appearance associated with wireless communication facilities (WCF) or personal wireless service facilities (PWSF). It provides adequate opportunities through a range of site locations and options that minimize the visual impacts sometimes associated with wireless communications technologies. The siting of facilities on existing buildings or structures, co-location of several providers facilities on a single support structure or site, and visual mitigation measures are encouraged to maintain neighborhood appearance and reduce visual clutter in the city.

17.44.020 Exemptions. The following are exempt from the provisions of this Chapter and shall be permitted in all zones:

- A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the Federal Communications Commission (FCC);
- B. Antennas and related equipment no more than three feet in height that are being stored, shipped, or displayed for sale;
- C. Facilities used for purposes of public safety, such as, but not limited to, police and the 911 system;
- 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. Wireless communication facilities which legally existed or had a vested application on or prior to the effective date of the ordinance codified in this chapter; except that this exemption does not apply to modifications of existing facilities;
- H. 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 chapter are maintained; and
- I. Subject to compliance with all other applicable standards of this chapter, a building permit application need not be filed for emergency repair of a personal wireless service facility until thirty days after the completion of such emergency activity.

17.44.030 Prohibited Devices

Except as exempted pursuant to ZMC 17.44.020, personal wireless service facilities (PWSF) that are not permanently affixed to a support structure and which are capable of being moved from location to location (e.g., "cell on wheels") are prohibited.

17.44.040 WCF locations.

- A. Non-residential Zoning Districts. WCF's that require a new freestanding support structure may be located in any of the following types of zoning districts, as they exist now or in the future, within the city: Manufacturing, commercial, highway tourism, and public lands.
- B. Residential Districts. Except as provided in Section 17.44.080, freestanding wireless facilities are not allowed in any of the residential zoning district. The hearing body may approve a freestanding WCF in a residential zoning district if the provisions of Sections 17.44.070 and 17.44.080 can be met.
- C. Existing Structures. WCF's may be placed in any zoning district on the following existing structures subject to Section 17.44.080 of this Title:
 - 1. On any free standing support structure currently used by a permitted WCF; or,
 - 2. Minor facilities located on legally conforming non-residential buildings and structures including, but not limited to, water towers, clubhouses, office buildings, retail buildings, industrial buildings, government buildings, churches, light standards in parking lots and sports fields, bridges, power poles and towers.
- D. Rights-of-Way. Wireless facilities may be placed in the City right-of-way provided the WCF is a minor facility consisting of a whip or tubular antenna placed on a light standard or power pole and the equipment cabinet is placed in the ground.

17.44.050 Project application review. WCF applications shall be processed as follows:

- A. All new construction of WCFs shall be processed as a Class 3 and require a commercial site development permit and approval from City Council.
- B. All WCF-existing facilities applications that do not meet the definition of a minor facility shall require a commercial site development permit and be processed as a Class 2.
- C. WCFs that do not include the construction of a freestanding support structure and are defined as a minor facility shall be processed as a Class 1 permit.

17.44.060 General provisions.

- A. **Principal or Accessory Use.** Wireless communication facility will be considered either principal or accessory uses. A different use of an existing structure on the same lot shall not preclude the installation of a WCF on that lot.
- B. **FCC Licensing.** The Applicant must demonstrate that it is licensed by the FCC if it is required to be licensed under FCC regulations. The Applicant if not the telecommunications service provider shall submit proof of lease agreements with a FCC licensed telecommunications provider if they are required to be licensed by the FCC.
- C. **Lot Size.** For purposes of determining whether the installation of a wireless telecommunications facility complies with district development standards, such as, but not limited to, setback and lot coverage requirements, the dimensions of the entire lot shall control, even though a wireless telecommunications facility is located on a leased parcel within that lot.
- D. **Signs.** No wireless telecommunications equipment shall be used for the purpose of mounting signs or message displays of any kind.
- E. **Lighting.** Wireless facilities shall not be artificially lighted unless required by the FAA or other applicable authority.
- F. **Permanent Mounting Required.** All commercial wireless telecommunications facilities shall be installed, erected, or mounted in a manner that is intended to be permanent. Temporary and mobile commercial facilities are not allowed.
- G. **Cumulative Effects.** The City shall consider the cumulative visual effects of wireless facilities mounted on existing structures and/or located on a given permitted site in determining whether the additional permits can be granted so as to not adversely affect the visual character of the city.
- H. **Business License Registration.** All WCF's shall obtain and maintain a City of Zillah business license prior to issuance of any permits.
- I. **Site Screening.** Wireless facilities shall be screened or camouflaged by employing the best available technology. This may be accomplished by use of compatible materials,

location, color, stealth technologies, and/or other tactics to achieve minimum visibility of the facility as viewed from public streets or residential properties. All screening and camouflaging is subject to the approval of the City.

17.44.070 Site development standards. All WCF's shall be constructed, erected or built in accordance with the following site development standards:

- A. Minor wireless facilities may be mounted on certain nonresidential buildings or structures in accordance with the limitations of Section 17.44.040 (C)(2) provided that the following conditions are met:
 - 1. The WCF is co-located on an existing WCF freestanding support structure; or
 - 2. The WCF consists of a minor facility as follows:
 - a. The combined antenna (e) and support structure shall not extend more than fifteen feet above the existing or proposed roof structure. Antenna (e) may be mounted to rooftop appurtenances provided they do not extend beyond fifteen feet above the roof proper; and
 - b. The antennae are mounted on the building such that they are located and designed to minimize visual and aesthetic impacts to surrounding land uses and structures and shall, to the greatest extent practical, blend into the existing environment.
- B. New freestanding wireless facilities, all exempt repairs and maintenance, and all other WCF's not meeting the definition of a minor facility shall conform to all of the following site development standards:
 - 1. Monopoles and lattice towers shall be the only freestanding support structures allowed in the City unless the Applicant submits supporting evidence and the hearing body agrees in written findings that another type of structure is needed to meet the Applicant's technical and network location requirements;
 - 2. Installation of a new freestanding facility shall only be accepted in residential zoning districts if the Applicant can show that other non-residential zoning districts within the City cannot meet the Applicant's technical and network location requirements;
 - 3. Installation of a freestanding facility shall be denied if placement of the antennae on an existing structure can meet the Applicant's technical and network location requirements;
 - 4. The Applicant shall demonstrate that the WCF's is the minimum height required to function satisfactorily. For the purpose of future co-location the City may allow freestanding support structures to be built higher than the minimum required for the technical and networking requirements of the Applicant if the Applicant

guarantees future co-location of other WCF's on the freestanding support structure. Height shall be measured to the top of the antenna (e);

5. A freestanding WCF's, including the support structure and associated electronic equipment, shall comply with all required setbacks of the zoning district in which it is located. Larger setbacks shall be encouraged for freestanding WCF's requesting location next to residential uses or zones,
 6. Freestanding wireless facilities shall be designed and placed on the site in a manner that takes maximum advantage of existing trees, mature vegetation, and structures so as to:
 - a. Use existing site features to screen as much of the total facility as possible from prevalent views; and/or
 - b. Use existing site features as a background so that the total facility blends into the background with increased sight distances;
 7. In reviewing the proposed placement of a wireless facility on the site and any associated landscaping, the City may make a condition of the permit that the Applicant supplement existing trees and mature vegetation to more effectively screen the facility; and
 8. Support structures, antennae, and any associated hardware shall be painted a non-reflective color or color scheme appropriate to the background against which the facility would be viewed from a majority of points within its view shed. A proposed color or color scheme shall be approved by the City.
- C. Electronics equipment enclosures shall conform to the following:
1. Screening of WCF's equipment enclosures shall be provided with one or a combination of the following: underground, fencing, walls, landscaping, structures, or topography which will block the view of the equipment shelter as much as practicable from any street and/or adjacent properties. Screening may be located anywhere between the enclosure and the above mentioned viewpoints. Landscaping for the purposes of screening shall be maintained in a healthy condition; and
 2. No wireless equipment reviewed under this section shall be located within required building setback areas.
- D. Security fencing, if used, shall conform to the following:
1. No fence shall exceed six feet in height;
 2. Security fencing shall be effectively screened from view through the use of appropriate landscaping materials; and

3. Chain-link fences shall have a minimum three foot deep outside area to be planted with approved plant species in a manner that will completely screen the fencing.

17.44.080 Co-location. The intent of co-location is to encourage several providers to use the same structure or site to keep the number of wireless facilities sites to a minimum as a means of reducing the overall visual effects throughout the community. The following procedures are required to further the intent of WCF co-location:

- A. An applicant shall cooperate with other WCF providers in collocating additional antennae on support structures and/or on existing buildings and sites provided said proposed co-locatees have received a permit for such use at said site from the City. An applicant shall allow other providers to co-locate and share the permitted site, provided such shared use does not give rise to a substantial technical level impairment of the permitted use (as opposed to a competitive conflict or financial burden).
- B. A signed statement indicating that the Applicant agrees to allow for the potential co-location of additional WCF equipment by other providers on the Applicant's structure or within the same site location shall be submitted by the Applicant as part of the permit application. If an Applicant contends that future co-location is not possible on its site, the Applicant must submit a technical study documenting that such co-location is not possible.

17.44.090 Facility removal. In instances where a WCF is to be removed, the removal shall be in accordance with the following procedures:

- A. The operator of a WCF shall notify the City upon the discontinued use of a particular facility. The WCF shall be removed by the facility owner within ninety days of the date the site's use is discontinued, it ceases to be operational, the permit is revoked, or if the facility falls into disrepair or is abandoned. Disrepair includes structural features, paint, landscaping, or general lack of maintenance which could result in safety or visual impacts; and
- B. If the provider fails to remove the facility upon ninety days of its discontinued use, the responsibility for removal falls upon the landholder on which the facility has been located.

17.44.100 Electromagnetic field (EMF) standards compliance. All WCF's shall be operated in compliance with the following standards:

- A. The Applicant shall comply with federal standards for EMF emissions. Within six months after the issuance of its operational permit, the Applicant shall submit a project implementation report which provides cumulative field measurements of radio frequency (EMF) power densities of all antennas installed at the subject site. The report shall quantify the EMF emissions and compare the results with established federal standards. Said report shall be subject to review and approval by the City for consistency with the project proposal report and the adopted federal standards. If on review the City finds that the WCF's do not meet federal standards, the City may

revoke or modify the permit. The Applicant shall be given a reasonable time based on the nature of the problem to comply with the federal standards. If the permit is revoked, then the facility shall be removed pursuant to Section 17.44.090.

- B. The Applicant shall ensure that the WCF's will not cause localized interference with the reception of area television or radio broadcasts. If on review of a registered complaint the City finds that the WCF's interferes with such reception, the City may revoke or modify the permit. The Applicant shall be given a reasonable time based on the nature of the problem to correct the interference. If the permit is revoked, then the facility shall be removed pursuant to Section 17.44.090.

17.44.110 Application requirements. Applications for a WCF's shall be on a form prescribed by the City. Applications shall be processed in accordance with Chapter 17.06 as presently constituted or hereafter amended. In addition to the information required by the City the Applicant must provide any combination of site plans, maps, surveys, technical reports, or written narratives that operate to convey all of the following information:

- A. Photo simulations of the proposed facility as viewed from affected residential properties and public rights-of-way at varying distances;
- B. A signed statement indicating that (1) the Applicant and landowner agree they will diligently negotiate in good faith to facilitate co-location of additional wireless communication facilities by other providers on the Applicants structure or within the same site location and (2) the Applicant and/or landlord agree to remove the facility within ninety days after abandonment;
- C. If the proposal is the installation of a freestanding facility the Applicant shall demonstrate in writing that the placement of the antennae on an existing structure cannot meet the Applicant's technical and network location requirements;
- D. Copies of any environmental documents required by any federal or state agency, including the City if applicable. These shall include the environmental assessment required by FCC Para. 1.1307 or State Environmental Policy Act (SEPA), if required by the City. 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;
- E. 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 chapter. The site plan shall clearly indicate the location, the specific placement of the facility on the site, the type and height of the proposed WCF, on-site 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. The site plan shall not be required if the antenna is to be mounted on an existing structure;

- F. A current map showing the location and service area of the proposed WCF, and a map showing the locations and service areas of other wireless communication facilities operated by the Applicant and those proposed by the Applicant that are close enough to impact service within the City;
- G. A legal description of the parcel(s) and parcel number(s);
- H. The approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and un-platted residentially zoned properties;
- I. The method of fencing, the finished color, and, if applicable, the method of camouflage and illumination, if required;
- J. A letter signed by the Applicant stating the WCF will comply with all FCC regulations and Electronic Industries Alliance (EIA) standards and all other applicable federal, state and local laws and regulations;
- K. A statement by the Applicant as to whether construction of the WCF will accommodate co-location of additional antennas for future users;
- L. Certification that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions.
- M. At the time of site selection, the Applicant should demonstrate how the proposed site fits into its overall network within the City. This shall include a service area coverage chart for the proposed facility that depicts the extent of coverage and corresponding signal quality at the proposed facility height and at least one height lower than that proposed.

17.44.120 Permit limitations. Approved permits issued by the City for WCF's shall be restricted by the following permit limitations:

- A. The City reserves the right to review any currently approved WCF use under federal, state, or local regulations as they exist now or may be amended in the future. If the City reviews any WCF it shall give the operator of the facility at least three months written notice to prepare any information needed to review the WCF. The renewal application will be under an administrative Class 1 review. In ruling on said renewal, the City shall consider all the existing regulations and law affecting the application that is appropriate to the technology and use.
- B. Construction of a WCF shall commence within one year from the date of the City's approval, with opportunity for a six-month extension. If not used within one year, or within the extension period, the permit shall become null and void.
- C. The applicant/operator of the WCF shall and does, upon approval of the permit, agree to indemnify, protect, defend, and hold harmless the City, its council members, Hearing Examiner, officers, employees, agents, and representatives from and against

any and all liabilities, losses, damages, demands, claims, and costs, including court costs and attorney's fees incurred by the City arising directly or indirectly from (1) the City's approval and issuance of the permit; (2) the City's approval or issuance of any permit or action, whether discretionary or non-discretionary, in connection with the use contemplated in the permit; and (3) Applicant's installation and operation of the facility allowed by the permit, including, without limitation, any electromagnetic fields of other energy waves or emissions. Applicant/operator compliance with this indemnity provision is an express condition of the permit, and this indemnity provision shall be binding upon any and all of the applicant/operators, successors, and assigns. By signing the application for a WCF, the Applicant agrees to be bound by this provision.

17.44.130 Rules and regulations of the City. Nothing in this Title shall operate to restrict or limit the City's ability to adopt and enforce all appropriate ordinance requirements for telecommunications carriers' and providers' use of the rights of way and public property, procedures for application and approval of telecommunication business registrations, telecommunications rights of way use authorizations, franchises and facilities leases, and describing violations and establishing penalties. Nothing in this chapter shall operate to release in whole or in part any Applicant for a WCF facility from the obligation to comply with such ordinances, rules and regulations of the City of Zillah.