CITY PLANNING – WIRELESS COMMUNICATIONS FACILITIES (YMC CH. 15.29) TXT#002-19 & SEPA#026-19

City Council
Open Record Public Hearing
September 17, 2019

EXHIBIT LIST

Applicant:	City of Yakima Planning Division
File Numbers:	TXT#002-19 & SEPA#026-19
Site Address:	N/A
Staff Contact:	Joseph Calhoun, Planning Manager

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CITY PLANNING – WIRELESS COMMUNICATIONS FACILITIES (YMC CH. 15.29)
TXT#002-19 & SEPA#026-19

EXHIBIT LIST

CHAPTER AA
Yakima Planning Commission's Recommendation

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AA-1	Yakima Planning Commission's Recommendation	08/05/2019

DEPARTMENT OF COMMUNITY DEVELOPMENT
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YAKIMA PLANNING COMMISSION

**RECOMMENDATION TO THE YAKIMA CITY COUNCIL
FOR
AMENDMENT TO YAKIMA MUNICIPAL CODE**

August 5, 2019

WHEREAS, Pursuant to RCW 36.70A.130(1) the City is required to take legislative action to review and revise its development regulations in accordance with the Growth Management Act; and

WHEREAS, These updates are considered to be a non-project application without a specific use or site plan to be considered; and

WHEREAS, Under the provisions of YMC 1.42 the Yakima Planning Commission is responsible for the review of amendments to the City's Yakima Zoning Ordinance and for recommending the approval, modification, or denial of each amendment; and

WHEREAS, The Yakima Planning Commission held study sessions to review the proposed amendments on March 13, 2019; April 10, 2019; and May 8, 2019; and

WHEREAS, All required public notice for these amendments were provided, in accordance with the provisions of YMC Ch. 16.10, on June 28, 2019; and

WHEREAS, SEPA Environmental Review for these updates was considered with the Preliminary Determination of Nonsignificance issued on June 28, 2019 being retained on July 19, 2019; and

WHEREAS, The Yakima Planning Commission held an open record public hearing on July 24, 2019 to hear testimony from the public, consider the amendments, and provide a recommendation to the Yakima City Council;

Now therefore, the Yakima City Planning Commission presents the following findings and recommendation to the Yakima City Council:

Based upon a review of the information contained in the application, staff report, exhibits, testimony, and other evidence presented at an open record public hearing held on July 24, 2019, the Planning Commission makes the following:

PURPOSE AND DESCRIPTION OF PROPOSED AMENDMENTS:
The complete track changes text can be found in Exhibit "A" and is incorporated herein by reference. A summary of the amendments is as follows:

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1. New, revised, and deleted definitions for consistency with FCC regulations and to minimize redundancy.
2. New process and procedure for Small Wireless Facilities on private property and in the public Right-of-Way.
3. Clarification of wireless height variance process and procedure.
4. Clarification of the visual impact assessment language and removal of balloon tests.

FINDINGS OF FACT

1. This project underwent Environmental Review with the Determination of Nonsignificance being retained on July 19, 2019.
2. Public notice was provided in accordance with YMC Ch. 16.10, with a Notice of Public Hearing and Legal Ad Publication in the Yakima Herald newspaper on June 28, 2019.
3. The proposed amendments are consistent with the following Goal and Policy of the 2040 Comprehensive Plan:

Goal 2.1: Establish a development pattern consistent with the community's vision.

Policy 2.1.6: Adopt coordinated development regulations that facilitate Yakima's preferred land use pattern (e.g. allowed density, uses, and site provisions)

- Refine the land use code on an ongoing basis to make it user-friendly by employing simple language, easy to read charts, and illustrative graphics.
- Monitor and refine the land use code as needed to facilitate the preferred land use pattern and development character.
- Integrate an appropriate balance of predictability and flexibility when updating development regulations that allow ease of administration and interpretation and offer optional ways of meeting requirements when possible.

4. At its July 24, 2019 public hearing, the Yakima Planning Commission heard the staff presentation regarding the proposed amendment and considered oral testimony from Greggory Busch and Jason Verduzco.
    a. Greggory Busch, on behalf of Wireless Policy Group, provided testimony related to the FCC being the exclusive entity to regulate wireless frequency, suggested clarification to YMC 15.27.070(9)(c).
    b. Jason Verduzco, on behalf of Verizon Wireless, concurred with the previous testimony provided, and added testimony related to clarification of the definition of "Tower."

5. Based on comments submitted by WSDOT related to cooperative testing, a draft section was added to the YPC staff report to YMC 15.29.060(H). Subsequent comments and testimony related to FCC regulations prompted removal of this section, as the FCC is the exclusive reviewer of wireless frequencies.

YAKIMA PLANNING COMMISSION'S CONCLUSIONS

1. No adverse impacts have been identified;
2. The proposed updates underwent Environmental Review;
3. The proposed amendments are consistent with the Yakima Urban Area Zoning Ordinance and 2040 Comprehensive Plan.

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2015
1994

MOTION
Based on the testimony and evidence presented during this afternoon's public hearing, it was moved and seconded that the City of Yakima Planning Commission draft findings of fact and forward a recommendation of approval to the Yakima City Council. The motion carried 4-0.

RECOMMENDATION TO CITY COUNCIL
The Planning Commission of the City of Yakima, having received and considered all evidence and testimony presented at the public hearing, and having received and reviewed the record herein, hereby recommends that the City Council of the City of Yakima APPROVE the proposed text amendments to the Yakima Municipal Code, as modified during the July 24, 2019 public hearing.

RECOMMENDED this 5th day of August, 2019.

By: Patricia Byers

Patricia Byers, Chair
Yakima Planning Commission

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Yakima 2015 1994

Exhibit A

Chapter 15.29

WIRELESS COMMUNICATIONS FACILITIES

Sections:

15.29.010 Purpose.
15.29.020 Definitions.
15.29.030 Exemptions.
15.29.040 Permits required.
15.29.050 Application submittal/fees.
15.29.060 Development standards.
15.29.070 Design criteria.
15.29.080 Site selection standards.
15.29.090 Safety and industry standards.
15.29.100 Wireless conditional use permit criteria.
15.29.110 Wireless height variance.
15.29.120 Application review process.
15.29.130 ~~Balloon tests~~—Visual impact assessments.
15.29.140 Third-party review.
15.29.150 Nonuse/abandonment.
15.29.160 Transfer of ownership.
15.29.170 Vacation of permits.
15.29.180 Violation—Penalty.
15.29.190 Relief, waiver, exemption.
15.29.200 Severability.

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;

4. Encourage ~~personal~~ wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal;

5. Encourage ~~personal~~ wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and

6. Provide for the wireless communications needs of governmental entities.

Accordingly, the city council finds that the promulgation of this chapter is warranted and necessary:

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

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

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

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

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

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

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

B. New Uses. All new ~~telecommunication~~ towers, small wireless~~cell~~ facilities, antennas and support structures shall comply with this chapter ~~after the effective date of the ordinance codified in this chapter~~.

C. Existing Uses. All ~~telecommunication~~ towers and antennas existing on the effective date of the ordinance codified in this chapter that are not in compliance with this chapter shall be allowed to continue as they presently exist, but will be considered nonconforming uses. Routine maintenance shall be permitted on existing towers and antennas. However, new construction other than modifications made pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and 47 CFR Section 1.6100 and routine maintenance ~~on existing towers, antennas, buildings or other facilities~~ shall comply with the requirements of this chapter.

D. Facilitation of Wireless Service. These standards were designed to comply with the Telecommunications Act of 1996, and subsequent federal regulations. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting ~~personal~~ wireless services. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent ~~personal~~ wireless services.

E. Conflict with Other Standards. To the extent that any provision of this chapter is inconsistent or conflicts with any other city ordinance this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the city. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.020 Definitions.

For the purpose of this chapter, the following terms shall have the meanings ascribed to them below. Additional definitions pertaining to the Yakima urban area zoning ordinance can be found in Chapter 15.02 YMC.

"Abandonment" means to cease operation for a period of three hundred sixty-five or more consecutive days.

"Administrator" means the director of the city's department of community development and his or her designees.

"Antenna" means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of wireless service. ~~any exterior apparatus designed for telephonic, radio, data, Internet, or television communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower, structure or building for the purpose of providing wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular," "enhanced specialized mobile radio" and "personal communications services," telecommunications services, and its attendant base station.~~

"Antenna equipment" means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

"Antenna height" means the vertical distance measured from the base of the antenna support structure at natural grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances, including but not limited to antenna equipment, and shall be

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measured from the natural grade of the parcel at the lowest elevation point of the support structure's perimeter. "Antenna support structure" means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

"Applicant" means any provider or any person, partnership, company, or government agency that files an application for any permit necessary to install, maintain, or remove a ~~personal~~ wireless service facility within the city.

~~"Balloon test" means a test for a reasonable period of time to fly, or raise upon a temporary mast, a brightly colored balloon, that is representative in size of the initial antenna array including all standoffs, at the maximum height of the proposed tower.~~

"Base station" is a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this chapter or any equipment associated with a tower.

(i) The term includes, but is not limited to, equipment associated with wireless services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small wireless facilities).

(iii) The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in paragraphs (i) through (ii) of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(iv) For purposes of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and 47 CFR Section 1.6100, the term does not include any structure that, at the time the relevant application is filed with the city under this section, does not support or house equipment described in paragraphs (i)-(ii) of this section.

~~defined as a facility or support structure consisting of radio transceivers, antennas, coaxial cable, a regular and backup power supply, and other associated electronics, including a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station, and encompasses such equipment in any technological configuration, including distributed antenna systems and small cells.~~

"Camouflage" means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically impracticable under the facts and circumstances. The term includes, without limitation: (a) the use of structures, design, colors, landscaping and location to disguise, hide, blend, or integrate with an existing structure that is not a monopole or tower; (b) placement of a wireless facility or component thereof within an existing or new structure; (c) "stealth structures" in which the antenna or other wireless facility component is disguised or concealed within a structure designed to appear as another structure (such as a church steeple or flagpole) or another natural form (such as a tree, rock or other natural feature); and (d) placement of a wireless facility or component thereof upon a site where the topography and existing trees, landscaping, evergreen trees, design, and colors of the facility so that such facility is significantly screened from view or designed to resemble or blend with surrounding natural features.

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

"City" means the city of Yakima.

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"City property" means all real property owned by the city whether in fee ownership or other interest.

"Co-llocation" means the mounting or installation of an antenna ~~or antennas~~ facility on a~~n~~ pre-existing structure, and/or modifying a structure for the purpose of mounting or installing an antenna facility on that structure. ~~tower or wireless facility for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.~~

"Conditional use permit" or "CUP" means a process and approval as described in this chapter and in YMC Title 15, Yakima Urban Area Zoning Ordinance.

"COW" means "cell on wheels" or other temporary wireless ~~communications~~ facility.

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

"Discouraged area" means within three hundred feet of a residential use or Protected Area in the B-2 and SCC Zoning Districts.

"EIA" means the Electronics Industry Association.

"Equipment enclosure" means a structure, shelter, cabinet, or vault used to house and to protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies and emergency generators.

~~"Excess capacity" means the volume or capacity in any existing or future duct, conduit, manhole, handhold or other utility facility within the right-of-way that is or will be available for use for additional telecommunications facilities.~~

"Facilities" means all of the plant, equipment, fixtures, appurtenances, antennas, and other facilities necessary to furnish and deliver ~~telecommunications~~ wireless services ~~and cable television services~~, including but not limited to poles with cross-arms, poles without cross-arms, wires, lines, conduits, cables, communications and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of ~~telecommunications services and cable television~~wireless services.

"FCC" or "Federal Communications Commission" means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

~~"Governing authority" means the city council of the city of Yakima.~~

"Governmental entity" means the state of Washington, Yakima County, the city, municipally owned utilities, and special purpose districts including the school, fire and library districts.

"Hearing examiner" means the duly appointed hearing examiner of the city.

"Major modification" means a co-location or other modification that constitutes a substantial change to an existing wireless facility or base station as set forth in YMC 15.29.060(A)(2).

"Minor modification" or "Eligible Facilities Request" means a co-location or other modification that does not constitute a substantial change to an existing wireless facility or base station as set forth in YMC 15.29.060(A)(1).

"Modification" or "modify" means the addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, antenna equipment, antenna support structure, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new ~~wireless carrier or service~~ provider to a ~~telecommunications~~ tower or ~~telecommunications~~ site as a co-location is a modification. A modification shall not include repair and maintenance as defined by this chapter.

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"Mount" means the structure or surface upon which ~~personal~~ wireless service facilities are mounted. There are three types of mounts:

1. Building Mounted. A ~~personal~~ wireless service facility mount fixed to the roof or side of a building.

2. Ground Mounted. A ~~personal~~ wireless service facility mount fixed to the ground, such as a tower.

3. Structure Mounted. A ~~personal~~ wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

"Natural grade" means the topographic condition and level of ground in place for the past five years or more, or the approved finished grade of land platted through the subdivision process.

"Occupy" means to construct, install, maintain, own, or operate wireless~~telecommunications~~ facilities located within city rights-of-way. The mere passage of electronic signals over, under, or through rights-of-way via ~~telecommunications~~ wireless facilities owned by another ~~telecommunications~~ wireless provider does not constitute occupying the rights-of-way.

~~"Overhead facilities" means utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.~~

"Person" means corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, other entities and individuals.

~~"Personal wireless service," "wireless service facilities," "wireless facilities" and "facilities" used in this title shall be defined in the same manner as in 47 USC Section 332(c)(7)(C), as they may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.~~

"Pole," for the purposes of siting small wireless facilities, means a type of structure that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities; provided, such term does not include a tower.~~, base station, building or electric transmission structures.~~

"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" or "wireless service 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~~ substantially similar in size and weight 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.

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"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.

~~"Security barrier" means a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.~~

"Service provider" means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating or managing any facilities used to provide and providing telecommunications or cable television services for hire, sale, or resale to the general public. "Service provider" includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city or town.

"Small wireless~~cell~~ facility" means facilities smaller than a traditional cell tower or base station ~~intended to augment and enhance existing wireless towers~~. These are typically attached to existing, ~~or~~ replacement, or new ~~utility~~ poles or other structures in the public right-of-way. This includes ~~other~~ technologies similar to small ~~cells~~ wireless facilities, such as microcells and distributed antenna systems (DAS).

"State" means the state of Washington.

"Structure" means a pole, tower, base station, or other building, whether or not it has an existing antenna, that is used or to be used for the provision of wireless service.

~~"Surplus space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the Washington Utilities and Transportation Commission, to allow its use by a telecommunications carrier for a pole attachment.~~

~~"Telecommunications carrier" includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of providing telecommunications services to locations outside the city.~~

~~"Telecommunications service" means transmission of information, except cable television service, by wire, radio, optical cable, electromagnetic, or other similar means, for hire, sale, or resale to the general public. For the purposes of this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. "Telecommunications service" excludes the over-the-air transmission of broadcast television or broadcast radio signals, and facilities necessary for governmental purposes. The city shall act on an application within a reasonable period of time, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The city shall approve, approve with conditions, or deny the application in accordance with the time frames set forth in specific sections of this chapter, YMC Title 16, Administration of Development Permit Regulations, and in accordance with other applicable ordinances.~~

~~"Telecommunications service provider" includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of offering telecommunications services, except cable television service, to residents, businesses or other locations within the city.~~

"Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. ~~The term encompasses personal wireless service facilities including radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the~~

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~~like.~~ "Tower" also includes any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities. This definition does not include Small Wireless Facilities as defined by this chapter.

~~"Underground facilities" means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.~~

"Unlicensed wireless services" means ~~commercial mobile~~ wireless services that operate on public frequencies and do not need an FCC license.

~~"Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the Washington Utilities and Transportation Commission.~~

~~"Utility facilities" means the plant, equipment and property including, but not limited to, the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within rights-of-way and used or to be used for the purpose of providing utility or telecommunications services.~~

"Utility pole" means any pole used primarily for the support and provision of lighting and/or transmission of power, telecommunications services, telephone, cable television, and other similar utilities and related fixtures, whether located within or outside the public right-of-way. Utility poles may be~~are~~ subject to rights of ownership, applicable franchise provisions, applicable regulation by the Washington Utilities and Transportation Commission (WUTC), and statutes governing location and relocation.

"Wireless height variance" means the process required for either a major modification to an existing wireless facility or construction of a new wireless facility in which the proposed height exceeds of the standards of this chapter.

"Wireless service," and "wireless facilities" used in this chapter shall be defined in the same manner as in 47 USC Section 332(c)(7)(C), as it may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services. "Wireless service" further means any services, using licensed or unlicensed spectrum, including the use of Wifi, whether at a fixed location or mobile, provided to the public.

"Visual impact assessment" means visual impact assessment with photo-simulation of the proposed facility. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.030 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 FCC.

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

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

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

E. Licensed amateur (ham) radio stations.

F. Satellite dish antennas less than two meters in diameter, including direct-to-home 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).

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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~~, subject to renewals by the city, or during an emergency declared by the city.

J. Wireless ~~Telecommunications~~ facilities of the city located upon city property and city utility poles and fixtures. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: 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 (no substantial change)	Modification	Administrative (if minor modification)
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, in ~~dustrial and commercial~~ all 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 district)	Standard Wireless—if camouflaged by stealth Wireless CUP**—if not camouflaged by stealth	Administrative or Hearing Examiner
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
* Applicable permits include building permits and other permits required for installation. ** Wireless conditional use permit		

Table 29-1.5		
Small Wireless Permit Table		
Type of Use	**Permit Type**	**Approval Type**
New small wireless facility in public right-of-way or on existing or replacement utility pole or other structure	Right-of-Way Use (YMC Ch. 8.20)	Administrative
New small wireless facility on new pole outside of the right-of-way	Small Wireless	Administrative

(Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

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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. ~~(~~This requirement does not apply to right-of-way locations.~~)~~

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.

3. Evidence that the applicant is an FCC-licensed ~~telecommunications~~ wireless service provider or that it has agreements with an FCC-licensed ~~telecommunications~~ wireless service provider for use or lease of the support structure.

4. Legal description of the parcel, if applicable.

5. Site plan, drawn to scale, clearly indicating~~, to the extent applicable,~~ the location, type and height of the current or proposed wireless facility, accessory buildings, fencing, trees, landscaping, topographic contours of the site at two-foot intervals, location of utility easements, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, and all other items required in this chapter.

6. Elevation drawings of the proposed wireless facility, drawn to scale and showing dimensions of the height and width of the facility.

7. Proposed colors and materials of all components of the proposed wireless facility and of any fencing materials associated with the wireless facility.

8. State Environmental Policy Act (SEPA) checklist, if required.

~~9. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices.~~

~~10~~9. A copy of the FCC license for the intended use of the wireless telecommunications facilities.

~~11~~10. Method of proposed illumination, including a lighting plan showing the location of all proposed outdoor lighting fixtures, including direction and intensity of light, and including manufacturer's "cut-sheets" of all outdoor luminairies.

~~12~~11. The location of existing or proposed structures, trees, and other significant site features intended to camouflage the facility.

~~13~~12. A letter signed by the applicant stating the wireless facility will comply with all FAA regulations and EIA standards and all other applicable federal, state and local laws and regulations.

~~14~~13. Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the wireless ~~telecommunication~~ facility with the proposed installation will be in full compliance with the current FCC RF emissions guidelines (non-ionizing electromagnetic radiation—NIER). If not categorically excluded, a complete RF emissions study is required to provide verification.

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~~15~~14. Applicable fees.

~~16~~15. Other information for each permit and structure type as specified in subsection B of this section.

B. Application by Permit Type, Structure Type and Location. In addition to the information required for a standard permit in subsection A of this section, the following information shall be provided for each specified permit type or structure type:

1. New Towers and Base Stations.

a. A current map and aerial showing the location of the proposed tower and/or base station; a map showing the locations and service areas of other ~~personal~~ wireless service facilities operated by the applicant in the city.

b. The approximate distance between the proposed tower and the nearest residential unit, residentially zoned properties, and protected areas.

c. A statement by the applicant that the design of the tower will accommodate co-location of additional antennas for future users.

d. An affidavit stating that (1) the applicant and landowner agree they will allow co-location of additional ~~personal~~ wireless ~~service~~ facilities by other providers on the applicant's structure or within the same site location, subject to good faith negotiation of compensation according to market rates, and (2) the applicant and/or landlord agree to remove the facility within ninety days after abandonment.

e. An affidavit signed by the applicant, landowner (co-applicant), and the antenna support structure owners, if different, indicating that:

i. They, together with their heirs, successors and assigns, agree to be jointly and severally responsible to dismantle and remove the WCF/antenna support structure and restore the site to its approximate original prestructure condition within the applicable time limits set forth in YMC 15.29.150 following receipt of a letter from the city indicating that the facility is deemed abandoned or in violation of this chapter; and

ii. In the event a permit is issued pursuant to this chapter, they authorize the city to record such affidavit or a memorandum thereof with the Yakima County auditor against title to the property for which the permit was issued.

f. A landscape and irrigation plan showing all methods to landscape, irrigate, and screen the base of new facilities.

g. An explanation of proposed methods of camouflaging (including stealth if applicable) and how the proposed camouflaging reflects conditions of the surrounding site and area.

2. Facilities in Residential Zoning Districts and Protected Areas.

a. A statement describing the applicant's effort to first locate the proposed ~~communications~~ wireless facilities on a government facility, a private institutional structure (such as a hospital or school), or other appropriate existing structures outside the residential zone or protected area and within a half-mile radius of the proposed site, and explaining why, based upon valid considerations including physical, technological, leasing, or other valid constraints, no more appropriate location is available.

b. A description of any existing buildings taller than thirty-five feet within one-half mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals.

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c. A statement describing the applicant's effort to first contact the owners of structures in excess of thirty-five feet within a one-quarter-mile radius of the site proposed and which from a location standpoint could meet the ~~coverage/capacity~~technical objectives of the facility in the applicant's network. The statement shall, if applicable, confirm whether the applicant asked for permission to install the antenna on those structures and whether he or she was denied permission of use for reasons other than the ability or refusal of the applicant to pay a market rate for use of the alternative structures.

3. Modification Permit.

a. Elevation drawings of the existing wireless facility, drawn to scale and showing dimensions of the height and width of the facility (this drawing is required in addition to elevation drawing of proposed facility described under subsection A of this section);

~~b. A landscape and irrigation plan showing all methods to landscape and screen the base of the modified telecommunication facility;~~

~~e~~b. A computation and description of proposed modification establishing whether or not such modification constitutes a substantial change in the physical dimensions of the existing facility (if the application is for modification of an existing facility); and

~~d~~c. Written authorization signed by the owner of said facility authorizing its modification. (Required if the applicant is not the owner of the existing wireless facility.)

4. Wireless CUP (Conditional Use Permit).

a. An explanation of proposed methods of camouflaging and how the proposed camouflaging reflects conditions of the surrounding site and area.

b. A statement from the applicant describing how he/she believes the proposal addresses the criteria for a wireless conditional use permit prescribed in YMC 15.29.100.

~~c. A list of owners of property within three hundred feet of the site and their associated mailing addresses.~~

5. Wireless Height Variance.

a. A statement from the applicant describing how he/she believes the proposal addresses the criteria for a wireless height variance prescribed in YMC 15.29.110.

b. A statement describing the requested variance and why it is needed.

~~c. A list of owners of property within three hundred feet of the site and their associated mailing addresses.~~

C. Applicant to Provide Notice. For wireless conditional uses or variances, the city may require applicant to post notice at a location or locations deemed appropriate by the city, and will provide notice to the governing body of any affected historic district association or organization. Applicant shall provide an affidavit that all required notices have been posted and published as required. Additionally, and without limitation, the city may use any other means deemed advisable to provide advance notice to the public.

D. Fees. The application for a permit listed above shall be accompanied by a filing fee in the amount set forth in Table 29-2.

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Table 29-2	
Application Fees*	
Permit Type	**Fee**
Modification (if minor)	$300.00
Modification (if major)	$500.00
Standard Wireless	$500.00
Small Wireless	$500 for the first five (5) small wireless facilities in the same application, plus $100 for each facility beyond five (5)
Wireless Variance	$1,500.00
Wireless Conditional Use Permit	$3,500.00
* Separate fee required for each permit type associated with application. For an application requiring a wireless variance and a wireless conditional use permit, both the variance fee and the conditional use permit fee are required.	

(Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.060 Development standards.

A. Modifications to an Existing Wireless Facility or Base Station.

1. Minor Modification/Eligible Facilities Request under 47 CFR Section 1.6100. Any modification of or co-location on an existing wireless facility that does not substantially change the physical dimensions of such tower or base station (as defined in subsection (A)(2) of this section), even if it exceeds the underlying standards of the zoning district, shall be deemed a "minor modification" and shall be administratively approved under a modification permit.

2. Major Modification. Any modification of or co-location on an existing wireless facility that substantially changes the physical dimensions of an existing wireless tower or base station shall be deemed a "major modification." A substantial change occurs if:

(i) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

(A) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (February 22, 2012).

(ii) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

(iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

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(iv) It entails any excavation or deployment outside the current site;

(v) It would defeat the concealment elements of the eligible support structure; or

(vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in (i) through (iv).

~~a. The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than ten percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; or~~

~~b. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or~~

~~c. The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or~~

~~d. The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.~~

3. Major Modification—Required Permits. A major modification shall be processed under the same permit types as new towers located in the same zone and area. (See Table 29-1, Permit Table, or Table 29-1.5~~.~~)

B. Co~~l~~l-~~L~~ocation Capable—New Structures. To reduce the number of antenna support structures needed in the city in the future, the following standards apply to new towers~~ or base stations~~:

1. Requirement and Waiver. New proposed support structures shall be designed to accommodate at least two additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived if such design is not feasible for aesthetic reasons, or necessary to preserve camouflaging or stealth structures in residential or protected areas; or provided, that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible or creates an unnecessary and unreasonable burden, based upon:

a. The kind of wireless ~~telecommunications~~ facilities site and structure proposed; or

b. The number of existing and potential licenses without wireless telecommunications facilities spaces/sites; or

c. Available space on existing and approved towers or other appropriate structures.

2. Owner Certification. The owner of a proposed tower, and his/her successors in interest, shall either:

a. Provide a written statement affirming that a master license agreement with another wireless provider or providers exists stating mutually acceptable terms and conditions for co-location for wireless facilities on the tower and site; or

b. Provide a written statement affirming that the owner and owner's successors will negotiate in good faith for the co-location and shared use of the proposed tower by other wireless service providers in the future, and shall allow shared use of the tower if another ~~telecommunications~~ wireless service provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata

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share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

C. Coll-Location Encouraged—Existing Structures. To minimize adverse visual impacts associated with the proliferation of towers, co-location of personal wireless service facilities on existing towers and structures is encouraged as follows:

1. Co-llocation is permitted by right under a modification permit, unless the modification constitutes a substantial change to the tower and/or base station pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012/47 CFR Section 1.6100. Changes to tower height that constitute a "substantial change" as defined by subsection (A)(2) of this section are subject to all provisions applicable to new towers and base stations described in this chapter.

2. The city may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on a suitable existing structure or tower within one-quarter half mile of the proposed facility.

3. All wireless service providers or lessees or agents thereof shall cooperate in good faith to accommodate co-location with competitors.

D. Required Parking. Adequate parking shall be required for maintenance workers.

E. Balloon Test. A balloon test is required for any application requiring a wireless conditional 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.

FE. 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.

GF. 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.

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~~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 reimburse all costs associated with facility removal should it be necessary.~~

~~I~~G. ~~Utility Pole Installations. Reserved.~~ Small ~~Cell~~Wireless Facilities.

1. Small wireless~~cell~~ facilities ~~not~~ located- on a new pole ~~in~~outside of the public right-of-way ~~nor on utility poles shall be processed as a standard wireless communications tower and~~ shall conform to the design criteria of YMC 15.29.070-(~~A~~B).

2. Small wireless~~cell~~ facilities installed on new poles ~~constructed specifically for small cell deployment~~ shall only be permitted if the applicant can show that the small wireless ~~cell~~ facility cannot otherwise be installed on an existing pole or structure~~, whether~~ in the public right-of-way ~~or on private property,~~ within the area that the small ~~cell~~ wireless facility is proposed to serve.

3. Small ~~cell~~wireless facilities located in the public right--~~of~~-way, whether on an existing utility pole or on a new structure, shall comply with the- following~~site selection standards of YMC 15.29.080 (E).~~:

   a. Small wireless facilities shall apply for and obtain a right-of-way use permit pursuant to YMC 8.20 prior to any placement or construction;

   b. Small ~~cell~~wireless facilities placed in the public right-of-way shall not obstruct bicycle, pedestrian, or vehicular access where access currently exists or is proposed to exist in the future.

   c. Small ~~cell~~wireless facilities placed in the public right-of-way and/or on public structures shall require a franchise agreement, master license agreement, or other legally-binding contract if the city deems appropriate.

   d. Permitting small ~~cell~~wireless facilities on city-owned infrastructure including street lights and traffic signals shall be determined by the director of public works.

4. Small ~~cell~~wireless facilities may be modified under the modification procedures of YMC 15.29.120 (C).

(Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.070 Design criteria.

A. All wireless facilities, except small ~~cell~~wireless facilities subject to YMC 15.29.070(B) below, ~~located within the public right-of-way or on utility poles~~ shall comply with the following standards:

1. Setback. A tower's setback shall be measured from the base of the tower to the property line of the parcel on which it is located. Except as otherwise set forth below, setbacks for facilities shall comply with the setback requirements of Chapter 15.05 YMC and Table 5-1.

   a. Right-of-Way Setback Exception. The setback requirement is not applicable if the antenna and antenna support structure are located in the city right-of-way~~, provided the antenna is attached to an existing city tower or facility~~.

   b. Protected Areas. In protected areas or where a proposed tower is on property abutting a protected area, towers shall be set back from all property lines a distance equal to one hundred ten percent of tower height as measured from ground level.

   c. Residential Zoned Districts. In residential zoned districts or where a proposed tower is on property abutting a residential zoned district, towers shall be set back a minimum of one-half the tower height.

   d. Minor Modifications. Any expansion of a base station or extension of height of an existing wireless facility that constitutes a minor modification shall be considered in compliance with the setback requirements previously approved for the existing wireless facility.

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e. Existing Wireless Facility on Established Lot—Exception. The setback requirement is not applicable if the antenna and antenna support structure were constructed, or application for such construction vested, on a parcel created pursuant to RCW 58.17.040(8) prior to the effective date of this code. Wireless facilities constructed on and after the effective date of this code on parcels created pursuant to RCW 58.17.040(8) are subject to the setback requirements.

2~~2~~. Tower and Antenna Height. The maximum height of a wireless facility is as follows:

a. In or within three hundred feet of a residential zoning district or protected area, no wireless facility shall exceed the height allowed by the underlying height limitation for the zoning district in which the facility is located, except that if the facility is camouflaged by stealth pursuant to subsection 8 of this section, the maximum height is sixty feet.

b. In CBD and B-1 zoning districts, the maximum height is sixty feet.

c. In all other zones, the maximum height is one hundred ten feet.

~~d. In any zoning district, the applicant shall have the burden of demonstrating that the tower is the minimum height required to meet the proven communications need.~~

~~e~~d. Structures that exceed the above height limits may be permitted by variance pursuant to the ~~cellular~~ wireless height variance provisions of YMC 15.29.110.

2~~3~~. Color. Towers shall have a dark color such as forest green, charcoal or dark brown, depending on the surroundings or background, ~~that~~ which minimizes their visibility, unless a different color is required by the FAA. Colors shall be maintained and repainted as necessary to maintain original color, to repair fading through weathering, and to prevent flaking.

4. Lights, Signals and Signs. No signals, lights, or signs shall be permitted on towers unless required or allowed by the FCC or the FAA. Should lighting be required, in cases where there are residents located within a distance that is three hundred percent of the height of the tower, then dual mode lighting shall be requested from the FAA.

5. Fencing and Security. The antenna support structure shall be secured against unauthorized entry. A well-constructed wall or wooden fence not less than six feet in height from the finished grade shall be provided around each ~~personal~~ wireless service facility. Access to the tower shall be through a locked gate. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by dense vegetative screen at least eight feet in depth along all visible portions of the fence.

6. Anti-Climbing Device. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

7. Camouflage Requirements. All new towers and base stations, and major modifications to towers and base stations, must be camouflaged as defined by this chapter. Appropriate camouflaging is determined on a site-specific basis, taking into account existing structures and natural features both on and surrounding the site. When considering surrounding features that the facility is designed to reflect, nonconforming structures shall not be considered~~; nor shall structures such as utility poles, signs, smoke stacks, mechanical equipment, utility substations, other wireless-based structures or similar features that contribute to visual clutter of an area be used to determine an acceptable camouflage technique~~. In all zones, towers shall be camouflaged using the least visually and physically intrusive facility that is not technologically impracticable under the facts and circumstances. Camouflaging for new towers and base stations shall include the following:

a. Landscaping. Landscaping is an element of camouflage. Landscaping, as described herein, shall be required to buffer ~~personal~~ wireless ~~service~~ facilities to soften the appearance of the cell site. The city may permit any combination of existing vegetation, topography, walls, decorative fences or other on-site features instead of landscaping, if they achieve the same degree of screening as the required landscaping.

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If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

b. Buffers. The visual impacts of ~~a personal~~ wireless ~~service~~ facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping requirements. The following landscaping and buffering shall be required around the perimeter of the tower and accessory structures:

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

ii. A continuous hedge at least thirty-six inches high at planting capable of growing to at least forty-eight inches in height within eighteen months shall be planted in front of the tree line referenced above.

iii. To the extent feasible, the tower or mount shall be placed amongst and adjacent to the drip line of three or more ~~evergreen~~ trees at least seventy-five percent of the height of the facility.

iv. An automatic irrigation system providing irrigation as needed according to plant type, season and maturity of plantings.

c. Continued Maintenance. Applicant shall have a continuing obligation to maintain the landscaping improvements. In the event that landscaping is not maintained at the required level, the city after giving thirty days' advance written notice may maintain or establish the landscaping and bill both the owner and lessee for such costs until such costs are paid in full, or may seek enforcement through any available remedy.

d. Trees—Recording of Conditions. To ensure that trees associated with camouflaging and screening are preserved, the following note shall be recorded on the property title:

All trees within 50 feet of the ~~telecommunications~~ wireless facility located on this property, which serve to screen the ~~telecommunications~~ wireless facility, shall be retained for the life of the ~~telecommunications~~ wireless facility. Screening trees may only be removed if deemed diseased or dangerous by a certified arborist. Before any trees can be removed a report from the certified arborist shall be submitted to the City for review and approval. Unless approved by the City, only that portion of the tree required to remove the hazard can be removed. The City may require the trees to be replaced by the telecommunication provider.

8. Stealth Requirements. Any facility in or within three hundred feet of residential zoning district or protected area must be concealed within a stealth structure unless otherwise approved through a wireless conditional use permit. Stealth structures shall be designed as follows:

a. The stealth camouflage structure or facility must be compatible with surrounding development by being either similar in height to surrounding structures or a sufficient distance from surrounding structures to create a significant visual separation.~~;~~

b. Stealth designs shall reflect features that are indigenous to the area. ~~For example,~~

c. T~~t~~owers designed to look like trees shall~~must~~ be tree types that naturally or commonly occur in the surrounding neighborhood or district, shall be located within one hundred feet of existing trees, and shall not exceed the average height of nearby trees by more than ~~ten percent or ten~~thirty feet~~, whichever is higher.~~ Towers that only add artificial branches, limbs, or other vegetative features while still maintaining the appearance of a standard tower are not considered stealth designs.

d. Towers designed to look like buildings or structures must be of a design that reflects local architecture or structure types. Towers designed to look like steeples on church shall be of a height and scale proportional to the building design (other churches in the area can provide examples of acceptable proportions between the size of the steeple and the size of the church buildings);

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~~e~~e. ~~Stealth designs look reasonably similar to the items they intend to mimic. For example,~~ Ttowers designed to look like flag poles shall be tapered and have the common dimensions of flag poles, both in height and girth, and shall fly at least one flag ~~on a regular basis~~. ~~Towers designed to look like steeples on churches are of a height and scale proportional to the building design. (Other churches in the area can provide examples of acceptable proportions between the size of the steeple and the size of the church buildings.);~~

f~~d~~. After completion of construction, the antennas, towers and related facilities will be maintained within the stealth structure so as to be concealed from view or be viewed as the camouflaging stealth structure; and

g~~e~~. The administrator may impose other conditions or mitigations reasonably related to such structures as warranted by special conditions of the subject property and the type of camouflaging structure, including but not limited to additional or supplemental setback requirements, maintenance requirements, and other measures intended to accomplish the purposes of this chapter and section.

9. Antenna Criteria. Antennas~~, including small cell facilities not located within the right-of-way or on utility poles,~~ on or above a structure shall be subject to the following:

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

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

c. The total height of the antenna shall comply with the height standards of YMC 15.29.070(A)(2), except as noted in this chapter.

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

~~d~~e. Future or multiple installations of antennas shall ensure balance and symmetry when placing additional antennas on the façade of the building.

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

~~fg~~e. ~~On buildings thirty feet or less in height, t~~The antenna may be mounted on the roof if the following additional criteria are satisfied:

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

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

iii. No portion of the antenna may exceed sixteen feet above the height of the existing building.

iv. If the antenna is placed on the roof or above the top of a building, it shall provide a minimum setback equal to the height of the panel antenna from the rooftop edge.

v. Antenna, antenna arrays, and support structures shall not extend more than sixteen feet above the highest point of the structure on which they are mounted. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to comply with applicable building code standards.

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The antenna, antenna array, and their support structure shall be a color that matches the field or trim color of the structure on which they are mounted.

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

11. Equipment Structures. The standards for equipment structures (base stations) are as follows:

a. Ground Structure.

i. The maximum floor area is five hundred square feet and the maximum height is twelve feet, unless the applicant demonstrates that a larger area and/or increased height is necessary to accommodate the proposed facility and possible co-location.

ii. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other city ordinances.

iii. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures, including building form, materials and color.

b. Roof Mounted Structure.

i. Equipment buildings mounted on a roof shall be designed to match and be integrated into the exterior design and materials of the building. Equipment for roof mounted antenna may also be located within the building on which the 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. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

B. Small ~~cell~~wireless facilities ~~located within the public right-of-way or on utility poles~~ shall comply with the following standards:

1. Height. ~~On utility poles, the s~~Small ~~cell~~wireless facilities shall conform to the following height limitations:~~ty shall not increase the height of the pole by more than six feet, and shall not exceed the maximum height for the zoning district it is located in according to YMC 15.29.070 (2).~~

a. are mounted on structures 50 feet or less in height including antennas, or

b. are mounted on structures no more than 10 percent taller than other adjacent structures, or

c. do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

2. Size. ~~Each small cell facility shall be located in an enclosure not greater than seventeen cubic feet in volume. Associated conduit, mounting bracket, or extension arm, electric meter, concealment, telecommunications demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power switch, and cut-off switch may be located outside the primary equipment enclosure(s) and are not included in the calculation of equipment volume. Each antenna shall be located inside an antenna enclosure of not more than three cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements shall fit within an imaginary enclosure of not more than three cubic feet.~~Small wireless facilities shall meet the following size limitations:

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a. Each antenna associated with the deployment~~, including all exposed elements,~~ is no more than three cubic feet in volume;

b. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.

3. Color. The color of the facility, including both antennas and equipment, shall blend in with the structure in which it is being attached to or integrated with, to the extent technically feasible.~~-~~

~~a.~~ Antennas, brackets, and cabling shall match or be compatible with the color of the equipment, which shall match or be compatible with the color of the structure it is being attached to as closely as possible.

4. Lighting. Small ~~cell~~ wireless facilities shall not be illuminated.

~~6~~5. Noise. Small ~~cell~~wireless facilities, along with their associated equipment cabinets and other structures, shall not generate noise to a degree that they violate YMC 6.04.180. Passive cooling of facilities is encouraged.

6. All equipment must be pole mounted. If it is technically infeasible to pole-mount all of the equipment to meet the criteria herein, then equipment may be ground-based in the right-of-way pursuant to the following standards:

a. Any necessary ground-based equipment in an undergrounded area shall be undergrounded.

b. Ground-based equipment not located in an undergrounded area should be undergrounded. If it is technically infeasible to underground the ground-based equipment or to pole-mount the equipment in compliance with the maximum size standards of this section, the ground-based equipment may be located fully or partially above grade; provided, that: (i) the volume of ground-based equipment that is located above grade shall not exceed a maximum of 28 cubic feet; (ii) the ground-based equipment shall be aesthetically compatible with other above-grade utilities (e.g. signal boxes, electrical equipment, etc.) that are located within 600 feet of the pole; and (iii) the ground-based equipment shall not encroach into any areas of required sidewalk.

7. Antenna(s) and equipment shall not constitute an obstruction and shall comply with all applicable codes, laws (including the Americans with Disabilities Act), standards and regulations. In the event of a conflict between these design standards and any applicable health and safety codes, such health and safety codes shall govern, but only to the minimum extent necessary to avoid a violation.

~~5. Camouflage Requirements. All new small cell facilities, and major modifications to small cell facilities, shall be camouflaged as defined by this chapter. Appropriate camouflaging is determined on a site-specific basis, taking into account existing structures and natural features both on and surrounding the site. The color of the facility, including both antennas and equipment, shall blend in with the structure in which is it being attached to or integrated with.~~

~~a. Antennas, brackets, and cabling shall match the color of the equipment, which shall match the color of the structure it is being attached to as closely as possible.~~

15.29.080 Site selection standards.

The following site selection standards shall apply to all wireless facilities outside of the right-of-way, except for small wireless facilities proposed on an existing or replo~~c~~acted pole.

~~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~~

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~~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 antennas 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.~~

A. An applicant for a wireless facility, other than a small wireless facility in the ROW, that wishes to locate in ~~these areas~~ Protected Area or a Discouraged Area shall demonstrate that a diligent effort has been made to locate the proposed ~~communications~~ wireless 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, site availability, and technological feasibility, no more appropriate location is available. Such antennas, antenna equipment, 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 may~~are~~ also be 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~~B. 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~~C. 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~~D. Siting Priority on Public Property.

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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~~ Wireless 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

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3. Before ~~personal~~ wireless ~~service~~ facilities may be located in public parks, visual impacts and disruption of normal public use shall be mitigated. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: 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 standards. If the owner fails to bring its tower into compliance within thirty days, the city may remove the tower at the owner's expense.

C. ~~Data Transmission~~ Compliance with RF Standards. ~~Towers shall be constructed to applicable Electronic Industry Association (EIA) standards, which may be amended from time to time. Further, any improvements or additions to existing towers shall require submission of site plans stamped by a professional engineer that demonstrate compliance with the EIA standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.~~

No ~~personal~~ wireless service provider or lessee shall fail to assure that its antenna complies at all times with the current applicable Federal Communications Commission (FCC) radio frequency (RF) emission standards.

~~D. Inspection Report Filing. Within sixty days of any required safety inspection performed in accordance with EIA and FCC standards, the facility operator shall file a copy of the report with the city. Each year after the facility becomes operational the facility operator shall file with the city a copy of maintenance reports for the prior twelve months.~~ (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.100 Wireless conditional use permit criteria.

A. Uses Requiring ~~Cellular~~ Wireless Conditional Use Permit. Any wireless facility listed in Table 29-1 as a wireless conditional use permit (wireless CUP) requires submittal of a wireless CUP application as described in YMC 15.29.050. Wireless CUPs require a public hearing before the hearing examiner and final approval by the hearing examiner.

B. Criteria for Granting ~~Cellular~~ Wireless Conditional Use Permit. Before any conditional use may be granted, the hearing examiner must find that:

1. The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed use or in the district in which the subject property is located;

2. The proposed use shall meet or exceed the performance standards that are required in the zoning district the proposed use will occupy;

3. The proposed development shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design;

4. The proposed use shall be in keeping with the goals and policies of the comprehensive land use policy plan; and

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5. All reasonable and practicable measures have been taken to minimize the possible adverse impacts which the proposed use may have on the area in which it is located.

C. Authority to Impose Conditions. The hearing examiner may impose any conditions necessary to address identified impacts associated with the proposed wireless facility and ensure that the facility is compatible with surrounding development. The hearing examiner may:

1. Increase requirements in the standards, criteria or policies established by this title;

2. Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic;

3. Require structural features or equipment essential to serve the same purpose set forth above;

4. Impose conditions similar to those set forth in subsections (C)(2) and (3) of this section as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters; provided, the hearing examiner may not, in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use or otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;

5. Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses within the general area in which the use is proposed to be located;

6. Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need; and

~~7. Require the posting of construction and maintenance financial security sufficient to secure to the city one hundred fifty percent of the estimated cost of construction and/or installation and fifteen percent maintenance of required improvements.~~

~~D. Required Condition of Approval. The decision shall include a condition that building permits not be issued until financial security is provided pursuant to YMC 15.29.060(H). This requirement applies whether specifically stated in the decision or not.~~

~~E~~D. Conditional Use Permits—Effect of Hearing Examiner Decision. The decision of the hearing examiner on a conditional use permit shall be final and conclusive with right of appeal to the city council in accordance with YMC 16.08.030. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.110 Wireless height variance.

A. Applicability. A ~~cellular~~ wireless height variance is required for any major modification to an existing tower, antenna, or base station or construction of a new tower, antenna, or base station that requires a height in excess of height limits defined in YMC 15.29.070(2).

B. Variance from other standards. A major modification to an existing tower, antenna, or base station or construction of a new tower, antenna, or base station that requires variance from design criteria in YMC 15.29.070 other than height shall follow the standard variance procedures in Ch. 15.21 YMC (including review criteria).

~~B~~C. Criteria for Granting Wireless Height Variance. The hearing examiner shall have the authority to grant a variance from the maximum height allowed for a tower, antenna or base station when, in his/her opinion, the conditions as set forth herein have been found to exist. A wireless height variance is subject to:

1. Compliance with standard wireless permit standards of YMC 15.29.120(D);

2. Standard variance procedures in Chapter 15.21 YMC (not including review criteria); and

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3. All of the following criteria must be met:

a. The additional height is necessary to provide adequate service ~~to the residents of the city~~ and no other alternative is available;
b. A significant portion of the tower and related facilities are screened by existing evergreen trees or existing structures;
c. Strict application of current height limits would deprive a tower or antenna operator from achieving the minimum height required to meet the proven ~~communications~~ wireless need;
d. The structure for which the variance is requested is in harmony with the general purpose and intent of this chapter;
~~e. There are special circumstances applicable to the subject property such as shape, topography, location, or surroundings that prevent the operator from achieving the minimum height required to meet the proven communications need;~~
~~f~~e. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity;
~~g~~f. Any visual impacts will be mitigated to the greatest extent possible using camouflage, stealth or screening as defined by this chapter;
~~h~~g. The location of the tower and antenna has been chosen so as to minimize the visibility of the facility from residentially zoned land and to minimize the obstruction of scenic views from public properties; and
~~i~~h. The variance is the minimum necessary to grant relief to the applicant.

~~C~~D. Decision. Based upon the information provided by the applicant, the results of the ~~balloon test and~~ visual impact analysis, and findings of compliance or noncompliance with the criteria set forth herein, the examiner may:

1. Approve an application for a variance, which may include additional requirements above those specified in this title or require modification of the proposal to comply with specified requirements or local conditions; or

2. Deny a variance if the proposal does not meet or cannot be conditioned or modified to meet subsection B of this section.

~~D~~E. Burden of Proof. The applicant has the burden of proving that the proposed wireless height variance meets all of the necessary criteria ~~in subsection B of this section~~. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.120 Application review process.

A. Preapplication Meeting. To expedite review of applications, a preapplication meeting with the administrator is strongly encouraged. The preapplication meeting will help the applicant determine what permits may be required for his or her proposed wireless facility, what additional information or studies may help in the review of the application, and what stealth and/or camouflaging techniques might be appropriate for the site. The administrator may help to identify protected areas and may also suggest vantage points from which a visual impact assessment should be based.

B. Review for Completeness. The administrator shall review each application for completeness as specified in YMC 15.29.050 and 47 CFR Section 1.6003. After review of the application, the administrator shall issue a determination of completeness or incompleteness in accordance with Chapter 16.04 YMC. In addition to information required for a complete application, the administrator may request additional information from the applicant to review the proposal and determine compliance with the provisions of this chapter. Except for the timelines specified in subsection C of this section for applications to modify an existing wireless facility or base station, or an application for small wireless facilities in the ROW, such administrative review, processing and issuance of administrative permits shall comply with the city's timelines and procedures governing review and issuance of administrative permits in Chapter 16.04 YMC.

C. Modification Permit Review. Applications for modifications to existing wireless facilities or base stations shall be reviewed as follows:

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1. Determination of Major or Minor Modification. Within forty-five days of receipt of a complete application for modification, the administrator shall review and issue a written determination as to whether the requested modification is deemed a major or minor modification under the provisions of YMC 15.29.060(A). The administrator may request additional information from the applicant or any other entity to assist in this determination.

2. Finding of No Substantial Change—Minor Modification. If the modification is deemed by the administrator to be a minor modification under the provisions of YMC 15.29.060(A), the administrator shall issue a modification permit, which may include conditions necessary to achieve compliance with the provisions of this section. Issuance of the modification permit shall occur within forty-five days after receipt and approval of a complete application for a modification permit.

3. Finding of Substantial Change—Major Modification. If the administrator determines that such application constitutes a substantial change to the physical dimensions of an existing wireless tower or base station, the administrator shall issue a written determination that the change is a major modification and direct the applicant to submit the appropriate application(s) as specified in Table 29-1 and YMC 15.29.050.

D. Standard Wireless Permit Review. Standard wireless applications apply to all new wireless facilities and base stations and to major modification of all existing wireless facilities and base stations. Standard wireless applications shall be reviewed as follows:

1. Administrative Decision. All standard ~~cellular~~ wireless applications shall be subject to administrative review and decision unless they require an associated wireless conditional use permit or variance as specified in Table 29-1 or Table 29-1.5.

2. Camouflaging/Stealth Review. Except for small wireless facilities, t~~T~~he administrator shall review the proposed method of camouflaging or stealth against conditions on or surrounding the site as follows:

a. The administrator shall consider how proposed design of the tower, placement on the site, topography of and surrounding the site, color, structures on and surrounding the site, and natural features on and surrounding the site help to blend the wireless facility into its setting.

b. The administrator may require a visual impact assessment as described in YMC 15.29.130 based upon lines of sight or vantage points identified by the administrator.

c. The administrator shall determine if the proposed camouflaging or stealth reasonably integrates the wireless facility into its setting. The administrator may impose conditions to ensure that the facility achieves this objective.

3. Compliance with Standards. The administrator shall review the proposal against all other standards of this chapter including, but not limited to, height, setbacks, color, design, lighting, landscaping, screening, and co-location capacity. If any items are found to be not in compliance, the administrator shall notify the applicant and direct him or her to either submit within two weeks, or other period of time deemed reasonable by the administrator considering the scope and complexity of the required revision, revised plans to address the compliance issue, or direct the administrator to render a decision on the application as submitted.

4. Written Decision. The administrator shall issue a written decision on the application within the time frame specified in Chapter 16.07 YMC, identifying any items not in compliance with this chapter, and including any conditions necessary to achieve compliance. ~~The decision shall include a condition that building permits not be issued until financial security is provided pursuant to YMC 15.29.060(H).~~

5. Appeals. The determination or decision of the administrator on any application under this chapter shall constitute an administrative decision subject to appeal pursuant to Chapter 16.08 YMC.

E. Wireless Conditional Use Permit Review. Wireless conditional use permit applications shall be reviewed as follows:

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1. Submittal of Application. An application for a conditional use permit under this chapter shall be submitted to the administrator, who shall review such application for completeness and compliance with filing requirements under this chapter and applicable codes of the city, in accordance with the provisions and procedures of YMC 1.43.090 and YMC Title 16.

2. ~~Balloon Tests and~~ Visual Impact Assessment. The administrator shall instruct the applicant on the requirements for ~~both~~ a ~~balloon test and~~ visual impact assessment~~. The administrator may provide input on both the timing of the balloon test and the desired vantage points from which the visual impact assessment will be based~~. ~~Both t~~The ~~balloon test and~~ visual impact assessment shall be completed prior to the scheduled public hearing.

3. Additional Reports and Third-Party Review. The administrator shall have authority to request additional information and reports from the applicant necessary to facilitate analysis of the proposal, including but not limited to third-party review in accordance with YMC 15.29.140 and reports, surveys and tests as provided in this chapter, when the administrator, in his or her sole discretion, deems such additional information necessary or appropriate to fully assess the impact of the proposal and any reasonable alternatives, to address mitigation measures identified in SEPA, NEPA or other environmental reviews, to address issues of site screening or other measures to mitigate impacts upon the surrounding neighborhood, or to address any other impact to the life, health, safety of persons, or quiet enjoyment of property, identified by the administrator as likely, with reasonable probability, to result from the proposed project.

4. Scheduling for Hearing. Upon the administrator's determination that the application is complete and in compliance with filing requirements of this chapter, and that required ~~balloon tests~~, visual impact assessments and other required reports have been finalized, the administrator in coordination with the hearing examiner shall be responsible for assigning a date for and assuring due notice of public hearing for each application, which date and notice shall be in accordance with the provisions of YMC Title 16.

5. Hearing Examiner—Procedures—Factors. When considering an application for a conditional use permit, the hearing examiner shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing this use.

F. Wireless Height Variance Review. A wireless height variance shall be processed as follows:

1. Procedures and Applicable Criteria. A wireless height variance shall be reviewed under the procedures described in Chapter 15.21, except that the hearing examiner shall apply the criteria for review and approval defined in this chapter.

2. ~~Balloon Tests and~~ Visual Impact Assessment. The administrator shall instruct the applicant on the requirements for ~~both~~ a ~~balloon test and~~ visual impact assessment~~. The administrator may provide input on both the timing of the balloon test and the desired vantage points from which the visual impact assessment will be based. Both the balloon test and visual impact assessment~~ which shall be completed prior to the scheduled public hearing.

3. Third-Party Review. Applications for variance may also require third-party review as described in YMC 15.29.140.

4. Hearing Examiner Decision. The hearing examiner shall determine whether the proposed variance complies with the criteria for a variance in YMC 15.29.110, and that the proposed wireless facility complies with all other standards of this chapter. If the examiner finds that the proposal does not comply with the criteria for a variance he shall deny the variance and associated wireless facility. If the examiner finds that the proposal complies with the criteria for a variance and with all other development standards of this chapter, he shall approve the variance and the associated wireless facility. The examiner may impose any conditions necessary to ensure compliance with all standards. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

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15.29.130 ~~Balloon tests~~ Visual impact assessments.

A. ~~Balloon Test. Where a balloon test is required, the applicant shall, prior to the public hearing on the application, hold a balloon test. The applicant shall arrange to fly, or raise upon a temporary mast, a brightly colored balloon that is representative in size of the initial antenna array including all standoffs, at the maximum height of the proposed tower. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised by the applicant seven and fourteen days in advance of the first test date in a newspaper with a general circulation in the city. The applicant shall inform the city, in writing, of the dates and times of the test, at least fourteen days in advance. The balloon shall be flown for at least seventy-two consecutive hours on the dates chosen. At least twenty-four hours of this time shall be on a weekend. No trees shall be removed to conduct the balloon test. A report with pictures from various locations of the balloon shall be provided with the application. Photos of the balloon test from three locations located approximately three hundred feet from the base of the proposed tower and spaced evenly in a circumference around the proposed tower and three locations located approximately one-quarter mile from the base of the proposed tower shall be submitted within two weeks after the commencement of the balloon test.~~

~~B~~A. Visual Impact Assessment. A visual impact assessment with photo-simulation of the proposed facility is required for all applications that require a conditional use permit or variance, and may be required by the administrator for any other application deemed necessary by the administrator to assess visual impacts associated with such application. As part of such application, the applicant shall furnish a visual impact assessment, which shall include:

1. Zone of Visibility Map. If a new tower or substantial modification increasing the height of an existing structure is proposed, a computer generated "zone of visibility map" at a minimum of one-mile radius from the proposed structure~~, with and without foliage, shall~~ may be provided to illustrate locations from which the proposed installation may be seen.

2. Photo-Simulations. Pictorial representations of "before and after" (photo-simulations) views from key viewpoints within the zone of visibility. Guidance will be provided, concerning the appropriate key sites at the preapplication meeting, as required. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure.

3. Description of Visual Impact. A written description of the visual impact of the proposed facility including, and as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of camouflaging. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.140 Third-party review.

~~Personal w~~Wireless service providers use various methodologies and analyses, including geographically based computer software, to determine the specific technical parameters of their wireless services and ~~low power mobile radio service~~ facilities, such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. In certain instances, a third-party expert may need to review the technical data submitted by a provider. The city may require a technical review as part of a permitting process for a variance or conditional use permit. The costs of the technical review shall be borne by the provider.

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

1. The accuracy and completeness of submissions;
2. The applicability of analysis techniques and methodologies;
3. The validity of conclusions reached; and
4. Any specific technical issues designated by the city. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

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15.29.150 Nonuse/abandonment.

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

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

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

3. Dismantle and Remove Facility. If the tower, antenna, foundation, and facility are not removed within the sixty-day time period or additional period of time allowed by the city, the city may remove such tower, antenna, foundation, and related facility at the provider's expense. If there are two or more providers co-locating on a facility, except as provided for in subsection (A)(2) of this section, this provision shall not become effective until all providers cease using the facility; or

~~4. If the small cell facility is located on a utility pole owned by the City, the small cell facility shall be removed from the utility pole. If damage is caused to the pole as a result of the existence and/or removal of the small cell facility, the provider shall be responsible for all costs of repair and/or replacement of the utility pole. Further, if damage is done to the right-of-way as a result of the removal of a small cell facility located within a City right-of-way, provider shall be responsible for all costs of repair and/or replacement of the right-of-way area.~~.Small cell wireless facilities shall be removed from utility poles pursuant to the right-of-way use permit, YMC 8.20, and/or any agreement between the provider and the City.

B. Expiration of Approval. At the earlier of sixty days from the date of abandonment without reactivating or upon completion of dismantling and removal, city approval for the facility shall automatically expire. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.160 Transfer of ownership.

A conditional use permit runs with the land; compliance with the conditions of any such permit is the responsibility of the current owner of the property, whether that is the applicant or a successor. No permit for which a financial security is required shall be considered valid during any time in which the required financial security is not posted. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.170 Vacation of permits.

A. Any permit issued pursuant to this chapter may be vacated upon approval by the current landowner; provided, that:

1. The use authorized by the permit does not exist and is not actively being pursued; or
2. The use has been terminated and no violation of terms and conditions of the permit exists.

B. Requests to vacate a permit shall be made in writing to the zoning code administrator who shall determine if the above conditions are present prior to authorizing the vacation. Vacation of any permit shall be documented by the

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filing of a notice of land use permit vacation on a form provided by the community development department with the city. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.180 Violation—Penalty.
Compliance with the requirements of this code shall be mandatory. Any violation of the provisions of this chapter shall be a misdemeanor subject to the penalties and remedies established in YMC 6.02.050. Additionally, any violation of the provisions of this chapter, and any installation and/or operation of any structure in violation of the provisions of this chapter, shall be deemed a public nuisance and violation subject to penalties and remedies available under state law and city codes. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies of Chapter 6.02 YMC and the public nuisance penalties and remedies available under state law and city codes. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.190 Relief, waiver, exemption.
Any applicant desiring relief, waiver or exemption from any aspect or requirement of this chapter may request such, pursuant to and in compliance with the applicable provision on general variances as contained in Chapter 15.21 YMC; provided, that the relief or exemption is contained in the submitted application for permit or, in the case of an existing or previously granted permit, a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the city, its residents and other service providers. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.200 Severability.
a. If any word, phrase, sentence, part, section, subsection, or other portion of this chapter or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional, or invalid shall remain in full force and effect.

b. Any permit issued under this chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the city. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013.

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CITY PLANNING – WIRELESS COMMUNICATIONS FACILITIES (YMC CH. 15.29)
TXT#002-19 & SEPA#026-19

EXHIBIT LIST

CHAPTER A
Staff Report

DOC INDEX #	DOCUMENT	DATE
A-1	Staff Report	07/24/2019

DEPARTMENT OF COMMUNITY DEVELOPMENT
Joan Davenport, AICP, Director

Planning Division
Joseph Calhoun, Manager
129 North Second Street, 2nd Floor, Yakima, WA 98901
ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

Recommendation Regarding Amendments to the City's Zoning Ordinance

TO: City of Yakima Planning Commission
FROM: Joseph Calhoun, Planning Manager
SUBJECT: Zoning Ordinance Text Amendments – File TXT#002-19
FOR MEETING OF: July 24, 2019

I. PURPOSE AND DESCRIPTION OF PROPOSED AMENDMENTS:

The City of Yakima Planning Division is proposing non-project minor amendments to the City of Yakima's Municipal Code Title 15. The proposed amendments will modify YMC Chapter 15.29 – Wireless Facilities.

The Planning Commission held study sessions on these proposed amendments on March 13, 2019; April 10, 2019; and May 8, 2019.

Proposed Amendments:
The complete track changes text can be found in Exhibit "A" and is incorporated herein by reference. A summary of the amendments is as follows:

1. New, revised, and deleted definitions for consistency with FCC regulations and to minimize redundancy.
2. New process and procedure for Small Wireless Facilities on private property and in the public Right-of-Way.
3. Clarification of wireless height variance process and procedure.
4. Clarification of the visual impact assessment language and removal of balloon tests.

II. YAKIMA COMPREHENSIVE PLAN 2040

The proposed text amendments are consistent with the following goals and policies of the Comprehensive Plan 2040

Goal 2.1: Establish a development pattern consistent with the community's vision.
Policy 2.1.6: Adopt coordinated development regulations that facilitate Yakima's preferred land use pattern (e.g. allowed density, uses, and site provisions)

- Refine the land use code on an ongoing basis to make it user-friendly by employing simple language, easy to read charts, and illustrative graphics.
- Monitor and refine the land use code as needed to facilitate the preferred land use pattern and development character.
- Integrate an appropriate balance of predictability and flexibility when updating development regulations that allow ease of administration and interpretation and offer optional ways of meeting requirements when possible.

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III. ENVIRONMENTAL REVIEW (SEPA)

This project was processed for review under the State Environmental Policy Act as a procedural action per WAC 197-11-800(19), and a Preliminary Determination of Nonsignificance was issued on June 28, 2019 (SEPA#026-19). The DNS was retained on July 19, 2019.

IV. PUBLIC NOTICE

Notice of Public Hearing	**June 28, 2019**
Legal Ad Publication	**June 28, 2019**

One written comment was submitted from WSDOT, which requested that new facilities or colloaction within 500-feet of I-82, US Hwy 12, and SR 24 complete cooperative testing with WSDOT. The following language will be added to the final draft:

> **15.29.060(H).** Facilities within 500-feet of Interstate 82, US Highway 12, and State Route 24. Any new facilities proposed in these areas shall complete cooperative testing with the Washington State Department of Transportation (WSDOT) to identify any problems that may be corrected though the installation of specific protective or interference devices. A copy of the completed testing, including any required WSDOT conditions, shall be provided to the Planning Division.

V. CONCLUSIONS

1. No adverse impacts have been identified by the approval of these amendments.

2. The proposed text amendments are supported by the Yakima Comprehensive Plan 2040.

VI. RECOMMENDATION

The Department of Community Development recommends APPROVAL of these text amendments.

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SUGGESTED MOTIONS:

Approval:
Based on the testimony and evidence presented during this afternoon's public hearing, I move that the Planning Commission draft findings of fact and forward a recommendation of **approval** to the Yakima City Council.

Approval with modifications:
Based on the testimony and evidence presented during this afternoon's public hearing, I move that the City of Yakima Planning staff modify the draft language to include the changes noted in the minutes of this afternoon's public hearing, and with these changes move that the Planning Commission draft findings of fact and forward a recommendation of **approval** to the Yakima City Council.

Denial:
Based on the testimony and evidence presented during this afternoon's public hearing, I move that the Planning Commission reject the proposal to include findings of fact documenting the reasons for denial, and order the proposal be forwarded to the Yakima City Council with a recommendation for **denial**.

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EXHIBIT A

Chapter 15.29

WIRELESS COMMUNICATIONS FACILITIES

Sections:

15.29.010 Purpose.
15.29.020 Definitions.
15.29.030 Exemptions.
15.29.040 Permits required.
15.29.050 Application submittal/fees.
15.29.060 Development standards.
15.29.070 Design criteria.
15.29.080 Site selection standards.
15.29.090 Safety and industry standards.
15.29.100 Wireless conditional use permit criteria.
15.29.110 Wireless height variance.
15.29.120 Application review process.
15.29.130 ~~Balloon tests~~—Visual impact assessments.
15.29.140 Third-party review.
15.29.150 Nonuse/abandonment.
15.29.160 Transfer of ownership.
15.29.170 Vacation of permits.
15.29.180 Violation—Penalty.
15.29.190 Relief, waiver, exemption.
15.29.200 Severability.

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;

4. Encourage ~~personal~~ wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal;

5. Encourage ~~personal~~ wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and

6. Provide for the wireless communications needs of governmental entities.

Accordingly, the city council finds that the promulgation of this chapter is warranted and necessary:

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

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

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

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

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

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

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

B. New Uses. All new ~~telecommunication~~ towers, small wireless~~cell~~ facilities, antennas and support structures shall comply with this chapter ~~after the effective date of the ordinance codified in this chapter~~.

C. Existing Uses. All ~~telecommunication~~ towers and antennas existing on the effective date of the ordinance codified in this chapter that are not in compliance with this chapter shall be allowed to continue as they presently exist, but will be considered nonconforming uses. Routine maintenance shall be permitted on existing towers and antennas. However, new construction other than modifications made pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and 47 CFR Section 1.6100 and routine maintenance ~~on existing towers, antennas, buildings or other facilities~~ shall comply with the requirements of this chapter.

D. Facilitation of Wireless Service. These standards were designed to comply with the Telecommunications Act of 1996, and subsequent federal regulations. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting ~~personal~~ wireless services. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent ~~personal~~ wireless services.

E. Conflict with Other Standards. To the extent that any provision of this chapter is inconsistent or conflicts with any other city ordinance this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the city. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.020 Definitions.

For the purpose of this chapter, the following terms shall have the meanings ascribed to them below. Additional definitions pertaining to the Yakima urban area zoning ordinance can be found in Chapter 15.02 YMC.

"Abandonment" means to cease operation for a period of three hundred sixty-five or more consecutive days.

"Administrator" means the director of the city's department of community development and his or her designees.

"Antenna" means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of wireless service ~~any exterior apparatus designed for telephonic, radio, data, Internet, or television communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower, structure or building for the purpose of providing wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular," "enhanced specialized mobile radio" and "personal communications services," telecommunications services, and its attendant base station.~~

"Antenna equipment" means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

"Antenna height" means the vertical distance measured from the base of the antenna support structure at natural grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances, including but not limited to antenna equipment, and shall be

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measured from the natural grade of the parcel at the lowest elevation point of the support structure's perimeter. "Antenna support structure" means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

"Applicant" means any provider or any person, partnership, company, or government agency that files an application for any permit necessary to install, maintain, or remove a ~~personal~~ wireless service facility within the city.

~~"Balloon test" means a test for a reasonable period of time to fly, or raise upon a temporary mast, a brightly colored balloon, that is representative in size of the initial antenna array including all standoffs, at the maximum height of the proposed tower.~~

"Base station" is a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this chapter or any equipment associated with a tower.

(i) The term includes, but is not limited to, equipment associated with wireless services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small wireless facilities).

(iii) The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in paragraphs (i) through (ii) of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(iv) For purposes of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and 47 CFR Section 1.6100, the term does not include any structure that, at the time the relevant application is filed with the city under this section, does not support or house equipment described in paragraphs (i)-(ii) of this section.

~~defined as a facility or support structure consisting of radio transceivers, antennas, coaxial cable, a regular and backup power supply, and other associated electronics, including a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station, and encompasses such equipment in any technological configuration, including distributed antenna systems and small cells.~~

"Camouflage" means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically impracticable under the facts and circumstances. The term includes, without limitation: (a) the use of structures, design, colors, landscaping and location to disguise, hide, blend, or integrate with an existing structure that is not a monopole or tower; (b) placement of a wireless facility or component thereof within an existing or new structure; (c) "stealth structures" in which the antenna or other wireless facility component is disguised or concealed within a structure designed to appear as another structure (such as a church steeple or flagpole) or another natural form (such as a tree, rock or other natural feature); and (d) placement of a wireless facility or component thereof upon a site where the topography and existing trees, landscaping, evergreen trees, design, and colors of the facility so that such facility is significantly screened from view or designed to resemble or blend with surrounding natural features.

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

"City" means the city of Yakima.

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"City property" means all real property owned by the city whether in fee ownership or other interest.

"Co-llocation" means the mounting or installation of an antenna ~~or antennas~~ facility on a~~n~~ pre-existing structure, and/or modifying a structure for the purpose of mounting or installing an antenna facility on that structure. ~~tower or wireless facility for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.~~

"Conditional use permit" or "CUP" means a process and approval as described in this chapter and in YMC Title 15, Yakima Urban Area Zoning Ordinance.

"COW" means "cell on wheels" or other temporary wireless ~~communications~~ facility.

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

"Discouraged area" means within three hundred feet of a residential use or Protected Area in the B-2 and SCC Zoning Districts.

"EIA" means the Electronics Industry Association.

"Equipment enclosure" means a structure, shelter, cabinet, or vault used to house and to protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies and emergency generators.

~~"Excess capacity" means the volume or capacity in any existing or future duct, conduit, manhole, handhold or other utility facility within the right-of-way that is or will be available for use for additional telecommunications facilities.~~

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"Facilities" means all of the plant, equipment, fixtures, appurtenances, antennas, and other facilities necessary to furnish and deliver ~~telecommunications~~ wireless services ~~and cable television services~~, including but not limited to poles with cross-arms, poles without cross-arms, wires, lines, conduits, cables, communications and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of ~~telecommunications services and cable television~~wireless services.

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"FCC" or "Federal Communications Commission" means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

~~"Governing authority" means the city council of the city of Yakima.~~

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"Governmental entity" means the state of Washington, Yakima County, the city, municipally owned utilities, and special purpose districts including the school, fire and library districts.

"Hearing examiner" means the duly appointed hearing examiner of the city.

"Major modification" means a co-location or other modification that constitutes a substantial change to an existing wireless facility or base station as set forth in YMC 15.29.060(A)(2).

"Minor modification" or "Eligible Facilities Request" means a co-location or other modification that does not constitute a substantial change to an existing wireless facility or base station as set forth in YMC 15.29.060(A)(1).

"Modification" or "modify" means the addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, antenna equipment, antenna support structure, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new ~~wireless carrier or service~~ provider to a ~~telecommunications~~ tower or ~~telecommunications~~ site as a co-location is a modification. A modification shall not include repair and maintenance as defined by this chapter.

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"Mount" means the structure or surface upon which ~~personal~~ wireless service facilities are mounted. There are three types of mounts:

1. Building Mounted. A ~~personal~~ wireless service facility mount fixed to the roof or side of a building.

2. Ground Mounted. A ~~personal~~ wireless service facility mount fixed to the ground, such as a tower.

3. Structure Mounted. A ~~personal~~ wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

"Natural grade" means the topographic condition and level of ground in place for the past five years or more, or the approved finished grade of land platted through the subdivision process.

"Occupy" means to construct, install, maintain, own, or operate wireless~~telecommunications~~ facilities located within city rights-of-way. The mere passage of electronic signals over, under, or through rights-of-way via ~~telecommunications~~ wireless facilities owned by another ~~telecommunications~~ wireless provider does not constitute occupying the rights-of-way.

~~"Overhead facilities" means utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.~~

"Person" means corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, other entities and individuals.

~~"Personal wireless service," "wireless service facilities," "wireless facilities" and "facilities" used in this title shall be defined in the same manner as in 47 USC Section 332(c)(7)(C), as they may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.~~

"Pole," for the purposes of siting small wireless facilities, means a type of structure that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities; provided, such term does not include a tower. ~~, base station, building or electric transmission structures.~~

"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" or "wireless service 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~~ substantially similar in size and weight 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.

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"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.

~~"Security barrier" means a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.~~

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"Service provider" means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating or managing any facilities used to provide and providing telecommunications or cable television services for hire, sale, or resale to the general public. "Service provider" includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city or town.

"Small wireless~~cell~~ facility" means facilities smaller than a traditional cell tower or base station ~~intended to augment and enhance existing wireless towers~~. These are typically attached to existing, ~~or~~ replacement, or new ~~utility~~ poles or other structures in the public right-of-way. This includes ~~other~~ technologies similar to small ~~cells~~ wireless facilities, such as microcells and distributed antenna systems (DAS).

"State" means the state of Washington.

"Structure" means a pole, tower, base station, or other building, whether or not it has an existing antenna, that is used or to be used for the provision of wireless service.

~~"Surplus space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the Washington Utilities and Transportation Commission, to allow its use by a telecommunications carrier for a pole attachment.~~

~~"Telecommunications carrier" includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of providing telecommunications services to locations outside the city.~~

~~"Telecommunications service" means transmission of information, except cable television service, by wire, radio, optical cable, electromagnetic, or other similar means, for hire, sale, or resale to the general public. For the purposes of this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. "Telecommunications service" excludes the over-the-air transmission of broadcast television or broadcast radio signals, and facilities necessary for governmental purposes. The city shall act on an application within a reasonable period of time, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The city shall approve, approve with conditions, or deny the application in accordance with the time frames set forth in specific sections of this chapter, YMC Title 16, Administration of Development Permit Regulations, and in accordance with other applicable ordinances.~~

~~"Telecommunications service provider" includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of offering telecommunications services, except cable television service, to residents, businesses or other locations within the city.~~

"Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. ~~The term encompasses personal wireless service facilities including radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the~~

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~~like.~~ "Tower" also includes any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.

~~"Underground facilities" means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.~~

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"Unlicensed wireless services" means ~~commercial mobile~~ wireless services that operate on public frequencies and do not need an FCC license.

~~"Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the Washington Utilities and Transportation Commission.~~

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~~"Utility facilities" means the plant, equipment and property including, but not limited to, the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within rights-of-way and used or to be used for the purpose of providing utility or telecommunications services.~~

"Utility pole" means any pole used primarily for the support and provision of lighting and/or transmission of power, telecommunications services, telephone, cable television, and other similar utilities and related fixtures, whether located within or outside the public right-of-way. Utility poles may be~~are~~ subject to rights of ownership, applicable franchise provisions, applicable regulation by the Washington Utilities and Transportation Commission (WUTC), and statutes governing location and relocation.

"Wireless height variance" means the process required for either a major modification to an existing wireless facility or construction of a new wireless facility in which the proposed height exceeds of the standards of this chapter.

"Wireless service," and "wireless facilities" used in this chapter shall be defined in the same manner as in 47 USC Section 332(c)(7)(C), as it may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services. "Wireless service" further means any services, using licensed or unlicensed spectrum, including the use of Wifi, whether at a fixed location or mobile, provided to the public.

"Visual impact assessment" means visual impact assessment with photo-simulation of the proposed facility. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.030 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 FCC.

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

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

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

E. Licensed amateur (ham) radio stations.

F. Satellite dish antennas less than two meters in diameter, including direct-to-home 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).

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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~~, subject to renewals by the city, or during an emergency declared by the city.

J. Wireless ~~Telecommunications~~ facilities of the city located upon city property and city utility poles and fixtures. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: 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 (no substantial change)	Modification	Administrative (if minor modification)
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, in ~~dustrial 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 district)	Standard Wireless—if camouflaged by stealth Wireless CUP**—if not camouflaged by stealth	Administrative or Hearing Examiner
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
* Applicable permits include building permits and other permits required for installation. ** Wireless conditional use permit		

Table 29-1.5		
Small Wireless Permit Table		
Type of Use	**Permit Type**	**Approval Type**
New small wireless facility in public right-of-way or on existing or replacement utility pole or other structure	Right-of-Way Use (YMC Ch. 8.20)	Administrative
New small wireless facility on new pole outside of the right-of-way	Small Wireless	Administrative

(Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

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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. (This requirement does not apply to right-of-way locations.)

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.

3. Evidence that the applicant is an FCC-licensed ~~telecommunications~~ wireless service provider or that it has agreements with an FCC-licensed ~~telecommunications~~ wireless service provider for use or lease of the support structure.

4. Legal description of the parcel, if applicable.

5. Site plan, drawn to scale, clearly indicating~~, to the extent applicable,~~ the location, type and height of the current or proposed wireless facility, accessory buildings, fencing, trees, landscaping, topographic contours of the site at two-foot intervals, location of utility easements, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, and all other items required in this chapter.

6. Elevation drawings of the proposed wireless facility, drawn to scale and showing dimensions of the height and width of the facility.

7. Proposed colors and materials of all components of the proposed wireless facility and of any fencing materials associated with the wireless facility.

8. State Environmental Policy Act (SEPA) checklist, if required.

~~9. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices.~~

~~10~~9. A copy of the FCC license for the intended use of the wireless telecommunications facilities.

~~11~~10. Method of proposed illumination, including a lighting plan showing the location of all proposed outdoor lighting fixtures, including direction and intensity of light, and including manufacturer's "cut-sheets" of all outdoor luminaires.

~~12~~11. The location of existing or proposed structures, trees, and other significant site features intended to camouflage the facility.

~~13~~12. A letter signed by the applicant stating the wireless facility will comply with all FAA regulations and EIA standards and all other applicable federal, state and local laws and regulations.

~~14~~13. Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the wireless ~~telecommunication~~ facility with the proposed installation will be in full compliance with the current FCC RF emissions guidelines (non-ionizing electromagnetic radiation—NIER). If not categorically excluded, a complete RF emissions study is required to provide verification.

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~~15~~14. Applicable fees.

~~16~~15. Other information for each permit and structure type as specified in subsection B of this section.

B. Application by Permit Type, Structure Type and Location. In addition to the information required for a standard permit in subsection A of this section, the following information shall be provided for each specified permit type or structure type:

1. New Towers and Base Stations.

a. A current map and aerial showing the location of the proposed tower and/or base station; a map showing the locations and service areas of other ~~personal~~ wireless service facilities operated by the applicant in the city.

b. The approximate distance between the proposed tower and the nearest residential unit, residentially zoned properties, and protected areas.

c. A statement by the applicant that the design of the tower will accommodate co-location of additional antennas for future users.

d. An affidavit stating that (1) the applicant and landowner agree they will allow co-location of additional ~~personal~~ wireless ~~service~~ facilities by other providers on the applicant's structure or within the same site location, subject to good faith negotiation of compensation according to market rates, and (2) the applicant and/or landlord agree to remove the facility within ninety days after abandonment.

e. An affidavit signed by the applicant, landowner (co-applicant), and the antenna support structure owners, if different, indicating that:

i. They, together with their heirs, successors and assigns, agree to be jointly and severally responsible to dismantle and remove the WCF/antenna support structure and restore the site to its approximate original prestructure condition within the applicable time limits set forth in YMC 15.29.150 following receipt of a letter from the city indicating that the facility is deemed abandoned or in violation of this chapter; and

ii. In the event a permit is issued pursuant to this chapter, they authorize the city to record such affidavit or a memorandum thereof with the Yakima County auditor against title to the property for which the permit was issued.

f. A landscape and irrigation plan showing all methods to landscape, irrigate, and screen the base of new facilities.

g. An explanation of proposed methods of camouflaging (including stealth if applicable) and how the proposed camouflaging reflects conditions of the surrounding site and area.

2. Facilities in Residential Zoning Districts and Protected Areas.

a. A statement describing the applicant's effort to first locate the proposed ~~communications~~ wireless facilities on a government facility, a private institutional structure (such as a hospital or school), or other appropriate existing structures outside the residential zone or protected area and within a half-mile radius of the proposed site, and explaining why, based upon valid considerations including physical, technological, leasing, or other valid constraints, no more appropriate location is available.

b. A description of any existing buildings taller than thirty-five feet within one-half mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals.

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c. A statement describing the applicant's effort to first contact the owners of structures in excess of thirty-five feet within a one-quarter-mile radius of the site proposed and which from a location standpoint could meet the ~~coverage/capacity~~technical objectives of the facility in the applicant's network. The statement shall, if applicable, confirm whether the applicant asked for permission to install the antenna on those structures and whether he or she was denied permission of use for reasons other than the ability or refusal of the applicant to pay a market rate for use of the alternative structures.

3. Modification Permit.

a. Elevation drawings of the existing wireless facility, drawn to scale and showing dimensions of the height and width of the facility (this drawing is required in addition to elevation drawing of proposed facility described under subsection A of this section);

~~b. A landscape and irrigation plan showing all methods to landscape and screen the base of the modified telecommunication facility;~~

~~c~~b. A computation and description of proposed modification establishing whether or not such modification constitutes a substantial change in the physical dimensions of the existing facility (if the application is for modification of an existing facility); and

~~d~~c. Written authorization signed by the owner of said facility authorizing its modification. (Required if the applicant is not the owner of the existing wireless facility.)

4. Wireless CUP (Conditional Use Permit).

a. An explanation of proposed methods of camouflaging and how the proposed camouflaging reflects conditions of the surrounding site and area.

b. A statement from the applicant describing how he/she believes the proposal addresses the criteria for a wireless conditional use permit prescribed in YMC 15.29.100.

~~c. A list of owners of property within three hundred feet of the site and their associated mailing addresses.~~

5. Wireless Height Variance.

a. A statement from the applicant describing how he/she believes the proposal addresses the criteria for a wireless height variance prescribed in YMC 15.29.110.

b. A statement describing the requested variance and why it is needed.

~~c. A list of owners of property within three hundred feet of the site and their associated mailing addresses.~~

C. Applicant to Provide Notice. For wireless conditional uses or variances, the city may require applicant to post notice at a location or locations deemed appropriate by the city, and will provide notice to the governing body of any affected historic district association or organization. Applicant shall provide an affidavit that all required notices have been posted and published as required. Additionally, and without limitation, the city may use any other means deemed advisable to provide advance notice to the public.

D. Fees. The application for a permit listed above shall be accompanied by a filing fee in the amount set forth in Table 29-2.

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Table 29-2	
Application Fees*	
Permit Type	Fee
Modification (if minor)	$300.00
Modification (if major)	$500.00
Standard Wireless	$500.00
Small Wireless	$500 for the first five (5) small wireless facilities in the same application, plus $100 for each facility beyond five (5)
Wireless Variance	$1,500.00
Wireless Conditional Use Permit	$3,500.00
* Separate fee required for each permit type associated with application. For an application requiring a wireless variance and a wireless conditional use permit, both the variance fee and the conditional use permit fee are required.	

(Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.060 Development standards.

A. Modifications to an Existing Wireless Facility or Base Station.

1. Minor Modification Eligible Facilities Request under 47 CFR Section 1.6100. Any modification of or co-location on an existing wireless facility that does not substantially change the physical dimensions of such tower or base station (as defined in subsection (A)(2) of this section), even if it exceeds the underlying standards of the zoning district, shall be deemed a "minor modification" and shall be administratively approved under a modification permit.

2. Major Modification. Any modification of or co-location on an existing wireless facility that substantially changes the physical dimensions of an existing wireless tower or base station shall be deemed a "major modification." A substantial change occurs if:

(i) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

(A) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (February 22, 2012).

(ii) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

(iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

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(iv) It entails any excavation or deployment outside the current site;

(v) It would defeat the concealment elements of the eligible support structure; or

(vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in (i) through (iv).

Field Code Changed

~~a. The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than ten percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; or~~

~~b. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or~~

~~c. The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or~~

~~d. The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.~~

3. Major Modification—Required Permits. A major modification shall be processed under the same permit types as new towers located in the same zone and area. (See Table 29-1, Permit Table, or Table 29-1.5~~.~~)

B. Co~~l~~l-~~L~~ocation Capable—New Structures. To reduce the number of antenna support structures needed in the city in the future, the following standards apply to new towers ~~or base stations~~:

1. Requirement and Waiver. New proposed support structures shall be designed to accommodate at least two additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived if such design is not feasible for aesthetic reasons, or necessary to preserve camouflaging or stealth structures in residential or protected areas; or provided, that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible or creates an unnecessary and unreasonable burden, based upon:

a. The kind of wireless ~~telecommunications~~ facilities site and structure proposed; or

b. The number of existing and potential licenses without wireless telecommunications facilities spaces/sites; or

c. Available space on existing and approved towers or other appropriate structures.

2. Owner Certification. The owner of a proposed tower, and his/her successors in interest, shall either:

a. Provide a written statement affirming that a master license agreement with another wireless provider or providers exists stating mutually acceptable terms and conditions for co-location for wireless facilities on the tower and site; or

b. Provide a written statement affirming that the owner and owner's successors will negotiate in good faith for the co-location and shared use of the proposed tower by other wireless service providers in the future, and shall allow shared use of the tower if another ~~telecommunications~~ wireless service provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata

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share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

C. Co-~~L~~location Encouraged—Existing Structures. To minimize adverse visual impacts associated with the proliferation of towers, co-location of ~~personal~~ wireless ~~service~~ facilities on existing towers and structures is encouraged as follows:

1. Co-~~l~~location is permitted by right under a modification permit, unless the modification constitutes a substantial change to the tower and/or base station pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 47 CFR Section 1.6100. Changes to tower height that constitute a "substantial change" as defined by subsection (A)(2) of this section are subject to all provisions applicable to new towers and base stations described in this chapter.

2. The city may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on a suitable existing structure or tower within one-quarter ~~half~~ mile of the proposed facility.

3. All wireless service providers or lessees or agents thereof shall cooperate in good faith to accommodate co-location with competitors.

D. Required Parking. Adequate parking shall be required for maintenance workers.

~~E. Balloon Test. A balloon test is required for any application requiring a wireless conditional 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~~E. 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~~F. 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.

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~~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 reimburse all costs associated with facility removal should it be necessary.~~

~~I~~G. ~~Utility Pole Installations. Reserved.~~ Small ~~Cell~~Wireless Facilities.

1. Small wireless~~cell~~ facilities ~~not~~ located on a new pole ~~in~~outside of the public right-of-way ~~nor on utility poles shall be processed as a standard wireless communications tower and~~ shall conform to the design criteria of YMC 15.29.070(AB).

2. Small wireless~~cell~~ facilities installed on new poles ~~constructed specifically for small cell deployment~~ shall only be permitted if the applicant can show that the small wireless ~~cell~~ facility cannot otherwise be installed on an existing pole or structure~~, whether~~ in the public right-of-way ~~or on private property,~~ within the area that the small ~~cell~~ wireless facility is proposed to serve.

3. Small ~~cell~~wireless facilities located in the public right-of-way, whether on an existing utility pole or on a new structure, shall comply with the following~~site selection standards of YMC 15.29.080 (E).~~

   a. Small wireless facilities shall apply for and obtain a right-of-way use permit pursuant to YMC 8.20 prior to any placement or construction;

   b. Small ~~cell~~wireless facilities placed in the public right-of-way shall not obstruct bicycle, pedestrian, or vehicular access where access currently exists or is proposed to exist in the future.

   c. Small ~~cell~~wireless facilities placed in the public right-of-way and/or on public structures shall require a franchise agreement, master license agreement, or other legally-binding contract if the city deems appropriate.

   d. Permitting small ~~cell~~wireless facilities on city-owned infrastructure including street lights and traffic signals shall be determined by the director of public works.

4. Small ~~cell~~wireless facilities may be modified under the modification procedures of YMC 15.29.120 (C).

H. Facilities within 500-feet of Interstate 82, US Highway 12, and State Route 24. Any new facilities proposed in these areas shall complete cooperative testing with the Washington State Department of Transportation (WSDOT) to identify any problems that may be corrected though the installation of specific protective or interference devices. A copy of the completed testing, including any required WSDOT conditions, shall be provided to the Planning Division.

(Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.070 Design criteria.

A. All wireless facilities, except small ~~cell~~wireless facilities subject to YMC 15.29.070(B) below, ~~located within the public right-of-way or on utility poles~~ shall comply with the following standards:

1. Setback. A tower's setback shall be measured from the base of the tower to the property line of the parcel on which it is located. Except as otherwise set forth below, setbacks for facilities shall comply with the setback requirements of Chapter 15.05 YMC and Table 5-1.

   a. Right-of-Way Setback Exception. The setback requirement is not applicable if the antenna and antenna support structure are located in the city right-of-way~~, provided the antenna is attached to an existing city tower or facility~~.

   b. Protected Areas. In protected areas or where a proposed tower is on property abutting a protected area, towers shall be set back from all property lines a distance equal to one hundred ten percent of tower height as measured from ground level.

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c. Residential Zoned Districts. In residential zoned districts or where a proposed tower is on property abutting a residential zoned district, towers shall be set back a minimum of one-half the tower height.

d. Minor Modifications. Any expansion of a base station or extension of height of an existing wireless facility that constitutes a minor modification shall be considered in compliance with the setback requirements previously approved for the existing wireless facility.

e. Existing Wireless Facility on Established Lot—Exception. The setback requirement is not applicable if the antenna and antenna support structure were constructed, or application for such construction vested, on a parcel created pursuant to RCW 58.17.040(8) prior to the effective date of this code. Wireless facilities constructed on and after the effective date of this code on parcels created pursuant to RCW 58.17.040(8) are subject to the setback requirements.

2~~2~~. Tower and Antenna Height. The maximum height of a wireless facility is as follows:

a. In or within three hundred feet of a residential zoning district or protected area, no wireless facility shall exceed the height allowed by the underlying height limitation for the zoning district in which the facility is located, except that if the facility is camouflaged by stealth pursuant to subsection 8 of this section, the maximum height is sixty feet.

b. In CBD and B-1 zoning districts, the maximum height is sixty feet.

c. In all other zones, the maximum height is one hundred ten feet.

~~d. In any zoning district, the applicant shall have the burden of demonstrating that the tower is the minimum height required to meet the proven communications need.~~

e~~d~~. Structures that exceed the above height limits may be permitted by variance pursuant to the ~~cellular~~ wireless height variance provisions of YMC 15.29.110.

3~~3~~. Color. Towers shall have a dark color such as forest green, charcoal or dark brown, depending on the surroundings or background, ~~that~~ which minimizes their visibility, unless a different color is required by the FAA. Colors shall be maintained and repainted as necessary to maintain original color, to repair fading through weathering, and to prevent flaking.

4. Lights, Signals and Signs. No signals, lights, or signs shall be permitted on towers unless required or allowed by the FCC or the FAA. Should lighting be required, in cases where there are residents located within a distance that is three hundred percent of the height of the tower, then dual mode lighting shall be requested from the FAA.

5. Fencing and Security. The antenna support structure shall be secured against unauthorized entry. A well-constructed wall or wooden fence not less than six feet in height from the finished grade shall be provided around each ~~personal~~ wireless service facility. Access to the tower shall be through a locked gate. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by dense vegetative screen at least eight feet in depth along all visible portions of the fence.

6. Anti-Climbing Device. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

7. Camouflage Requirements. All new towers and base stations, and major modifications to towers and base stations, must be camouflaged as defined by this chapter. Appropriate camouflaging is determined on a site-specific basis, taking into account existing structures and natural features both on and surrounding the site. When considering surrounding features that the facility is designed to reflect, nonconforming structures shall not be considered~~; nor shall structures such as utility poles, signs, smoke stacks, mechanical equipment, utility substations, other wireless-based structures or similar features that contribute to visual clutter of an area be used to determine an acceptable camouflage technique~~. In all zones, towers shall be camouflaged using the least

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visually and physically intrusive facility that is not technologically impracticable under the facts and circumstances. Camouflaging for new towers and base stations shall include the following:

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

b. Buffers. The visual impacts of ~~a personal~~ wireless ~~service~~ facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping requirements. The following landscaping and buffering shall be required around the perimeter of the tower and accessory structures:

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

ii. A continuous hedge at least thirty-six inches high at planting capable of growing to at least forty-eight inches in height within eighteen months shall be planted in front of the tree line referenced above.

iii. To the extent feasible, the tower or mount shall be placed amongst and adjacent to the drip line of three or more ~~evergreen~~ trees at least seventy-five percent of the height of the facility.

iv. An automatic irrigation system providing irrigation as needed according to plant type, season and maturity of plantings.

c. Continued Maintenance. Applicant shall have a continuing obligation to maintain the landscaping improvements. In the event that landscaping is not maintained at the required level, the city after giving thirty days' advance written notice may maintain or establish the landscaping and bill both the owner and lessee for such costs until such costs are paid in full, or may seek enforcement through any available remedy.

d. Trees—Recording of Conditions. To ensure that trees associated with camouflaging and screening are preserved, the following note shall be recorded on the property title:

All trees within 50 feet of the ~~telecommunications~~ wireless facility located on this property, which serve to screen the ~~telecommunications~~ wireless facility, shall be retained for the life of the ~~telecommunications~~ wireless facility. Screening trees may only be removed if deemed diseased or dangerous by a certified arborist. Before any trees can be removed a report from the certified arborist shall be submitted to the City for review and approval. Unless approved by the City, only that portion of the tree required to remove the hazard can be removed. The City may require the trees to be replaced by the telecommunication provider.

8. Stealth Requirements. Any facility in or within three hundred feet of residential zoning district or protected area must be concealed within a stealth structure unless otherwise approved through a wireless conditional use permit. Stealth structures shall be designed as follows:

a. The stealth camouflage structure or facility must be compatible with surrounding development by being either similar in height to surrounding structures or a sufficient distance from surrounding structures to create a significant visual separation.~~;~~

b. Stealth designs shall reflect features that are indigenous to the area. ~~For example,~~

c. ~~T~~towers designed to look like trees shall~~must~~ be tree types that naturally or commonly occur in the surrounding neighborhood or district, shall be located within one hundred feet of existing trees, and shall not exceed the average height of nearby trees by more than ~~ten percent or ten~~thirty feet. ~~whichever is~~

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~~higher.~~ Towers that only add artificial branches, limbs, or other vegetative features while still maintaining the appearance of a standard tower are not considered stealth designs.

d. Towers designed to look like buildings or structures must be of a design that reflects local architecture or structure types. Towers designed to look like steeples on church shall be of a height and scale proportional to the building design (other churches in the area can provide examples of acceptable proportions between the size of the steeple and the size of the church buildings);

c~~e~~. ~~Stealth designs look reasonably similar to the items they intend to mimic. For example,~~ Ttowers designed to look like flag poles shall be tapered and have the common dimensions of flag poles, both in height and girth, and shall fly at least one flag ~~on a regular basis. Towers designed to look like steeples on churches are of a height and scale proportional to the building design. (Other churches in the area can provide examples of acceptable proportions between the size of the steeple and the size of the church buildings.)~~;

f~~d~~. After completion of construction, the antennas, towers and related facilities will be maintained within the stealth structure so as to be concealed from view or be viewed as the camouflaging stealth structure; and

g~~e~~. The administrator may impose other conditions or mitigations reasonably related to such structures as warranted by special conditions of the subject property and the type of camouflaging structure, including but not limited to additional or supplemental setback requirements, maintenance requirements, and other measures intended to accomplish the purposes of this chapter and section.

9. Antenna Criteria. Antennas~~, including small cell facilities not located within the right-of-way or on utility poles,~~ on or above a structure shall be subject to the following:

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

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

c. The total height of the antenna shall comply with the height standards of YMC 15.29.070(A)(2).

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

d~~e~~. Future or multiple installations of antennas shall ensure balance and symmetry when placing additional antennas on the façade of the building.

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

f~~g~~e. ~~On buildings thirty feet or less in height, t~~The antenna may be mounted on the roof if the following additional criteria are satisfied:

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

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

iii. No portion of the antenna may exceed sixteen feet above the height of the existing building.

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iv. If the antenna is placed on the roof or above the top of a building, it shall provide a minimum setback equal to the height of the panel antenna from the rooftop edge.

v. Antenna, antenna arrays, and support structures shall not extend more than sixteen feet above the highest point of the structure on which they are mounted. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to comply with applicable building code standards. The antenna, antenna array, and their support structure shall be a color that matches the field or trim color of the structure on which they are mounted.

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

11. Equipment Structures. The standards for equipment structures (base stations) are as follows:

a. Ground Structure.

i. The maximum floor area is five hundred square feet and the maximum height is twelve feet, unless the applicant demonstrates that a larger area and/or increased height is necessary to accommodate the proposed facility and possible co-location.

ii. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other city ordinances.

iii. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures, including building form, materials and color.

b. Roof Mounted Structure.

i. Equipment buildings mounted on a roof shall be designed to match and be integrated into the exterior design and materials of the building. Equipment for roof mounted antenna may also be located within the building on which the 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. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

B. Small ~~cell~~wireless facilities ~~located within the public right-of-way or on utility poles~~ shall comply with the following standards:

1. Height. ~~On utility poles, the s~~Small ~~cell~~wireless facilities shall conform to the following height limitations:~~ty shall not increase the height of the pole by more than six feet, and shall not exceed the maximum height for the zoning district it is located in according to YMC 15.29.070 (2).~~

a. are mounted on structures 50 feet or less in height including antennas, or

b. are mounted on structures no more than 10 percent taller than other adjacent structures, or

c. do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

2. Size. ~~Each small cell facility shall be located in an enclosure not greater than seventeen cubic feet in volume. Associated conduit, mounting bracket, or extension arm, electric meter, concealment, telecommunications demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power switch,~~

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~~and cut-off switch may be located outside the primary equipment enclosure(s) and are not included in the calculation of equipment volume. Each antenna shall be located inside an antenna enclosure of not more than three cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements shall fit within an imaginary enclosure of not more than three cubic feet.~~Small wireless facilities shall meet the following size limitations:

a. Each antenna associated with the deployment~~, including all exposed elements,~~ is no more than three cubic feet in volume;

b. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.

3. Color. The color of the facility, including both antennas and equipment, shall blend in with the structure in which it is being attached to or integrated with, to the extent technically feasible~~.~~

~~a.~~ Antennas, brackets, and cabling shall match or be compatible with the color of the equipment, which shall match or be compatible with the color of the structure it is being attached to as closely as possible.

4. Lighting. Small ~~cell~~ wireless facilities shall not be illuminated.

~~6~~5. Noise. Small ~~cell~~wireless facilities, along with their associated equipment cabinets and other structures, shall not generate noise to a degree that they violate YMC 6.04.180. Passive cooling of facilities is encouraged.

6. All equipment must be pole mounted. If it is technically infeasible to pole-mount all of the equipment to meet the criteria herein, then equipment may be ground-based in the right-of-way pursuant to the following standards:

a. Any necessary ground-based equipment in an undergrounded area shall be undergrounded.

b. Ground-based equipment not located in an undergrounded area should be undergrounded. If it is technically infeasible to underground the ground-based equipment or to pole-mount the equipment in compliance with the maximum size standards of this section, the ground-based equipment may be located fully or partially above grade; provided, that: (i) the volume of ground-based equipment that is located above grade shall not exceed a maximum of 28 cubic feet, (ii) the ground-based equipment shall be aesthetically compatible with other above-grade utilities (e.g. signal boxes, electrical equipment, etc.) that are located within 600 feet of the pole; and (iii) the ground-based equipment shall not encroach into any areas of required sidewalk.

7. Antenna(s) and equipment shall not constitute an obstruction and shall comply with all applicable codes, laws (including the Americans with Disabilities Act), standards and regulations. In the event of a conflict between these design standards and any applicable health and safety codes, such health and safety codes shall govern, but only to the minimum extent necessary to avoid a violation.

~~5. Camouflage Requirements. All new small cell facilities, and major modifications to small cell facilities, shall be camouflaged as defined by this chapter. Appropriate camouflaging is determined on a site-specific basis, taking into account existing structures and natural features both on and surrounding the site. The color of the facility, including both antennas and equipment, shall blend in with the structure in which is it being attached to or integrated with.~~

~~a. Antennas, brackets, and cabling shall match the color of the equipment, which shall match the color of the structure it is being attached to as closely as possible.~~

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15.29.080 Site selection standards.

The following site selection standards shall apply to all wireless facilities outside of the right-of-way, except for small wireless facilities proposed on an existing or replaceacted pole

~~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 antennas 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.~~

A. An applicant for a wireless facility, other than a small wireless facility in the ROW, that wishes to locate in ~~these areas~~ Protected Area or a Discouraged Area shall demonstrate that a diligent effort has been made to locate the proposed ~~communications~~ wireless 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, site availability, and technological feasibility, no more appropriate location is available. Such antennas, antenna equipment, 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 may~~are~~ also be 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~~B. 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~~C. 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.

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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~~D. 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~~ Wireless 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:

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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. 2016-029 § 1 (Exh. A) (part), 2016: 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 standards. If the owner fails to bring its tower into compliance within thirty days, the city may remove the tower at the owner's expense.

C. ~~Data Transmission~~ Compliance with RF Standards. ~~Towers shall be constructed to applicable Electronic Industry Association (EIA) standards, which may be amended from time to time. Further, any improvements or additions to existing towers shall require submission of site plans stamped by a professional engineer that demonstrate compliance with the EIA standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.~~

No ~~personal~~ wireless service provider or lessee shall fail to assure that its antenna complies at all times with the current applicable Federal Communications Commission (FCC) radio frequency (RF) emission standards.

~~D. Inspection Report Filing. Within sixty days of any required safety inspection performed in accordance with EIA and FCC standards, the facility operator shall file a copy of the report with the city. Each year after the facility becomes operational the facility operator shall file with the city a copy of maintenance reports for the prior twelve months.~~ (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.100 Wireless conditional use permit criteria.

A. Uses Requiring ~~Cellular~~ Wireless Conditional Use Permit. Any wireless facility listed in Table 29-1 as a wireless conditional use permit (wireless CUP) requires submittal of a wireless CUP application as described in YMC 15.29.050. Wireless CUPs require a public hearing before the hearing examiner and final approval by the hearing examiner.

B. Criteria for Granting ~~Cellular~~ Wireless Conditional Use Permit. Before any conditional use may be granted, the hearing examiner must find that:

1. The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed use or in the district in which the subject property is located;

2. The proposed use shall meet or exceed the performance standards that are required in the zoning district the proposed use will occupy;

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3. The proposed development shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design;

4. The proposed use shall be in keeping with the goals and policies of the comprehensive land use policy plan; and

5. All reasonable and practicable measures have been taken to minimize the possible adverse impacts which the proposed use may have on the area in which it is located.

C. Authority to Impose Conditions. The hearing examiner may impose any conditions necessary to address identified impacts associated with the proposed wireless facility and ensure that the facility is compatible with surrounding development. The hearing examiner may:

1. Increase requirements in the standards, criteria or policies established by this title;

2. Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic;

3. Require structural features or equipment essential to serve the same purpose set forth above;

4. Impose conditions similar to those set forth in subsections (C)(2) and (3) of this section as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters; provided, the hearing examiner may not, in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use or otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;

5. Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses within the general area in which the use is proposed to be located;

6. Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need; and

~~7. Require the posting of construction and maintenance financial security sufficient to secure to the city one-hundred fifty percent of the estimated cost of construction and/or installation and fifteen percent maintenance of required improvements.~~

~~D. Required Condition of Approval. The decision shall include a condition that building permits not be issued until financial security is provided pursuant to YMC 15.29.060(H). This requirement applies whether specifically stated in the decision or not.~~

~~E~~D. Conditional Use Permits—Effect of Hearing Examiner Decision. The decision of the hearing examiner on a conditional use permit shall be final and conclusive with right of appeal to the city council in accordance with YMC 16.08.030. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.110 Wireless height variance.

A. Applicability. A ~~cellular~~ wireless height variance is required for any major modification to an existing tower, antenna, or base station or construction of a new tower, antenna, or base station that requires a height in excess of height limits defined in YMC 15.29.070(2).

B. Variance from other standards. A major modification to an existing tower, antenna, or base station or construction of a new tower, antenna, or base station that requires variance from design criteria in YMC 15.29.070 other than height shall follow the standard variance procedures in Ch. 15.21 YMC (including review criteria).

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~~B~~C. Criteria for Granting Wireless Height Variance. The hearing examiner shall have the authority to grant a variance from the maximum height allowed for a tower, antenna or base station when, in his/her opinion, the conditions as set forth herein have been found to exist. A wireless height variance is subject to:

1. Compliance with standard wireless permit standards of YMC 15.29.120(D);

2. Standard variance procedures in Chapter 15.21 YMC (not including review criteria); and

3. All of the following criteria must be met:

a. The additional height is necessary to provide adequate service ~~to the residents of the city~~ and no other alternative is available;
b. A significant portion of the tower and related facilities are screened by existing evergreen trees or existing structures;
c. Strict application of current height limits would deprive a tower or antenna operator from achieving the minimum height required to meet the proven ~~communications~~ wireless need;
d. The structure for which the variance is requested is in harmony with the general purpose and intent of this chapter;
~~e. There are special circumstances applicable to the subject property such as shape, topography, location, or surroundings that prevent the operator from achieving the minimum height required to meet the proven communications need;~~
~~f~~e. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity;
~~g~~f. Any visual impacts will be mitigated to the greatest extent possible using camouflage, stealth or screening as defined by this chapter;
~~h~~g. The location of the tower and antenna has been chosen so as to minimize the visibility of the facility from residentially zoned land and to minimize the obstruction of scenic views from public properties; and
~~i~~h. The variance is the minimum necessary to grant relief to the applicant.

~~C~~D. Decision. Based upon the information provided by the applicant, the results of the ~~balloon test and~~ visual impact analysis, and findings of compliance or noncompliance with the criteria set forth herein, the examiner may:

1. Approve an application for a variance, which may include additional requirements above those specified in this title or require modification of the proposal to comply with specified requirements or local conditions; or

2. Deny a variance if the proposal does not meet or cannot be conditioned or modified to meet subsection B of this section.

~~D~~E. Burden of Proof. The applicant has the burden of proving that the proposed wireless height variance meets all of the necessary criteria ~~in subsection B of this section~~. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.120 Application review process.

A. Preapplication Meeting. To expedite review of applications, a preapplication meeting with the administrator is strongly encouraged. The preapplication meeting will help the applicant determine what permits may be required for his or her proposed wireless facility, what additional information or studies may help in the review of the application, and what stealth and/or camouflaging techniques might be appropriate for the site. The administrator may help to identify protected areas and may also suggest vantage points from which a visual impact assessment should be based.

B. Review for Completeness. The administrator shall review each application for completeness as specified in YMC 15.29.050 and 47 CFR Section 1.6003. After review of the application, the administrator shall issue a determination of completeness or incompleteness in accordance with Chapter 16.04 YMC. In addition to information required for a complete application, the administrator may request additional information from the applicant to review the proposal and determine compliance with the provisions of this chapter. Except for the timelines specified in subsection C of this section for applications to modify an existing wireless facility or base

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station, or an application for small wireless facilities in the ROW, such administrative review, processing and issuance of administrative permits shall comply with the city's timelines and procedures governing review and issuance of administrative permits in Chapter 16.04 YMC.

C. Modification Permit Review. Applications for modifications to existing wireless facilities or base stations shall be reviewed as follows:

1. Determination of Major or Minor Modification. Within forty-five days of receipt of a complete application for modification, the administrator shall review and issue a written determination as to whether the requested modification is deemed a major or minor modification under the provisions of YMC 15.29.060(A). The administrator may request additional information from the applicant or any other entity to assist in this determination.

2. Finding of No Substantial Change—Minor Modification. If the modification is deemed by the administrator to be a minor modification under the provisions of YMC 15.29.060(A), the administrator shall issue a modification permit, which may include conditions necessary to achieve compliance with the provisions of this section. Issuance of the modification permit shall occur within forty-five days after receipt and approval of a complete application for a modification permit.

3. Finding of Substantial Change—Major Modification. If the administrator determines that such application constitutes a substantial change to the physical dimensions of an existing wireless tower or base station, the administrator shall issue a written determination that the change is a major modification and direct the applicant to submit the appropriate application(s) as specified in Table 29-1 and YMC 15.29.050.

D. Standard Wireless Permit Review. Standard wireless applications apply to all new wireless facilities and base stations and to major modification of all existing wireless facilities and base stations. Standard wireless applications shall be reviewed as follows:

1. Administrative Decision. All standard ~~cellular~~ wireless applications shall be subject to administrative review and decision unless they require an associated wireless conditional use permit or variance as specified in Table 29-1 or Table 29-1.5.

2. Camouflaging/Stealth Review. Except for small wireless facilities, ~~T~~the administrator shall review the proposed method of camouflaging or stealth against conditions on or surrounding the site as follows:

a. The administrator shall consider how proposed design of the tower, placement on the site, topography of and surrounding the site, color, structures on and surrounding the site, and natural features on and surrounding the site help to blend the wireless facility into its setting.

b. The administrator may require a visual impact assessment as described in YMC 15.29.130 based upon lines of sight or vantage points identified by the administrator.

c. The administrator shall determine if the proposed camouflaging or stealth reasonably integrates the wireless facility into its setting. The administrator may impose conditions to ensure that the facility achieves this objective.

3. Compliance with Standards. The administrator shall review the proposal against all other standards of this chapter including, but not limited to, height, setbacks, color, design, lighting, landscaping, screening, and co-location capacity. If any items are found to be not in compliance, the administrator shall notify the applicant and direct him or her to either submit within two weeks, or other period of time deemed reasonable by the administrator considering the scope and complexity of the required revision, revised plans to address the compliance issue, or direct the administrator to render a decision on the application as submitted.

4. Written Decision. The administrator shall issue a written decision on the application within the time frame specified in Chapter 16.07 YMC, identifying any items not in compliance with this chapter, and including any conditions necessary to achieve compliance. ~~The decision shall include a condition that building permits not be issued until financial security is provided pursuant to YMC 15.29.060(H).~~

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5. Appeals. The determination or decision of the administrator on any application under this chapter shall constitute an administrative decision subject to appeal pursuant to Chapter 16.08 YMC.

E. Wireless Conditional Use Permit Review. Wireless conditional use permit applications shall be reviewed as follows:

1. Submittal of Application. An application for a conditional use permit under this chapter shall be submitted to the administrator, who shall review such application for completeness and compliance with filing requirements under this chapter and applicable codes of the city, in accordance with the provisions and procedures of YMC 1.43.090 and YMC Title 16.

2. ~~Balloon Tests and~~ Visual Impact Assessment. The administrator shall instruct the applicant on the requirements for ~~both~~ a ~~balloon test and~~ visual impact assessment~~. The administrator may provide input on both the timing of the balloon test and the desired vantage points from which the visual impact assessment will be based. Both t~~The ~~balloon test and~~ visual impact assessment shall be completed prior to the scheduled public hearing.

3. Additional Reports and Third-Party Review. The administrator shall have authority to request additional information and reports from the applicant necessary to facilitate analysis of the proposal, including but not limited to third-party review in accordance with YMC 15.29.140 and reports, surveys and tests as provided in this chapter, when the administrator, in his or her sole discretion, deems such additional information necessary or appropriate to fully assess the impact of the proposal and any reasonable alternatives, to address mitigation measures identified in SEPA, NEPA or other environmental reviews, to address issues of site screening or other measures to mitigate impacts upon the surrounding neighborhood, or to address any other impact to the life, health, safety of persons, or quiet enjoyment of property, identified by the administrator as likely, with reasonable probability, to result from the proposed project.

4. Scheduling for Hearing. Upon the administrator's determination that the application is complete and in compliance with filing requirements of this chapter, and that required ~~balloon tests~~, visual impact assessments and other required reports have been finalized, the administrator in coordination with the hearing examiner shall be responsible for assigning a date for and assuring due notice of public hearing for each application, which date and notice shall be in accordance with the provisions of YMC Title 16.

5. Hearing Examiner—Procedures—Factors. When considering an application for a conditional use permit, the hearing examiner shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing this use.

F. Wireless Height Variance Review. A wireless height variance shall be processed as follows:

1. Procedures and Applicable Criteria. A wireless height variance shall be reviewed under the procedures described in Chapter 15.21, except that the hearing examiner shall apply the criteria for review and approval defined in this chapter.

2. ~~Balloon Tests and~~ Visual Impact Assessment. The administrator shall instruct the applicant on the requirements for ~~both~~ a ~~balloon test and~~ visual impact assessment~~. The administrator may provide input on both the timing of the balloon test and the desired vantage points from which the visual impact assessment will be based. Both the balloon test and visual impact assessment~~ which shall be completed prior to the scheduled public hearing.

3. Third-Party Review. Applications for variance may also require third-party review as described in YMC 15.29.140.

4. Hearing Examiner Decision. The hearing examiner shall determine whether the proposed variance complies with the criteria for a variance in YMC 15.29.110, and that the proposed wireless facility complies with all other standards of this chapter. If the examiner finds that the proposal does not comply with the criteria for a variance he shall deny the variance and associated wireless facility. If the examiner finds that the proposal complies with the criteria for a variance and with all other development standards of this chapter, he shall

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approve the variance and the associated wireless facility. The examiner may impose any conditions necessary to ensure compliance with all standards. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.130 ~~Balloon tests~~ Visual impact assessments.

A. ~~Balloon Test. Where a balloon test is required, the applicant shall, prior to the public hearing on the application, hold a balloon test. The applicant shall arrange to fly, or raise upon a temporary mast, a brightly colored balloon that is representative in size of the initial antenna array including all standoffs, at the maximum height of the proposed tower. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised by the applicant seven and fourteen days in advance of the first test date in a newspaper with a general circulation in the city. The applicant shall inform the city, in writing, of the dates and times of the test, at least fourteen days in advance. The balloon shall be flown for at least seventy-two consecutive hours on the dates chosen. At least twenty-four hours of this time shall be on a weekend. No trees shall be removed to conduct the balloon test. A report with pictures from various locations of the balloon shall be provided with the application. Photos of the balloon test from three locations located approximately three hundred feet from the base of the proposed tower and spaced evenly in a circumference around the proposed tower and three locations located approximately one quarter mile from the base of the proposed tower shall be submitted within two weeks after the commencement of the balloon test.~~

~~B~~A. Visual Impact Assessment. A visual impact assessment with photo-simulation of the proposed facility is required for all applications that require a conditional use permit or variance, and may be required by the administrator for any other application deemed necessary by the administrator to assess visual impacts associated with such application. As part of such application, the applicant shall furnish a visual impact assessment, which shall include:

1. Zone of Visibility Map. If a new tower or substantial modification increasing the height of an existing structure is proposed, a computer generated "zone of visibility map" at a minimum of one-mile radius from the proposed structure~~, with and without foliage, shall~~ may be provided to illustrate locations from which the proposed installation may be seen.

2. Photo-Simulations. Pictorial representations of "before and after" (photo-simulations) views from key viewpoints within the zone of visibility. Guidance will be provided, concerning the appropriate key sites at the preapplication meeting, as required. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure.

3. Description of Visual Impact. A written description of the visual impact of the proposed facility including, and as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of camouflaging. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.140 Third-party review.

~~Personal w~~Wireless service providers use various methodologies and analyses, including geographically based computer software, to determine the specific technical parameters of their wireless services and ~~low power mobile radio service~~ facilities, such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. In certain instances, a third-party expert may need to review the technical data submitted by a provider. The city may require a technical review as part of a permitting process for a variance or conditional use permit. The costs of the technical review shall be borne by the provider.

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

1. The accuracy and completeness of submissions;

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2. The applicability of analysis techniques and methodologies;
3. The validity of conclusions reached; and
4. Any specific technical issues designated by the city. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.150 Nonuse/abandonment.

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

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

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

3. Dismantle and Remove Facility. If the tower, antenna, foundation, and facility are not removed within the sixty-day time period or additional period of time allowed by the city, the city may remove such tower, antenna, foundation, and related facility at the provider's expense. If there are two or more providers co-locating on a facility, except as provided for in subsection (A)(2) of this section, this provision shall not become effective until all providers cease using the facility; or

~~4. If the small cell facility is located on a utility pole owned by the City, the small cell facility shall be removed from the utility pole. If damage is caused to the pole as a result of the existence and/or removal of the small cell facility, the provider shall be responsible for all costs of repair and/or replacement of the utility pole. Further, if damage is done to the right-of-way as a result of the removal of a small cell facility located within a City right-of-way, provider shall be responsible for all costs of repair and/or replacement of the right-of-way area.~~ Small cell wireless facilities shall be removed from utility poles pursuant to the right-of-way use permit, YMC 8.20, and/or any agreement between the provider and the City.

B. Expiration of Approval. At the earlier of sixty days from the date of abandonment without reactivating or upon completion of dismantling and removal, city approval for the facility shall automatically expire. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.160 Transfer of ownership.

A conditional use permit runs with the land; compliance with the conditions of any such permit is the responsibility of the current owner of the property, whether that is the applicant or a successor. No permit for which a financial security is required shall be considered valid during any time in which the required financial security is not posted. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.170 Vacation of permits.

A. Any permit issued pursuant to this chapter may be vacated upon approval by the current landowner; provided, that:

1. The use authorized by the permit does not exist and is not actively being pursued; or

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2. The use has been terminated and no violation of terms and conditions of the permit exists.

B. Requests to vacate a permit shall be made in writing to the zoning code administrator who shall determine if the above conditions are present prior to authorizing the vacation. Vacation of any permit shall be documented by the filing of a notice of land use permit vacation on a form provided by the community development department with the city. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.180 Violation—Penalty.
Compliance with the requirements of this code shall be mandatory. Any violation of the provisions of this chapter shall be a misdemeanor subject to the penalties and remedies established in YMC 6.02.050. Additionally, any violation of the provisions of this chapter, and any installation and/or operation of any structure in violation of the provisions of this chapter, shall be deemed a public nuisance and violation subject to penalties and remedies available under state law and city codes. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies of Chapter 6.02 YMC and the public nuisance penalties and remedies available under state law and city codes. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.190 Relief, waiver, exemption.
Any applicant desiring relief, waiver or exemption from any aspect or requirement of this chapter may request such, pursuant to and in compliance with the applicable provision on general variances as contained in Chapter 15.21 YMC; provided, that the relief or exemption is contained in the submitted application for permit or, in the case of an existing or previously granted permit, a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the city, its residents and other service providers. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.200 Severability.
a. If any word, phrase, sentence, part, section, subsection, or other portion of this chapter or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional, or invalid shall remain in full force and effect.

b. Any permit issued under this chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the city. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013.

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CITY PLANNING – WIRELESS COMMUNICATIONS FACILITIES (YMC CH. 15.29) TXT#002-19 & SEPA#026-19

EXHIBIT LIST

CHAPTER B
SEPA Checklist

DOC INDEX #	DOCUMENT	DATE
B-1	SEPA Checklist	06/24/2019

ENVIRONMENTAL CHECKLIST

STATE ENVIRONMENTAL POLICY ACT (SEPA)
(AS TAKEN FROM WAC 197-11-960)
YAKIMA MUNICIPAL CODE CHAPTER 6.88

PURPOSE OF CHECKLIST

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

INSTRUCTIONS FOR APPLICANTS

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help you describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

USE OF CHECKLIST FOR NONPROJECT PROPOSALS

For non-project proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project", "applicant", and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B – Environmental Elements – that do not contribute meaningfully to the analysis of the proposal.

A. BACKGROUND INFORMATION (To be completed by the applicant.)

1. **Name Of Proposed Project (If Applicable)**: City of Yakima Urban Area Zoning Ordinance Amendments – YMC Ch. 15.29
2. **Applicant's Name & Phone**: City of Yakima Planning Division, (509) 575-6183
3. **Applicant's Address**: 129 North Second Street, Yakima, WA 98901
4. **Contact Person & Phone**: Joseph Calhoun, 509-575-6042
5. **Agency Requesting Checklist:** City of Yakima
6. **Proposed Timing Or Schedule (Including Phasing, If Applicable)**: N/A – Non Project Action
7. **Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain**: None at this time
8. **List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal**: None known. Per WAC 197-11-315(1)(e), as a non-project proposal, section B of the Environmental Checklist will not be filled out.
9. **Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain**: None Pending
10. **List any government approvals or permits that will be needed for your proposal, if known**: SEPA determination, City of Yakima Planning Commission Public Hearing, and City Council Approval.

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11. Give a brief, but complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.): The City of Yakima Planning Division is proposing non-project minor amendments to the City of Yakima's Municipal Code Chapter 15.29. These amendments include proposed changes consistent with FCC regulations; standards and process for small wireless facilities, and the removal of outdated and non-existing processes.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist: City Limits

C. SIGNATURE (To be completed by the applicant.)

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

	6-24-19
Property Owner or Agent Signature	**Date Submitted**
Joseph Calhoun	Planning Manager / City of Yakima
Name of Signee	**Position and Agency/Organization**

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (To be completed by the applicant.) (IT IS NOT NECESSARY to use this sheet for project actions)	**Space Reserved For Agency Comments**
Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment. When answering these questions, be aware of the extent the proposal, or the types of activities that would likely result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.	
1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise? The proposed changes will not affect how land uses discharge to water, emissions to the air, storage, or release of toxic or hazardous substances, or the production of noise.	
Proposed measures to avoid or reduce such increases are: None proposed. Any future measures to avoid such increases will be dealt with at the project level.	
2. How would the proposal be likely to affect plants, animals, fish, or marine life? The proposed changes will not affect plants, animals, fish, or marine life, as they are regulatory in nature.	
Proposed measures to protect or conserve plants, animals, fish, or marine life are: None proposed. Any future measures to avoid such increases will be dealt with at the project level.	
3. How would the proposal be likely to deplete energy or natural resources? The proposed changes do not involve regulations dealing with energy or natural resources.	

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D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (To be completed by the applicant.) (IT IS NOT NECESSARY to use this sheet for project actions)	Space Reserved For Agency Comments
Proposed measures to protect or conserve energy and natural resources are: None Proposed. Any future measures to avoid such increases will be dealt with at the project level.	
4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands? The proposed changes will not change or affect any environmental sensitive areas or regulations.	
Proposed measures to protect such resources or to avoid or reduce impacts are: None Proposed. Any future measures to avoid such increases will be dealt with at the project level.	
5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans? No change to shoreline uses are proposed. Depending on future proposals, the level of review will be dependent on the type of use and zoning district.	
Proposed measures to avoid or reduce shoreline and land use impacts are: None Proposed. Any future measures to avoid such increases will be dealt with at the project level.	
6. How would the proposal be likely to increase demands on transportation or public services and utilities? Not likely. The traffic impacts will be examined at the project level.	
Proposed measures to reduce or respond to such demand(s) are: None Proposed. Any future measures to avoid such increases will be dealt with at the project level.	
7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment. The proposed changes will not conflict with any local, state, or federal laws, or requirements for the protection of the environment.	

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CITY PLANNING – WIRELESS COMMUNICATIONS FACILITIES (YMC CH. 15.29) TXT#002-19 & SEPA#026-19

EXHIBIT LIST

CHAPTER C
Applications

DOC INDEX #	DOCUMENT	DATE
C-1	Application for Text Amendments	06/24/2019

LAND USE APPLICATION

CITY OF YAKIMA, DEPARTMENT OF COMMUNITY DEVELOPMENT
129 NORTH SECOND STREET, 2ND FLOOR, YAKIMA, WA 98901
PHONE: (509) 575-6183 FAX: (509) 575-6105

INSTRUCTIONS – PLEASE READ FIRST AND ANSWER ALL QUESTIONS COMPLETELY.

If you have any questions about this form or the application process, please ask to speak with a planner. All necessary attachments and the filing fee are required upon submittal. Filing fees are not refundable. This application consists of several parts. PART I - GENERAL INFORMATION, PART II – SUPPLEMENTAL APPLICATION, and PART III – CERTIFICATION are on this page. PART II, III, and IV contain additional information specific to your proposal and MUST be attached to this page to complete the application.

PART I – GENERAL INFORMATION

1. Applicant's Information:	Name:	City of Yakima Planning Division						
	Mailing Address:	129 North Second Street						
	City:	Yakima	St:	WA	Zip:	98901	Phone :	(509) 575-6183
	E-Mail:	ask.planning@yakimawa.gov						
2. Applicant's Interest in Property:	Check One:	☐ Owner	☐ Agent	☐ Purchaser	☒ Other _Local Government_			
3. Property Owner's Information (If other than Applicant):	Name:							
	Mailing Address:							
	City:		St:		Zip:		Phone :	( )
	E-Mail:							

4. Subject Property's Assessor's Parcel Number(s): N/A – Non Project Action

5. Legal Description of Property. (if lengthy, please attach it on a separate document) N/A – Non Project Action

6. Property Address: N/A – Non Project Action

7. Property's Existing Zoning:

☒ SR ☒ R-1 ☒ R-2 ☒ R-3 ☒ B-1 ☒ B-2 ☒ HB ☒ SCC ☒ LCC ☒ CBD ☒ GC ☒ AS ☒ RD ☒ M-1 ☒ M-2

8. Type Of Application: (Check All That Apply)

☐ Administrative Adjustment	☒ Environmental Checklist (SEPA Review)	☐ Easement Release
☐ Type (1) Review	☐ Right-of-Way Vacation	☐ Rezone
☐ Type (2) Review	☐ Transportation Concurrency	☐ Shoreline
☐ Type (3) Review	☐ Non-Conforming Use/Structure	☐ Critical Areas Review
☐ Preliminary Short Plat	☐ Appeal to HE / City Council	☐ Variance
☐ Final Short Plat	☐ Interpretation by Hearing Examiner	☐ Temporary Use Permit
☐ Short Plat Amendment	☐ Modification	☐ Overlay District
☐ Preliminary Long Plat	☐ Home Occupation	☐ Binding Site Plan
☐ Final Long Plat	☐ Comprehensive Plan Text or Map Amendment	☐ Planned Development
☐ Plat Alteration –Long Plat	☐ Short Plat Exemption:_____	☒ Other: Text Amendment

PART II – SUPPLEMENTAL APPLICATION – SEPA CHECKLIST

9. Environmental Checklist (see attached forms)

PART III – CERTIFICATION

10. I certify that the information on this application and the required attachments are true and correct to the best of my knowledge.

Property Owner's Signature _____ Date _____

Applicant's Signature _____ Date _____

FILE/APPLICATION(S)# TXT #002-19 SEPA #026-19

DATE FEE PAID:	RECEIVED BY:	AMOUNT PAID:	RECEIPT NO:

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Chapter 15.29

WIRELESS COMMUNICATIONS FACILITIES

Sections:

15.29.010 Purpose.
15.29.020 Definitions.
15.29.030 Exemptions.
15.29.040 Permits required.
15.29.050 Application submittal/fees.
15.29.060 Development standards.
15.29.070 Design criteria.
15.29.080 Site selection standards.
15.29.090 Safety and industry standards.
15.29.100 Wireless conditional use permit criteria.
15.29.110 Wireless height variance.
15.29.120 Application review process.
15.29.130 ~~Balloon tests~~—Visual impact assessments.
15.29.140 Third-party review.
15.29.150 Nonuse/abandonment.
15.29.160 Transfer of ownership.
15.29.170 Vacation of permits.
15.29.180 Violation—Penalty.
15.29.190 Relief, waiver, exemption.
15.29.200 Severability.

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;

4. Encourage ~~personal~~ wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal;

5. Encourage ~~personal~~ wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and

6. Provide for the wireless communications needs of governmental entities.

Accordingly, the city council finds that the promulgation of this chapter is warranted and necessary:

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

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

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

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

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

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

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

B. New Uses. All new ~~telecommunication~~ towers, small wirelessceell facilities, antennas and support structures shall comply with this chapter ~~after the effective date of the ordinance codified in this chapter~~.

C. Existing Uses. All ~~telecommunication~~ towers and antennas existing on the effective date of the ordinance codified in this chapter that are not in compliance with this chapter shall be allowed to continue as they presently exist, but will be considered nonconforming uses. Routine maintenance shall be permitted on existing towers and antennas. However, new construction other than modifications made pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and 47 CFR Section 1.6100 and routine maintenance ~~on existing towers, antennas, buildings or other facilities~~ shall comply with the requirements of this chapter.

D. Facilitation of Wireless Service. These standards were designed to comply with the Telecommunications Act of 1996, and subsequent federal regulations. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting ~~personal~~ wireless services. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent ~~personal~~ wireless services.

E. Conflict with Other Standards. To the extent that any provision of this chapter is inconsistent or conflicts with any other city ordinance this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the city. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.020 Definitions.

For the purpose of this chapter, the following terms shall have the meanings ascribed to them below. Additional definitions pertaining to the Yakima urban area zoning ordinance can be found in Chapter 15.02 YMC.

"Abandonment" means to cease operation for a period of three hundred sixty-five or more consecutive days.

"Administrator" means the director of the city's department of community development and his or her designees.

"Antenna" means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of wireless service. ~~any exterior apparatus designed for telephonic, radio, data, Internet, or television communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower, structure or building for the purpose of providing wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular," "enhanced specialized mobile radio" and "personal communications services," telecommunications services, and its attendant base station.~~

"Antenna equipment" means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

"Antenna height" means the vertical distance measured from the base of the antenna support structure at natural grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances, including but not limited to antenna equipment, and shall be

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measured from the natural grade of the parcel at the lowest elevation point of the support structure's perimeter. "Antenna support structure" means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

"Applicant" means any provider or any person, partnership, company, or government agency that files an application for any permit necessary to install, maintain, or remove a ~~personal~~ wireless service facility within the city.

~~"Balloon test" means a test for a reasonable period of time to fly, or raise upon a temporary mast, a brightly colored balloon, that is representative in size of the initial antenna array including all standoffs, at the maximum height of the proposed tower.~~

"Base station" is a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this chapter or any equipment associated with a tower.

(i) The term includes, but is not limited to, equipment associated with wireless services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small wireless facilities).

(iii) The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in paragraphs (i) through (ii) of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(iv) For purposes of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and 47 CFR Section 1.6100, the term does not include any structure that, at the time the relevant application is filed with the city under this section, does not support or house equipment described in paragraphs (i)-(ii) of this section.

~~defined as a facility or support structure consisting of radio transceivers, antennas, coaxial cable, a regular and backup power supply, and other associated electronics, including a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station, and encompasses such equipment in any technological configuration, including distributed antenna systems and small cells.~~

"Camouflage" means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically impracticable under the facts and circumstances. The term includes, without limitation: (a) the use of structures, design, colors, landscaping and location to disguise, hide, blend, or integrate with an existing structure that is not a monopole or tower; (b) placement of a wireless facility or component thereof within an existing or new structure; (c) "stealth structures" in which the antenna or other wireless facility component is disguised or concealed within a structure designed to appear as another structure (such as a church steeple or flagpole) or another natural form (such as a tree, rock or other natural feature); and (d) placement of a wireless facility or component thereof upon a site where the topography and existing trees, landscaping, evergreen trees, design, and colors of the facility so that such facility is significantly screened from view or designed to resemble or blend with surrounding natural features.

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

"City" means the city of Yakima.

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"City property" means all real property owned by the city whether in fee ownership or other interest.

"Co-llocation" means the mounting or installation of an antenna ~~or antennas~~ facility on ~~an~~ pre-existing structure, and/or modifying a structure for the purpose of mounting or installing an antenna facility on that structure. ~~tower or wireless facility for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.~~

"Conditional use permit" or "CUP" means a process and approval as described in this chapter and in YMC Title 15, Yakima Urban Area Zoning Ordinance.

"COW" means "cell on wheels" or other temporary wireless ~~communications~~ facility.

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

"Discouraged area" means within three hundred feet of a residential use or Protected Area in the B-2 and SCC Zoning Districts.

"EIA" means the Electronics Industry Association.

"Equipment enclosure" means a structure, shelter, cabinet, or vault used to house and to protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies and emergency generators.

~~"Excess capacity" means the volume or capacity in any existing or future duct, conduit, manhole, handhold or other utility facility within the right-of-way that is or will be available for use for additional telecommunications facilities.~~

"Facilities" means all of the plant, equipment, fixtures, appurtenances, antennas, and other facilities necessary to furnish and deliver ~~telecommunications~~ wireless services ~~and cable television services~~, including but not limited to poles with cross-arms, poles without cross-arms, wires, lines, conduits, cables, communications and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of ~~telecommunications services and cable television~~wireless services.

"FCC" or "Federal Communications Commission" means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

~~"Governing authority" means the city council of the city of Yakima.~~

"Governmental entity" means the state of Washington, Yakima County, the city, municipally owned utilities, and special purpose districts including the school, fire and library districts.

"Hearing examiner" means the duly appointed hearing examiner of the city.

"Major modification" means a co-location or other modification that constitutes a substantial change to an existing wireless facility or base station as set forth in YMC 15.29.060(A)(2).

"Minor modification" or "Eligible Facilities Request" means a co-location or other modification that does not constitute a substantial change to an existing wireless facility or base station as set forth in YMC 15.29.060(A)(1).

"Modification" or "modify" means the addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, antenna equipment, antenna support structure, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new ~~wireless carrier or service~~ provider to a ~~telecommunications~~ tower or ~~telecommunications~~ site as a co-location is a modification. A modification shall not include repair and maintenance as defined by this chapter.

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"Mount" means the structure or surface upon which ~~personal~~ wireless service facilities are mounted. There are three types of mounts:

1. Building Mounted. A ~~personal~~ wireless service facility mount fixed to the roof or side of a building.

2. Ground Mounted. A ~~personal~~ wireless service facility mount fixed to the ground, such as a tower.

3. Structure Mounted. A ~~personal~~ wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

"Natural grade" means the topographic condition and level of ground in place for the past five years or more, or the approved finished grade of land platted through the subdivision process.

"Occupy" means to construct, install, maintain, own, or operate wireless~~telecommunications~~ facilities located within city rights-of-way. The mere passage of electronic signals over, under, or through rights-of-way via ~~telecommunications~~ wireless facilities owned by another ~~telecommunications~~ wireless provider does not constitute occupying the rights-of-way.

~~"Overhead facilities" means utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.~~

"Person" means corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, other entities and individuals.

~~"Personal wireless service," "wireless service facilities," "wireless facilities" and "facilities" used in this title shall be defined in the same manner as in 47 USC Section 332(c)(7)(C), as they may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.~~

"Pole," for the purposes of siting small wireless facilities, means a type of structure that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities; provided, such term does not include a tower.~~, base station, building or electric transmission structures.~~

"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" or "wireless service 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~~ substantially similar in size and weight 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.

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"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.

~~"Security barrier" means a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.~~

"Service provider" means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating or managing any facilities used to provide and providing telecommunications or cable television services for hire, sale, or resale to the general public. "Service provider" includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city or town.

"Small wireless~~cell~~ facility" means facilities smaller than a traditional cell tower or base station ~~intended to augment and enhance existing wireless towers~~. These are typically attached to existing, ~~or~~ replacement, or new ~~utility~~ poles or other structures in the public right-of-way. This includes ~~other~~ technologies similar to small ~~cells~~ wireless facilities, such as microcells and distributed antenna systems (DAS).

"State" means the state of Washington.

"Structure" means a pole, tower, base station, or other building, whether or not it has an existing antenna, that is used or to be used for the provision of wireless service.

~~"Surplus space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the Washington Utilities and Transportation Commission, to allow its use by a telecommunications carrier for a pole attachment.~~

~~"Telecommunications carrier" includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of providing telecommunications services to locations outside the city.~~

~~"Telecommunications service" means transmission of information, except cable television service, by wire, radio, optical cable, electromagnetic, or other similar means, for hire, sale, or resale to the general public. For the purposes of this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. "Telecommunications service" excludes the over-the-air transmission of broadcast television or broadcast radio signals, and facilities necessary for governmental purposes. The city shall act on an application within a reasonable period of time, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The city shall approve, approve with conditions, or deny the application in accordance with the time frames set forth in specific sections of this chapter, YMC Title 16, Administration of Development Permit Regulations, and in accordance with other applicable ordinances.~~

~~"Telecommunications service provider" includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of offering telecommunications services, except cable television service, to residents, businesses or other locations within the city.~~

"Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. ~~The term encompasses personal wireless service facilities including radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the~~

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~~like.~~ "Tower" also includes any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.

~~"Underground facilities" means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.~~

"Unlicensed wireless services" means ~~commercial mobile~~ wireless services that operate on public frequencies and do not need an FCC license.

~~"Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the Washington Utilities and Transportation Commission.~~

~~"Utility facilities" means the plant, equipment and property including, but not limited to, the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within rights-of-way and used or to be used for the purpose of providing utility or telecommunications services.~~

"Utility pole" means any pole used primarily for the support and provision of lighting and/or transmission of power, telecommunications services, telephone, cable television, and other similar utilities and related fixtures, whether located within or outside the public right-of-way. Utility poles may be~~are~~ subject to rights of ownership, applicable franchise provisions, applicable regulation by the Washington Utilities and Transportation Commission (WUTC), and statutes governing location and relocation.

"Wireless service," and "wireless facilities" used in this chapter shall be defined in the same manner as in 47 USC Section 332(c)(7)(C), as it may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services. "Wireless service" further means any services, using licensed or unlicensed spectrum, including the use of Wifi, whether at a fixed location or mobile, provided to the public.

"Visual impact assessment" means visual impact assessment with photo-simulation of the proposed facility. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.030 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 FCC.

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

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

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

E. Licensed amateur (ham) radio stations.

F. Satellite dish antennas less than two meters in diameter, including direct-to-home 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).

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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~~, subject to renewals by the city, or during an emergency declared by the city.

J. Wireless ~~Telecommunications~~ facilities of the city located upon city property and city utility poles and fixtures. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: 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 (no substantial change)	Modification	Administrative (if minor modification)
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, in ~~dustrial 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 district)	Standard Wireless—if camouflaged by stealth Wireless CUP**—if not camouflaged by stealth	Administrative or Hearing Examiner
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
* Applicable permits include building permits and other permits required for installation. ** Wireless conditional use permit		

Table 29-1.5		
Small Wireless Permit Table		
Type of Use	Permit Type	Approval Type
New small wireless facility in public right-of-way or on existing or replacement utility pole or other structure	Right-of-Way Use (YMC Ch. 8.20)	Administrative
New small wireless facility on new pole outside of the right-of-way	Small Wireless	Administrative

(Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

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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. ~~(~~This requirement does not apply to right-of-way locations.~~)~~

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.

3. Evidence that the applicant is an FCC-licensed ~~telecommunications~~ wireless service provider or that it has agreements with an FCC-licensed ~~telecommunications~~ wireless service provider for use or lease of the support structure.

4. Legal description of the parcel, if applicable.

5. Site plan, drawn to scale, clearly indicating~~, to the extent applicable,~~ the location, type and height of the current or proposed wireless facility, accessory buildings, fencing, trees, landscaping, topographic contours of the site at two-foot intervals, location of utility easements, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, and all other items required in this chapter.

6. Elevation drawings of the proposed wireless facility, drawn to scale and showing dimensions of the height and width of the facility.

7. Proposed colors and materials of all components of the proposed wireless facility and of any fencing materials associated with the wireless facility.

8. State Environmental Policy Act (SEPA) checklist, if required.

~~9. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices.~~

~~10~~9. A copy of the FCC license for the intended use of the wireless telecommunications facilities.

~~11~~10. Method of proposed illumination, including a lighting plan showing the location of all proposed outdoor lighting fixtures, including direction and intensity of light, and including manufacturer's "cut-sheets" of all outdoor luminaire~~s~~.

~~12~~11. The location of existing or proposed structures, trees, and other significant site features intended to camouflage the facility.

~~13~~12. A letter signed by the applicant stating the wireless facility will comply with all FAA regulations and EIA standards and all other applicable federal, state and local laws and regulations.

~~14~~13. Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the wireless ~~telecommunication~~ facility with the proposed installation will be in full compliance with the current FCC RF emissions guidelines (non-ionizing electromagnetic radiation—NIER). If not categorically excluded, a complete RF emissions study is required to provide verification.

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~~15~~14. Applicable fees.

~~16~~15. Other information for each permit and structure type as specified in subsection B of this section.

B. Application by Permit Type, Structure Type and Location. In addition to the information required for a standard permit in subsection A of this section, the following information shall be provided for each specified permit type or structure type:

1. New Towers and Base Stations.

a. A current map and aerial showing the location of the proposed tower and/or base station; a map showing the locations and service areas of other ~~personal~~ wireless service facilities operated by the applicant in the city.

b. The approximate distance between the proposed tower and the nearest residential unit, residentially zoned properties, and protected areas.

c. A statement by the applicant that the design of the tower will accommodate co-location of additional antennas for future users.

d. An affidavit stating that (1) the applicant and landowner agree they will allow co-location of additional ~~personal~~ wireless ~~service~~ facilities by other providers on the applicant's structure or within the same site location, subject to good faith negotiation of compensation according to market rates, and (2) the applicant and/or landlord agree to remove the facility within ninety days after abandonment.

e. An affidavit signed by the applicant, landowner (co-applicant), and the antenna support structure owners, if different, indicating that:

i. They, together with their heirs, successors and assigns, agree to be jointly and severally responsible to dismantle and remove the WCF/antenna support structure and restore the site to its approximate original prestructure condition within the applicable time limits set forth in YMC 15.29.150 following receipt of a letter from the city indicating that the facility is deemed abandoned or in violation of this chapter; and

ii. In the event a permit is issued pursuant to this chapter, they authorize the city to record such affidavit or a memorandum thereof with the Yakima County auditor against title to the property for which the permit was issued.

f. A landscape and irrigation plan showing all methods to landscape, irrigate, and screen the base of new facilities.

g. An explanation of proposed methods of camouflaging (including stealth if applicable) and how the proposed camouflaging reflects conditions of the surrounding site and area.

2. Facilities in Residential Zoning Districts and Protected Areas.

a. A statement describing the applicant's effort to first locate the proposed ~~communications~~ wireless facilities on a government facility, a private institutional structure (such as a hospital or school), or other appropriate existing structures outside the residential zone or protected area and within a half-mile radius of the proposed site, and explaining why, based upon valid considerations including physical, technological, leasing, or other valid constraints, no more appropriate location is available.

b. A description of any existing buildings taller than thirty-five feet within one-half mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals.

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c. A statement describing the applicant's effort to first contact the owners of structures in excess of thirty-five feet within a one-quarter-mile radius of the site proposed and which from a location standpoint could meet the ~~coverage/capacity~~technical objectives of the facility in the applicant's network. The statement shall, if applicable, confirm whether the applicant asked for permission to install the antenna on those structures and whether he or she was denied permission of use for reasons other than the ability or refusal of the applicant to pay a market rate for use of the alternative structures.

3. Modification Permit.

a. Elevation drawings of the existing wireless facility, drawn to scale and showing dimensions of the height and width of the facility (this drawing is required in addition to elevation drawing of proposed facility described under subsection A of this section);

~~b. A landscape and irrigation plan showing all methods to landscape and screen the base of the modified telecommunication facility;~~

~~c~~b. A computation and description of proposed modification establishing whether or not such modification constitutes a substantial change in the physical dimensions of the existing facility (if the application is for modification of an existing facility); and

~~d~~c. Written authorization signed by the owner of said facility authorizing its modification. (Required if the applicant is not the owner of the existing wireless facility.)

4. Wireless CUP (Conditional Use Permit).

a. An explanation of proposed methods of camouflaging and how the proposed camouflaging reflects conditions of the surrounding site and area.

b. A statement from the applicant describing how he/she believes the proposal addresses the criteria for a wireless conditional use permit prescribed in YMC 15.29.100.

c. A list of owners of property within three hundred feet of the site and their associated mailing addresses.

5. Wireless Variance.

a. A statement from the applicant describing how he/she believes the proposal addresses the criteria for a wireless height variance prescribed in YMC 15.29.110.

b. A statement describing the requested variance and why it is needed.

c. A list of owners of property within three hundred feet of the site and their associated mailing addresses.

C. Applicant to Provide Notice. For wireless conditional uses or variances, the city may require applicant to post notice at a location or locations deemed appropriate by the city, and will provide notice to the governing body of any affected historic district association or organization. Applicant shall provide an affidavit that all required notices have been posted and published as required. Additionally, and without limitation, the city may use any other means deemed advisable to provide advance notice to the public.

D. Fees. The application for a permit listed above shall be accompanied by a filing fee in the amount set forth in Table 29-2.

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Table 29-2	
Application Fees*	
Permit Type	**Fee**
Modification (if minor)	$300.00
Modification (if major)	$500.00
Standard Wireless	$500.00
Small Wireless	$500 for the first five (5) small wireless facilities in the same application, plus $100 for each facility beyond five (5)
Wireless Variance	$1,500.00
Wireless Conditional Use Permit	$3,500.00
* Separate fee required for each permit type associated with application. For an application requiring a wireless variance and a wireless conditional use permit, both the variance fee and the conditional use permit fee are required.	

(Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.060 Development standards.

A. Modifications to an Existing Wireless Facility or Base Station.

1. Minor Modification/Eligible Facilities Request under 47 CFR Section 1.6100. Any modification of or co-location on an existing wireless facility that does not substantially change the physical dimensions of such tower or base station (as defined in subsection (A)(2) of this section), even if it exceeds the underlying standards of the zoning district, shall be deemed a "minor modification" and shall be administratively approved under a modification permit.

2. Major Modification. Any modification of or co-location on an existing wireless facility that substantially changes the physical dimensions of an existing wireless tower or base station shall be deemed a "major modification." A substantial change occurs if:

(i) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

(A) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (February 22, 2012).

(ii) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

(iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

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(iv) It entails any excavation or deployment outside the current site;

(v) It would defeat the concealment elements of the eligible support structure; or

(vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in (i) through (iv).

~~a. The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than ten percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; or~~

~~b. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or~~

~~c. The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or~~

~~d. The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.~~

3. Major Modification—Required Permits. A major modification shall be processed under the same permit types as new towers located in the same zone and area. (See Table 29-1, Permit Table, or Table 29-1.5~~.~~)

B. Co~~l~~l-~~L~~ocation Capable—New Structures. To reduce the number of antenna support structures needed in the city in the future, the following standards apply to new towers ~~or base stations~~:

1. Requirement and Waiver. New proposed support structures shall be designed to accommodate at least two additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived if such design is not feasible for aesthetic reasons, or necessary to preserve camouflaging or stealth structures in residential or protected areas; or provided, that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible or creates an unnecessary and unreasonable burden, based upon:

a. The kind of wireless ~~telecommunications~~ facilities site and structure proposed; or

b. The number of existing and potential licenses without wireless telecommunications facilities spaces/sites; or

c. Available space on existing and approved towers or other appropriate structures.

2. Owner Certification. The owner of a proposed tower, and his/her successors in interest, shall either:

a. Provide a written statement affirming that a master license agreement with another wireless provider or providers exists stating mutually acceptable terms and conditions for co-location for wireless facilities on the tower and site; or

b. Provide a written statement affirming that the owner and owner's successors will negotiate in good faith for the co-location and shared use of the proposed tower by other wireless service providers in the future, and shall allow shared use of the tower if another ~~telecommunications~~ wireless service provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata

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share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

C. Co~~l~~-~~L~~location Encouraged—Existing Structures. To minimize adverse visual impacts associated with the proliferation of towers, co~~l~~-location of ~~personal~~ wireless ~~service~~ facilities on existing towers and structures is encouraged as follows:

1. Co-~~l~~location is permitted by right under a modification permit, unless the modification constitutes a substantial change to the tower and/or base station pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012/47 CFR Section 1.6100. Changes to tower height that constitute a "substantial change" as defined by subsection (A)(2) of this section are subject to all provisions applicable to new towers and base stations described in this chapter.

2. The city may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on a suitable existing structure or tower within one-quarter ~~half~~ mile of the proposed facility.

3. All wireless service providers or lessees or agents thereof shall cooperate in good faith to accommodate co-location with competitors.

D. Required Parking. Adequate parking shall be required for maintenance workers.

~~E. Balloon Test. A balloon test is required for any application requiring a wireless conditional 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~~E. 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~~F. 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.

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~~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 reimburse all costs associated with facility removal should it be necessary.~~

~~I~~G. ~~Utility Pole Installations. Reserved.~~ Small ~~Cell~~Wireless Facilities.

1. Small wireless~~cell~~ facilities ~~not~~ located- on a new pole ~~in~~outside of the public right-of-way ~~nor on utility poles shall be processed as a standard wireless communications tower and~~ shall conform to the design criteria of YMC 15.29.070-(~~A~~B).

2. Small wireless~~cell~~ facilities installed on new poles ~~constructed specifically for small cell deployment~~ shall only be permitted if the applicant can show that the small wireless ~~cell~~ facility cannot otherwise be installed on an existing pole or structure~~, whether~~ in the public right-of-way ~~or on private property,~~ within the area that the small ~~cell~~ wireless facility is proposed to serve.

3. Small ~~cell~~wireless facilities located in the public right--of--way, whether on an existing utility pole or on a new structure, shall comply with the- following~~site selection standards of YMC 15.29.080 (E).~~:

   a. Small wireless facilities shall apply for and obtain a right-of-way use permit pursuant to YMC 8.20 prior to any placement or construction;

   b. Small ~~cell~~wireless facilities placed in the public right-of-way shall not obstruct bicycle, pedestrian, or vehicular access where access currently exists or is proposed to exist in the future.

   c. Small ~~cell~~wireless facilities placed in the public right-of-way and/or on public structures shall require a franchise agreement, master license agreement, or other legally-binding contract if the city deems appropriate.

   d. Permitting small ~~cell~~wireless facilities on city-owned infrastructure including street lights and traffic signals shall be determined by the director of public works.

~~1.~~4. Small ~~cell~~wireless facilities may be modified under the modification procedures of YMC 15.29.120 (C).

(Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.070 Design criteria.

A. All wireless facilities, except small ~~cell~~wireless facilities subject to YMC 15.29.070(B) below, ~~located within the public right-of-way or on utility poles~~ shall comply with the following standards:

1. Setback. A tower's setback shall be measured from the base of the tower to the property line of the parcel on which it is located. Except as otherwise set forth below, setbacks for facilities shall comply with the setback requirements of Chapter 15.05 YMC and Table 5-1.

   a. Right-of-Way Setback Exception. The setback requirement is not applicable if the antenna and antenna support structure are located in the city right-of-way~~, provided the antenna is attached to an existing city tower or facility~~.

   b. Protected Areas. In protected areas or where a proposed tower is on property abutting a protected area, towers shall be set back from all property lines a distance equal to one hundred ten percent of tower height as measured from ground level.

   c. Residential Zoned Districts. In residential zoned districts or where a proposed tower is on property abutting a residential zoned district, towers shall be set back a minimum of one-half the tower height.

   d. Minor Modifications. Any expansion of a base station or extension of height of an existing wireless facility that constitutes a minor modification shall be considered in compliance with the setback requirements previously approved for the existing wireless facility.

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e. Existing Wireless Facility on Established Lot—Exception. The setback requirement is not applicable if the antenna and antenna support structure were constructed, or application for such construction vested, on a parcel created pursuant to RCW 58.17.040(8) prior to the effective date of this code. Wireless facilities constructed on and after the effective date of this code on parcels created pursuant to RCW 58.17.040(8) are subject to the setback requirements.

~~2~~2. Tower and Antenna Height. The maximum height of a wireless facility is as follows:

a. In or within three hundred feet of a residential zoning district or protected area, no wireless facility shall exceed the height allowed by the underlying height limitation for the zoning district in which the facility is located, except that if the facility is camouflaged by stealth pursuant to subsection 8 of this section, the maximum height is sixty feet.

b. In CBD and B-1 zoning districts, the maximum height is sixty feet.

c. In all other zones, the maximum height is one hundred ten feet.

~~d. In any zoning district, the applicant shall have the burden of demonstrating that the tower is the minimum height required to meet the proven communications need.~~

~~e~~d. Structures that exceed the above height limits may be permitted by variance pursuant to the ~~cellular~~ wireless height variance provisions of YMC 15.29.110.

~~2~~3. Color. Towers shall have a dark color such as forest green, charcoal or dark brown, depending on the surroundings or background, ~~that~~ which minimizes their visibility, unless a different color is required by the FAA. Colors shall be maintained and repainted as necessary to maintain original color, to repair fading through weathering, and to prevent flaking.

4. Lights, Signals and Signs. No signals, lights, or signs shall be permitted on towers unless required or allowed by the FCC or the FAA. Should lighting be required, in cases where there are residents located within a distance that is three hundred percent of the height of the tower, then dual mode lighting shall be requested from the FAA.

5. Fencing and Security. The antenna support structure shall be secured against unauthorized entry. A well-constructed wall or wooden fence not less than six feet in height from the finished grade shall be provided around each ~~personal~~ wireless service facility. Access to the tower shall be through a locked gate. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by dense vegetative screen at least eight feet in depth along all visible portions of the fence.

6. Anti-Climbing Device. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

7. Camouflage Requirements. All new towers and base stations, and major modifications to towers and base stations, must be camouflaged as defined by this chapter. Appropriate camouflaging is determined on a site-specific basis, taking into account existing structures and natural features both on and surrounding the site. When considering surrounding features that the facility is designed to reflect, nonconforming structures shall not be considered~~; nor shall structures such as utility poles, signs, smoke stacks, mechanical equipment, utility substations, other wireless-based structures or similar features that contribute to visual clutter of an area be used to determine an acceptable camouflage technique~~. In all zones, towers shall be camouflaged using the least visually and physically intrusive facility that is not technologically impracticable under the facts and circumstances. Camouflaging for new towers and base stations shall include the following:

a. Landscaping. Landscaping is an element of camouflage. Landscaping, as described herein, shall be required to buffer ~~personal~~ wireless ~~service~~ facilities to soften the appearance of the cell site. The city may permit any combination of existing vegetation, topography, walls, decorative fences or other on-site features instead of landscaping, if they achieve the same degree of screening as the required landscaping.

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If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

b. Buffers. The visual impacts of ~~a personal~~ wireless ~~service~~ facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping requirements. The following landscaping and buffering shall be required around the perimeter of the tower and accessory structures:

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

ii. A continuous hedge at least thirty-six inches high at planting capable of growing to at least forty-eight inches in height within eighteen months shall be planted in front of the tree line referenced above.

iii. To the extent feasible, the tower or mount shall be placed amongst and adjacent to the drip line of three or more ~~evergreen~~ trees at least seventy-five percent of the height of the facility.

iv. An automatic irrigation system providing irrigation as needed according to plant type, season and maturity of plantings.

c. Continued Maintenance. Applicant shall have a continuing obligation to maintain the landscaping improvements. In the event that landscaping is not maintained at the required level, the city after giving thirty days' advance written notice may maintain or establish the landscaping and bill both the owner and lessee for such costs until such costs are paid in full, or may seek enforcement through any available remedy.

d. Trees—Recording of Conditions. To ensure that trees associated with camouflaging and screening are preserved, the following note shall be recorded on the property title:

All trees within 50 feet of the ~~telecommunications~~ wireless facility located on this property, which serve to screen the ~~telecommunications~~ wireless facility, shall be retained for the life of the ~~telecommunications~~ wireless facility. Screening trees may only be removed if deemed diseased or dangerous by a certified arborist. Before any trees can be removed a report from the certified arborist shall be submitted to the City for review and approval. Unless approved by the City, only that portion of the tree required to remove the hazard can be removed. The City may require the trees to be replaced by the telecommunication provider.

8. Stealth Requirements. Any facility in or within three hundred feet of residential zoning district or protected area must be concealed within a stealth structure unless otherwise approved through a wireless conditional use permit. Stealth structures shall be designed as follows:

a. The stealth camouflage structure or facility must be compatible with surrounding development by being either similar in height to surrounding structures or a sufficient distance from surrounding structures to create a significant visual separation.~~;~~

b. Stealth designs shall reflect features that are indigenous to the area. ~~For example,~~

c. ~~T~~towers designed to look like trees shall~~must~~ be tree types that naturally or commonly occur in the surrounding neighborhood or district, shall be located within one hundred feet of existing trees, and shall not exceed the average height of nearby trees by more than ~~ten percent or tenthirty~~ feet~~, whichever is higher.~~ Towers that only add artificial branches, limbs, or other vegetative features while still maintaining the appearance of a standard tower are not considered stealth designs.

d. Towers designed to look like buildings or structures must be of a design that reflects local architecture or structure types. Towers designed to look like steeples on church shall be of a height and scale proportional to the building design (other churches in the area can provide examples of acceptable proportions between the size of the steeple and the size of the church buildings);

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ee. ~~Stealth designs look reasonably similar to the items they intend to mimic. For example,~~ Ttowers designed to look like flag poles shall be tapered and have the common dimensions of flag poles, both in height and girth, and shall fly at least one flag ~~on a regular basis~~. ~~Towers designed to look like steeples on churches are of a height and scale proportional to the building design. (Other churches in the area can provide examples of acceptable proportions between the size of the steeple and the size of the church buildings.);~~

fd. After completion of construction, the antennas, towers and related facilities will be maintained within the stealth structure so as to be concealed from view or be viewed as the camouflaging stealth structure; and

ge. The administrator may impose other conditions or mitigations reasonably related to such structures as warranted by special conditions of the subject property and the type of camouflaging structure, including but not limited to additional or supplemental setback requirements, maintenance requirements, and other measures intended to accomplish the purposes of this chapter and section.

9. Antenna Criteria. Antennas~~, including small cell facilities not located within the right-of-way or on utility poles,~~ on or above a structure shall be subject to the following:

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

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

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

d. Future or multiple installations of antennas shall ensure balance and symmetry when placing additional antennas on the façade of the building.

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

fe. ~~On buildings thirty feet or less in height, t~~The antenna may be mounted on the roof if the following additional criteria are satisfied:

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

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

iii. No portion of the antenna may exceed sixteen feet above the height of the existing building.

iv. If the antenna is placed on the roof or above the top of a building, it shall provide a minimum setback equal to the height of the panel antenna from the rooftop edge.

v. Antenna, antenna arrays, and support structures shall not extend more than sixteen feet above the highest point of the structure on which they are mounted. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to comply with applicable building code standards. The antenna, antenna array, and their support structure shall be a color that matches the field or trim color of the structure on which they are mounted.

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

11. Equipment Structures. The standards for equipment structures (base stations) are as follows:

a. Ground Structure.

i. The maximum floor area is five hundred square feet and the maximum height is twelve feet, unless the applicant demonstrates that a larger area and/or increased height is necessary to accommodate the proposed facility and possible co-location.

ii. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other city ordinances.

iii. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures, including building form, materials and color.

b. Roof Mounted Structure.

i. Equipment buildings mounted on a roof shall be designed to match and be integrated into the exterior design and materials of the building. Equipment for roof mounted antenna may also be located within the building on which the 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. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

B. Small ~~cell~~wireless facilities ~~located within the public right-of-way or on utility poles~~ shall comply with the following standards:

1. Height. ~~On utility poles, the s~~Small ~~cell~~wireless facilities shall conform to the following height limitations:~~ty shall not increase the height of the pole by more than six feet, and shall not exceed the maximum height for the zoning district it is located in according to YMC 15.29.070 (2).~~

a. are mounted on structures 50 feet or less in height including antennas, or

b. are mounted on structures no more than 10 percent taller than other adjacent structures, or

c. do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

2. Size. ~~Each small cell facility shall be located in an enclosure not greater than seventeen cubic feet in volume. Associated conduit, mounting bracket, or extension arm, electric meter, concealment, telecommunications demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power switch, and cut-off switch may be located outside the primary equipment enclosure(s) and are not included in the calculation of equipment volume. Each antenna shall be located inside an antenna enclosure of not more than three cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements shall fit within an imaginary enclosure of not more than three cubic feet.~~Small wireless facilities shall meet the following size limitations:

a. Each antenna associated with the deployment~~, including all exposed elements,~~ is no more than three cubic feet in volume;

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b. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.

3. Color. The color of the facility, including both antennas and equipment, shall blend in with the structure in which it is being attached to or integrated with, to the extent technically feasible.

~~a.~~ Antennas, brackets, and cabling shall match or be compatible with the color of the equipment, which shall match or be compatible with the color of the structure it is being attached to as closely as possible.

4. Lighting. Small ~~cell~~ wireless facilities shall not be illuminated.

~~6~~5. Noise. Small ~~cell~~wireless facilities, along with their associated equipment cabinets and other structures, shall not generate noise to a degree that they violate YMC 6.04.180. Passive cooling of facilities is encouraged.

6. All equipment must be pole mounted. If it is technically infeasible to pole-mount all of the equipment to meet the criteria herein, then equipment may be ground-based in the right-of-way pursuant to the following standards:

a. Any necessary ground-based equipment in an undergrounded area shall be undergrounded.

b. Ground-based equipment not located in an undergrounded area should be undergrounded. If it is technically infeasible to underground the ground-based equipment or to pole-mount the equipment in compliance with the maximum size standards of this section, the ground-based equipment may be located fully or partially above grade; provided, that: (i) the volume of ground-based equipment that is located above grade shall not exceed a maximum of 28 cubic feet; (ii) the ground-based equipment shall be aesthetically compatible with other above-grade utilities (e.g. signal boxes, electrical equipment, etc.) that are located within 600 feet of the pole; and (iii) the ground-based equipment shall not encroach into any areas of required sidewalk.

7. Antenna(s) and equipment shall not constitute an obstruction and shall comply with all applicable codes, laws (including the Americans with Disabilities Act), standards and regulations. In the event of a conflict between these design standards and any applicable health and safety codes, such health and safety codes shall govern, but only to the minimum extent necessary to avoid a violation.

~~5. Camouflage Requirements. All new small cell facilities, and major modifications to small cell facilities, shall be camouflaged as defined by this chapter. Appropriate camouflaging is determined on a site-specific basis, taking into account existing structures and natural features both on and surrounding the site. The color of the facility, including both antennas and equipment, shall blend in with the structure in which is it being attached to or integrated with.~~

~~a. Antennas, brackets, and cabling shall match the color of the equipment, which shall match the color of the structure it is being attached to as closely as possible.~~

15.29.080 Site selection standards.

The following site selection standards shall apply to all wireless facilities outside of the right-of-way, except for small wireless facilities proposed on an existing or replocacted pole.

~~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.~~

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~~B. Discouraged Areas in B-2 and SCC Zoning Districts. New antennas 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.~~

A. An applicant for a wireless facility, other than a small wireless facility in the ROW, that wishes to locate in ~~these areas~~ Protected Area or a Discouraged Area shall demonstrate that a diligent effort has been made to locate the proposed ~~communications~~ wireless 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, site availability, and technological feasibility, no more appropriate location is available. Such antennas, antenna equipment, 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 may~~are~~ also be 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~~B. 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~~C. 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~~D. 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:

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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~~ Wireless 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. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

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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 standards. If the owner fails to bring its tower into compliance within thirty days, the city may remove the tower at the owner's expense.

C. ~~Data Transmission~~ Compliance with RF Standards. ~~Towers shall be constructed to applicable Electronic Industry Association (EIA) standards, which may be amended from time to time. Further, any improvements or additions to existing towers shall require submission of site plans stamped by a professional engineer that demonstrate compliance with the EIA standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.~~

No ~~personal~~ wireless service provider or lessee shall fail to assure that its antenna complies at all times with the current applicable Federal Communications Commission (FCC) radio frequency (RF) emission standards.

~~D. Inspection Report Filing. Within sixty days of any required safety inspection performed in accordance with EIA and FCC standards, the facility operator shall file a copy of the report with the city. Each year after the facility becomes operational the facility operator shall file with the city a copy of maintenance reports for the prior twelve months.~~ (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.100 Wireless conditional use permit criteria.

A. Uses Requiring ~~Cellular~~ Wireless Conditional Use Permit. Any wireless facility listed in Table 29-1 as a wireless conditional use permit (wireless CUP) requires submittal of a wireless CUP application as described in YMC 15.29.050. Wireless CUPs require a public hearing before the hearing examiner and final approval by the hearing examiner.

B. Criteria for Granting ~~Cellular~~ Wireless Conditional Use Permit. Before any conditional use may be granted, the hearing examiner must find that:

1. The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed use or in the district in which the subject property is located;

2. The proposed use shall meet or exceed the performance standards that are required in the zoning district the proposed use will occupy;

3. The proposed development shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design;

4. The proposed use shall be in keeping with the goals and policies of the comprehensive land use policy plan; and

5. All reasonable and practicable measures have been taken to minimize the possible adverse impacts which the proposed use may have on the area in which it is located.

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C. Authority to Impose Conditions. The hearing examiner may impose any conditions necessary to address identified impacts associated with the proposed wireless facility and ensure that the facility is compatible with surrounding development. The hearing examiner may:

1. Increase requirements in the standards, criteria or policies established by this title;

2. Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic;

3. Require structural features or equipment essential to serve the same purpose set forth above;

4. Impose conditions similar to those set forth in subsections (C)(2) and (3) of this section as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters; provided, the hearing examiner may not, in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use or otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;

5. Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses within the general area in which the use is proposed to be located;

6. Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need; and

~~7. Require the posting of construction and maintenance financial security sufficient to secure to the city one hundred fifty percent of the estimated cost of construction and/or installation and fifteen percent maintenance of required improvements.~~

~~D. Required Condition of Approval. The decision shall include a condition that building permits not be issued until financial security is provided pursuant to YMC 15.29.060(H). This requirement applies whether specifically stated in the decision or not.~~

~~E~~D. Conditional Use Permits—Effect of Hearing Examiner Decision. The decision of the hearing examiner on a conditional use permit shall be final and conclusive with right of appeal to the city council in accordance with YMC 16.08.030. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.110 Wireless height variance.

A. Applicability. ~~A cellular~~ wireless height variance is required for any major modification to an existing tower, antenna, or base station or construction of a new tower, antenna, or base station that requires a height in excess of height limits defined in YMC 15.29.070(2).

B. Criteria for Granting Wireless Height Variance. The hearing examiner shall have the authority to grant a variance from the maximum height allowed for a tower, antenna or base station when, in his/her opinion, the conditions as set forth herein have been found to exist. A wireless height variance is subject to:

1. Compliance with standard wireless permit standards of YMC 15.29.120(D);

2. Standard variance procedures in Chapter 15.21 YMC (not including review criteria); and

3. All of the following criteria must be met:

a. The additional height is necessary to provide adequate service ~~to the residents of the city~~ and no other alternative is available;

b. A significant portion of the tower and related facilities are screened by existing evergreen trees or existing structures;

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c. Strict application of current height limits would deprive a tower or antenna operator from achieving the minimum height required to meet the proven ~~communications~~ wireless need;
d. The structure for which the variance is requested is in harmony with the general purpose and intent of this chapter;
~~e. There are special circumstances applicable to the subject property such as shape, topography, location, or surroundings that prevent the operator from achieving the minimum height required to meet the proven communications need;~~
~~f~~e. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity;
~~g~~f. Any visual impacts will be mitigated to the greatest extent possible using camouflage, stealth or screening as defined by this chapter;
~~h~~g. The location of the tower and antenna has been chosen so as to minimize the visibility of the facility from residentially zoned land and to minimize the obstruction of scenic views from public properties; and
~~i~~h. The variance is the minimum necessary to grant relief to the applicant.

C. Decision. Based upon the information provided by the applicant, the results of the ~~balloon test and~~ visual impact analysis, and findings of compliance or noncompliance with the criteria set forth herein, the examiner may:

1. Approve an application for a variance, which may include additional requirements above those specified in this title or require modification of the proposal to comply with specified requirements or local conditions; or

2. Deny a variance if the proposal does not meet or cannot be conditioned or modified to meet subsection B of this section.

D. Burden of Proof. The applicant has the burden of proving that the proposed wireless height variance meets all of the necessary criteria ~~in subsection B of this section~~. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.120 Application review process.

A. Preapplication Meeting. To expedite review of applications, a preapplication meeting with the administrator is strongly encouraged. The preapplication meeting will help the applicant determine what permits may be required for his or her proposed wireless facility, what additional information or studies may help in the review of the application, and what stealth and/or camouflaging techniques might be appropriate for the site. The administrator may help to identify protected areas and may also suggest vantage points from which a visual impact assessment should be based.

B. Review for Completeness. The administrator shall review each application for completeness as specified in YMC 15.29.050 and 47 CFR Section 1.6003. After review of the application, the administrator shall issue a determination of completeness or incompleteness in accordance with Chapter 16.04 YMC. In addition to information required for a complete application, the administrator may request additional information from the applicant to review the proposal and determine compliance with the provisions of this chapter. Except for the timelines specified in subsection C of this section for applications to modify an existing wireless facility or base station, or an application for small wireless facilities in the ROW, such administrative review, processing and issuance of administrative permits shall comply with the city's timelines and procedures governing review and issuance of administrative permits in Chapter 16.04 YMC.

C. Modification Permit Review. Applications for modifications to existing wireless facilities or base stations shall be reviewed as follows:

1. Determination of Major or Minor Modification. Within forty-five days of receipt of a complete application for modification, the administrator shall review and issue a written determination as to whether the requested modification is deemed a major or minor modification under the provisions of YMC 15.29.060(A). The administrator may request additional information from the applicant or any other entity to assist in this determination.

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2. Finding of No Substantial Change—Minor Modification. If the modification is deemed by the administrator to be a minor modification under the provisions of YMC 15.29.060(A), the administrator shall issue a modification permit, which may include conditions necessary to achieve compliance with the provisions of this section. Issuance of the modification permit shall occur within forty-five days after receipt and approval of a complete application for a modification permit.

3. Finding of Substantial Change—Major Modification. If the administrator determines that such application constitutes a substantial change to the physical dimensions of an existing wireless tower or base station, the administrator shall issue a written determination that the change is a major modification and direct the applicant to submit the appropriate application(s) as specified in Table 29-1 and YMC 15.29.050.

D. Standard Wireless Permit Review. Standard wireless applications apply to all new wireless facilities and base stations and to major modification of all existing wireless facilities and base stations. Standard wireless applications shall be reviewed as follows:

1. Administrative Decision. All standard ~~cellular~~ wireless applications shall be subject to administrative review and decision unless they require an associated wireless conditional use permit or variance as specified in Table 29-1 or Table 29-1.5.

2. Camouflaging/Stealth Review. Except for small wireless facilities, t~~T~~he administrator shall review the proposed method of camouflaging or stealth against conditions on or surrounding the site as follows:

a. The administrator shall consider how proposed design of the tower, placement on the site, topography of and surrounding the site, color, structures on and surrounding the site, and natural features on and surrounding the site help to blend the wireless facility into its setting.

b. The administrator may require a visual impact assessment as described in YMC 15.29.130 based upon lines of sight or vantage points identified by the administrator.

c. The administrator shall determine if the proposed camouflaging or stealth reasonably integrates the wireless facility into its setting. The administrator may impose conditions to ensure that the facility achieves this objective.

3. Compliance with Standards. The administrator shall review the proposal against all other standards of this chapter including, but not limited to, height, setbacks, color, design, lighting, landscaping, screening, and co-location capacity. If any items are found to be not in compliance, the administrator shall notify the applicant and direct him or her to either submit within two weeks, or other period of time deemed reasonable by the administrator considering the scope and complexity of the required revision, revised plans to address the compliance issue, or direct the administrator to render a decision on the application as submitted.

4. Written Decision. The administrator shall issue a written decision on the application within the time frame specified in Chapter 16.07 YMC, identifying any items not in compliance with this chapter, and including any conditions necessary to achieve compliance. ~~The decision shall include a condition that building permits not be issued until financial security is provided pursuant to YMC 15.29.060(H).~~

5. Appeals. The determination or decision of the administrator on any application under this chapter shall constitute an administrative decision subject to appeal pursuant to Chapter 16.08 YMC.

E. Wireless Conditional Use Permit Review. Wireless conditional use permit applications shall be reviewed as follows:

1. Submittal of Application. An application for a conditional use permit under this chapter shall be submitted to the administrator, who shall review such application for completeness and compliance with filing requirements under this chapter and applicable codes of the city, in accordance with the provisions and procedures of YMC 1.43.090 and YMC Title 16.

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2. ~~Balloon Tests and~~ Visual Impact Assessment. The administrator shall instruct the applicant on the requirements for ~~both~~ a ~~balloon test and~~ visual impact assessment~~. The administrator may provide input on both the timing of the balloon test and the desired vantage points from which the visual impact assessment will be based~~. ~~Both t~~The ~~balloon test and~~ visual impact assessment shall be completed prior to the scheduled public hearing.

3. Additional Reports and Third-Party Review. The administrator shall have authority to request additional information and reports from the applicant necessary to facilitate analysis of the proposal, including but not limited to third-party review in accordance with YMC 15.29.140 and reports, surveys and tests as provided in this chapter, when the administrator, in his or her sole discretion, deems such additional information necessary or appropriate to fully assess the impact of the proposal and any reasonable alternatives, to address mitigation measures identified in SEPA, NEPA or other environmental reviews, to address issues of site screening or other measures to mitigate impacts upon the surrounding neighborhood, or to address any other impact to the life, health, safety of persons, or quiet enjoyment of property, identified by the administrator as likely, with reasonable probability, to result from the proposed project.

4. Scheduling for Hearing. Upon the administrator's determination that the application is complete and in compliance with filing requirements of this chapter, and that required ~~balloon tests~~, visual impact assessments and other required reports have been finalized, the administrator in coordination with the hearing examiner shall be responsible for assigning a date for and assuring due notice of public hearing for each application, which date and notice shall be in accordance with the provisions of YMC Title 16.

5. Hearing Examiner—Procedures—Factors. When considering an application for a conditional use permit, the hearing examiner shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing this use.

F. Wireless Height Variance Review. A wireless height variance shall be processed as follows:

1. Procedures and Applicable Criteria. A wireless height variance shall be reviewed under the procedures described in Chapter 15.21, except that the hearing examiner shall apply the criteria for review and approval defined in this chapter.

2. ~~Balloon Tests and~~ Visual Impact Assessment. The administrator shall instruct the applicant on the requirements for ~~both~~ a ~~balloon test and~~ visual impact assessment~~. The administrator may provide input on both the timing of the balloon test and the desired vantage points from which the visual impact assessment will be based. Both the balloon test and visual impact assessment~~ which shall be completed prior to the scheduled public hearing.

3. Third-Party Review. Applications for variance may also require third-party review as described in YMC 15.29.140.

4. Hearing Examiner Decision. The hearing examiner shall determine whether the proposed variance complies with the criteria for a variance in YMC 15.29.110, and that the proposed wireless facility complies with all other standards of this chapter. If the examiner finds that the proposal does not comply with the criteria for a variance he shall deny the variance and associated wireless facility. If the examiner finds that the proposal complies with the criteria for a variance and with all other development standards of this chapter, he shall approve the variance and the associated wireless facility. The examiner may impose any conditions necessary to ensure compliance with all standards. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.130 ~~Balloon tests~~ Visual impact assessments.

A. ~~Balloon Test. Where a balloon test is required, the applicant shall, prior to the public hearing on the application, hold a balloon test. The applicant shall arrange to fly, or raise upon a temporary mast, a brightly colored balloon that is representative in size of the initial antenna array including all standoffs, at the maximum height of the proposed tower. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised by the applicant seven and fourteen days in advance of the first test date in a~~

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~~newspaper with a general circulation in the city. The applicant shall inform the city, in writing, of the dates and times of the test, at least fourteen days in advance. The balloon shall be flown for at least seventy-two consecutive hours on the dates chosen. At least twenty-four hours of this time shall be on a weekend. No trees shall be removed to conduct the balloon test. A report with pictures from various locations of the balloon shall be provided with the application. Photos of the balloon test from three locations located approximately three hundred feet from the base of the proposed tower and spaced evenly in a circumference around the proposed tower and three locations located approximately one-quarter mile from the base of the proposed tower shall be submitted within two weeks after the commencement of the balloon test.~~

~~B~~A. Visual Impact Assessment. A visual impact assessment with photo-simulation of the proposed facility is required for all applications that require a conditional use permit or variance, and may be required by the administrator for any other application deemed necessary by the administrator to assess visual impacts associated with such application. As part of such application, the applicant shall furnish a visual impact assessment, which shall include:

1. Zone of Visibility Map. If a new tower or substantial modification increasing the height of an existing structure is proposed, a computer generated "zone of visibility map" at a minimum of one-mile radius from the proposed structure~~, with and without foliage, shall~~ may be provided to illustrate locations from which the proposed installation may be seen.

2. Photo-Simulations. Pictorial representations of "before and after" (photo-simulations) views from key viewpoints within the zone of visibility. Guidance will be provided, concerning the appropriate key sites at the preapplication meeting, as required. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure.

3. Description of Visual Impact. A written description of the visual impact of the proposed facility including, and as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of camouflaging. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.140 Third-party review.

~~Personal w~~Wireless service providers use various methodologies and analyses, including geographically based computer software, to determine the specific technical parameters of their wireless services and ~~low-power mobile radio service~~ facilities, such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. In certain instances, a third-party expert may need to review the technical data submitted by a provider. The city may require a technical review as part of a permitting process for a variance or conditional use permit. The costs of the technical review shall be borne by the provider.

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

1. The accuracy and completeness of submissions;
2. The applicability of analysis techniques and methodologies;
3. The validity of conclusions reached; and
4. Any specific technical issues designated by the city. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.150 Nonuse/abandonment.

A. Notice of Abandonment. No less than thirty days prior to the date that a ~~personal wireless service~~ provider plans to abandon or discontinue operation of a facility, the provider must notify the city of Yakima by certified U.S. mail of the proposed date of abandonment or discontinuation of operation. In the event that a ~~licensed carrier~~provider fails to give notice, the facility shall be considered abandoned upon the city's discovery of

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discontinuation of operation. Upon such abandonment, the provider shall have sixty days or additional period of time determined in the reasonable discretion of the city within which to:

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

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

3. Dismantle and Remove Facility. If the tower, antenna, foundation, and facility are not removed within the sixty-day time period or additional period of time allowed by the city, the city may remove such tower, antenna, foundation, and related facility at the provider's expense. If there are two or more providers co-locating on a facility, except as provided for in subsection (A)(2) of this section, this provision shall not become effective until all providers cease using the facility; or

~~4. If the small cell facility is located on a utility pole owned by the City, the small cell facility shall be removed from the utility pole. If damage is caused to the pole as a result of the existence and/or removal of the small cell facility, the provider shall be responsible for all costs of repair and/or replacement of the utility pole. Further, if damage is done to the right-of-way as a result of the removal of a small cell facility located within a City right-of-way, provider shall be responsible for all costs of repair and/or replacement of the right-of-way area.~~.Small cell wireless facilities shall be removed from utility poles pursuant to the right-of-way use permit, YMC 8.20, and/or any agreement between the provider and the City.

B. Expiration of Approval. At the earlier of sixty days from the date of abandonment without reactivating or upon completion of dismantling and removal, city approval for the facility shall automatically expire. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.160 Transfer of ownership.
A conditional use permit runs with the land; compliance with the conditions of any such permit is the responsibility of the current owner of the property, whether that is the applicant or a successor. No permit for which a financial security is required shall be considered valid during any time in which the required financial security is not posted. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.170 Vacation of permits.
A. Any permit issued pursuant to this chapter may be vacated upon approval by the current landowner; provided, that:

1. The use authorized by the permit does not exist and is not actively being pursued; or
2. The use has been terminated and no violation of terms and conditions of the permit exists.

B. Requests to vacate a permit shall be made in writing to the zoning code administrator who shall determine if the above conditions are present prior to authorizing the vacation. Vacation of any permit shall be documented by the filing of a notice of land use permit vacation on a form provided by the community development department with the city. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.180 Violation—Penalty.
Compliance with the requirements of this code shall be mandatory. Any violation of the provisions of this chapter shall be a misdemeanor subject to the penalties and remedies established in YMC 6.02.050. Additionally, any

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violation of the provisions of this chapter, and any installation and/or operation of any structure in violation of the provisions of this chapter, shall be deemed a public nuisance and violation subject to penalties and remedies available under state law and city codes. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies of Chapter 6.02 YMC and the public nuisance penalties and remedies available under state law and city codes. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.190 Relief, waiver, exemption.
Any applicant desiring relief, waiver or exemption from any aspect or requirement of this chapter may request such, pursuant to and in compliance with the applicable provision on general variances as contained in Chapter 15.21 YMC; provided, that the relief or exemption is contained in the submitted application for permit or, in the case of an existing or previously granted permit, a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the city, its residents and other service providers. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.200 Severability.
a. If any word, phrase, sentence, part, section, subsection, or other portion of this chapter or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional, or invalid shall remain in full force and effect.

b. Any permit issued under this chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the city. (Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2013-051 § 2 (Exh. A) (part), 2013.

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CITY PLANNING – WIRELESS COMMUNICATIONS FACILITIES (YMC CH. 15.29) TXT#002-19 & SEPA#026-19

EXHIBIT LIST

CHAPTER D
Public Comments

DOC INDEX #	DOCUMENT	DATE
D-1	Comment Letter from Paul Gonseth, WSDOT	07/15/2019
D-2	Email Comments from Debi Freudenthal, WSDOT	07/17/2019
D-3	Comment Letter from Kim Allen, Wireless Policy Group	07/24/2019

WPG WIRELESS POLICY GROUP LLC

July 24, 2019

Via email to Joe Calhoun, Staff Liaison
mailto:joseph.calhoun@yakimawa.gov

Yakima Planning Commission
Patricia Byers (Chair)
Jacob Liddicoat (Vice-Chair)
Bill Cook
Al Rose
Leanne Hughes-Mickel
Philip Ostriem
Robert McCormick

Re: Yakima Wireless Code Update-Planning Commission Meeting 7-24-2019

Dear Chair Byers and Commissioners-

On behalf of Verizon Wireless, thank you for the opportunity to comment. We appreciate the work that the city is now doing to comply with the recent FCC Order, "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order (September 26, 2018)" which contains extensive new requirements for regulating small wireless facilities in the right of way. Staff has been very responsive in addressing other technical and logistical issues during the planning commission process, especially in the area of small wireless technology.

Verizon supports the direction of the draft code, as presented, with a few remaining issues:

- Section 15.29.060(H) requires cooperative testing with the Washington Department of Transportation for potential interference and to submit proof of such testing to the Planning Department. Both the city and the state lack the

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authority to regulate radio frequency interference. The Federal Communications Commission ("FCC") has the exclusive authority to regulate radio frequency interference ("RFI"), and local regulations that require a wireless applicant to demonstrate that its facilities will not cause RFI are preempted by federal law, as are conditions of project approval requiring remediation of any resulting RFI. New York SMSA Limited Partnership v. Town of Clarkstown, 612 F.3d 97, 105 (2nd Cir. 2010).

- The definition of "tower" could arguably be applied to new poles constructed to support small wireless facilities. Verizon requests that language be added to clarify that new support structures for small wireless facilities are not considered towers.

- Section 15.29.130A(1) states that a computer generated "zone of visibility" map for new towers may be required to show within a one mile radius where the tower can be seen. To date, there is no software available to create such a map and no recognized consultants that can assist. Verizon requests that this section be deleted.

Thank you for the chance to comment and we appreciate the opportunity to work with the City to develop a FCC compliant code that preserves the look and feel of your community, while providing an efficient and workable process to deliver the quality service your residents, visitors and businesses have come to expect.

Sincerely,

Kim Allen, Senior Vice President
Wireless Policy Group, LLC on behalf of Verizon Wireless

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Maxey, Lisa

From: Calhoun, Joseph
Sent: Thursday, July 18, 2019 8:20 AM
To: Maxey, Lisa
Subject: FW: City of Yakima Wireless

For the YPC packet.

Joseph Calhoun

From: Freudenthal, Debra [mailto:FreudeD@wsdot.wa.gov]
Sent: Wednesday, July 17, 2019 11:12 AM
To: Calhoun, Joseph <Joseph.Calhoun@YAKIMAWA.GOV>
Cc: Gruber, John <GruberJ@wsdot.wa.gov>; Gonseth, Paul <GonsetP@wsdot.wa.gov>; Hoffman, Walt <HoffmaW@wsdot.wa.gov>
Subject: RE: City of Yakima Wireless

Joseph,
Since WSDOT submitted our comments on the proposed wireless facility code which were generally based on past interference issues experienced with companies operating on the same band as public safety, we have re-reviewed and revised our practices and policies and want to revise our initial comments. Below is the recommended language to incorporate into the proposed code update as WSDOT believes that generally, additional coordination with state/city/county communications is sufficient regardless of location and proximity to a state highway.

Any new facilities proposed shall provide to WSDOT and local public safety agencies contact information including their local field engineer/technicians, proposed operating frequencies and turn-on date. Proponents agree to cooperative testing and reasonable efforts to mitigate interference as required such as the addition of protective devices and/or filters, as needed. A copy of the completed testing, including any required WSDOT conditions, shall be provided to the Planning Division.

Thank you for your outreach and consideration. Please let us know if you have any questions.

Debi Freudenthal
Transportation Planning Specialist
WSDOT South Central Region Planning Office
2809 Rudkin Road, Union Gap, WA 98903
509-577-1633

From: Gonseth, Paul <GonsetP@wsdot.wa.gov>
Sent: Tuesday, July 16, 2019 11:05 AM
To: Gruber, John <GruberJ@wsdot.wa.gov>
Subject: FW: City of Yakima Wireless

Please review

From: Calhoun, Joseph <Joseph.Calhoun@YAKIMAWA.GOV>
Sent: Tuesday, July 16, 2019 10:55 AM

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To: Gonseth, Paul <GonsetP@wsdot.wa.gov>
Subject: City of Yakima Wireless

Paul,

I received your comment on our proposed changes to YMC Ch. 15.29. Please see the draft language below which would be put into our development standards, and let me know if that is satisfactory:

H. Facilities within 500-feet of Interstate 82, US Highway 12, and State Route 24. Any new facilities proposed in these areas shall complete cooperative testing with the Washington State Department of Transportation (WSDOT) to identify any problems that may be corrected though the installation of specific protective or interference devices. A copy of the completed testing, including any required WSDOT conditions, shall be provided to the Planning Division.

Thanks,

Joseph Calhoun
Planning Manager

City of Yakima
509-575-6042
joseph.calhoun@yakimawa.gov

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Washington State Department of Transportation

South Central Region
2809 Rudkin Road
Union Gap, WA 98903-1648
509-577-1600 / FAX: 509-577-1603
TTY: 1-800-833-6388
www.wsdot.wa.gov

July 11, 2019

RECEIVED
JUL 15 2019
CITY OF YAKIMA
PLANNING DIV

City of Yakima Planning Department
129 North Second Street, 2nd Floor
Yakima, WA 98901

Attention: Joseph Calhoun, Planning Manager

Subject: Amend Yakima Municipal Code, Text#002-19 and SEPA#026-19, YMC Chapter 15.29 Wireless Communication Facilities

We have reviewed the proposed municipal code changes regarding wireless communication facilities and have the following comments.

As a public safety agency, WSDOT assists with the response to emergencies in which life and property are threatened. Some communications facilities operate at frequencies that interfere with our radio system. Because of this, there is the potential for reception problems for our mobiles operating in those areas.

To prevent potential interference between the two systems, we suggest adding development standards to require subsequent proponents of new facilities or co-location near (within 500 feet) the Interstate 82, US Highway 12 and State Route 24 corridors to complete cooperative testing with the WSDOT to identify any problems that may be corrected through the installation of specific protective or interference devices. The applicants should contact Walt Hoffman of the WSDOT - South Central Region Office at (509) 577-1980 to discuss any potential interference and coordinate any testing.

Thank you for the opportunity to review and comment on this proposal. If you have any questions regarding our comments, please contact John Gruber at (509) 577-1636.

Sincerely,

Paul Gonseth, P.E.
Planning Engineer

PG: jg/df

cc: Kara Shute, WSDOT Area 3 Maintenance Superintendent
Walt Hoffman, WSDOT Senior Telecommunications Specialist

P:\459005\Comp Plans\Yakima County\YakCity wirelessCode.docx

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CITY PLANNING – WIRELESS COMMUNICATIONS FACILITIES (YMC CH. 15.29) TXT#002-19 & SEPA#026-19

EXHIBIT LIST

CHAPTER E
Public Notices

DOC INDEX #	DOCUMENT	DATE
E-1	**Notice of Application, SEPA, Pubic Hearing & Preliminary DNS** **E-1a**: Legal Notice **E-1b**: Press Release and Distribution Email **E-1c**: Parties and Agencies Notified **E-1d**: Affidavit of Mailing	06/28/2019
E-2	**YPC Agenda and Packet Distribution List**	07/17/2019
E-3	**Notice of Retention of Determination of Non-Significance** **E-3a**: Parties and Agencies Notified **E-3b:** Affidavit of Mailing	07/19/2019
E-4	**YPC Agenda & Sign-In Sheet**	07/24/2019
E-5	**Notice of Yakima Planning Commission's Recommendation** (See DOC INDEX#AA-1 for YPC Recommendation) **E-5a**: Parties and Agencies Notified **E-5b:** Affidavit of Mailing	08/06/2019
E-6	**Letter of Transmittal to City Clerk: City Council Hearing** (mailing labels, site plan, and vicinity map)	08/21/2019

CITY OF YAKIMA, PLANNING DIVISION

LETTER OF TRANSMITTAL

I, Lisa Maxey, as an employee of the City of Yakima, Planning Division, have transmitted to: Sonya Claar-Tee, City Clerk, by hand delivery, the following documents:

1. Mailing labels for **CITY PLANNING – WIRELESS COMMUNICATIONS FACILITIES (YMC CH. 15.29) (TXT#002-19 & SEPA#026-19)** including all labels for parties of record and SEPA agencies.

Signed this **21st** day of **August, 2019.**

Lisa Maxey

Lisa Maxey
Planning Technician

Received By: Sonya Claar

Date: 8/21/19

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Ahtanum Irrigation District Beth Ann Brulotte, Executive Assistant 10705-B Gilbert Road Yakima, WA 98903-9203 bethb@ahtanum.net	Cascade Natural Gas 8113 W Grandridge Blvd Kennewick, WA 99336	Century Link Manager 8 South 2nd Ave, Rm#304 Yakima, WA 98902
Charter Communications Kevin Chilcote 1005 North 16th Ave Yakima, WA 98902	City of Union Gap Dennis Henne, Development Director P.O. Box 3008 Union Gap, WA 98903 Dennis.henne@uniongapwa.gov	Chamber of Commerce 10 North 9th Street Yakima, WA 98901 chamber@yakima.org
Department of Agriculture Kelly McLain PO Box 42560 Olympia, WA 98504 kmclain@agr.wa.gov	Dept of Archaeology & Historic Preservation 1063 S Capitol Way, Ste 106 Olympia, WA 98504-8343 Sepa@dahp.wa.gov	Department of Commerce Review Team 1011 Plum St SE Olympia, WA 98504-3172 reviewteam@commerce.wa.gov
Department of Ecology Annie Szvetecz, SEPA Policy Lead P.O. Box 47703 Olympia, WA 98504-7703 separegister@ecy.wa.gov sepaunit@ecy.wa.gov lori.white@ecy.wa.gov	Department of Ecology Gwen Clear, Regional Coordinator 1250 West Alder Street Union Gap, WA 98903 crosepacoordinator@ecy.wa.gov	Department of Fish and Wildlife Eric Bartrand 1701 South 24th Ave Yakima, WA 98902 Eric.Bartrand@dfw.wa.gov Scott.Downes@dfw.wa.gov
Department of Fish and Wildlife SEPA Desk PO Box 43200 Olympia, WA 98504 SEPAdesk@dfw.wa.gov	Department of Health Kelly Cooper PO Box 47820 Olympia, WA 98504 Kelly.cooper@doh.wa.gov	Department of Natural Resources SEPA Center PO Box 47015 Olympia, WA 98504 sepacenter@dnr.wa.gov
Department of Social & Health Services Robert Hubenthal Office of Capital Programs P.O. Box 45848 Olympia, WA 98504 Robert.Hubenthal@dshs.wa.gov	Environmental Protection Agency NEPA Review Unit 1200 6th Ave #155 Seattle, WA 98101	Energy Facility Site Evaluation Council -EFSEC Stephen Posner, SEPA Officer PO Box 43172 Olympia, WA 98504-3172 sposner@utc.wa.gov
Engineering Division Bob Desgrosellier 129 N 2nd Street Yakima, WA 98901 bob.desgrosselier@yakimawa.gov	Federal Aviation Administration 2200 W. Washington Ave Yakima, WA 98903	Governor's Office of Indian Affairs PO Box 40909 Olympia, WA 98504
Nob Hill Water Association Bob Irving, Engineering Technician 6111 Tieton Drive Yakima, WA 98908 bob@nobhillwater.org	Office of Rural and Farm Worker Housing Marty Miller 1400 Summitview Ave, Ste# 203 Yakima, WA 98902 Martym2@orfh.org	Pacific Power Mike Paulson 500 North Keys Rd Yakima, WA 98901
Parks & Recreation Commission Jessica Logan PO Box 42560 Olympia, WA 98504 Jessica.logan@parks.wa.gov	Soil Conservation District Ray Wondercheck 1606 Perry Street, Ste. F Yakima, WA 98902	Trolleys Paul Edmondson 313 North 3rd Street Yakima, WA 98901
United States Postal Service Maintenance Department 205 W Washington Ave Yakima, WA 98903	US Army Corps of Engineers Seattle District, Regulatory Branch P.O. Box 3755 Seattle, WA 98124-3755 david.j.moore@usace.army.mil	WA State Attorney General's Office 1433 Lakeside Court, Ste# 102 Yakima, WA 98901

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WA State Dept of Health, Office of Drinking Water Jamie Gardipe 16201 E Indiana Ave, Ste# 1500 Spokane Valley, WA 99216 SEPA.reviewteam@doh.wa.gov Jamie.gardipe@doh.wa.gov	Wastewater Division Marc Cawley or Dana Kallevig 2220 East Viola Ave Yakima, WA 98901 marc.cawley@yakimawa.gov dana.kallevig@yakimawa.gov	West Valley School District Angela Watts, Asst. Supt. Of Business & Operations 8902 Zier Road Yakima, WA 98908-9299 wattsa@wvsd208.org
WSDOT Paul Gonseth, Planning Engineer 2809 Rudkin Road Union Gap, WA 98903 gonsetp@wsdot.gov	WSDOT South Central Regionl Planning Office SCplanning@wsdot.wa.gov	WSDOT, Aviation Division Patrick Wright 7702 Terminal St SW Tumwater, WA 98501 WrightP@wsdot.wa.gov
Yakama Bureau of Indian Affairs Rocco Clark, Environmental Coordinator P.O. Box 632 Toppenish, WA 98948 Rocco.clark@bia.gov	Yakama Nation Environmental Mgmt Program Elizabeth Sanchey, Environmental Review Coordinator P.O. Box 151 Toppenish, WA 98948 esanchey@yakama.com	Yakama-Klickitat Fisheries Project John Marvin 760 Pence Road Yakima, WA 98909 jmarvin@yakama.com
Yakima Air Terminal Robert Peterson, Airport Asst Manager 2400 West Washington Ave Yakima, WA 98903 robert.peterson@yakimawa.gov	Yakima County Building Department Harold Maclean 128 North 2nd Street, 4th Floor Yakima, WA 98901 Harold.Maclean@co.yakima.wa.us	Yakima County Commissioners Commissioners.web@co.yakima.wa.us
Yakima County Health District Ryan Ibach, Director of Environmental Health 1210 Ahtanum Ridge Dr Ste#200 Union Gap, WA 98903 yhd@co.yakima.wa.us ryan.ibach@co.yakima.wa.us	Yakima County Flood Control District Terry Keenhan & Dianna Woods 128 North 2nd Street, 4th Floor Yakima, WA 98901 Terry.Keenhan@co.yakima.wa.us Dianna.Woods@co.yakima.wa.us	Yakima County Planning Lynn Deitrick & Jason Earles 128 North 2nd Street, 4th Floor Yakima, WA 98901 Lynn.Deitrick@co.yakima.wa.us Jason.Earles@co.yakima.wa.us
Yakima County Public Services Lisa Freund, Public Services Director 128 North 2nd Street, 4th Floor Yakima, WA 98901 lisa.freund@co.yakima.wa.us	Yakima Greenway Foundation Kellie Connaughton, Executive Director 111 South 18th Street Yakima, WA 98901 kellie@yakimagreenway.org	Yakama Indian Nation Johnson Meninick, Cultural Resources Program P.O. Box 151 Toppenish, WA 98948 Yakama Indian
Yakama Indian Nation Ruth Jim, Yakima Tribal Council P.O. Box 151 Toppenish, WA 98948	Yakima Regional Clean Air Agency Hasan Tahat, Compliance, Engineering & Planning Division Supervisor 186 Iron Horse Ct # 101 Yakima, WA 98901 hasan@yrcaa.org	Yakima School District Trevor Greene, Superintendent 104 North 4th Ave Yakima, WA 98902
Yakima School District Scott Izutsu , Associate Superintendent 104 N 4th Ave Yakima, WA 98902 izutsu.scott@yakimaschools.org	Yakima-Tieton Irrigation District Sandra Hull 470 Camp 4 Rd Yakima, WA 98908	Yakima Valley Canal Co Robert Smoot 1640 Garretson Lane Yakima, WA 98908
Yakima Valley Conference of Governments Mike Shuttleworth, Planning Manager 311 North 4th Street, Ste# 202 Yakima, WA 98901 Mike.shuttleworth@yvcog.org	Yakima Valley Museum Peter Arnold, Executive Director 2105 Tieton Drive Yakima, WA 98902 peter@yakimavalleymuseum.org	Yakima Waste Systems Keith Kovalenko, District Manager 2812 1/2 Terrace Heights Dr. Yakima, WA 98901 keithk@wasteconnections.com

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Ahtanum Irrigation District Beth Ann Brulotte, Executive Assistant 10705-B Gilbert Road Yakima, WA 98903	Cascade Natural Gas 8113 W Grandridge Blvd Kennewick, WA 99336	Century Link Manager 8 South 2nd Ave, Rm#304 Yakima, WA 98902
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Pacific Power Mike Paulson 500 North Keys Rd Yakima, WA 98901	Soil Conservation District Ray Wondercheck 1606 Perry Street, Ste. F Yakima, WA 98902	Trolleys Paul Edmondson 313 North 3rd Street Yakima, WA 98901
United States Postal Service Maintenance Deptartment 205 W Washington Ave Yakima, WA 98903	US Army Corps of Engineers Seattle District Regulatory Branch P.O. Box 3755 Seattle, WA 98124-3755	WA State Attorney General's Office 1433 Lakeside Court, Ste# 102 Yakima, WA 98902
Yakama Bureau of Indian Affairs Superintendent P.O. Box 632 Toppenish, WA 98948	Yakama Indian Nation Johnson Meninick, Cultural Resources Program P.O. Box 151 Toppenish, WA 98948	Yakama Indian Nation Ruth Jim, Yakima Tribal Council P.O. Box 151 Toppenish, WA 98948
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\\Apollo\Shared\Planning\Assignments-Planning\LABELS and FORMS\SEPA REVIEWING AGENCIES _updated 07.03.19 - Form List.docx

Type of Notice: Ntc of City Council Hearing

File Number: RZ#005/SEPA#018-19

Date of ~~Mailing~~ Hearing: 9/17/19

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Parties of Record – City Planning – Wireless Communications Facilities – TXT#002-19 & SEPA#026-19

Greggory Busch Gregg.busch@wirelesspolicy.com	Monique Sanchez Monique.sanchez@faulkandfoster.com	Chris Baidenmann chris.baidenmann@wirelesspolicy.com
Jason Verduzco jason.verduzco@verizonwireless.com	Meridee Pabst Meridee.pabst@wirelesspolicy.com	Kim Allen Kim.Allen@wirelesspolicy.com
Bridget Pechtel 128 N 2nd St, 4th Fl Yakima, WA 98901	Tommy Carroll 128 N 2nd St, 4th Fl Yakima, WA 98901	Debi Freudenthal FreudeD@wsdot.wa.gov
Paul Gonseth GonsetP@wsdot.wa.gov	John Gruber GruberJ@wsdot.wa.gov	

In-House Distribution E-mail List Revised 04/2019

Name	Division	E-mail Address
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Joe Caruso	Code Administration	Joe.Caruso@yakimawa.gov
John Zabell	Code Administration	John.Zabell@yakimawa.gov
Kelli Horton	Code Administration	Kelli.Horton@yakimawa.gov
Linda Rossignol	Code Administration	Linda.Rossignol@yakimawa.gov
Pedro Contreras	Code Administration	Pedro.Contreras@yakimawa.gov
Suzanne DeBusschere	Code Administration	Suzanne.Debusschere@yakimawa.gov
Vick DeOchoa	Code Administration	Vick.DeOchoa@yakimawa.gov
Joan Davenport	Community Development	Joan.Davenport@yakimawa.gov
Rosalinda Ibarra	Community Development	Rosalinda.Ibarra@yakimawa.gov
Bob Desgrosellier	Engineering	Bob.Desgrosellier@yakimawa.gov
Dan Riddle	Engineering	Dan.Riddle@yakimawa.gov
Tyler Witthuhn	Engineering	Tyler.Witthuhn@yakimawa.gov
Pat Reid	Fire	Pat.Reid@yakimawa.gov
Jeff Cutter	Legal	Jeff.Cutter@yakimawa.gov
Sara Watkins	Legal	Sara.Watkins@yakimawa.gov.
Archie Matthews	ONDS	Archie.Matthews@yakimawa.gov
Joseph Calhoun	Planning	Joseph.Calhoun@yakimawa.gov
Lisa Maxey	Planning	Lisa.Maxey@yakimawa.gov
Scott Schafer	Public Works	Scott.Schafer@yakimawa.gov
Loretta Zammarchi	Refuse	Loretta.Zammarchi@yakimawa.gov
Randy Layman	Refuse	Randy.Layman@yakimawa.gov
Gregory Story	Transit	Gregory.Story@yakimawa.gov
James Dean	Utilities	James.Dean@yakimawa.gov
Dana Kallevig	Wastewater	Dana.Kallevig@yakimawa.gov
Randy Meloy	Wastewater	Randy.Meloy@yakimawa.gov
Dave Brown	Water/Irrigation	David.Brown@yakimawa.gov
Mike Shane	Water/Irrigation	Mike.Shane@yakimawa.gov

Outside Distribution Revised 02/2019

Name	Address	Included In Mailing?
Pacific Power Attn: Estimating Department ***(Subdivision notices ONLY)***	500 N Keys Rd, Yakima, WA 98901	☐ Yes ☑ No

Type of Notice: Ntc of City Council Hearing

File Number: TXT #002 / SEPA #026-19

Date of ~~Mailing~~ Hearing: 9/17/19

DOC. INDEX # E-6

Maxey, Lisa

From: Maxey, Lisa
Sent: Wednesday, August 21, 2019 9:00 AM
To: Claar Tee, Sonya
Subject: City Council Hearing Notice for Wireless Text Amendments TXT#002-19
Attachments: In-House Distribution E-mail List_ updated 08.15.2019; Local Media List _06.19.2019; SEPA Agencies E-mail Distribution List _updated 07.03.19

Hi Sonya,

When you send the public hearing notice, please email it to these distribution lists: In-House Distribution E-mail List _updated 08.15.2019, Local Media List _06.19.2019, and SEPA Agencies E-mail Distribution List _updated 07.03.19.

Please also email it to these parties of record and Planning Commission members:

Gregg.busch@wirelesspolicy.com
Monique.sanchez@faulkandfoster.com
chris.baidenmann@wirelesspolicy.com
jason.verduzco@verizonwireless.com
Meridee.pabst@wirelesspolicy.com
Kim.Allen@wirelesspolicy.com
FreudeD@wsdot.wa.gov
GonsetP@wsdot.wa.gov
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aar7040@gmail.com
silvrfx40@bmi.net
jake@3dyakima.com
leanne.mickel@me.com
patbyers907@msn.com
Philipostriem@gmail.com
rob@mccormickaircenter.com
cook.w@charter.net

I'll bring the mailing labels to you shortly.

Thanks!

Lisa Maxey
Planning Technician
City of Yakima Planning Division
p: 509.576.6669
129 North 2nd Street, Yakima, Washington, 98901

DOC. INDEX # E-6

AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

RE: TXT#002-19 & SEPA#026-19

City of Yakima Planning Division

N/A

I, Lisa Maxey, as an employee of the City of Yakima Planning Division, have dispatched through the United States Mails, a **Notice of Yakima Planning Commission's Recommendation to City Council;** a true and correct copy of which is enclosed herewith; that said notice was addressed to all parties of record; that said parties of record are individually listed on the mailing list retained by the Planning Division, and that said notices were mailed by me on the **6th** day of **August, 2019.**

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.

Lisa Maxey

Lisa Maxey

Planning Technician

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Parties of Record – City Planning – Wireless Communications Facilities – TXT#002-19 & SEPA#026-19

Greggory Busch Gregg.busch@wirelesspolicy.com	Monique Sanchez Monique.sanchez@faulkandfoster.com	Chris Baidenmann chris.baidenmann@wirelesspolicy.com
Jason Verduzco jason.verduzco@verizonwireless.com	Meridee Pabst Meridee.pabst@wirelesspolicy.com	Kim Allen Kim.Allen@wirelesspolicy.com
Bridget Pechtel 128 N 2nd St, 4th Fl Yakima, WA 98901	Tommy Carroll 128 N 2nd St, 4th Fl Yakima, WA 98901	Debi Freudenthal FreudeD@wsdot.wa.gov
Paul Gonseth GonsetP@wsdot.wa.gov	John Gruber GruberJ@wsdot.wa.gov	

In-House Distribution E-mail List Revised 04/2019

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Joe Caruso	Code Administration	Joe.Caruso@yakimawa.gov
John Zabell	Code Administration	John.Zabell@yakimawa.gov
Kelli Horton	Code Administration	Kelli.Horton@yakimawa.gov
Linda Rossignol	Code Administration	Linda.Rossignol@yakimawa.gov
Pedro Contreras	Code Administration	Pedro.Contreras@yakimawa.gov
Suzanne DeBusschere	Code Administration	Suzanne.Debusschere@yakimawa.gov
Vick DeOchoa	Code Administration	Vick.DeOchoa@yakimawa.gov
Joan Davenport	Community Development	Joan.Davenport@yakimawa.gov
Rosalinda Ibarra	Community Development	Rosalinda.Ibarra@yakimawa.gov
Bob Desgrosellier	Engineering	Bob.Desgrosellier@yakimawa.gov
Dan Riddle	Engineering	Dan.Riddle@yakimawa.gov
Tyler Witthuhn	Engineering	Tyler.Witthuhn@yakimawa.gov
Pat Reid	Fire	Pat.Reid@yakimawa.gov
Jeff Cutter	Legal	Jeff.Cutter@yakimawa.gov
Sara Watkins	Legal	Sara.Watkins@yakimawa.gov.
Archie Matthews	ONDS	Archie.Matthews@yakimawa.gov
Joseph Calhoun	Planning	Joseph.Calhoun@yakimawa.gov
Lisa Maxey	Planning	Lisa.Maxey@yakimawa.gov
Scott Schafer	Public Works	Scott.Schafer@yakimawa.gov
Loretta Zammarchi	Refuse	Loretta.Zammarchi@yakimawa.gov
Randy Layman	Refuse	Randy.Layman@yakimawa.gov
Gregory Story	Transit	Gregory.Story@yakimawa.gov
James Dean	Utilities	James.Dean@yakimawa.gov
Dana Kallevig	Wastewater	Dana.Kallevig@yakimawa.gov
Randy Meloy	Wastewater	Randy.Meloy@yakimawa.gov
Dave Brown	Water/Irrigation	David.Brown@yakimawa.gov
Mike Shane	Water/Irrigation	Mike.Shane@yakimawa.gov

Outside Distribution Revised 02/2019

Name	Address	Included In Mailing?
Pacific Power Attn: Estimating Department ***(Subdivision notices ONLY)***	500 N Keys Rd, Yakima, WA 98901	☐ Yes ☑ No

Type of Notice: Ntc of YPC Recommendation

File Number: TXT#002/SEPA#026-19

Date of Mailing: 8/6/19

DOC. INDEX # E-5a

Maxey, Lisa

From:	Maxey, Lisa
Sent:	Tuesday, August 06, 2019 10:52 AM
To:	Belles, Carolyn; Brown, David; Calhoun, Joseph; Caruso, Joe; Contreras, Pedro; Cutter, Jeff; Davenport, Joan; Dean, James; DeBusschere, Suzanne; Denman, Glenn; DeOchoa, Vick; Desgrosellier, Bob; Horton, Kelli; Ibarra, Rosalinda; Kallevig, Dana; Layman, Randy; Matthews, Archie; Maxey, Lisa; Meloy, Randy; Reid, Patrick; Riddle, Dan; Rossignol, Linda; Schafer, Scott; Shane, Mike; Story, Gregory; Watkins, Sara; Witthuhn, Tyler; Zabell, John; Zammarchi, Loretta
Cc:	Calhoun, Joseph; Al Rose; Alfred A. Rose (silvrfx40@bmi.net); Gutierrez, Dulce; Jacob Liddicoat; Leanne Hughes-Mickel; Patricia Byers; Philip Ostriem; Rob McCormick; William Cook (cook.w@charter.net)
Subject:	Notice of YPC Recommendation to City Council - Wireless Communications Facilities - TXT#002-19 & SEPA#026-19
Attachments:	NOTICE OF YPC RECOMMENDATION_City Planning - Wireless Comm Facilities - ....pdf

Attached is a Notice of the Yakima Planning Commission's Recommendation to City Council regarding the above-entitled project. If you have any questions about this proposal, please contact assigned planner Joseph Calhoun at (509) 575-6042 or email to: joseph.calhoun@yakimawa.gov. Thank you!

Lisa Maxey
Planning Technician
City of Yakima Planning Division
p: 509.576.6669
129 North 2nd Street, Yakima, Washington, 98901

DOC. INDEX # E-5a

DEPARTMENT OF COMMUNITY DEVELOPMENT
Joan Davenport, AICP, Director

Planning Division
Joseph Calhoun, Manager
129 North Second Street, 2nd Floor, Yakima, WA 98901
ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

NOTIFICATION OF PLANNING COMMISSION'S RECOMMENDATION TO THE YAKIMA CITY COUNCIL

DATE:	August 6, 2019
TO:	Parties of Record
SUBJECT:	Notice of Yakima Planning Commission's Recommendation to The Yakima City Council
FILE #(S):	TXT#002-19 & SEPA#026-19
APPLICANT:	City of Yakima Planning Division
PROJECT LOCATION:	N/A; Citywide

On August 5, 2019, the City of Yakima Planning Commission rendered their recommendation on **TXT#002-19,** a proposal to amend the City of Yakima's Municipal Code Title 15 Chapter 15.29 Wireless Communications Facilities. The proposed changes include new, revised, and deleted definitions for consistency with FCC regulations and to minimize redundancy; new process and procedure for Small Wireless Facilities on private property and in the public right-of-way; clarification of wireless height variance process and procedure; and clarification of the visual impact assessment language and removal of balloon tests.

A copy of the Planning Commission's Findings and Recommendation is enclosed.

The Planning Commission's Recommendation will be considered by the Yakima City Council in a public hearing to be scheduled. The City Clerk will notify you of the date, time and place of the public hearing.

For further information or assistance you may contact Planning Manager Joseph Calhoun at (509) 575-6042 or email to: joseph.calhoun@yakimawa.gov.

Joseph Calhoun
Planning Manager

Date of Mailing: **August 6, 2019**
Enclosures: Planning Commission's Recommendation

DOC. INDEX # E-5

Yakima 2015 1994

SIGN-IN SHEET

City of Yakima Planning Commission
City Hall Council Chambers
Wednesday July 24, 2019
Beginning at 3:00 p.m.
Public Hearing

PLEASE WRITE LEGIBLY

Indicate agenda item of interest	NAME	MAILING ADDRESS or E-MAIL	ZIP CODE
VII	Greggory Busch	gregg.busch@wirelesspolicy.com	98027
VII	Jason Vanzuco	jason.vanzuco@vanzuco.com	99205
VI	Gary Delaney	40A N. 1ST ST. Yakima	98901
VII	Bridget Deuntel	128 N. 2nd St. 4TH FLOOR	98901
VII	Tommy Carrou	"	"
	Courey Tony	PO Box 10282	
	Ashley Ferreira	aferreira@cwhba.org	98902
VIII	Robert Schroeter	CWHBA rschroeter@cwhba.org	98902

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DEPARTMENT OF COMMUNITY DEVELOPMENT
Joan Davenport, AICP, Director

Planning Division
Joseph Calhoun, Manager
129 North Second Street, 2nd Floor, Yakima, WA 98901
ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

City of Yakima Planning Commission
PUBLIC HEARING
City Hall Council Chambers
Wednesday July 24, 2019
3:00 p.m. – 5:00 p.m.

YPC Members:
Chairwoman Patricia Byers, Vice-Chair Jacob Liddicoat, Al Rose, Bill Cook, Robert McCormick, Leanne Hughes-Mickel, and Philip Ostriem

Council Liaison: Dulce Gutiérrez (District 1)

City Planning Staff:
Joan Davenport (Community Development Director), Rosalinda Ibarra (Community Development Administrative Assistant), Joseph Calhoun (Planning Manager), Eric Crowell (Associate Planner), Trevor Martin (Associate Planner), Colleda Monick (Community Development Specialist), and Lisa Maxey (Planning Technician)

AGENDA

I. **Call to Order**

II. **Roll Call**

III. **Staff Announcements**

IV. **Audience Participation** ***(for items not listed on the agenda)***

V. **Approval of Meeting Minutes of July 10, 2019**

VI. **Public Hearing - Rezone**

Applicant: Gary Delaney
File Numbers: RZ#005-19 & SEPA#018-19
Site Address: 1414 S 2nd Ave
Request: Proposal to rezone a 0.11-acre parcel from Two-Family Residential (R-2) to Small Convenience Center (SCC).

VII. **Public Hearing – Text Amendments**

Applicant: City of Yakima Planning Division
File Numbers: TXT#002-19 & SEPA#026-19
Request: Amendments to the City of Yakima's Municipal Code Title 15 Chapter 15.29 Wireless Communications Facilities to update definitions for consistency with FCC regulations, include process and procedure for small wireless facilities, and remove outdated and non-existing processes.
(packet available online: https://www.yakimawa.gov/services/planning/2019-cell-tower-amendments/)

VIII. **Discussion on Potential Text Amendments**

- **Affordable Housing**

IX. **Other Business**

X. **Adjourn**

Next Meeting: July 24, 2019

Yakima
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AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

RE: **TXT#002-19 & SEPA#026-19**
City Planning – Wireless Communications Facilities YMC Ch. 15.29
N/A

I, Lisa Maxey, as an employee of the City of Yakima Planning Division, have dispatched through the United States Mails, a **Notice of Retention of DNS.** A true and correct copy of which is enclosed herewith; that said notice was addressed to SEPA agencies and all parties of record that are individually listed on the mailing list retained by the Planning Division, and that said notices were mailed by me on this **19th** day of **July, 2019.**

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.

Lisa Maxey

Lisa Maxey
Planning Technician

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E-3b

Ahtanum Irrigation District Beth Ann Brulotte, Executive Assistant 10705-B Gilbert Road Yakima, WA 98903-9203 bethb@ahtanum.net	Cascade Natural Gas 8113 W Grandridge Blvd Kennewick, WA 99336	Century Link Manager 8 South 2nd Ave, Rm#304 Yakima, WA 98902
Charter Communications Kevin Chilcote 1005 North 16th Ave Yakima, WA 98902	City of Union Gap Dennis Henne, Development Director P.O. Box 3008 Union Gap, WA 98903 Dennis.henne@uniongapwa.gov	Chamber of Commerce 10 North 9th Street Yakima, WA 98901 chamber@yakima.org
Department of Agriculture Kelly McLain PO Box 42560 Olympia, WA 98504 kmclain@agr.wa.gov	Dept of Archaeology & Historic Preservation 1063 S Capitol Way, Ste 106 Olympia, WA 98504-8343 Sepa@dahp.wa.gov	Department of Commerce Review Team 1011 Plum St SE Olympia, WA 98504-3172 reviewteam@commerce.wa.gov
Department of Ecology Annie Szvetecz, SEPA Policy Lead P.O. Box 47703 Olympia, WA 98504-7703 separegister@ecy.wa.gov sepaunit@ecy.wa.gov lori.white@ecy.wa.gov	Department of Ecology Gwen Clear, Regional Coordinator 1250 West Alder Street Union Gap, WA 98903 crosepacoordinator@ecy.wa.gov	Department of Fish and Wildlife Eric Bartrand 1701 South 24th Ave Yakima, WA 98902 Eric.Bartrand@dfw.wa.gov Scott.Downes@dfw.wa.gov
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\\Apollo\Shared\Planning\Assignments-Planning\LABELS and FORMS\SEPA REVIEWING AGENCIES _updated 07.03.19 - Form List.docx

Type of Notice: Ntc of Retained DNS

File Number: TXT #002-19 / SEPA #026-19

Date of Mailing: 7/19/19

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Parties of Record – City Planning – Wireless Communications Facilities – TXT#002-19 & SEPA#026-19

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Dave Brown	Water/Irrigation	David.Brown@yakimawa.gov
Mike Shane	Water/Irrigation	Mike.Shane@yakimawa.gov

Outside Distribution Revised 02/2019

Name	Address	Included In Mailing?
Pacific Power Attn: Estimating Department *(Subdivision notices ONLY)*	500 N Keys Rd, Yakima, WA 98901	☐ Yes ☑ No

Type of Notice: Ntc of Retained DNS

File Number: TXT #002 / SEPA #026-19

Date of Mailing: 7/19/19

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Maxey, Lisa

From: Maxey, Lisa
Sent: Friday, July 19, 2019 3:23 PM
To: Belles, Carolyn; Brown, David; Calhoun, Joseph; Caruso, Joe; Contreras, Pedro; Cutter, Jeff; Davenport, Joan; Dean, James; DeBusschere, Suzanne; Denman, Glenn; DeOchoa, Vick; Desgrosellier, Bob; Horton, Kelli; Ibarra, Rosalinda; Kallevig, Dana; Layman, Randy; Matthews, Archie; Maxey, Lisa; Meloy, Randy; Reid, Patrick; Riddle, Dan; Rossignol, Linda; Schafer, Scott; Shane, Mike; Story, Gregory; Watkins, Sara; Witthuhn, Tyler; Zabell, John; Zammarchi, Loretta; Ahtanum Irrigation District - Beth Ann Brulotte; Cawley, Marc; Chamber of Commerce; Department of Agriculture; Department of Commerce (CTED) - Review Team; Department of Ecology; Department of Ecology - Lori White; Department of Ecology - SEPA Register; Department of Ecology -CRO Coordinator; Department of Fish and Wildlife; Department of Fish and Wildlife - Eric Bartrand; Department of Fish and Wildlife - Scott Downes; Department of Natural Resources; Dept of Social & Health Svcs - Robert Hubenthal; Dept. Archaeology & Historic Preservation - SEPA Review; Energy Facility Site Evaluation Council - Stephen Posner; Henne, Dennis; Nob Hill Water - Bob Irving; Office of Rural & Farmworker Housing - Marty Miller; Peterson, Robert; Scott Izutsu - Yakima School District; Trevor Greene - Yakima School District; US Army Corps of Engineers - David Moore; WA State Dept of Health, Office of Drinking Water; WA State Dept of Health, Office of Drinking Water; WA State Parks & Recreation Commission; West Valley School District - Angela Watts; WSDOT - Paul Gonseth; WSDOT - South Central Regional Planning Office; WSDOT Aviation - Patrick Wright; Yakama Bureau of Indian Affairs - Rocco Clark; Yakama Nation Environmental Management Program - Elizabeth Sanchey; Yakama-Klickitat Fisheries - John Marvin; Yakima County Building Official - Harold Maclean; Yakima County Commissioners; Yakima County Flood Control District - Dianna Woods; Yakima County Flood Control District - Terry Keenhan; Yakima County Health District; Yakima County Health District - Ryan Ibach; Yakima County Planning - Zoning/Sub - Jason Earles; Yakima County Planning Director - Lynn Deitrick; Yakima County Public Svcs Director, Lisa Freund; Yakima Greenway Foundation - Kellie Connaughton; Yakima Regional Clean Air Agency - Hasan Tahat; Yakima Valley Conference of Governments - Mike Shuttleworth; Yakima Valley Museum - Peter Arnold; Yakima Waste Systems - Keith Kovalenko; Al Rose; Alfred A. Rose (silvrfx40@bmi.net); Gutierrez, Dulce; Jacob Liddicoat; Leanne Hughes-Mickel; Patricia Byers; Philip Ostriem; Rob McCormick; William Cook (cook.w@charter.net)
Cc: Calhoun, Joseph
Subject: Notice of Retained DNS - City Planning - Wireless Communications Facilities YMC Ch. 15.29
Attachments: NOTICE OF RETAINED DNS_City Planning Wireless Comm Facilities - TXT SEPA....pdf

Attached is a Notice of Retention of Determination of Non-Significance (DNS) regarding the above-entitled project. If you have any questions about this proposal, please contact assigned planner Joseph Calhoun at (509) 575-6042 or email to: joseph.calhoun@yakimawa.gov. Thank you!

Lisa Maxey
Planning Technician
City of Yakima Planning Division
p: 509.576.6669
129 North 2nd Street, Yakima, Washington, 98901

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DEPARTMENT OF COMMUNITY DEVELOPMENT
Joan Davenport, AICP, Director

Planning Division
Joseph Calhoun, Manager
129 North Second Street, 2nd Floor, Yakima, WA 98901
ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

WASHINGTON STATE ENVIRONMENTAL POLICY ACT
DETERMINATION OF NON-SIGNIFICANCE
NOTICE OF RETENTION
CITY OF YAKIMA, WASHINGTON
July 19, 2019
File Numbers: SEPA#026-19

The City of Yakima Department of Community Development issued a:

[X] Determination of Nonsignificance (DNS),
[ ] Mitigated Determination of Nonsignificance (MDNS),
[ ] Modified DNS/MDNS,

on June 28, 2019, for this proposal under the State Environmental Policy Act (SEPA) and WAC 197-11-340. This retention concerns a State Environmental Policy Act (SEPA) Review of text changes to YMC Ch. 15.29 – Wireless Communication Facilities.

This threshold determination is hereby:

[X] Retained
[ ] Modified. Modifications to this threshold determination include the following:
[ ] Withdrawn. This threshold determination has been withdrawn due to the following:
[ ] Delayed. A final threshold determination has been delayed due to the following:

Summary of Comments and Responses (if applicable): N/A

Responsible official: Joan Davenport, AICP
Position/Title: Community Development Director/SEPA Responsible Official
Phone: (509) 575-6183
Address: 129 N 2nd Street, Yakima, WA 98901

Date: July 19, 2019 **Signature:**

You may appeal this determination to Joan Davenport, City of Yakima Community Development Director, at 129 N 2nd St., Yakima, WA 98901, no later than August 2, 2019. You must submit a completed appeal application form with the $580 application fee. Be prepared to make specific factual objections. Contact the City of Yakima, Planning Division, for information on appeal procedures.

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DEPARTMENT OF COMMUNITY DEVELOPMENT
Joan Davenport, AICP, Director

Planning Division
Joseph Calhoun, Manager
129 North Second Street, 2nd Floor, Yakima, WA 98901
ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

City of Yakima Planning Commission
PUBLIC HEARING
City Hall Council Chambers
Wednesday July 24, 2019
3:00 p.m. - 5:00 p.m.

YPC Members:
Chairwoman Patricia Byers, Vice-Chair Jacob Liddicoat, Al Rose, Bill Cook, Robert McCormick, Leanne Hughes-Mickel, and Philip Ostriem

Council Liaison: Dulce Gutiérrez (District 1)

City Planning Staff:
Joan Davenport (Community Development Director), Rosalinda Ibarra (Community Development Administrative Assistant), Joseph Calhoun (Planning Manager), Eric Crowell (Associate Planner), Trevor Martin (Associate Planner), Colleda Monick (Community Development Specialist), and Lisa Maxey (Planning Technician)

AGENDA

I. **Call to Order**

II. **Roll Call**

III. **Staff Announcements**

IV. **Audience Participation** ***(for items not listed on the agenda)***

V. **Approval of Meeting Minutes of July 10, 2019**

VI. **Public Hearing - Rezone**

Applicant: Gary Delaney
File Numbers: RZ#005-19 & SEPA#018-19
Site Address: 1414 S 2nd Ave
Request: Proposal to rezone a 0.11-acre parcel from Two-Family Residential (R-2) to Small Convenience Center (SCC).

VII. **Public Hearing – Text Amendments**

Applicant: City of Yakima Planning Division
File Numbers: TXT#002-19 & SEPA#026-19
Request: Amendments to the City of Yakima's Municipal Code Title 15 Chapter 15.29 Wireless Communications Facilities to update definitions for consistency with FCC regulations, include process and procedure for small wireless facilities, and remove outdated and non-existing processes.
(packet available online: https://www.yakimawa.gov/services/planning/2019-cell-tower-amendments/)

VIII. **Discussion on Potential Text Amendments**

- **Affordable Housing**

IX. **Other Business**

X. **Adjourn**

Next Meeting: July 24, 2019

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YPC Staff Report & Packet Distribution List
City Planning – Wireless Communications Facilities (YMC Ch. 15.29)
TXT#002-19 & SEPA#026-19

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Jake Liddicoat
jake@3dyakima.com

Leanne Hughes-Mickel
leanne.mickel@me.com

Philip Ostriem
Philipostriem@gmail.com

AGENDA & STAFF REPORT ONLY:

Date Distributed: 7/17/19

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AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

RE: TXT#002-19 & SEPA#026-19

City Planning – Wireless Communications Facilities YMC Ch 15.29

N/A

I, Lisa Maxey, as an employee of the City of Yakima Planning Division, have dispatched through the United States Mails, a **Notice of Application, Environmental Review, Public Hearing, and Preliminary Determination of Non-Significance (DNS);** a true and correct copy of which is enclosed herewith; that said notice was addressed to SEPA reviewing agencies; that said parties are individually listed on the mailing list retained by the Planning Division, and that said notices were mailed by me on the **28th** day of **June, 2019.**

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.

Lisa Maxey

Lisa Maxey
Planning Technician

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Pacific Power Mike Paulson 500 North Keys Rd Yakima, WA 98901	Soil Conservation District Ray Wondercheck 1606 Perry Street, Ste. F Yakima, WA 98902	Trolleys Paul Edmondson 313 North 3rd Street Yakima, WA 98901
United States Postal Service Maintenance Deptartment 205 W Washington Ave Yakima, WA 98903	US Army Corps of Engineers Seattle District Regulatory Branch P.O. Box 3755 Seattle, WA 98124-3755	WA State Attorney General's Office 1433 Lakeside Court, Ste# 102 Yakima, WA 98902
Yakama Bureau of Indian Affairs Superintendent P.O. Box 632 Toppenish, WA 98948	Yakama Indian Nation Johnson Meninick, Cultural Resources Program P.O. Box 151 Toppenish, WA 98948	Yakama Indian Nation Ruth Jim, Yakima Tribal Council P.O. Box 151 Toppenish, WA 98948
Yakima School District Dr. Jack Irion, Superintendent 104 North 4th Ave Yakima, WA 98902	Yakima-Tieton Irrigation District Sandra Hull 470 Camp 4 Rd Yakima, WA 98908	Yakima Valley Canal Co Robert Smoot 1640 Garretson Lane Yakima, WA 98908

\\Apollo\Shared\Planning\Assignments-Planning\LABELS and FORMS\SEPA REVIEWING AGENCIES _updated 06.12.19 - Form List.docx

Type of Notice: Ntc of App, SEPA, Hearing & Prel. DNS

File Number: TXT #002 / SEPA #026-19

Date of Mailing: 6/28/19

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Parties of Record – City Planning – Wireless Communications Facilities – TXT#002-19 & SEPA#026-19

Greggory Busch Gregg.busch@wirelesspolicy.com	Monique Sanchez Monique.sanchez@faulkandfoster.com	Chris Baidenmann chris.baidenmann@wirelesspolicy.com
Jason Verduzco jason.verduzco@verizonwireless.com	Meridee Pabst Meridee.pabst@wirelesspolicy.com	Kim Allen Kim.Allen@wirelesspolicy.com

In-House Distribution E-mail List Revised 04/2019

Name	Division	E-mail Address
Carolyn Belles	Code Administration	Carolyn.Belles@yakimawa.gov
Glenn Denman	Code Administration	Glenn.Denman@yakimawa.gov
Joe Caruso	Code Administration	Joe.Caruso@yakimawa.gov
John Zabell	Code Administration	John.Zabell@yakimawa.gov
Kelli Horton	Code Administration	Kelli.Horton@yakimawa.gov
Linda Rossignol	Code Administration	Linda.Rossignol@yakimawa.gov
Pedro Contreras	Code Administration	Pedro.Contreras@yakimawa.gov
Suzanne DeBusschere	Code Administration	Suzanne.Debusschere@yakimawa.gov
Vick DeOchoa	Code Administration	Vick.DeOchoa@yakimawa.gov
Joan Davenport	Community Development	Joan.Davenport@yakimawa.gov
Rosalinda Ibarra	Community Development	Rosalinda.Ibarra@yakimawa.gov
Bob Desgrosellier	Engineering	Bob.Desgrosellier@yakimawa.gov
Dan Riddle	Engineering	Dan.Riddle@yakimawa.gov
Tyler Witthuhn	Engineering	Tyler.Witthuhn@yakimawa.gov
Pat Reid	Fire	Pat.Reid@yakimawa.gov
Jeff Cutter	Legal	Jeff.Cutter@yakimawa.gov
Sara Watkins	Legal	Sara.Watkins@yakimawa.gov.
Archie Matthews	ONDS	Archie.Matthews@yakimawa.gov
Joseph Calhoun	Planning	Joseph.Calhoun@yakimawa.gov
Lisa Maxey	Planning	Lisa.Maxey@yakimawa.gov
Scott Schafer	Public Works	Scott.Schafer@yakimawa.gov
Loretta Zammarchi	Refuse	Loretta.Zammarchi@yakimawa.gov
Randy Layman	Refuse	Randy.Layman@yakimawa.gov
Gregory Story	Transit	Gregory.Story@yakimawa.gov
James Dean	Utilities	James.Dean@yakimawa.gov
Dana Kallevig	Wastewater	Dana.Kallevig@yakimawa.gov
Randy Meloy	Wastewater	Randy.Meloy@yakimawa.gov
Dave Brown	Water/Irrigation	David.Brown@yakimawa.gov
Mike Shane	Water/Irrigation	Mike.Shane@yakimawa.gov

Outside Distribution Revised 02/2019

Name	Address	Included In Mailing?
Pacific Power Attn: Estimating Department *(Subdivision notices ONLY)*	500 N Keys Rd, Yakima, WA 98901	☐ Yes ☑ No

Type of Notice: Ntc of App, SEPA, Hearing + Preliminary DNS

File Number: TXT#002 / SEPA #026-19

Date of Mailing: 6/28/19

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Maxey, Lisa

From: Maxey, Lisa
Sent: Friday, June 28, 2019 8:21 AM
To: Belles, Carolyn; Brown, David; Calhoun, Joseph; Caruso, Joe; Contreras, Pedro; Cutter, Jeff; Davenport, Joan; Dean, James; DeBusschere, Suzanne; Denman, Glenn; DeOchoa, Vick; Desgrosellier, Bob; Horton, Kelli; Ibarra, Rosalinda; Kallevig, Dana; Layman, Randy; Matthews, Archie; Maxey, Lisa; Meloy, Randy; Reid, Patrick; Riddle, Dan; Rossignol, Linda; Schafer, Scott; Shane, Mike; Story, Gregory; Watkins, Sara; Witthuhn, Tyler; Zabell, John; Zammarchi, Loretta; Ahtanum Irrigation District - Beth Ann Brulotte; Cawley, Marc; Chamber of Commerce; Department of Agriculture; Department of Commerce (CTED) - Review Team; Department of Ecology; Department of Ecology - Lori White; Department of Ecology - SEPA Register; Department of Ecology -CRO Coordinator; Department of Fish and Wildlife; Department of Fish and Wildlife - Eric Bartrand; Department of Fish and Wildlife - Scott Downes; Department of Natural Resources; Dept of Social & Health Svcs - Robert Hubenthal; Dept. Archaeology & Historic Preservation - SEPA Review; Energy Facility Site Evaluation Council - Stephen Posner; Henne, Dennis; Nob Hill Water - Bob Irving; Office of Rural & Farmworker Housing - Marty Miller; Peterson, Robert; Scott Izutsu - Yakima School District; US Army Corps of Engineers - David Moore; WA State Dept of Health, Office of Drinking Water; WA State Dept of Health, Office of Drinking Water; WA State Parks & Recreation Commission; West Valley School District - Angela Watts; WSDOT - Paul Gonseth; WSDOT - South Central Regional Planning Office; WSDOT Aviation - Patrick Wright; Yakama Bureau of Indian Affairs - Rocco Clark; Yakama Nation Environmental Management Program - Elizabeth Sanchey; Yakama-Klickitat Fisheries - John Marvin; Yakima County Building Official - Harold Maclean; Yakima County Commissioners; Yakima County Flood Control District - Dianna Woods; Yakima County Flood Control District - Terry Keenhan; Yakima County Health District; Yakima County Health District - Ryan Ibach; Yakima County Planning - Zoning/Sub - Jason Earles; Yakima County Planning Director - Lynn Deitrick; Yakima County Public Svcs Director, Lisa Freund; Yakima Greenway Foundation - Kellie Connaughton; Yakima Regional Clean Air Agency - Hasan Tahat; Yakima Valley Conference of Governments - Mike Shuttleworth; Yakima Valley Museum - Peter Arnold; Yakima Waste Systems - Keith Kovalenko; Associated Press; Brown, Michael; Davido, Sean; El Mundo; El Sol de Yakima; Fannin, John; Hispanic Chamber of Commerce; KAPP TV News; KBBO-KRSE Radio - manager; KDNA Noticias; KDNA Radio - Francisco Rios; KEPR TV News; KIMA TV News; KIT News; KIT/KATS/DMVW/KFFM - Lance Tormey; KNDO TV News; KNDU TV News; KUNW-TV Univision; KVEW TV News; La Casa Hogar; La Voz; Lozano, Bonnie; NWCN News; NWPR - Anna King; Randy Luvaas - Yakima Business Times; RCDR - Maria DJ Rodriguez; Reed C. Pell; Tu Decides; Tu Decides - Albert Torres; Yakima Herald Republic - Mai Hoang; Yakima Herald Republic Newspaper; Yakima Valley Business Times; YPAC - Randy Beehler; Al Rose; Alfred A. Rose (silvrfx40@bmi.net); Gutierrez, Dulce; Jacob Liddicoat; Leanne Hughes-Mickel; Patricia Byers; Philip Ostriem; Rob McCormick; William Cook (cook.w@charter.net)
Cc: Calhoun, Joseph
Subject: Notice of Application, SEPA, Public Hearing & Preliminary DNS - Wireless Communications Facilities - TXT#002-19 SEPA#026-19
Attachments: NOTICE OF APP, SEPA, HEARING & PRELIMINARY DNS -Wireless Comm Facilitie....pdf

Attached is a Notice of Application, SEPA Environmental Review, Public Hearing, and Preliminary Determination of Non-Significance (DNS) regarding the above-entitled project. If you have any questions about

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this proposal, please contact assigned planner Joseph Calhoun at (509) 575-6042 or email to: joseph.calhoun@yakimawa.gov. Thank you!

Lisa Maxey
Planning Technician
City of Yakima Planning Division
p: 509.576.6669
129 North 2nd Street, Yakima, Washington, 98901

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YAKIMA HERALD-REPUBLIC
WE TELL YOUR STORIES YAKIMAHERALD.COM
El Sol de Yakima

-Ad Proof-

This is the proof of your ad scheduled to run on the dates indicated below. Please proof read notice carefully to check spelling and run dates, if you need to make changes

Date:	**06/26/19**
Account #:	**110358**
Company Name:	**CITY OF YAKIMA PLANNING**
Contact:	**ROSALINDA IBARRA,AP**
Address:	**129 N 2ND STREET YAKIMA, WA 98901-2720**
Telephone:	**(509) 575-6164**
Fax:	

Account Rep:	**Simon Sizer**
Phone #	**(509) 577-7740**
Email:	**ssizer@yakimaherald.com**
Ad ID:	**893533**
Start:	**06/28/19**
Stop:	**06/28/19**
Total Cost:	**$219.00**
Lines:	**120.0**
# of Inserts:	**1**
Ad Class:	**6021**

Run Dates:
Yakima Herald-Republic 06/28/19

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CITY OF YAKIMA
NOTICE OF APPLICATION, ENVIRONMENTAL REVIEW, AND PUBLIC HEARING

DATE: 6/26/19; **FROM:** Joan Davenport, AICP, Community Development Director; **APPLICANT:** City of Yakima Planning Division (129 N 2nd St, Yakima, WA 98901); **FILE:** TXT#002-19, SEPA#026-19; **LOCATION:** City-Wide; **TAX PARCEL NUMBER(S):** N/A; **PROJECT DESCRIPTION** Text Changes to YMC Ch. 15.29 – Wireless Communication Facilities; **NOTICE OF ENVIRONMENTAL REVIEW** This is to notify all the public and private agencies with jurisdiction and environmental expertise that the City of Yakima Planning Division has been established as the lead agency, pursuant to the Washington State Environmental Policy Act (SEPA) for the above stated project. **The City of Yakima is issuing a Preliminary Determination of Non- Significance (DNS) on this project.** WAC 197-11-340 is being used. The following conditions have been identified that may be used to mitigate the adverse environmental impacts of the proposal: No impacts identified. **Required Permits** – The following local, state and federal permits/approvals are needed for the proposed project: None. **Required Studies:** None **Existing Environmental Documents:** Comprehensive Plan 2040 - Final Supplemental Environmental Impact Statement (6/13/17). **Preliminary determination of the development regulations that will be used for project mitigation and consistency:** Future projects will require compliance with the International Building Code, City of Yakima Urban Area Zoning Ordinance, City of Yakima Comprehensive Plan and City of Yakima Title 12 Development Standards. **REQUEST FOR WRITTEN COMMENTS AND NOTICE OF PUBLIC HEARING** The public is encouraged to review and comment on the proposed application. Written comments may be submitted prior to or at the public hearing. The public hearing before the City of Yakima Planning Commission has been scheduled for **7/24/19**, beginning at **3:00 p.m.**, in the Council Chambers, City Hall, 129 N 2nd St. Yakima, WA. Any person desiring to express their views on this matter is invited to attend the public hearing or to submit their written comments to: City of Yakima, Planning Division, 129 N 2nd St., Yakima, WA 98901. **A separate public notice will be provided for the public hearing before the Yakima City Council.** You can mail your comments to: **Joan Davenport, AICP, Community Development Director, City of Yakima, Department of Community Development, 129 N. 2nd St; Yakima, WA 98901.** **NOTICE OF RECOMMENDATION** Following the public hearing, the YPC will issue its recommendation within 10 business days. When available, a copy of the recommendation will be mailed to parties of record once it is rendered. The file containing the complete application is available for public review at the City of Yakima Planning Division, 2nd floor City Hall, 129 N 2nd St, Yakima, WA, and online at https://www.yakimawa.gov/services/planning/2019-cell-tower-amendments/ If you have any question on this proposal, please call Joseph Calhoun, Planning Manager, at (509) 575-6042 or e-mail to: joseph.calhoun@yakimawa.gov.

(893533) June 28, 2019

Courtesy of Yakima Herald-Republic

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CITY OF YAKIMA
NOTICE OF APPLICATION, ENVIRONMENTAL REVIEW, AND PUBLIC HEARING

DATE: 6/26/19; **FROM:** Joan Davenport, AICP, Community Development Director; **APPLICANT:** City of Yakima Planning Division (129 N 2nd St, Yakima, WA 98901); **FILE:** TXT#002-19, SEPA#026-19; **LOCATION:** City-Wide; **TAX PARCEL NUMBER(S):** N/A; **PROJECT DESCRIPTION** Text Changes to YMC Ch. 15.29 – Wireless Communication Facilities; **NOTICE OF ENVIRONMENTAL REVIEW** This is to notify all the public and private agencies with jurisdiction and environmental expertise that the City of Yakima Planning Division has been established as the lead agency, pursuant to the Washington State Environmental Policy Act (SEPA) for the above stated project. **The City of Yakima is issuing a Preliminary Determination of Non- Significance (DNS) on this project.** WAC 197-11-340 is being used. The following conditions have been identified that may be used to mitigate the adverse environmental impacts of the proposal: No impacts identified. **Required Permits** – The following local, state and federal permits/approvals are needed for the proposed project: None. **Required Studies:** None **Existing Environmental Documents:** Comprehensive Plan 2040 - Final Supplemental Environmental Impact Statement (6/13/17). **Preliminary determination of the development regulations that will be used for project mitigation and consistency:** Future projects will require compliance with the International Building Code, City of Yakima Urban Area Zoning Ordinance, City of Yakima Comprehensive Plan and City of Yakima Title 12 Development Standards. **REQUEST FOR WRITTEN COMMENTS AND NOTICE OF PUBLIC HEARING** The public is encouraged to review and comment on the proposed application. Written comments may be submitted prior to or at the public hearing. The public hearing before the City of Yakima Planning Commission has been scheduled for **7/24/19**, beginning at **3:00 p.m.**, in the Council Chambers, City Hall, 129 N 2nd St. Yakima, WA. Any person desiring to express their views on this matter is invited to attend the public hearing or to submit their written comments to: City of Yakima, Planning Division, 129 N 2nd St., Yakima, WA 98901. **A separate public notice will be provided for the public hearing before the Yakima City Council.** You can mail your comments to: **Joan Davenport, AICP, Community Development Director, City of Yakima, Department of Community Development, 129 N. 2nd St; Yakima, WA 98901.** **NOTICE OF RECOMMENDATION** Following the public hearing, the YPC will issue its recommendation within 10 business days. When available, a copy of the recommendation will be mailed to parties of record once it is rendered. The file containing the complete application is available for public review at the City of Yakima Planning Division, 2nd floor City Hall, 129 N 2nd St, Yakima, WA, and online at https://www.yakimawa.gov/services/planning/2019-cell-tower-amendments/ If you have any question on this proposal, please call Joseph Calhoun, Planning Manager, at (509) 575-6042 or e-mail to: joseph.calhoun@yakimawa.gov.

(893533) June 28, 2019

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DEPARTMENT OF COMMUNITY DEVELOPMENT
Joan Davenport, AICP, Director

Planning Division
Joseph Calhoun, Manager
129 North Second Street, 2nd Floor, Yakima, WA 98901
ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

NOTICE OF APPLICATION, ENVIRONMENTAL REVIEW, AND PUBLIC HEARING

DATE:	June 28, 2019
TO:	SEPA Reviewing Agencies, Applicant, and Adjoining Property Owners
FROM:	Joan Davenport, AICP, Community Development Director
APPLICANT:	City of Yakima Planning Division (129 N 2nd St, Yakima, WA 98901)
FILE NUMBER:	TXT#002-19 and SEPA#026-19
LOCATION:	City-Wide
TAX PARCEL NUMBER(S):	N/A
DATE OF APPLICATION:	June 24, 2019

PROJECT DESCRIPTION Text Changes to YMC Ch. 15.29 – Wireless Communication Facilities.

NOTICE OF ENVIRONMENTAL REVIEW This is to notify all the public and private agencies with jurisdiction and environmental expertise that the City of Yakima Planning Division has been established as the lead agency, pursuant to the Washington State Environmental Policy Act (SEPA) for the above stated project. **The City of Yakima is issuing a Preliminary Determination of Non- Significance (DNS) on this project.** WAC 197-11-340 is being used. The following conditions have been identified that may be used to mitigate the adverse environmental impacts of the proposal: No impacts identified.

Required Permits – The following local, state and federal permits/approvals are needed for the proposed project: None.
Required Studies: None
Existing Environmental Documents: Comprehensive Plan 2040 - Final Supplemental Environmental Impact Statement (June 13, 2017)

Preliminary determination of the development regulations that will be used for project mitigation and consistency: Future projects will require compliance with the International Building Code, City of Yakima Urban Area Zoning Ordinance, City of Yakima Comprehensive Plan and City of Yakima Title 12 Development Standards.

REQUEST FOR WRITTEN COMMENTS AND NOTICE OF PUBLIC HEARING The public is encouraged to review and comment on the proposed application. Written comments may be submitted prior to or at the public hearing. The public hearing before the City of Yakima Planning Commission has been scheduled for Wednesday **July 24, 2019,** beginning at **3:00 p.m.**, in the Council Chambers, City Hall, 129 N 2nd Street, Yakima, WA. Any person desiring to express their views on this matter is invited to attend the public hearing or to submit their written comments to: City of Yakima, Planning Division, 129 N 2nd St., Yakima, WA 98901. **A separate public notice will be provided for the public hearing before the Yakima City Council**. You can mail your comments to:

Joan Davenport, AICP, Community Development Director
City of Yakima, Department of Community Development
129 N. 2nd St; Yakima, WA 98901

NOTICE OF RECOMMENDATION Following the public hearing, the Planning Commission will issue its recommendation within ten (10) business days. When available, a copy of the recommendation will be mailed to parties of record and entities who were provided this notice once it is rendered.

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The file containing the complete application is available for public review at the City of Yakima Planning Division, 2nd floor City Hall, 129 North 2nd Street, Yakima, Washington, and online at https://www.yakimawa.gov/services/planning/2019-cell-tower-amendments/
If you have any question on this proposal, please call Joseph Calhoun, Planning Manager, at (509) 575-6042 or email to: joseph.calhoun@yakimawa.gov.

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Yakima
All America City
2015
1994

DEPARTMENTO DE DESARROLLO COMUNITARIO
Joan Davenport, AICP, Directora

Division de Planificación
Joseph Calhoun, Gerente
129 Norte Calle 2ª, 2º Piso, Yakima, WA 98901
ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

AVISO DE APLICACIÓN, REVISION AMBIENTAL, Y AUDIENCIA PÚBLICA

El Departamento de Desarrollo Comunitario de la Ciudad de Yakima ha recibido una aplicación por parte de un propietario/solicitante y este es un aviso sobre esa solicitud. Información sobre la ubicación de la propiedad en cuestión y la solicitud es la siguiente:

FECHA OTORGADA:	28 de junio, 2019
PARA:	Agencias de Revisión Ambiental, Solicitante y Propietarios Adyacentes
DE:	Joan Davenport, AICP, Directora de Desarrollo Comunitario
SOLICITANTE:	Ciudad de Yakima, Division de Planificación (129 N 2nd St, Yakima, WA 98901)
No. DE ARCHIVO:	TXT#002-19 y SEPA#026-19
UBICACIÓN:	Cubre toda la ciudad.
No. DE PARCELA(S):	N/A
FECHA DE APLICACIÓN:	24 de junio, 2019

DESCRIPCIÓN DEL PROYECTO: Modificaciones de texto al Código Municipal, Capitulo 15.29 – Instalaciones de Comunicación Inalámbrica.

AVISO DE REVISIÓN AMBIENTAL: Esto es para notificar a las agencias públicas y privadas con jurisdicción y conocimiento ambiental que la Ciudad de Yakima, Division de Planificación, se establece como la agencia principal, de acuerdo con la Ley Estatal de Política Ambiental de Washington (SEPA) para el proyecto mencionado anteriormente. **La Ciudad de Yakima está emitiendo una Determinación Preliminar de No-Significancia (DNS) para este proyecto.** La ley bajo WAC §197-11-340 se está utilizando. Se han identificado las siguientes condiciones que pueden utilizarse para mitigar los impactos ambientales adversos de la propuesta: no se identificaron impactos.

Permisos Requeridos: Los siguientes permisos/aprobaciones locales, estatales, y federales pueden o serán necesarios para este proyecto: ninguno
Estudios Requeridos: ninguno
Documentos Ambientales Existentes: Plan Integral 2040 – Declaración Final de Impacto Ambiental Suplementario (13 de junio, 2017)
Determinación preliminar de las regulaciones de desarrollo que se utilizarán para la mitigación y la consistencia del proyecto: Los proyectos futuros requerirán el cumplimiento del Código Internacional de Construcción, La Ordenanza de Zonificación del Área Urbana de la Ciudad de Yakima, el Plan Integral de la Ciudad de Yakima y los Estándares de Desarrollo del Título 12 de la Ciudad de Yakima.

SOLICITUD DE COMENTARIOS ESCRITOS Y AVISO DE AUDIENCIA PÚBLICA: Se anima al público a revisar la solicitud y comentar sobre la propuesta. Los comentarios escritos pueden presentarse antes de o en la audiencia pública. La audiencia pública frente a la Comisión de Planificación de la Ciudad de Yakima ha sido programada para el miércoles **24 de julio, 2019** comenzando a las **3:00 p.m.** en el Ayuntamiento de la Ciudad de Yakima ubicado en el 129 N 2nd Street, Yakima, WA. Se le invita a cualquier persona que desee expresar sus opiniones sobre este proyecto a asistir a la audiencia pública o a presentar comentarios por escrito. **Se proporcionara un aviso público por separado para la audiencia pública ante el Concejo Municipal de Yakima.** Por favor de enviar sus comentarios sobre esta propuesta a:

Joan Davenport, AICP, Community Development Director
City of Yakima, Department of Community Development
129 N. 2nd St., Yakima, WA 98901

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Yakima 2015 1994

AVISO DE LA RECOMENDACIÓN: Después de la audiencia pública, la Comisión de Planificación de Yakima emitirá su decisión dentro de diez (10) días hábiles. Cuando la recomendación sea emitida, una copia será enviada a las personas que mandaron comentarios o que recibieron este aviso.

El archivo que contiene la aplicación completa está disponible para inspección pública en la Oficina de Planificación de la Ciudad de Yakima en el 129 al Norte la Calle 2da, Yakima, WA y en línea en: https://www.yakimawa.gov/services/planning/2019-cell-tower-amendments/
Si tiene cualquier pregunta sobre esta propuesta, puede contactar a la Oficina de Planificación al (509) 575-6183 o por correo electrónico al: ask.planning@yakimawa.gov

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DEPARTMENT OF COMMUNITY DEVELOPMENT
Joan Davenport, AICP, Director

Planning Division
Joseph Calhoun, Manager
129 North Second Street, 2nd Floor, Yakima, WA 98901
ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

WASHINGTON STATE ENVIRONMENTAL POLICY ACT
PRELIMINARY DETERMINATION OF NONSIGNIFICANCE
CITY OF YAKIMA, WASHINGTON
June 28, 2019

PROJECT DESCRIPTION: Text Changes to YMC Ch. 15.29 – Wireless Communication Facilities.

LOCATION: City Limits
PARCEL NUMBERS: N/A
PROPONENT: City of Yakima Planning Division
PROPERTY OWNERS: N/A
LEAD AGENCY: City of Yakima

FILE NUMBERS: TXT #002-19 & SEPA #026-19

DETERMINATION: The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

☒ This DNS is issued under WAC 197-11-340; the lead agency will not act on this proposal for 20 days from the date of this preliminary threshold determination. **All comments must be submitted by 5:00 pm on July 18, 2019.**

Responsible Official: Joan Davenport
Position/Title: SEPA Responsible Official
Phone (509) 575-6183
Address: 129 N. 2nd Street, Yakima, WA 98901

Date June 28, 2019 **Signature** Joan Davenport

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CITY PLANNING – WIRELESS COMMUNICATIONS FACILITIES (YMC CH. 15.29) TXT#002-19 & SEPA#026-19

EXHIBIT LIST

CHAPTER F
Supplemental Information

DOC INDEX #	DOCUMENT	DATE
F-1	YPC Minutes – March 13, 2019, Study Session	03/13/2019
F-2	YPC Minutes – April 10, 2019, Study Session	04/10/2019
F-3	YPC Minutes - May 8, 2019, Study Session	05/08/2019

City of Yakima Planning Commission (YPC) Meeting Minutes
City Hall Council Chambers
May 8, 2019

Call to Order
Chairwoman Patricia Byers called the meeting to order at approximately 3:00 p.m.

Roll Call

YPC Members Present:	Chairwoman Patricia Byers, Al Rose, Bill Cook, Leanne Hughes-Mickel
YPC Members Absent:	Philip Ostriem (excused); Vice-Chair Jacob Liddicoat, Robert McCormick (unexcused)
Staff Present:	Joseph Calhoun, Planning Manager; Lisa Maxey, Planning Technician
Council Liaison:	Kathy Coffey, District 5 (absent)
Others:	Sign-in sheet in file

Staff Announcements – Planning Manager Joseph Calhoun announced that the Commission has a hearing on May 22nd regarding a preliminary plat in the vicinity of 72nd Ave. and Coolidge Rd.

Calhoun provided building permit statistics from the month of April, showing year-to-date permits from this year in comparison to last year. The report is available on the city's website on the Code Administration page.

Audience Participation – None noted.

Approval of Meeting Minutes of April 24, 2019 – It was motioned by Commissioner Rose and seconded by Commissioner Hughes-Mickel to approve the meeting minutes of April 24, 2019. The motion carried unanimously.

Submitted 2019 Comprehensive Plan Amendment/Rezone Application Docketing – Calhoun stated that the Planning Division received 6 Comprehensive Plan Amendment (CPA) applications for this year's cycle. He provided the project descriptions and locations of these amendment requests and noted that study sessions and public hearings will be scheduled. Calhoun added that he anticipates issuing the public notices for these projects at the end of next week to start the comment period. The public hearings are estimated to be held in July, after the SEPA determinations are issued. Commissioner Rose drew attention to a strip of land currently zoned M-1 that may have inadvertently been left out of the Planning Division's CPA and rezone proposal in the area of N 16th Ave. and Hathaway St. Calhoun responded that he will look into this and add it to the request if needed.

Discussion on Potential Text Amendments
Wireless Communications Facilities (YMC Ch. 15.29)
Greggory Busch of Wireless Policy Group, representing AT&T, provided additional suggestions for changes to this code chapter. After discussion, Calhoun indicated that the draft will be finalized and will go out for public comment.

Affordable Housing
Calhoun presented draft changes to YMC Ch. 6.88 Environmental Policy, proposing to modify the flexible thresholds to increase the number of dwelling units that can be created without undergoing SEPA review.

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Calhoun informed the Commission that he and Community Development Director Joan Davenport will be meeting with Bob Schroeter of Central WA Home Builders Association to establish potential topics of discussion for the meeting with the home builders. The Commission requested that Vaughn Bay Construction and the Downtown Association of Yakima be invited to the meeting.

Discussion took place on the City Council agenda item from May 7, 2019, relating to a potential housing action plan for the city. The Commission had consensus to continue working on text amendments related to affordable housing issues until City Council makes a decision on whether a housing action plan should be created.

Other Business – Commissioner Cook stated he will be absent for the May 22nd Planning Commission meeting. The Commission requested that staff verify if there will be a quorum for the public hearing scheduled that day.

Adjourn - A motion to adjourn to May 22, 2019 was passed with unanimous vote. This meeting adjourned at approximately 4:20 p.m.

Kathryn Byers

Chairwoman Byers

05-22-2019

Date

This meeting was filmed by YPAC. Minutes for this meeting submitted by: Lisa Maxey, Planning Technician.

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City of Yakima Planning Commission (YPC) Meeting Minutes
City Hall Council Chambers
April 10, 2019

Call to Order
Vice-Chair Jacob Liddicoat called the meeting to order at 3:00 p.m.

Roll Call

YPC Members Present:	Vice-Chair Jacob Liddicoat, Al Rose, Bill Cook, Robert McCormick, Leanne Hughes-Mickel
YPC Members Absent:	Chairwoman Patricia Byers, Philip Ostriem (both excused)
Staff Present:	Joseph Calhoun, Planning Manager; Sara Watkins, Senior Assistant City Attorney; Lisa Maxey, Planning Technician
Council Liaison:	Kathy Coffey, District 5
Others:	Sign-in sheet in file

Staff Announcements – Planning Manager Joseph Calhoun announced that three Comprehensive Plan Amendment applications have been received thus far, and that more are expected to be received before the April 30th deadline. After the deadline, the docket will be brought to the Planning Commission and processing will begin.

Audience Participation - None noted.

Approval of Meeting Minutes of March 27, 2019 – It was motioned by Commissioner Rose and seconded by Commissioner Cook to approve the meeting minutes of March 27, 2019. The motion carried unanimously.

Discussion on Potential Text Amendments

Small Cell Wireless Facilities
Audience participation:
Greggory Busch of Wireless Policy Group, representing AT&T, verbally provided additional suggestions on the proposed code and assured that written comments will be provided. In response to receiving various questions from the Commission, Gregg replied that he will research and report back on the following: 1) The feasibility of extending stealth towers after they are built in the instance that code requirements change to allow a greater height; 2) How other jurisdictions regulate height of stealth towers in relation to the surrounding trees; and 3) What happens in the instance that the surrounding trees grow past the height of the stealth tower.

Commission had consensus regarding the following items: 1) have staff update the draft code to strike "personal" from the term "personal wireless service facility" throughout the chapter; 2) direct staff to create a report of cell tower applications received since the implementation of the Wireless Communications Facilities ordinance in 2013 (YMC Ch. 15.29); and 3) have staff research the stealth tower height limits of nearby jurisdictions.

Affordable Housing
Audience Participation:
Bob Schroeter of Central Washington Home Builders Association spoke on several points relating to this topic.

Calhoun provided a report with updated draft code language in response to discussion at previous Commission meetings.

The Commission had consensus on the following items: 1) have staff update the draft language to change the term "dwelling, multiple-family" as defined in YMC Ch. 15.02 Definitions to "multi-

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family development;" 2) have staff schedule a study session with the Central Washington Home Builders Association (and potentially other interested parties) on affordable housing; and 3) have staff update the draft to change YMC Ch. 15.19 Nonconforming Uses, Structures and Critical Areas to include language allowing nonconforming single-family dwellings and duplexes to expand beyond 50% of the existing building area if lot coverage and setback standards are met.

Additional items on the topic of affordable housing will be brought forth and discussed at future Planning Commission meetings.

Other Business – Brief discussion ensued regarding the Greenway Master Plan. Calhoun clarified that the Greenway Master Plan is adopted by reference in the Yakima Municipal Code and specified that parcels within the Greenway Overlay District are flagged in the permitting system the Planning Division uses to ensure that land use proposals within the overlay go through the appropriate level of review in accordance with the Yakima Municipal Code and Greenway Master Plan.

Adjourn - A motion to adjourn to April 24, 2019 was passed with unanimous vote. This meeting adjourned at 4:33 p.m.

Patricia Byers — 04-24-2019

Chairwoman Byers — Date

This meeting was filmed by YPAC. Minutes for this meeting submitted by: Lisa Maxey, Planning Technician.

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City of Yakima Planning Commission (YPC) Meeting Minutes
City Hall Council Chambers
March 13, 2019

Call to Order
Chairwoman Patricia Byers called the meeting to order at 3:00 p.m.

Roll Call

YPC Members Present:	Chairwoman Patricia Byers, Vice-Chair Jacob Liddicoat, Al Rose, Bill Cook
YPC Members Absent:	Leanne Hughes-Mickel, Philip Ostriem (both excused); Robert McCormick (unexcused)
Staff Present:	Joseph Calhoun, Planning Manager; Sara Watkins, Senior Assistant City Attorney; Lisa Maxey, Planning Technician
Council Liaison:	Jason White, District 2 (absent)
Others:	Sign-in sheet in file

Staff Announcements – Planning Manager Joseph Calhoun announced that the rezone at 5231 Powerhouse Rd. which was recommended for approval by the Planning Commission was approved at the last City Council meeting and will be effective in April.

Calhoun introduced a document entitled "City of Yakima Department of Community Development Affordable Housing White Paper" from the City Council study session on March 12, 2019. He pointed the Commission to the action steps described therein related to zoning and regulatory innovation which City Council referred to the Planning Commission for review and recommendation. The action steps will be discussed at future Planning Commission meetings.

Audience Participation - None noted.

Approval of Meeting Minutes of February 27, 2019 – It was motioned by Commissioner Cook and seconded by Vice-Chair Liddicoat to approve the meeting minutes of February 27, 2019. The motion carried unanimously.

Discussion on Potential Text Amendments: Small Cell Wireless Facilities – Calhoun introduced proposed changes to Yakima Municipal Code (YMC) Chapter 15.29 Wireless Communication Facilities for the inclusion of language on small cell wireless facilities. Discussion took place on the levels of review proposed for small cell wireless facilities and design standards imposed in YMC 15.29.070. The Commission requested that staff seek a possible alternative to requiring Hearing Examiner review for new small cell wireless facilities on new utility poles within 300 feet of a protected area (as defined by Ch. 15.29) to help reduce cost and processing time.

Suggested changes to Ch. 15.29 received in writing from industry representatives were distributed. Gregory Bush of Wireless Policy Group and Jason Verduzco of Verizon Wireless summarized their proposed changes to the chapter. Verduzco distributed copies of a Verizon Wireless pamphlet containing information on small cell facilities.

The Commission requested the following from staff: photos of small cell wireless facilities, time to review the industry representatives' suggested changes to the code, and for staff to review and provide feedback at a future meeting on the industry representatives' suggestions. The Commission invited the industry representatives to return for future study sessions and requested staff to invite the representatives to the public hearing that will be scheduled at a later

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time. The possibility of holding separate text amendment public hearings for separate topics/areas of the code was discussed and will be determined down the line.

Senior Assistant City Attorney Sara Watkins stated that she will review the Federal Communications Commission (FCC) order so it can be clarified what bearing the shot clocks established therein will have on the city's permitting and appeal procedures.

Other Business – None noted.

Adjourn - A motion to adjourn to March 27, 2019 was passed with unanimous vote. This meeting adjourned at 3:36 p.m.

Katrina Byers

Chairwoman Byers

03-27-2019

Date

This meeting was filmed by YPAC. Minutes for this meeting submitted by: Lisa Maxey, Planning Technician.

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