



December 22, 2015

**To:** Washington State E.C.Y., Environmental Review Section  
Cowlitz County PUD – Right of Way  
Clint Matthews, Cascade Natural Gas  
CenturyLink  
Ryan Hennessey, Comcast  
Jim Kambeitz, Longview Fire Marshal  
Mike Murray, Commercial Building Inspector  
Jeff Barsness, Development Services Engineer, WSDOT  
Department of Fish and Wildlife SEPA Desk  
Washington State Department of Transportation, Aeronautics Division  
Cascade Networks  
Wireless Communications Consultants (various)

**From:** John Brickey, Director of Community Development/Building Official

**Subject:** **SEPA Environmental Checklist Review - Application #E 2015-17**

**Project:** **Steve Langdon, Planning Manager with the City of Longview has submitted a SEPA checklist for a non-project action to update Longview Municipal Codes regarding the establishment of wireless facilities (e.g. cell phone towers) and regulating the co-location of wireless facilities on existing towers or other wireless facilities. The proposal is a non-project action within the city limits of Longview, WA.**

The applicant has submitted an Environmental Checklist for review under WAC 197-11, the SEPA Rules.

The non-project action applies city-wide.

The SEPA Responsible Official has determined that this proposal will not likely have an adverse impact on the environment and has issued a DNS on this application. Please review the attached SEPA documents and provide your written comments to me no later than **6:00 p.m. January 5, 2016**.

If you have any questions or need additional information, please contact Adam Trimble, Planner at (360) 442-5092 or me at (360) 442-5080.

Thank you.

Attachments: Proposed Chapter 16.75 Wireless Communication Facilities & Chapter 16.80 Eligible Wireless Facilities Modifications

Cc:      Applicant: City of Longview  
File



**DETERMINATION OF NON-SIGNIFICANCE  
SEPA RULES - WAC 197-11-970**

**Description of Proposal:** E 2015-17– The City of Longview Community Development Department proposes a non-project action to update Longview Municipal Codes regarding the establishment of wireless facilities (e.g. cell phone towers) and regulating the co-location of wireless facilities on existing towers or other wireless facilities. Under the proposal Chapter 16.75 Wireless Communications would be eliminated and then replaced with Chapter 16.75 Wireless Communication Facilities. This chapter would provide regulations for the siting of new facilities. In addition, a second chapter titled Chapter 16.80 Eligible Wireless Facilities Modifications would be created. This chapter will provide regulations for co-locating facilities on existing wireless facilities. The proposal is a non-project action within the city limits of Longview, WA. The proposal is attached.

**Proponents:** Steve Langdon, Planning Manager  
City of Longview  
P.O. Box 129  
Longview, WA 98633  
Phone: 360-442-5084

**Location of Proposal, Including Street Address, if any:** This is a non-project action and applies city-wide.

**Lead Agency:** City of Longview, Washington

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 a review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.



The comment period for this DNS ends at 6:00 on January 5, 2016.

Responsible Official: John Brickey

Position/Title: Director/Building Official

Department: Community Development

Address: PO Box 128, Longview, WA 98632

Contact Person: Adam Trimble, Planner

Phone: (360) 442-5092

Date: December 22, 2015 Signature: John H. Brickey

**City of Longview  
Community Development**

**SEPA ENVIRONMENTAL CHECKLIST  
UPDATED 2014**

***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:*** [\[help\]](#)

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 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.

***Instructions for Lead Agencies:***

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

***Use of checklist for nonproject proposals:*** [\[help\]](#)

For nonproject 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 [\[help\]](#)

E 2015-17

1. Name of proposed project, if applicable: *Update to Wireless Facilities Codes (PC 2015-4)*

2. Name of applicant: *City of Longview*

3. Address and phone number of applicant and contact person:

*Steve Langdon, Planning Manager (360) 442-5083  
P.O. Box 128 steve.langdon@ci.longview.wa.us  
Longview, WA 98632*

4. Date checklist prepared: *December 22, 2015*

5. Agency requesting checklist: *City of Longview*

6. Proposed timing or schedule (including phasing, if applicable): *Planning Commission review and recommendation by the end of January 2016. City Council review and adoption by the end of February 2016.*

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. *No*

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal. *None*

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 known.*

10. List any government approvals or permits that will be needed for your proposal, if known. *City Council adoption of an ordinance.*

11. Give brief, 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 Longview Community Development Department proposes a non-project action to update Longview Municipal Codes regarding the establishment of wireless facilities (e.g. cell phone towers) and regulating the co-location of wireless facilities on existing towers or other wireless facilities. Under the proposal Chapter 16.75 Wireless Communications would be eliminated and then replaced with Chapter 16.75 Wireless Communication Facilities. This chapter would provide regulations for the siting of new facilities. In addition, a second chapter titled Chapter 16.80 Eligible Wireless Facilities Modifications would be created. This chapter will provide regulations for co-locating facilities on existing wireless facilities. The proposal is a non-project action within the city limits of Longview, WA. The proposal is attached.*

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. *Citywide. The City of Longview is located in Cowlitz County which is in Southwest Washington. Cowlitz County is not fully subject to the Growth Management Act.*

## **B. ENVIRONMENTAL ELEMENTS [\[help\]](#)**

### **1. Earth**

a. General description of the site [\[help\]](#)

(circle one): Flat, rolling, hilly, steep slopes, mountainous,  
other \_\_\_\_\_ *Not applicable, this is a non-project action.*

b. What is the steepest slope on the site (approximate percent slope)? [\[help\]](#)

*Not applicable, this is a non-project action.*

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils. *Not applicable, this is a non-project action.*

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. *Not applicable, this is a non-project action.*

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill. *Not applicable.*

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. [\[help\]](#) *Not applicable.*

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? [\[help\]](#) *Not applicable.*

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any: [\[help\]](#) *Not applicable.*

### **2. Air**

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known. *Not applicable, this is a non-project action.*

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. [\[help\]](#) *Not applicable.*

c. Proposed measures to reduce or control emissions or other impacts to air, if any: [\[help\]](#) *Not applicable.*

### 3. Water

#### a. Surface Water: [\[help\]](#)

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into. *Not applicable, this is a non-project action. The Columbia and Cowlitz Rivers are adjacent to City limits. This City lowlands are protected by a levee and drainage channel system.*
- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. [\[help\]](#) *Not applicable.*
- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material. [\[help\]](#) *Not applicable.*
- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. [\[help\]](#) *Not applicable.*
- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. [\[help\]](#) *Not applicable.*
- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge. [\[help\]](#) *Not applicable.*

#### b. Ground Water:

- 1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known. *No.*
- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve. *Not applicable, this is a non-project action.*

#### c. Water runoff (including stormwater):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe. [\[help\]](#) *Not applicable.*
- 2) Could waste materials enter ground or surface waters? If so, generally describe. [\[help\]](#) *Not applicable.*
- 3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe. *Not applicable.*

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any: *Not applicable.*

#### 4. Plants [\[help\]](#)

- 3) Check the types of vegetation found on the site: *Not applicable, this is a non-project action.*
  - a.
    - deciduous tree: alder, maple, aspen, other
    - evergreen tree: fir, cedar, pine, other
    - shrubs
    - grass
    - pasture
    - crop or grain
    - Orchards, vineyards or other permanent crops.
    - wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
    - water plants: water lily, eelgrass, milfoil, other
    - other types of vegetation
  - b. What kind and amount of vegetation will be removed or altered? [\[help\]](#) *Not applicable.*
  - c. List threatened and endangered species known to be on or near the site. [\[help\]](#) *Not applicable.*
  - d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any: [\[help\]](#) *Not applicable.*
  - e. List all noxious weeds and invasive species known to be on or near the site. *Not applicable.*

#### 5. Animals

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. Examples include: [\[help\]](#)

birds: hawk, heron, eagle, songbirds, other:

mammals: deer, bear, elk, beaver, other:

fish: bass, salmon, trout, herring, shellfish, other \_\_\_\_\_

*Not applicable, this is a non-project action.*

b. List any threatened and endangered species known to be on or near the site. [\[help\]](#) *Not applicable.*

c. Is the site part of a migration route? If so, explain. [\[help\]](#) *Not applicable.*

d. Proposed measures to preserve or enhance wildlife, if any: [\[help\]](#) *Not applicable.*

e. List any invasive animal species known to be on or near the site. *Not applicable.*

## 6. Energy and natural resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc. *Not applicable, this is a non-project action.*

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. [\[help\]](#) *Not applicable.*

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any: [\[help\]](#) *Not applicable.*

## 7. Environmental health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe. [\[help\]](#)

*Not applicable, this is a non-project action.*

1) Describe any known or possible contamination at the site from present or past uses. *Not applicable.*

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity. *Not applicable.*

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating

life of the project. *Not applicable.*

- 4) Describe special emergency services that might be required. *Not applicable.*
- 5) Proposed measures to reduce or control environmental health hazards, if any: *Not applicable.*

**b. Noise**

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)? *Not applicable, this is a non-project action.*
- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site. [\[help\]](#) *Not applicable.*
- 3) Proposed measures to reduce or control noise impacts, if any: [\[help\]](#) *Not applicable.*

**8. Land and shoreline use**

- a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe. *Not applicable, this is a non-project action.*
- b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use? [\[help\]](#) *Not applicable.*
  - 1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how: *Not applicable.*
- c. Describe any structures on the site. [\[help\]](#) *Not applicable.*
- d. Will any structures be demolished? If so, what? [\[help\]](#) *Not applicable.*
- e. What is the current zoning classification of the site? [\[help\]](#) *Not applicable*
- f. What is the current comprehensive plan designation of the site? [\[help\]](#) *Not applicable.*
- g. If applicable, what is the current shoreline master program designation of the site? [\[help\]](#) *Not applicable.*
- h. Has any part of the site been classified as a critical area by the city or county? If so, specify. [\[help\]](#) *Not applicable.*

- i. Approximately how many people would reside or work in the completed project? [\[help\]](#) *Not applicable.*
- j. Approximately how many people would the completed project displace? [\[help\]](#) *Not applicable.*
- k. Proposed measures to avoid or reduce displacement impacts, if any: [\[help\]](#) *Not applicable.*
- L. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: [\[help\]](#) *Not applicable.*
- m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any: *None.*

## 9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing. *Not applicable, this is a non-project action.*
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing. [\[help\]](#) *Not applicable.*
- c. Proposed measures to reduce or control housing impacts, if any: [\[help\]](#) *Not applicable.*

## 10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed? *Not applicable, this is a non-project action.*
- b. What views in the immediate vicinity would be altered or obstructed? [\[help\]](#)  
*None*
- c. Proposed measures to reduce or control aesthetic impacts, if any: [\[help\]](#)  
*None*

## 11. Light and glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur? *Not applicable, this is a non-project action.*
- b. Could light or glare from the finished project be a safety hazard or interfere with views? [\[help\]](#)  
*Not applicable.*
- c. What existing off-site sources of light or glare may affect your proposal? [\[help\]](#)  
*Not applicable.*
- d. Proposed measures to reduce or control light and glare impacts, if any: *None*

## 12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity? *Not applicable, this is a non-project action.*
- b. Would the proposed project displace any existing recreational uses? If so, describe. [\[help\]](#) *Not applicable.*
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any: [\[help\]](#)

*None.*

## 13. Historic and cultural preservation

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe. *Not applicable, this is a non-project action.*
- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources. [\[help\]](#) *Not applicable.*
- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc. [\[help\]](#) *Not applicable.*
- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.  
*None.*

## 14. Transportation

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any. *Not applicable, this is a non-project action.*
- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop? [\[help\]](#)  
*Not applicable.*
- c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate? [\[help\]](#)  
*Not applicable.*

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private). [\[help\]](#)

*Not applicable.*

e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe. [\[help\]](#) *Not applicable.*

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates? [\[help\]](#) *Not applicable.*

g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe. *Not applicable.*

h. Proposed measures to reduce or control transportation impacts, if any: [\[help\]](#)

*None*

## 15. Public services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe. *Not applicable, this is a non-project action.*

b. Proposed measures to reduce or control direct impacts on public services, if any. [\[help\]](#)

*None*

## 16. Utilities

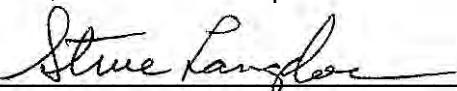
a. Circle utilities currently available at the site: [\[help\]](#)  
electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other \_\_\_\_\_ *Not applicable, this is a non-project action.*

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed. [\[help\]](#)

*Not applicable.*

## C. Signature [\[HELP\]](#)

I declare under penalty of the perjury laws that the information I have provided on this form/application is true, correct and complete:

Signature: 

Name of signee Steven L. Langdon

Position and Agency/Organization Planning Manager, City of Longview

Date Submitted: December 22, 2015

## D. supplemental sheet for nonproject actions [\[help\]](#)

(IT IS NOT NECESSARY to use this sheet for project actions)

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 likely to 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 proposal is not likely to cause a significant adverse increase to the above. The proposal is to update the City's codes regarding wireless communication facilities. The code updates will have minimal effect on pollution production.*

Proposed measures to avoid or reduce such increases are: *None.*

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

*The proposal is not likely to have a substantial adverse impact on the above. The proposal is to update City's municipal code regulating wireless communication facilities. The effect on flora and fauna is minimal.*

Proposed measures to protect or conserve plants, animals, fish, or marine life are: *The proposed codes are designed to minimize the impacts wireless facilities have on the environment.*

3. How would the proposal be likely to deplete energy or natural resources?

*There is no indication that the proposal will deplete energy or natural resources.*

Proposed measures to protect or conserve energy and natural resources are: *The proposed codes are designed to encourage co-location of facilities thus creating efficiencies in providing needed services.*

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 municipal code update proposal is not likely to adversely impact the above.*

Proposed measures to protect such resources or to avoid or reduce impacts are: *The proposed codes plus the City's environmental regulations minimize the impacts wireless communication facilities have on the environment.*

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?

*The wireless communication facilities code provides needed regulations to ensure that those facilities are safe and do not cause substantial adverse impacts to nearby areas. Successful implementation of the wireless communication facilities codes helps to avoid land use and development conflicts.*

Proposed measures to avoid or reduce shoreline and land use impacts are:

*The proposal is designed to avoid shoreline and land use impacts by helping to implement the City's development codes.*

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

*The proposal is not likely to significantly increase demands on transportation, public services or utilities.*

Proposed measures to reduce or respond to such demand(s) are: *None.*

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment. *None known.*

# **CITY OF LONGVIEW**

## **Chapter 16.75**

### **WIRELESS COMMUNICATION FACILITIES**

Sections:

- 16.75.010** Purpose.
- 16.75.020** Exemptions.
- 16.75.030** Applicability, review, and permits required.
- 16.75.040** Types of permits – Priority – Preferences – Restrictions.
- 16.75.050** General requirements.
- 16.75.060** Landscaping/screening.
- 16.75.070** Electrical transmission structure collocation – Specific development standards.
- 16.75.080** Adding antennas to an existing wireless communication facility tower – Specific development standards.
- 16.75.090** Utility pole collocation – Specific development standards.
- 16.75.100** Building-mounted concealed facility – Specific development standards.
- 16.75.110** Request to use nonconcealed facilities attached to a building in lieu of a concealed building attachment.
- 16.75.120** Nonconcealed building-mounted specific development standards.
- 16.75.130** Requests for new towers.
- 16.75.140** Tower-specific development standards.
- 16.75.150** Height modification.
- 16.75.160** Setback modification.
- 16.75.170** Expiration.
- 16.75.180** Removal of abandoned wireless communication facilities.

#### **16.75.010 Purpose.**

The purpose of this chapter is to regulate the placement, construction and modification of wireless communication facilities in order to protect the health, safety, and welfare of the public while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City of Longview. The purpose of this chapter will be achieved through adherence to the following objectives:

- (1) Encourage the location of wireless communication facilities in nonresidential areas;

- (2) Allow wireless communications facilities in residential areas when necessary to meet the functional requirements of the telecommunications industry;
- (3) Minimize the total number of wireless communication facilities throughout the community;
- (4) Protect residential areas and land uses from potential adverse impacts that wireless communication facilities might create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historic resources, flight corridors, and health and safety of persons and property;
- (5) Require cooperation between competitors and, as a primary option, encourage the joint use of new and existing wireless communication facility sites and structures to the greatest extent possible in order to reduce cumulative negative impact upon the City;
- (6) Allow wireless communication companies to use City property for the placement of wireless facilities, where consistent with other public needs, as a means to generate revenue for the City;
- (7) Encourage providers of wireless communication facilities to locate these facilities in areas where the adverse impact on the community is minimal;
- (8) Ensure wireless communication facilities are configured in a way that minimizes the adverse visual impact of the wireless communication facilities, as viewed from different vantage points, through careful design landscape screening, minimal impact siting options and camouflaging techniques, and through assessment of technology, current location options, siting, future available locations, innovative siting techniques, and siting possibilities beyond the jurisdictional boundaries of the City;
- (9) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- (10) Provide for the removal of wireless communication facilities that are abandoned or no longer inspected for safety concerns and building code compliance, and provide a mechanism for the City to cause these abandoned wireless communication facilities to be removed to protect citizens from imminent harm and danger;
- (11) Avoid potential damage to adjacent properties from tower failure through engineering, careful siting, and maintenance of wireless communication facilities;
- (12) Provide a means for public input on major wireless communication facility placement, construction, and modification; and
- (13) Establish clear and nondiscriminatory local regulations concerning wireless telecommunications providers and services that are consistent with Federal and State laws and regulations pertaining to telecommunications providers.

## **16.75.020 Exemptions.**

The following are exempt from the provisions of this chapter:

- (1) Antennas and related equipment no more than three feet in height that are being stored, shipped, or displayed for sale.
- (2) Radar systems for military and civilian communication and navigation.
- (3) Any wireless internet facility that is owned and operated by a Federal, State, or local government.
- (4) Antennas for the receiving and sending of licensed amateur (HAM) radio stations and citizen band stations; provided, that the antennas do not exceed the base height requirements of the applicable zoning district and are owned and operated by a Federally licensed amateur radio station operator or are used exclusively for receive-only antennas. In order to reasonably accommodate licensed amateur radio operators as required by Federal Code of Regulations 47 CFR Part 97, as amended, and Order and Opinion (PRB-1) of the Federal Communications Commission of September 1985 and RCW 35A.21.260, a licensed amateur radio operator may locate a tower not to exceed the base height requirements of the applicable zoning district, provided the following requirements are met for such towers located in a single-family residentially zoned district:
  - (a) The tower and any antennas located thereon shall not have any lights of any kind on them and shall not be illuminated either directly or indirectly by any artificial means;
  - (b) The color of the tower and any antennas located thereon shall all be the same and such that they blend into the sky to the extent allowed under the requirements set forth by the Federal Aviation Administration;
  - (c) No signs shall be used in conjunction with the tower, except for one sign no larger than eight and one-half inches high and 11 inches wide, or as required by Federal regulations;
  - (d) No advertising logo, trademark, figurine, or other similar marking or lettering shall be placed on the tower or any wireless communication facilities mounted or otherwise attached thereto or any building used in conjunction therewith;
  - (e) A telescoping tower and any antennas may exceed the base height of the underlying zoning district when fully extended, up to a maximum 75 feet in height, if the tower and any antennas attached do not exceed the base height of the zoning district when it is retracted; when the antenna is not in use it must be fully retracted (nested);

- (f) The tower shall be located a distance equal to or greater than its height, at full extension, from any existing residential structure located on adjacent parcels of property, including any attached accessory structures;
- (g) A tower shall be located a distance at least three-quarters of its height, at full extension, from any property line on the parcel of property on which it is located, unless a licensed engineer certifies that the tower will not collapse or that it is designed in such a way that, in the event of collapse, it falls within itself, and, in that event, it shall be located at least one-third of its height, at full extension, from any property line;
- (h) Towers shall not be leased or rented to commercial users and shall not otherwise be used for commercial purposes; and
- (i) All towers shall meet all applicable State and Federal statutes, rules, and regulations, including obtaining a building permit from the City, if necessary.

(5) An antenna that is designed to receive or send direct broadcast satellite or terrestrial service and/or broadband signals, or other means for providing internet service including direct-to-home satellite services, and that is 3.28 feet (one meter) or less in diameter or diagonal measurement, and the antenna is attached to the residence or business that is utilizing the service.

(6) An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint data distribution services, and that is 3.28 feet (one meter) or less in diameter or diagonal measurement.

(7) An antenna that is designed to receive television broadcast signals.

(8) Routine maintenance or repair of wireless communication facilities, excluding structural work or changes in height or dimensions of antennas, towers, or buildings; provided, that the wireless communication facility received approval from the City of Longview or Cowlitz County for the original placement, construction, or subsequent modification. Changing of antennas on wireless communication facilities is permitted, provided the new antennas have the same area or less of those removed. The total number of antennas must remain the same. Additional ground equipment shall be placed within an approved equipment enclosure, provided the height of the equipment does not extend above the screen fence.

(9) Emergency communications equipment during a declared public emergency when the equipment is owned and operated by an appropriate public agency. In the event a building permit is required for any emergency maintenance, reconstruction, repair, or replacement, filing of the building permit application shall occur within 30 days after the commencement of such emergency activities. The work performed must constitute a true emergency. Scheduled replacement or repair work does not constitute an emergency. In the event a building permit is required for nonemergency maintenance, reconstruction, repair, or replacement, filing of the

building permit application shall be required prior to the commencement of such nonemergency activities.

(10) Antennas and related equipment used by electric utility providers for the noncommercial communication, operation, and monitoring of their utility system may be collocated on their transmission structures or utility poles, provided the color of the antennas and equipment shall be the same as the pole or structure they are located on or a color that blends into the sky.

### **16.75.030 Applicability, review, and permits required.**

The standards and process requirements of this chapter shall apply to the placement, construction, or modification of all wireless communication facilities, except as specifically exempted in LMC 16.75.020.

(1) No person may place, construct, or modify a wireless communication facility subject to this chapter without first obtaining the required permit(s), issued in accordance with this chapter. Except as otherwise provided herein, the requirements of this chapter are in addition to the applicable requirements of LMC Titles 16, 17 and 18.

(2) Any land use or other permit application submitted pursuant to this chapter shall be reviewed and evaluated by the Director for all wireless communication facility projects located on public or private property.

(3) The applicant shall be responsible for obtaining any necessary local, State, and Federal permits and approvals for the project, and is responsible for complying with any conditions of approval placed on the application by local or other State or Federal permits or approvals.

(4) No provisions of this chapter shall be interpreted to allow the installation of a wireless communication facility to reduce the minimum parking or landscaping requirements on a site.

(5) Wireless communication facilities that are governed under this chapter shall not be eligible for variances under LMC 19.12.140. Any request to deviate from this chapter shall be based on the modifications set forth in this chapter.

(6) The City may, at its discretion, contract with an independent engineering and technical review consultant to review the land use or other permit application. The applicant shall be responsible for actual costs charged by the consultant, in addition to any base fees and application fees set forth in the City's fee resolution. Based on the results of the independent technical review, the City may require changes or request additional information to complete the application review. The technical review shall address the following:

- (a) The accuracy and completeness of the application;
- (b) The applicability of analysis techniques and methodologies;

- (c) The validity of conclusions reached;
- (d) The viability of other sites in the City for the use intended by the applicant; and
- (e) Any specific engineering or technical issues designated by the City.

(7) No alterations or changes shall be made to an approved wireless communications land use permit. Modifications which exceed the conditions of approval will require a new wireless communications land use permit and shall be reviewed based on the laws and rules in effect at the time of application. The Director has sole discretion to approve or deny any request for modifications to the land use approval.

### **16.75.040 Types of permits – Priority – Preferences – Restrictions.**

(1) Applications will be reviewed based on the type of wireless communication facility requested to be permitted. Each wireless communication facility requires a specific type of project review as provided for in the table in subsection (2) of this section.

(2) Table.

Type of Permit Required Based on Type of Wireless Communication (WC) Facility

Zoning			
Type of WC Facility(3)	Residential	Commercial	Resource/Industrial
	R-4, R-6, R-8, R-18	CC, GC, NC, TC, MC, MHO	M, I
Transmission tower collocation	Type 1	Type 1	Type 1
Adding antennas to an existing tower	Type 1 (1)	Type 1 (1)	Type 1 (1)
Utility pole collocation	Type 2	Type 2	Type 2
Concealed building attached	Type 2 (2)	Type 2 (2)	Type 1
Nonconcealed building attached	Type 2	Type 2	Type 1
New tower or height modification request	Type 3	Type 3	Type 3

*Notes:*

(1) *Provided, that the height of the tower does not increase and the square footage of the enclosure area does not increase. If the enclosure area is increased it shall be a Type 2 review.*

(2) *An applicant may request to install a nonconcealed building-attached facility under LMC 16.75.110.*

*(3) In the event of uncertainty on the type of wireless facility, the Director shall have the authority to determine how a proposed facility is incorporated into Table 18.70.040(2) and the type of permit required.*

(3) Priorities. The priorities for the type of wireless communication facility shall be based upon their placement in subsection (2) of this section; most desirable facilities are located toward the top of the table and the least desirable facilities toward the bottom. An application for a wireless communication facility shall follow the hierarchy provided in subsection (2) of this section. For example, an applicant shall demonstrate, by engineering evidence, that collocation on an electrical transmission structure is not feasible before moving to a utility pole collocation, and so forth, with the last possible siting option being a new wireless communication facility tower or height modification request.

(4) Preferences. The City's preferences for locating new wireless communications facilities are as follows:

- (a) Place antennas on existing structures, such as buildings, wireless communication facility towers, water towers, utility poles, or electrical transmission structures.
- (b) Place wireless communication facilities in nonresidentially zoned districts and on nonresidential property.
- (c) Place wireless communication facilities on public property and on appropriate rights-of-way; provided, that no obligation is created herein for the City to allow the use of City property or public right-of-way for this purpose. The placement of personal wireless communication facilities on City-owned property and public right-of-way will be subject to other applicable sections of the Longview Municipal Code and review by other City departments. A wireless communication facility mounted to any City-owned property, utility pole, or other structure shall be removed if the City deems removal is necessary for the undergrounding of utilities, the sale, development, or redevelopment of City-owned property, or the demolition or alteration of a City-owned building or other structure. The wireless communication facility shall be removed at no expense to the City.

(5) Application Procedure. The applicant shall submit a completed application in a form established by the Director along with the initial application fee as set forth in the City's current fee resolution. The application shall contain such information as the Director may deem necessary or useful, and shall include:

- (a) Type 1 Permit Requirements.
  - (i) A written description outlining the proposed project and an evaluation of how the proposal meets the City's code requirements;
  - (ii) Applicants who are not the property owner of record of the land and/or structure on which a wireless communication facility is to be located are required

to have the application co-signed by the property owner(s) and provide a signed statement by the property owner(s) and/or building or structure owner(s) (if different) authorizing the submittal of the application by the applicant;

(iii) Plan sets prepared by a design professional that include a vicinity map, site map, architectural elevations, method of attachment, proposed screening, location of proposed antennas, and all other information which accurately depicts the proposed project and existing conditions or as otherwise determined necessary by the Director;

(iv) Documented evidence that the facility meets Federal Communications Commission requirements for allowed radio frequency emissions;

(v) A vicinity map depicting the proposed extent of the service area;

(vi) Critical areas study and proposed mitigation (if required);

(vii) If an outdoor generator is proposed, a report prepared by an acoustical engineer demonstrating compliance with those standards established within the state noise law, including Chapter 70.107 RCW and Chapter 173-60 WAC and those applicable standards of LMC 9.22.050; and

(viii) SEPA application (if required).

(b) Type 2. The applicant shall submit all of the information required for a Type 1 application, plus the following:

(i) Photo simulations that depict the existing and proposed view of the proposed facility;

(ii) Data sheet depicting the materials, textures, and colors proposed for use;

(iii) Landscaping plan prepared by a Washington State-licensed landscape architect (if required);

(iv) Service coverage area map (radio frequency (RF) modeling) may be required;

(v) If the facility is located within a residential zone, a report from a radio frequency engineer explaining the need for the proposed wireless communication facility. Additionally, the applicant shall provide detailed discussions on why the wireless communication facility cannot be located within a commercial or industrial/resource zone; and

(vi) Mailing labels for all property owners and tenants/residents within 500 feet of the subject property.

(c) Type 3. The applicant shall submit all of the information required for Type 1 and Type 2 applications, plus the following:

- (i) All information required for new towers under LMC 16.75.130 and 16.75.140;
- (ii) All information required for a height modification or setback modification request under LMC 16.75.150 and 16.75.160 respectively (if applicable);
- (iii) The radio frequency engineer report shall include a discussion of the information required under LMC 16.75.050. The report shall also explain why a tower must be used instead of any of the other location options outlined in the table in subsection (2) of this section;
- (iv) Engineering plans for the proposed tower, including a letter of certification by a licensed engineer that the proposed height and equipment comply with the requirements of this chapter;
- (v) Evidence that the tower has been designed to meet the minimum structural standards for wireless communication facilities for a minimum of three providers of voice, video, or data transmission services, including the applicant, and including a description of the number and types of antennas the tower can accommodate;
- (vi) A graphic simulation showing the appearance of the proposed tower and ancillary structures and ancillary facilities from five points within the impacted vicinity. Such points are to be mutually agreed upon by the Director and applicant. All plans and photo simulations shall include the maximum build-out of the proposed facility; and
- (vii) Evidence of compliance with Federal Aviation Administration standards for height and lighting and certificates of compliance from all affected agencies.

## **16.75.050 General requirements.**

The following shall apply to all wireless communication facilities regardless of the type of facility:

- (1) Noise. Any facility that requires a generator or other device that will create noise must demonstrate compliance with those standards established within the state noise law, including Chapter 70.107 RCW and Chapter 173-60 WAC and those applicable standards of LMC 9.22.050. A noise report prepared by an acoustical engineer shall be submitted with any application to construct and operate a wireless communication facility that will have a generator or similar device. The City may require that the report be reviewed by an independent technical expert at the sole expense of the applicant.

(2) Business License Requirement. Any person, corporation, or entity that operates a wireless communication facility within the City shall obtain and maintain a valid Longview business license, issued annually by the City. Any person, corporation, or other business entity that owns a tower is also required to obtain and maintain a valid Longview business license.

(3) Signage. Only safety signs or those mandated by other public agencies may be located on wireless communication facilities. No other types of signs are permitted on wireless communication facilities.

(4) Parking. Any application must demonstrate that there is sufficient space for temporary parking for regular maintenance of the proposed facility.

(5) Finish. A tower shall either maintain a galvanized steel finish or, subject to the applicable standards of the FAA or FCC, be painted a neutral color so as to reduce its visual obtrusiveness.

(6) Design. Wireless communication facilities shall be screened or camouflaged by employing the best available technology. The design of all antennas, towers, support structures, buildings, and ancillary structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment.

(7) Color. All antennas and ancillary wireless communication facilities located on buildings or structures other than towers shall be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and ancillary facilities as visually unobtrusive as possible.

(8) Lighting. Wireless communication facilities shall not be artificially lighted unless required by the FAA, FCC, or other applicable government authority. If lighting is required, the reviewing authority shall review the lighting alternatives and approve the design that would cause the least disturbance to the surrounding areas. No strobe lighting of any type is permitted on any tower.

(9) Advertising. No advertising is permitted at wireless communication facility sites or on any ancillary structures or facilities equipment compound.

(10) Ancillary Wireless Communication Facilities. All ancillary wireless communication facilities shall meet the underlying zoning district's setback requirements unless a zoning setback modification is granted pursuant to LMC 16.75.160.

(11) Equipment Enclosures. If feasible, equipment enclosures shall be located within existing buildings. If some other placement is proposed the applicant shall demonstrate to the satisfaction of the City that it is not feasible to locate the equipment within a buildings. All equipment and cabinets that will be visible to the traveling public, workers, or residents shall be as small and unobtrusive as is practicable and designed to blend in with existing surrounds. The applicant shall size any equipment enclosure and other facilities to minimize visual clutter. Each applicant shall be limited to an equipment enclosure of 360 square feet at each site. However, this size

restriction shall not apply to enclosures located within an existing commercial, industrial, residential, or institutional building.

(12) Owner Approval. At the time of application the applicant must submit proof that they have contacted and received approval for the placement of the antenna at the specified location from the support structure owner (e.g., building, water tower, utility pole, electrical transmission structure, monopole) and, if different, the land owner upon which the structure is located.

(13) Building Standards. Wireless communication support structures shall be constructed so as to meet or exceed the most recent Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled: "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" (or equivalent), and as it may be updated or amended. Utility poles and transmission structures that are owned and/or maintained by the serving electric utility shall be designed to meet the National Electric Safety Code. Prior to issuance of a building permit the Building Official shall be provided with an engineer's certification that the support structure's design meets or exceeds the preceding applicable standards.

(14) Maintenance. Wireless communication carriers shall maintain their wireless communication facility in a good and safe condition. They shall preserve its original appearance and concealment, disguise, or camouflage elements incorporated into the design at the time of approval and in a manner which complies with all applicable Federal, State, and local requirements. Such maintenance shall include, but not be limited to, such items as painting, repair of equipment, and maintenance of landscaping.

(15) Critical Areas. Wireless communication facilities shall not be allowed in designated critical areas (except aquifer recharge areas) unless they are collocated on existing facilities.

(16) Radio Frequency Emissions. The applicant shall demonstrate that the wireless communication facility will comply with the radio frequency emission standards adopted by the Federal Communications Commission (FCC).

(17) State or Federal Requirements. All wireless communication facilities must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

## **16.75.060 Landscaping/screening.**

(1) The visual impacts of wireless communication facilities shall be mitigated and softened through landscaping or other screening materials at the base of the tower, equipment compounds, equipment enclosures, and ancillary structures, with the exception of wireless communication facilities located on electrical transmission structures, or if the antenna is mounted flush on an existing building or camouflaged as part of the building and ancillary equipment is housed inside an existing structure. The use of appropriate native plant species is encouraged. The Director may reduce or waive the standards for those sides of the wireless communication facility that are not in public view and when a combination of existing vegetation, topography, walls, decorative fences or other features achieve the same degree of screening as the required landscaping; or in locations where large wooded lots and natural growth around the property perimeter may be sufficient buffer.

(2) Landscaping shall be installed on the outside of fences associated with wireless communication facility equipment compounds and around equipment enclosures located at ground level. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping or screening requirements. The following requirements apply:

- (a) Screening landscaping shall be placed around the perimeter of the equipment compound, except that a maximum 10-foot portion of the fence may remain without landscaping in order to provide access to the enclosure.
- (b) The landscaping area shall be Type 1 landscaping as described in LMC 16.75.190(1) and a minimum of eight feet in depth around the perimeter of the enclosure in all zoning districts; except that Type II landscaping as defined in LMC 16.75.190(2) may be used in residential zoning districts and shall be a minimum of 10 feet in depth. *(This subsection needs more editing.)*
- (c) The applicant shall utilize evergreens that shall be a minimum of six feet tall at the time of planting, unless located in a transmission or utility corridor where clearance requirements apply; then landscaping that will be appropriate in size at maturity so as not to grow into the clear zone shall be planted.

(3) The applicant shall replace any unhealthy or dead plant materials in conformance with the approved landscaping development proposal plan and shall maintain all landscaping materials in a healthy growing condition for the life of the facility. Landscape areas shall be kept free of trash.

## **16.75.070 Electrical transmission structure collocation – Specific development standards.**

The following requirements shall apply to collocation of antennas on an existing electrical transmission structure [as defined in LMC 16.75.200(5)]:

(1) Height. The height requirements for antennas that are collocated on electrical transmission structures is limited to 12 feet above the existing tower or pole height. If a replacement electrical transmission structure is proposed, the maximum height shall be no greater than 12 feet above the original electrical transmission structure's height.

(2) Antenna Aesthetics. There are no restrictions on the type of antenna(s) that may be collocated on the electrical transmission structure. The antenna(s) must be painted to match the color of the electrical transmission tower/pole.

(3) Antenna Intensity. There is no limit on the number of antennas that may be collocated on an electrical transmission structure.

(4) Feed Lines and Coaxial Cables. Feed lines and coaxial cables shall be attached to the existing pole or to one of the legs of the electrical transmission tower. The feed lines and cables must be painted to match the color of the electrical transmission structure. If a replacement structure is proposed the feed lines and coaxial cables shall be located within the structure or in a covered raceway of similar color and material to the tower or pole.

(5) Equipment Enclosures. Cabinet equipment shall be located directly under the electrical transmission tower where the antennas are located, or in a concealed location.

(6) Setbacks. Setback requirements shall not apply to wireless communication facilities collocated on an existing electrical transmission structure.

### **16.75.080 Adding antennas to an existing wireless communication facility tower – Specific development standards.**

The following requirements shall apply to adding antennas to existing wireless communication facility tower(s) [as defined in LMC 16.75.200(9)]:

(1) Height. The height of the antenna(s) must not exceed what was approved under the original application to construct the tower. If the proposed antenna(s) height shall exceed what was originally approved, a variance approval as a Type 3 decision is required.

(2) Antenna Aesthetics. Antenna(s) shall be painted to match the color scheme of the tower. Antenna mounts shall be flush-mounted onto the existing tower; unless it is demonstrated through radio frequency (RF) propagation analysis that flush-mounted antennas will not meet the network coverage objective.

(3) Antenna Intensity. There is no limit on the number of antennas that may be located on an existing tower.

(4) Feed Lines and Coaxial Cables. Feed lines and coaxial cables shall be located within the tower. Any exposed feed lines or coaxial cables (such as when extended out of the tower to connect to the antennas) must be painted to match the tower.

(5) Equipment Enclosures. Any new cabinet or equipment shall be located within the equipment enclosure that was approved as part of the original application. If the applicant wishes to expand the equipment enclosure or compound from what was approved by the City or County under a previous application, the application shall seek a wireless communication facility (Type 2) application for only the equipment enclosure increase.

(6) Setbacks. Setback requirements shall not apply when an applicant installs new antennas on an existing tower and uses an existing equipment enclosure. If the equipment enclosure is increased it must meet the setback requirements for the underlying zoning district and may not exceed the total area restrictions for equipment enclosures as set forth in LMC 16.75.050.

### **16.75.090 Utility pole collocation – Specific development standards.**

The following requirements shall apply to all wireless communication facilities collocated on a utility pole [as defined in LMC 16.75.200(11)]:

(1) Height. The antenna height of a utility pole collocation is limited to 12 feet above the existing utility pole and may not be greater than 50 feet in total height in residential zones.

(2) Antenna Aesthetics. The first preference for any collocation is to utilize flush-mounted antennas. If the utility pole collocation includes an antenna array, the array shall be painted to match the support structure and shall be flush mounted within six inches of the support structure. If it is demonstrated through RF propagation analysis that six-inch flush-mounted antennas will not meet the network coverage objective, then the distance may be increased up to 12 inches or may be contained in a canister that is a continuation of the diameter of the support structure.

(3) Replacement Pole. An existing utility pole may be removed and replaced with a new utility pole so long as the replacement pole is of similar color and material as the existing, and adjacent, pole(s) and is located within 10 feet of the existing pole (measured from the center point of the existing pole to the center point of the replacement pole). The replaced utility pole must be used by the owner of the utility pole to support its utility lines. A replacement utility pole shall be designed such that coaxial cables and feed lines can be located within the pole or in a covered raceway of similar color and material as the pole.

(4) Coaxial Cables and Feed Lines. Coaxial cables limited to one-half-inch diameter may be attached directly to an existing utility pole. Coaxial cables greater than one-half inch must be placed within the utility pole or within a covered raceway of similar color and material as the existing pole. The size of the cables is the total size of all coaxial cables being utilized on the utility pole.

(5) Pedestrian Impact. The proposed wireless communications facility collocation shall not result in a significant change in the pedestrian environment or preclude the City from making pedestrian improvements. If a utility pole is being replaced, consideration must be made to improve the pedestrian environment, if necessary.

(6) Equipment Enclosures. Unless approved by the Director of Public Works, all equipment enclosures must be placed outside of the City right-of-way. Equipment enclosures shall be located underground consistent with LMC 16.75.050(11).

(7) Setbacks. Any portion of the wireless communication facilities located within City right-of-way is not required to meet setback requirements if it is located underground. The City will evaluate setback modifications on private property under the setback requirements set forth in LMC 16.75.160.

### **16.75.100 Building-mounted concealed facility – Specific development standards.**

The following requirements shall apply to wireless communication facilities that are attached to an existing building and concealed from view [as defined in LMC 16.75.200(14)]:

(1) Height. The proposed concealed wireless communication facility must meet the height requirement of the underlying zoning district. Antennas may be located in existing church spires, clock towers, chimneys, water towers, elevator towers, mechanical equipment rooms, or other similar rooftop appurtenances usually required to be placed above the roof level and not intended for human occupancy or the provision of additional floor area. Stand-alone antennas or towers shall not qualify as rooftop appurtenances.

(2) Antennas Aesthetics. Antennas must be concealed from view by blending with the architectural style of the building. This could include, but not be limited to, steeple-like structures and parapet walls. The screening must be made out of the same material and be the same color as the building. Antennas shall be painted to match the color scheme of the building(s).

(3) Feed Lines and Coaxial Cables. Feed lines and coaxial cables shall be located below the parapet of the rooftop.

(4) Cabinet Enclosure. If a cabinet enclosure cannot be located within the building where the wireless communication facilities will be located, then the City's first preference is for the wireless telecommunication carrier to locate the equipment on the roof of the building. If the equipment can be screened by placing the equipment below the parapet walls, no additional screening is required. If screening is required, the proposed screening must be consistent with the existing building in terms of color, design, architectural style, and material. If the cabinet equipment cannot be located on the roof or within the building then it shall be located underground consistent with LMC 16.75.050.

(5) Setbacks. The proposed wireless communication facilities must meet the setback requirements of the applicable zoning category where the facility is to be located.

### **16.75.110 Request to use nonconcealed facilities attached to a building in lieu of a concealed building attachment.**

The use of concealed building facilities shall have first priority in all residential and commercial zones. However, an applicant may request to construct a nonconcealed building-attached wireless communication facility in lieu of a concealed wireless communication facility. The Director will use the following criteria to determine whether to allow this request:

- (1) Due to the size of the building and the proposed location of the antennas, the visual impact of the exposed antennas will be minimal in relation to the building.
- (2) Cables are concealed from view and any visible cables are reduced in visibility by sheathing or painting to match the building where they are located.
- (3) Equipment enclosure is adequately screened from view.
- (4) Due to the style or design of the building the use of a concealed facility would reduce the visual appearance of the building.
- (5) The proposal meets the development standards of LMC 16.75.120.

### **16.75.120 Nonconcealed building-mounted specific development standards.**

The following requirements shall apply to wireless communication facilities that are attached to an existing building and not concealed from view [as defined in LMC 16.75.200(13)]:

- (1) Height. The proposed facility must meet the height requirement of the underlying zoning category. If the building where the facility is located is at or above the maximum height requirements, the nonconcealed antennas are permitted to extend a maximum of three feet above the existing roof line.
- (2) Antenna Aesthetics. The first preference for any proposed facility is to utilize flush-mounted antennas. Nonflush-mounted antennas may be used when their visual impact will be negated by the scale of the antennas to the building. Shrouds, canisters or other visually opaque, radio-frequency transparent materials which hide the wireless antennas from public view are not required unless they provide a better visual appearance than exposed antennas. Antennas shall be painted to match the color scheme of the building(s).
- (3) Feed Lines and Coaxial Cables. Feed lines and coaxial cables should be located below the parapet of the rooftop. If the feed lines and cables must be visible they must be painted to match the color scheme of the building(s).
- (4) Equipment Enclosures. If cabinet equipment cannot be located within the building where the wireless communication facilities will be located, then the City's first preference is to locate the equipment on the roof of the building. If the equipment can be screened by placing the equipment below the parapet walls, no additional screening is required. If screening is required, the proposed screening must be consistent with the existing building in terms of color, design, architectural style, and material. If the equipment enclosure cannot be located within the building

or on the roof and is located on the ground, the enclosure shall be fenced with a six-foot-tall fence. The fence shall include slats, wood panels, or other materials to screen the equipment from view.

### **16.75.130 Requests for new towers.**

(1) New towers are not permitted within the City unless the Appeal Board of Adjustment finds that the applicant has demonstrated by a preponderance of the evidence that:

- (a) Coverage Objective. There exists an actual (not theoretical) significant gap in service and the proposed wireless communication facility will eliminate such significant gap in service; and
- (b) Alternates. No existing tower, structure, other feasible site, or other alternative technologies not requiring a new tower in the City can accommodate the applicant's proposed wireless communication facility; and
- (c) Least Intrusive. The proposed new wireless communication facility is designed and located to remove the significant gap in service in a manner that is, in consideration of the goals, policies, objectives, standards and regulations set forth in this chapter, LMC Title 19 Zoning, and the comprehensive plan, the least intrusive upon the surrounding area.

(2) The Appeal Board of Adjustment is the reviewing body on the application to construct a new tower and shall determine whether or not each of the above requirements is met. Examples of evidence the applicant shall provide demonstrating the foregoing requirements include, but are not limited to, the following:

- (a) That the tower height is the minimum necessary in order to achieve the coverage objective;
- (b) That no existing towers or structures or alternative sites are located within the geographic area required to meet the applicant's engineering requirements to meet its coverage objective (regardless of the geographical boundaries of the City);
- (c) That the existing towers or structures are not of a sufficient height or could not feasibly be extended to a sufficient height to meet the applicant's engineering requirements to meet its coverage objective;
- (d) That the existing structures or towers do not have sufficient structural strength to support the applicant's proposed antenna and ancillary facilities;
- (e) That the applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing structure would cause interference with the applicant's proposed antenna;

- (f) That an alternative technology that does not require the use of a new tower, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireless system, is unsuitable. Costs of alternative technology that exceed the new tower or antenna development shall not be presumed to render the technology unsuitable; and
- (g) The applicant demonstrates other limiting factors that render existing towers and structures or other sites or alternative technologies unsuitable.

(3) The Appeal Board of Adjustment, after holding a public hearing, shall approve, approve with conditions, or deny the application, or remand the application back to staff for further investigation in a manner consistent with the Appeal Board of Adjustment order.

### **16.75.140 Tower-specific development standards.**

The following requirements shall apply to all wireless communication towers (as defined in LMC 16.75.200(9)):

- (1) Height. Any proposed tower with antennas shall meet the height standards of the zoning district where the tower will be located. A height modification may be applied for under LMC 16.75.150.
- (2) Antenna and Tower Aesthetics. The applicant shall utilize a concealed facility as defined in LMC 16.75.200(14). The choice of concealing the wireless communication facility must be consistent with the overall use of the site. For example, having a tower appear like a flagpole would not be consistent if there are no buildings on the site. If a flag or other wind device is attached to the pole, it must be appropriate in scale to the size and diameter of the tower.
- (3) Setbacks. The proposed wireless communication facilities must meet the setback requirements of the underlying zoning district. If a height modification is granted under LMC 16.75.150, the setback of the proposed wireless communication facility shall increase two feet for every foot in excess of the maximum permitted height in the zoning district.
- (4) Color. The color of the tower shall be based on the surrounding land uses and type of concealment proposed.
- (5) Feed Lines and Coaxial Cables. All feed lines and coaxial cables must be located within the tower. Feed lines and coaxial cables connecting the tower to the equipment enclosure, which are not located within the wireless communication facility equipment compound, must be located underground.
- (6) Tower Design. Any new tower constructed shall be designed to meet the minimum structural standards for future collocation of wireless communication facilities by a minimum of three providers (including the applicant) of voice, video, or data transmission services.

### **16.75.150 Height modification.**

(1) Where the Appeal Board of Adjustment finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the height limitations of the underlying zoning district, or the purpose of these regulations may be served to a greater extent by an alternative proposal, it may approve a height modification to the zoning code height limit; provided the applicant demonstrates that the modification will meet the goals, policies, objectives, standards, and requirements of this chapter, LMC Title 19, and the comprehensive plan, and demonstrates the following:

- (a) The granting of the height modification will not be detrimental to public safety, health, or welfare, or injurious to other property, and will promote the public's interest; and
- (b) A particular and identifiable hardship exists or a specific circumstance warrants the granting of a modification. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:
  - (i) Topography and other site features;
  - (ii) Availability of alternative site locations;
  - (iii) Geographic location of property; and
  - (iv) Size/magnitude of the project being evaluated and availability of collocation.

(2) In approving the height modification request, the Appeal Board of Adjustment may impose such conditions as he deems appropriate to substantially secure the goals, policies, objectives, standards, and requirements of this chapter, LMC Title 19, and the comprehensive plan.

(3) A request for any such modification shall be submitted in writing by the applicant with the application for Appeal Board of Adjustment's review. The applicant shall state fully the grounds for the modification and all of the facts relied upon by the applicant.

### **16.75.160 Setback modification.**

(1) Wireless communication facilities must meet the setback requirements of the underlying zoning district.

(2) The Director or Appeal Board of Adjustment, depending on the type of application, may permit modifications to be made to setback requirements when:

- (a) An applicant for a wireless communication facility can demonstrate that placing the facility on certain portions of a property within the required setback will provide better

screening and aesthetic considerations than provided under the existing setback requirements; or

- (b) The modification will aid in retaining open space and trees on the site; or
- (c) The proposed location allows for the wireless communication facility to be located at a greater distance from residentially zoned properties.

(3) Zoning setback modifications shall not be used to reduce any setback required under the State Building Code or Fire Code.

### **16.75.170 Expiration.**

Any application to install or operate a wireless communication facility shall expire exactly one year from the date of issuance of the Director or Appeal Board of Adjustment's decision, unless significant progress has been made to construct the facility. The City may extend the expiration period by up to one additional year due to circumstances outside of the control of the applicant. However, the City shall not issue an extension if any revisions have occurred to the City's Municipal Code that would affect the wireless communication facility approved.

### **16.75.180 Removal of abandoned wireless communication facilities.**

Any antenna or tower that, after the initial operation of the facility, is not used for the purpose for which it was intended at the time of filing the application for a continuous period of 12 months shall be considered abandoned. The wireless telecommunication carrier of such abandoned antenna or tower and ancillary wireless communication facilities shall remove the same within 90 days of receipt of a notice from the City notifying the owner or operator of such abandonment. Whenever a facility is abandoned or ceases operation, the entire facility shall be removed, including, but not limited to, all antennas, antenna supports, feeder lines, base stations, electronic equipment, and the concrete pad upon which the structure is located. Failure to remove such an abandoned facility shall result in declaring the antenna and/or tower a public nuisance. If there are two or more users of a single tower, then this section shall not become effective until all users cease using the tower.

### **16.75.190 Landscaping – Screen types and description.**

The two types of landscaping screens are described and applied as follows:

(1) Type I Landscaping Screen.

(a) Type I landscaping is a full screen that functions as a visual barrier. This landscaping is typically found adjacent to freeways and between residential and nonresidential areas.

(b) Type I landscaping shall minimally consist of:

- (i) A mix of primarily evergreen trees and shrubs generally interspersed throughout the landscape strip and spaced to form a continuous screen;
- (ii) Between 70 and 90 percent evergreen trees;
- (iii) Evergreen shrubs provided at the rate of one per linear four feet of landscape strip and spaced no more than eight feet apart on center; and
- (iv) Ground covers shall be planted and spaced to result in total coverage of the majority of the required landscape area within three years.

(2) Type II Landscaping Screen.

(a) Type II landscaping is a filtered screen that functions as a visual separator. This landscaping is typically found between commercial and industrial uses; between differing types of residential development; and to screen industrial uses from the street;

(b) Type II landscaping shall minimally consist of:

- (i) A mix of evergreen and deciduous trees and shrubs generally interspersed throughout the landscape strip spaced to create a filtered screen;
- (ii) At least 50 percent deciduous trees and at least 30 percent evergreen trees;
- (iii) Shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and
- (iv) Ground covers shall be planted and spaced to result in total coverage of the majority of the required landscape area within three years.

## **16.75.200 Definitions.**

As used in this chapter the following terms shall have the meanings indicated:

- (1) “Ancillary wireless communication facilities” means any facilities, component, part, equipment, mounting hardware, feed lines, or appurtenance associated with, attached to, or a part of a tower, pole, antenna, ancillary structures, equipment enclosures, or facilities equipment compound, and located within, above, or below the facilities equipment compound. Also includes any form of development associated with a wireless communications facility, including but not limited to foundations, concrete slabs on grade, guy anchors and transmission cable supports.
- (2) “Antenna(s) array” means one or more antennas and their associated ancillary facilities that share a common attachment device, such as a mounting frame or mounting support.

(3) “Antennas, flush-mounted” are antennas or antenna array attached directly to the face of the tower, pole, or building, such that no portion of the antenna extends above the height of the tower, pole, or building. Where a maximum flush mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.

(4) “Significant gap in service, wireless communications” means a large geographic area within a service area(s) of the applicant in which a large number of applicant’s remote user subscribers are unable to connect or maintain a connection to the national telephone network through applicant’s wireless telecommunications network. A “dead spot” (defined as small areas within a service area where the field strength is lower than the minimum level for reliable service) does not constitute a significant gap in service.

(5) “Structure, electrical transmission” means any facility (including a pole or a tower) owned by an electric utility that supports electrical lines that carry a voltage of at least 115kV.

(6) “Tower, guy” means a tower that is supported with cable and ground anchors to secure and steady the tower.

(7) “Tower, lattice” means a tapered style of tower that consists of vertical and horizontal supports with multiple legs and cross-bracing and metal crossed strips or bars to support antennas or similar antenna devices.

(8) “Tower, monopole” means a freestanding tower that is composed of a single shaft, usually composed of two or more hollow sections that are in turn attached to a foundation. This type of tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground.

(9) “Tower, wireless communication facility” 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 monopoles. The term includes, without limitation, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and alternative tower structures.

(10) “Tower-mounted facilities” means a wireless communication facility that is mounted to a tower.

(11) “Utility pole” is any facility owned by an electric utility that supports electrical lines that carry a voltage of less than 115kV, or other public utility, such as coaxial cables for cable and fiber optic cable for telephone lines.

(12) “Wireless communication facility” means any tower, antenna, ancillary structure or facility, or related equipment or component thereof, that is used for the transmission of radio frequency signals through electromagnetic energy for the purpose of providing phone, internet, video, information services, specialized mobile radio, enhanced specialized mobile radio, paging,

wireless digital data transmission, broadband, unlicensed spectrum services utilizing part 15 devices, or other similar services that currently exist or that may in the future be developed.

(13) “Wireless communication facility, building-mounted” means a wireless communication facility that is attached to an existing commercial, industrial, residential, or institutional building.

(14) “Wireless communication facility, concealed facility” means a wireless communication facility that is not readily identifiable as such and is designed to be aesthetically and architecturally compatible with the existing building(s) on a site; or a wireless communication facility disguised, hidden, or integrated with an existing structure that is not a monopole or tower; or a wireless communication facility that is placed within an existing or proposed structure or tower or mounted within trees, so as to be significantly screened from view or camouflaged to appear as a nonantenna structure or tower (i.e., tree, light pole, clock tower, flagpole with flag, church steeple).

(15) “Wireless communication facility equipment enclosure” means any structure above or below ground, including without limitation cabinets, shelters, pedestals and other devices or structures, that is used exclusively to contain radio or other equipment necessary for the transmission and/or reception of wireless communication signals including, without limitation, air conditioning units and generators.

(16) “Wireless communication facility equipment compound” means an outdoor fenced area occupied by all the towers, antennas, ancillary structure(s), ancillary facilities, and equipment enclosures, but excluding parking and access ways.

(17) “Wireless communication facility, feed lines or coaxial cables” means cables used as the interconnection media between the transmission/receiving base station and the antenna.

(18) “Wireless telecommunication carrier” means any person or entity that directly or indirectly owns, controls, operates, or manages any plant, equipment, structure, or property within the City for the purpose of offering wireless telecommunication service within the City.

# **CITY OF LONGVIEW**

## **Chapter 16.80**

### **ELIGIBLE WIRELESS FACILITIES MODIFICATIONS**

Sections:

- 16.80.010. Title
- 16.80.020. Adoption of Findings and Conclusions.
- 16.80.030. Purpose and Intent
- 16.80.040. Definitions
- 16.80.050. Applicability - Relationship to other Rules and Regulations
- 16.80.060. Permit Classification
- 16.80.070. Application Submittal Requirements
- 16.80.080. Review of Application; Approval
- 16.80.090. Substantial Change Criteria
- 16.80.100. Nonconforming Structure; Termination
- 16.80.110. Enforcement

16.80.010 Title. This Chapter shall be known and referred to as the “Eligible Facilities Modification Code” or “EFM Code”. Unless the context indicates otherwise, a reference herein to “this code” or “this chapter” shall mean and refer to the Eligible Facilities Modification Code.

16.80.020. Adoption of Findings and Conclusions. The recitals set forth in the ordinance adopting this code are adopted as findings and conclusions of the City Council.

16.80.030. Purpose and Intent. The purpose and intent of this Chapter are to:

A. To implement § 6409 of the “Middle Class Tax Relief and Job Creation Act of 2012” (the “Spectrum Act”) (PL-112-96; codified at 47 U.S.C. § 1455(a)) which requires the City to approve any eligible facilities request for a modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station;

B. To implement the FCC rules set forth at 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE) new Subpart CC § 1.40001 (Wireless Facility Modifications), which rules implement § 6409 of the Spectrum Act;

C. To establish procedural requirements and substantive criteria applicable to review and approval or denial of applications for an eligible facilities modification;

D. To ensure that application submittal requirements are related to information reasonably necessary to the determination of whether or not the proposed modification will result in a substantial change in the physical dimensions of the eligible support structure;

E. To exempt facilities modifications approved under this chapter as eligible facilities requests from zoning and development regulations that are inconsistent with or preempted by Section 6409 of the Spectrum Act;

F. To preserve the City's right to continue to enforce and condition approvals under this chapter on compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety;

G. To promote timely decisions under this chapter;

H. To ensure that decisions are made consistently and predictably;

I. To incorporate provisions of RCW 43.21C.0384 that exempt eligible facilities modifications from review under RCW 43.21C.030(2)(c), (State Environmental Policy Act);

J. To recognize that Section 6409(a)(1) of the Spectrum Act operates to preempt any provision of the State Environmental Policy Act (RCW Ch. 43.21C) to the extent that any such provision, including RCW 43.21C.030(2)(c), would prohibit a City from approving any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station; and

K. To provide for termination of eligible facilities modifications approved pursuant to this chapter, as nonconforming structures in the event that § 6409(a) of the Spectrum Act is found to be unconstitutional or otherwise determined to be invalid or unenforceable and such modifications would otherwise have been in derogation of development regulations in place at the time of receipt of a completed application.

16.80.040. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter, unless the context clearly requires otherwise. Any term or phrase not defined herein, shall have the meaning that is given to that term or phrase in Section 16.75.200 or Chapter 19.09 of the Longview Municipal Code. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word “shall” is always mandatory and not merely directory and the word “may” is always discretionary. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law, regulation or rule referred to herein be renumbered or amended, then the reference shall be read to refer to the renumbered or amended provision.

“Approval authority” is the public official, or designee, who has authority under the Longview Municipal Code to administratively issue project permit approvals.

“Applicant” shall mean and refer to the person, and such person’s successor in interest, owning and/or operating the transmission equipment proposed in an eligible facilities modification application to be collocated, removed or replaced.

“Authorized person” is the person, employees, agents, consultants, and contractors, authorized in writing by applicant to complete and submit an eligible facilities modification application on behalf of applicant and who is authorized to receive any notices on behalf of applicant of any action taken by the City regarding the application.

“Base station” shall mean and refer to the structure or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, 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 communications 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-cell networks).

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

(iv) The term does not include any structure that, at the time a completed eligible facilities modification application is filed with the City under this section, does not support or house equipment described in paragraphs (i) - (ii) above.

“City” shall mean and refer to the City of Longview.

“City Code” shall mean and refer to the codified ordinances of the City.

“Collocation” shall mean and refer to the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

“Conceal” or “Concealment” shall mean and refer to eligible support structures and transmission facilities designed to look like some feature other than a wireless tower or base station.

“Deemed approved” shall mean and refer to an eligible facilities modification application that has been deemed approved upon the City’s failure to act, and has become effective, as provided pursuant the FCC Eligible Facilities Request Rules.

“Eligible facilities modification application” or “application” shall, unless the context clearly requires otherwise, mean and refer to a written document submitted to the City pursuant to this chapter for review and approval of a proposed facilities modification.

“Eligible facilities modification” shall mean and refer to any proposed facilities modification that has been determined pursuant to the provisions of this chapter to be subject to this chapter and which does not result in a substantial change in the physical dimensions of an eligible support structure.

“Eligible facilities modification permit” or “permit” shall, unless the context clearly requires otherwise, mean and refer to a written document issued by the approval authority pursuant to this chapter approving an eligible facilities modification application.

“Eligible support structure” shall mean and refer to any existing tower or base station as defined in this chapter, provided that it is in existence at the time the eligible facilities modification application is filed with the City under this chapter.

“Existing” shall, for purpose of this chapter and as applied to a tower or base station, mean and refer to a constructed tower or base station that has been reviewed and approved under the applicable zoning or siting process of the City, or under another State, county or local regulatory review process; provided that, a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

“Proposed facilities modification” shall mean and refer to a proposal submitted by an applicant to modify an eligible support structure which the applicant asserts is subject to review under Section 6409 of the Spectrum Act, and involving:

- (i) collocation of new transmission equipment;
- (ii) removal of transmission equipment; or
- (iii) replacement of transmission equipment.

“FCC” shall mean and refer to the Federal Communications Commission or its successor.

“FCC Eligible Facilities Request Rules” shall mean and refer to 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE), Subpart CC § 1.40001 as established pursuant to its Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, or as may be thereafter amended.

“Site” shall, for towers other than towers in the public rights-of-way, mean and refer to the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, shall mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.

“Small cell facility” shall mean and refer to a personal wireless services facility that meets both of the following qualifications:

- (i) Each antenna is located inside an antenna enclosure of no 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 could fit within an imaginary enclosure of no more than three cubic feet; and
- (ii) Primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and if so located, are not included in the calculation of equipment volume: electric meter, concealment, telecomm demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

“Small cell network” shall mean and refer to a collection of interrelated small cell facilities designed to deliver personal wireless services.

“Spectrum Act” shall mean and refer to the “Middle Class Tax Relief and Job Creation Act of 2012” (Public Law 112-96; codified at 47 U.S.C. § 1455(a)).

“Substantial change criteria” shall mean and refer to the criteria set forth in this Chapter at LMC 16.80.090.

“Transmission Equipment” shall mean and refer to equipment that facilitates transmission for any wireless communication service licensed or authorized by the FCC, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

“Tower” shall mean and refer to any structure built for the sole or primary purpose of supporting any antennas and their associated facilities, licensed or authorized by the FCC, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

16.80.050 Applicability - Relationship to other Rules and Regulations.

A. Sole and Exclusive Procedure. Except as may be otherwise provided in this chapter, and notwithstanding any other provisions in the City Code, the provisions of this chapter shall be the sole and exclusive procedure for review and approval of a proposed facilities modification which the applicant asserts is subject to review under Section 6409 of the Spectrum Act. To the extent that other provisions of the City Code establish a parallel process for review and approval of a project permit application for a proposed facilities modification, the provisions of this chapter shall control. In the event that any part of an application for project permit approval includes a proposed facilities modification, the proposed facilities modification portion of the application shall be reviewed under the provisions of this chapter. In the event that an application for project permit approval includes a proposal to modify an eligible support structure, and the applicant does not assert in the application that the proposal is subject to review under Section 6409 of the Spectrum Act, such proposal shall not be subject to review under this Chapter and may be subject to review under other applicable provisions of the City Code.

B. Non-conforming Structures. This chapter shall not apply to a proposed facility modification to an eligible support structure that is not a legal conforming, or legal non-conforming, structure at the time a compete eligible facilities modification application is filed with the City. To the extent that the non-conforming structures and use provisions of the City code would operate to prohibit or condition approval of a proposed facilities modification application otherwise allowed under this chapter, such provisions are superseded by the provisions of this chapter and shall not apply.

C. Replacement of Eligible Support Structure. This chapter shall not apply to a proposed facility modification to an eligible support structure that will involve replacement of the tower or base station.

D. First Deployment; Base Station. This chapter shall not apply to a proposed facility modification to a structure, other than a tower, that does not, at the time of submittal of the application, already house or support transmission equipment lawfully installed within or upon, or attached to, the structure.

E. Interpretation. Interpretations of this Chapter shall be guided by Section 6409 of the Spectrum Act; the FCC Eligible Facilities Request Rules, the FCC’s Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153; and Sections 16.80.020 (Adoption of Findings and Conclusions) and 16.80.030 (Purpose and Intent) of this Code.

F. SEPA Review. Unless otherwise provided by law or regulation, decisions pertaining to an eligible facilities modification application are not subject to, and are exempt from, the requirements of RCW 43.21C.030(2)(c), if

1. The proposed facilities modification would not increase the height of the eligible support structure by more than ten percent, or twenty feet, whichever is greater; or
2. The mounting of equipment that would involve adding an appurtenance to the body of the eligible support structure would not protrude from the edge of the structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater;\* or
3. The authority to condition or deny an application pursuant to Chapter 43.21 RCW is preempted, or otherwise supplanted, by Section 6409 of the Spectrum Act.

\*Note: See, RCW 43.21C.0384 and WAC 197-11-800(25)

G. Reservation of Authority. Nothing herein is intended or shall operate to waive or limit the City's right to enforce, or condition approval on, compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.

16.80.060 Permit Classification. An eligible facilities modification permit shall be classified as an administrative permit subject to review and approval or denial by the approval authority.

16.80.070 Application Submittal Requirements; Determination of Completeness.

A. Purpose. This section sets forth the submittal requirements for an eligible facilities modification application. The purpose of the submittal requirements is to ensure that the City has all information and documentation that is reasonable necessary to determine if the applicant's proposed facilities modification will substantially change the physical dimensions of an eligible support structure. The submittal requirements are not intended to require the applicant to establish the need for the proposed modifications or to justify the business decision to propose such modifications.

B. Submittal Requirements. No eligible facilities modification application shall be deemed complete unless it is, in writing, accompanied by the applicable application and review fee, includes the required submittals, and is attested to by the authorized person submitting the application on behalf of the applicant, certifying the truth and accuracy of the information provided in the application. The application shall include the following submittals, unless waived by the approval authority:

1. The following contact information for the Authorized Person:

- a. Name;

- b. Title;
- c. Mailing Address;
- d. Phone Number; and
- f. Electronic Mail Address (Optional).

2. The legal and dba names, mailing address, Washington tax number, and contact phone number(s) of Applicant.

3. If a corporation, the name and address of the registered agent of Applicant in the Washington State, and the state of incorporation of Applicant.

4. If Applicant is an entity, other than a corporation, such as a partnership or limited liability company, the names and business addresses of the principals.

5. An assertion that the proposed facilities modification is subject to review under Section 6409 of the Spectrum Act.

6. If the applicant is not the owner or person in control of the eligible support structure and/or site, the following shall be required:

An attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facilities modification. If the eligible support structure is located in a public right of way, the applicant must also attest that applicant has authorization to install, maintain and operate transmission equipment in, under and above the public right of way.

7. If the applicant proposes a modification involving collocation of transmission equipment or the replacement of transmission equipment, the following shall be required:

Complete copies of the underlying land use approvals for siting of the tower or base station proposed to be modified, establishing that, at the time of submittal of the application, such tower or base station constituted an eligible support structure.

8. If the applicant proposes a modification that will result in an increase in height of the eligible support structure, the following shall be required:

Record drawings, as-built plans, or the equivalent, showing the height of the eligible support structure, (a) as originally constructed and granted approval by the City or other applicable local zoning or similar regulatory authority, or (b) as of the most recent modification that received city, or other local zoning or regulatory approval, prior to the passage of the Spectrum Act, whichever height is greater.

9. If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing restrictions or requirements imposed by a reviewing official or decision-making body pursuant to authority

granted under the City Code, or an ordinance or a municipal code of another local government authority, the following shall be required:

A copy of the document (e.g., *SPU*) setting forth such pre-existing restrictions or requirements together with a certification that the proposed facilities modification conforms to such restrictions or requirements; provided that, such certification shall have no application to the extent the proposed facilities modification relates solely to an increase in height, increase in width, addition of cabinets, or new excavation, that does not result in a substantial change in the physical dimensions of the eligible support structure.

10. If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing concealment restrictions or requirements, or was constructed with concealment elements, the following shall be required:

Applicant shall set forth the facts and circumstances demonstrating that the proposed modification would not defeat the existing concealment elements of the eligible support structure. If the proposed modification will alter the exterior dimensions or appearance of the eligible support structure, applicant shall include a detailed visual simulation depicting how the eligible support structure will appear after the proposed modification is complete. The visual simulation shall depict to scale the eligible support structure in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.

11. If the applicant proposes a modification that will protrude from the edge of a non-tower eligible support structure, the following shall be required:

Record drawings, as-built plans, or the equivalent, showing at a minimum the edge of the eligible support structure at the location of the proposed modification.

12. If the applicant proposes a modification to an eligible support structure that will (a) include any excavation, (b) would result in a protrusion from the edge of a tower that exceeds an existing protrusion of any transmission equipment attached to a tower, or (c) would protrude from the edge of a non-tower eligible support structure, the following shall be required:

A description of the boundaries of the site together with a scale drawing based on an accurate traverse, with angular and lineal dimensions, depicting the boundaries of the site in relation to the tower or base station proposed to be modified and depicting the proposed location, elevation and dimensions of the new or replacement transmission equipment. The city may require a survey by a land surveyor licensed in the state of Washington when, in the judgment of the approval authority, a survey is reasonably necessary to verify the boundaries of the site to determine if the proposed facilities modification would result in a substantial change in the physical dimensions of the eligible support structure.

13. If the applicant proposes a modification to the eligible support structure that includes hardening through structural enhancement, the following shall be required:

A technical report by a qualified engineer accredited by the state of Washington, demonstrating that the structural enhancement is performed in connection with and is necessary to support the proposed collocation, removal, or replacement of transmission equipment and conforms to applicable code requirements. The City may retain the services of an independent technical expert to review, evaluate, and provide an opinion regarding the applicant's demonstration of necessity.

14. If the applicant proposes a modification to a tower, the following shall be required:

A stamped report by a state of Washington registered professional engineer demonstrating that the tower with the proposed modifications will comply with applicable structural, electrical and safety codes, including by way of example, and not limitation, EIA/TIA-222-Revision G, published by the American National Standards Institute (as amended), allowable wind speed for the applicable zone in which the tower is located, and describing the general structural capacity of the tower with the proposed modifications, including:

- a. The number and type of antennas that can be accommodated;
- b. The basis for the calculation of capacity; and
- c. A written statement that the proposal complies with all federal guidelines regarding interference and ANSI standards as adopted by the FCC, including but not limited to nonionizing electromagnetic radiation (NIER) standards.

The City may retain the services of an independent technical expert to review, evaluate, and provide an opinion regarding the applicant's demonstration of compliance.

15. If the applicant proposes a modification to a base station, the following shall be required:

A stamped report by a state of Washington registered professional engineer demonstrating that the base station, with the proposed modifications, will comply with applicable structural, electrical and safety codes.

16. If the applicant proposes a modification requiring, alteration to the eligible support structure, excavation, installation of new equipment cabinets, or any other activities impacting or altering the land, existing structures, fencing, or landscaping on the site, the following shall be required:

A detailed site plan and drawings, showing the true north point, a graphic scale and, drawn to an appropriate decimal scale, indicating and depicting, (a) the location, elevation and dimensions of the existing eligible support structure, (b) the location, elevation and dimensions of the existing transmission equipment, (c) the location, elevation and dimensions of the transmission equipment, if any, proposed to be collocated or that will replace existing transmission equipment, (d) the location, elevation and dimensions of any proposed new equipment cabinets and the intended use of each, (e) any proposed modification to the eligible

support structure, (f) the location of existing structures on the site, including fencing, screening, trees, and other significant site features, and (g) the location of any areas where excavation is proposed showing the elevations, depths, and width of the proposed excavation and materials and dimensions of the equipment to be placed in the area excavated.

17. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE), Section 1.1307, as amended, or, in the event than an FCC environmental assessment is not required, a statement that described the specific factors that obviate the requirement for an environmental assessment.

C. Waiver of Submittal Requirement. The approval authority may waive any submittal requirement upon determination that the required submittal, or part thereof, is not reasonably related to the substantial change criteria. A waiver, to be effective, must be in writing and signed by the approval authority.

D. When Received. An eligible facilities modification application, and any supplemental submittals, shall be deemed received by the City upon the date such application, or supplemental submittal, is filed with the Community Development Department. An application, and any supplemental submittal, must be filed in person during regular business hours of the City and must be accompanied by the applicable permit review fee(s). Any application received by the City without contemporaneous payment, or deposit, of the applicable permit review fees will be rejected.

E. Completed Application; Determination; Tolling.

1. Determination of Completeness. The approval authority shall, within thirty (30) days of receipt of the application, review the application for completeness. An application is complete if it includes the applicable permit review fee(s) and contains all of the applicable submittal requirements set forth at LMC 19.80.070(B) of this chapter, unless waived by the approval authority pursuant to LMC 19.80.070(C). The determination of completeness shall not preclude the approval authority from requesting additional information or studies either at the time of the determination of completeness or subsequently if new or additional information is required, or substantial changes in the proposed action occur, or the proposed facilities modification is modified by applicant, as determined by the approval authority.

2. Incomplete Application. The approval authority shall notify the applicant within thirty (30) days of receipt of the application that the application is incomplete. Such notice shall clearly and specifically delineate all missing documents or information.

3. Tolling Timeframe for Review. The application review period begins to run when the application is received, and may be tolled when the approval authority determines that the application is incomplete and provides notice as set forth below. The application review period may also be tolled by mutual agreement of the approval authority and applicant. The timeframe for review is not tolled by a moratorium on the review of eligible facility modification applications.

- a. To toll the timeframe for review for incompleteness, the approval authority must provide written notice to the applicant within thirty (30) days of the date of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information is limited to submittals set forth in LMC 16.80.070(B) and any supplemental information requested by the approval authority that is reasonably related to determining whether the proposed facilities modification will substantially change the physical dimension of an eligible support structure.
- b. The timeframe for review begins running again when the City is in receipt of applicant's supplemental submission in response to the approval authority's notice of incompleteness.
- c. Following a supplemental submission, the approval authority shall have ten (10) days to notify the applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this paragraph (3)(c). Except as may be otherwise agreed to by the applicant and the approval authority, second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
- d. A notice of incompleteness from the City will be deemed received by the Applicant upon the earlier of, personal service upon the authorized person, delivery by electronic mail to the authorized person (if such delivery is authorized for receipt of notice by the authorized person), or three (3) days from deposit of the notice in the United States Mail, postage prepaid, and in an envelope properly addressed to the authorized person using the address set forth in the application.

4. Modification of Application. In the event that after submittal of the application, or as a result of any subsequent submittals, applicant modifies the proposed facilities modification described in the initial application, the application as modified will be considered a new application subject to commencement of a new application review period; provided that, applicant and the approval authority may, in the alternative, enter into a mutually agreeable tolling agreement allowing the City to request additional submittals and additional time that may be reasonably necessary for review of the modified application.

16.80.080. Review of Application; Approval.

A. Review of Application. The approval authority shall review an eligible facilities modification application to determine if the proposed facilities modification is subject to this chapter, and if so, if the proposed facilities modification will result in a substantial change to the physical dimensions of an eligible support structure.

B. Timeframe for Review. Within sixty 60 days of the date on which the City receives an eligible facilities modification application, less any time period that may be excluded under the tolling provisions of this chapter or a tolling agreement between the applicant and the approval authority, the approval authority shall approve the application and contemporaneously issue an eligible facilities modification permit unless the approval authority determines that the application is not subject to this chapter, or the proposed facilities modification will substantially change the physical dimension of an eligible support structure.

C. Approval; Denial. An eligible facilities application shall be approved, and an eligible facilities permit issued, upon determination by the approval authority that the proposed facilities modification is subject to this chapter and that it does not substantially change the physical dimensions of an eligible support structure. An eligible facilities application shall be denied upon determination by the approval authority that the proposed facilities modification is not subject to this chapter or will substantially change the physical dimensions of an eligible support structure. A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the substantial change criteria.

D. Deemed Approved Application. An application that has been deemed approved shall be and constitute the equivalent of an eligible facilities modification permit, except as may be otherwise determined by a court of competent jurisdiction, and shall be subject to generally applicable enforcement and compliance requirements in the same manner as an eligible facilities modification permit issued pursuant to this chapter.

E. Denial of Application. A denial of an eligible facilities modification application shall set forth in writing the reasons for the denial and shall be provided to the applicant.

F. Code Requirements. Any eligible facilities modification permit issued pursuant to this chapter, and any application that has been deemed approved, shall be and is conditioned upon compliance with any generally applicable building, structural, electrical, and safety codes and other laws codifying objective standards reasonably related to health and safety. Violation of any such applicable code or standard shall be deemed to be a violation of the eligible facilities modification or deemed approved application.

G. Term of Eligible Facilities Modification Permit. An eligible facilities modification permit issued pursuant to this chapter, and any deemed approve application, shall be valid for a term of 180 days from the date of issuance, or the date the application is deemed approved.

H. Remedies. Notwithstanding any other provisions in the City code, no administrative review is provided for review of a decision to condition, deny or approve an

application. Applicant and the City retain any and all remedies that are available at law or in equity, including by way of example and not limitation, those remedies set forth in the FCC Eligible Facilities Request Rules and remedies available under the Land Use Petition Act. In the event no other time period is provided at law for bringing an action for a remedy, any action challenging a denial of an application or notice of a deemed approved remedy, shall be brought within thirty (30) days following the date of denial or following the date of notification of the deemed approved remedy.\*

\*Note: The FCC Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, Par's 234 – 236, provides that the City shall have 30 days from the date of notification by the applicant of a deemed granted remedy to bring a legal action in a court of competent jurisdiction to challenge the deemed granted remedy, and that the applicant shall have 30 days from the date of denial to bring a legal action in a court of competent challenging a denial of the application.

16.80.090     Substantial Change Criteria.

A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the following criteria:

A. 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 (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten (10) feet, whichever is greater;

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.\*

B. 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;

C. 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;

a. it entails any excavation or deployment outside the current site;

- b. it would defeat the concealment elements of the eligible support structure; or
- c. 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 noncompliant only in a manner that would not exceed the thresholds identified in this section LMC 16.80.090.

\*Note: The FCC rules refer to the date of passage of the Spectrum Act. The Spectrum Act was enacted on February 22, 2012. Presumably the FCC intended to refer to the date of enactment as the date of passage.

16.80.100. Non-Conforming Structure; Termination.

1. Application. The provisions of this section LMC 16.80.100 shall apply to any facilities modification constructed, installed, placed or erected pursuant to an eligible facilities modification permit, or pursuant to a deemed approved remedy, which facilities modification did not conform to zoning and/or development regulations, exclusive of this chapter, in effect at the time the completed eligible facilities modification application was filed.

2. Non-Conforming Structure Determination. A facilities modification to which this section applies is subject to termination as a non-conforming structure upon the following conditions:

a. Final, Non-Appealable Decision. An appellate court, in a final and non-appealable decision, determines that § 6409(a)(1) of the Spectrum Act is unconstitutional or otherwise determined to be invalid or unenforceable; and

b. Notice of Non-Conforming Structure Determination. The City provides written notice to the applicant that the City has determined that the facilities modification did not conform to zoning and/or development regulations, exclusive of this chapter, in effect at the time the completed eligible facilities modification application was filed and that the facilities modification constitutes a non-conforming structure pursuant to the provisions hereof and must be made conforming or the facilities modification terminated.

3. Conformance; Termination. Upon receipt of notice of the City's non-conforming structure determination, applicant shall abate the non-conformance by either, conforming the site to the zoning and development regulations in effect at the time the completed eligible facilities modification application was filed, or removing the facilities modification and returning the site to the condition that existed prior to the construction, installation, placement or erection of the facilities modification. The time period for conformance shall be one (1) year from the date of the City's notice of the non-conforming structure determination.

4. Health and Safety Codes. Nothing in this section shall relieve the applicant from compliance with applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.

5. Administrative Appeal. The applicant, or its successors or assigns, may appeal the City's determination of non-conformance to the City Appeal Board of Adjustment by filing notice of appeal within ten (10) calendar days of the date of the determination of non-conformance, excluding holidays.

16.80.110 Enforcement; Violation.

Compliance with the provisions of this chapter is mandatory. Any violation hereof is subject to enforcement under the code enforcement provisions set forth at Chapter 1.33 of the City Code.