

ORDINANCE NO. 3333

AN ORDINANCE OF THE CITY OF LONGVIEW, WASHINGTON RELATING TO THE REGULATION OF WIRELESS COMMUNICATION FACILITIES THAT REPEALS CHAPTER 16.75 AND REPLACES IT WITH A NEW CHAPTER 16.75, CREATES A NEW CHAPTER 16.80 AND AMENDS SECTIONS 19.33.010, 19.35.010, 19.39.010 AND 19.40.010 OF TITLE 19 AND AMENDS SECTIONS 5.04.100, 5.04.470 AND 5.06.120 OF TITLE 5.

WHEREAS, at the urging of the Washington Cities Insurance Authority, the City decided to undergo an update of the city's municipal code regarding wireless facilities; and

WHEREAS, the Planning Commission held a series of workshops to develop draft code updates. At their May 2016 regular meeting, the Planning Commission held a public hearing on the draft codes. Following the public hearing, the Planning Commission voted unanimously to recommend approval of the code update; and

WHEREAS, an Environmental Checklist for the proposed code revisions was reviewed pursuant to the State Environmental Policy Act and a determination of non-significance was issued on December 22, 2015; and

WHEREAS, the recommendation was put on the city council May 26 agenda. A few days before the Council meeting, representatives for AT&T contacted the City with comments on the draft codes. The City Council felt, since the Planning Commission developed the draft code, it was best that the Planning Commission address AT&T's concerns. Thus, the city council passed a motion to send the draft wireless code back to the Planning Commission; and

WHEREAS, since then, the Planning Commission has held another series of workshops, this time with AT&T representatives attending and actively participating. On October 5, 2016 the Planning Commission held a public hearing. AT&T representative spoke at the hearing. At their November 2, 2016 meeting, the Planning Commission voted unanimously to recommend approval of the draft code update; and

WHEREAS, at their November 17, 2016 meeting the City Council accepted the Planning Commission recommendation and directed the City Attorney to prepare an ordinance for Council review and approval.

NOW THEREFORE, The City Council of the City of Longview do ordain as follows:

Section 1 That the title page of Title 16 of the Longview Municipal Code shall be, and is hereby amended to read as follows; provided, manifest and numbering errors shall be corrected prior to publication:

Title 16

BUILDINGS AND CONSTRUCTION

Chapters:

- 16.01 Repealed
- 16.02 Building Code
- 16.03 Repealed
- 16.04 Repealed
- 16.05 Repealed
- 16.06 Repealed
- 16.07 Repealed
- 16.12 Longview Historic Preservation Ordinance
- 16.13 Uniform Sign Code
- 16.14 Repealed
- 16.23 Repealed
- 16.24 Electrical Code
- 16.28 Building Numbering
- 16.30 Property Maintenance Code
- 16.32 Unfit Dwellings
- 16.36 Mobile Homes – Mobile Home Parks
- 16.38 Manufactured Homes – Single-Family Residences
- 16.40 Advertising Structures
- 16.44 Repealed
- 16.46 Hedges
- 16.48 Fences
- 16.53 Repealed
- 16.54 Repealed
- 16.56 Condominium Conversions
- 16.60 Property Tax Incentives in Residential Targeted Areas
- 16.70 Exemptions from Payment of Permit Fees
- 16.75 Wireless Communications Facilities
- 16.80 ~~Repealed~~ Eligible Facilities Modifications

Section 2 That Chapter 16.75 of the Longview Municipal Code shall be, and is hereby repealed and replaced to read as follows; provided, manifest and numbering errors shall be corrected prior to publication:

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.
- 16.75.090** Utility/Distribution 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** Modifications to Wireless Standards.
- 16.75.160** Expiration.
- 16.75.170** Removal of abandoned wireless communication facilities.
- 16.75.180** Landscaping – Screen types and description.
- 16.75.190** Definitions.

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 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 or supervisory control and data acquisition (SCADA) system that is owned and operated by a Federal, State, or local municipality.

(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 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 associated with 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, repair or replacement of wireless communication facilities, excluding 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 as 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. 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) A temporary, commercial wireless facility installed for providing coverage of a special event such as a fair, news coverage or sporting event, subject to approval by the City. The wireless facility shall be exempt from the provisions of this chapter for up to two weeks before and after the duration of the special event.

(11) A temporary, commercial wireless facility installed for a period of 180 days, subject to renewals at the City's discretion, to provide service during repair, replacement, or relocation of an existing facility or construction of a new facility.

(12) 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 of Community Development or his/her designee 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 independent engineering and/or technical review consultant(s) to review the 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 independent consultant shall only review and comment on those items within its expertise. For instance, a radio frequency engineer shall not review and comment on the structural integrity of a tower, but shall limit its review to reports prepared by the applicant's radio frequency engineer.

(7) No alterations or changes shall be made to an approved wireless communications land use permit, except as allowed under Chapter 16.80 or this Chapter. 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 or under Chapter 16.80.

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

Type of WC Facility ¹	Zoning		
	Residential	Commercial/Miscellaneous	Industrial
	R-1, R-2, R-3, R-4, TNR	GC, NC, D-C, CBD, O/C, RC, C-C, RF-1, C-D, CEC	L-1A, L-1B, MU-C/I, HI
Transmission tower collocation	Type 1	Type 1	Type 1
Adding antennas to an existing tower	See Chapter 16.80	See Chapter 16.80	See Chapter 16.80
Utility pole collocation	Type 3	Type 2	Type 1
Concealed building attached	Type 2 ²	Type 1 ²	Type 1 ²
Nonconcealed building attached	Type 2	Type 2	Type 1
New tower or modification request (LMC 16.75.150)	Type 3; must be concealed. ³	Permitted only in C-C ⁴ , RC ⁵ , C-D ⁵ and CEC ⁵ zones: Type 3 and must be concealed.	Type 2

Notes:

(1) 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 the above table and the type of permit required.

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

(3) In Residential districts, concealed towers can only be located on land that is:

- o Owned and managed by the city of Longview, or*
- o Unplatted, undeveloped, and not reasonably suitable for development by reason of topography or similar constraints, or*
- o Owned and managed by a governmental agency, including special districts, school districts, public utility districts, or by a religious organization and used for nonresidential purposes.*

(4) In the Civic Center District, a tower can only be located north of Maple Street but no closer than 200 feet to the Maple Street right-of-way or an R-3 residential district.

(5) In the Regional Commercial, Country Club and County Event Center/CEC districts, a tower cannot be located within 200 feet of a residential zoning district (including residential districts located in the City of Kelso). The 200-foot distance may be reduced if the residentially zoned land is school district property.

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

(a) Place wireless communication facilities in nonresidentially zoned districts and on nonresidential property.

(b) 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 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. While attaching antennas to facilities already in the public right-of-way (e.g. utility poles) is preferred, placing new wireless communication towers in the public right-of-way is not preferred.

(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) 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

(v) 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 modification request under LMC 16.75.150 (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) Evidence that the tower has been designed to meet the minimum structural standards for wireless communication facilities for a minimum of three wireless service providers, including the applicant, and including a description of the number and types of antennas the tower can accommodate;
- (v) 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) 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.

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

(4) 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.

(5) Design. Where required, wireless communication facilities shall be screened, concealed, or camouflaged. 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.

(6) 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.

(7) 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.

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

(9) Ancillary Wireless Communication Facilities. All ancillary wireless communication facilities shall meet the underlying zoning district's setback requirements unless a modification is granted pursuant to LMC 16.75.150.

(10) 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 building. 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.

(11) 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, , utility pole, electrical transmission structure, monopole) and, if different, the land owner upon which the structure is located.

(12) 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 and the pole owner shall be provided with an engineer's certification that the support structure's design meets or exceeds the preceding applicable standards.

(13) 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.

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

(15) 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).

(16) 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 utility poles, or if the antenna is mounted on an existing building or camouflaged as part of the building and ancillary equipment is housed on or 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; or when landscaping is not needed for compatibility with the surrounding area, such as in a parking lot within an industrial area.

(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 16.75.180(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 16.75.180(2) may be used in residential zoning districts and shall be a minimum of 10 feet in depth.

(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 16.75.190(5)]:

(1) Height. The height requirements for antennas that are collocated on electrical transmission structures are limited to 23 feet above the existing tower or pole height. If a replacement electrical transmission structure is proposed, the maximum height shall be no greater than 23 feet above the original electrical transmission structure's height.

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

(3) Antenna Intensity. There is no City designated 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 a similar color to 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

The requirements for adding antennas to existing wireless communication facility tower(s) [as defined in LMC 16.75.190(9)] are given in Chapter 16.80 Eligible Wireless Facilities Modifications.

16.75.090 Utility/Distribution pole collocation – Specific development standards.

The following requirements shall apply to all wireless communication facilities collocated on a utility/distribution pole [as defined in LMC 16.75.190(11)]:

- (1) Height. The antenna height of a pole collocation is limited to 20 feet above the existing pole. If a replacement pole is proposed, the maximum height shall be no greater than 20 feet above the original pole's height.
- (2) Antenna Aesthetics. The first preference for any collocation is to utilize flush-mounted antennas. If the pole collocation includes an antenna array, the array shall be painted or otherwise colored to match the support structure
- (3) Replacement Pole. An existing pole may be removed and replaced with a new pole so long as the new pole is of similar color and material as the pole being replaced, 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) if feasible. The new pole must be used by the owner of the pole to support its utility lines. A replacement pole shall be designed such that coaxial cables and feed lines can be located within the pole where feasible (e.g. the replacement pole is hollow) 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 pole. Coaxial cables greater than one-half inch must be placed within the 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 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 pole is being replaced, consideration must be made to improve the pedestrian environment, if necessary.
- (6) Equipment Enclosures. Unless approved otherwise by the Director of Public Works, all equipment enclosures must be placed outside of the City right-of-way. Equipment enclosures shall be located consistent with LMC 16.75.050(10) unless approved otherwise by the Director of Community Development.
- (7) Setbacks. Any portion of the wireless communication facilities located within City right-of-way is not required to meet setback requirements. The City will evaluate setback modifications on private property under LMC 16.75.150.

16.75.095 Double Pole Prevention.

In the event that a wireless communication facility is placed on a pole, and said pole is in need of replacement. Any and all communication facilities shall be relocated to the new pole within 180 days.

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, or similar structure and concealed from view [as defined in LMC 16.75.190(14)]:

(1) Height. The proposed concealed wireless communication facility may extend no more than 15 feet above the existing structure. Antennas may be located in existing church spires, clock towers, chimneys, 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 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, and architectural style.

(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 detrimentally impact 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 16.75.190(13)]:

(1) Height. The proposed wireless communication facility may extend no more than 10 feet above the existing structure.

(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, and architectural style. 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) Collocation or Attachment. New wireless communication facilities must, to the maximum extent feasible, collocate on or attach to existing towers or other structures of a similar height to avoid construction of new towers. Collocation or attachment is not feasible if it is precluded by

zoning constraints such as height, precluded by engineering limitations such as structural capacity or electromagnetic interference, not possible to obtain authorization by the owner of an alternative location, or does not meet the service coverage objectives of the applicant. Each application for a new tower shall address the City's priorities in Section 16.75.040(3).

(2) Location Preferences. The applicant for a new tower not meeting the City's location preferences in Section 16.75.040(4) must demonstrate that such preferred locations are not available or feasible after considering the factors listed in Subsection (3) below.

(3) The decision-making authority shall determine whether 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 no existing towers or structures or preferred alternative sites will meet its coverage or capacity objective (regardless of the geographical boundaries of the City);

(b) 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 coverage or capacity objective;

(c) 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) The applicant demonstrates other limiting factors that render existing towers and structures or other sites unsuitable.

(g) That the tower is located in a suitable zoning district per Table 16.75.130-1

(3) When a proposed tower is subject to Type 3 review, 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 16.75.190(9):

(1) Height. In Industrial zoning districts, the maximum tower height is 120 feet. In all other applicable zoning districts, the maximum tower height is the maximum building height for that zoning district plus 35 feet with the exception of Country Club and Civic Center districts. In the Country Club District the maximum tower height is 100 feet. In the Civic Center District the

maximum tower height is 85 feet. A height modification may be applied for under LMC 16.75.150.

(2) **Antenna and Tower Aesthetics.** Where required, the applicant shall utilize a concealed facility as defined in LMC 16.75.190(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 wireless service providers (including the applicant). Guy towers and lattice towers are only allowed in the city's industrial districts.

16.75.150 Modifications to Wireless Standards.

(1) **Applicability** - Except as otherwise provided in this Chapter, no wireless communication facility shall be used or developed contrary to any applicable development standard unless an modification has been granted pursuant to this Section. These provisions apply exclusively to wireless communication facilities, and are in lieu of the City's generally applicable variance provisions.

(2) **Submittal Requirements** - An application for a wireless communication facility modification shall include:

- A. A written statement demonstrating how the modification would meet the criteria.
- B. A site plan that includes:
 - 1. Description of the proposed siting's design and dimensions, as it would appear with and without the modification.

2. Elevations showing all components of the wireless communication facility, and its connection to utilities, as it would appear with and without the modification.

3. Color simulations of the wireless communications facility after construction demonstrating compatibility with the vicinity, as it would appear with and without the modification.

(3) Criteria - An application for a modification shall be granted if the following criteria are met:

A. The modification is consistent with the purpose of the development standard for which the modification is sought.

B. Based on a visual analysis, the design minimizes the visual impacts to residential zones through mitigating measures, including, but not limited to, building heights, bulk, color, and landscaping.

C. The applicant demonstrates the existence of either of the following:

1. Gap in Service

(a) A gap in the coverage or capacity of the service network exists;

(b) The gap can only be filled through a modification in one or more of the standards in this Chapter; and

(c) The modification is narrowly tailored to fill the service gap such that the wireless communication facility conforms to this Chapter's standards to the greatest extent possible.

2. Minimization of Impacts - The modification would minimize or eliminate negative impacts to surrounding properties and their uses, through a utilization of existing site characteristics, including, but not limited to, the site's size, shape, location, topography, improvements, and natural features. Negative impacts are minimized or eliminated if there is:

(a) A decrease in negative visual impacts, including, but not limited to, visual clutter;

(b) Better preservation of views or view corridors;

(c) A decrease in negative impacts on property values; or

(d) A decrease in any other identifiable negative impacts to the surrounding area's primary uses.

(4) 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 Expiration.

Any permit to install or operate a wireless communication facility shall expire exactly two years 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.

16.75.170 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, and electronic equipment. The concrete pad shall be removed to a minimum of one foot below ground level and no longer be visible, unless otherwise approved by the director. 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.

16.75.180 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.

16.75.190 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.

(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/Distribution 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 or structure such as a tower.

(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) or structures 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 non-antenna 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.

Section 3 That a new Chapter 16.80 of the Longview Municipal Code shall be, and is hereby adopted to read as follows; provided, manifest and numbering errors shall be corrected prior to publication:

Chapter 16.80 Eligible Facilities Modifications

Section 16.80.010 Purpose

Section 16.80.020 Definitions

Section 16.80.030 Application Review

Section 16.80.010 Purpose

This Chapter implements Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”), as interpreted by the Federal Communications Commission’s (“FCC” or “Commission”) Acceleration of Broadband Deployment Report & Order, which requires a state or local government to approve any Eligible Facilities Request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station.

Section 16.80.020 Definitions

For the purposes of this Chapter, the terms used have the following meanings:

- a. **Base Station.** A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base Station includes, without limitation:

- i. 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. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small-cell networks).
 - iii. Any structure other than a tower that, at the time the relevant application is filed with the department under this section, supports or houses equipment described in paragraphs (a)(i)-(a)(ii) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.
 - iv. The term does not include any structure that, at the time the relevant application is filed with the department under this section, does not support or house equipment described in (a)(i)-(ii) of this section.
- b. Collocation. 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.
- c. Eligible Facilities Request. Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:
 - i. Collocation of new transmission equipment;
 - ii. Removal of transmission equipment; or
 - iii. Replacement of transmission equipment.
- d. Eligible support structure. Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the City under this section.

- e. Existing. A constructed tower or base station is existing for purposes of this section if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and reviewed because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this section.
- f. Site. For towers other than towers in the public rights-of-way, 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, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.
- g. Substantial Change. A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:
 - i. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;
 - ii. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
 - iii. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
 - iv. It entails any excavation or deployment outside the current site;

- v. It would defeat the concealment elements of the eligible support structure; or
- vi. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs (g)(i)-(g)(iv) of this section.
- vii. For purposes of this section, 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. 47 CFR § 1.40001(b)(7)(i)(A).
- h. Tower. Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, 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.
- i. Transmission Equipment. Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, 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.

Section 16.80.030 Application Review

- a. Application. The department shall prepare and make publicly available an application form which shall be limited to the information necessary for the department to consider whether an application is an Eligible Facilities Request. The application may not require the applicant to demonstrate a need or business case for the proposed modification.

- b. Type of Review. Upon receipt of an application for an Eligible Facilities Request pursuant to this Chapter, the department shall review such application to determine whether the application so qualifies.
- c. Timeframe for Review. Within 60 days of the date on which an applicant submits an application seeking approval under this Chapter, the department shall approve the application unless it determines that the application is not covered by this Chapter.
- d. Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by the department and the applicant, or in cases where the department determines that the application is incomplete. The timeframe for review is not tolled by a moratorium on the review of applications.
 - i. To toll the timeframe for incompleteness, the department must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
 - ii. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the department's notice of incompleteness.
 - iii. Following a supplemental submission, the department will notify the applicant within 10 days 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 paragraph (d) of this section. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- e. Interaction with 47 U.S. Code Section 332(c)(7). If the department determines that the applicant's request is not covered by Section 6409(a) as delineated under this Chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the department's decision that the application is not a covered request. To the extent such information is necessary, the department may request additional information from the applicant to evaluate the

application under Section 332(c)(7), pursuant to the limitations applicable to other Section 332(c)(7) reviews.

- f. Failure to Act. In the event the department fails to approve or deny a request seeking approval under this Chapter within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

Section 4. That Section 19.33.010 of the Longview Municipal Code shall be, and is hereby amended to read as follows; provided, manifest and numbering errors shall be corrected prior to publication:

19.33.010 Uses permitted.

In the country club district, C-D, no building or premises shall be used nor shall any building or structure be hereafter erected or altered except for one or more of the following uses:

- (1) Private or public golf courses, tennis courts, swimming pools, ice skating rinks, or other indoor or outdoor recreational facilities;
- (2) The usual accessory uses commonly appurtenant to the above including restaurants, cocktail lounges, banquet facilities and dance floors when located in the principal building; and equipment facilities, sporting goods shops, practice ranges, lift facilities and protective screens;
- (3) Other uses similar to any of the above, as determined by the board of adjustment.
- (4) Wireless communication facilities as permitted in LMC Chapter 16.75.

Section 5. That Section 19.35.010 of the Longview Municipal Code shall be, and is hereby amended to read as follows; provided, manifest and numbering errors shall be corrected prior to publication:

19.35.010 Uses permitted.

In the riverfront district, RF-1, no buildings or premises shall be used nor shall any building or structure be hereafter erected or altered except for one or more of the following uses:

- (1) Single-family dwellings;

- (2) Multifamily dwellings;
- (3) Roominghouses and boardinghouses, institutional lodging, convalescent care, retirement and assisted living facilities;
- (4) The usual accessory buildings commonly appurtenant to single-family or multifamily dwellings, such as private garages, utility buildings or tool storage sheds, complying with the requirements of residential districts R-1, R-2, R-3 and R-4 as if in fact located within these residential districts;
- (5) Clubhouses owned and operated by boating clubs;
- (6) Fraternal lodges;
- (7) Fixed or floating docks for pleasurecraft;
- (8) Launching ramps and lifts for pleasurecraft;
- (9) Marinas for pleasurecraft, including as a part thereof restaurants and cocktail lounges, and facilities for the display, sale, service and repair of pleasurecraft, sporting goods and other water-oriented or boating supplies. Service of pleasurecraft includes auto detailing as an accessory activity;
- (10) Restaurants and cocktail lounges;
- (11) Motel and hotel facilities;
- (12) Governmental offices;
- (13) Professional offices and business offices;
- (14) Public parking lots;
- (15) Planned unit developments, in accordance with the provisions of Chapter 19.66 LMC;
- (16) Commercial parks for trailers and other recreational vehicles;
- (17) Recreational parks and playgrounds including private tennis clubs, racquet clubs and swim clubs;
- (18) Group homes with a maximum number of 20 residents, excluding staff; provided, that no group home shall be allowed within 600 feet of any other group home;
- (19) Day care facilities for the care of children exceeding 12 in number, subject to state and local building code and fire regulations;
- (20) Retail stores of all descriptions where the sale of the merchandise is completed within the building, including manufacturing and/or assembly in connection therewith, and only if there is no excessive noise or vibration producing machinery used in the process; and the materials or methods used produce no obnoxious dust, fumes, smoke or odors; provided, however, that no manufacturing occupancies which process highly combustible, flammable or explosive materials shall be permitted;
- (21) Public or private schools, churches, juvenile and adult justice facilities which include detention facilities, offices and courtrooms, and public utility structures, such as substations, pumping plants, telephone exchanges, may be allowed as special property uses in the manner provided by Chapter 19.12 LMC;
- (22) Mobile and marine telecommunications and audio equipment accessories, sales, service and installation.
- (23) Wireless communication facilities as permitted in LMC Chapter 16.75.

Section 6. That Section 19.39.010 of the Longview Municipal Code shall be, and is hereby amended to read as follows; provided, manifest and numbering errors shall be corrected prior to publication:

19.39.010 Uses permitted.

(1) In the civic center district, C-C, no building or premises shall be used nor shall any building or structure be hereafter erected or altered except for one or more of the following uses: hotels, motels, apartments, public libraries, and quasi-public buildings, city, county, state and federal office buildings, medical clinics, buildings for offices of professional and business use, radio and television broadcasting studios, banks and financial institutions, and elderly/retirement housing facilities as defined by the Federal Fair Housing Act for congregate care and independent housing facilities.

(2) Any of the uses specified in subsection (1) of this section may be combined in a single structure; provided, however, hotels and motels may provide other related and integrated services by special permit under Chapter 19.12 LMC, if such services are normally and customarily available in such occupancies, but are not provided under the definition of hotel and motel as found in Chapter 19.09 LMC.

(3) ~~Telecommunications structures may be permitted by special property use permit in the manner provided by Chapter 19.12 LMC.~~ Wireless communication facilities as permitted in LMC Chapter 16.75.

(4) Deli, coffee bar and cafeteria services provided within the building primarily for occupants may be permitted by special property use in any office buildings greater than 10,000 square feet in size in the manner provided in Chapter 19.12 LMC.

Section 7. That Section 19.40.010 of the Longview Municipal Code shall be, and is hereby amended to read as follows; provided, manifest and numbering errors shall be corrected prior to publication:

19.40.010 Uses permitted.

In the county event center district, CEC, no building or premises shall be used nor shall any building, structure or property be hereafter erected, altered or utilized except for one or more of the following uses:

(1) Cowlitz County Fair;

(2) Special event sales such as, but not limited to, merchandise fairs and warehouse sales, Rotary and other clubs and organization fundraiser sales; provided, each merchandiser or organization is limited to a total of 60 days in any calendar year;

- (3) Special service events such as, but not limited to, veterinary clinics, building and other industry weekends and bicycle safety; provided, that each promoter and/or organization is limited to a total of 60 days in any calendar year;
- (4) Farmers' markets, flea markets and auctions; provided, that each activity does not exceed three days per week;
- (5) Concerts, dances, tournaments, athletic and recreation events, exhibitions, plays, theater, conventions and religious assemblies, motor sports weekend events limited to no more than six events per year;
- (6) Community meetings, seminars, and banquets;
- (7) 4-H, FFA, or similar organizational events, including, but not limited to, meetings, shows and training clinics. For educational purposes only, the activities of these organizations may include the year-round raising of poultry and/or rabbits. No roosters, peacocks or guinea fowl are allowed;
- (8) Rodeo events, animal shows and competitions, and horse racing;
- (9) Circus and carnival events;
- (10) Caretaker's residence per LMC 19.40.060;
- (11) Governmental service offices; provided said offices are an agency of county government;
- (12) For temporary relocation of persons and property in case of any emergency or disaster;
- (13) Public athletic and recreation facilities;
- (14) Horse boarding;
- (15) Storage of county-owned boats, trailers, materials or equipment; provided said storage is within the confines of a building or fenced security area;
- (16) Hotels, motels and recreational vehicle parks; and
- (17) Other uses similar to any of the uses listed in this section as determined by the appeal board of adjustment.
- (18) Wireless communication facilities as permitted in LMC Chapter 16.75.

Section 8.

That Sections 5.04.100 and 5.04.470 of the Longview Municipal Code shall be, and are hereby amended to read as follows; provided, manifest and numbering errors shall be corrected prior to publication:

5.04.100 Engaging in business.

"Engaging in business" means commencing, conducting or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business. The ownership, operation, maintenance or commercial use of an antenna by a ~~wireless communications service provider~~ wireless telecommunication carrier (as defined in LMC ~~16.75.020~~ 16.75.200) shall be deemed to be engaging in business.

5.04.470 Public utilities.

(1) Upon every person engaging within this city in any one or more of the businesses hereinafter mentioned, as to such person the license fee shall be a tax equal to the gross operating revenue of the business multiplied by the rate set out after the business as follows:

- (a) The business of selling or furnishing water for hire, seven percent;
- (b) The business of selling or furnishing or distributing electrical energy within the city, exclusive of the revenue derived from the sale of electrical energy for the purpose of resale, six and five-tenths percent; provided, however, to encourage the location of new manufacturing industries within the city and the expansion of existing manufacturing industries therein, thereby increasing the ultimate revenue to the city, the tax shall not apply to that portion of any monthly billing in excess of \$1,000 charged to any person or company using electrical energy primarily for manufacturing purposes;
- (c) Upon any telephone business there shall be levied a tax equal to seven and four-tenths percent of the total gross operating revenue derived from the operation of such businesses within the city;
- (d) The business of selling or furnishing sanitary sewer service, seven percent;
- (e) The business of selling or furnishing a garbage or refuse collection service, seven percent;
- (f) The business of selling or furnishing or distributing natural gas, six and five-tenths percent; provided, however, to encourage the location of new manufacturing industries within the city and the expansion of existing manufacturing industries therein, thereby increasing the ultimate revenue to the city, the tax shall not apply to that portion of any monthly billing in excess of \$1,000 charged to any person or company using natural gas primarily for manufacturing purposes;
- (g) The business of selling or furnishing or distributing television by way of coaxial cable within the city, six percent;
- (h) The business of conducting wireless telecommunications carrier services, as defined in Chapter 16.75 LMC, by wireless telecommunications carrier ~~service~~ providers that are regulated by Chapter 80.36 RCW, six percent;
- (i) The business of selling or furnishing storm water utility services, seven percent.

(2) Public Utilities Reduction.

(a) The tax herein provided under subsections (1)(b) and (1)(f) shall be reduced, however, annually by one-tenth of one percent until the rate reaches six percent, as required by law.

(b) The tax herein provided under subsection (1)(c) shall be reduced, however, annually by four-tenths of one percent until the rate reaches six percent, as required by law.

(3) “Telephone business” means the business of providing access to local telephone network, local telephone network switching service, toll service, or client telephone services, or providing telephonic, video, data, or similar communication or transmission for hire, via a local telephone network, toll line or a channel, or similar communication or transmission system. It includes cooperative or farmer line telephone companies or associations operating an exchange. Telephone business does not include the providing of competitive telephone service, nor the providing of cable television service.

(4) “Gross operating revenue” means the value proceeding or accruing from the performance of the particular system or transportation business involved, including operations incidental thereto, but without any deduction or account of the cost of the commodity furnished or sold, the cost of material used, labor costs, interest, discount, delivery cost, taxes or any other expense whatsoever, paid or accrued and without any deduction on account of losses.

Section 9 That Section 5.06.120 of the Longview Municipal Code shall be, and is hereby amended to read as follows; provided, manifest and numbering errors shall be corrected prior to publication:

5.06.120 Imposition of the tax – Tax or fee levied.

(1) Upon every person engaging within this city in any one or more of the businesses hereinafter mentioned, as to such person the license fee shall be a tax equal to the gross operating revenue of the business multiplied by the rate set out after the business as follows:

(a) The business of selling or furnishing water for hire, nine and one-half percent;

(b) The business of selling or furnishing or distributing electrical energy within the city, exclusive of the revenue derived from the sale of electrical energy for the purpose of resale, six percent; provided, however, to encourage the location of new manufacturing industries within the city and the expansion of existing manufacturing industries therein, thereby increasing the ultimate revenue to the city, the tax shall not apply to that portion of any monthly billing in excess of \$1,000 charged to any person or company using electrical energy primarily for manufacturing purposes;

(c) Upon any telephone business there shall be levied a tax equal to six percent of the total gross operating revenue derived from the operation of such businesses within the city;

(d) The business of selling or furnishing sanitary sewer service, nine and one-half percent;

(e) The business of selling or furnishing a garbage or refuse collection service, nine and one-half percent;

(f) The business of selling or furnishing or distributing natural gas, six percent; provided, however, to encourage the location of new manufacturing industries within the city and the expansion of existing manufacturing industries therein, thereby increasing the ultimate revenue to the city, the tax shall not apply to that portion of any monthly billing in excess of \$1,000 charged to any person or company using natural gas primarily for manufacturing purposes;

(g) The business of selling or furnishing or distributing television by way of coaxial cable within the city, six percent;

(h) The business of conducting wireless telecommunications carrier services, as defined in Chapter 16.75 LMC, by wireless telecommunications carrier service providers that are regulated by Chapter 80.36 RCW, six percent;

(i) The business of selling or furnishing stormwater services, nine and one-half percent.

Section 10. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance and the same shall remain in full force and effect. The City of Longview hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 11. That nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 12. That the City of Longview City Clerk is hereby ordered and directed to cause this Ordinance to be published.

Section 13. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 14. This Ordinance shall be in full force and effect from and after thirty (30) days from the date of its passage and publication as provided by law.

Passed by the City Council this ____ day of _____, 2016.

Approved by the Mayor this ____ day of _____, 2016.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

James McNamara
City Attorney

Published: _____