

**ORDINANCE NO. 831**

**AN ORDINANCE AMENDING STAYTON MUNICIPAL CODE TITLE 17, LAND USE AND DEVELOPMENT, RELATING TO WIRELESS COMMUNICATION FACILITIES (“WCF”).**

WHEREAS, the Stayton City Council directed City staff and the City Planning Commission to research and prepare an ordinance to regulate wireless communication facilities;

WHEREAS, wireless communication services and facilities comprises a rapidly growing segment of the communications industry and have merit and value for the City’s residents and the region as a whole;

WHEREAS, WCF are supportive of the public health, safety, and welfare in that they provide useful portable communication services for personal convenience, business and emergency purposes;

WHEREAS, the current Land Use and Development Code of the City of Stayton was adopted before WCF were anticipated, and therefore, the existing siting and development standards are outdated and vague;

WHEREAS, the Federal Telecommunications Act of 1996 (FTA) preserves local zoning authority to reasonably regulate WCF, provided that localities not unreasonably discriminate among Federal Communication Commission (FCC) license holders, and that localities may not prohibit or have the effect of prohibiting WCF;

WHEREAS, the proposed Land Use and Development Code amendments provide reasonable standards while allowing the opportunity for WCF in numerous places throughout the City;

WHEREAS, proper notice of the proposed Code amendment was sent to the Department of Land Conservation and Development as required by State law; and

WHEREAS, the proposed Ordinance complies with all applicable provisions of State Planning Goals, Statutes, and Administrative Rules, and with the City’s Comprehensive Plan.

NOW THEREFORE, the Stayton City Council does ordain as follows:

SECTION 1. Stayton Municipal Code Section 17.04.100 Definitions, is hereby amended to add:

**WIRELESS COMMUNICATION FACILITIES:** An unstaffed facility for the transmission and/or reception of wireless communication services or radio frequency signals, consisting of antenna, transmission cables, equipment shelters, ancillary structures, and a support structure to achieve the necessary elevation. The support structure includes but is not limited to a building or part thereof, water tower, light or utility pole, or monopoles.

**CONCEALMENT TECHNOLOGY:** The use of both existing and future technology through which a wireless communications facility is designed to resemble an object which is not a wireless communications facility and which is already present in the

**natural environment.**

**MONOPOLES:** Monopoles consist of a single pole, approximately three feet in diameter at the base, narrowing to roughly 1.5 feet at the top and may support any combination of whip, panel, or dish antennas.

**ANTENNA:** One or more rods, panels, discs, or similar devices, and their ancillary uses (support structure, wires, ground equipment shelter, etc.) used for the transmission and/or reception of electromagnetic waves for radio, television, and similar uses, but not including antennas as part of wireless communication facilities.

**COLLOCATION:** Placement of a WCF antenna on an existing transmission tower, building, light or utility pole, or water tower where the antenna and all supports are located on the existing structure.

SECTION 5. Stayton Municipal Code Section 17.16.690 Commercial Retail (CR) District, Subsection 2 PERMITTED USES, is hereby amended to add:

- a. Wireless Communication Facilities, if provided in SMC 17.20.980 (3) or (4).

SECTION 7. Stayton Municipal Code Section 17.16.700 Commercial General (CG) District, Subsection 2 PERMITTED USES, is hereby amended to add:

- a. Wireless Communication Facilities, if provided in SMC 17.20.980 (3) or (4).

SECTION 9. Stayton Municipal Code Section 17.16.710 Interchange Development (ID) District, Subsection 2 PERMITTED USES, is hereby amended to add:

- a. Wireless Communication Facilities, if provided in SMC 17.20.980 (3) or (4).

SECTION 11. Stayton Municipal Code Section 17.16.720 Industrial Commercial (IC) District, Subsection 2 PERMITTED USES, is hereby amended to add:

- a. Wireless Communication Facilities, in accordance with SMC 17.20.980.

SECTION 12. Stayton Municipal Code Section 17.16.730 Light Industrial (IL) District, Subsection 2 PERMITTED USES, is hereby amended to add:

- a. Wireless Communication Facilities, in accordance with SMC 17.20.980.

SECTION 13. Stayton Municipal Code Section 17.16.740 Industrial Agriculture (IA) District, Subsection 2 PERMITTED USES, is hereby amended to add:

- a. Wireless Communication Facilities, in accordance with SMC 17.20.980.

SECTION 14. Stayton Municipal Code Section 17.16.750 Public/Semi-Public (P) District, Subsection 2 PERMITTED USES, is hereby amended to add:

- a. Wireless Communication Facilities, in accordance with SMC 17.20.980. on City of Stayton Municipal property only.

SECTION 16. Stayton Municipal Code is hereby amended to add:

17.20.980 WIRELESS COMMUNICATION FACILITIES

1. PURPOSE

The provisions of this section are intended to ensure that wireless communication facilities (WCF) are located, installed, maintained and removed in a manner that:

- a. Minimizes the number of transmission towers throughout the City;
- b. Minimizes the impact to residential areas;
- c. Encourages the collocation of WCF;
- d. Encourages the use of existing buildings, utility and light poles, water towers, and similar structures for locating WCF instead of new towers;
- e. Ensures that all WCF including support towers, antennas, and ancillary facilities are located and designed to minimize the visual impact on the immediate surroundings and throughout the City, and minimize public inconvenience and disruption. Nothing in this section shall apply to amateur radio antennas, or facilities used exclusively for the transmission or reception of television and radio signals.

2. SITING RESTRICTED

No WCF may be constructed, modified, installed or otherwise located within the City except as provided in this section. Depending on the type, height, and location of a WCF, it shall be a Permitted Use not subject to Site Plan Review, or a Permitted Use subject to Site Plan Review.

- a. Outright Permitted Uses: No land use permit is required for a WCF which pursuant to subsections 3 through 5 of this section, is an outright Permitted Use not subject to Site Plan Review. Such a WCF shall require a building and/or electrical permit, depending on the type of installation.
- b. Site Plan Review: A WCF which, pursuant to subsection 3 through 5 of this section is a Permitted Use subject to Site Plan Review, and shall be processed in accordance with the Site Plan Review procedures of SMC 17.12.470. The approval criteria and standards contained in this section, as well as the criteria of SMC 17.12.470, shall govern the approval or denial and any conditions of approval, of the Site Plan Review. In the event of a conflict in criteria or other requirements, this section shall govern.

3. COLLOCATION OF WCF ANTENNAS ON EXISTING BUILDINGS, UTILITY OR LIGHT POLES, AND WATER TOWERS.
  - a. Permitted Use. Such collocation shall be considered an outright Permitted Use provided that the antennas and ancillary facilities comply with the standards of this section, and the antennas extend no more than ten feet above and no more than two feet horizontally away from the existing structure, and the collocation site is zoned CR, CG, ID, IC, IL, IA, or P.
  - b. Site Plan Review. Such collocation shall be a Permitted Use subject to a Site Plan Review approval provided that the antennas and ancillary facilities comply with the standards of this section, the antennas extend no more than twenty feet above and no more than four feet horizontally away from the existing structure, and the collocation site is zoned HD, CR, CG, ID, IC, IL, IA, or P. As part of collocation on a utility or light pole, the existing pole may be replaced if needed for structural soundness provided the height of the pole is not increased and the diameter of the pole is not increased by more than 20 %.
4. COLLOCATION OF ADDITIONAL ANTENNAS ON EXISTING WCF TOWER.
  - a. Permitted Use. Collocation of additional antenna(s) on an existing WCF support tower shall be considered an outright Permitted Use if the existing WCF was specifically approved, as part of a prior land use approval (by the City) of a WCF tower, for collocation of additional antennas.
  - b. Site Plan Review. Collocation of additional antenna on an existing WCF tower shall be a Permitted Use subject to Site Plan Review approval if the existing WCF was not specifically approved as part of prior land use approval of a WCF tower, for collocation of additional antennas.
5. NEW WCF WITH SUPPORT TOWER
  - a. Site Plan Review. Construction of a new WCF with support tower shall be a Permitted Use and require Site Plan Review approval in the IL, IC, IA, and P zoning districts. The placement of a WCF tower in the Public/Semi-Public zone district is specifically restricted to the City of Stayton municipal property.
6. APPLICATION REQUIREMENTS
  - a. Collocation of WCF Antennas. In addition to application materials required elsewhere in this Code, an applicant shall submit the following information:
    - 1) A description, site plan, and elevation drawing of the proposed antennas and any ancillary structures location, design, and height. The description must include a response to how the proposed facility meets applicable Code standards and requirements.

- 2) A statement documenting that placement of the antennas is designed to allow future collocation of additional antennas if technologically possible.
  - 3) Plans showing the connection to utilities/right of way cuts required, and ownership of utilities and easements required.
  - 4) Documents demonstrating that necessary easements and leases have been obtained.
  - 5) Plans showing how vehicle access and parking will be provided.
  - 6) If ancillary facilities will be located on the ground, a landscape plan and fencing plan, showing how these facilities will be buffered from adjacent property.
- b. Construction of New WCF Tower. In addition to application materials required elsewhere in this Code, an applicant shall submit the following information:
- 1) A description, site plan, and elevation drawing of the proposed WCF and tower location, design, and height. The description must include a response to how the proposed facility meets applicable Code standards and requirements.
  - 2) The general capacity of the WCF tower in terms of the number and type of antennas it is designed to accommodate.
  - 3) A signed agreement stating that the applicant and any future owners of the WCF will allow collocation with other users, provided all safety, structural, and technological requirements are met.
  - 4) Plans showing the connection to utilities/right of way cuts required, and ownership of utilities and easements required.
  - 5) Documents demonstrating that necessary easements and leases have been obtained.
  - 6) Plans showing how vehicle access and parking will be provided.
  - 7) If ancillary facilities are located on the ground, a landscape and fencing plan shall be required showing how these facilities will be buffered from adjacent property.
  - 8) A visual study showing a graphic or computer simulation of the proposed WCF tower, antennas and ancillary facilities from at least five points (representing a wide variety of views) within a two mile radius. Such points shall be chosen by the applicant with review and approval by the City Planner.

- 9) Evidence demonstrating collocation is impractical on existing buildings, utility and light poles, water towers, existing WCF towers, and existing WCF sites for reasons of structural support capabilities, safety, available space, receiving or transmitting interference, or failing to meet service coverage area needs.
- 10) A statement providing the reasons for the location, design, and height of the proposed WCF tower and antennas.

## 7. STANDARDS FOR WCF SITES

Installation, construction, or modification of all WCF towers, antennas, and ancillary facilities shall comply with the following standards:

- a. Separation between WCF towers. No WCF tower may be constructed within 2000 feet of any pre-existing WCF tower and no closer than 3,500 feet from wilderness and Pioneer Parks. Tower separation shall be measured by following a straight line from the portion of the base of the proposed tower which is closest to the base of any pre-existing tower.
- b. Height Limitation. WCF tower heights are measured from the ground elevation to the highest point of the tower or antennas, and shall be governed by this section as provided below:
  - 1) Within the IL, IA, IC and P zoning districts, maximum tower height shall be 140 feet.
- c. Collocation. WCF towers shall be designed to accommodate collocation of additional providers antennas:
  - 1) WCF towers at (or) 75 feet and less in height shall be designed to accommodate collocation of at least one additional antenna either outright or through future modification.
  - 2) WCF towers over 75 feet in height shall be designed to accommodate collocation of at least two additional antennas either outright or through future modification.
- d. Setback. In addition to required setbacks in each zoning district, the following setbacks from adjacent property lines and streets shall be required:
  - 1) WCF towers in the IL, IC, IA, and P zoning districts shall setback from all dwellings and all public gathering places by a distance equal to one (1) foot greater than the total height of the tower and antennae, and by a distance of 300 feet from any residential zone boundary.
  - 2) Should the use of "Concealment Technology" be implemented, the decision

makers may allow the proposed towers setback to be reduced by 100 feet.

- e. Buffering. In the IL, IC, IA and P zoning districts, a sight obscuring fence of a minimum height equal to the height of any ground-based ancillary shelters is required around the perimeter of the tower and ancillary structures. Landscaping is required in accordance with SMC 17.20.890, and the Decision Authority may impose a condition on the size of ground-based ancillary facilities to limit the visual impact of such facilities.

When a tower is proposed within 1320 feet of a residential zoning district or when the visual impact study required in SMC 17.20.980.6.b.8) demonstrates that the proposed tower will be highly visible from a large geographic area of residences, the tower shall be designed so as to be camouflaged to the greatest extent possible by the use of concealment technology.

- f. Lighting. No lighting shall be permitted on the tower, antennas, or ancillary structures except as required by the Federal Aviation Administration or the Oregon State Aeronautics Division.
- g. Color. The tower, antennas, ancillary structures and fencing shall be surfaced with nonreflective paint and/or materials. The surfaces must be neutral colors or shades as approved by the City.
- h. Signs. No signs, striping, graphics or other attention-getting devices are permitted on the tower, ancillary structures, or fencing, except for warning and safety signage with a surface of no more than four (4) square feet. Such signage shall be attached to the fence or gate (or structure if no ground-based ancillary structures) and is limited to a maximum of two signs.
- i. Removal of Facilities. All tower, antenna, and ancillary structures shall be removed by the facility owner or property owner within 12 months of the date the facility ceases to be operational. The facility owner shall inform the property owner, in writing, of this condition with a copy submitted to the Planning Department prior to issuance of a building permit.
- j. Cooperation. A WCF permittee shall cooperate with other wireless communication providers in co-locating additional antennae on towers and support structures. A permittee shall exercise good faith in co-locating and sharing the permitted site with other providers, provided the shared use does not result in substantial technical impairment of the permitted use. Good faith shall include sharing technical information sufficient to evaluate the feasibility of co-location.
- k. Maintenance. It is required that a monopole tower maintain original appearance with additional collocation cables and wires to be added internally, and the towers exterior paint be maintained.
- l. Variance. Any deviations from the standards set forth in these regulations shall be

by

Variance. No variance shall be approved without affirmative findings that the request fully satisfies the criteria as outlined in 17.12.450 of the Land Use and Development code.

8. FEES

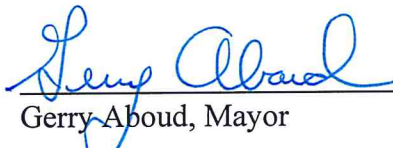
Notwithstanding other fees or deposits for permits required elsewhere in the Code or by Resolution, the City Administrator may require that applicants for WCFs (whether for Permitted Use, or Site Plan Review), submit an amount sufficient to recover all of the City's costs in retaining wireless communications consultants to verify statements in the application materials.

SECTION 17 Upon adoption by the Stayton City Council and the Mayor's signing, this Ordinance shall become effective in 30 days.

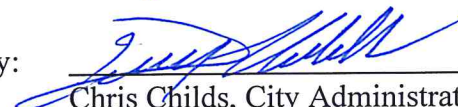
ADOPTED BY THE STAYTON CITY COUNCIL this 16th day of July 2001.

CITY OF STAYTON

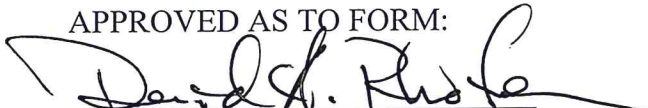
Date: July 19, 2001

By:   
Gerry Aboud, Mayor

Date: July 17, 2001

By:   
Chris Childs, City Administrator  
Don Eubank, Acting City Administrator

APPROVED AS TO FORM:

  
David A. Rhoten, City Attorney

F:\SHARE\ORD\831.wpd(07-17-01)