



City of Covington

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City of Covington

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The City of Covington is a place where community, business, and civic leaders work together with citizens to preserve and foster a strong sense of community.

PLANNING COMMISSION AGENDA

May 3, 2012

6:30 PM

CALL TO ORDER

ROLL CALL

Chair Daniel Key, Vice Chair Paul Max, Sonia Foss, Ed Holmes, Bill Judd, Sean Smith, & Alex White.

PLEDGE OF ALLEGIANCE

APPROVAL OF CONSENT AGENDA

1. Planning Commission Minutes for March 1, 2012 and April 5, 2012.

CITIZEN COMMENTS - *Note: The Citizen Comment period is to provide the opportunity for members of the audience to address the Commission on items either not on the agenda or not listed as a Public Hearing. The Chair will open this portion of the meeting and ask for a show of hands of those persons wishing to address the Commission. When recognized, please approach the podium, give your name and city of residence, and state the matter of your interest. If your interest is an Agenda Item, the Chair may suggest that your comments wait until that time. Citizen comments will be limited to four minutes for Citizen Comments and four minutes for Unfinished Business. If you require more than the allotted time, your item will be placed on the next agenda. If you anticipate, in advance, your comments taking longer than the allotted time, you are encouraged to contact the Planning Department ten days in advance of the meeting so that your item may be placed on the next available agenda.*

PUBLIC HEARING – None

UNFINISHED BUSINESS – Final Discussion and Decision

1. Final Recommendations to City Council on New Wireless Communication Facilities (WCF) Regulations in the Covington Municipal Code

NEW BUSINESS - NONE

ATTENDANCE VOTE

PUBLIC COMMENT: (Same rules apply as stated in the 1st CITIZEN COMMENTS)

COMMENTS AND COMMUNICATIONS OF COMMISSIONERS AND STAFF

ADJOURN

Any person requiring a disability accommodation should contact the City at least 24 hours in advance. For TDD relay service please use the state's toll-free relay service (800) 833-6384 and ask the operator to dial (253) 638-1110

Web Page: www.covingtonwa.gov

**CITY OF COVINGTON
Planning Commission Minutes**

March 1, 2012

City Hall Council Chambers

CALL TO ORDER

Chair Key called the regular meeting of the Planning Commission to order at 6:33 p.m.

MEMBERS PRESENT

Chair Daniel Key, Vice Chair Paul Max, Sonia Foss, Ed Holmes, Bill Judd, Sean Smith and Alex White.

MEMBERS ABSENT - NONE

STAFF PRESENT

Richard Hart, Community Development Director
Ann Mueller, Senior Planner
Kelly Thompson, Planning Commission Secretary

APPROVAL OF CONSENT AGENDA

- Ø **1. Vice Chair Max moved and Commissioner White seconded to approve the consent agenda and the minutes for February 16, 2012. Motion carried 7-0.**

CITIZEN COMMENTS – NONE

PUBLIC HEARING

2. Proposed Zoning Code Amendment on Wireless Communication Facilities (WCF's)

Chair Key opened the public hearing.

Senior Planner, Ann Mueller began by noting that Public Notice of the proposed code amendments was published in the Covington Reporter, on the city website and posted at City Hall. The SEPA Determination of Non-Significance was issued, and the Washington State Department of Commerce was notified of the proposed changes to the zoning code. Ms. Mueller provided an overview of changes noting that the existing code will be repealed. Another major change is more restrictive height requirements. New facilities should be located in non-residential areas, encourage co-location on towers and cause minimal visual impact.

Correction under CMC 18.70.150(3): "Setback" modification should read "height" modification. Another correction noted by Vice Chair Max on 18.20.1281 should read ..."any facility owned *by* an electric utility..."

No public was present to testify.

Chair Key closed the public hearing.

There was consensus to change the order of the agenda moving NEW BUSINESS to the next item on the agenda.

NEW BUSINESS

4. Discussion and Possible Recommendations to the City Council on Zoning Code Amendments for Wireless Communication Facilities (WCF's)

Chair Key asked for clarification of a definition between utility pole and transmission tower based on voltage alone as the 115kv or higher will often be served by a wooden pole. It would not be possible to contain cable or conduit within the pole.

Ms. Mueller responded that there are utility poles that are essentially hollow that could contain cable or conduit.

Chair Key noted that replacing a wooden transmission pole is incongruent with the proposed regulations. His concern is that the transmission lines are going to be out of compliance with the regulations. He would like to also confirm the practical limitations by not having a height requirement on electrical transmission towers. There should be consideration defining transmission tower vs. transmission pole if they are going to be treated differently.

Commissioner Smith asked about the requirements for co-locating. Who determines whether they would be allowed to co-locate on a tower?

Mr. Hart responded that when a tower is built, the applicant has to show they can allow for another carrier.

Commissioner Smith asked about landscaping requirements and whether there is a requirement to use native plants?

Mr. Hart responded that there is a requirement for Pacific Northwest native plants as part of our tree ordinance. We could reference that as part of the proposed code. However, that may limit the types of landscaping.

Vice Chair Max asked if any part of this code is retroactive, and would it apply to previously permitted towers?

Mr. Hart responded that previously permitted structures are vested under the code in which they applied. When a new regulation is adopted, it becomes effective for any permit application that comes in after the adoption of the code. A previously permitted tower may become a legal non-conforming use.

Ms. Mueller informed the commission that a homeowner came to the counter who has an expired application for a ham radio tower. He is out of compliance currently and will be out of compliance with new regulations. Kent allows towers up to 70 feet in height in residential zones. Bonney Lake and Maple Valley allow towers up to 35 feet. If the applicant is asking for something greater in height, they could go through a variance process. We are researching other cities regarding height limitations and will continue this discussion at future meetings.

Fees for a variance have not been determined at this time. We estimate it could be several hundred dollars and will be based on staff review time.

Mr. Hart also talked about the possibility of a retractable or telescoping antenna. We could try to get an idea of how many ham radio operators are in Covington. The FCC says we have to make reasonable accommodation for ham radio towers.

This item will be added as unfinished business in April.

UNFINISHED BUSINESS

3. Community Development Director's Recommendation to the Planning Commission on the Final Docket for 2012.

The Planning Commission is required to make a recommendation to the City Council on the docket in accordance with CMC 14.25. Mr. Hart suggests we take the three proposed amendments and pass them onto the City Council. The City Council will set the formal docket which will then go to public hearing before the commission this summer.

The City received a letter today from Don Ramsey, Ashton Development, requesting that the Downtown Element of the Comprehensive Plan remain as it is currently and not require first floor commercial in the Town Center zone.

ATTENDANCE VOTE – NONE

PUBLIC COMMENT- NONE

COMMENTS AND COMMUNICATIONS FROM STAFF

Ms. Mueller shared that the City Council approved the multi-family tax exemption. There was discussion among City Council members that they would like staff to include provisions to include condominiums, which we could accomplish later this year.

The request for proposal (RFP) for the Northern Gateway study has been posted on the city website. Consultants have until March 21, 2012 to submit an application.

Mr. Hart shared that interviews for the RFP will be held on Monday April 2, 2012.

Commissioner Holmes had questions on the upcoming Planning Commission schedule.

Mr. Hart responded that the March 15, 2012 and April 19, 2012 Planning Commission Meetings are cancelled. The public hearing for setting the 2012 Comprehensive Plan Amendment Docket has been moved to the April 5, 2012.

Commissioner Smith shared that the new Multi-Care Emergency Department is having their V.I.P. open house for city staff, Council and Commissions on March 14, 2012. The public open house will be held on March 31, 2012.

ADJOURN

The March 1, 2012 Planning Commission Meeting adjourned at 7:31p.m.

Respectfully submitted,

Kelly Thompson, Planning Commission Secretary

**CITY OF COVINGTON
Planning Commission Minutes**

April 5, 2012

City Hall Council Chambers

CALL TO ORDER

Chair Key called the regular meeting of the Planning Commission to order at 6:30 p.m.

MEMBERS PRESENT

Chair Daniel Key, Vice Chair Paul Max, Sonia Foss, Ed Holmes, Bill Judd, Sean Smith and Alex White.

MEMBERS ABSENT - NONE

STAFF PRESENT

Richard Hart, Community Development Director
Ann Mueller, Senior Planner
Kelly Thompson, Planning Commission Secretary

APPROVAL OF CONSENT AGENDA

- Ø **1. Vice Chair Max moved and Commissioner White seconded to approve the consent agenda. Motion carried 7-0.**

CITIZEN COMMENTS – NONE

PUBLIC HEARING

2. Public Hearing & Recommendation on 2012 Comprehensive Plan Amendment Docket

Chair Key opened the public hearing.

Community Development Director, Richard Hart began the hearing by explaining the process of recommending the 2012 Comprehensive Plan Amendment Docket. The purpose of the public hearing is to determine if the proposed amendments for the dockets should be recommended to the City Council by the Planning Commission. Once the docket has been approved by the City Council, the Planning Commission will then discuss the merits of each of the items on the docket.

Two of the proposed amendments related to ground floor retail in the Town Center (TC) in mixed use multi-story developments came from the Planning

Commission. This is change from four years ago. They include CPA 2012-01 and RA 2012-01.

The third amendment is related to annexation policies in the Comprehensive Plan that are in need of updating. With the potential annexation of the Northern Gateway, the City wants to make sure we have good annexation policies to follow. CPA 2012-02 was submitted by the Community Development staff.

Tonight is the public hearing, discussion and recommendation to the City Council for setting the final docket.

Kim Nakamura, CEO of Rush Forth Construction Company, is working with Ashton Development looking at properties and how to develop them. They have extensive experience in development opportunities and they have experienced these restrictions (related to requiring ground floor retail in mixed use multi-story developments in the TC zone). They have found the more restrictions on the property, the longer it takes to develop. He defines a successful project as one that gets constructed and is profitable.

Eric Cederstrand, President of Commencement Bay Development, has worked on numerous projects in Seattle, Bellevue, Tacoma, University Place and other cities that have gone through similar growth. He defines a successful project as one that does not go back to the bank. Lenders are shying away from mixed-use development. Parking is one of the biggest challenges that they face. An attractive building can be built that does not necessarily contain ground floor retail. Tenant Improvements can cost \$60-\$100 per square foot to finish, which many tenants can't afford so it falls to the landlord or property owner. Filling up stores not on main arterials are not as successful. He believes that the City needs to be responsive to the market needs.

Jim Wene, Ashton Development, would like to piggyback on what Mr. Cederstrand stated with regard to market demand. Tenants need signage, visibility and access. There has been little demand and it is difficult to fill those second tier interior spaces. Mr. Wene also submitted letters to the Planning Commission.

Doug Mergenthaler, Ashton Development indicated his concern is for the tenants who are working and struggling just to maintain their businesses. Every time a new business is brought in, another is forced out. These small business tenant spaces are difficult to fill. When there is a constant turn over, that is not good for the city. He objects to requiring ground floor retail in mixed-use development in the Town Center and plans to speak before the City Council as well.

Mr. Hart reminded the Commission that we are not discussing the merits of the proposed docket amendments at this time.

Chair Key closed the Public Hearing.

Commissioner Smith asked why the requirement for mixed-use development in the Town Center zone was removed from the Comprehensive Plan?

Mr. Hart offered that four years ago when the City Council did the downtown study, the consultant recommended that ground floor retail be a requirement on the two main north-south streets. The Council decided to remove the requirement at that time.

Commissioner Holmes shared his opinion that the downtown is intended to have retail. Having this come before the City Council for discussion will clarify this issue.

Vice Chair Max agrees with Commissioner Holmes that there are legitimate concerns. We are not discussing the merits today, but if it is on the docket, we can talk about whether or not this proposed amendment has merit.

Commissioner Judd agrees it has merits for further review.

Ø **Commissioner Smith moved and Vice Chair Max seconded to recommend for adoption the 2012 Comprehensive Plan Amendment Docket to the City Council as presented in the staff memo. Motion passed 7-0.**

NEW BUSINESS - NONE

UNFINISHED BUSINESS - NONE

ATTENDANCE VOTE – NONE

PUBLIC COMMENT- NONE

COMMENTS AND COMMUNICATIONS FROM STAFF

Ms. Mueller has made some changes to the Wireless Communication Facility Code and will be bringing those to the Planning Commission for discussion. On April 11, 2012, there is a Home Owner's Association and Citizen meeting with Community Development Director, Richard Hart, Code Enforcement Officer, Brian Bykonen, Building Official, Robert Meyers and Police Chief Kevin Klason.

Mr. Hart talked about offering these Home Owner Association meetings once a year to see what kind of interest there is. The meeting will be held in the Council Chambers beginning at 7:00 p.m.

Ms. Mueller informed the Planning Commission that lapel pins for the 35th anniversary of the Aquatic Center are available.

Mr. Hart provided a brochure to the Planning Commission regarding SEATS transportation priority needs. There is some good information that the community has identified as a priority.

Mr. Hart also provided an updated Planning Commission meeting schedule. The next regular Planning Commission meeting will be held on May 3, 2012. With regard to the Multi-family tax exemption, the City Council asked if staff could go back and consider adding condominium's by the end of the year.

The consultants that responded to the request for proposal (RFP) for the Northern Gateway Study have been interviewed. The decision was made to hire Stalzer and Associates. The consultant hopes to be underway by the last week of April. The cost of the study will be paid by private property owners, and there are no city dollars funding the study. Once the study is underway and the City is provided a scope of work, we will keep the Planning Commission in the loop.

Commissioner Foss asked if cost was considered when proposing the option of telescoping poles for ham radio towers. She felt it was good to hear the concerns of landowners and developers at the public hearing earlier in the evening.

Vice Chair Max thanked the public for providing comments on the proposed Comprehensive Plan Docket Amendments.

Commissioner Smith gave a brief update on the Budget Priorities Advisory Committee (BPAC) and encourages anyone interested to come to the meetings.

ADJOURN

The April 5, 2012 Planning Commission Meeting adjourned at 7:18 p.m.

Respectfully submitted,

Kelly Thompson, Planning Commission Secretary

Memo

To: Planning Commission Members
From: Ann Mueller, Senior Planner
CC: Richard Hart, Community Development Director
Salina Lyons, Senior Planner
Date: May 3, 2012
Re: Planning Commission Recommendation on the Proposed Code Amendments to the Wireless Communication Facility related regulations.

The Planning Commission discussed amendments to the city's wireless communication facility code on January 19, 2012 and provided staff with direction on how to proceed. On March 1, 2012, the Planning Commission held a public hearing and discussed the draft wireless communication facility code. No members of the public spoke at the public hearing and no written comments on the draft code have been received to date. At the March 1st meeting the Planning Commission provided staff feedback on the draft; major comments/questions on the draft code are listed below:

- Height limits for amateur radio towers (HAM) – Discussed amateur radio tower's height limits. Staff was asked to research and draft text that would allow amateur radio towers that were designed to extend (telescope) to a height greater than the zone's base height when in use but would be retracted back to the maximum base height when not in use. See Section 18.70.020 for proposed text.
- Definition and Development Standards for Electrical Transmission Tower and Co-location. Staff was asked about the difference between a transmission tower and a utility pole. It was pointed out that some of the transmission lines in the city were located on poles not just on towers. Staff has subsequently met with BPA staff about their transmission lines through the city and their requirements for wireless telecommunication carriers to collocate on their transmission towers or poles. PSE staff was also contacted and provided comments on the draft code. As a result of BPA and PSE feedback, staff has revised the draft code in a few areas including:
 - renaming transmission towers to transmission structures to clarify that the intention is to cover any structure (pole or tower) that supports electrical lines which carry a voltage of at least 115kV. See CMC 18.20.1281.

- allowing an exemption for electric utility providers to co-locate their own non-commercial communication antennas and ancillary equipment that monitors their utility system. See section CMC 18.70.020 (10).
- adding a reference that utility poles and transmission structures that are owned/maintained by an electric utility are subject to National Electric Safety Code standards. See section CMC 18.70.060(13).
- adding new language that if a replacement structure or utility pole is proposed, the feed lines and coaxial cables shall be located within the transmission structure or utility pole or in a covered raceway of similar color and material to the tower or pole. See section CMC 18.70.080(4) and 18.70.100(3).
- adding a maximum height requirement of 12 feet above the existing pole or tower for antennas to be located on an electrical transmission structure or utility pole. See section CMC 18.70.080 (1) and 18.70.100 (1).

Tonight the Planning Commission may make a recommendation to the City Council on the draft Wireless Communication Code or direct staff to make any further modifications and bring those back to a future meeting. If the Planning Commission does forward a recommendation to the City Council tonight, please note that the city's attorney is still reviewing the final draft code and may make subsequent minor, legal modifications to the code language prior to its review by the City Council. However, no substantive changes are expected to be made.

Recommendation:

Recommended Motion: Move to recommend to the City Council that the attached Wireless Communication Facility code amendments to CMC 18.70 and other code sections be adopted as provided in Attachment 1.

Alternative motion: Move to direct staff to make recommended modifications for Planning Commission review at a future meeting date.

Attachment 1: Covington Municipal Code amendments related to the Wireless Communication Facility regulations.

Attachment 1

CMC 18.20 TECHNICAL TERMS AND LAND USE DEFINITIONS

Sections

18.20.062 Ancillary Wireless Communication Facility

"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, or equipment enclosures, 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.

CMC 18.20.067 Antenna(s) ~~"Antenna" means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio frequency signals. (Ord. 42-02 § 2 (21A.06.067))~~

"Antenna(s)" means any exterior system of electromagnetically- tuned wires, poles, rods, reflecting disks, or similar devices used to transmit or receive electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals between terrestrial and/or orbital based points, including without limitation: directional antennas (also known as "panel" antennas) which transmit and receive radio frequency signals in a specific directional pattern of less than 360 degrees; omni-directional antennas (also known as "whip" antennas) which transmit and receive radio frequency signals in a 360- degree radial pattern, but do not include antennas utilized specifically for television reception; and parabolic antennas (also known as "dish" antennas) which are bowl-shaped devices for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

16.20.066 Antenna(s) Array

"Antenna(s) Array" means one or more antennas and their associated ancillary facilities, which share a common attachment device, such as a mounting frame or mounting support.

16.20.068 Antenna(s), Flush Mounted

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

18.20.945 Radio frequency.

"Radio frequency" means the number of times the current from a given source of non-ionizing electromagnetic radiation changes from a maximum positive level through a maximum negative level and back to a maximum positive level in one second; measured in cycles per second or Hertz (Hz). (Ord. 42-02 § 2 (21A.06.945))

16.20.1166 Significant Gap in Service, Wireless Communications

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

18.20.1281 Structure Tower, Electrical Transmission

"Structure Tower, Electrical Transmission" means any facility (including a pole or a tower) owned by an electric utility that supports electrical lines which carry a voltage of at least 115kV.

18.20.1282 Tower, Guy

"Tower, Guy" means a tower that is supported with cable and ground anchors to secure and steady the tower.

18.20.1283 Tower, Lattice

"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.

18.20.1283 Tower, Monopole

"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.

18.20.1284 Tower, Wireless Communication Facility

"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.

18.20.1284.5 Tower-Mounted Facilities

"Tower-Mounted Facilities" means a wireless communication facility that is mounted to a tower.

18.20.1351 Utility Pole

"Utility Pole" is any facility owned by an electric utility that supports electrical lines which carry a voltage of less than 115kV, or other public utility such as such as coaxial cables for cable and fibre optic cable for telephone lines.

18.20.1426 Wireless Communication Facility

"Wireless Communication Facility" means any tower, antenna, ancillary structure or facility, or related equipment or component thereof, which 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, and other similar services that currently exist or that may in the future be developed.

18.20.1427 Wireless Communication Facility, Building Mounted

"Wireless Communication Facility, Building Mounted" means a wireless communication facility that is attached to an existing commercial, industrial, residential, or institutional building.

18.20.1428 Wireless Communication Facility, Concealed Facility

"Wireless Communication Facility, Concealed Facility" means a wireless communication facility that is not readily identifiable as such, and is designed to be aesthetically and architecturally compatible with the existing building(s) on a site; or a wireless communications 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).

18.20.1429 Wireless Communication Facility Equipment Enclosure

"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.

18.20.1429 .1 Wireless Communication Facility Equipment Compound

"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.

18.20.1429.2 Wireless Communication Facility, Feed Lines or Coaxial Cables

"Wireless Communication Facility, Feed Lines or Coaxial Cables" means cables used as the interconnection media between the transmission/ receiving base station and the antenna.

18.20.1429.3 Wireless Telecommunication Carrier

"Wireless Telecommunication Carrier" means any person or entity that directly or indirectly owns, controls, operates or manages any plant, equipment, structures or property within the City for the purpose of offering wireless telecommunication service within the City.

**Chapter 18.25
PERMITTED USES**

18.25.100 Regional land uses.

A. Table.

KEY								
P – Permitted Use								
C – Conditional Use								
SIC #	SPECIFIC LAND USE	M	US	R4-8	R-18	CC	NC	I
*	Jail				C	C		C
*	Work release facility				C	C		
*	Public agency animal control facility							P
*	Public agency training facility							C1
*	Nonhydroelectric generation facility	C6				C6		C
*	<u>Wireless Communication facility</u> ⁴	<u>P</u> <u>C</u>		<u>G4P</u> <u>C</u>	<u>G4P</u> <u>C</u>	<u>G4P</u> <u>C</u>	<u>P</u> <u>C</u>	<u>P</u> <u>C</u>
*	Earth station			C2	C2	P3		P
*	Energy resource recovery facility	C			C	C		C
*	Soil recycling facility	C						C
*	Transfer station	C			C	C		C
*	Wastewater treatment facility			C	C	C		C

*	Fairground							C
8422	Zoo/wildlife exhibit			C	C			C
7941	Stadium/arena							
8221 – 8222	College/university (1)			P5		P5		P
*	Secure community transition facility (SCTS)	*						7

B. Development Conditions.

- (1) Shooting ranges, either indoor or outdoor, associated with educational programs are not permitted.
- (2) Limited to no more than three satellite dish antennas.
- (3) Limited to one satellite dish antenna.
- (4) ~~Limited to tower consolidations.~~ Wireless communication facilities (WCFs) are not permitted on any residential structure, undeveloped site located in a residential land use district, or site that is developed with a residential use. This note does not prohibit locating WCF: a) on any residential structure or undeveloped site in R-18, MHO, TC or GC Land Use Districts; or b) on any nonresidential structure (i.e., churches, schools, public facility structures, utility poles, etc.) or in public rights-of-way in any residential land use district. Chapter 18.70 CMC, Wireless Communication Facilities, outlines the approval and review process. In the event of a conflict between the requirements of Chapter 18.70 CMC and the requirements of this chapter, Chapter 18.70 CMC shall govern.
- (5) Permitted as a re-use of a public school facility subject to Chapter 18.85 CMC. A conditional use permit is required if the use is a re-use of a surplus nonresidential facility subject to Chapter 18.85 CMC.
- (6) Limited to cogeneration facilities for on-site use only.
- (7) Conditional use permit required subject to meeting conditions for siting SCTFs in compliance with the requirements of Chapter 71.09 RCW and CMC 18.125.040. (Ord. 01-12 § 1 (Exh. 1); Ord. 10-10 § 3 (Exh. C); Ord. 16-05 § 2; Ord. 42-02 § 2(21A.08.100))

18.30.030 Densities and dimensions – Residential zones.

A. Table.

STANDARDS	ZONES				
	RESIDENTIAL				
	R-1 (1714) Urban Separator	R-4	R-6	R-8	R-18
Base density: dwelling unit/acre	1 du/ac	4 du/ac (6)	6 du/ac	8 du/ac	18 du/ac

(15)					(18)
Maximum density: dwelling unit/acre (1)		6 du/ac (24)	9 du/ac (11) (24)	12 du/ac (11)	24 du/ac
Minimum density (2)		85% (12) (15)	85% (12) (15)	85% (12) (15)	85% (12) (15)
Minimum lot area (13)	2,500 sf	2,500 sf	2,500 sf	2,500 sf	2,500 sf (3)
Minimum lot width (3)	35 ft (7)	30 ft	30 ft	30 ft	30 ft
Minimum street setback (3)	20 ft (7)	10 ft (8)	10 ft (8)	10 ft (8)	10 ft
Minimum interior setback (3) (16)	7 ft 6 inches (7)	7 ft 6 inches	7 ft 6 inches	7 ft 6 inches	10 ft
Base height (4)	35 ft	35 ft	35 ft 45 ft (11.4)	35 ft 45 ft (11.4)	35 ft
Maximum impervious surface: percentage (5)	30%	55%	70%	75%	75%

B. Development Conditions.

(1) This maximum density may be achieved only through the application of residential density incentives in accordance with Chapter [18.90](#) CMC or transfers of density credits in accordance with Chapter [18.95](#) CMC, or any combination of density incentive or density transfer. Maximum density may only be exceeded in accordance with CMC [18.90.040\(6\)\(a\)\(vii\)](#).

(2) Also see CMC [18.30.060](#).

(3) These standards may be modified under the provisions for zero-lot-line and townhouse developments.

(4) Height limits may be increased if portions of the structure that exceed the base height limit provide one additional foot of street and interior setback for each foot above the base height limit, but the maximum height may not exceed 75 feet. **Wireless Communication Facilities including licensed amateur (HAM) radio stations and citizen band stations, shall not exceed the zone's base height limit unless allowed pursuant to the provisions of CMC 18.70 or a height modification is granted pursuant to CMC 18.70.160.** Netting or fencing and support structures for the netting or fencing used to contain golf balls in the operation of golf courses or golf driving ranges are exempt from the additional interior setback requirements but the maximum height shall not exceed 75 feet.

(5) Applies to each individual lot. Impervious surface area standards for:

- (a) Regional uses shall be established at the time of permit review;
- (b) Nonresidential uses in residential zones shall comply with CMC [18.30.140](#) and [18.30.250](#);

(c) Individual lots in the R-4 through R-6 zones that are less than 9,076 square feet in area shall be subject to the applicable provisions of the nearest comparable R-6 or R-8 zone; and

(d) A lot may be increased beyond the total amount permitted in this chapter subject to approval of a conditional use permit.

(6) Mobile home parks shall be allowed a base density of six dwelling units per acre.

(7) The standards of the R-4 zone shall apply if a lot is less than 15,000 square feet in area.

(8) At least 20 linear feet of driveway shall be provided between any garage, carport or other fenced parking area and the street property line or back of sidewalk if any portion of the sidewalk has been included in an easement. The linear distance shall be measured along the center line of the driveway from the access point to such garage, carport or fenced area to the street property line.

(9) For purposes of calculating minimum density, the applicant may request that the minimum density factor be modified based upon the weighted average slope of the net buildable area of the site in accordance with CMC [18.30.100](#).

(10) These lot size minimums are for purposes of lot averaging, and do not apply to lot clustering proposals.

(11) The base height to be used only for projects as follows:

(a) In R-6 and R-8 zones, a building with a footprint built on slopes exceeding a 15 percent finished grade.

(12) Density applies only to dwelling units and not to sleeping units.

(13) Vehicle access points from garages, carports or fenced parking areas shall be set back from the property line on which a joint use driveway is located to provide a straight line length of at least 26 feet as measured from the center line of the garage, carport or fenced parking area, from the access point to the opposite side of the joint use driveway.

(14)(a) All subdivisions and short subdivisions in the R-1 zone shall be required to be clustered if the property is located within or contains:

- (i) A floodplain;
- (ii) A critical aquifer recharge area;
- (iii) A regionally or locally significant resource area;
- (iv) Existing or planned public parks or trails, or connections to such facilities;
- (v) A Class I or II stream or wetland;
- (vi) A steep slope; or

(vii) A greenbelt/urban separator or wildlife corridor area designated by the comprehensive plan or a community plan.

(b) The development shall be clustered away from sensitive areas or the axis of designated corridors such as urban separators or the wildlife habitat network to the extent possible and the open space shall be placed in a separate tract that includes at least 50 percent of the site. Open space tracts shall be permanent and shall be dedicated to a homeowners' association or other suitable organization, as determined by the Director, and meet the requirements in CMC [18.35.040](#). On-site sensitive area and buffers, wildlife habitat networks, required habitat and buffers for protected species and designated urban separators shall be placed within the open space tract to the extent possible. Passive recreation (with no development of recreational facilities) and natural-surface pedestrian and equestrian trails are acceptable uses within the open space tract.

(15) See CMC [18.30.090](#).

(16) All subdivisions and short subdivisions in the R-1 zone shall have a maximum impervious surface area of eight percent of the gross acreage of the plat. Distribution of the allowable impervious area among the platted lots shall be recorded on the face of the plat. Impervious surface of roads need not be counted towards the allowable impervious area. Where both lot- and plat-specific impervious limits apply, the more restrictive shall be required.

(17) Upon approval of a conditional use permit, senior housing can be increased to a maximum density of six units in the R-4 zone and 12 units in the R-6 zone.

(18) Except cottage housing, which may have a base density of 12 du/acre. (Ord. 10-10 § 3 (Exh. C); Ord. 60-03 § 2; Ord. 57-03 § 2; Ord. 42-02 § 2 (21A.12.030))

[18.30.210 Height – Exceptions to limits.](#)

The following structures may be erected above the height limits of CMC [18.30.030](#) through [18.30.050](#):

(1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and

(2) Fire or parapet walls, skylights, flagpoles, chimneys, smokestacks, church steeples, crosses, spires, ~~communication transmission and receiving structures~~, utility line towers and poles, and similar structures. (Ord. 42-02 § 2 (21A.12.180))

**Chapter 18.31
DOWNTOWN DEVELOPMENT AND DESIGN STANDARDS**

18.31.080 Permitted land uses.

(1) The use of a property is defined by the activity for which the building or lot is intended, designed, arranged, occupied or maintained. The use is considered permanently established when that use will or has been in continuous operation for a period exceeding 60 days. A use which will operate for less than 60 days is considered a temporary use, and subject to the requirements of Chapter [18.85](#) CMC.

(2) Explanation of Permitted Use Table.

- (a) The permitted use table in this chapter determines whether a use is allowed in a district. The name of the district is located on the vertical column and the use is located on the horizontal row of these tables.
- (b) If the letters “NP” appear in the box at the intersection of the column and the row, the use is not permitted in that district, except for certain temporary uses.
- (c) If the letter “P” appears in the box at the intersection of the column and the row, the use is allowed in that district subject to the review procedures specified in Chapter [14.30](#) CMC and the general requirements of the code.
- (d) If the letter “C” appears in the box at the intersection of the column and the row, the use is allowed subject to the conditional use review procedures specified in Chapter [14.30](#) CMC and conditional use fees as set forth in the current fee resolution, and the general requirements of the code.
- (e) If a number appears next to a specific use or in the box at the intersection of the column and the row, the use may be allowed subject to the appropriate review process indicated above, the general requirements of the code and the specific conditions indicated in the permitted use conditions with the corresponding number in the code subsection immediately following the permitted use table.
- (f) All applicable requirements shall govern a use whether or not they are cross-referenced in a section.

(3) Permitted Use Table.

Use Categories	Town Center (TC)²³	Mixed Commercial (MC)	General Commercial (GC)	Mixed Housing Office (MHO)¹
Residential				
Dwelling Unit, Accessory	NP	NP	NP	P ²
Dwelling Unit, Multifamily	P	P	P	P
Dwelling Unit, Single-Family Attached, Detached or Cottage Housing ²¹	NP	NP	NP	P ²

Senior Citizen Assisted Housing	P	P	P	C
Commercial				
Adult Entertainment	NP	P ³	P ³	NP
Business Services ¹⁹	P ⁵	P	P	P ^{4,5}
Drive Through Use	NP	P	P	NP
Farmers' Markets and Public Markets ⁶	P	P	P	NP
Gambling and Card Rooms	NP	NP	NP	NP
Home Occupation and Live/Work	P	P	P	P
Outdoor Commercial	NP	NP	P	NP
Personal and Beauty Services ^{20,21}	P	P	P	P
Private Electric Vehicle Parking Facility (Primary Use)			P ^{5,24}	
Private Parking Facility (Primary Use)	NP	NP	NP	NP
Professional Office	P	P	P	P
Retail Trade and Services – 100,000 sq. ft. or less for all structures	P ⁵	P	P ¹⁰	P ^{4,5}
Retail Trade and Services – greater than 100,000 sq. ft. for all structures	C ^{5,9,16}	P	P ¹⁰	NP
Shooting Ranges ²⁵	NP	NP	P	NP
Storage/Self Storage	NP	P ⁵	P	NP
Temporary Lodging/Hotel	P	P	P	C ²²
Cultural/Recreation				
Cinema, Performing Arts and Museums	P	P	P	NP
Meeting Hall/Other Group Assembly	P	P	P	C
Recreation, Indoor or Outdoor	C	P	P	P
Religious	C ⁷	P	P	C
Health Services				
Emergency Care Facility	C ^{9,18}	P	NP	NP
Hospital	NP	P	NP	NP
Medical Office/Outpatient Clinic	P ⁸	P	NP	P
Nursing/Personal Care Facility	NP	P	NP	C
Industrial/Manufacturing				
Asphalt Plants	NP	NP	NP	NP
Light Industrial/Manufacturing	NP	NP	P ¹⁰	NP
Government/Institutional¹¹				

Essential Public Facilities	NP	NP	C	NP
Government Services	P	P	P	P ¹²
Major Utility Facility	C ¹⁴	C	P	C
Minor Utility Facility	P ¹⁵	P	P	P
Schools: Compulsory, Vocational and Higher Education	C ¹³	P	NP	C
<u>Wireless Communication Facilities</u> ¹⁶				
Antenna, <u>Co-location on an existing structure</u> ¹⁷	P	P	P	P
Transmission Support Structure <u>Wireless Communication Facility Tower</u>	NP ¹⁸	NP	NP	NP

(4) Permitted Use Conditions.

1. a. Unless the use can be accommodated within an existing structure, development and/or redevelopment in the Covington Firs and Covington Township subdivisions shall be a minimum of two acres;
 - b. Be contiguous to a non-single-family use of two acres or more to be eligible to redevelop to a new use; and
 - c. Successive development cannot isolate existing single-family residential lots less than two acres (as a group) between developments.
2. a. No new subdivision of land is permitted for single-family homes except for townhouses and cottage developments. The exception is a binding site plan for commercial uses.
 - b. New single-family homes are allowed on existing single-family lots.
 - c. An accessory dwelling unit is allowed as an accessory to a single-family detached unit subject to the development standards in CMC [18.25.030\(7\)](#).
3. Adult entertainment uses are prohibited within certain locations pursuant to the development standards provided in Chapter [5.20](#) CMC and CMC [18.25.040\(2\)](#).
4. This use is restricted to a maximum of 5,000 gross square feet within the MHO district.
5. Services and operations other than customer parking shall be fully contained within a structure.
6. Temporary farmers' and public markets shall be permitted in accordance with CMC [18.85.125](#).
7. The development shall not occupy more than one acre for the total of the site development, including any planned phases and/or expansions.
8. a. Buildings greater than four stories shall provide 80 percent of required parking within a structure. Structured parking shall not front onto 171st Ave SE.

b. Medical office uses greater than two stories shall have a minimum of 60 percent ground floor retail trade and services and 40 percent business and professional services when fronting onto 171st Ave SE.

9. The development shall be located west of the proposed 171st Ave SE road alignment with frontage onto 168th PI SE or the planned SE 276th St. alignment.

10. All structures shall meet the required setbacks, landscaping and all other standards contained in this chapter. Equipment storage, manufacturing activities, and wrecked, dismantled and/or inoperative vehicles shall be enclosed in a structure or fully screened from public right-of-way, including SE 272nd St. and Covington Way with Type I landscaping in accordance with CMC [18.40.040](#).

11. Maintenance yards, substations and solid waste transfer stations are not permitted in the TC, MC, or MHO downtown zoning districts.

12. Transit stations and park and ride facilities, not including bus stops, shall be reviewed by a conditional use permit pursuant to CMC [18.125.040](#).

13. All schools for compulsory, vocational and higher education shall be located on the upper floors of a mixed use building that includes ground-floor commercial uses.

14. All facilities shall not occupy more than one acre of a site and the facility shall be screened with Type I landscaping in accordance with CMC [18.40.040](#).

15. Minor utility facilities, such as telecom, fiber optics, Internet and similar facilities, shall be located within a fully enclosed structure, unless otherwise determined by the Director.

16. Chapter [18.70](#) CMC, ~~Development Standards~~ Wireless Communication Facilities, outlines the approval and review process. In the event of a conflict between the requirements of Chapter [18.70](#) CMC and the requirements of this chapter, Chapter [18.70](#) CMC shall govern.

17. ~~All transmission support structures shall be mounted on a building. All antennas and ancillary wireless communciaion facilities shall be concealed facilities and mounted on an existing building or structure or placed underground as provided for in CMC 18.70.~~

18. a. Emergency care facilities shall not occupy more than four acres for the total of the site development including any planned phases and/or expansions of the emergency care use;

b. Shall not exceed 50,000 square feet of total building square footage; and

c. Shall not exceed more than two stories or 35 feet whichever is greater.

19. Gasoline service stations and battery exchange stations are limited to the general commercial and mixed commercial districts and subject to the following conditions:

a. A gasoline service station shall be limited to eight pumps and 16 price gauges to service no more than 16 vehicles.

- b. A battery exchange station shall provide a minimum of three stacking spaces.
 - c. Stacking spaces and drive-through facilities shall be designed in accordance with CMC [18.50.080](#).
 - d. Any associated materials, equipment storage, outdoor storage tanks and battery exchange activities shall be within a fully enclosed structure, unless otherwise determined by the Director.
20. a. No burning of refuse or dead animals is allowed;
- b. The portion of the building or structure in which animals are kept or treated shall be soundproofed. All run areas, excluding confinement areas for livestock, shall be surrounded by an eight-foot-high solid wall and surfaced with concrete or other impervious material;
 - c. Subject to animal keeping provisions of Chapter [18.80](#) CMC;
 - d. Prior to issuance of a development permit, documentation shall be provided by a qualified acoustical consultant, for approval by the Community Development Director, verifying that the expected noise to be emanating from the site complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property;
 - e. Outside runs and other outside facilities for animals are not permitted;
 - f. Not permitted in any subdivision containing dwelling units; and
 - g. May only treat small animals on premises.
21. Day care I is allowed only as an accessory to a single-family detached unit.
22. Except bed and breakfasts, guesthouses are permitted outright and do not require a conditional use permit.
23. Mixed use structures greater than one story shall provide ground floor retail, restaurant, or personal services along 60 percent of the building facade. Permitted uses under the headings of cultural/recreation and governmental/institutional in subsection (3) of this section are exempt from this provision.
24. Parking facilities shall be fully screened from the public right-of-way with Type 1 landscaping in accordance with CMC [18.40.040](#).
25. a. The indoor shooting range, including its plans, rules, procedures, management and staff, shall comply with the applicable safety guidelines and provisions in the latest edition of "the Range Source Book" (National Rifle Association of America: Fairfax, Virginia) or its successor, as appropriate to the type of facility involved.
- b. Any new development proposal and/or business license application for an indoor shooting range shall be accompanied by a notarized letter by the shooting facility operator that the facility complies with Federal and State regulations, meets commonly accepted shooting facility safety and design practices, and will be operated in a manner that protects the safety of the general public.

c. Outdoor shooting ranges are not permitted. (Ord. 04-12 § 1 (Exh. A); Ord. 01-12 § 1 (Exh. 1); Ord. 19-11 § 1 (Exh. 1); Ord. 10-10 § 1 (Exh. A))

NEW Chapter 18.70
DEVELOPMENT STANDARDS – WIRELESS COMMUNICATION FACILITIES

Sections:

- 18.70.010 Purpose
- 18.70.020 Exemptions
- 18.70.030 Applicability, Review and Permits Required
- 18.70.050 Types of Permits – Priority – Preferences -Restrictions-
- 18.70.060 General Requirements.
- 18.70.070 Landscaping/Screening
- 18.70.080 Electrical Transmission Tower Co-Location- Specific Development Standards.
- 18.70.090 Adding Antennas to an Existing Wireless Communication Facility Tower -Specific Development Standards.
- 18.70.100 Utility Pole Co-location – Specific Development Standards
- 18.70.110 Building Mounted Concealed Facility – Specific Development Standards
- 18.70.120 Request to Use Non- Concealed Facilities Attached to a Building in Lieu of a Concealed Building Attachment
- 18.70.130 Non-concealed Building Mounted Specific Development Standards
- 18.70.140 Requests for New Towers
- 18.70.150 Towers-Specific Development Standards
- 18.70.160 Height Modification
- 18.70.170 Setback Modification
- 18.70.180 Expiration
- 18.70.190 Removal of Abandoned Wireless Communication Facilities

18.70.010 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 Covington. 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; allow wireless communications facilities in residential areas when necessary to meet the functional requirements of the telecommunications industry;
- (2) Minimize the total number of wireless communication facilities throughout the community;
- (3) 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.
- (4) 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;
- (5) 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.

- (6) Encourage providers of wireless communication facilities to locate these facilities in areas where the adverse impact on the community is minimal;
- (7) Ensure wireless communication facilities are configured in a way that minimizes the adverse visual impact of the wireless communication facilities, as viewed from different vantage points, through careful design landscape screening, minimal impact siting options and camouflaging techniques, and through assessment of technology, current location options, siting, future available locations, innovative siting techniques and siting possibilities beyond the jurisdictional boundaries of the City;
- (8) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently;
- (9) 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;
- (10) Avoid potential damage to adjacent properties from tower failure, through engineering, careful siting, and maintenance of wireless communication facilities;
- (11) Provide a means for public input on major wireless communication facility placement, construction and modification; and
- (12) 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.

18.70.020 Exemptions

The following are exempt from the provisions of this chapter:

- (1) Antennas and related equipment no more than 3 feet in height that are being stored, shipped or displayed for sale;
- (2) Radar systems for military and civilian communication and navigation;
- (3) Any wireless internet facility that is owned and operated by a Federal, State or local government;
- (4) Antennas for the receiving and sending of licensed amateur (HAM) radio stations and citizen band stations, provided that the antennas do not exceed the base height requirements of the applicable zoning district, and are owned and operated by a federally-licensed amateur radio station operator or are used exclusively for receive-only antennas. In order to reasonably accommodate licensed amateur radio operators as required by Federal Code of Regulations 47 CFR Part 97, as amended, and Order and Opinion (PRB-1) of the Federal Communication Commission of September 1985 and RCW 35A.21.260, a licensed amateur radio operator may locate a tower not to exceed the base height requirements of the applicable zoning

district, provided the following requirements are met for such towers located in a single family residentially-zoned district:

- a. The tower and any antennas located thereon shall not have any lights of any kind on it 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 it blends 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 8 ½ 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).
 - d.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;
 - e-g. A tower shall be 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 must be located at least one-third of its height from any property line;
 - f-h. Towers shall not be leased or rented to commercial users, and shall not otherwise be used for commercial purposes; and
 - g-i. All towers shall meet all applicable State and Federal statues, 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 service and/or broadband signals, or other means for providing internet service including direct-to-home satellite services, and that is 3.28 feet(1 meter) or less in diameter or diagonal measurement, and when the antenna is attached to the residence or business that is utilizing the service.
- (6) An antenna that is designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is 3.28 feet(1 meter) or less in diameter or diagonal measurement.

- (7) An antenna that is designed to receive television broadcast signals.
- (8) Routine maintenance or repair of wireless communication facilities, excluding structural work or changes in height or dimensions of antennas, towers or buildings; provided that the wireless communication facility received approval from the City of Covington or King County for the original placement, construction or subsequent modification. Changing of antennas on wireless communication facilities is permitted, provided the new antennas have the same area or less of those removed. The total number of antennas must remain the same. Additional ground equipment shall be placed within an approved equipment enclosure, provided the height of the equipment does not extend above the screen fence.
- (9) Emergency communications equipment during a declared public emergency, when the equipment is owned and operated by an appropriate public agency. In the event a building permit is required for any emergency maintenance, reconstruction, repair or replacement, filing of the building permit application shall occur within 30 days after the commencement of such emergency activities. The work performed must constitute a true emergency. Scheduled replacement or repair work does not constitute an emergency. In the event a building permit is required for nonemergency maintenance, reconstruction, repair or replacement, filing of the building permit application shall be required prior to the commencement of such nonemergency activities.
- (10) Antennas and related equipment used by electric utility providers for the non-commercial communication, operation and monitoring their utility system maybe co-located on their transmission structures or utility poles, provided the color of the antennas and equipment shall be the same as the pole or structure it is located thereon or a color that blends in to the sky.

Comment [am1]: PSE asked for exemption for their wireless monitoring devices.

18.70.030 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 CMC 18.70.020.

- (1) No person may place, construct or modify a wireless communication facility subject to this Chapter without first having in place a permit issued in accordance with this Chapter. Except as otherwise provided herein, the requirements of this Chapter are in addition to the applicable requirements of CMC Title 18.
- (2) Any application submitted pursuant to this Chapter shall be reviewed and evaluated by the Director for all 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 on a site.

- (5) Wireless communication facilities that are governed under this Chapter shall not be eligible for variances under CMC 18.125.030, **Development Conditions, under note 18.30.030(B)(4)** or Height – Exceptions to limits under CMC 18.30.210. Any request to deviate from this Chapter shall be based on the modifications set forth in this Chapter.
- (6) Independent Technical Review –The City may at its discretion contract with an independent engineering and technical review consultant to review the land use 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 fee resolution. Based on the results of the independent technical review, the City may require changes or request additional information is provided to complete the application review. The technical review shall address the following:
 - (a) The accuracy and completeness of submissions;
 - (b) The applicability of analysis techniques and methodologies;
 - (c) The validity of conclusions reached;
 - (d) The viability of other sites in the City for the use intended by the applicant; and
 - (e) Any specific engineering or technical issues designated by the City.
- (7) No alterations or changes shall be made to an approved wireless communications land use permit. Modifications which exceed the conditions of approval will require a new wireless communications land use permit and shall be reviewed based on the laws and rules in effect at the time of application. The Director has sole discretion to approve or deny any request for modifications to the land use approval.

18.70.050 Types of Permits – Priority – Preferences -Restrictions-

- (1) Applications will be reviewed based on the type of wireless communication facilities requested to be permitted. Each wireless communication facility requires a specific type of project review as provided for in the Table in CMC 18.70.080(2).
- (2) Table

<u>Type of Permit Required Based on Type of Wireless Communication Facility⁽³⁾</u>			
	<u>Zoning</u>		
<u>Type of WC Facility⁽³⁾</u>	<u>Residential</u>	<u>Commercial</u>	<u>Resource/Industrial</u>
	<u>R-4, R-6, R-8, R-18</u>	<u>CC, GC, NC, TC, MC, MHO</u>	<u>M, I</u>
<u>Transmission tower co-location</u>	<u>Type 1</u>	<u>Type 1</u>	<u>Type 1</u>

<u>Adding antennas to an existing tower</u>	<u>Type 1 ⁽¹⁾</u>	<u>Type 1 ⁽¹⁾</u>	<u>Type 1 ⁽¹⁾</u>
<u>Utility pole co-location</u>	<u>Type 2</u>	<u>Type 2</u>	<u>Type 2</u>
<u>Concealed building attached</u>	<u>Type 2 ⁽²⁾</u>	<u>Type 2 ⁽²⁾</u>	<u>Type 1</u>
<u>Non-concealed building attached.</u>	<u>Type 2</u>	<u>Type 2</u>	<u>Type 1</u>
<u>New tower or Height modification request.</u>	<u>Type 3</u>	<u>Type 3</u>	<u>Type 3</u>

Notes:

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

(2) An applicant may request to install a non-concealed building attached facility under CMC section CMC 18.70.120.

(3) In the event of uncertainty on the type of wireless facility, the Director shall have the authority to determine how a proposed facility is incorporated into Table 18.70.050(2).

- (3) Priorities. The priorities for the type of wireless communication facility shall be based upon their placement in section (2); 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 of provided in section (2) 18.70.050(2). For example, an applicant shall demonstrate, by engineering evidence, that ~~co-location on using an electrical transmission tower-structure co-location~~ is not feasible before moving to a utility pole co-location, and so forth, with the last possible siting option being a new ~~wireless communication facility~~ tower or height modification request.
- (4) Preferences. The City's preferences for locating new wireless communications facilities are as follows:
- (a) Place antennas on existing structures, such as buildings, ~~wireless communication facility towers, water towers, utility poles or electrical transmission towers/poles/structures.~~
 - (b) Place wireless communication facilities in non-residentially-zoned districts and on non-residential property.
 - (c) Place wireless communication facilities on public property and on appropriate rights-of-way, provided that no obligation is created herein for the City to allow the use of City property or public right-of-way for this purpose. The placement of personal wireless communication facilities on City owned property and public right-of-way will be subject to other applicable sections of the Covington Municipal Code and review by other city departments. A wireless communication facility mounted to any City-owned property, utility pole, or other structure shall be removed if the City deems removal is necessary for the undergrounding of utilities, the sale, development, or redevelopment of City-owned property, or the demolition or alteration of a City-owned building or other structure. The wireless communication facility shall be removed at no expense to the City.

- (5) Restrictions on Light Poles and Standards. Light poles and light standards located within the public rights-of-way are prohibited from use as a wireless communication facility or for the attachment of an antenna.
- (6) 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-
1. A written description outlining the proposed project and an evaluation of how the proposal meets the City's Code requirements;
 2. 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 and/or building or tower-structure owner(if different) authorizing the submittal of the application by the applicant.
 3. 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 determine necessary by the Director;
 4. Written statement from a radio frequency engineer that demonstrates that the facility meets Federal Communications Commission requirements for allowed radio frequency emissions;
 5. A vicinity map depicting the proposed extent of the service area;
 6. Critical areas study and proposed mitigation (if required);
 7. If an outdoor generator is proposed, a report prepared by an acoustical engineer demonstrating compliance with CMC Chapter 8.20 – Noise Control; and
 8. SEPA application (if required)
- (b) Type 2 – The applicant shall submit all of the information required for a Type 1 application, plus the following:
1. Photo simulations that depict the existing and proposed view of the proposed facility;
 2. Data sheet depicting the materials, textures and colors proposed for use;
 3. Landscaping plan prepared by a Washington State-licensed landscape architect(if required);
 4. Service coverage area map (RF Modeling);

5. 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
6. 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:

1. All information required for new towers under CMC 18.70.080 and 18.70.090;
2. All information required for a height modification or setback modification request under 18.70.160 and 18.70.170 respectively (if applicable).
3. The radio frequency engineer report shall include a discussion of the information required under 18.70.080. The report shall also explain why a tower must be used instead of any of the other location options outlined in the table in CMC section 18.70.050(2);
4. Engineering Plans for the proposed tower, including a Letter of Certification by a licensed engineer that the proposed height and equipment comply with the requirements of this chapter;
5. Evidence that the tower has been designed to meet the minimum structural standards for wireless communication facilities for a minimum of three providers of voice, video or data transmission services, including that applicant and including a description of the number and types of antennas the tower can accommodate.
6. 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
7. Evidence of compliance with Federal Aviation Administration standards for height and lighting and certificates of compliance from all affected agencies.

18.70.060 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 which will create noise must demonstrate compliance with CMC Chapter 8.20 “Noise Control.” 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 expense of the applicant.
- (2) Business license requirement – Any person, corporation or entity that operates a wireless communication facility within the City shall have a valid business license issued annually by the City. Any person, corporation or other business entity which owns a tower is also required to obtain a business license on an annual basis.
 - (3) Signage – Only safety signs or those mandated by other public agencies may be located on wireless communication facilities. No other types of signs are permitted on wireless communication facilities.
 - (4) Parking - Any application must demonstrate that there is sufficient space for temporary parking for regular maintenance of the proposed facility.
 - (5) Finish – A tower shall either maintain a galvanized steel finish or, subject to the applicable standards of the FAA or FCC, be painted a neutral color so as to reduce its visual obtrusiveness.
 - (6) Design – Wireless communication facilities shall be screened or camouflaged by employing the best available technology. The design of all antennas, towers, support structures, buildings and ancillary structures shall use materials, colors, textures, screening and landscaping that will blend the tower facilities with the natural setting and built environment.
 - (7) Color – All antennas and ancillary wireless communication facilities located on buildings or structures other than towers shall be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and ancillary facilities as visually unobtrusive as possible.
 - (8) Lighting - ~~Towers-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 surround areas. No strobe lighting of any type is permitted on any tower.
 - (9) Advertising – No advertising is permitted at wireless communication facility sites or on any ancillary structures or facilities equipment compound.
 - (10) Ancillary Wireless Communication Facilities –All ancillary wireless communication facilities shall meet the underlying zoning district’s setbacks unless a zoning setback modification is granted pursuant to CMC 18.70.170.
 - (11) Equipment Enclosures – If feasible, equipment enclosures shall be located within existing buildings or located underground. 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 below ground. All equipment and cabinets that will be visible to the traveling public, workers or residents shall be as small and unobtrusive as is practicable and designed to blend in with existing surrounds. The applicant shall size any equipment enclosure and other facilities to minimize visual clutter. Each applicant shall be limited to an equipment enclosure of 360 square feet at each site. However, this size restriction shall not apply to enclosures located within an existing commercial, industrial, residential or institutional building.
 - (12) Owner approval-- The applicant must submit at time of application proof that they have contacted and received approval for the placement of the antenna at the specified location from the support structure(e.g. building, water tower, utility pole, electrical transmission structure, utility pole, monopole) owner and, if different, the land owner upon which the structure is located.

- (13) Building Standards - Wireless communication support structures shall be constructed so as to meet or exceed the most recent Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled: "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" (or equivalent), as it may be updated or amended. Utility poles and transmission structures that are owned and/or maintained by the serving electric utility shall be designed to meet the National Electric Safety Code. Prior to issuance of a building permit the Building Official shall be provided with an engineer's certification that the support structure's design meets or exceeds those standards.
- (14) Maintenance. Wireless communication carriers shall maintain their wireless communication facility in a good and safe condition. They shall preserve its original appearance and concealment, disguise, or camouflage elements incorporated into the design at the time of approval and in a manner which complies with all applicable federal, state, and local requirements. Such maintenance shall include, but not be limited to, such items as painting, repair of equipment, and maintenance of landscaping.
- (15) Critical Areas - Wireless communication facilities shall not be allowed in designated critical areas (except aquifer recharge areas) unless they are co-located on existing facilities.
- (16) Radio Frequency Emissions - The applicant shall demonstrate that the wireless communication facility will comply with the radio frequency emission standards adopted by the Federal Communications Commission (FCC).
- (17) State or federal requirements- All wireless communication facilities must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

Comment [am2]: Requested by PSE /consistent with desing requirements provided by BPA

18.70.070 Landscaping/Screening

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

vegetation shall be preserved to the maximum extent practicable and maybe 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 CMC 18.40.040(1) and a minimum of 8 feet in depth around the perimeter of the enclosure in all zoning districts; except in residential zoning districts Type II landscaping as defined in CMC 18.40.040 (2) maybe used and shall be a minimum of 10 feet in depth.
 - c. The applicant shall utilize evergreens that shall be a minimum of 6 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.

18.70.080 Electrical Transmission Structure Co-Location- Specific Development Standards.

The following requirements shall apply to co-location of antennas on **an** existing electrical transmission tower **or pole** (as defined in CMC 18.20.1281):

- (1) **Height**- The height requirements for antennas that are co-located on electrical transmission ~~towers~~structures is limited to 120 feet above the existing tower **or pole** height. If a replacement electrical transmission ~~tower~~structure is proposed the maximum height shall be no greater than 120 feet above the original electrical transmission ~~tower's~~structure's height.
- (2) **Antenna aesthetics** – There are no restrictions on the type of antennas co-located on the electrical transmission ~~tower~~structure. The antennas must be painted to match the color of the electrical transmission tower/**pole**.
- (3) **Antenna intensity** – There is no limit on the number of antennas that maybe co-located on an electrical transmission ~~tower~~structure.
- (4) **Feed lines and coaxial cables** –Feed lines and coaxial cables shall be attached to the existing pole or to one of the legs of the electrical transmission tower. The feed lines and cables must be painted to match the color of the electrical transmission ~~tower~~structure. **If a replacement ~~tower~~or ~~pole~~structure is proposed the feed lines and coaxil 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** – Since the wireless communication facility will be co-located on an existing electrical transmission ~~tower~~structure, setbacks shall not apply.

Comment [am3]: 10
Based on conversation with BPA. PSE suggeste 12 feet

Comment [am4]: Based on conversation with BPA staff

18.70.090 Adding Antennas to an Existing Wireless Communication Facility Tower -Specific Development Standards.

The following requirements shall apply to adding antennas to existing wireless communication facility tower(s) (as defined in CMC 18.20.1284):

- (1) Height – The height must not exceed what was approved under the original application to construct the tower. If the proposed height shall exceed what was originally approved, approval as a Type 3 decision is required.
- (2) Antenna aesthetics - Antennas shall be painted to match the color scheme of the tower. Antenna mounts shall be flush-mounted onto the existing tower; unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network coverage objective.
- (3) Antenna intensity – There is no limit on the number of antennas that may be located on an existing tower.
- (4) Feed lines and coaxial cables – Feed lines and coaxial cables shall be located within the tower. Any exposed feed lines or coaxial cables (such as when extended out of the tower to connect to the antennas) must be painted to match the tower.
- (5) Equipment Enclosures – Any new cabinet or equipment shall be located within the equipment enclosure that was approved as part of the original application. If the applicant wishes to expand the equipment enclosure or compound from what was approved by the City or County under a previous application, the application shall seek a wireless communication facility (Type 2) application for only the equipment enclosure increase.
- (6) Setbacks – Setbacks shall not apply when an applicant installs new antennas on an existing tower and uses an existing equipment enclosure. If the equipment enclosure is increased it must meet setbacks for the underlying zoning district and may not exceed the total area restrictions for equipment enclosures as set forth in CMC 18.70.060.

18.70.100 Utility Pole Co-location – Specific Development Standards

The following requirements shall apply to all wireless communication facilities co-located on a utility pole (as defined in CMC 18.20.1351):

- (1) Height – The height of a utility pole co-location is limited to 12 feet above the replaced utility pole, and may not be greater than 50 feet in height in residential zones. .
- (2) Antenna aesthetics – The first preference for any co-location is to utilize flush-mounted antennas. If the utility pole co-location includes an antenna array, the array shall be flush mounted within six inches of the support structure, unless it is demonstrated through RF propagation analysis that 6 inch flush-mounted antennas will not meet the network coverage objective then the distance maybe increase up to 12 inches; or contained in a canister that is a continuation of the diameter of the support structure, and the array shall be painted to match the support structure.
- (3) Replacement pole – An existing utility pole may be removed and replaced with a new utility support structure so long as the replacement structure is of similar color and material as the existing structure, and is located within 10 feet of the existing structure (measured from the center point of the existing structure to the center point of the replacement structure). The replaced utility pole must be used by the owner of the utility pole to support its utility lines. A replacement utility pole shall be

Comment [am5]: PSE requested revision.

designed such that coaxial cables and feedlines can be located within the pole or in a covered raceway of similar color and material as the pole.

Comment [am6]: PSE comments

- (4) Pole aesthetics – The replaced utility pole must have the color and general appearance of the adjacent utility poles.
- (5) Coaxial cables and feedlines - Coax cables limited to 1/2 inch diameter may be attached directly to an existing utility pole. Coax cables greater than ½ inch must be placed within the utility pole or within a covered raceway of similar color and material as the existing pole. The size of the cables is the total size of all coax cables being utilized on the utility pole.
- (6) Pedestrian impact –The proposal shall not result in a significant change in the pedestrian environment or preclude the City from making pedestrian improvements. If a utility pole is being replaced, consideration must be made to improve the pedestrian environment if necessary.
- (7) Equipment Enclosures – Unless approved by the Director of Public Works, all equipment enclosures must be placed outside of the city right-of-way. Equipment enclosures should be located underground consistent with CMC 18.70.060(11).
- (8) Setbacks – Any portion of the wireless communication facilities located within City right-of-way is not required to meet setbacks if it is located underground. The City will evaluate setback modifications on private property under the setbacks set forth in CMC 18.70.170.

18.70.110 Building Mounted Concealed Facility – Specific Development Standards

The following requirements shall apply to wireless communication facilities that are attached to an existing building and concealed from view:

- (1) Height – The proposed concealed wireless communication facility must meet the height requirement of the underlying zoning district. The antennas can be located in existing church spires, clock towers, chimneys, water towers, elevator towers, mechanical equipment room and 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 – The antennas must be concealed from view by blending with the architectural style of the building. This could include steeple-like structures and parapet walls. The screening must be made out of the same material and be the same color as the building. Antennas shall be painted to match the color scheme of the building(s).
- (3) Feed lines and coaxial cables – Feed lines and cables should be located below the parapet of the rooftop.
- (4) Cabinet Enclosure – If 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, then the proposed screening must be consistent with the existing building in terms of color, design, architectural style and material. If the cabinet equipment cannot be located on the roof or within the building then it shall be located underground consistent with 18.70.060.
- (5) Setbacks – The proposed wireless communication facilities must meet the setback of the applicable zoning category where the facility is to be located.

18.70.120 Request to Use Non- Concealed 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 non-concealed building attached wireless communication facility in lieu of a concealed wireless communication facility. The Director will use the following criteria to determine whether to allow this request:

- (1) Due to the size of the building and the proposed location of the antennas, the visual impact of the exposed antennas will be minimal in relation to the building.
- (2) Cables are concealed from view and any visible cables are reduced in visibility by sheathing or painting to match the building where they are located.
- (3) Equipment enclosure is adequately screened from view.
- (4) Due to the style or design of the building the use of a concealed facility would reduce the visual appearance of the building.
- (5) The proposal meets the development standards of the following section CMC 18.70.130.

18.70.130 Non-concealed 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:

- (1) Height – The proposed facility must meet the height requirement of the underlying zoning category. If the building where the facility is located is at or above the maximum height requirements, the non-concealed antennas are permitted to extend a maximum of 3 feet above the existing roof line.
- (2) Antenna aesthetics – The first preference for any proposed facility is to utilize flush-mounted antennas. Nonflush mounted antennas may be used when their visual impact will be negated by the scale of the antennas to the building. “Shrouds” are not required unless they provide a better visual appearance than exposed antennas. Antennas shall be painted to match the color scheme of the buildings(s).
- (3) Feed lines and coaxial cables – Feed lines and 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, then the proposed screening must be consistent with the existing building in terms of color, design, architectural style and material. If the equipment enclosure cannot be located within the building or on the roof and is located on the ground, the enclosure should be fenced with a 6-foot-tall fence. The fence shall include slats, wood panels, or other materials to screen the equipment from view.

18.70.140 Requests for New Towers

- (1) New towers are not permitted within the City unless the Hearing Examiner finds that the applicant has demonstrated by a preponderance of the evidence that:

- (a) Coverage objective – There exists an actual (not theoretical) significant gap in service, and the proposed wireless communication facility will eliminate such significant gap in service; and
 - (b) Alternates – No existing tower, structure, other feasible site or other alternative technologies not requiring a new tower in the City, can accommodate the applicant’s proposed wireless communication facility; and
 - (c) Least intrusive - The proposed new wireless communication facility is designed and located to remove the significant gap in service in a manner that is, in consideration of the goals, policies, objectives, standards and regulations set forth in this chapter, CMC Title 18, and the Comprehensive Plan, the least intrusive upon the surround area.
- (2) The Hearing Examiner is the reviewing body on the application to construct a new tower, and shall determine whether or not each of the above requirements are met. Examples of evidence the applicant shall provide demonstrating the foregoing requirements include, but are not limited to, the following:
- (a) That the tower height is the minimum necessary in order to achieve the coverage objective;
 - (b) That no existing towers or structures or alternative sites are located within the geographic area required to meet the applicant’s engineering requirements to meet its coverage objective (regardless of the geographical boundaries of the City);
 - (c) The existing towers or structures are not of a sufficient height or could not feasibly be extended to a sufficient height to meet the applicant’s engineering requirements to meet its coverage objective;
 - (d) That the existing structures or towers do not have sufficient structural strength to support the applicant’s proposed antenna and ancillary facilities;
 - (e) That the applicant’s proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing structure would cause interference with the applicant’s proposed antenna;
 - (f) That an alternative technology that does not require the use of a new tower, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireless system, is unsuitable. Costs of alternative technology that exceed the new tower or antenna development shall not be presumed to render the technology unsuitable; and
 - (g) The applicant demonstrates other limiting factors that render existing towers and structures or other sites or alternative technologies unsuitable.

(3) The Hearing Examiner, 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 Hearing Examiner’s order.

18.70.150 Towers-Specific Development Standards

The following requirements shall apply to all wireless communication towers:

- (1) Height – Any proposed tower with antennas shall meet the height standards of the zoning district where the tower will be located. A height modification may be applied for under CMC Section 18.70.160.
- (2) Antenna and tower aesthetics – The applicant shall utilize a concealed facility as defined in CMC 18.20.1428. 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 setbacks of the underlying-zoning district. If a height modification is granted under CMC Section 18.70.160 with regards to height, the setback of the proposed wireless communication facilities will increase 2 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 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 co-location of wireless communication facilities for a minimum of three providers (including the applicant) of voice, video or data transmission services.

18.70.160 Height Modification

- (1) Where the Hearing Examiner finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the height limitations of the underlying zoning district, or the purpose of these regulations may be served to a greater extent by an alternative proposal, it may approve a height modification to the zoning code height limit; provided, that applicant demonstrates that the modification will meet the goals, policies, objectives, standards and requirements of this Chapter, CMC Title 18 and the Comprehensive Plan, and demonstrate the following:
 - a. The granting of the height modification will not be detrimental to the public safety, health or welfare, or injurious to other property, and will promote the public interest; and
 - b. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a modification. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:
 - i. Topography and other site features;
 - ii. Availability of alternative site locations;
 - iii. Geographic location of property; and
 - iv. Size/magnitude of the project being evaluated and availability of co-location.
- (2) In approving the height modification request, the Hearing Examiner may impose such conditions as it deems appropriate to substantially secure the goals, policies, objectives, standards and requirements of this Chapter, CMC Title 18 and the Comprehensive Plan.
- (3) A request for any such modification shall be submitted, in writing, by the applicant with the application for Hearing Examiner review. The applicant shall state fully the grounds for the modification and all of the facts relied upon by the applicant.

18.70.170 Setback Modification

- (1) Wireless communication facilities must meet setbacks of the underlying zoning district. In some circumstances, allowing modifications to setbacks may better achieve the purpose and objectives of this Chapter of concealing such facilities from view.
- (2) The Director or Hearing Examiner, depending on the type of application, may permit modifications to be made to setbacks when:
 - a. An applicant for a wireless communication facility can demonstrate that placing the facility on certain portions of a property within the setback, will provide better screening and aesthetic considerations than provided under the existing setback requirements; or
 - b. The modification will aid in retaining open space and trees on the site; or
 - c. The proposed location allows for the wireless communication facility to be located at greater distance from residentially-zoned properties.
- (3) Zoning setback modifications cannot be used to reduce any required setback required under the State Building Code or Fire Code.

18.70.180 Expiration

Any application to install or operate a wireless communication facility shall expire exactly one year from the date of issuance of the Director or Hearing Examiner'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 Zoning Code which would affect the wireless communication facility approved.

18.70.190 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 antenna or tower and ancillary wireless communication facilities, shall remove same within 90 days of receipt of a notice for the City notifying the owner or operator of such abandonment. Whenever a facility is abandoned or ceases operation, the entire facility shall be removed, including but not limited to, all antennas, antenna supports, feeder lines, base stations, electronic equipment and the concrete pad upon which the structure is located. Failure to remove such 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.

18.125.030 Variance

(1) Variance Authority. The Hearing Examiner shall have the authority to grant a variance from the terms of this title. The Hearing Examiner may impose conditions or restrictions on an existing or proposed use or structure in order to ensure that a requested variance will conform to the required findings below.

(2) Required Findings. The Hearing Examiner shall not grant a variance from the development standards of this title unless the Hearing Examiner finds that the variance request meets all of the following criteria and the Hearing Examiner makes written findings to that effect:

(a) The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;

(b) The variance is necessary because of the unique size, shape, topography, or location of the subject property;

(c) The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone;

(d) The variance does not create health and safety hazards, is not materially detrimental to the public welfare or is not unduly injurious to property or improvements in the vicinity;

(e) The variance does not relieve an applicant from any of the procedural provisions of this title;

(f) The variance does not relieve an applicant from any standard or provision that specifically states that no variance from such standard or provision is permitted;

(g) The variance does not relieve an applicant from conditions established during prior permit review or from provisions enacted pursuant to Chapter [18.100](#) CMC, Property-Specific Development Standards/Special District Overlays;

(h) The variance does not allow establishment of a use that is not otherwise permitted in the zone in which the proposal is located;

(i) The variance does not allow the creation of lots or densities that exceed the base residential density for the zone by more than 10 percent;

(j) The variance is the minimum necessary to grant relief to the applicant;

(k) The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities; and

(l) The variance does not relieve an applicant from any provisions of Chapter [18.65](#) CMC, Critical Areas, except for the required buffer widths and building setbacks set forth in CMC [18.65.200](#), [18.65.280](#), [18.65.310](#), [18.65.320](#), or [18.65.360](#).

(m) The variance is not eligible for wireless communication facilities that are governed under Chapter 18.70 CMC, Wireless Communication facilities.

(3) Granting of a Use Variance Is Not Authorized. The Hearing Examiner shall not grant a variance which establishes a use otherwise prohibited within a zoning district.

(4) Applications for variances under this section shall require payment of an application fee to cover the costs of review. Such fees shall be set forth in the current fee resolution. (Ord. 10-10 § 3 (Exh. C); Ord. 20-07 § 142; Ord. 42-02 § 2 (21A.44.030))

Chapter 14.30 PERMIT DECISION TYPES

14.30.040 Decision types.¹

Type 1	Type 2	Type 3	Type 4
Building Permit (15.05)	Short Plat (Including Revisions and Alterations) (17.20)	Preliminary Plat (17.20)	Final Subdivision ⁴ (17.25)
Grading Permit (18.60)	Design and Construction Standards Variance (12.60)	Plat Alterations (17.25)	Shoreline Environment
Boundary Line Adjustment (17.40)	Design Departure from the City of Covington Design Guidelines and Standards (18.31)	Preliminary Plat Revisions (17.20)	Redesignations (16.05)
Right-of-Way Use Permit (12.35)	Downtown Permitted Use Determination (18.31)	Zoning Variance (18.125)	Plat or Short Plat Vacations (17.25)
Design and Construction Standards Deviation (12.60)	Temporary Use (18.85)	Conditional Use Permits (18.125)	Street Vacations (12.55)
Shoreline Exemption (16.05)	Shoreline Substantial Development Permit ² (16.05)	<u>New Wireless Communication Facility</u>	
Code Interpretation (14.30)	SEPA Threshold Determination ³	<u>Towers & Height Modifications (18.70)</u>	
Miscellaneous Administrative Decisions	Commercial Site Development Permit (18.31 and 18.110)		
Minor Tree Removal (18.45)	Re-use of Facilities (18.85)		
<u>WCF Co-location on a Transmission Structure or WCF Tower (18.70)</u>	Critical Areas Reasonable Use Exceptions (18.65)		
	Binding Site Plan (17.30)		
	Major Tree Removal (18.45)		
	Stormwater Manuals Variance (13.25)		
	<u>(Wireless Communication Facilities Co-locations (CMC 18.70)</u>		

¹ If a conflict between this chart and the text of the CMC exists, the text of the CMC controls.

² When applications for shoreline permits are combined with other permits requiring Type 3 or 4 land use decisions, the Examiner, not the Director, makes the decision. All shoreline permits, including shoreline variances and conditional uses, are appealable to the State Shorelines Hearings Board and not to the Hearing Examiner.

³Appeal to Examiner is limited to the SEPA threshold determination. The decision on the Type 1 permit itself is appealable to Superior Court.

⁴Final subdivisions are submitted directly to the City Council for final decision without a recommendation by the Hearing Examiner.
(Ord. 10-10 § 3 (Exh. C); Ord. 13-09 § 17; Ord. 02-09 § 2)