

# Ordinance No. 00162

[\(Council Minutes 98/04/20\)](#)

## ORDINANCE NO. 162

AN ORDINANCE of the City of Lakewood, Washington, creating a new Chapter 18.102 of the Lakewood Municipal Code, pertaining to personal wireless telecommunications facilities, and including a purpose statement, definitions, compliance with chapter and non-conforming uses, exemptions, a policy statement, site selection criteria, priority of locations, use priority on public property and siting requirements, co-location and design criteria, permit inspection requirements and landscaping requirements, non-use and abandonment provisions, third party review, and remedies, and providing for rescission of the moratorium on certain wireless telecommunication facilities

WHEREAS, Section 704 of the federal Telecommunications Act of 1996, 47 USC Sec. 332(c)(7), provides that local governments may, pursuant to their inherent zoning authority, regulate the placement, construction, and modification of personal wireless telecommunications service facilities, provided that the local governments do not unreasonably discriminate among providers of functionally equivalent services, or prohibit or have the effect of prohibiting the provision of personal wireless services; and,

WHEREAS, the City Council finds that personal wireless service facilities often require large structures or towers, whose height and footprint may not be compatible, as a matter of sound urban planning, with the adjoining neighborhoods and neighborhood uses; and,

WHEREAS, the City Council further finds that the public interest is best served by enacting specific siting regulations which will provide for placement of personal wireless facilities in areas least likely to negatively affect residential property; and,

WHEREAS, the City is in the process of and will continue to identify potential sites which will allow for the placement of personal wireless telecommunications facilities subject to the criteria enumerated herein and elsewhere in City Ordinances; and,

WHEREAS, the City has established a legislative record including review of issues by its Telecommunications Ad Hoc Committee, and collection of numerous samples of wireless Ordinances from other jurisdictions, and were reviewed by both public and personal wireless telecommunication service providers in drafting the text of this Ordinance; and,

WHEREAS, on the 11th day of March, 1998, following a Public Hearing on the proposed ordinance language, the Planning Advisory Board forwarded its recommendations on matters relating to the subject matter of this ordinance to the City Council.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as follows:

SECTION ONE That a new Chapter 18.102 is hereby added to the Lakewood Municipal Code to read as follows:

Chapter 18.102

## Wireless Telecommunications Facilities

### Sections:

- 18.102.010 Purpose
- 18.102.020 Definitions
- 18.102.030 Compliance with Chapter - Non-conforming Uses
- 18.102.040 Exemptions
- 18.102.050 Policy Statement
- 18.102.060 Industry Site Selection Criteria
- 18.102.070 Site Selection Criteria
- 18.102.080 Priority of Locations
- 18.102.090 Use Priority on Public Property and Siting Requirements
- 18.102.100 Co-Location
- 18.102.110 Design Criteria
- 18.102.120 Permits Required
- 18.102.130 Inspection Requirements
- 18.102.140 Landscaping/Screening
- 18.102.150 Non-Use/Abandonment
- 18.102.160 Third Party Review
- 18.102.170 Remedies
- 18.102.180 Severability

#### 18.102.010: Purpose.

A. These standards were developed to protect the public health, safety, and welfare, to protect property values and minimize visual impact while furthering the development of enhanced telecommunication services in the city. These standards were designed to comply with the Telecommunications Act of 1996. The provisions of this Chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This Chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.

B. To the extent that any provision of this Chapter is inconsistent or conflicts with any other City Ordinance this Chapter shall control. Otherwise, this Chapter shall be construed consistently with the other provisions and regulations of the City.

C. In reviewing any application to provide personal wireless service or to install personal wireless service facilities, the City shall act within a reasonable period of time, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The City shall approve, approve with condition, or deny the application in accordance with the time frames set forth in Title 18 of the Lakewood Municipal Code and in accordance with other applicable Ordinances and regulations of the City.

## 18.102.020 Definitions.

For the purpose of this Chapter, the following terms shall have the meaning ascribed to them below:

"Abandonment" means: (a) to cease operation for a period of sixty (60) or more consecutive days; (b) to reduce the effective radiated power of an antenna by seventy-five percent (75%) for sixty (60) or more consecutive days; (c) to relocate an antenna at a point less than eighty (80) percent of the height of an antenna support structure; or (d) to reduce the number of transmissions from an antenna by seventy-five percent for sixty (60) or more consecutive days; Provided that non-operation or reduced operation for a period of sixty (60) or more consecutive days to facilitate maintenance, re-design or other changes about which the City was notified in advance shall not constitute abandonment.

"Antenna" means any exterior apparatus designed for telephonic, radio, data, Internet, or television communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower or building for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular", "enhanced specialized mobile radio" and "personal communications services", telecommunications services, and its attendant base station.

"Antenna Height" means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

"Antenna Support Structure" means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

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

"Camouflaged" means a personal wireless service facility that is disguised, hidden, or integrated with the existing environment and trees so as to be significantly screened from view.

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

"Co-location" means the use of a personal wireless service facility or cell site by more than one personal wireless service provider.

"Conditional Use Permit" or "CUP" means a process and approval as described in Title 18 of the Lakewood Municipal Code and other appropriate sections of the City Code.

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

"EIA" means the Electronics Industry Association.

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

"FAA" means the Federal Aviation Administration.

"FCC" means the Federal Communications Commission.

"Governing Authority" means the City Council of the City of Lakewood.

"Hearing Examiner" means the duly appointed Hearing Examiner of the City.

"Mobile Transmission Facility" means a movable, non-stationary transmission facilities that contains personal wireless service facilities including any antenna, support structure, accessory structures, and may include other uses associated with and ancillary to personal wireless services.

"Modification" means the changing of any portion of a personal wireless service facility from its description in a previously approved permit, excluding routine maintenance and repair. Examples include, but are not limited to, changes in design or structure, changes in the heights of towers or monopoles, changes in any accessory structures or appurtenances which are affiliated with or support a personal wireless facility.

"Mount" means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts: (a) Building mounted. A personal wireless service facility mount fixed to the roof or side of a building. (b) Ground mounted. A personal wireless service facility mount fixed to the ground, such as a tower. (c) Structure mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

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

"Provider" means a corporation, company, association, joint stock company, firm, partnership, sole-proprietorship, limited liability company, other entity or individual which provides personal wireless service over personal wireless service facilities.

"Screening" means placement of a personal wireless telecommunication facility such as a tower or mount among trees or other appropriate vegetation to provide a natural, aesthetic appearance to the location of such personal wireless telecommunication facility. For the purposes hereof, screening shall consist of not less than placement of a personal wireless telecommunication facility such as a tower or mount amongst and adjacent to (within 20 feet) three (3) or more trees at least seventy-five percent (75%) of the base height of the facility.

"Secondary Use" means a use subordinate to the principle use of the property, such as commercial, residential, utilities, etc.

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

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

"Unlicensed Wireless Services" means commercial mobile services that operate on public frequencies and are not required to have a FCC license to operate.

#### 18.102.030 Compliance with Chapter - Non-conforming Uses.

A. New Uses: All new antennas and antenna support structures shall comply with the requirements of this Chapter after the effective date of the Ordinance by which this Chapter was adopted.

B. Existing Uses: Towers and antenna existing before the effective date of the Ordinance by which this Chapter was adopted which do not meet the requirements of this Chapter shall be allowed to continue as they presently exist, but will be considered non-conforming uses. Routine maintenance shall be permitted on existing towers and antennas. However, new construction other than routine maintenance on existing towers, antennas, buildings or other facilities shall comply with the requirements of this Chapter.

#### 18.102.040 Exemptions.

The following are exempt from the provisions of this Chapter and shall be permitted in all zones, unless otherwise specifically provided:

A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.

B. Antennas and related equipment no more than three (3) feet in height that are being stored, shipped, or displayed for sale.

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

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

E. Licensed amateur (ham) radio stations.

F. Satellite dish antennas less than six and one half feet (62') in diameter, including direct to home satellite services, when used as a secondary use of the property.

G Routine maintenance or repair of a personal wireless service facility and related equipment, (excluding structural work or changes in height or dimensions of antennas, towers, or buildings) provided that compliance with the standards of this Chapter are maintained.

H. Subject to compliance with all other applicable standards of this Chapter, a building permit application need not be filed in advance of emergency repairs or maintenance of a personal wireless service facility, provided that the permit application is on file within thirty (30) days of completion of the emergency activity.

I. A Mobile Transmission Facility or other temporary Personal Wireless Telecommunications Facility shall be permitted for a maximum of ninety (90) days or during an emergency declared by the City .

#### 18.102.050 Policy Statement.

The City, with increasing frequency, has been confronted with requests to locate towers and antennas. The purpose of this Chapter is to establish general guidelines for the siting of towers and antennas. The goals of this Chapter are to: (a) enhance the ability of personal wireless service providers to provide such services throughout the City quickly, effectively, and efficiently; (b) encourage personal wireless service providers to locate towers and antenna in non-residential areas; (c) encourage personal wireless service providers to co-locate on new and existing tower sites in order to minimize the number of towers within the City; (d) encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal; and (e) encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact. Accordingly, the City Council finds that the promulgation of this Chapter is warranted and necessary:

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

B. To protect neighborhoods from potential adverse impacts of towers;

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

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

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

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

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

#### 18.102.060 Recognition of Industry Site Selection Criteria.

In establishing a new site, the industry requires a location that is technically compatible with the established network. A general area is to be identified based upon engineering constraints and the desired area of service. Specific locations within that general area will be evaluated using the following criteria which are not listed in order of priority:

- A. Topography as it relates to line of sight transmissions for optimum efficiency in telephone service.
- B. Availability of road access.
- C. Availability of electric power.
- D. Availability of land based telephone lines or microwave link capability.
- E. Leasable lands, and landlords who want facilities to be located on their properties consistent with zoning regulations.
- F. Screening potential of existing vegetation, structures and topographic features.
- G. Zoning that will allow low power mobile radio service facilities.
- H. Compatibility with adjacent land uses.
- I. The least number of sites to cover the desired area.
- J. The greatest amount of coverage, consistent with physical requirements.
- K. Opportunities to mitigate possible visual impact.
- L. Availability of suitable existing structures for antenna mounting.

#### 18.102.070 Site Selection Criteria.

A. Any applicant proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall demonstrate by engineering evidence satisfactory to the City that the antenna location will satisfy its function in the applicant's local network system. Further, the applicant must demonstrate by satisfactory engineering evidence that the height requested is the minimum height necessary to fulfill the site's function within the local network system.

B. Applications for necessary permits will only be processed when the applicant demonstrates either that it is an FCC-licensed telecommunications provider or that it has agreements with an FCC-licensed telecommunications provider for use or lease of the support structure.

C. Low power mobile radio service facilities shall be located and designed to minimize any significant adverse impact on residential property values. Facilities shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.

D. In all zones, location and design of facilities shall consider the impact (including visual) of the facility on the surrounding neighborhood. In all zones, towers shall be significantly screened to the extent that it does not result in significant signal degradation. If there are no trees to provide screening, the site shall utilize significant and satisfactory camouflage or other design/construction methods so as to provide compatible aesthetics of and around the site, to the fullest extent reasonably possible, as determined through the Administrative or Conditional Use Permit process.

#### 18.102.080 Priority of Locations.

A. The order of priorities for locating new personal wireless service facilities shall be as follows:

1. Place antennas on existing towers and structures on public property where other antennas are already located, if practical.
2. Place antennas and towers on public property if practical.
3. Place antennas on appropriate rights of ways and existing structures, such as buildings, towers, water towers and smokestacks; Provided that this shall not include non-conforming structures or uses.
4. Place antennas and towers on industrial property in districts zoned for industrial uses.
5. Place antennas and towers on commercial property in districts zoned for commercial uses.
6. Place antennas and towers on property in districts zoned for mixed commercial and residential use which does not adjoin or adversely impact residential neighborhoods.
7. Place antennas and towers on commercial property in districts zoned for mixed commercial and residential uses.
8. Place antennas and towers on other non-residential property.
9. Place antennas on multi-family residential structures exceeding thirty feet (30') in height.
10. Place antennas and towers on property in residential zones only if (a) locations are not available on existing structures or in non-residential districts; and (b) locations are on or in existing churches, parks, schools, utility facilities, or other appropriate public facilities.

B. Location in residential zones.



1. An applicant that wishes to locate a new antenna support structure in a residential zone shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government facility, a private institutional structure, or other appropriate existing structures within a non-residential zone, and that due to valid considerations including physical constraints, and economic or technological feasibility, no appropriate location is available.

2. The information submitted by the applicant shall include (a) a map of the area to be served by the tower or antenna, (b) its relationship to other cell sites in the applicant's network and a network master plan, and (c) an evaluation of existing buildings taller than thirty feet (30'), within one-quarter (1/4) mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals.

#### 18.102.090 Use Priority on Public Property and Siting Requirements.

A. Where public property is sought to be utilized by an applicant, priority for the use of City-owned land for wireless antennas and towers will be given to the following entities in descending order:

1. City of Lakewood;

2. Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the City of Lakewood and private entities with a public safety agreement with the City of Lakewood;

3. Other governmental agencies, for uses which are not related to public safety; and

4. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), data, Internet, paging, and similar services that are marketed to the general public.

B. Minimum Requirements: The placement of personal wireless service facilities on City-owned property must comply with the following requirements:

1. The facilities will not interfere with the purpose for which the City-owned property is intended;

2. The facilities will have no significant adverse impact on surrounding properties;

3. The applicant will obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The City shall establish fees after considering comparable rates in other cities, potential expenses, risks to the City, and other appropriate factors;

4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the costs of removing the facilities;

5. The antennas or tower will not interfere with other users who have a higher priority as discussed in Section 18.102.090(A);

6. The lease shall provide that, in the case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice, the City may require the applicant to remove the facilities at the applicant's expense;

7. The applicant must reimburse the City for any related costs which the City incurs because of the presence of the applicant's facilities;

8. The applicant must obtain all necessary land use approvals;

9. The applicant must cooperate with the City's objective to encourage co-locations and thus limit the number of cell sites requested, and camouflage the site; and,

10. The applicant must comply with requirements for maintenance of the facility site, including but not limited to keeping lawns mowed, providing litter control and maintaining trees and other vegetation in a healthy state, or such stricter requirements as may be set forth in any Administrative Permits or Conditional Use Permits, or decision of a reviewing body.

C. Special Requirements for Parks: The use of City-owned parks for personal wireless service facilities brings with it special concerns due to the unique nature of these sites. The placement of personal wireless service facilities in a park will be allowed only when the following additional requirements are met:

1. The Planning Advisory Board has reviewed and made a recommendation regarding proposed personal wireless service facilities to be located in the park and this recommendation must be forwarded to the City Council for consideration;

2. Placement of personal wireless service facilities shall conform to the requirements of the Critical Areas and Resource Lands Ordinance.

3. Before personal wireless service facilities may be located in public parks, the applicant shall demonstrate to the satisfaction of the City of Lakewood that visual impacts have been mitigated to the fullest extent reasonably possible and that accommodations have been included in the design and placement so that there would be no disruption of normal public use of the park ;

4. The applicant shall clearly demonstrate that the placement of the personal wireless service facilities in a public park is absolutely necessary for the effective operation of the applicant's personal wireless service, and that alternate placement would not be reasonably possible

D. Required Submittals: Application for Conditional Use Permit, Administrative Use Permit, Building Permit, and other related requests may include any combination of site plans, surveys, maps, technical reports, or written narratives necessary to convey the following information in addition to the requirements of applicable codes and regulations of the City of Lakewood:

1. Photosimulations of the proposed facility from affected residential properties and public rights-of-way at varying distances;

2. A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, and the proposed color(s) of the facility;
3. A signed statement indicating that (a) the applicant and landowner agree they will diligently negotiate in good faith to facilitate co-location of additional personal wireless service facilities by other providers on the applicant's structure or within the same site location and (b) the applicant and/or landlord agree to remove the facility within sixty (60) days after abandonment;
4. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC Para. 1.1307, or, in the event that an FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment;
5. A site plan clearly indicating the location, type and height of the proposed tower and antenna, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures;
6. A current map and aerial showing the location of the proposed tower, a map showing the locations and service areas of other personal wireless service facilities operated by the applicant and those proposed by the applicant that are close enough to impact service within the City;
7. Legal description of the parcel, if applicable;
8. A current map showing all existing towers and antennas of the applicant located within the City
9. The approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
10. A landscape plan showing specific landscape materials;
- 11 Method of fencing, and finished color and, if applicable, the method of camouflage and illumination;
- 12 A letter signed by the applicant stating the tower will comply with all FAA regulations and EIA Standards and all other applicable federal, state and local laws and regulations;
13. A statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users;
14. Certification acceptable to the City that the equipment, facilities or their use will not interfere with other adjacent or neighboring transmission or reception functions or other neighborhood uses;
15. The telecommunications company must demonstrate that it is licensed by the FCC if required to be licensed under FCC

regulations;

16. If the applicant is not the telecommunications service provider, the applicant shall submit proof of lease agreements with an FCC licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC;

17. A full site plan shall be required for all sites, showing the tower, antenna, antenna support structure, building, fencing, buffering, access, and all other items required in this Chapter; and

18. At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the City.

#### 18.102.100 Co-location .

A. To minimize adverse visual impacts associated with the proliferation of towers, co-location of personal wireless service facilities on existing or new towers is encouraged as follows:

1. Proposed facilities shall co-locate onto existing towers wherever reasonably feasible. Such co-location is permitted outright and new or additional Conditional Use Permit approval is not required, except that any other permit, license, lease, or franchise requirements must be satisfied, and the co-location must be accomplished in a manner consistent with the policy, site criteria, and landscape/screening provisions contained in this Chapter.

2. The Conditional Use Permit requirement for a facility may be waived in non-residential zones if the applicant locates the antenna on an existing structure or an existing tower. The applicant must submit detailed plans to the Community Development Department for an Administrative Use Permit to determine if the Conditional Use Permit process and public hearing can be waived. No building permit will be issued until approval is granted by an Administrative Use Permit or Conditional Use Permit.

3. The City may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on an existing structure or tower.

4. To reduce the number of antenna support structures needed in the City in the future, new proposed support structures shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons.

5. Unless co-location is not feasible: (a) an applicant's site plan shall reserve an area for other providers' equipment near the base of the applicant's tower. A first right-of-refusal (which is either executed or maintained while the providers personal wireless facilities and services are in use) to lease the area at the base of the tower or mount for other providers will meet the reservation requirement. and (b) the site plan for towers in excess of 100 feet above ground level must propose space for two comparable providers, while the site plan for towers 100 feet or less must propose space for one comparable provider. To provide further incentive for co-location, an existing tower may be modified as a matter of right to accommodate co-location without new or additional Conditional Use Permits, provided the additional antenna shall be of the same type as that on the existing tower unless additional height requires a Conditional Use Permit and the following conditions are met:

a. Height: An existing tower, other than a tower constituting a non-conforming use pursuant to Section 18.102.030 of this Chapter may be modified or rebuilt to a taller height, not to exceed twenty feet over the tower's existing height and not to

exceed the maximum height permitted under this Chapter, and subject to the other provisions of this Chapter, including by way of example, and not limitation any applicable requirements or conditional use and building permits. The height change may occur only once per tower.

b. Except as set forth herein, no signs, banners or similar devices or materials may be attached to the tower, antenna support structures or antennas.

B. While co-location and the requirements herein are encouraged, co-location shall not take precedence over the construction of shorter towers with appropriate screening.

#### 18.102.110 Design Criteria.

A. As provided above, new facilities shall be designed to accommodate co-location, unless the applicant demonstrates why such design is not feasible for economic, technical, or physical reasons.

B. Facilities shall be architecturally compatible with the surrounding buildings and land uses in the zoning district and screened or otherwise integrated, through location and design, to blend in with the existing characteristics of the site.

1. Setback: A tower's setback shall be measured from the base of the tower to the property line of the parcel on which it is located. In residential districts and residential land use areas, where permitted, towers shall be set back from all property lines a distance equal to 100% of tower height as measured from ground level, except for unusual geographic limitations or other public policy considerations, as determined in the City's sole discretion. All other towers shall comply with the minimum setback requirements of the area in which they are located in all other zoning districts, unless there are unusual geographical limitations or other public policy considerations as determined in the sole and absolute discretion of the City.

Such considerations shall include by way of illustration and not limitation, but are not limited to:

- a. Impact on adjacent properties;
- b. Alternative sites for personal wireless facilities; and
- c. The extent to which screening and camouflaging will mitigate the affects of the personal wireless facilities.

2. Right of Way Setback Exception: The setback requirement may be waived if the antenna and antenna support structure are located in the City right-of-way.

3. View Corridors: Due consideration shall be given so that placement of towers, antenna, and personal wireless service facilities do not obstruct or significantly diminish views of Mt. Rainier, Puget Sound, the Olympic Mountains or other scenic vistas.

4. Color: Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA. Security fencing should be colored or should be of a design which blends into the character of the existing neighborhood.

5. Lights, Signals and Signs: No signals, lights, or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, in cases where there are residents located within a distance which is 300% of the height of the tower, then dual mode lighting shall be requested from the FAA.

6. Equipment Structures: Ground level equipment, buildings, and the tower base shall be screened from public view. All such structures shall be considered primary structures, not accessory structures. The standards for the equipment buildings are as follows:

a. The maximum floor area is 300 square feet and the maximum height is 12 feet. Except in unusual circumstances or for other public policy considerations the equipment building may be located no more than 250 feet from the tower or antenna. Depending upon the aesthetics and other issues, the City, in its sole discretion, may approve multiple equipment structures or one or more larger structures.

b. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other City Ordinances, Code Sections or regulations.

c. Equipment buildings mounted on a roof shall have a finish similar to the exterior building walls. Equipment for roof-mounted antenna may also be located within the building on which the antenna is mounted.

d. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures.

Equipment buildings, antenna, and related equipment shall occupy no more than 25% of the total roof area of the building the facility is mounted on, which may vary in the City's sole discretion if co-location and an adequate screening structure is used.

The use must be approved on a site plan or final development plan, as applicable.

7. Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If those standards and regulations are changed, then personal wireless service providers governed by this Chapter shall bring their towers and antennas into compliance with the revised standards and regulations within three (3) months of their effective date or the time-lines provided by the revised standards and regulations, whichever time period is longer. The revised standards and regulations are not retroactively applicable to existing providers, unless otherwise provided or permitted by Federal Law. Failure to bring towers and antennas into compliance with the revised standards and regulations shall constitute grounds for the City to remove a provider's facilities at the provider's expense.

8. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable City building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within thirty (30) days, the City may remove the tower at the owner's expense. If the structure is determined by the City to pose an imminent danger to the public, the City shall be entitled to abate the danger through the processes and according to the time-tables of the Uniform Building Code

9. Structural Design: Towers shall be constructed to the EIA Standards, which may be amended from time to time, and to all applicable construction/building codes. Further, any improvements or additions to existing towers shall require submission of site plans stamped by a professional engineer which demonstrate compliance with the EIA Standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested. The antenna and its support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires.

10. Antenna support structure safety: The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

11. Fencing: A well-constructed masonry or rock wall, or wooden fence not less than six (6) feet in height from the finished grade shall be provided around each personal wireless service facility. Access to the tower shall be through a locked gate, and there shall be a KNOX BOX at any such gates. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by a minimum eight (8) foot-wide landscaping strip. All landscaping shall meet the standards of the City of Lakewood Municipal Code.

12. Tower and Antenna Height: The applicant shall demonstrate that the tower and antenna is the minimum height required to function satisfactorily. No tower or antenna that is taller than this minimum height shall be approved. No tower or mount shall exceed sixty (60) feet in any residential zone; park or open space zone; or mixed residential and commercial zone. No tower or mount shall exceed one hundred (100) feet in any industrial zone or commercial zone (other than a mixed residential and commercial zone).

A variance from the height limit may be granted if the applicant can show by clear and convincing evidence that the additional height is necessary to provide adequate service to the residents of the City and no other alternative is available. When granting a variance the Examiner shall require that a significant portion of the of the tower and related facilities be screened by existing trees or existing structures.

Variations shall meet the requirements of Administration of Development Regulations of Title 18 of the Lakewood Municipal Code.

13. Required parking: If the cell site is fully automated, adequate paved parking shall be required for maintenance workers. If the site is not automated, arrangements for adequate off-street parking shall be made and documentation thereof provided to the City.

14. Tower Separation: In no case shall towers be located closer than 500 feet from another tower whether it is owned or utilized by applicant or another provider, unless the City designates areas where multiple towers can be located in closer proximity.

15. Antenna Criteria: Antenna on or above a structure shall be subject to the following:

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

b. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless it must be for technical reasons. In no event shall an antenna project more than 16 feet above the roof line including parapets.

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

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

e. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color.

f. The structure must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.

g. Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the City, in the City's sole discretion.

h. For installations or buildings greater than thirty feet (30') in height, see other applicable provisions of this Chapter. In addition to the other requirements of this Chapter, on buildings thirty feet (30') or less in height, the antenna may be mounted on the roof if the following additional criteria are satisfied:

1. The City finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.
2. No portion of the antenna or base station causes the height of the building to exceed the limitations set forth herein.
3. The antenna or antennas and related base stations cover no more than an aggregate total of 25 percent of the roof area of a building, which may vary in the City's sole discretion, if co-locating and an adequate screening structure are used.
4. Roof mounted antenna and related base stations are completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.
5. No portion of the antenna may exceed sixteen (16) feet above the height of the existing building.

i. If a proposed antenna is located on a building or a lot subject to a site review, approval is required prior to the issuance of a building permit.

j. No antenna shall be permitted on property designated as an individual landmark or as a part of a historic district, unless such antenna has been approved in accordance with City Ordinances and regulations.

k. No personal wireless service provider or lessee or agent thereof shall fail to cooperate in good faith to accommodate co-location with competitors. If a dispute arises about the feasibility of co-locating, the City Manager may require a third party technical study, at the expense of either or both parties, to resolve the dispute.

l. No personal wireless service provider or lessee shall fail to assure that its antenna complies at all times with the current applicable FCC standards. After installation, but prior to putting the antenna in service, each provider shall submit a certification by an independent professional engineer to that effect. In the event that an antenna is co-located with another antenna, the certification must provide assurances that FCC approved levels of electromagnetic radiation will not be exceeded by the co-location.

m. Antennas shall comply with FCC regulations to minimize interference with the reception of any other communications signals including public safety, television, and radio broadcast signals.

n. No person shall locate an antenna or tower for wireless communications services upon any lot or parcel except as provided



in this Chapter.

#### 18.102.120 Permits Required.

Where a tower or antenna support structure will be 60 feet or less in height, in addition to the other provisions of this Chapter, an applicant will be required to obtain an Administrative Use Permit. In the event that a proposed tower or antenna support structure will be located in a residential zone; park or open space zone; or mixed residential and commercial zone, or will be more than 60 feet in height, in addition to the other provisions of this Chapter, an applicant will be required to obtain a Conditional Use Permit. With respect to the placement of antenna on a tower or antenna support structure, the requirements for a Conditional Use Permit or Administrative Use Permit will be applicable based on the height of the tower and antenna or mount and antenna unless this Chapter provides other requirements to the contrary.

Project permit review procedures shall be as specified in the Ordinances, Codes, Resolutions and regulations of the City of Lakewood.

The following table specifies the permits required for the various types of personal wireless service facilities that meet the standards of this Chapter:

### ORDINANCE NO. 162

AN ORDINANCE of the City of Lakewood, Washington, creating a new Chapter 18.102 of the Lakewood Municipal Code, pertaining to personal wireless telecommunications facilities, and including a purpose statement, definitions, compliance with chapter and non-conforming uses, exemptions, a policy statement, site selection criteria, priority of locations, use priority on public property and siting requirements, co-location and design criteria, permit inspection requirements and landscaping requirements, non-use and abandonment provisions, third party review, and remedies, and providing for rescission of the moratorium on certain wireless telecommunication facilities

WHEREAS, Section 704 of the federal Telecommunications Act of 1996, 47 USC Sec. 332(c)(7), provides that local governments may, pursuant to their inherent zoning authority, regulate the placement, construction, and modification of personal wireless telecommunications service facilities, provided that the local governments do not unreasonably discriminate among providers of functionally equivalent services, or prohibit or have the effect of prohibiting the provision of personal wireless services; and,

WHEREAS, the City Council finds that personal wireless service facilities often require large structures or towers, whose height and footprint may not be compatible, as a matter of sound urban planning, with the adjoining neighborhoods and neighborhood uses; and,

WHEREAS, the City Council further finds that the public interest is best served by enacting specific siting regulations which will provide for placement of personal wireless facilities in areas least likely to negatively affect residential property; and,

WHEREAS, the City is in the process of and will continue to identify potential sites which will allow for the placement of personal wireless telecommunications facilities subject to the criteria enumerated herein and elsewhere in City Ordinances; and,

WHEREAS, the City has established a legislative record including review of issues by its Telecommunications Ad Hoc Committee, and collection of numerous samples of wireless Ordinances from other jurisdictions, and were reviewed by both public and personal wireless telecommunication service providers in drafting the text of this Ordinance; and,

WHEREAS, on the 11th day of March, 1998, following a Public Hearing on the proposed ordinance language, the Planning Advisory Board forwarded its recommendations on matters relating to the subject matter of this ordinance to the City Council.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as follows:

SECTION ONE That a new Chapter 18.102 is hereby added to the Lakewood Municipal Code to read as follows:

## Chapter 18.102

### Wireless Telecommunications Facilities

#### Sections:

18.102.010 Purpose

18.102.020 Definitions

18.102.030 Compliance with Chapter - Non-conforming Uses

18.102.040 Exemptions

18.102.050 Policy Statement

18.102.060 Industry Site Selection Criteria

18.102.070 Site Selection Criteria

18.102.080 Priority of Locations

18.102.090 Use Priority on Public Property and Siting Requirements

18.102.100 Co-Location

18.102.110 Design Criteria

18.102.120 Permits Required

18.102.130 Inspection Requirements

18.102.140 Landscaping/Screening

18.102.150 Non-Use/Abandonment

18.102.160 Third Party Review

18.102.170 Remedies

18.102.180 Severability

#### 18.102.010: Purpose.

A. These standards were developed to protect the public health, safety, and welfare, to protect property values and minimize visual impact while furthering the development of enhanced telecommunication services in the city. These standards were designed to comply with the Telecommunications Act of 1996. The provisions of this Chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This Chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.

B. To the extent that any provision of this Chapter is inconsistent or conflicts with any other City Ordinance this Chapter shall control. Otherwise, this Chapter shall be construed consistently with the other provisions and regulations of the City.

C. In reviewing any application to provide personal wireless service or to install personal wireless service facilities, the City shall act within a reasonable period of time, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The City shall approve, approve with condition, or deny the application in accordance with the time frames set forth in Title 18 of the Lakewood Municipal Code and in accordance with other applicable Ordinances and regulations of the City.

#### 18.102.020 Definitions.

For the purpose of this Chapter, the following terms shall have the meaning ascribed to them below:

"Abandonment" means: (a) to cease operation for a period of sixty (60) or more consecutive days; (b) to reduce the effective radiated power of an antenna by seventy-five percent (75%) for sixty (60) or more consecutive days; (c) to relocate an antenna at a point less than eighty (80) percent of the height of an antenna support structure; or (d) to reduce the number of transmissions from an antenna by seventy-five percent for sixty (60) or more consecutive days; Provided that non-operation or reduced operation for a period of sixty (60) or more consecutive days to facilitate maintenance, re-design or other changes about which the City was notified in advance shall not constitute abandonment.

"Antenna" means any exterior apparatus designed for telephonic, radio, data, Internet, or television communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower or building for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular", "enhanced specialized mobile radio" and "personal communications services", telecommunications services, and its attendant base station.

"Antenna Height" means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

"Antenna Support Structure" means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

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

"Camouflaged" means a personal wireless service facility that is disguised, hidden, or integrated with the existing environment

and trees so as to be significantly screened from view.

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

"Co-location" means the use of a personal wireless service facility or cell site by more than one personal wireless service provider.

"Conditional Use Permit" or "CUP" means a process and approval as described in Title 18 of the Lakewood Municipal Code and other appropriate sections of the City Code.

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

"EIA" means the Electronics Industry Association.

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

"FAA" means the Federal Aviation Administration.

"FCC" means the Federal Communications Commission.

"Governing Authority" means the City Council of the City of Lakewood.

"Hearing Examiner" means the duly appointed Hearing Examiner of the City.

"Mobile Transmission Facility" means a movable, non-stationary transmission facilities that contains personal wireless service facilities including any antenna, support structure, accessory structures, and may include other uses associated with and ancillary to personal wireless services.

"Modification" means the changing of any portion of a personal wireless service facility from its description in a previously approved permit, excluding routine maintenance and repair. Examples include, but are not limited to, changes in design or structure, changes in the heights of towers or monopoles, changes in any accessory structures or appurtenances which are affiliated with or support a personal wireless facility.

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

mounts: (a) Building mounted. A personal wireless service facility mount fixed to the roof or side of a building. (b) Ground mounted. A personal wireless service facility mount fixed to the ground, such as a tower. (c) Structure mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

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

"Provider" means a corporation, company, association, joint stock company, firm, partnership, sole-proprietorship, limited liability company, other entity or individual which provides personal wireless service over personal wireless service facilities.

"Screening" means placement of a personal wireless telecommunication facility such as a tower or mount among trees or other appropriate vegetation to provide a natural, aesthetic appearance to the location of such personal wireless telecommunication facility. For the purposes hereof, screening shall consist of not less than placement of a personal wireless telecommunication facility such as a tower or mount amongst and adjacent to (within 20 feet) three (3) or more trees at least seventy-five percent (75%) of the base height of the facility.

"Secondary Use" means a use subordinate to the principle use of the property, such as commercial, residential, utilities, etc.

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

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

"Unlicensed Wireless Services" means commercial mobile services that operate on public frequencies and are not required to have a FCC license to operate.

#### 18.102.030 Compliance with Chapter - Non-conforming Uses.

A. New Uses: All new antennas and antenna support structures shall comply with the requirements of this Chapter after the effective date of the Ordinance by which this Chapter was adopted.

B. Existing Uses: Towers and antenna existing before the effective date of the Ordinance by which this Chapter was adopted which do not meet the requirements of this Chapter shall be allowed to continue as they presently exist, but will be considered non-conforming uses. Routine maintenance shall be permitted on existing towers and antennas. However, new construction other than routine maintenance on existing towers, antennas, buildings or other facilities shall comply with the requirements of this Chapter.

#### 18.102.040 Exemptions.

The following are exempt from the provisions of this Chapter and shall be permitted in all zones, unless otherwise specifically

provided:

- A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.
- B. Antennas and related equipment no more than three (3) feet in height that are being stored, shipped, or displayed for sale.
- C. Radar systems for military and civilian communication and navigation.
- D. Wireless radio utilized for temporary emergency communications in the event of a disaster.
- E. Licensed amateur (ham) radio stations.
- F. Satellite dish antennas less than six and one half feet (62') in diameter, including direct to home satellite services, when used as a secondary use of the property.
- G. Routine maintenance or repair of a personal wireless service facility and related equipment, (excluding structural work or changes in height or dimensions of antennas, towers, or buildings) provided that compliance with the standards of this Chapter are maintained.
- H. Subject to compliance with all other applicable standards of this Chapter, a building permit application need not be filed in advance of emergency repairs or maintenance of a personal wireless service facility, provided that the permit application is on file within thirty (30) days of completion of the emergency activity.
- I. A Mobile Transmission Facility or other temporary Personal Wireless Telecommunications Facility shall be permitted for a maximum of ninety (90) days or during an emergency declared by the City .

#### 18.102.050 Policy Statement.

The City, with increasing frequency, has been confronted with requests to locate towers and antennas. The purpose of this Chapter is to establish general guidelines for the siting of towers and antennas. The goals of this Chapter are to: (a) enhance the ability of personal wireless service providers to provide such services throughout the City quickly, effectively, and efficiently; (b) encourage personal wireless service providers to locate towers and antenna in non-residential areas; (c) encourage personal wireless service providers to co-locate on new and existing tower sites in order to minimize the number of towers within the City; (d) encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal; and (e) encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact. Accordingly, the City Council finds that the promulgation of this Chapter is warranted and necessary:

- A. To manage the location of towers and antennas in the city;
- B. To protect neighborhoods from potential adverse impacts of towers;

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

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

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

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

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

#### 18.102.060 Recognition of Industry Site Selection Criteria.

In establishing a new site, the industry requires a location that is technically compatible with the established network. A general area is to be identified based upon engineering constraints and the desired area of service. Specific locations within that general area will be evaluated using the following criteria which are not listed in order of priority:

A. Topography as it relates to line of sight transmissions for optimum efficiency in telephone service.

B. Availability of road access.

C. Availability of electric power.

D. Availability of land based telephone lines or microwave link capability.

E. Leasable lands, and landlords who want facilities to be located on their properties consistent with zoning regulations.

F. Screening potential of existing vegetation, structures and topographic features.

G. Zoning that will allow low power mobile radio service facilities.

H. Compatibility with adjacent land uses.

I. The least number of sites to cover the desired area.

J. The greatest amount of coverage, consistent with physical requirements.

K. Opportunities to mitigate possible visual impact.

L. Availability of suitable existing structures for antenna mounting.

#### 18.102.070 Site Selection Criteria.

A. Any applicant proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall demonstrate by engineering evidence satisfactory to the City that the antenna location will satisfy its function in the applicant's local network system. Further, the applicant must demonstrate by satisfactory engineering evidence that the height requested is the minimum height necessary to fulfill the site's function within the local network system.

B. Applications for necessary permits will only be processed when the applicant demonstrates either that it is an FCC-licensed telecommunications provider or that it has agreements with an FCC-licensed telecommunications provider for use or lease of the support structure.

C. Low power mobile radio service facilities shall be located and designed to minimize any significant adverse impact on residential property values. Facilities shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.

D. In all zones, location and design of facilities shall consider the impact (including visual) of the facility on the surrounding neighborhood. In all zones, towers shall be significantly screened to the extent that it does not result in significant signal degradation. If there are no trees to provide screening, the site shall utilize significant and satisfactory camouflage or other design/construction methods so as to provide compatible aesthetics of and around the site, to the fullest extent reasonably possible, as determined through the Administrative or Conditional Use Permit process.

#### 18.102.080 Priority of Locations.

A. The order of priorities for locating new personal wireless service facilities shall be as follows:

1. Place antennas on existing towers and structures on public property where other antennas are already located, if practical.
2. Place antennas and towers on public property if practical.
3. Place antennas on appropriate rights of ways and existing structures, such as buildings, towers, water towers and smokestacks; Provided that this shall not include non-conforming structures or uses.
4. Place antennas and towers on industrial property in districts zoned for industrial uses.
5. Place antennas and towers on commercial property in districts zoned for commercial uses.
6. Place antennas and towers on property in districts zoned for mixed commercial and residential use which does not adjoin or



adversely impact residential neighborhoods.

7. Place antennas and towers on commercial property in districts zoned for mixed commercial and residential uses.

8. Place antennas and towers on other non-residential property.

9. Place antennas on multi-family residential structures exceeding thirty feet (30') in height.

10. Place antennas and towers on property in residential zones only if (a) locations are not available on existing structures or in non-residential districts; and (b) locations are on or in existing churches, parks, schools, utility facilities, or other appropriate public facilities.

#### B. Location in residential zones.

1. An applicant that wishes to locate a new antenna support structure in a residential zone shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government facility, a private institutional structure, or other appropriate existing structures within a non-residential zone, and that due to valid considerations including physical constraints, and economic or technological feasibility, no appropriate location is available.

2. The information submitted by the applicant shall include (a) a map of the area to be served by the tower or antenna, (b) its relationship to other cell sites in the applicant's network and a network master plan, and (c) an evaluation of existing buildings taller than thirty feet (30'), within one-quarter (1/4) mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals.

#### 18.102.090 Use Priority on Public Property and Siting Requirements.

A. Where public property is sought to be utilized by an applicant, priority for the use of City-owned land for wireless antennas and towers will be given to the following entities in descending order:

1. City of Lakewood;

2. Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the City of Lakewood and private entities with a public safety agreement with the City of Lakewood;

3. Other governmental agencies, for uses which are not related to public safety; and

4. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), data, Internet, paging, and similar services that are marketed to the general public.

B. Minimum Requirements: The placement of personal wireless service facilities on City-owned property must comply with the following requirements:

1. The facilities will not interfere with the purpose for which the City-owned property is intended;
2. The facilities will have no significant adverse impact on surrounding properties;
3. The applicant will obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The City shall establish fees after considering comparable rates in other cities, potential expenses, risks to the City, and other appropriate factors;
4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the costs of removing the facilities;
5. The antennas or tower will not interfere with other users who have a higher priority as discussed in Section 18.102.090(A);
6. The lease shall provide that, in the case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice, the City may require the applicant to remove the facilities at the applicant's expense;
7. The applicant must reimburse the City for any related costs which the City incurs because of the presence of the applicant's facilities;
8. The applicant must obtain all necessary land use approvals;
9. The applicant must cooperate with the City's objective to encourage co-locations and thus limit the number of cell sites requested, and camouflage the site; and,
10. The applicant must comply with requirements for maintenance of the facility site, including but not limited to keeping lawns mowed, providing litter control and maintaining trees and other vegetation in a healthy state, or such stricter requirements as may be set forth in any Administrative Permits or Conditional Use Permits, or decision of a reviewing body.

C. Special Requirements for Parks: The use of City-owned parks for personal wireless service facilities brings with it special concerns due to the unique nature of these sites. The placement of personal wireless service facilities in a park will be allowed only when the following additional requirements are met:

1. The Planning Advisory Board has reviewed and made a recommendation regarding proposed personal wireless service facilities to be located in the park and this recommendation must be forwarded to the City Council for consideration;
2. Placement of personal wireless service facilities shall conform to the requirements of the Critical Areas and Resource Lands Ordinance.

3. Before personal wireless service facilities may be located in public parks, the applicant shall demonstrate to the satisfaction of the City of Lakewood that visual impacts have been mitigated to the fullest extent reasonably possible and that accommodations have been included in the design and placement so that there would be no disruption of normal public use of the park ;

4. The applicant shall clearly demonstrate that the placement of the personal wireless service facilities in a public park is absolutely necessary for the effective operation of the applicant's personal wireless service, and that alternate placement would not be reasonably possible

D. Required Submittals: Application for Conditional Use Permit, Administrative Use Permit, Building Permit, and other related requests may include any combination of site plans, surveys, maps, technical reports, or written narratives necessary to convey the following information in addition to the requirements of applicable codes and regulations of the City of Lakewood:

1. Photosimulations of the proposed facility from affected residential properties and public rights-of-way at varying distances;

2. A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, and the proposed color(s) of the facility;

3. A signed statement indicating that (a) the applicant and landowner agree they will diligently negotiate in good faith to facilitate co-location of additional personal wireless service facilities by other providers on the applicant's structure or within the same site location and (b) the applicant and/or landlord agree to remove the facility within sixty (60) days after abandonment;

4. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC Para. 1.1307, or, in the event that an FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment;

5. A site plan clearly indicating the location, type and height of the proposed tower and antenna, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures;

6. A current map and aerial showing the location of the proposed tower, a map showing the locations and service areas of other personal wireless service facilities operated by the applicant and those proposed by the applicant that are close enough to impact service within the City;

7. Legal description of the parcel, if applicable;

8. A current map showing all existing towers and antennas of the applicant located within the City

9. The approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

10. A landscape plan showing specific landscape materials;

11 Method of fencing, and finished color and, if applicable, the method of camouflage and illumination;

12 A letter signed by the applicant stating the tower will comply with all FAA regulations and EIA Standards and all other applicable federal, state and local laws and regulations;

13. A statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users;

14. Certification acceptable to the City that the equipment, facilities or their use will not interfere with other adjacent or neighboring transmission or reception functions or other neighborhood uses;

15. The telecommunications company must demonstrate that it is licensed by the FCC if required to be licensed under FCC regulations;

16. If the applicant is not the telecommunications service provider, the applicant shall submit proof of lease agreements with an FCC licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC;

17. A full site plan shall be required for all sites, showing the tower, antenna, antenna support structure, building, fencing, buffering, access, and all other items required in this Chapter; and

18. At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the City.

#### 18.102.100 Co-location .

A. To minimize adverse visual impacts associated with the proliferation of towers, co-location of personal wireless service facilities on existing or new towers is encouraged as follows:

1. Proposed facilities shall co-locate onto existing towers wherever reasonably feasible. Such co-location is permitted outright and new or additional Conditional Use Permit approval is not required, except that any other permit, license, lease, or franchise requirements must be satisfied, and the co-location must be accomplished in a manner consistent with the policy, site criteria, and landscape/screening provisions contained in this Chapter.

2. The Conditional Use Permit requirement for a facility may be waived in non-residential zones if the applicant locates the antenna on an existing structure or an existing tower. The applicant must submit detailed plans to the Community Development Department for an Administrative Use Permit to determine if the Conditional Use Permit process and public hearing can be waived. No building permit will be issued until approval is granted by an Administrative Use Permit or Conditional Use Permit.

3. The City may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on an existing structure or tower.

4. To reduce the number of antenna support structures needed in the City in the future, new proposed support structures shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons.

5. Unless co-location is not feasible: (a) an applicant's site plan shall reserve an area for other providers' equipment near the base of the applicant's tower. A first right-of-refusal (which is either executed or maintained while the providers personal wireless facilities and services are in use) to lease the area at the base of the tower or mount for other providers will meet the reservation requirement. and (b) the site plan for towers in excess of 100 feet above ground level must propose space for two comparable providers, while the site plan for towers 100 feet or less must propose space for one comparable provider. To provide further incentive for co-location, an existing tower may be modified as a matter of right to accommodate co-location without new or additional Conditional Use Permits, provided the additional antenna shall be of the same type as that on the existing tower unless additional height requires a Conditional Use Permit and the following conditions are met:

a. Height: An existing tower, other than a tower constituting a non-conforming use pursuant to Section 18.102.030 of this Chapter may be modified or rebuilt to a taller height, not to exceed twenty feet over the tower's existing height and not to exceed the maximum height permitted under this Chapter, and subject to the other provisions of this Chapter, including by way of example, and not limitation any applicable requirements or conditional use and building permits. The height change may occur only once per tower.

b. Except as set forth herein, no signs, banners or similar devices or materials may be attached to the tower, antenna support structures or antennas.

B. While co-location and the requirements herein are encouraged, co-location shall not take precedence over the construction of shorter towers with appropriate screening.

#### 18.102.110 Design Criteria.

A. As provided above, new facilities shall be designed to accommodate co-location, unless the applicant demonstrates why such design is not feasible for economic, technical, or physical reasons.

B. Facilities shall be architecturally compatible with the surrounding buildings and land uses in the zoning district and screened or otherwise integrated, through location and design, to blend in with the existing characteristics of the site.

1. Setback: A tower's setback shall be measured from the base of the tower to the property line of the parcel on which it is located. In residential districts and residential land use areas, where permitted, towers shall be set back from all property lines a distance equal to 100% of tower height as measured from ground level, except for unusual geographic limitations or other public policy considerations, as determined in the City's sole discretion. All other towers shall comply with the minimum setback requirements of the area in which they are located in all other zoning districts, unless there are unusual geographical limitations or other public policy considerations as determined in the sole and absolute discretion of the City.

Such considerations shall include by way of illustration and not limitation, but are not limited to:

a. Impact on adjacent properties;

- b. Alternative sites for personal wireless facilities; and
- c. The extent to which screening and camouflaging will mitigate the affects of the personal wireless facilities.

2. Right of Way Setback Exception: The setback requirement may be waived if the antenna and antenna support structure are located in the City right-of-way.

3. View Corridors: Due consideration shall be given so that placement of towers, antenna, and personal wireless service facilities do not obstruct or significantly diminish views of Mt. Rainier, Puget Sound, the Olympic Mountains or other scenic vistas.

4. Color: Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA. Security fencing should be colored or should be of a design which blends into the character of the existing neighborhood.

5. Lights, Signals and Signs: No signals, lights, or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, in cases where there are residents located within a distance which is 300% of the height of the tower, then dual mode lighting shall be requested from the FAA.

6. Equipment Structures: Ground level equipment, buildings, and the tower base shall be screened from public view. All such structures shall be considered primary structures, not accessory structures. The standards for the equipment buildings are as follows:

- a. The maximum floor area is 300 square feet and the maximum height is 12 feet. Except in unusual circumstances or for other public policy considerations the equipment building may be located no more than 250 feet from the tower or antenna. Depending upon the aesthetics and other issues, the City, in its sole discretion, may approve multiple equipment structures or one or more larger structures.
- b. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other City Ordinances, Code Sections or regulations.
- c. Equipment buildings mounted on a roof shall have a finish similar to the exterior building walls. Equipment for roof-mounted antenna may also be located within the building on which the antenna is mounted.
- d. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures.

Equipment buildings, antenna, and related equipment shall occupy no more than 25% of the total roof area of the building the facility is mounted on, which may vary in the City's sole discretion if co-location and an adequate screening structure is used.

The use must be approved on a site plan or final development plan, as applicable.

7. Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If those standards and regulations are changed, then personal wireless service providers governed by this Chapter shall bring their towers and antennas into compliance with the revised standards and regulations within three (3) months of their effective date or the time-lines provided by the revised standards and regulations, whichever time period is longer. The revised standards and regulations are not

retroactively applicable to existing providers, unless otherwise provided or permitted by Federal Law. Failure to bring towers and antennas into compliance with the revised standards and regulations shall constitute grounds for the City to remove a provider's facilities at the provider's expense.

8. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable City building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within thirty (30) days, the City may remove the tower at the owner's expense. If the structure is determined by the City to pose an imminent danger to the public, the City shall be entitled to abate the danger through the processes and according to the time-tables of the Uniform Building Code

9. Structural Design: Towers shall be constructed to the EIA Standards, which may be amended from time to time, and to all applicable construction/building codes. Further, any improvements or additions to existing towers shall require submission of site plans stamped by a professional engineer which demonstrate compliance with the EIA Standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested. The antenna and its support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires.

10. Antenna support structure safety: The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

11. Fencing: A well-constructed masonry or rock wall, or wooden fence not less than six (6) feet in height from the finished grade shall be provided around each personal wireless service facility. Access to the tower shall be through a locked gate, and there shall be a KNOX BOX at any such gates. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by a minimum eight (8) foot-wide landscaping strip. All landscaping shall meet the standards of the City of Lakewood Municipal Code.

12. Tower and Antenna Height: The applicant shall demonstrate that the tower and antenna is the minimum height required to function satisfactorily. No tower or antenna that is taller than this minimum height shall be approved. No tower or mount shall exceed sixty (60) feet in any residential zone; park or open space zone; or mixed residential and commercial zone. No tower or mount shall exceed one hundred (100) feet in any industrial zone or commercial zone (other than a mixed residential and commercial zone).

A variance from the height limit may be granted if the applicant can show by clear and convincing evidence that the additional height is necessary to provide adequate service to the residents of the City and no other alternative is available. When granting a variance the Examiner shall require that a significant portion of the of the tower and related facilities be screened by existing trees or existing structures.

Variations shall meet the requirements of Administration of Development Regulations of Title 18 of the Lakewood Municipal Code.

13. Required parking: If the cell site is fully automated, adequate paved parking shall be required for maintenance workers. If the site is not automated, arrangements for adequate off-street parking shall be made and documentation thereof provided to the City.

14. Tower Separation: In no case shall towers be located closer than 500 feet from another tower whether it is owned or utilized by applicant or another provider, unless the City designates areas where multiple towers can be located in closer proximity.

15. Antenna Criteria: Antenna on or above a structure shall be subject to the following:

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

b. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless it must be for technical reasons. In no event shall an antenna project more than 16 feet above the roof line including parapets.

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

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

e. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color.

f. The structure must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.

g. Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the City, in the City's sole discretion.

h. For installations or buildings greater than thirty feet (30') in height, see other applicable provisions of this Chapter. In addition to the other requirements of this Chapter, on buildings thirty feet (30') or less in height, the antenna may be mounted on the roof if the following additional criteria are satisfied:

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

2. No portion of the antenna or base station causes the height of the building to exceed the limitations set forth herein.

3. The antenna or antennas and related base stations cover no more than an aggregate total of 25 percent of the roof area of a building, which may vary in the City's sole discretion, if co-locating and an adequate screening structure are used.

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

5. No portion of the antenna may exceed sixteen (16) feet above the height of the existing building.

i. If a proposed antenna is located on a building or a lot subject to a site review, approval is required prior to the issuance of a building permit.

j. No antenna shall be permitted on property designated as an individual landmark or as a part of a historic district, unless such antenna has been approved in accordance with City Ordinances and regulations.



k. No personal wireless service provider or lessee or agent thereof shall fail to cooperate in good faith to accommodate co-location with competitors. If a dispute arises about the feasibility of co-locating, the City Manager may require a third party technical study, at the expense of either or both parties, to resolve the dispute.

l. No personal wireless service provider or lessee shall fail to assure that its antenna complies at all times with the current applicable FCC standards. After installation, but prior to putting the antenna in service, each provider shall submit a certification by an independent professional engineer to that effect. In the event that an antenna is co-located with another antenna, the certification must provide assurances that FCC approved levels of electromagnetic radiation will not be exceeded by the co-location.

m. Antennas shall comply with FCC regulations to minimize interference with the reception of any other communications signals including public safety, television, and radio broadcast signals.

n. No person shall locate an antenna or tower for wireless communications services upon any lot or parcel except as provided in this Chapter.

18.102.120 Permits Required.

Where a tower or antenna support structure will be 60 feet or less in height, in addition to the other provisions of this Chapter, an applicant will be required to obtain an Administrative Use Permit. In the event that a proposed tower or antenna support structure will be located in a residential zone; park or open space zone; or mixed residential and commercial zone, or will be more than 60 feet in height, in addition to the other provisions of this Chapter, an applicant will be required to obtain a Conditional Use Permit. With respect to the placement of antenna on a tower or antenna support structure, the requirements for a Conditional Use Permit or Administrative Use Permit will be applicable based on the height of the tower and antenna or mount and antenna unless this Chapter provides other requirements to the contrary.

Project permit review procedures shall be as specified in the Ordinances, Codes, Resolutions and regulations of the City of Lakewood.

The following table specifies the permits required for the various types of personal wireless service facilities that meet the standards of this Chapter:

Type of facility	Building	TYPE OF		PERMIT	
		CUP	Site Development	Rights-of-Way Use	Administrative Use
Towers > 60 feet or towers or antenna in residential zones, park or open space zones or mixed residential and commercial zones	Yes (if applicable)	Yes	Yes	Yes (if applicable)	

Structure mounted

Structure mounted wireless facilities	Yes (if applicable)		Yes (if applicable)	Yes
Building mounted wireless facilities	Yes (if applicable)		Yes (if applicable)	Yes (unless waived)
Modification of existing facilities to accommodate co-location	Yes (if applicable)	Yes (if applicable)	Yes (if applicable)	Yes (if applicable)

To meet the standards of this Chapter, a personal wireless service facility must also comply with the other requirements under this Chapter and with the following:

For antenna attached to the roof or sides of a building at least thirty feet (30') in height, an existing tower, a water tank, or a similar structure;

A. The antenna must be either:

1. An omnidirectional or whip antenna no more than 7 inches in diameter and extending no more than sixteen 16 feet above the structure to which they are attached; or
2. A panel antenna no more than Two (2) feet wide and six (6) feet long, extending above the structure to which they are attached by no more than ten (10) feet.

B. Antennas mounted on existing structures in any residential zone; park or open space zone; or mixed residential and commercial zone, not exceeding 16 feet in height, do not require an Administrative Use Permit but may be permitted following a administrative review and submittal of an affidavit of compliance, with this Chapter and other City regulations..

C. Antenna, antenna arrays, and support structures not on publicly-owned property shall not extend more than sixteen 16 feet above the highest point of the structure on which they are mounted.

D. Setback from Street: Unless there are unusual geographic limitations or other public policy considerations, as determined in the City's sole discretion, no such antenna, antenna array, or its support structure shall be erected or maintained closer to any street than the minimum setback for the zone in which it is located unless otherwise waived or exempt.

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

F. To the extent that antenna are attached to electric, phone or light poles and such antenna are no more than two feet (2') in height, administrative use and building permit review will be required, but such antenna shall not be subject to setbacks and screening requirements.

#### 18.102.130 Inspection Requirements.

Each year after a facility becomes operational, the facility operator shall conduct a safety inspection in accordance with the EIA and FCC Standards and within 60 days of the inspection file a report with the City Manager. Submission of a copy of FCC required, and duly filed, safety inspection report, or the facility operator's maintenance reports for the prior twelve months in the event no FCC report is required for such year, shall satisfy the requirements of this section.

#### 18.102.140 Landscaping/screening.

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

B. Screening. The visual impacts of a personal wireless service facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering shall be required around the perimeter of the tower and accessory structures, except that the City may waive the standards for those sides of the facility that are not in public view. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping requirements.

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

2. A continuous hedge at least 36 inches high at planting capable of growing to at least forty-eight (48) inches in height within eighteen (18) months shall be planted in front of the tree line referenced above.

3. In the event that landscaping is not maintained at the level required herein or as required in any Administrative Permits or Conditional Use Permits, or decision of a reviewing body., the City after giving thirty (30) days advance written notice may maintain or establish the landscaping and bill both the owner and lessee for such costs until such costs are paid in full.

#### 18.102.150 Non-use/abandonment.

Abandonment: No less than 30 days prior to the date that a personal wireless service provider plans to abandon or discontinue operation of a facility, the provider must notify the City of Lakewood by certified U.S. mail of the proposed date of abandonment or discontinuation of operation. In the event that a licensed carrier fails to give notice, the facility shall be considered abandoned upon the City's discovery of discontinuation of operation. Upon such abandonment, the provider shall have 60 days or additional period of time determined in the reasonable discretion of the City within which to:

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

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

C. Dismantle and removal facility. If the tower, antenna, foundation, and facility are not removed within the sixty (60) days time period or additional period of time allowed by the City, the City may remove such tower, antenna, foundation, and related facility at the provider's expense. If there are two or more providers co-locating on a facility, except as provided for in the paragraph above this provision shall not become effective until all providers cease using the facility.

At the earlier of sixty (60) days from the date of abandonment without reactivating or upon completion of dismantling and removal, City approval for the facility shall automatically expire.

#### 18.102.160 Third Party Review.

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

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

A. The accuracy and completeness of submissions;

B. The applicability of analysis techniques and methodologies;

C. The validity of conclusions reached; and

D. Any specific technical issues designated by the City.

#### 18.102.170 Remedies.

A. Any person violating any of the provisions of this Chapter upon conviction shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment for a period of up to ninety (90) days, or by both such fine and imprisonment,

for each day during which an offense occurs.

B. In addition to receiving any monetary remuneration, the City shall have the right to seek injunctive relief for any and all violations of this Chapter, and for other relief and/or remedies provided at law or in equity.

18.102.180 Severability.

A. If any section, sentence, clause or phrase of this Chapter shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Chapter.

B. One copy of this Chapter shall be available in the office of the City Clerk for use and examination by the public.

SECTION TWO That contemporaneous with the effective date of this Ordinance, the moratorium imposed on issuance of permits for certain wireless telecommunications facilities, established, modified and extended by Resolution Numbers 1997-30, 1997-39 and 1998-11, shall be rescinded and repealed.

SECTION THREE That this Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary as provided by law.

ADOPTED by the City Council this 20th day of April, 1998.

CITY OF LAKEWOOD

Attest: Bill Harrison, Mayor

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Alice M. Bush, CMC, City Clerk

Approved as to form:

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Daniel B. Heid, City Attorney

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