

ORDINANCE 1052

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, RELATING TO THE PLACEMENT, CONSTRUCTION AND RELATED SITE DEVELOPMENT FOR WIRELESS COMMUNICATION FACILITIES, ADDING A NEW CHAPTER, 16.68 TO THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION

WHEREAS, the Council has determined that it would be in the best interest of the city and its residents that standards be adopted for the placement location, construction and related site development for wireless communication facilities, and

WHEREAS, the Federal Telecommunications Act preserves to local government the authority over decisions regarding the placement, construction and modification of wireless communication facilities, and

WHEREAS, the Planning Commission, after Public Hearing and full consideration of oral and written comments from the city planning staff and members of the wireless communication facilities industry, has recommended the regulations set forth in this ordinance, now therefor

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. Chapter 16.68 is hereby adopted to read as follows:

Chapter 16.68

WIRELESS COMMUNICATION FACILITIES

Sections:

- 16.68.010 Intent
- 16.68.020 Definitions
- 16.68.025 Review Process
- 16.68.027 Additional submittal requirements for applications proposed under Chapter 16.87
- 16.68.030 Permitted locations
- 16.68.040 Permitted height
- 16.68.050 Site development standards
- 16.68.060 Co-location

16.68.080 Radio frequency standards

16.68.090 Technological change and periodic review

16.68.100 Permit limitations

16.68.110 Applicability

16.68.010 Intent. The purpose of this ordinance is to establish appropriate locations, site development standards, and permit requirements to allow for wireless communication services to the residents of the City, in a manner which will facilitate the location of various types of wireless communication facilities in permitted locations so they are consistent with the character of the City. Minimizing the adverse visual impact of these facilities is one of the primary objectives of this ordinance. The ordinance is intended to allow wireless communication facilities which are sufficient to allow adequate service to citizens, the traveling public and others within the City and to accommodate the need for connection of such services to wireless facilities in adjacent and surrounding communities.

16.68.020 Definitions

A. "Antenna" means the specific device the surface to which is used to capture an incoming and/or to transmit an outgoing radio-frequency signal. Antennas include the following types:

1. Omni-Directional (or 'whip') Antenna - receives and transmits signals in a 360 degree pattern, and which is up to 15 feet in height and up to 4 inches in diameter.

2. Directional (or 'panel') Antenna - receives and transmits signals in a directional pattern typically encompassing an arc of 120 degrees.

3. Parabolic (or 'dish') Antenna - a bowl shaped device that receives and transmits signals in a specific directional pattern.

4. Ancillary Antenna - an antenna that is less than 12 inches in its largest dimension and that is not directly used to provide persona wireless communications services. An example would be a global positioning satellite (GPS) antenna.

5. Other - all other transmitting or receiving equipment not specifically described herein shall be regulated in conformity with the type of antenna described herein which most closely resembles such equipment.

B. "Co-location" means the use of a single support structure and/or site by more than one wireless communications provider.

C. "Equipment enclosure" means a small structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communications signals. Associated equipment may include air conditioning and emergency generators.

D. "Support structure" means the structure to which antenna and other necessary associated hardware is mounted. Support structures include but are not limited to the following:

1. Lattice tower - a support structure which consists of a network of crossed metal braces, forming a tower which is usually triangular or square in cross-section.

2. Monopole - a support structure which consists of a single pole sunk into the ground and/or attached to a foundation.

3. Existing non-residential structure - existing structures as specified in Section 16.68.030 to which antennas may be attached which conform to the requirements of Section 16.68.030.

E. "Wireless Communications Facility (WCF)" means an unstaffed facility for the transmission and reception of radio or microwave signals used for commercial communications. WCFs are composed of two or more of the following components:

1. antenna
2. support structure
3. equipment enclosure
4. security barrier

Section 16.68.025 Review process.

A. All requests to locate wireless communication facilities in Lacey shall be reviewed through either the site plan review process of Chapter 16.84 or the conditional use permit process of Chapter 16.87.

B. Wireless communication facilities proposed for co-location or location on existing commercial buildings or public structures shall require approval through the site plan review process of Chapter 16.84.

C. Wireless communication facilities proposed as free-standing support structures shall require approval through the conditional use permit process of Chapter 16.87.

Section 16.68.027 Submittal requirements.

A. Applications proposed under Chapter 16.87. In addition to the information requested in the conditional use application the following items shall be required for a WCF application:

1. A diagram or map showing the viewshed of the proposed facility.

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

3. A map showing the service area of the proposed WCF and an explanation of the need for that facility.

4. A map showing the locations and service areas of other WCF sites operated by the applicant and those that are proposed by the applicant which are close enough to impact service within the city.

5. A site/landscaping plan showing the specific placement of the WCF on the site; showing the location of existing structures, trees, and other significant site features; and indicating type and locations of plant materials used to screen WCF components and the proposed color(S) for the WCF.

6. A signed statement indicating:

a. The applicant agrees to allow for the potential co-location of additional WCF requirement by other providers on the applicant's structure or within the same site location; and

b. That the applicant agrees to remove the facility within 18 months after that site's use is discontinued.

7. A lease agreement with the landholder or letter of authorization from the owner allowing the provider to act as an agent for the landowner in a land use application.

8. Prior to issuance of the building permit, the applicant shall provide a lease agreement that:

a. Allows the landholder to enter into leases with other providers; and,

b. Specifies that if the provider fails to remove the facility upon 18 months of its discontinued use, the responsibility for removal falls upon the landholder.

9. Evaluation of reasonable stealth technology that could be proposed to lessen the visual land use impacts from the facility.

10. Justification must be provided that the structure is necessary and essential, that other methods are not possible, such as use of existing structures (other towers, buildings, etc.) or use of other technological methods such as microcell technology where systems are built as part of cable systems and no towers are needed.

B. Applications submitted under Chapter 16.84. In addition to information listed on the site plan review application, the following information may be required:

1. Those items listed under Subsection 16.68.027A that the administrator deems necessary to properly evaluate the application.

Section 16.68.030 Permitted locations.

A. Zoning and land use compatibility shall be a primary consideration in location of WCFs. Industrial and commercial properties and existing commercial and industrial buildings with the exception of neighborhood commercial zones shall be encouraged for such use. Residential properties shall normally not be considered except on City property in conjunction with City improvements such as water towers or public buildings.

B. WCFs may be mounted on all currently existing nonresidential buildings in nonresidential zones except as follows:

1. Any building which is an accessory structure to a residence.

2. Buildings which, due to their small size, would be dominated by the facility.

C. Building mounted WCFs must meet the following conditions and criteria:

1. A building mounted WCF may consist of the following:

a. Nonreflective panel antenna(s);

b. Whip antenna(s);

c. Nonreflective parabolic dish.

d. The number of antennas shall be reasonable to accommodate the technology and maintenance compatible with the constraints of the building and prevailing land use.

2. In addition to the overall height limitations in Section 16.68.040, the antennas should conform to the following general height restrictions relating to the existing building

provided the site plan review committee may approve any height it feels is reasonably necessary to meet the requirements of the technology that is also compatible with surrounding land uses so as not to significantly impact the aesthetic character of the area.

a. 15 feet measured to the top of a panel antenna above the roof proper of the existing building at the point of attachment.

b. 20 feet measured to the tip of a whip antenna above the roof proper of the existing building at the point of attachment.

c. 5 feet measured to the top of a parabolic dish above the roof proper of the existing building at the point of attachment.

3. Whip antennas shall be camouflaged and located to minimize views from residential structures and rights-of-way.

4. Panel and parabolic antennas shall be adequately screened from residential views and public rights-of-way in a manner that is architecturally compatible with the building on which it is located.

5. Equipment enclosures shall be located within the building in which the facility is placed or located underground if site conditions permit. Otherwise, equipment enclosures shall be screened from view by compatible wall, fences or landscaping.

6. Design review standards of Chapter 14.23.

D. WCFs requiring construction of a support structure may be located on the site of existing nonresidential uses in nonresidential zones except the following:

1. Areas where support structures may not be effectively screened from view by existing structures.

2. Areas where support structures cannot be adequately set back from the nearest residential use property line or the nearest vacant property zoned for residential use (usually a minimum of 50 feet), measured from the property line.

E. WCFs requiring construction of a support structure must be located on a portion of the site that is effectively isolated from view of residential areas or public rights-of-way by structures or terrain features unless they are integrated or act as an architectural element of the structure, such as a flag pole.

F. WCFs are not allowed on properties zoned for residential use except on public facilities that can accommodate the use with stealth technology designed to avoid aesthetic impacts; an example could be a water tower with a camouflaged antenna attached.

Section 16.68.040 Permitted height. WCFs utilizing a free-standing support structure and omni-directional antennas and supporting structures shall be limited to the minimum height reasonably required to accommodate the technology. Support documentation shall be submitted justifying the requested height, which may include a technical analysis from an independent party of the city's choice.

Section 16.68.050 Site development standards.

A. Free-standing WCFs shall conform to the following site development standards:

1. Support structures shall be set back from all residential property lines a distance equal to the height of the support structure plus the height of any antennas, and shall comply with all required setbacks of the zoning district in which it is located.

2. Support structures shall be designed and placed on the site in a manner that takes maximum advantage of existing trees, mature vegetation, and structures so as to:

a. Use existing site features to screen as much of the total WCF as possible from prevalent views; and/or,

b. Use existing site features as a background so that the total WCF blends into the background with increased sight distances.

3. Relocation of a proposed facility on the site and infill landscaping of mature plant materials consistent with landscaping of the city may be required by the city to make the best use of or to supplement existing trees and vegetation to more effectively screen the facility.

4. Support structures, panel and parabolic antennas, and any associated hardware shall be painted a nonreflective color or color scheme appropriate to the background against which the WCF would be viewed from a majority of points within its viewshed. Natural colors only may be employed and the final colors and color scheme must meet the approval of the city.

5. Equipment enclosures shall conform to the following:

a. Equipment enclosures will be placed underground if site conditions permit and if technically feasible.

b. Equipment enclosures shall be screened from view except as provided in c. below.

c. Walk-in equipment enclosures:

1) May not be constructed with exposed metal surfaces.

2) May not be required to be totally screened from view provided the city finds that the walk-in equipment enclosure has been designed using materials, colors, and detailing that produces a structure which emulates the desired character of the zone in which it is located.

6. Security fencing, if used, shall conform to the following:

a. No fence shall exceed six feet in height.

b. Security fencing shall be effectively screened from view through the use of appropriate landscaping materials consistent with requirements of Chapter 16.80.

c. Chain-link fences shall be painted or coated with a nonreflective color.

B. The city shall consider the cumulative visual effects of WCFs mounted on existing structures and/or located on a given permitted site in determining whether additional permits can be granted so as to not adversely affect the character of the city.

Section 16.68.060 Co-location

A. A permittee shall cooperate with other WCF providers in co-locating additional antennas on support structures and/or on existing buildings provided said proposed co-locators have received an appropriate permit for such use at said site from the city. A permittee shall exercise good faith in co-locating with other providers and sharing the permitted site, provided such shared use does not give rise to a substantial technical level impairment of the ability to provide the permitted use (i.e., a significant interference in broadcast or reception capabilities as opposed to a competitive conflict or financial burden). Such good faith shall include sharing technical information to evaluate the feasibility of co-location. In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the city may require a third party technical study at the expense of either or both the applicant and permittee.

B. All applicants shall demonstrate reasonable efforts in developing a co-location alternative for their proposal.

C. Failure to comply with the co-location requirements of this section may result in the denial of a permit request or revocation of an existing permit.

Section 16.68.080 Radio frequency standards

A. The applicant shall comply with Federal standards for radio frequency emissions. Within six months after the issuance of its operational permit, the applicant shall submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site and compares the results with established Federal standards. Said report shall be subject to review and approval of the city for consistency with Federal standards. If on review, the city finds that the WCF does not meet Federal standards, the city may revoke or modify this special use permit.

B. The applicant shall ensure that the WCF will not cause localized interference with the reception of area television or radio broadcasts. If on review the city finds that the WCF interferes with such reception, and if such interference is not cured within sixty days, the city may revoke or modify this permit.

Section 16.68.090 Technological change and periodic review. The city recognizes that WCFs and communication technologies in general are currently subject to rapid change. Innovations in such things as switching hardware and software, transmission/receiving equipment, communications protocols, and development of hybrid cable/wireless systems may result in reducing the impacts of individual facilities and to render specific portions of this ordinance obsolete. The city recognizes the fast pace of this technology and shall have the flexibility to accommodate it where there is a conflict with provisions of the ordinance where the city considers it reasonable to do so where the purposes of this ordinance and vision of the city can still be accomplished.

Section 16.68.100 Permit limitations

A. A permit for a freestanding support structure WCF shall expire 10 years after the effective date of the permit approval. A permittee wishing to continue the use of a specific WCF at the end of the 10-year period must apply for a new permit to continue that use at least six months prior to its expiration. In ruling on said renewal, the city shall apply all then-existing regulations affecting the application and shall consider new technology that may reduce aesthetic and land use impacts.

B. A permit shall become null, void and non-renewable if the permitted facility is not constructed and placed into use within 18 months of the date of the city approval, provided that the permit may be extended one time for six months if construction has commenced before expiration of the original time period.

C. The permit shall expire and the applicant must remove the facility if the facility is not put into use within ninety days after construction or if use is discontinued for a period in excess of ninety days. If the facility is not so removed, the city may cause the facility to be removed and all expenses of removal shall be paid by the owner of the land where the facility is located.

D. The applicant shall maintain the WCF to standards that may be imposed by the city at the time of the granting of a permit. Such maintenance shall include, but shall not be limited to, maintenance of the paint, structural integrity and landscaping. If the applicant fails to maintain the facility, the city may undertake the maintenance at the expense of the applicant or terminate the permit, at the city's sole option.

E. The applicant shall notify the city of all changes in ownership or operation of the facility within sixty days of the change.

Section 16.68.110 Applicability. The requirements of this ordinance apply to all new WCFs and the expansion and/or alteration of any existing WCFs; provided that an in-kind or smaller replacement of transmission equipment will only require a written notification to the city.

Section 2. The summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this February day of February, 1997.
27th.

CITY COUNCIL

By: Nancy Teleson
Mayor

Attest:

Approved as to form:

Charlotte Taylor
City Clerk

[Signature]
City Attorney

Published: March 3, 1997
Monday

SUMMARY FOR PUBLICATION

ORDINANCE 1052

CITY OF LACEY

 The City Council of the City of Lacey, Washington, passed on FEBRUARY 27, Ordinance No. 1052 entitled "AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, RELATING TO THE PLACEMENT, CONSTRUCTION AND RELATED SITE DEVELOPMENT FOR WIRELESS COMMUNICATION FACILITIES, ADDING A NEW CHAPTER, 16.68 TO THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION."

The main points of the ordinance are described as follows:

1. The ordinance is adopted for the purpose of establishing appropriate placement, construction standards and associated site development regulations for wireless communication facilities, including antennas of various types used to capture incoming and transmitting outgoing radio frequency signals.

2. The ordinance establishes a review process, requiring site plan review for facilities proposed for co-location with other such facilities or locations on existing commercial buildings or public structures. Review in the nature of the city's conditional use permit process is required for free standing structures.

3. The ordinance specifies the type of locations which are permitted for wireless communication facilities. Location in conjunction with industrial and commercial properties as well as co-location are encouraged.

4. The ordinance further limits the height of such facilities and sets development standards for the site upon which such facilities are located.

5. Provisions of the ordinance require cooperation between wireless communication facility providers and mandate a demonstration of reasonable efforts for co-location prior to the issuance of a permit.

6. The regulations require compliance with federal standards for radio frequency emissions and require assurance that the facilities will not cause localized interference with area television or radio reception.

7. Permits for free standing facility support structures expire ten years after their issuance with the request for renewal required. If a structure has not been completed within eighteen months after a permit is granted, that permit will also expire.

8. The provisions of the ordinance apply to all new wireless communication facilities and the expansion or alteration of any existing facilities. However, in-kind or smaller replacement of transmission equipment will only require a written notification to the city.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: March 3, 1997
Monday

Chayotte M. Taylor
Lacey City Clerk