



PLANNING COMMISSION

WEDNESDAY, SEPTEMBER 13, 2023

PUBLIC HEARING

2. Development Code Process Clarifications (Rybold) (30 minutes)

**PLANNING COMMISSION
RESOLUTION NO. LP23-0002**

**A RESOLUTION OF THE CITY OF WILSONVILLE PLANNING COMMISSION
RECOMMENDING THE WILSONVILLE CITY COUNCIL AMEND THE TEXT OF THE DEVELOPMENT
CODE TO CLARIFY REVIEW PROCESSES AND CORRECT INCONSISTENCIES.**

WHEREAS, in 2016 the City adopted Ordinance No. 797 which amended Sections 4.800 through 4.804 of the Wilsonville Code (WC) and added Sections 4.805 through 4.814 to respond to new Federal Communications Commission (FCC) regulations, pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. § 1455(a)), requiring that cities provide a faster expedited review of certain new co-located wireless communication facilities applications; and

WHEREAS, in 2019, the City adopted Ordinance No. 831 which amended Sections 4.800 through 4.814 in response to new FCC regulations for small wireless facilities to include a Class 1 Administrative Review process for these facilities due to the required review timelines; and

WHEREAS, per the FCC regulations applications for co-location pursuant to Section 6049(a) are subject to a review timeline of 60 days, which timeframes warrant a Class 1 Administrative Review process instead of the current Class 2 Administrative Review process under the Wilsonville Development Code; and

WHEREAS, clarification of application requirements listed in WC Section 4.801 for different wireless communication facility application types will reduce confusion for applicants, staff, and the public; and

WHEREAS, in 2009, the City adopted Ordinance No. 666 which amended WC Section 4.023 to allow for administrative review of time extensions and included special provisions for development approval extensions during 2009 and 2010; and

WHEREAS, adoption of this Ordinance resulted in inconsistent review processes for development approval extensions in WC Sections 4.023 and 4.140; and

WHEREAS, minor edits to procedural requirements in WC Sections 4.011, 4.022, 4.030, and 4.156.09 will provide additional clarity for applicants, staff, and the public; and

WHEREAS, the Planning Commission of the City has the authority to review and make recommendations to the City Council regarding legislative changes to the Development Code pursuant to WC Sections 2.322 and 4.032; and

WHEREAS, following the timely mailing, posting, and publication of the required notice, the Planning Commission conducted a public hearing on September 13, 2023, to review the proposed Development Code amendments, and to gather additional testimony and evidence regarding the proposed amendments; and

WHEREAS, the Planning Commission has duly considered the subject, including the staff recommendation and all the exhibits and testimony introduced and offered by all interested parties.

NOW, THEREFORE, THE CITY OF WILSONVILLE PLANNING COMMISSION RESOLVES AS FOLLOWS:

- Section 1. The Wilsonville Planning Commission does hereby adopt the Planning Staff Report (attached hereto as Exhibit A) and Attachments, as presented at the September 13, 2023, public hearing, including the findings and recommendations contained therein.
- Section 2. The Planning Commission does hereby recommend that the Wilsonville City Council adopt the proposed amendments to the Wilsonville Development Code.
- Section 3. Effective Date. This Resolution is effective upon adoption.

ADOPTED by the Wilsonville Planning Commission at a regular meeting thereof this 13th day of September, 2023, and filed with the Planning Administrative Assistant on this date.

PLANNING COMMISSION CHAIR HEBERLEIN

ATTEST:

Mandi Simmons, Administrative Assistant III

RESOLUTION NO. LP23-0002

Page 2 of 3

N:\planning\Planning Public\Planning Commission\Packet\2023 PC PACKET\2023.09.13 PC\Development Code Process Clarifications\RESOLUTION NO LP23-0002.docx

Planning Commission Meeting - September 13, 2023
Development Code Process Clarifications

SUMMARY OF VOTES:

Ronald Heberlein, Chair

Jennifer Willard, Vice-Chair

Nicole Hendrix

Andrew Karr

Kamran Mesbah

Kathryn Neil

EXHIBITS:

- A. Staff Report and Attachments



**PLANNING COMMISSION MEETING
STAFF REPORT**

Meeting Date: September 13, 2023		Subject: Development Code Process Clarifications	
		Staff Members: Kimberly Rybold, AICP, Senior Planner	
		Department: Community Development	
Action Required		Advisory Board/Commission Recommendation	
<input type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable Comments: N/A	
Staff Recommendation: Adopt Resolution No. LP23-0002 recommending adoption of the Development Code amendments that clarify review processes and requirements for certain development application types.			
Recommended Language for Motion: I move to adopt Resolution No. LP23-0002.			
Project / Issue Relates To:			
<input type="checkbox"/> Council Goals/Priorities:	<input type="checkbox"/> Adopted Master Plan(s):	<input checked="" type="checkbox"/> Not Applicable	

ISSUE BEFORE COMMISSION:

The project team will present proposed Development Code amendments to clarify the review process for certain application types, including wireless communications facilities, extensions of development approvals, and temporary use and sign permits.

EXECUTIVE SUMMARY:

The proposed Development Code process clarifications will update review processes for certain application types, clarify application requirements, and correct inconsistencies in the Development Code regarding existing review processes. The proposed amendments (Attachment 1, Exhibit A) are intended to reduce confusion among applicants and the broader public on required review processes and information needed for certain application types. The proposed amendments will also adjust the review process for some Wireless Communications Facility (WCF) applications.

The primary focus of this work is to clarify application requirements and review processes for various types of WCF applications to better reflect Federal review and approval requirements and the level of information needed to review different types of WCFs. Key amendments include the following:

- **Review Process for Co-locations** – Revisions to Section 4.804 (Review Process and Approval Standards) to enable WCF applications subject to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. § 1455(a)) to be reviewed through the Class 1 Administrative Review process. Section 6409(a) applications are required to be reviewed in a condensed timeline of 60 days (with limited tolling of this review timeline) and must be approved if all applicable criteria are met. Given the ministerial nature of this review and the inability to incorporate input received through the public comment period, a Class 1 Administrative Review process is most appropriate for these application types. This would be the same as the review process for Small Wireless Facilities (SWFs), which are governed by similar Federal review mandates.
- **Application Requirements** – Specificity added to Section 4.800 about the different WCF types to directly address which ones are permitted, conditional, prohibited, or exempt. Within Section 4.801, the proposed amendments clarify what application materials must be submitted for different WCF types. This clarification will reduce applicant confusion for co-locations and SWFs, as many of the required items are only applicable to new WCF.

Other process clarifications are proposed as noted below:

- **Extension of Development Approvals** – Revisions to Sections 4.023 (Expiration of Development Approvals) and 4.140 (Planned Development Regulations) to resolve conflicting process language regarding the review process for development approval extensions. Revisions would clarify that these requests are reviewed as a Class 1 Administrative Review.
- **Temporary Use Permits** – Amendments to Section 4.030 (Jurisdiction and Powers of Planning Director and Community Development Director) clarify how the time period of the permit is calculated consistent with current practice that allows permits for non-consecutive days. Approval criteria for Class 2 Temporary Use Permits would be updated to be consistent with Class 1 Temporary Use Permits.
- **Temporary Sign Permits** – Amendments adding clarifying language to Section 4.156.09 (Temporary Signs in all Zones) describing which temporary signs need a permit.

- **General Administration** – Clarification in Section 4.011 (How Applications are Processed) that to be considered filed, applications must include authorization as specified in Section 4.009 (Who May Initiate Applications). Clarification within Section 4.022 (Appeal and Call-up Procedures) that appeals of Development Review Board decisions must include a payment of a filing fee within the 14-day appeal period. Addition of Type B Tree Removal Permits to the list of Class 2 Administrative Review applications consistent with Section 4.610.30 (Type B Permit).

The final draft of the proposed amendments (Attachment 1) incorporates clarification on outstanding items identified in the first draft of amendments presented to Planning Commission and City Council at work sessions in summer 2023.

EXPECTED RESULTS:

Recommendation to the City Council to adopt the Development Code amendments to clarify review processes and requirements.

TIMELINE:

This item is scheduled for public hearing with the City Council on September 18, 2023, pending the Commission’s recommendation. Second reading is scheduled for October 2, 2023.

CURRENT YEAR BUDGET IMPACTS:

Consultant costs will be paid by the Planning Division’s professional services budget. Staff time for this update will be paid from the Planning Division’s budget.

COMMUNITY INVOLVEMENT PROCESS:

Existing Development Code regulations were adopted by the City after community outreach. The proposed Development Code amendments are procedural, not policy-based, in nature. The community was notified of Planning Commission and City Council public hearings and will have the opportunity to provide oral or written testimony on the amendments.

POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:

Adoption of the proposed Development Code modifications will provide applicants and the community additional clarity and certainty on the review process for affected development applications.

ALTERNATIVES:

The Commission can recommend, recommend with modifications, or deny the proposed amendments. If more time is needed to consider the proposed amendments, the Commission may also continue the hearing to a date certain.

ATTACHMENTS:

1. Development Code Amendments
2. LP23-0002 Findings Report
3. LP23-0002 Planning Commission Record

LP23-0002: Proposed Development Code Edits – September 2023

Proposed added language **bold underline**. Proposed removed language ~~struck through~~.

Section 4.011. How Applications are Processed.

- (.01) Applications submitted without the required filing fee, **or the correct authorization as specified in Section 4.009**, shall not be considered to be "filed" and shall be returned to the prospective applicant without being processed.

No additional changes proposed in this section

Section 4.022. Appeal and Call-up Procedures.

- (.01) *Administrative Action Appeals.* A decision by the Planning Director on issuance of a Site Development Permit may be appealed. Such appeals shall be heard by the Development Review Board for all quasi-judicial land use matters except expedited land divisions and middle housing land divisions requiring expedited review under state law, as indicated in Section 4.232, which may be appealed to a referee selected by the City to consider such cases. Only the applicant may appeal a Class I decision unless otherwise specified in Section 4.030, and such appeals shall be filed, including all of the required particulars and filing fee, with the City recorder as provided in this Section. Any affected party may appeal a Class II decision by filing an appeal, including all of the required particulars and filing fee, with the City Recorder within 14 calendar days of notice of the decision. Either panel of the Development Review Board, or both panels if convened together, may also initiate a call-up of the Director's decision by motion, without the necessity of paying a filing fee, for matters other than expedited land divisions and middle housing land divisions requiring expedited review under state law, as indicated in Section 4.232. The notice of appeal shall indicate the nature of the action or interpretation that is being appealed or called up and the matter at issue will be a determination of the appropriateness of the action or interpretation of the requirements of the Code.
- (.02) *Board Action.* A decision of the Development Review Board may be appealed to the Council by any affected party who participated in the hearing before the Board by filing an appeal, **including all of the required particulars and filing fee**, within 14 calendar days of the posting of the notice of decision, or by the call-up procedures listed below. The notice of appeal shall indicate the decision that is being appealed.

No additional changes proposed in this section

Section 4.023. Expiration of Development Approvals (See also Section 4.140).

- (.01) Except for Specific Area Plans (SAP), land use and development permits and approvals, including both Stage I and Stage II Planned Development approvals, shall be valid for a maximum of two years, unless extended as provided in this Section. Specific Area Plan approvals shall not expire.
- A. Substantial development, as defined in this Chapter, has taken place in compliance with the permit or approval; or
 - B. A time extension has been granted by city staff for good cause. ~~Except as provided in subsection (.05) below, n~~ **Not more than three such extensions may be granted, for not more than one year each.**
- (.02) If the development approval is for a subdivision or partition, the developer has two years from the date of approval to submit the final plat for recordation, unless a time extension has been granted as specified in

Section 4.023(.01), above. Use of the site or substantial development does not obviate the need for submittal of the final plat within the specified time limits.

- (.03) Zone changes shall not expire unless expiration provisions are specifically included in the zone order adopted by the City Council.
- (.04) Requests for time extensions shall be submitted in writing, including written justification therefore, and received by the Planning Department not less than ~~eight (8)~~ **one** calendar days prior to the expiration date of the permit or approval. **A development approval shall not expire prior to a decision on the granting of this time extension if the request was submitted in accordance with this subsection.**
- ~~(.05) Notwithstanding the limitations and requirements in Section 4.023(.01)(B.) and (.04), beginning June 1, 2009 and ending June 1, 2010, city staff shall approve all applications for one year extensions, which applications shall not require a demonstration of good cause, but shall be accompanied by a filing fee which shall not exceed the fee for a Class 1 Administrative Review, and which extensions shall not be counted toward the maximum number of extensions allowed in Subsection 4.023(.01)(B.).~~

Section 4.030. Jurisdiction and Powers of Planning Director and Community Development Director.

- (.01) *Authority of Planning Director.* The Planning Director shall have authority over the daily administration and enforcement of the provisions of this Chapter, including dealing with non-discretionary matters, and shall have specific authority as follows:
 - A. A Class I application shall be processed as a ministerial action without public hearing, shall not require public notice, and shall not be subject to appeal or call-up, except as noted below. Pursuant to Class I procedures set forth in Section 4.035, and upon finding that a proposal is consistent with the provisions of this Code and any applicable Conditions of Approval, shall approve the following, with or without conditions:
 - 1. Minor site clearing and grading, prior to the approval of a Site Development Plan, provided that:
 - a. No clearing or grading occurs within the Significant Resource Overlay Zone. Clearing or grading in the Significant Resource Overlay Zone shall require, at a minimum, approval of a Class II permit through the procedures specified below;
 - b. No clearing or grading occurs within 25 feet of an area that has been identified by the City as a wetland;
 - c. Not more than three trees are proposed to be removed;
 - d. No fill or removal is proposed;
 - e. Adequate measures are utilized to control erosion and runoff from the site and that the applicant will submit a final Site Development application within seven days of submitting the minor site grading application. All grading activities require compliance with the requirements of the applicable building code and City Public Works standards.
 - 2. Class I Sign Permits, and Temporary Sign Permits for 30 days or less.
 - 3. Architectural, landscape, tree removal, grading and building plans that substantially conform to the plans approved by the Development Review Board and/or City Council. The Planning Director's approval of such plans shall apply only to Development Code requirements and shall not alter the authority of the Building Official or City Engineer on these matters.

4. Building permits for single family dwellings, middle housing, and in the Village zone, row houses or apartments, meeting zoning requirements and located on lots that have been legally created. The Planning Director's approval of such plans shall apply only to Development Code requirements and shall not alter the authority of the Building Official or City Engineer on these matters.
5. Lot line adjustments, where none of the lots increase in area by 50 percent or more, subject to the standards specified in Section 4.233.
6. A temporary use permit for not more than 30 days, **Permitted days may or may not be consecutive, but shall not exceed 30 days within the calendar year for which the permit was applied. Temporary use permits are** subject to the following standards:
 - a. The applicant has the written permission of the property owner to use the site;
 - b. The proposed use will not create an obstruction within a sight vision clearance area that would impair the vision of motorists entering onto or passing by the property;
 - c. Adequate parking is provided;
 - d. Signs shall meet the standards of Section 4.156.09. ~~A maximum of two signs, not exceeding a combined total of 24 square feet, are allowed;~~ and
 - e. The proposed use has the approval of the Fire Marshal.
7. Determination that an existing use or structure is a non-conforming use or non-conforming structure, as defined in this Code. Except, however, that the Planning Director may, in cases where there is any uncertainty as to the history of the property, choose to process such determinations through the Class II procedures below.
8. Actions taken subject to Site Development Permits which have been approved by the appropriate decision-making body of the City.
9. Final plats for condominiums, subdivisions, or partitions that are substantially the same as tentative plats approved by the City and which are submitted for review and signature prior to recordation with the appropriate county.
10. Type A tree removal permits as provided in Section 4.600.
11. Determination, based upon consultation with the City Attorney, whether a given development application is quasi-judicial or legislative. Except, however, that the Planning Director may, in cases where there is any uncertainty as to the nature of the application, choose to process such determinations through the Class II procedures below.
12. Expedited land divisions and middle housing land divisions requiring expedited review under state law. Applications for expedited land divisions and middle housing land divisions requiring expedited review under state law, as provided for in Section 4.232 of this Code and ORS Chapter 197 shall be processed without public hearing, and shall be subject to appeal through the special appeal procedures specified in Section 4.232.
 - a. Authority of Planning Director. The Planning Director shall have authority to review applications for expedited land divisions and middle housing land divisions requiring expedited review under state law and to take action approving, approving with conditions, or denying such applications, based on findings of fact.
 - b. Tentative Plat Requirements for Expedited Land Divisions and middle housing land divisions requiring expedited review under state law. Tentative plats and all other application requirements for expedited land divisions and middle housing land divisions requiring

expedited review under state law shall be the same as for other forms of land divisions, except as those requirements are specifically altered by the Oregon Revised Statutes.

- c. Administrative Relief Not Available. In taking action on an application for an expedited land division or middle housing land divisions requiring expedited review under state law, the Planning Director is not authorized to grant Variances or waivers from the requirements of the Code.
- d. Residential Areas Only. As specified in ORS 197, expedited land divisions shall only be approved in areas zoned for residential use.

13. Development approval extensions as provided in Section 4.023.

- B. A Class II application shall be processed as an administrative action, with or without a public hearing, shall require public notice, and shall be subject to appeal or call-up, as noted below. Pursuant to Class II procedures set forth in Section 4.035, the Director shall approve, approve with conditions, deny, or refer the application to the Development Review Board for a hearing:
 - 1. Minor alterations to existing buildings or site improvements of less than 25 percent of the previous floor area of a building, but not to exceed 1,250 square feet, or including the addition or removal of not more than ten parking spaces. Minor modifications to approved Architectural and Site Development Plans may also be approved, subject to the same standards.
 - 2. Residential accessory buildings or structures with less than 120 square feet of floor area located within the Willamette River Greenway Boundary pursuant to Section 4.500 and subject to the flood plain development standards of Section 4.172. Approval of such accessory structures in the Greenway shall be based on all of the following findings of fact:
 - a. The building or structure is located so that the maximum amount of landscape area, open space and/or vegetation is provided between the river and the building;
 - b. Public access to the river is preserved or is provided in accordance with an approved and adopted plan; and
 - c. That the change of use, intensification of use, or development will be directed away from the river to the greatest possible degree while allowing a reasonable use of the property.
 - 3. Written interpretations of the text or maps of this Code, the Comprehensive Plan or sub-elements of the Comprehensive Plan, subject to appeal as provided in Section 4.022. The Planning Director may review and interpret the provisions and standards of Chapter 4 (Planning) of the Wilsonville Code upon receiving the required filing fee along with a specific written request. The Director shall publish and mail notice to affected parties and shall inform the Planning Commission and City Attorney prior to making a final written decision. The Director's letter and notice of decision shall be provided to the applicant, the Planning Commission, the City Council, and City Attorney and the notice shall clearly state that the decision may be appealed in accordance with Section 4.022 (Appeal Procedures). A log of such interpretations shall be kept in the office of the Planning Department for public review.
 - 4. A permit to locate an accessory use on a lot adjacent to the site of the principal use.
 - 5. Subdivisions located within the Coffee Creek Industrial Design Overlay District and land partitions, other than expedited land divisions, pursuant to Section 4.210. Approval shall be based on all of the following findings of fact:
 - a. The applicant has made a complete submittal of materials for the Director to review, as required in Section 4.210;

- b. The proposed plan meets the requirements of the Code regarding minimum lot size and yard setbacks;
 - c. The approval will not impede or adversely affect the orderly development of any adjoining property or access thereto;
 - d. The public right-of-way bordering the lots or parcels will meet City standards;
 - e. Any required public dedications of land have been approved for acceptance by the City and will be recorded with the County prior to final plat approval;
 - f. Adequate easements are proposed where an existing utility line crosses or encroaches upon any other parcel to be created by the partition;
 - g. All public utilities and facilities are available or can be provided prior to the issuance of any development permit for any lot or parcel; and
 - h. Roads extended or created as a result of the land division will meet City standards.
6. Decisions on the following:
- a. Lot line adjustments, where any of the lots increase by more than 50 percent in area, subject to the provisions of Section 4.233.
 - b. Temporary use permits for periods exceeding 30 days **but not more than 120 days. Permitted days may or may not be consecutive, but shall not exceed 120 days within the calendar year for which the permit was applied.** Temporary use permits may allow specific activities associated with the primary use or business located on the property for up to 120 days provided that:
 - i. the property owners have given written permission;
 - ii. no structure, sign or any other object shall exceed 20 feet in height;
 - iii. adequate parking is provided in designated spaces;
 - iv. signs **shall meet the standards of Section 4.156.09**~~are limited to a maximum of two and shall not exceed a total combined area of 24 square feet;~~
 - v. electrical and building permits are obtained as required;
 - vi. undue traffic congestion will not result and, if traffic congestion is expected, a traffic control plan is submitted along with the application that identifies the traffic control procedures that will be used;
 - vii. the activity and/or use shall not unduly interfere with motorists driving on adjacent roads and streets, including I-5; and
 - viii. public notice has been provided and the comments of interested parties have been considered in the action that has been taken-;
 - ix. the proposed use will not create an obstruction within a sight vision clearance area that would impair the vision of motorists entering onto or passing by the property; and**
 - x. the proposed use has the approval of the Fire Marshal.**
7. Solar access permits, as specified in Section 4.137.3.
8. Class II Sign Permits.

9. Site design review, as authorized in Section 4.400 for properties located within the Coffee Creek Industrial Design Overlay District, which satisfy all applicable standards and adjustment criteria in Section 4.134.10.
10. Review of Stage I and Stage II Planned Development applications for properties located within the Coffee Creek Industrial Design Overlay District, which satisfy all applicable standards and adjustment criteria in Section 4.134.

11. Type B tree removal permits as provided in Section 4.600.

- ~~12~~1. Type C tree removal permits as provided in Section 4.600 for properties located within the Coffee Creek Industrial Design Overlay District.

No additional changes proposed in this section

Section 4.140. Planned Development Regulations.

No changes proposed in Subsections (.01) to (.08)

(.09) *Final Approval (Stage Two):*

[Note: Outline Number is incorrect.]

- A. Unless an extension has been granted by the ~~Development Review Board or~~ Planning Director, ~~as applicable,~~ within two years after the approval or modified approval of a preliminary development plan (Stage I), the applicant shall file with the City Planning Department a final plan for the entire development or when submission in stages has been authorized pursuant to Section 4.035 for the first unit of the development, a public hearing shall be held on each such application as provided in Section 4.013. As provided in Section 4.134, an application for a Stage II approval within the Coffee Creek Industrial Design Overlay District may be considered by the Planning Director without a public hearing as a Class II Administrative Review as provided in Section 4.035(.03).
- B. The Development Review Board or Planning Director, as applicable, shall determine whether the proposal conforms to the permit criteria set forth in this Code, and shall approve, conditionally approve, or disapprove the application.
- C. The final plan shall conform in all major respects with the approved preliminary development plan, and shall include all information included in the preliminary plan plus the following:
 1. The location of water, sewerage and drainage facilities;
 2. Preliminary building and landscaping plans and elevations, sufficient to indicate the general character of the development;
 3. The general type and location of signs;
 4. Topographic information as set forth in Section 4.035;
 5. A map indicating the types and locations of all proposed uses; and
 6. A grading plan.
- D. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development or phase of development. However, Site Design Review is a separate and more detailed review of proposed design features, subject to the standards of Section 4.400.

-
- E. Copies of legal documents required by the Development Review Board or Planning Director, as applicable, for dedication or reservation of public facilities, or for the creation of a non-profit homeowner's association, shall also be submitted.
- F. Within 30 days after the filing of the final development plan, the Planning staff shall forward such development plan and the original application to the Tualatin Valley Fire and Rescue District, if applicable, and other agencies involved for review of public improvements, including streets, sewers and drainage. The Development Review Board or Planning Director, as applicable, shall not act on a final development plan until it has first received a report from the agencies or until more than 30 days have elapsed since the plan and application were sent to the agencies, whichever is the shorter period.
- G. Upon receipt of the final development plan, the Development Review Board or Planning Director, as applicable shall examine such plan and determine:
1. Whether it conforms to all applicable criteria and standards; and
 2. Whether it conforms in all substantial respects to the preliminary approval; or
 3. Require such changes in the proposed development or impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards.
- H. If the Development Review Board or Planning Director, as applicable, permits the applicant to revise the plan, it shall be resubmitted as a final development plan within 60 days. If the Board or Planning Director approves, disapproves or grants such permission to resubmit, the decision of the Board shall become final at the end of the appeal period for the decision, unless appealed to the City Council, in accordance with Sections 4.022 of this Code.
- I. All Stage II Site Development plan approvals shall expire two years after their approval date, if substantial development has not occurred on the property prior to that time. Provided, however, that the ~~Development Review Board or Planning Director, as applicable,~~ may extend these expiration times for up to three additional periods of not more than one year each. Applicants seeking time extensions shall make their requests in writing at least ~~30~~one days in advance of the expiration date. **A development approval shall not expire prior to a decision on the granting of this time extension if the request was submitted in accordance with this subsection.** Requests for time extensions shall only be granted upon (1) a showing that the applicant has in good faith attempted to develop or market the property in the preceding year or that development can be expected to occur within the next year, and (2) payment of any and all Supplemental Street SDCs applicable to the development. Upon such payment, the development shall have vested traffic generation rights under [section] 4.140(.10), provided however, that if the Stage II approval should expire, the vested right to use trips is terminated upon City repayment, without interest, of Supplemental Street SDCs. For purposes of this Ordinance, "substantial development" is deemed to have occurred if the required building permits or public works permits have been issued for the development, and the development has been diligently pursued, including the completion of all conditions of approval established for the permit.
- J. A planned development permit may be granted by the Development Review Board or Planning Director, as applicable, only if it is found that the development conforms to all the following criteria, as well as to the Planned Development Regulations in Section 4.140:
1. The location, design, size and uses, both separately and as a whole, are consistent with the Comprehensive Plan, and with any other applicable plan, development map or Ordinance adopted by the City Council.
 2. That the location, design, size and uses are such that traffic generated by the development at the most probable used intersection(s) can be accommodated safely and without congestion in excess of Level of Service D, as defined in the Highway Capacity Manual published by the National Highway Research Board, on existing or immediately planned arterial or collector streets and will, in the case of commercial or industrial developments, avoid traversing local streets.
-

Immediately planned arterial and collector streets are those listed in the City's adopted Capital Improvement Program, for which funding has been approved or committed, and that are scheduled for completion within two years of occupancy of the development or four year if they are an associated crossing, interchange, or approach street improvement to Interstate 5.

- a. In determining levels of Service D, the City shall hire a traffic engineer at the applicant's expense who shall prepare a written report containing the following minimum information for consideration by the Development Review Board:
 - i. An estimate of the amount of traffic generated by the proposed development, the likely routes of travel of the estimated generated traffic, and the source(s) of information of the estimate of the traffic generated and the likely routes of travel;
 - ii. What impact the estimate generated traffic will have on existing level of service including traffic generated by (1) the development itself, (2) all existing developments, (3) Stage II developments approved but not yet built, and (4) all developments that have vested traffic generation rights under section 4.140(.10), through the most probable used intersection(s), including state and county intersections, at the time of peak level of traffic. This analysis shall be conducted for each direction of travel if backup from other intersections will interfere with intersection operations.
 - b. The following are exempt from meeting the Level of Service D criteria standard:
 - i. A planned development or expansion thereof which generates three new p.m. peak hour traffic trips or less;
 - ii. A planned development or expansion thereof which provides an essential governmental service.
 - c. Traffic generated by development exempted under this subsection on or after Ordinance No. 463 was enacted shall not be counted in determining levels of service for any future applicant.
 - d. Exemptions under 'b' of this subsection shall not exempt the development or expansion from payment of system development charges or other applicable regulations.
 - e. In no case will development be permitted that creates an aggregate level of traffic at LOS "F".
3. That the location, design, size and uses are such that the residents or establishments to be accommodated will be adequately served by existing or immediately planned facilities and services.
- K. Mapping: Whenever a Planned Development permit has been granted, and so long as the permit is in effect, the boundary of the Planned Development shall be indicated on the Zoning Map of the City of Wilsonville as the appropriate "PD" Zone.

No additional changes proposed in this section

Section 4.156.09. Temporary Signs in all Zones.

~~The following temporary signs may be permitted:~~ In addition to the permanent signs allowed in different zones and exempt temporary signs, unless specifically prohibited in a master sign plan or other sign approval, **the following temporary signs may be permitted through a temporary sign permit:**

(.01) *General Allowance.* Except as noted in subsection (.02) below up to two temporary signs not exceeding a combined total of 24 square feet may be permitted per lot or non-residential tenant. Such signs may be banners, rigid signs, lawn signs, portable signs, or other signs of similar construction.

No additional changes proposed in this section

Section 4.800. Wireless Communications Facilities—Permitted, Conditionally Permitted, and Prohibited Uses.

Purpose:

Wireless Communications Facilities ("WCF") play an important role in meeting the communication needs of the Wilsonville community citizens. This Section aims to balance the proliferation of and need for WCF with the importance of keeping Wilsonville a livable and attractive City, consistent with City regulations for undergrounding utilities to the greatest extent possible.

In accordance with the guidelines and intent of Federal law and the Telecommunications Act of 1996, these regulations are intended to: 1) protect and promote the public health, safety, and welfare of the Wilsonville community citizens; 2) preserve neighborhood character and overall City-wide aesthetic quality; **and** 3) encourage siting of WCF in locations and by means that minimize visible impact through careful site selection, design, configuration, screening, and camouflaging techniques.

As used herein, reference to Wireless Communications Facilities is broadly construed to mean any facility, along with all of its ancillary equipment, used to transmit and/or receive electromagnetic waves, radio or television signals including, but not limited to, antennas, dish antennas, microwave antennas, small cells, distributed antenna systems ("DAS"), 5G, small cell sites/DAS, and any other types of equipment for transmission or receipt of signals, including telecommunication towers, poles, and similar supporting structures, equipment cabinets or buildings, parking and storage areas, and all other accessory development.

Reference to Small Wireless Facilities (SWF) herein is construed to mean ~~telecommunications facilities~~ **WCF** and associated equipment that meet the definition of small wireless facilities as stated in 47 C.F.R. § 1.6002(l).

Reference to Macro WCF means WCF that do not meet the definition of small wireless facilities.

This Section does not apply to (i) amateur radio stations defined by the Federal Communication Commission and regulated pursuant to 47 C.F.R. Part 97; or (ii) WCF owned by, or operated solely for, the City of Wilsonville.

If any provision of this Code directly conflicts with State or Federal law, where State or Federal law preempts local law, then that provision of this Code shall be deemed unenforceable, to the extent of the conflict, but the balance of the Code shall remain in full force and effect.

Nothing contained in this Section shall be construed in any way to waive or limit the City's proprietary rights over its real and personal property, including without limitation any proprietary interest in the right-of-way. Thus, if it is determined the City has authority to exert greater rights or impose additional conditions or limitations beyond those set forth in this Section, the City reserves the absolute right to do so, as it determines appropriate or necessary.

(.01) Permitted Uses:

- A. **New** ~~T~~-towers, poles, and structures for **Macro** WCF and ancillary facilities thereto are permitted in all of the following locations:
1. Any property owned by the City of Wilsonville, including public right-of-way;
 2. Any property owned by the West Linn - Wilsonville School District;
 3. Any property owned by the Tualatin Valley Fire District;

-
4. Any property within an electric utility substation.
- B. ~~Co-located WCF pursuant to Section 4.802 is encouraged on all existing, legally established, towers, poles, and structures in all zones and may be required on City property.~~
- C. Modification of existing towers, poles, and structures for WCF and ancillary facilities not meeting the co-location requirements of Section 4.802.**
- D. SWF as follows:**
- 1. Attached to an existing structure (i.e., utility pole, tower, streetlight, traffic signal, building, etc.) within the public right-of-way.**
 - 2. Incorporated into a freestanding or replacement structure (i.e., a standalone pole intended to support only the wireless equipment or a replacement pole that supports both the wireless equipment and the other utilities, traffic control or other pre-existing attachments) within the public right-of-way.**
 - 3. Attached or mounted to an existing structure (i.e., rooftop, building façade, sports field light, etc.) outside the public right-of-way.**
- E. Satellite communications antennas:**
- 1. Not exceeding one meter in diameter shall be permitted in any zone without requiring Administrative Review.**
 - 2. One meter or larger shall be subject to Administrative Review.**
- ~~C. Satellite communications antennas not exceeding one meter in diameter shall be permitted in any zone without requiring Administrative Review.~~
- ~~D. Camouflaged WCF antennas attached to existing light, power, or telephone poles are permitted in all zones, subject to the development standards of Section 4.803.~~
- ~~F. The City of Wilsonville is an underground utility City (Undergrounding District) where mandatory aesthetic design standards do not unreasonably preclude WCF by requiring undergrounding of all equipment to the maximum extent possible. Therefore, no new vertical elements will be allowed on City property if there are existing facilities available to reasonably accommodate the WCF, and all equipment other than the antennas shall be placed underground to the maximum extent possible. The following shall be used to determine maximum extent possible:~~
- ~~1. Equipment functional underground;~~
 - ~~2. Location available to underground near associated antenna; and~~
 - ~~3. Conflicts with other underground uses as determined by the City~~
- (.02) Conditional Uses. Except as indicated as permitted in (.01) above, WCF can be conditionally permitted in all zones, pursuant to Section 4.184 of the Wilsonville Code
- A. Historical Buildings and Structures. No WCF shall be allowed on any building or structure, or in any district, that is listed on any Federal, State, or local historical register unless it is determined by the Development Review Board that the facility will have no adverse effect on the appearance of the building, structure, or district. No change in architecture and no high visibility facilities are permitted on any such building, any such site, or in any such district.**
- B. Tower or Pole Heights. Towers or poles may exceed the height limits otherwise provided for in the Development Code with compelling justification only. Costs and cost efficiency are not compelling justifications.**
-

-
- C. Lighting. If beacon lights or strobe lights are required by the Federal Aviation Administration (FAA) or other applicable authority, the Development Review Board shall review the available alternatives and approve the design with the least visual impact.**
- D. Except as indicated as permitted in (.01) above, WCF can be conditionally permitted in all zones, pursuant to Section 4.184 of the Wilsonville Code.**
- (.03) Prohibited Uses. WCF are prohibited on all lands designated as within the Significant Resource Overlay Zone lands.
- (.04) Exemptions. The following shall be considered exempt structures or activities under this Code Chapter:**
- A. Antennas (including direct-to-home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations regardless of zone capacity.**
- B. Cell on Wheels (COW), which are permitted as temporary uses in nonresidential zones for a period not to exceed 60 days, except that such time period may be extended by the City during a period of emergency as declared by the City, County, or State.**
- C. Replacement antennas or equipment, provided the replacement antennas and/or equipment have the same function, size, and design to the replaced antenna and/or equipment and do not exceed the overall size of the original approved antenna and/or equipment.**
- (.05) Undergrounding Requirement. The City of Wilsonville is an underground utility City (Undergrounding District) for the purposes of public safety, service reliability, and aesthetic design; where these mandatory design standards do not unreasonably preclude WCF by requiring undergrounding of all equipment to the maximum extent possible. Therefore, no new vertical elements will be allowed on City property if there are existing facilities available to reasonably accommodate the WCF, and all equipment other than the antennas shall be placed underground to the maximum extent possible. The following shall be used to determine maximum extent possible:**
- A. Equipment functional underground;**
- B. Location available to underground near associated antenna; and**
- C. Conflicts with other underground uses as determined by the City.**

(Ord. No. 831, 1-24-2019)

Section 4.801. Application Requirements.

Cable providers that occupy any portion of the City's right-of-way are required to enter into a Franchise Agreement with the City. Other utilities, including Competitive Local Exchange Competitor carriers are subject to the terms of the City's Privilege Tax Ordinance No. 616. In order to be permitted, an applicant must complete: 1) a Site Development Permit Application; 2) a Public Works Permit; 3) a Building Permit; and 4) enter into a Lease Agreement with the City for use of the public Right-of-Way. In preparing the Application, the applicant should review all provisions of this Code Section, particularly the portion attached to the Development Review Standards. The WCF Application process shall include all of the following:

- (.01) Cable and telecommunication providers that occupy any portion of the City's right-of-way are required to enter into a Franchise Agreement with the City. Other utilities, including Competitive Local Exchange Competitor carriers are subject to the terms of the City's Privilege Tax Ordinance No. 616. In order to be permitted, an applicant must complete:**
- A. A Site Development Permit Application;**
- B. A Public Works Permit;**

C. A Building Permit; and**D. Enter into a Lease Agreement with the City for use of the public Right-of-Way.****(.02) Required for all WCF, including SWF applications:**

A. Property Owner Signature. The signature of the property owner(s) on City of Wilsonville application forms or a written signed statement from the property owner(s) granting authorization to proceed with the land use application and building permits, pursuant to WC Section 4.009.

B. ~~(.01)~~ *Speculation.* No Application for a WCF shall be approved from an applicant that constructs WCF and leases tower space to service providers that is not itself a wireless service provider, unless the applicant submits a binding written commitment or executed lease from a service provider to utilize or lease space on the WCF.

C. ~~(.02)~~ *Geographical Survey.* The applicant shall identify the geographic service area for the proposed WCF, including a map showing all of the applicant's existing sites in the local service network ~~associated with the gap that the proposed WCF is proposed to close.~~ The applicant shall **identify technically feasible alternative site locations within the geographic service area** ~~describe how this service area fits into and is necessary for the service provider's service network.~~

1. Prior to the issuance of any building permits, applicants for WCF shall provide a copy of the corresponding FCC Construction Permit or license for the facility being built or relocated, if required.

2. The applicant shall include a vicinity map clearly depicting where, within a one-half mile radius, any portion of the proposed WCF could be visible, and a graphic simulation showing the appearance of the proposed WCF and all accessory and ancillary structures from two separate points within the impacted vicinity, accompanied by an assessment of potential mitigation and screening measures. Such points are to be mutually agreed upon by the Planning Director or the Planning Director's designee and the applicant. ~~This Section (2) is not applicable to applications submitted subject to the provisions of 47 U.S.C. 1455(a).~~

D. ~~(.03)~~ *Visual Impact, Technological Design Options, and Alternative Site Analysis.* The applicant shall provide a visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette, and proposed screening for all components of the facility. The analysis shall include photo simulations and other information as necessary to determine visual impact of the facility as seen from multiple directions. The applicant shall include a map showing where the photos were taken. The applicant shall include an analysis of alternative sites **that would meet City design and locational standards** and **alternative** technological design options for the WCF, within and outside of the City, ~~that~~ **which** are capable of meeting the same service objectives as the preferred site with an equivalent or lesser visual impact. If a new tower or pole is proposed as a part of the proposed WCF, the applicant must demonstrate the need for a new tower and pole and why existing locations or design alternatives, such as the use of microcell technology, cannot be used to meet the identified service objectives. Documentation and depiction of all steps that will be taken to screen or camouflage the WCF to minimize the visual impact of the proposed facility must be submitted.

E. ~~(.04)~~ *Application Narrative.* ~~Number of WCF.~~ The Application shall include a detailed narrative of all of the equipment and components to be included with the WCF, including, but not limited to, antennas and arrays; equipment cabinets; back-up generators; air conditioning units; poles; towers; lighting; fencing; wiring, housing; and screening. The applicant must provide the number of proposed WCF at each location and include renderings of what the WCF will look like when screened. The Application must contain a list of all equipment and cable systems to be installed, including the maximum and minimum dimensions of all proposed equipment. Wilsonville is an Undergrounding District, meaning that the City will require any utility that can

be fully or partially located underground to the maximum extent possible to help preserve the aesthetic appearance of the right-of-way and community and to prevent aboveground safety hazards. Therefore, all components of the WCF must be undergrounded to the extent reasonably feasible. Those components of the WCF that must be above ground must be identified by type of facility, dimension of facility, with proposed screening to reduce to the maximum extent possible the visual impact of aboveground facilities and equipment. A written narrative of why any portion of the WCF must be above ground is required.

F. (-05) *Safety Hazards.* Any and all known or expected safety hazards for any of the WCF facilities must be identified and the applicant who must demonstrate how all such hazards will be addressed and minimized to comply with all applicable safety codes.

G. (-06) *Landscaping.* The Application shall provide a landscape plan, drawn to scale, that is consistent with the need for screening at the site, showing all proposed landscaping, screening and proposed irrigation (if applicable), with a discussion of how proposed landscaping, at maturity, will screen the site. Existing vegetation that is proposed to be removed must be clearly indicated and provisions for mitigation included.

H. (-07) *Height.* The Application shall provide an engineer's diagram, drawn to scale, showing the height of the WCF and all of its above-ground components. Applicants must provide sufficient evidence that establishes that the proposed WCF is designed to the minimum height required to meet the carrier's coverage objectives. If a tower or pole height will exceed the base height restrictions of the applicable zone, this narrative shall include a discussion of the physical constraints (topographical features, etc.) making the additional height necessary. The narrative shall include consideration of design alternatives, including the use of multiple sites or designs that would avoid the need for the new WCF or over zone height WCF. Except as noted in (a) and (b) below, the maximum height allowed in the right-of-way is 50 feet.

1. A- The maximum height for a freestanding SWF in the public right-of-way is no more than ten percent taller than other adjacent structures in the right-of-way.

2. B- When collocated on an existing structure in the public right-of-way, the SWF and the existing structure (including the antenna and any equipment enclosures contained within the structure) shall not exceed 50 feet or more than ten percent of the existing structure or nearby structures, whichever is greater.

I. (-08) *Construction.* The Application shall describe the anticipated construction techniques and time frame for **construction or** installation of the WCF. **This narrative must include all temporary staging, site access, and the types of vehicles and equipment to be used.**

J. (-09) *Maintenance.* The Application shall describe the anticipated maintenance and monitoring program for the WCF, including antennas, back-up equipment, poles, paint, and landscaping; **and a description of anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and potential safety impacts of such maintenance.**

K. (-10) *Noise/Acoustical Information.* The Application shall provide manufacturer's specifications for all noise-generating equipment, such as air conditioning units and back-up generators, and a depiction of the equipment location in relation to adjoining properties. The applicant shall provide a noise study prepared and sealed by a qualified Oregon-license Professional Engineer that demonstrates that the WCF will comply with intent and goals of Section 6.204 et seq. of this Code.

~~(-11) Parking. The Application shall provide a site plan showing the designated parking areas for maintenance vehicles and equipment, if any. No parking of maintenance vehicles and equipment parking shall be permitted in any red curb zone, handicap parking zone, or loading zone.~~

~~(-12) Co-Location. In the case of new multi-user towers, poles, or similar support structures, the applicant shall submit engineering feasibility data and a letter stating the applicant's willingness to allow other carriers to co-locate on the proposed WCF.~~

~~L. (-13) Lease.~~ The site plan shall show the lease area of the proposed WCF.

~~M. (-14) FCC License and Radio Frequency Safety Compliance.~~ The Application shall provide a copy of the applicant's FCC license and/or construction permit, if an FCC license and/or construction permit is required for the proposed facility. The applicant shall provide documentation showing that the party responsible for radio frequency transmissions is in planned or actual compliance with all FCC RF emissions safety standards and guidelines at 47 C.F.R. § 1.1307 et seq. and FCC Office of Engineering Technology Bulletin 65.

~~N. (-15) Lighting and Marking.~~ The Application shall describe any proposed lighting and marking of the WCF, including any required by the FAA.

~~O. (-16) Co-Location Feasibility.~~ A feasibility study for the co-location of any WCF as an alternative to new structures must be presented and certified by an Oregon-licensed Professional Engineer. Co-location will be required when determined to be feasible. The feasibility study shall include:

- ~~1.A~~ An inventory, including the location, ownership, height, and design of existing WCF within one-half mile of the proposed location of a new WCF. The planning director may share such information with other applicants seeking permits for WCF, but shall not, by sharing such information, in any way represent or warrant that such sites are available or suitable.
- ~~2.B~~ Documentation of the efforts that have been made to co-locate on existing or previously approved towers, poles, or structures. The applicant shall make a good faith effort to contact the owner(s) of all existing or approved towers, poles, or structures and shall provide a list of all owners contacted in the area, including the date, form, and content of such contact.
- ~~3.C~~ Documentation as to why co-location on existing or proposed towers, poles, or commercial structures within 1,000 feet of the proposed site is not practical or feasible. Co-location shall not be precluded simply because a reasonable fee for shared use is charged or because of reasonable costs necessary to adapt the existing and proposed uses to a shared tower. The Planning Director and/or Development Review Board may consider expert testimony to determine whether the fee and costs are reasonable when balanced against the market and the important aesthetic considerations of the community.

~~P. (-17) Engineering Report for New Location.~~ A. An Application for a new WCF, whether co-located or new, shall include, as applicable, a report from an Oregon licensed Professional Engineer documenting the following:

1. A description of the proposed WCF height and design, including technical, engineering, and other pertinent factors governing selection of the proposed design. A cross-section of the proposed WCF structure shall be included. The engineer shall document whether the structure is at its maximum structural capacity and, if not, the additional weight the structure could support.
2. Documentation that the proposed WCF will have sufficient structural integrity for the proposed uses at the proposed location, in conformance with the minimum safety requirements of the State Structural Specialty Code and EIA/TIA 222 (Structural Standards for Communication and Small Wind Turbine Support Structures), latest edition at the time of the application.

- 3B.** A description of mitigation methods which will be employed to avoid ice hazards, including increased setbacks, and/or de-icing equipment, if required by any safety law, regulation, or code.
- 4C.** Evidence that the proposed WCF will comply with all applicable requirements of the Federal Aviation Administration, the Aeronautics Section of the Oregon Department of Transportation, and the Federal Communications Commission.

~~(.18) **Maintenance.** The applicant shall provide a description of anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and potential safety impacts of such maintenance.~~

~~(.19) **Recordation Requirements.** If a new WCF is approved, the owner shall be required, as a condition of approval, to:~~

- ~~A. Record the conditions of approval specified by the City with the Deeds Records Office in the Office of the County Recorder of the county in which the WCF is located;~~
- ~~B. Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;~~
- ~~C. Negotiate in good faith for shared use by others; and~~
- ~~D. Such conditions shall run with the land and be binding on subsequent purchasers of the WCF.~~

Q. All SWF applications must demonstrate compliance with all requirements in Section 2 “Design Elements” of the “City of Wilsonville Small Wireless Facility Infrastructure Design Standards”.

R. (.20) The Planning Director may request any other information deemed necessary to fully evaluate and review the information provided in the application.

(.03) Additional Application Requirements for new Macro WCF applications.

- A. Parking. The Application shall provide a site plan showing the designated parking areas for maintenance vehicles and equipment, if any. No parking of maintenance vehicles and equipment parking shall be permitted in any red curb zone, handicap parking zone, or loading zone.**
- B. Co-Location. In the case of new multi-user towers, poles, or similar support structures, the applicant shall submit engineering feasibility data and a letter stating the applicant's willingness to allow other carriers to co-locate on the proposed WCF.**
- C. Recordation Requirements. If a new WCF is approved, the owner shall be required, as a condition of approval, to:**
 - 1. Record the conditions of approval specified by the City with the Deeds Records Office in the Office of the County Recorder of the county in which the WCF is located;**
 - 2. Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;**
 - 3. Negotiate in good faith for shared use by others; and**
 - 4. Such conditions shall run with the land and be binding on subsequent purchasers of the WCF.**

Section 4.802. Co-Location.

In order to encourage shared use of towers, poles, or other facilities for the attachment of WCF, **pursuant to the provisions of 47 U.S.C. 1455(a)**, no conditional use permit shall be required for the addition of equipment, provided that:

- (.01) There is no change to the type of tower or pole.
- (.02) All co-located WCF shall be designed in such a way as to be visually compatible with the structures on which they are placed.

- (.03) All co-located WCF must comply with the conditions and concealment elements of the original tower, pole, or other facility upon which it is co-locating.
- (.04) Shall not disturb, or will mitigate any disturbed, existing landscaping elements.
- (.05) Does not entail excavation or deployment outside site of current facility where co-location is proposed.
- (.06) All co-located WCF, and additions to existing towers, poles, or other structures, shall meet all requirements of the State of Oregon Structural Specialty Code and EIA/TIA 222 (Structural Standards for Communication and Small Wind Turbine Support Structures), latest edition at the time of the application. A building permit shall be required for such alterations or additions. Documentation shall be provided by an Oregon-licensed Professional Engineer verifying that changes or additions to the tower structure will not adversely affect the structural integrity of the tower.
- (.07) Additional Application Requirements for Co-Location:
- A. A copy of the site plan approved for the original tower, pole, or other base station facility to which the co-location is proposed.
 - B. A site survey delineating development on-the-ground is consistent with the approved site plan.

Section 4.803. Development Review Standards.

All WCF shall comply with the following Development Review standards, unless ~~grandfathered~~ **exempted** under State or Federal law:

- (.01) **The following development standards are applicable to all WCF and SWF applications:** *Visual Impact:*
- A. *Maximum Number of High Visibility Facilities Per Lot or Parcel.* No more than one high visibility WCF is allowed on any one lot or parcel of five acres or less. The Development Review Board may approve exceeding the maximum number of high visibility WCF per lot or parcel if one of the following findings is made through a Class III review process: (1) co-location of additional high visibility WCF is consistent with neighborhood character, (2) the provider has shown that denial of an application for additional high visibility WCF would prohibit or have the effect of prohibiting service because the WCF would fill a significant gap in coverage and no alternative locations are available and technologically feasible, or (3) the provider has shown that denial of an application for additional high visibility WCF would unreasonably discriminate among providers of functionally equivalent services. In such cases, the Development Review Board shall be the review authority for all related applications.
 - B. *Height. The height of WCF is regulated as follows:*
 - 1.** The tower or pole height of a freestanding WCF in R, PDR and ~~FDA-HRA-H~~ zones shall not exceed 50 feet, except the following:
 - ~~1a.~~ **FDA-HRA-H** zoned property occupied by the City Wastewater Treatment Plant and the PDR zoned property occupied by the Elligsen Road Water Reservoir shall be exempted from the height limitations of the subject zones, ~~and subsection 4.803(.01)A, above, shall apply.~~
 - 2b.** Small Wireless Facilities in the public right-of-way. SWF in the public right-of-way shall not exceed the height permitted under WC 4.801(~~.07~~)(.02)H.
 - 2.** **In all other zones, towers or poles shall not** exceed the height limits otherwise provided for in the Development Code with out compelling justification. Costs and cost efficiency are not compelling justifications.

-
- C. *WCF Adjacent to Residentially Designated Property.* In order to ensure public safety, all WCF located adjacent to any property designated as residential in Wilsonville shall be set back from all residential property lines by a distance at least equal to the maximum height of the facility including any antennas or other appurtenances attached thereto. The setback shall be measured from that part of the WCF that is closest to the neighboring residentially designated property.
- ~~D. *Historical Buildings and Structures.* No WCF shall be allowed on any building or structure, or in any district, that is listed on any Federal, State, or local historical register unless it is determined by the Development Review Board that the facility will have no adverse effect on the appearance of the building, structure, or district. No change in architecture and no high visibility facilities are permitted on any such building, any such site, or in any such district.~~
- ~~E. *Tower or Pole Heights.* Towers or poles may exceed the height limits otherwise provided for in the Development Code with compelling justification only. Costs and cost efficiency are not compelling justifications.~~
- D. F. *Accessory Building Size.* Within the public right-of-way, no above-ground accessory buildings shall be permitted. Outside of the public right-of-way, all accessory buildings and structures permitted to contain equipment accessory to a WCF shall not exceed 12 feet in height unless a greater height is necessary and required by a condition of approval to maximize architectural integration. Each accessory building or structure is limited to 200 square feet, unless approved through a Conditional Use Permit.
- E. G. *Utility Vaults and Equipment Pedestals.* Within the public right-of-way, utility vaults and equipment pedestals associated with WCF must be underground to the maximum extent possible.
- F. H. *Visual Impact.* All WCF shall be designed to minimize the visual impact to the maximum extent possible by means of placement, screening, landscaping, and camouflage. All WCF shall also be designed to be compatible with existing architectural elements, building materials, and other site characteristics. All WCF shall be sited in such a manner as to cause the least detriment to the viewshed from other properties. The use of radomes and/or other camouflage techniques acceptable to the City to conceal antennas, associated equipment and wiring, and antenna supports is required.
- G. I. *Color Schemes.* For the sake of visual impact, no wooden poles are allowed except Small Wireless Facilities on existing poles with high voltage power lines that would require thermal hydraulic cooling if underground. Color schemes must be approved by the City to best camouflage with the surrounding landscape.
- H. J. *Antennas.* Façade-mounted antennas shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. As appropriate, antennas shall be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Façade-mounted antennas shall not extend more than two feet out from the building face. Roof-mounted antennas shall be constructed at the minimum height possible to serve the operator's service area and shall be set back as far from the building edge as possible or otherwise screened to minimize visibility from the public right-of-way and adjacent properties.
- I. K. *Noise.* Noise from any equipment supporting the WCF shall meet the requirements of City Code Section 6.204—Noise.
- J. L. *Signage.* No signs, striping, graphics, or other attention-getting devices are permitted on any WCF except for warning and safety signage with a surface area of no more than three square feet. Except as required by law, all signs are prohibited on WCF except for one non-illuminated sign, not to exceed two square feet, which shall be provided at the main entrance to the WCF, stating the owner's name, the wireless operator(s) if different from the owner, and address and a
-

contact name and phone number for emergency purposes. WCF may be placed entirely behind existing street or building signs as one method of camouflage.

~~K. M.~~ *Traffic Obstruction.* Maintenance vehicles servicing facilities located in the public right-of-way shall not park on the traveled way or in a manner that obstructs traffic. No maintenance vehicle parking shall be permitted in red curb zones, handicap zones, or loading zones.

~~L. N.~~ *Parking.* No net loss in minimum required parking spaces shall occur as a result of the installation of any WCF.

~~M. O.~~ *Sidewalks and Pathways.* Cabinets and other equipment shall not impair pedestrian use of sidewalks or other pedestrian paths or bikeways on public or private land and shall be screened from view. Cabinets shall be undergrounded, to the maximum extent possible.

~~N. P.~~ *Lighting.* WCF shall not include any beacon lights or strobe lights, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If beacon lights or strobe lights are required, the Development Review Board shall review the available alternatives and approve the design with the least visual impact. All other site lighting for security and maintenance purposes shall be shielded and directed downward, and shall comply with the City's outdoor lighting standards in City Code Section 4.199, unless otherwise required under Federal law.

~~O. Q.~~ *Paint and Finish.* Towers, poles, antennas, and associated equipment shall either maintain a galvanized steel finish or be painted a non-reflective, neutral color, as approved by the Planning Director or Development Review Board, to minimize visibility. Attached communication facilities shall be painted so as to be identical to or compatible with the existing structure. Towers more than 200 feet in height shall be painted in accordance with the Oregon State Aeronautics Division and Federal Aviation Administration rules. Applicants shall attempt to seek a waiver of OSAD and FAA marking requirements. When a waiver is granted, towers shall be painted and/or camouflaged in accordance with subsection (.01), above. All ancillary facilities shall be colored or surfaced so as to blend the facilities with the surrounding natural and built environment.

~~P. R.~~ *Use of Concealments.* Concealments are customized structures engineered to cover cell towers, antennas, DAS equipment and beautify them and make them either less visible or more pleasing to have in the landscape. Applicant shall present a proposal for concealment intended to meet the foregoing goal.

~~Q. S.~~ *Public Works Standards.* Additional applicable construction and design standards are as set forth in the City's 2015 Public Works Standards.

~~R. T.~~ *Compliance With All Laws.* Every WCF shall comply with all local, state, and federal laws, codes, and regulations including without limitation to the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.

~~(.02) Site Size.~~ The site on which a transmission tower/pole is located shall be of a sufficient shape and size to provide all required setbacks as specified in this Code Section. Towers or poles only as permitted herein may be located on sites containing other principal uses in the same buildable area as long as all of the other general requirements of this Code Section are met.

~~(.03) Separation and Setbacks.~~

A. ~~WCF shall be set back from any other property line by a distance at least equal to the maximum height of the facility including any antennas or other appurtenances attached thereto unless this requirement is specifically waived by the Planning Director or the Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.~~

B. ~~A guyed tower located on sites containing other principal uses must maintain a minimum distance between the tower and other principal uses of the greater of 100 percent~~

breakpoint or 25 feet, unless this requirement is specifically waived by the Planning Director or Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.

- C. ~~WCF mounted on rooftops or City approved alternative tower structures shall be exempt from these minimum separation requirements. However, WCF and related equipment may be required to be set back from the edge of the roof line in order to minimize their visual impact on surrounding properties and must be screened.~~
- D. ~~WCF towers and poles are prohibited in the required front yard, back yard, or side yard setback of any lot in any zone, and no portion of any antenna array shall extend beyond the property lines. For guyed towers or poles, all guy anchors shall be located outside of the setback from all abutting properties.~~

T. (-04) *Security Fencing.* WCF or towers shall be enclosed by decay-resistant security fencing not less than six feet in height and shall be equipped with an appropriate anti-climbing device. Fencing shall be compatible with other nearby fencing. Such requirements may be waived for attached WCF.

U. (-05) *Landscaping.* Landscaping shall be placed around the outside perimeter of the security fencing and shall consist of fast growing vegetation that can be expected to reach a minimum height of six feet and form a continuous hedge within two years of planting. Drought tolerant landscaping materials shall be required and otherwise meet the landscaping standards of City Code Section 4.176. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height and would not affect the stability of the guys should they be uprooted. Landscaping shall be compatible with other nearby landscaping.

V. (-06) *Conflict with Right-of-Way.* No WCF shall be located within a planned or existing public right-of-way, unless it is specifically designed for the purpose in a way that will not impede pedestrian, bicycle, or vehicular traffic and the installation of any sidewalk or path that is a planned future improvement.

W. (-07) *Change to Approved WCF.* Any change to or expansion of a WCF that will in any way change the physical appearance of the WCF will require a new application.

(.02) Additional development standards applicable to new Macro WCF:

A. Site Size. The site on which a transmission tower/pole is located shall be of a sufficient shape and size to provide all required setbacks as specified in this Code Section. Towers or poles only as permitted herein may be located on sites containing other principal uses in the same buildable area as long as all of the other general requirements of this Code Section are met.

B. Separation and Setbacks.

1. WCF shall be set back from any other property line by a distance at least equal to the maximum height of the facility including any antennas or other appurtenances attached thereto unless this requirement is specifically waived by the Planning Director or the Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.
2. A guyed tower located on sites containing other principal uses must maintain a minimum distance between the tower and other principal uses of the greater of 100 percent breakpoint or 25 feet, unless this requirement is specifically waived by the Planning Director or Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.
3. WCF mounted on rooftops or City-approved alternative tower structures shall be exempt from these minimum separation requirements. However, WCF and related equipment may be required to be set back from the edge of the roof line in order to minimize their visual impact on surrounding properties and must be screened.

4. **WCF towers and poles are prohibited in the required front yard, back yard, or side yard setback of any lot in any zone, and no portion of any antenna array shall extend beyond the property lines. For guyed towers or poles, all guy anchors shall be located outside of the setback from all abutting properties.**

Section 4.804. Review Process and Approval Standards.

(.01) *Class I Process.* The following WCF are allowed with the approval of a WCF Site Plan to be reviewed by the Planning Director pursuant to a Class I process under City Code Section 4.030 (.01) A:

- A. Small Wireless Facilities in the public right-of-way.
- B. ~~Replacement of existing antennas on approved tower at same height.~~ **WCF Co-locations meeting the criteria outlined in Wilsonville Code Section 4.802.**

(.02) *Class II Process.* The following WCF are allowed with the approval of a WCF Site Plan to be reviewed by the Planning Director pursuant to a Class II process under City Code Section 4.030(.01)B:

- A. **New Macro** WCF proposed in the following locations excepted as noted in (.01) above:
 1. Any property owned by the City of Wilsonville, including public right-of-way;
 2. Any school property owned by any public school district;
 3. Any fire station property owned by any fire district;
 4. Any property within an electric utility substation.
- ~~B. WCFs attached to existing light, power, or telephone poles in all zones, subject to the development standards of Section 4.803.~~
- BC.** WCF Co-locations **not** meeting the criteria outlined in Wilsonville Code **Section** 4.802.
- CD.** Satellite dishes larger than one meter.

(.03) *Conditional Use Permit Requirements.* Applications for WCF in all other locations and situations, including moderate or high visibility facilities that exceed the height limit of the applicable zone, shall also require a Conditional Use Permit to be reviewed by the Development Review Board. In addition to the approval standards in City Code Section 4.030, the applicant shall demonstrate that the WCF Site Plan approval standards in this Section are met.

(.04) *Approval Criteria.* The Development Review Board shall approve the use and WCF Site Plan for any of the WCF listed in subsections of this Section upon a determination that the following criteria are met:

- A. The height of the proposed WCF does not exceed the height limit of the underlying zoning district, or does not increase the height of an existing facility.
- B. The location is the least visible of other possible locations and technological design options that achieve approximately the same signal coverage objectives.
- C. The location, size, design, and operating characteristics of the proposed WCF will be compatible with adjacent uses, residences, buildings, and structures, with consideration given to:
 1. Scale, bulk, coverage, and density;
 2. The suitability of the site for the type and intensity of the proposed WCF; and
 3. Any other relevant impact of the proposed use in the setting where it is proposed.
- D. All required public facilities have adequate capacity, as determined by the City, to serve the proposed WCF; and
- E. The proposed WCF complies with all of the general regulations contained in this Section 4.800—4.812.

(.05) *Conditions of Approval.* The City may impose any other reasonable condition(s) deemed necessary to achieve compliance with the approval standards, including designation of an alternate location. If compliance with all of the applicable criteria cannot be achieved through the imposition of reasonable conditions, the Application shall be denied.

(Ord. No. 831, 1-24-2019)

Section 4.805. Exemptions.

The following shall be considered exempt structures or activities under this Code Chapter:

- ~~(.01) Antennas (including direct to home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations regardless of zone capacity.~~
- ~~(.02) Cell on Wheels (COW), which are permitted as temporary uses in nonresidential zones for a period not to exceed 60 days, except that such time period may be extended by the City during a period of emergency as declared by the City, County, or State.~~
- ~~(.03) Replacement antennas or equipment, provided the replacement antennas and/or equipment have the same function, size, and design to the replaced antenna and/or equipment and do not exceed the overall size of the original approved antenna and/or equipment.~~

(Ord. No. 831, 1-24-2019)

Section 4.8056. Damage, Destruction, or Interference to Other Utilities.

In the installation of any WCF within the right-of-way, care must be taken to install in such a way that does not damage, interfere with, or disturb any of the several other utilities that may already be located in the area. Any damage done to such other utilities must be immediately reported to both the City and the owner of the damaged utility, and must be promptly repaired by the permittee or the utility owner, with the permittee being responsible for all costs of repair, including any extra charges that may be assessed for emergency repairs. Failure to notify the City and the damaged utility provider will result in revocation of the WCF. When approving the location for a WCF, the location of other utilities, or the need for the location of other utilities, within the right-of-way must be considered before approval to locate the WCF will be given in order to ensure those other services to the public are not disrupted.

No additional changes proposed in this section, Sections 4.806 through 4.814 to be renumbered accordingly

Attachment 2
 Planning Commission Resolution LP23-0002 Staff Report
 Compliance Findings

Development Code Process Clarifications

Date of Findings:	September 6, 2023
Request:	Amend the Wilsonville Development Code Text to update review processes for certain application types, clarify application requirements, and correct inconsistencies in the Development Code regarding existing review processes.
Affected Properties:	Citywide
Staff Reviewer:	Kimberly Rybold, AICP, Senior Planner
Staff Recommendation:	<u>Recommend adoption</u> of the Development Code amendments to the Wilsonville City Council.

Applicable Review Criteria:

<u>Statewide Planning Goals:</u>	
Goal 1	Citizen Involvement
Goal 2	Land Use Planning
<u>Wilsonville Comprehensive Plan:</u>	
Goal 1.1 and applicable Policy and Implementation Measures	Encourage Public Involvement
Goal 1.2 and applicable Policy and Implementation Measures	Interested, Informed, and Involved Citizenry
Goal 3.1 and applicable Policy and Implementation Measures	Adequate Public Facilities and Services
<u>Development Code:</u>	
Section 4.197	Changes and Amendments to Development Code

Compliance Findings

As described in the Findings below, the request meets the applicable criteria.

Statewide Planning Goals

Citizen Involvement

Goal 1

1. As discussed in Findings 3 through 10 below, the citizen involvement processes and requirements established in Wilsonville's Comprehensive Plan consistent with Goal 1 are being followed.

Land Use Planning

Goal 2

2. The proposed Development Code text amendments support the goal of establishing processes and policy as a basis for making decisions on land use consistent with a Comprehensive Plan.

Wilsonville Comprehensive Plan-Public Involvement

Public Involvement-In General

Goal 1.1, Policy 1.1.1,

3. By following the applicable implementation measures, see Findings 4 through 10 below, the City provided opportunities for public involvement encouraging, and providing means for, involvement of interested parties.

Early Involvement

Implementation Measure 1.1.1.a.

4. Planning Commission practice is to conduct a minimum of one work session per proposed Development Code revision allowing for early involvement. This item was discussed at the July 12, 2023 Planning Commission meeting. Draft versions of the proposed amendments have been available on the City's website.

Encourage Participation of Certain Individuals, Including Residents and Property Owners

Implementation Measure 1.1.1.e.

5. The City encouraged residents, property owners, and other interested parties impacted by the proposed code amendments to participate as described in Finding 7.

Procedures to Allow Interested Parties to Supply Information

Implementation Measure 1.1.1.f.

6. The City will afford interested parties the opportunity to provide oral input and testimony during the public hearings. In addition, the City afforded them the opportunity to provide written input and testimony.

Types of Planning Commission Meetings, Gathering Input Prior to Public Hearings Implementation Measure 1.1.1.g.

7. Prior to the scheduled public hearing on the proposed Development Code modifications, the Planning Commission held a work session open to the public on July 12, 2023, during which the Planning Commission provided feedback incorporated into the current draft.

Public Notices for Planning Commission Meetings Implementation Measure 1.1.1.h.

8. The notice regarding the public hearing clearly indicated the type of meeting.

User Friendly Information for Public Policy 1.2.1, Implementation Measures 1.2.1.a., b., c.

9. The published mailings and notices provided user-friendly information about the purpose, location, and nature of the meetings. The mailings widely publicized different ways for impacted parties to participate. The information given to impacted parties gave access to the information on which the Planning Commission will base their decision. Staff provided contact information to potentially impacted parties and answered questions raised throughout the project.

Coordinate Planning Activities with Affected Agencies Implementation Measure 1.3.1.b.

10. The proposed Development Code amendments will have limited impact to other agencies.

Wilsonville Comprehensive Plan-Semi-Public Utilities

Coordination of Planning Activities with Utility Companies Policy 3.1.13, Implementation Measures 3.1.13.a., b., c.

11. The proposed Development Code amendments will continue to allow for the coordination of the location and design of Wireless Communications Facilities (WCF) while minimizing their visual impact. All components of these facilities than can be located underground will be as is required.

Wilsonville Development Code-Amendments to the Code

Planning Commission Public Hearing, Recommendation to City Council Subsection 4.197 (.01) A.

12. The Planning Commission will conduct a public hearing and then, by resolution, forward findings and a recommendation to the Wilsonville City Council within the allowed 40-day timeframe.

Findings Required: Compliance with Procedures of 4.008

Subsection 4.197 (.01) B. 1., Section 4.008, Sections 4.009 through 4.024 as applicable

- 13.** The City mailed notices to affected properties and published/posted notices consistent with established procedures for legislative actions. The City produced written findings of fact regarding the application in this document for adoption by the Planning Commission. The City also published the findings and other elements a week prior to the Public Hearing as required by law.

Findings Required: Compliance with Goals, Policies, and Objectives of Comprehensive Plan

Subsection 4.197 (.01) B. 2.

- 14.** Findings 3 through 11 above provide findings related to the applicable goals, policies, objectives, and implementation measures of Wilsonville's Comprehensive Plan.

Findings Required: No Conflict with Over Code Provisions

Subsection 4.197 (.01) B. 3.

- 15.** While drafting the code amendments staff took care to ensure the proposed code changes do not conflict with or endanger other provisions of the Development Code. The purpose of the proposed amendments is to improve clarity and function of the Development Code, removing existing conflicts.

Findings Required: Compliance with Statewide Land Use Planning Goals, State Rules and Statutes, Federal Statutes

Subsection 4.197 (.01) B. 4.-5.

- 16.** Findings 1 through 2 above provide findings related to compliance with the applicable Statewide Land Use Planning Goals as well as applicable state statutes.

Affirmative Findings Required

Subsection 4.197 (.03)

- 17.** Findings 1 through 16 provide the required affirmative findings on which a recommendation can be made to City Council for adoption of the requested amendments to the Wilsonville Development Code.

LP23-0002
Development Code Process Clarifications
Planning Commission Public Hearing Record Index
Draft (September 13, 2023)

PLANNING COMMISSION AND CITY COUNCIL MEETINGS

September 13, 2023 - Planning Commission Public Hearing
Resolution LP23-0002 (*included above, adoption pending*)
Staff Report and Attachments (*included above, adoption pending*)
Presentation (*not included at this time*)
Affidavit of Notice of Hearing

August 7, 2023 - City Council Work Session
Staff Report and Attachments
Presentation
Action Minutes

July 12, 2023 - Planning Commission Work Session
Staff Report and Attachments
Presentation
Minutes Excerpt

COMMENTS/ARTICLES

None Received



PLANNING COMMISSION

WEDNESDAY, SEPTEMBER 13, 2023

PUBLIC HEARING

2. Development Code Process Clarifications (Rybold) (30 minutes)

AFFIDAVIT OF MAILING AND POSTING NOTICE OF PUBLIC HEARING IN THE CITY OF WILSONVILLE

STATE OF OREGON)

COUNTIES OF CLACKAMAS)
AND WASHINGTON)

CITY OF WILSONVILLE)

I, Mandi Simmons, do hereby certify that I am Administrative Assistant for the City of Wilsonville, Counties of Clackamas and Washington, State of Oregon, that the attached copy of Notice of Public Hearing is a true copy of the originals of the following that I did cause to be mailed/displayed copies of said public hearing in the exact form hereto attached:

- Single-paged notice was emailed on August 22, 2023 to the attached list of affected agencies
- Single-paged notice was emailed on August 22, 2023 to the attached list of interested parties
- Single-paged notice was sent to the Wilsonville Spokesman for publication in the August 31, 2023 newspaper issue
- The content of the notice was posted on August 22, 2023 on the City’s website
- Single-paged notice was posted at physical locations listed below on August 22, 2023
 - City Hall, 29799 SW Town Center Loop, East, Wilsonville OR 97070
 - Wilsonville Community Center, 7965 SW Wilsonville Road, Wilsonville, OR 97070
 - Library, 8200 SW Wilsonville Road, Wilsonville OR 97070

Witness my hand this 30th day of August 2023


Mandi Simmons, Administrative Assistant

Acknowledged before me this 30 day of August 2023, in Clackamas County, Oregon


Signature of Oregon Notary

Kimberly Louise Veliz
Printed Notary Name



NOTARY PUBLIC

My Commission Expires March 2, 2025

NOTICE OF LEGISLATIVE PUBLIC HEARING BEFORE THE PLANNING COMMISSION AND CITY COUNCIL: DEVELOPMENT CODE PROCESS CLARIFICATIONS, CASE FILE LP23-0002

PLANNING COMMISSION

On **Wednesday, September 13, 2023, beginning at 6 pm**, the Planning Commission will hold a public hearing regarding the **Development Code Process Clarifications**, and will consider whether to recommend adoption of the updates to City Council.

You will not receive another notice unless you: submit a request in writing or by phone, or submit testimony or sign-in at the hearing.

CITY COUNCIL

On **Monday, September 18, 2023, beginning at 7 pm**, the City Council will hold a public hearing regarding the **Development Code Process Clarifications**, after which it may make the final decision.

The hearings will take place at **Wilsonville City Hall**, 29799 SW Town Center Loop East. A complete copy of the project record, including staff report, findings, and recommendations, will be available online and at City Hall for viewing seven (7) days prior to each public hearing.

SUMMARY OF PROPOSAL

The proposed Development Code changes will update or clarify review processes for certain application types, including development approval extensions and Wireless Communications Facility (WCF) applications that are subject to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. The amendments will also clarify application submittal requirements for different WCF application types, and clarify the timing and review criteria for temporary use permits and temporary sign permits. The amendments will also clarify when applications are considered filed. The proposed amendments are intended to reduce confusion among applicants and the broader public on required review processes and information needed for certain application types.

HOW TO COMMENT: Oral or written testimony may be presented at the public hearings. Written comment on the proposal is also welcome prior to the public hearings. To have your written comments or testimony distributed to the Planning Commission before the meeting, it must be received by 2 pm on September 5, 2023. **Direct written comments to** Mandi Simmons, Administrative Assistant, 29799 SW Town Center Loop East, Wilsonville, Oregon, 97070 or msimmons@ci.wilsonville.or.us

*Note: Assistive Listening Devices (ALD) are available for persons with impaired hearing and can be scheduled for this meeting. **The City will endeavor to provide qualified sign language interpreters and/or bilingual interpreters, without cost, if requested at least 48 hours prior to the meeting.** To obtain such services, please call Mandi Simmons, Administrative Assistant at (503) 682-4960.*

Pat McGough
West Linn/Wilsonville School District 3J
2755 SW Borland Road
Tualatin, OR 97062

Andy Back
Wash. County Long Range Planning
155 N. First Avenue
Hillsboro, OR 97124

Steve Koper
City of Tualatin
18880 SW Martinazzi Avenue
Tualatin, OR 97062

Attn: Development Review
ODOT Region 1
123 NW Flanders Street
Portland, OR 97209

Ben Baldwin
Tri-Met Project Planning Dept
4012 SE 17th Avenue
Portland, OR 97202

Bill Ferber, Region Manager
Oregon Water Resources Department
725 Summer Street, NE
Salem, OR 97301

Dr. Kathy Ludwig
West Linn/Wilsonville School District 3J
22210 SW Stafford Road
Tualatin, OR 97062

Tracy Wilder, Department of Corrections
Facilities Services
3601 State Street
Salem, Oregon 97301

Steve Hursh, Service & Design Supervisor
Portland General Electric
2213 SW 153rd Drive
Beaverton, OR 97006

Land Use Contact, Planning Department
Metro
600 NE Grand Ave
Portland, OR 97232

Nina Carlson
NW Natural Gas
250 SW Taylor St.
Portland, OR 97204

John Olivares, Operations Manager
Republic Services of Clackamas &
Washington Counties
10295 SW Ridder Road
Wilsonville, OR 97070

City Planner
City of Canby
P.O. Box 930
Canby, OR 97013

Diane Taniguchi-Dennis
Clean Water Services
2550 SW Hillsboro Hwy.
Hillsboro, OR 97123

Department of Corrections
2575 Center Street NE
Salem, OR 97310

John Lilly
Department of State Lands
775 Summer Street, NE
Salem, OR 97301

Roseann Johnson, Assistant Director of
Government Affairs
Home Builders Associations
15555 SW Bangy Road, Suite 301
Lake Oswego, OR 97035

Sherwood School Dist Admin Office
23295 SW Main Street
Sherwood, OR 97140

Clackamas County Planning Director
150 Beaver Creek Road
Oregon City, OR 97045

Oregon Dept of Environ Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232

Tualatin Valley Water District
1850 SW 170th Ave.
Beaverton, OR 97005

Planning Director
City of Sherwood
22560 SW Pine Street
Sherwood, OR 97140

James Clark
BPA, Realty Department
2715 Tepper Lane
Keizer, OR 97013

Tualatin Valley Fire and Rescue
29875 SW Kinsman Road
Wilsonville, OR 97070

Tualatin Valley Fire and Rescue
South Division
8445 SW Elligsen Road
Wilsonville, OR 97070

Contact First Name	Contact Last Name	Contact Company Name	Contact Email	Site Address	Address
Zach	Phillips	Crown Castle	zach.phillips@crowncastle.com	9275 SW TAUCHMAN ST WILSONVILLE, OR 97070	1842 SW Lobelia ST Portland, OR 97219
Valerie	Peterson	Lynx Consulting	vpeterson@lynxconsulting.org	9275 SW TAUCHMAN ST WILSONVILLE, OR 97070	17311 135th Ave NE Woodinville, WA 98072
Mary	Dunn		mdunn@networkconnex.com	9275 SW TAUCHMAN ST WILSONVILLE, OR 97070	655 N. Central Ave, Ste 1520 Glendale, CA 91203
Kaitlin	Butler	Crafton Communications	kbutler@craftongroup.com	27975 SW PARKWAY AVE WILSONVILLE, OR 97070	2918 Clairmont Ave. S Birmingham, AL 35205
Madyson	Reynolds	Crafton Communications	mreynolds@craftongroup.com	27975 SW PARKWAY AVE WILSONVILLE, OR 97070	2918 Clairmont Avenue South Birmingham, AL 35205
Valerie	Peterson	Lynx Consulting	vpeterson@lynxconsulting.org	9275 SW TAUCHMAN ST WILSONVILLE, OR 97070	17311 135th Ave NE Woodinville, WA 98072
Sarah	Oetken	Crafton Communications	soetken@craftongroup.com	27975 SW PARKWAY AVE WILSONVILLE, OR 97070	2918 Clairmont Ave South Birmingham, AL 35205
DAN	DUTTON	Smartlink, LLC	daniel.dutton@smartlinkgroup.com	29722 SW BOONES FERRY RD WILSONVILLE, OR 97070	13220 SE MULTNOMAH CT HAPPY VALLEY, OR 97086
Valerie	Peterson	Lynx Consulting	vpeterson@lynxconsulting.org	9275 SW TAUCHMAN ST WILSONVILLE, OR 97070	17311 135th Ave NE Woodinville, WA 98072
Valerie	Peterson	Lynx Consulting	vpeterson@lynxconsulting.org	9275 SW TAUCHMAN ST WILSONVILLE, OR 97070	17311 135th Ave NE Woodinville, WA 98072
Kelsey	Moore	Crafton Communications	kmoore@craftongroup.com	27975 SW PARKWAY AVE WILSONVILLE, OR 97070	2918 Clairmont Avenue South Birmingham, AL 35205
Sarah	Oetken	Crafton Communications	soetken@craftongroup.com	27975 SW PARKWAY AVE WILSONVILLE, OR 97070	2918 Clairmont Ave South Birmingham, AL 35205
Leah	Stout		leah.stout@smartlinkgroup.com	9120 SW PIONEER CT WILSONVILLE, OR 97070	11232 120th Ave NE Ste 204 Kirkland, WA 98033
Paul	Slotemaker	Tilson	pslotemaker@tilsontech.com	9120 SW PIONEER CT WILSONVILLE, OR 97070	2450 NW 144th Ave Beaverton, OR 97006
		Infinigy			PO Box 584 Boring, OR 97010
		AT&T			1010 N ST MARY'S 15TH FLR SAN ANTONIO, TX 78215
Alicia	Vore		avore@tilsontech.com		
		ADD LLC		29722 SW Boones Ferry Rd, Wilsonville, OR 97070	PO BOX 225, LAKE OSWEGO, OR 97034
		Verizon Wireless		27975 SW Parkway Ave, Wilsonville, OR 97070	PO BOX 2549, ADDISON, TX 75001
		Robert Jones		27975 SW Parkway Ave, Wilsonville, OR 97070	PO BOX 750, WASHOUGAL, WA 98671
		WPC Wilsonville LLC		9120 SW Pioneer Ct, Wilsonville, OR 97070	307 Lewers St #600, Honolulu, HI 96815

PamplinMediaGroup

-Ad Proof-

This is the proof of your ad, scheduled to run on the dates indicated below. Please proofread carefully, and if changes are needed, please contact Sarah Penn prior to deadline at or spenn@pamplinmedia.com.

<p>Date: 08/22/23 Account #: 108863 Reference #: LP23-0002 Development Code Process Clarifications Company Name: WILSONVILLE, CITY OF Contact: Address: 29799 SW TOWN CENTER LOOP E WILSONVILLE Telephone: (503) 570-1510 Fax: (503) 682-1015</p>	<p>Ad ID: 299658 Start: 08/30/23 Stop: 08/31/23 Total Cost: \$146.32 Ad Size: 8.458 Column Width: 1 Column Height: 8.458 Ad Class: 1202 Phone # Email: spenn@pamplinmedia.com</p>
<p>Run Dates:</p> <p>Wilsonville Spokesman 08/31/23</p>	

**NOTICE OF LEGISLATIVE PUBLIC HEARING
BEFORE THE
PLANNING COMMISSION AND CITY COUNCIL:
DEVELOPMENT CODE PROCESS CLARIFICATIONS,
CASE FILE LP23-0002**

PLANNING COMMISSION:

On **Wednesday, September 13, 2023, beginning at 6 pm**, the Planning Commission will hold a public hearing regarding the **Development Code Process Clarifications**, and will consider whether to recommend adoption of the updates to City Council.

You will not receive another notice unless you: submit a request in writing or by phone, or submit testimony or sign-in at the hearing.

CITY COUNCIL:

On **Monday, September 18, 2023, beginning at 7 pm**, the City Council will hold a public hearing regarding the **Development Code Process Clarifications**, after which it may make the final decision.

The hearings will take place at **Wilsonville City Hall**, 29799 SW Town Center Loop East. A complete copy of the project record, including staff report, findings, and recommendations, will be available online and at City Hall for viewing seven (7) days prior to each public hearing.

SUMMARY OF PROPOSAL:

The proposed Development Code changes will update or clarify review processes for certain application types, including development approval extensions and Wireless Communications Facility (WCF) applications that are subject to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. The amendments will also clarify application submittal requirements for different WCF application types, and clarify the timing and review criteria for temporary use permits and temporary sign permits. The amendments will also clarify when applications are considered filed. The proposed amendments are intended to reduce confusion among applicants and the broader public on required review processes and information needed for certain application types.

HOW TO COMMENT:

Oral or written testimony may be presented at the public hearings. Written comment on the proposal is also welcome prior to the public hearings. To have your written comments or testimony distributed to the Planning Commission before the meeting, it must be received by 2 pm on September 5, 2023. **Direct written comments to** Mandi Simmons, Administrative Assistant, 29799 SW Town Center Loop East, Wilsonville, Oregon, 97070 or msimmons@ci.wilsonville.or.us

Note: Assistive Listening Devices (ALD) are available for persons with impaired hearing and can be scheduled for this meeting. The City will endeavor to provide qualified sign language interpreters and/or bilingual interpreters, without cost, if requested at least 48 hours prior to the meeting. To obtain such services, please call Mandi Simmons, Administrative Assistant at (503) 682-4960.

Publish August 31, 2023

WS299658



CITY COUNCIL
THURSDAY, AUGUST 7, 2023

WORK SESSION

Development Code Process Clarifications (Rybold)



CITY COUNCIL MEETING STAFF REPORT

Meeting Date: August 7, 2023		Subject: Development Code Process Clarifications	
		Staff Members: Kimberly Rybold, AICP, Senior Planner	
		Department: Community Development	
Action Required		Advisory Board/Commission Recommendation	
<input type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable	
		Comments: N/A	
Staff Recommendation: Review draft Development Code amendments that clarify review processes for certain development application types.			
Recommended Language for Motion: N/A			
Project / Issue Relates To:			
<input type="checkbox"/> Council Goals/Priorities:	<input type="checkbox"/> Adopted Master Plan(s):	<input checked="" type="checkbox"/> Not Applicable	

ISSUE BEFORE COUNCIL:

The project team will present proposed Development Code amendments to clarify the review process for certain application types, including wireless communications facilities, extensions of development approvals, and temporary use and sign permits.

EXECUTIVE SUMMARY:

The proposed Development Code process clarifications will update review processes for certain application types, clarify application requirements, and correct inconsistencies in the Development Code regarding existing review processes. The proposed amendments (Attachment 1) are intended to reduce confusion among applicants and the broader public on required review processes and information needed for certain application types. The proposed amendments will also adjust the review process for some Wireless Communications Facility (WCF) applications.

The primary focus of this work is to clarify application requirements and review processes for various types of WCF applications to better reflect Federal review and approval requirements and the level of information needed to review different types of WCFs. Key amendments include the following:

- **Review Process for Co-locations** – Revisions to Section 4.804 (Review Process and Approval Standards) to enable WCF applications subject to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. § 1455(a)) to be reviewed through the Class 1 Administrative Review process. Section 6409(a) applications are required to be reviewed in a condensed timeline of 60 days (with limited tolling of this review timeline) and must be approved if all applicable criteria are met. Given the ministerial nature of this review and the inability to incorporate input received through the public comment period, a Class 1 Administrative Review process is most appropriate for these application types. This would be the same as the review process for Small Wireless Facilities (SWFs), which are governed by similar Federal review mandates.
- **Application Requirements** – Specificity added to Section 4.800 about the different WCF types to directly address which ones are permitted, conditional, prohibited, or exempt. Within Section 4.801, the proposed amendments clarify what application materials must be submitted for different WCF types. This clarification will reduce applicant confusion for co-locations and SWFs, as many of the required items are only applicable to new WCF.

Other process clarifications are proposed as noted below:

- **Extension of Development Approvals** – Revisions to Sections 4.023 (Expiration of Development Approvals) and 4.140 (Planned Development Regulations) to resolve conflicting process language regarding the review process for development approval extensions. Revisions would clarify that these requests are reviewed as a Class 1 Administrative Review.
- **Temporary Use Permits** – Amendments to Section 4.030 (Jurisdiction and Powers of Planning Director and Community Development Director) clarify how the time period of the permit is calculated consistent with current practice that allows permits for non-consecutive days. Approval criteria for Class 2 Temporary Use Permits would be updated to be consistent with Class 1 Temporary Use Permits.
- **Temporary Sign Permits** – Amendments adding clarifying language to Section 4.156.09 (Temporary Signs in all Zones) describing which temporary signs need a permit.

- **General Administration** – Clarification in Section 4.011 (How Applications are Processed) that to be considered filed, applications must include authorization as specified in Section 4.009 (Who May Initiate Applications). Addition of Type B Tree Removal Permits to the list of Class 2 Administrative Review applications consistent with Section 4.610.30 (Type B Permit).

During this work session the project team will look for the following question to be answered by City Council:

- What comments or questions does City Council have about the proposed Development Code amendments?

EXPECTED RESULTS:

Presentation of proposed Development Code amendments.

TIMELINE:

Upon review of City Council feedback, the Development Code amendments will be scheduled for adoption in fall 2023.

CURRENT YEAR BUDGET IMPACTS:

Consultant costs will be paid by the Planning Division’s professional services budget. Staff time for this update will be paid from the Planning Division’s budget.

COMMUNITY INVOLVEMENT PROCESS:

Existing Development Code regulations were adopted by the City after community outreach. The proposed Development Code amendments are procedural, not policy-based, in nature. The community will be notified of Planning Commission and City Council public hearings and will have the opportunity to provide oral or written testimony on the amendments.

POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:

Adoption of the proposed Development Code modifications will provide applicants and the community additional clarity and certainty on the review process for affected development applications.

ALTERNATIVES:

City Council may suggest modifications to the proposed Development Code amendments to add additional clarity.

CITY MANAGER COMMENT:

N/A

ATTACHMENT:

1. DRAFT Proposed Development Code Edits – July 2023

DRAFT Proposed Development Code Edits – July 2023

Proposed added language **bold underline**. Proposed removed language ~~struck through~~.

Section 4.011. How Applications are Processed.

- (.01) Applications submitted without the required filing fee, **or the correct authorization as specified in Section 4.009**, shall not be considered to be "filed" and shall be returned to the prospective applicant without being processed.

No additional changes proposed in this section

Commented [JC1]: Suggested for redundancy based on the practice of not accepting development applications without property owner signatures.

Section 4.023. Expiration of Development Approvals (See also Section 4.140).

- (.01) Except for Specific Area Plans (SAP), land use and development permits and approvals, including both Stage I and Stage II Planned Development approvals, shall be valid for a maximum of two years, unless extended as provided in this Section. Specific Area Plan approvals shall not expire.
- A. Substantial development, as defined in this Chapter, has taken place in compliance with the permit or approval; or
 - B. A time extension has been granted by city staff for good cause. ~~Except as provided in subsection (.05) below, not more than three such extensions~~ may be granted, for not more than one year each.
- (.02) If the development approval is for a subdivision or partition, the developer has two years from the date of approval to submit the final plat for recordation, unless a time extension has been granted as specified in Section 4.023(.01), above. Use of the site or substantial development does not obviate the need for submittal of the final plat within the specified time limits.
- (.03) Zone changes shall not expire unless expiration provisions are specifically included in the zone order adopted by the City Council.
- (.04) Requests for time extensions shall be submitted in writing, including written justification therefore, and received by the Planning Department not less than ~~eight (8)~~ **30** calendar days prior to the expiration date of the permit or approval.
- ~~(.05) Notwithstanding the limitations and requirements in Section 4.023(.01)(B.) and (.04), beginning June 1, 2009 and ending June 1, 2010, city staff shall approve all applications for one year extensions, which applications shall not require a demonstration of good cause, but shall be accompanied by a filing fee which shall not exceed the fee for a Class 1 Administrative Review, and which extensions shall not be counted toward the maximum number of extensions allowed in Subsection 4.023(.01)(B.).~~

Section 4.030. Jurisdiction and Powers of Planning Director and Community Development Director.

- (.01) *Authority of Planning Director.* The Planning Director shall have authority over the daily administration and enforcement of the provisions of this Chapter, including dealing with non-discretionary matters, and shall have specific authority as follows:
- A. A Class I application shall be processed as a ministerial action without public hearing, shall not require public notice, and shall not be subject to appeal or call-up, except as noted below. Pursuant to Class I

procedures set forth in Section 4.035, and upon finding that a proposal is consistent with the provisions of this Code and any applicable Conditions of Approval, shall approve the following, with or without conditions:

1. Minor site clearing and grading, prior to the approval of a Site Development Plan, provided that:
 - a. No clearing or grading occurs within the Significant Resource Overlay Zone. Clearing or grading in the Significant Resource Overlay Zone shall require, at a minimum, approval of a Class II permit through the procedures specified below;
 - b. No clearing or grading occurs within 25 feet of an area that has been identified by the City as a wetland;
 - c. Not more than three trees are proposed to be removed;
 - d. No fill or removal is proposed;
 - e. Adequate measures are utilized to control erosion and runoff from the site and that the applicant will submit a final Site Development application within seven days of submitting the minor site grading application. All grading activities require compliance with the requirements of the applicable building code and City Public Works standards.
2. Class I Sign Permits, and Temporary Sign Permits for 30 days or less.
3. Architectural, landscape, tree removal, grading and building plans that substantially conform to the plans approved by the Development Review Board and/or City Council. The Planning Director's approval of such plans shall apply only to Development Code requirements and shall not alter the authority of the Building Official or City Engineer on these matters.
4. Building permits for single family dwellings, middle housing, and in the Village zone, row houses or apartments, meeting zoning requirements and located on lots that have been legally created. The Planning Director's approval of such plans shall apply only to Development Code requirements and shall not alter the authority of the Building Official or City Engineer on these matters.
5. Lot line adjustments, where none of the lots increase in area by 50 percent or more, subject to the standards specified in Section 4.233.
6. A temporary use permit for not more than 30 days, **Permitted days may or may not be consecutive, but shall not exceed 30 days within the calendar year for which the permit was applied. Temporary use permits are** subject to the following standards:
 - a. The applicant has the written permission of the property owner to use the site;
 - b. The proposed use will not create an obstruction within a sight vision clearance area that would impair the vision of motorists entering onto or passing by the property;
 - c. Adequate parking is provided;
 - d. Signs shall meet the standards of Section 4.156.09. A maximum of two signs, not exceeding a combined total of 24 square feet, are allowed; and
 - e. The proposed use has the approval of the Fire Marshal.
7. Determination that an existing use or structure is a non-conforming use or non-conforming structure, as defined in this Code. Except, however, that the Planning Director may, in cases where there is any uncertainty as to the history of the property, choose to process such determinations through the Class II procedures below.
8. Actions taken subject to Site Development Permits which have been approved by the appropriate decision-making body of the City.

Commented [JC2]: Codifies the City's interpretation for multi-week temporary use permits. Ex. a permit for every Saturday over a three-month period.

9. Final plats for condominiums, subdivisions, or partitions that are substantially the same as tentative plats approved by the City and which are submitted for review and signature prior to recordation with the appropriate county.
 10. Type A tree removal permits as provided in Section 4.600.
 11. Determination, based upon consultation with the City Attorney, whether a given development application is quasi-judicial or legislative. Except, however, that the Planning Director may, in cases where there is any uncertainty as to the nature of the application, choose to process such determinations through the Class II procedures below.
 12. Expedited land divisions and middle housing land divisions requiring expedited review under state law. Applications for expedited land divisions and middle housing land divisions requiring expedited review under state law, as provided for in Section 4.232 of this Code and ORS Chapter 197 shall be processed without public hearing, and shall be subject to appeal through the special appeal procedures specified in Section 4.232.
 - a. Authority of Planning Director. The Planning Director shall have authority to review applications for expedited land divisions and middle housing land divisions requiring expedited review under state law and to take action approving, approving with conditions, or denying such applications, based on findings of fact.
 - b. Tentative Plat Requirements for Expedited Land Divisions and middle housing land divisions requiring expedited review under state law. Tentative plats and all other application requirements for expedited land divisions and middle housing land divisions requiring expedited review under state law shall be the same as for other forms of land divisions, except as those requirements are specifically altered by the Oregon Revised Statutes.
 - c. Administrative Relief Not Available. In taking action on an application for an expedited land division or middle housing land divisions requiring expedited review under state law, the Planning Director is not authorized to grant Variances or waivers from the requirements of the Code.
 - d. Residential Areas Only. As specified in ORS 197, expedited land divisions shall only be approved in areas zoned for residential use.
- B. A Class II application shall be processed as an administrative action, with or without a public hearing, shall require public notice, and shall be subject to appeal or call-up, as noted below. Pursuant to Class II procedures set forth in Section 4.035, the Director shall approve, approve with conditions, deny, or refer the application to the Development Review Board for a hearing:
1. Minor alterations to existing buildings or site improvements of less than 25 percent of the previous floor area of a building, but not to exceed 1,250 square feet, or including the addition or removal of not more than ten parking spaces. Minor modifications to approved Architectural and Site Development Plans may also be approved, subject to the same standards.
 2. Residential accessory buildings or structures with less than 120 square feet of floor area located within the Willamette River Greenway Boundary pursuant to Section 4.500 and subject to the flood plain development standards of Section 4.172. Approval of such accessory structures in the Greenway shall be based on all of the following findings of fact:
 - a. The building or structure is located so that the maximum amount of landscape area, open space and/or vegetation is provided between the river and the building;
 - b. Public access to the river is preserved or is provided in accordance with an approved and adopted plan; and
 - c. That the change of use, intensification of use, or development will be directed away from the river to the greatest possible degree while allowing a reasonable use of the property.

3. Written interpretations of the text or maps of this Code, the Comprehensive Plan or sub-elements of the Comprehensive Plan, subject to appeal as provided in Section 4.022. The Planning Director may review and interpret the provisions and standards of Chapter 4 (Planning) of the Wilsonville Code upon receiving the required filing fee along with a specific written request. The Director shall publish and mail notice to affected parties and shall inform the Planning Commission and City Attorney prior to making a final written decision. The Director's letter and notice of decision shall be provided to the applicant, the Planning Commission, the City Council, and City Attorney and the notice shall clearly state that the decision may be appealed in accordance with Section 4.022 (Appeal Procedures). A log of such interpretations shall be kept in the office of the Planning Department for public review.
4. A permit to locate an accessory use on a lot adjacent to the site of the principal use.
5. Subdivisions located within the Coffee Creek Industrial Design Overlay District and land partitions, other than expedited land divisions, pursuant to Section 4.210. Approval shall be based on all of the following findings of fact:
 - a. The applicant has made a complete submittal of materials for the Director to review, as required in Section 4.210;
 - b. The proposed plan meets the requirements of the Code regarding minimum lot size and yard setbacks;
 - c. The approval will not impede or adversely affect the orderly development of any adjoining property or access thereto;
 - d. The public right-of-way bordering the lots or parcels will meet City standards;
 - e. Any required public dedications of land have been approved for acceptance by the City and will be recorded with the County prior to final plat approval;
 - f. Adequate easements are proposed where an existing utility line crosses or encroaches upon any other parcel to be created by the partition;
 - g. All public utilities and facilities are available or can be provided prior to the issuance of any development permit for any lot or parcel; and
 - h. Roads extended or created as a result of the land division will meet City standards.
6. Decisions on the following:
 - a. Lot line adjustments, where any of the lots increase by more than 50 percent in area, subject to the provisions of Section 4.233.
 - b. Temporary use permits for periods exceeding 30 days **but not more than 120 days. Permitted days may or may not be consecutive, but shall not exceed 120 days within the calendar year for which the permit was applied.** Temporary use permits may allow specific activities associated with the primary use or business located on the property for up to 120 days provided that:
 - i. the property owners have given written permission;
 - ii. no structure, sign or any other object shall exceed 20 feet in height;
 - iii. adequate parking is provided in designated spaces;
 - iv. signs **shall meet the standards of Section 4.156.09 and** are limited to a maximum of two and shall not exceed a total combined area of 24 square feet;
 - v. electrical and building permits are obtained as required;

- vi. undue traffic congestion will not result and, if traffic congestion is expected, a traffic control plan is submitted along with the application that identifies the traffic control procedures that will be used;
 - vii. the activity and/or use shall not unduly interfere with motorists driving on adjacent roads and streets, including I-5; and
 - viii. public notice has been provided and the comments of interested parties have been considered in the action that has been taken-;
 - ix. the proposed use will not create an obstruction within a sight vision clearance area that would impair the vision of motorists entering onto or passing by the property; and**
 - x. the proposed use has the approval of the Fire Marshal.**
7. Solar access permits, as specified in Section 4.137.3.
 8. Class II Sign Permits.
 9. Site design review, as authorized in Section 4.400 for properties located within the Coffee Creek Industrial Design Overlay District, which satisfy all applicable standards and adjustment criteria in Section 4.134.10.
 10. Review of Stage I and Stage II Planned Development applications for properties located within the Coffee Creek Industrial Design Overlay District, which satisfy all applicable standards and adjustment criteria in Section 4.134.
- 11. Type B tree removal permits as provided in Section 4.600.**
- ~~12.~~ Type C tree removal permits as provided in Section 4.600 for properties located within the Coffee Creek Industrial Design Overlay District.

No additional changes proposed in this section

Section 4.140. Planned Development Regulations.

No changes proposed in Subsections (.01) to (.08)

(.09) *Final Approval (Stage Two):*

[Note: Outline Number is incorrect.]

- A. Unless an extension has been granted by the ~~Development Review Board or~~ Planning Director, as applicable, within two years after the approval or modified approval of a preliminary development plan (Stage I), the applicant shall file with the City Planning Department a final plan for the entire development or when submission in stages has been authorized pursuant to Section 4.035 for the first unit of the development, a public hearing shall be held on each such application as provided in Section 4.013. As provided in Section 4.134, an application for a Stage II approval within the Coffee Creek Industrial Design Overlay District may be considered by the Planning Director without a public hearing as a Class II Administrative Review as provided in Section 4.035(.03).
- B. The Development Review Board or Planning Director, as applicable, shall determine whether the proposal conforms to the permit criteria set forth in this Code, and shall approve, conditionally approve, or disapprove the application.
- C. The final plan shall conform in all major respects with the approved preliminary development plan, and shall include all information included in the preliminary plan plus the following:

-
1. The location of water, sewerage and drainage facilities;
 2. Preliminary building and landscaping plans and elevations, sufficient to indicate the general character of the development;
 3. The general type and location of signs;
 4. Topographic information as set forth in Section 4.035;
 5. A map indicating the types and locations of all proposed uses; and
 6. A grading plan.
- D. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development or phase of development. However, Site Design Review is a separate and more detailed review of proposed design features, subject to the standards of Section 4.400.
- E. Copies of legal documents required by the Development Review Board or Planning Director, as applicable, for dedication or reservation of public facilities, or for the creation of a non-profit homeowner's association, shall also be submitted.
- F. Within 30 days after the filing of the final development plan, the Planning staff shall forward such development plan and the original application to the Tualatin Valley Fire and Rescue District, if applicable, and other agencies involved for review of public improvements, including streets, sewers and drainage. The Development Review Board or Planning Director, as applicable, shall not act on a final development plan until it has first received a report from the agencies or until more than 30 days have elapsed since the plan and application were sent to the agencies, whichever is the shorter period.
- G. Upon receipt of the final development plan, the Development Review Board or Planning Director, as applicable shall examine such plan and determine:
1. Whether it conforms to all applicable criteria and standards; and
 2. Whether it conforms in all substantial respects to the preliminary approval; or
 3. Require such changes in the proposed development or impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards.
- H. If the Development Review Board or Planning Director, as applicable, permits the applicant to revise the plan, it shall be resubmitted as a final development plan within 60 days. If the Board or Planning Director approves, disapproves or grants such permission to resubmit, the decision of the Board shall become final at the end of the appeal period for the decision, unless appealed to the City Council, in accordance with Sections 4.022 of this Code.
- I. All Stage II Site Development plan approvals shall expire two years after their approval date, if substantial development has not occurred on the property prior to that time. Provided, however, that the ~~Development Review Board or Planning Director, as applicable~~, may extend these expiration times for up to three additional periods of not more than one year each. Applicants seeking time extensions shall make their requests in writing at least 30 days in advance of the expiration date. Requests for time extensions shall only be granted upon (1) a showing that the applicant has in good faith attempted to develop or market the property in the preceding year or that development can be expected to occur within the next year, and (2) payment of any and all Supplemental Street SDCs applicable to the development. Upon such payment, the development shall have vested traffic generation rights under [section] 4.140(.10), provided however, that if the Stage II approval should expire, the vested right to use trips is terminated upon City repayment, without interest, of Supplemental Street SDCs. For purposes of this Ordinance, "substantial development" is deemed to have occurred if the required building permits or public works permits have been issued for the development, and the development has been diligently pursued, including the completion of all conditions of approval established for the permit.
-

-
- J. A planned development permit may be granted by the Development Review Board or Planning Director, as applicable, only if it is found that the development conforms to all the following criteria, as well as to the Planned Development Regulations in Section 4.140:
1. The location, design, size and uses, both separately and as a whole, are consistent with the Comprehensive Plan, and with any other applicable plan, development map or Ordinance adopted by the City Council.
 2. That the location, design, size and uses are such that traffic generated by the development at the most probable used intersection(s) can be accommodated safely and without congestion in excess of Level of Service D, as defined in the Highway Capacity Manual published by the National Highway Research Board, on existing or immediately planned arterial or collector streets and will, in the case of commercial or industrial developments, avoid traversing local streets. Immediately planned arterial and collector streets are those listed in the City's adopted Capital Improvement Program, for which funding has been approved or committed, and that are scheduled for completion within two years of occupancy of the development or four year if they are an associated crossing, interchange, or approach street improvement to Interstate 5.
 - a. In determining levels of Service D, the City shall hire a traffic engineer at the applicant's expense who shall prepare a written report containing the following minimum information for consideration by the Development Review Board:
 - i. An estimate of the amount of traffic generated by the proposed development, the likely routes of travel of the estimated generated traffic, and the source(s) of information of the estimate of the traffic generated and the likely routes of travel;
 - ii. What impact the estimate generated traffic will have on existing level of service including traffic generated by (1) the development itself, (2) all existing developments, (3) Stage II developments approved but not yet built, and (4) all developments that have vested traffic generation rights under section 4.140(.10), through the most probable used intersection(s), including state and county intersections, at the time of peak level of traffic. This analysis shall be conducted for each direction of travel if backup from other intersections will interfere with intersection operations.
 - b. The following are exempt from meeting the Level of Service D criteria standard:
 - i. A planned development or expansion thereof which generates three new p.m. peak hour traffic trips or less;
 - ii. A planned development or expansion thereof which provides an essential governmental service.
 - c. Traffic generated by development exempted under this subsection on or after Ordinance No. 463 was enacted shall not be counted in determining levels of service for any future applicant.
 - d. Exemptions under 'b' of this subsection shall not exempt the development or expansion from payment of system development charges or other applicable regulations.
 - e. In no case will development be permitted that creates an aggregate level of traffic at LOS "F".
 3. That the location, design, size and uses are such that the residents or establishments to be accommodated will be adequately served by existing or immediately planned facilities and services.
-

- K. Mapping: Whenever a Planned Development permit has been granted, and so long as the permit is in effect, the boundary of the Planned Development shall be indicated on the Zoning Map of the City of Wilsonville as the appropriate "PD" Zone.

No additional changes proposed in this section

Section 4.156.09. Temporary Signs in all Zones.

~~The following temporary signs may be permitted:~~ In addition to the permanent signs allowed in different zones and exempt temporary signs, unless specifically prohibited in a master sign plan or other sign approval, the following temporary signs may be permitted through a temporary sign permit:

- (.01) *General Allowance.* Except as noted in subsection (.02) below up to two temporary signs not exceeding a combined total of 24 square feet may be permitted per lot or non-residential tenant. Such signs may be banners, rigid signs, lawn signs, portable signs, or other signs of similar construction.

No additional changes proposed in this section

Section 4.800. Wireless Communications Facilities—Permitted, Conditionally Permitted, and Prohibited Uses.

Purpose:

Wireless Communications Facilities ("WCF") play an important role in meeting the communication needs of the Wilsonville community citizens. This Section aims to balance the proliferation of and need for WCF with the importance of keeping Wilsonville a livable and attractive City, consistent with City regulations for undergrounding utilities to the greatest extent possible.

In accordance with the guidelines and intent of Federal law and the Telecommunications Act of 1996, these regulations are intended to: 1) protect and promote the public health, safety, and welfare of the Wilsonville community citizens; 2) preserve neighborhood character and overall City-wide aesthetic quality; and 3) encourage siting of WCF in locations and by means that minimize visible impact through careful site selection, design, configuration, screening, and camouflaging techniques.

As used herein, reference to Wireless Communications Facilities is broadly construed to mean any facility, along with all of its ancillary equipment, used to transmit and/or receive electromagnetic waves, radio or television signals including, but not limited to, antennas, dish antennas, microwave antennas, small cells, distributed antenna systems ("DAS"), 5G, small cell sites/DAS, and any other types of equipment for transmission or receipt of signals, including telecommunication towers, poles, and similar supporting structures, equipment cabinets or buildings, parking and storage areas, and all other accessory development.

Reference to Small Wireless Facilities (SWF) herein is construed to mean ~~telecommunications facilities~~ WCF and associated equipment that meet the definition of small wireless facilities as stated in 47 C.F.R. § 1.6002(l).

Reference to Macro WCF means WCF that do not meet the definition of small wireless facilities.

This Section does not apply to (i) amateur radio stations defined by the Federal Communication Commission and regulated pursuant to 47 C.F.R. Part 97; or (ii) WCF owned by, or operated solely for, the City of Wilsonville.

If any provision of this Code directly conflicts with State or Federal law, where State or Federal law preempts local law, then that provision of this Code shall be deemed unenforceable, to the extent of the conflict, but the balance of the Code shall remain in full force and effect.

Nothing contained in this Section shall be construed in any way to waive or limit the City's proprietary rights over its real and personal property, including without limitation any proprietary interest in the right-of-way. Thus, if it is

determined the City has authority to exert greater rights or impose additional conditions or limitations beyond those set forth in this Section, the City reserves the absolute right to do so, as it determines appropriate or necessary.

(.01) *Permitted Uses:*

- A. ~~New~~ Towers, poles, and structures for Macro WCF and ancillary facilities thereto are permitted in all of the following locations:
1. Any property owned by the City of Wilsonville, including public right-of-way;
 2. Any property owned by the West Linn - Wilsonville School District;
 3. Any property owned by the Tualatin Valley Fire District;
 4. Any property within an electric utility substation.
- B. Co-located WCF ~~pursuant to Section 4.802 is encouraged~~ on all existing, legally established, towers, poles, and structures in all zones ~~and may be required on City property.~~
- C. Modification of existing towers, poles, and structures for WCF and ancillary facilities not meeting the co-location requirements of Section 4.802.**
- D. SWF as follows:**
1. Attached to an existing structure (i.e., utility pole, tower, streetlight, traffic signal, building, etc.) within the public right-of-way.
 2. Incorporated into a freestanding or replacement structure (i.e., a standalone pole intended to support only the wireless equipment or a replacement pole that supports both the wireless equipment and the other utilities, traffic control or other pre-existing attachments) within the public right-of-way.
 3. Attached or mounted to an existing structure (i.e., rooftop, building façade, sports field light, etc.) outside the public right-of-way.
- E. Satellite communications antennas:**
1. Not exceeding one meter in diameter shall be permitted in any zone without requiring Administrative Review.
 2. One meter or larger shall be subject to Administrative Review.
- ~~C. Satellite communications antennas not exceeding one meter in diameter shall be permitted in any zone without requiring Administrative Review.~~
- ~~D.F. Camouflaged WCF antennas, excluding SWF, attached to existing light, power, or telephone poles are permitted in all zones, subject to the development standards of Section 4.803.~~
- ~~F. The City of Wilsonville is an underground utility City (Undergrounding District) where mandatory aesthetic design standards do not unreasonably preclude WCF by requiring undergrounding of all equipment to the maximum extent possible. Therefore, no new vertical elements will be allowed on City property if there are existing facilities available to reasonably accommodate the WCF, and all equipment other than the antennas shall be placed underground to the maximum extent possible. The following shall be used to determine maximum extent possible:~~
1. ~~Equipment functional underground;~~
 2. ~~Location available to underground near associated antenna; and~~
 3. ~~Conflicts with other underground uses as determined by the City.~~

Commented [JC3]: Reorganization / clarification - same language and intent

Commented [RK4]: Confirm if this would apply to anything other than SWFs

Commented [JC5]: Reorganized - repeated below with same language and intent

(.02) Conditional Uses. Except as indicated as permitted in (.01) above, WCF can be conditionally permitted in all zones, pursuant to Section 4.184 of the Wilsonville Code

Commented [JC6]: Moved below to (.02)(D)

A. Historical Buildings and Structures. No WCF shall be allowed on any building or structure, or in any district, that is listed on any Federal, State, or local historical register unless it is determined by the Development Review Board that the facility will have no adverse effect on the appearance of the building, structure, or district. No change in architecture and no high visibility facilities are permitted on any such building, any such site, or in any such district.

B. Tower or Pole Heights. Towers or poles may exceed the height limits otherwise provided for in the Development Code with compelling justification only. Costs and cost efficiency are not compelling justifications.

C. Lighting. If beacon lights or strobe lights are required by the Federal Aviation Administration (FAA) or other applicable authority, the Development Review Board shall review the available alternatives and approve the design with the least visual impact.

Commented [JC7]: Referenced in other areas of the code as being conditional uses. Brought here for clarity

D. Except as indicated as permitted in (.01) above, WCF can be conditionally permitted in all zones, pursuant to Section 4.184 of the Wilsonville Code.

Commented [JC8R7]: Previously: WC 4.803(.01)(D) , WC 4.803(.01)(E), WC 4.803(.01)(P)

(.03) Prohibited Uses. WCF are prohibited on all lands ~~designated as~~ within the Significant Resource Overlay Zone ~~lands~~.

(.04) Exemptions. The following shall be considered exempt structures or activities under this Code Chapter:

A. Antennas (including direct-to-home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations regardless of zone capacity.

B. Cell on Wheels (COW), which are permitted as temporary uses in nonresidential zones for a period not to exceed 60 days, except that such time period may be extended by the City during a period of emergency as declared by the City, County, or State.

C. Replacement antennas or equipment, provided the replacement antennas and/or equipment have the same function, size, and design to the replaced antenna and/or equipment and do not exceed the overall size of the original approved antenna and/or equipment.

Commented [JC9]: Referenced in other areas of the code as being exempt

(.05) Undergrounding Requirement. The City of Wilsonville is an underground utility City (Undergrounding District) for the purposes of public safety, service reliability, and aesthetic design; where these mandatory design standards do not unreasonably preclude WCF by requiring undergrounding of all equipment to the maximum extent possible. Therefore, no new vertical elements will be allowed on City property if there are existing facilities available to reasonably accommodate the WCF, and all equipment other than the antennas shall be placed underground to the maximum extent possible. The following shall be used to determine maximum extent possible:

A. Equipment functional underground;

B. Location available to underground near associated antenna; and

C. Conflicts with other underground uses as determined by the City.

(Ord. No. 831, 1-24-2019)

Section 4.801. Application Requirements.

Cable providers that occupy any portion of the City's right-of-way are required to enter into a Franchise Agreement with the City. Other utilities, including Competitive Local Exchange Competitor carriers are subject to the terms of the City's Privilege Tax Ordinance No. 616. In order to be permitted, an applicant must complete: 1) a Site

Development Permit Application; 2) a Public Works Permit; 3) a Building Permit; and 4) enter into a Lease Agreement with the City for use of the public Right-of-Way. In preparing the Application, the applicant should review all provisions of this Code Section, particularly the portion attached to the Development Review Standards. The WCF Application process shall include all of the following:

Commented [JC10]: Rearranged and moved to standard (.01)

(.01) Cable providers that occupy any portion of the City's right-of-way are required to enter into a Franchise Agreement with the City. Other utilities, including Competitive Local Exchange Competitor carriers are subject to the terms of the City's Privilege Tax Ordinance No. 616. In order to be permitted, an applicant must complete: 1) a Site Development Permit Application; 2) a Public Works Permit; 3) a Building Permit; and 4) enter into a Lease Agreement with the City for use of the public Right-of-Way.

(.02) Required for all WCF, including SWF applications:

A. Property Owner Signature. The signature of the property owner(s) on City of Wilsonville application forms or a written signed statement from the property owner(s) granting authorization to proceed with the land use application and building permits, pursuant to WC Section 4.009.

B. ~~(.01)~~ Speculation. No Application for a WCF shall be approved from an applicant that constructs WCF and leases tower space to service providers that is not itself a wireless service provider, unless the applicant submits a binding written commitment or executed lease from a service provider to utilize or lease space on the WCF.

C. ~~(.02)~~ Geographical Survey. **This Section (C) is not applicable to applications submitted subject to the provisions of 47 U.S.C. 1455(a). The applicant shall identify the geographic service area for the proposed WCF, including a map showing all of the applicant's existing sites in the local service network ~~associated with the gap that the proposed WCF is proposed to close.~~ The applicant shall **identify technically feasible alternative site locations within the geographic service area** ~~describe how this service area fits into and is necessary for the service provider's service network.~~**

Commented [JC11]: Moved from below. This states that 6409(a) applications need not comply. Need to confirm if this still applies to SWFs

1. Prior to the issuance of any building permits, applicants for WCF shall provide a copy of the corresponding FCC Construction Permit or license for the facility being built or relocated, if required.

2. The applicant shall include a vicinity map clearly depicting where, within a one-half mile radius, any portion of the proposed WCF could be visible, and a graphic simulation showing the appearance of the proposed WCF and all accessory and ancillary structures from two separate points within the impacted vicinity, accompanied by an assessment of potential mitigation and screening measures. Such points are to be mutually agreed upon by the Planning Director or the Planning Director's designee and the applicant. ~~This Section (2) is not applicable to applications submitted subject to the provisions of 47 U.S.C. 1455(a).~~

D. ~~(.03)~~ Visual Impact, Technological Design Options, and Alternative Site Analysis. The applicant shall provide a visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette, and proposed screening for all components of the facility. The analysis shall include photo simulations and other information as necessary to determine visual impact of the facility as seen from multiple directions. The applicant shall include a map showing where the photos were taken. The applicant shall include an analysis of alternative sites **that would meet City design and locational standards and **alternative** technological design options for the WCF, within and outside of the City, ~~that~~ **which** are capable of meeting the same service objectives as the preferred site with an equivalent or lesser visual impact. If a new tower or pole is proposed as a part of the proposed WCF, the applicant must demonstrate the need for a new tower and pole and why existing locations or design alternatives, such as the use of microcell technology, cannot be used to meet the identified service objectives. Documentation and depiction of all steps that**

will be taken to screen or camouflage the WCF to minimize the visual impact of the proposed facility must be submitted.

- E. (-04) Application Narrative.** ~~Number of WCF.~~ The Application shall include a detailed narrative of all of the equipment and components to be included with the WCF, including, but not limited to, antennas and arrays; equipment cabinets; back-up generators; air conditioning units; poles; towers; lighting; fencing; wiring, housing; and screening. The applicant must provide the number of proposed WCF at each location and include renderings of what the WCF will look like when screened. The Application must contain a list of all equipment and cable systems to be installed, including the maximum and minimum dimensions of all proposed equipment. Wilsonville is an Undergrounding District, meaning that the City will require any utility that can be fully or partially located underground to the maximum extent possible to help preserve the aesthetic appearance of the right-of-way and community and to prevent aboveground safety hazards. Therefore, all components of the WCF must be undergrounded to the extent reasonably feasible. Those components of the WCF that must be above ground must be identified by type of facility, dimension of facility, with proposed screening to reduce to the maximum extent possible the visual impact of aboveground facilities and equipment. A written narrative of why any portion of the WCF must be above ground is required.
- F. (-05) Safety Hazards.** Any and all known or expected safety hazards for any of the WCF facilities must be identified and the applicant who must demonstrate how all such hazards will be addressed and minimized to comply with all applicable safety codes.
- G. (-06) Landscaping.** The Application shall provide a landscape plan, drawn to scale, that is consistent with the need for screening at the site, showing all proposed landscaping, screening and proposed irrigation (if applicable), with a discussion of how proposed landscaping, at maturity, will screen the site. Existing vegetation that is proposed to be removed must be clearly indicated and provisions for mitigation included.
- H. (-07) Height.** The Application shall provide an engineer's diagram, drawn to scale, showing the height of the WCF and all of its above-ground components. Applicants must provide sufficient evidence that establishes that the proposed WCF is designed to the minimum height required to meet the carrier's coverage objectives. If a tower or pole height will exceed the base height restrictions of the applicable zone, this narrative shall include a discussion of the physical constraints (topographical features, etc.) making the additional height necessary. The narrative shall include consideration of design alternatives, including the use of multiple sites or designs that would avoid the need for the new WCF or over zone height WCF. Except as noted in (a) and (b) below, the maximum height allowed in the right-of-way is 50 feet.
- 1. A-** The maximum height for a freestanding SWF in the public right-of-way is no more than ten percent taller than other adjacent structures in the right-of-way.
- 2. B-** When collocated on an existing structure in the public right-of-way, the SWF and the existing structure (including the antenna and any equipment enclosures contained within the structure) shall not exceed 50 feet or more than ten percent of the existing structure or nearby structures, whichever is greater.
- I. (-08) Construction.** The Application shall describe the anticipated construction techniques and time frame for **construction or** installation of the WCF. **This narrative must include all temporary staging, site access, and the types of vehicles and equipment to be used.**
- J. (-09) Maintenance.** The Application shall describe the anticipated maintenance and monitoring program for the WCF, including antennas, back-up equipment, poles, paint, and landscaping; **and a description of anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and potential safety impacts of such maintenance.**

Commented [JC12]: This requirement predominately asks for narrative descriptions, and so I believe the name is misleading.

Commented [JC13]: Merged from repeated maintenance standard contained in (.18)

K. ~~(-10)~~ *Noise/Acoustical Information.* The Application shall provide manufacturer's specifications for all noise-generating equipment, such as air conditioning units and back-up generators, and a depiction of the equipment location in relation to adjoining properties. The applicant shall provide a noise study prepared and sealed by a qualified Oregon-license Professional Engineer that demonstrates that the WCF will comply with intent and goals of Section 6.204 et seq. of this Code.

~~(-11)~~ *Parking.* The Application shall provide a site plan showing the designated parking areas for maintenance vehicles and equipment, if any. No parking of maintenance vehicles and equipment parking shall be permitted in any red curb zone, handicap parking zone, or loading zone.

Commented [JC14]: Only applicable to new macro WCF

~~(-12)~~ *Co-Location.* In the case of new multi-user towers, poles, or similar support structures, the applicant shall submit engineering feasibility data and a letter stating the applicant's willingness to allow other carriers to co-locate on the proposed WCF.

Commented [JC15]: Only applicable to new macro WCF

L. ~~(-13)~~ *Lease.* The site plan shall show the lease area of the proposed WCF.

M. ~~(-14)~~ *FCC License and Radio Frequency Safety Compliance.* The Application shall provide a copy of the applicant's FCC license and/or construction permit, if an FCC license and/or construction permit is required for the proposed facility. The applicant shall provide documentation showing that the party responsible for radio frequency transmissions is in planned or actual compliance with all FCC RF emissions safety standards and guidelines at 47 C.F.R. § 1.1307 et seq. and FCC Office of Engineering Technology Bulletin 65.

N. ~~(-15)~~ *Lighting and Marking.* The Application shall describe any proposed lighting and marking of the WCF, including any required by the FAA.

O. ~~(-16)~~ *Co-Location Feasibility.* A feasibility study for the co-location of any WCF as an alternative to new structures must be presented and certified by an Oregon-licensed Professional Engineer. Co-location will be required when determined to be feasible. The feasibility study shall include:

Commented [RK16]: Need to clarify if this should only apply to Macro WCF. If so move to (.03)

- 1.A** An inventory, including the location, ownership, height, and design of existing WCF within one-half mile of the proposed location of a new WCF. The planning director may share such information with other applicants seeking permits for WCF, but shall not, by sharing such information, in any way represent or warrant that such sites are available or suitable.
- 2.B** Documentation of the efforts that have been made to co-locate on existing or previously approved towers, poles, or structures. The applicant shall make a good faith effort to contact the owner(s) of all existing or approved towers, poles, or structures and shall provide a list of all owners contacted in the area, including the date, form, and content of such contact.
- 3.C** Documentation as to why co-location on existing or proposed towers, poles, or commercial structures within 1,000 feet of the proposed site is not practical or feasible. Co-location shall not be precluded simply because a reasonable fee for shared use is charged or because of reasonable costs necessary to adapt the existing and proposed uses to a shared tower. The Planning Director and/or Development Review Board may consider expert testimony to determine whether the fee and costs are reasonable when balanced against the market and the important aesthetic considerations of the community.

P. ~~(-17)~~ *Engineering Report for New Location - A.* An Application for a new WCF, whether co-located or new, shall include, as applicable, a report from an Oregon licensed Professional Engineer documenting the following:

1. A description of the proposed WCF height and design, including technical, engineering, and other pertinent factors governing selection of the proposed design. A cross-section of the proposed WCF structure shall be included. The engineer shall document whether the

structure is at its maximum structural capacity and, if not, the additional weight the structure could support.

2. Documentation that the proposed WCF will have sufficient structural integrity for the proposed uses at the proposed location, in conformance with the minimum safety requirements of the State Structural Specialty Code and EIA/TIA 222 (Structural Standards for Communication and Small Wind Turbine Support Structures), latest edition at the time of the application.
- 3B.** A description of mitigation methods which will be employed to avoid ice hazards, including increased setbacks, and/or de-icing equipment, if required by any safety law, regulation, or code.
- 4C.** Evidence that the proposed WCF will comply with all applicable requirements of the Federal Aviation Administration, the Aeronautics Section of the Oregon Department of Transportation, and the Federal Communications Commission.

~~(-18) Maintenance. The applicant shall provide a description of anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and potential safety impacts of such maintenance.~~

Commented [JC17]: Repeated above

~~(-19) Recordation Requirements. If a new WCF is approved, the owner shall be required, as a condition of approval, to:~~

- ~~A. Record the conditions of approval specified by the City with the Deeds Records Office in the Office of the County Recorder of the county in which the WCF is located;~~
- ~~B. Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;~~
- ~~C. Negotiate in good faith for shared use by others; and~~
- ~~D. Such conditions shall run with the land and be binding on subsequent purchasers of the WCF.~~

Commented [JC18]: Applies to new WCF

Q. All SWF applications must demonstrate compliance with all requirements in Section 2 "Design Elements" of the "City of Wilsonville Small Wireless Facility Infrastructure Design Standards".

~~R. (-20)~~ The Planning Director may request any other information deemed necessary to fully evaluate and review the information provided in the application.

(.03) Additional Application Requirements for new Macro WCF applications.

- A. Parking. The Application shall provide a site plan showing the designated parking areas for maintenance vehicles and equipment, if any. No parking of maintenance vehicles and equipment parking shall be permitted in any red curb zone, handicap parking zone, or loading zone.**
- B. Co-Location. In the case of new multi-user towers, poles, or similar support structures, the applicant shall submit engineering feasibility data and a letter stating the applicant's willingness to allow other carriers to co-locate on the proposed WCF.**
- C. Recordation Requirements. If a new WCF is approved, the owner shall be required, as a condition of approval, to:**
 - 1. Record the conditions of approval specified by the City with the Deeds Records Office in the Office of the County Recorder of the county in which the WCF is located;**
 - 2. Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;**
 - 3. Negotiate in good faith for shared use by others; and**
 - 4. Such conditions shall run with the land and be binding on subsequent purchasers of the WCF.**

Commented [JC19]: No language change - just restructuring

Section 4.802. Co-Location.

In order to encourage shared use of towers, poles, or other facilities for the attachment of WCF, no conditional use permit shall be required for the addition of equipment, provided that:

- (.01) There is no change to the type of tower or pole.
- (.02) All co-located WCF shall be designed in such a way as to be visually compatible with the structures on which they are placed.
- (.03) All co-located WCF must comply with the conditions and concealment elements of the original tower, pole, or other facility upon which it is co-locating.
- (.04) Shall not disturb, or will mitigate any disturbed, existing landscaping elements.
- (.05) Does not entail excavation or deployment outside site of current facility where co-location is proposed.
- (.06) All co-located WCF, and additions to existing towers, poles, or other structures, shall meet all requirements of the State of Oregon Structural Specialty Code and EIA/TIA 222 (Structural Standards for Communication and Small Wind Turbine Support Structures), latest edition at the time of the application. A building permit shall be required for such alterations or additions. Documentation shall be provided by an Oregon-licensed Professional Engineer verifying that changes or additions to the tower structure will not adversely affect the structural integrity of the tower.
- (.07) Additional Application Requirements for Co-Location:
 - A. A copy of the site plan approved for the original tower, pole, or other base station facility to which the co-location is proposed.
 - B. A site survey delineating development on-the-ground is consistent with the approved site plan.

Section 4.803. Development Review Standards.

All WCF shall comply with the following Development Review standards, unless grandfathered under State or Federal law:

- (.01) The following development standards are applicable to all WCF and SWF applications: ~~Visual Impact:~~
 - A. *Maximum Number of High Visibility Facilities Per Lot or Parcel.* No more than one high visibility WCF is allowed on any one lot or parcel of five acres or less. The Development Review Board may approve exceeding the maximum number of high visibility WCF per lot or parcel if one of the following findings is made through a Class III review process: (1) co-location of additional high visibility WCF is consistent with neighborhood character, (2) the provider has shown that denial of an application for additional high visibility WCF would prohibit or have the effect of prohibiting service because the WCF would fill a significant gap in coverage and no alternative locations are available and technologically feasible, or (3) the provider has shown that denial of an application for additional high visibility WCF would unreasonably discriminate among providers of functionally equivalent services. In such cases, the Development Review Board shall be the review authority for all related applications.
 - B. *Height.* The tower or pole height of a freestanding WCF in R, PDR and RA-H zones shall not exceed 50 feet, except the following:
 - 1. RA-H zoned property occupied by the City Wastewater Treatment Plant and the PDR zoned property occupied by the Elligsen Road Water Reservoir shall be exempted from the height limitations of the subject zones, and subsection 4.803(.01)A, above, shall apply.

Created: 2023-03-15 13:14:20 [EST]

(Supp. No. 2)

2. **Small Wireless Facilities in the public right-of-way.** SWF in the public right-of-way shall not exceed the height permitted under WC 4.801(.07).
- C. **WCF Adjacent to Residentially Designated Property.** In order to ensure public safety, all WCF located adjacent to any property designated as residential in Wilsonville shall be set back from all residential property lines by a distance at least equal to the maximum height of the facility including any antennas or other appurtenances attached thereto. The setback shall be measured from that part of the WCF that is closest to the neighboring residentially designated property.
- D. ~~**Historical Buildings and Structures.** No WCF shall be allowed on any building or structure, or in any district, that is listed on any Federal, State, or local historical register unless it is determined by the Development Review Board that the facility will have no adverse effect on the appearance of the building, structure, or district. No change in architecture and no high visibility facilities are permitted on any such building, any such site, or in any such district.~~
- ~~D. E.~~ **Tower or Pole Heights.** ~~Towers or poles may~~ **WCFs shall not** exceed the height limits ~~otherwise~~ provided for in the Development Code with **out a conditional use review and** compelling justification ~~only~~. Costs and cost efficiency are not compelling justifications.
- ~~E. F.~~ **Accessory Building Size.** Within the public right-of-way, no above-ground accessory buildings shall be permitted. Outside of the public right-of-way, all accessory buildings and structures permitted to contain equipment accessory to a WCF shall not exceed 12 feet in height unless a greater height is necessary and required by a condition of approval to maximize architectural integration. Each accessory building or structure is limited to 200 square feet, unless approved through a Conditional Use Permit.
- ~~F. G.~~ **Utility Vaults and Equipment Pedestals.** Within the public right-of-way, utility vaults and equipment pedestals associated with WCF must be underground to the maximum extent possible.
- ~~G. H.~~ **Visual Impact.** All WCF shall be designed to minimize the visual impact to the maximum extent possible by means of placement, screening, landscaping, and camouflage. All WCF shall also be designed to be compatible with existing architectural elements, building materials, and other site characteristics. All WCF shall be sited in such a manner as to cause the least detriment to the viewshed from other properties. The use of radomes and/or other camouflage techniques acceptable to the City to conceal antennas, associated equipment and wiring, and antenna supports is required.
- ~~H. I.~~ **Color Schemes.** For the sake of visual impact, no wooden poles are allowed except Small Wireless Facilities on existing poles with high voltage power lines that would require thermal hydraulic cooling if undergrounded. Color schemes must be approved by the City to best camouflage with the surrounding landscape.
- ~~I. J.~~ **Antennas.** Façade-mounted antennas shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. As appropriate, antennas shall be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Façade-mounted antennas shall not extend more than two feet out from the building face. Roof-mounted antennas shall be constructed at the minimum height possible to serve the operator's service area and shall be set back as far from the building edge as possible or otherwise screened to minimize visibility from the public right-of-way and adjacent properties.
- ~~J. K.~~ **Noise.** Noise from any equipment supporting the WCF shall meet the requirements of City Code Section 6.204—Noise.
- ~~K. L.~~ **Signage.** No signs, striping, graphics, or other attention-getting devices are permitted on any WCF except for warning and safety signage with a surface area of no more than three square feet. Except as required by law, all signs are prohibited on WCF except for one non-illuminated

Commented [JC20]: These references need to be corrected when agreed-upon structure is final.

sign, not to exceed two square feet, which shall be provided at the main entrance to the WCF, stating the owner's name, the wireless operator(s) if different from the owner, and address and a contact name and phone number for emergency purposes. WCF may be placed entirely behind existing street or building signs as one method of camouflage.

- ~~L. M.~~ *Traffic Obstruction.* Maintenance vehicles servicing facilities located in the public right-of-way shall not park on the traveled way or in a manner that obstructs traffic. No maintenance vehicle parking shall be permitted in red curb zones, handicap zones, or loading zones.
- ~~M. N.~~ *Parking.* No net loss in minimum required parking spaces shall occur as a result of the installation of any WCF.
- ~~N. O.~~ *Sidewalks and Pathways.* Cabinets and other equipment shall not impair pedestrian use of sidewalks or other pedestrian paths or bikeways on public or private land and shall be screened from view. Cabinets shall be undergrounded, to the maximum extent possible.
- ~~O. P.~~ *Lighting.* WCF shall not include any beacon lights or strobe lights, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If beacon lights or strobe lights are required, the Development Review Board shall review the available alternatives and approve the design with the least visual impact. All other site lighting for security and maintenance purposes shall be shielded and directed downward, and shall comply with the City's outdoor lighting standards in City Code Section 4.199, unless otherwise required under Federal law.
- ~~P. Q.~~ *Paint and Finish.* Towers, poles, antennas, and associated equipment shall either maintain a galvanized steel finish or be painted a non-reflective, neutral color, as approved by the Planning Director or Development Review Board, to minimize visibility. Attached communication facilities shall be painted so as to be identical to or compatible with the existing structure. Towers more than 200 feet in height shall be painted in accordance with the Oregon State Aeronautics Division and Federal Aviation Administration rules. Applicants shall attempt to seek a waiver of OSAD and FAA marking requirements. When a waiver is granted, towers shall be painted and/or camouflaged in accordance with subsection (.01), above. All ancillary facilities shall be colored or surfaced so as to blend the facilities with the surrounding natural and built environment.
- ~~Q. R.~~ *Use of Concealments.* Concealments are customized structures engineered to cover cell towers, antennas, DAS equipment and beautify them and make them either less visible or more pleasing to have in the landscape. Applicant shall present a proposal for concealment intended to meet the foregoing goal.
- ~~R. S.~~ *Public Works Standards.* Additional applicable construction and design standards are as set forth in the City's 2015 Public Works Standards.
- ~~S. T.~~ *Compliance With All Laws.* Every WCF shall comply with all local, state, and federal laws, codes, and regulations including without limitation to the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.

~~(.02) Site Size.~~ The site on which a transmission tower/pole is located shall be of a sufficient shape and size to provide all required setbacks as specified in this Code Section. Towers or poles only as permitted herein may be located on sites containing other principal uses in the same buildable area as long as all of the other general requirements of this Code Section are met.

~~(.03) Separation and Setbacks.~~

- ~~A.~~ WCF shall be set back from any other property line by a distance at least equal to the maximum height of the facility including any antennas or other appurtenances attached thereto unless this requirement is specifically waived by the Planning Director or the Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.

- ~~B. A guyed tower located on sites containing other principal uses must maintain a minimum distance between the tower and other principal uses of the greater of 100 percent breakpoint or 25 feet, unless this requirement is specifically waived by the Planning Director or Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.~~
- ~~C. WCF mounted on rooftops or City approved alternative tower structures shall be exempt from these minimum separation requirements. However, WCF and related equipment may be required to be set back from the edge of the roof line in order to minimize their visual impact on surrounding properties and must be screened.~~
- ~~D. WCF towers and poles are prohibited in the required front yard, back yard, or side yard setback of any lot in any zone, and no portion of any antenna array shall extend beyond the property lines. For guyed towers or poles, all guy anchors shall be located outside of the setback from all abutting properties.~~
- ~~I. (.04) Security Fencing.~~ WCF or towers shall be enclosed by decay-resistant security fencing not less than six feet in height and shall be equipped with an appropriate anti-climbing device. Fencing shall be compatible with other nearby fencing. Such requirements may be waived for attached WCF.
- ~~U. (.05) Landscaping.~~ Landscaping shall be placed around the outside perimeter of the security fencing and shall consist of fast growing vegetation that can be expected to reach a minimum height of six feet and form a continuous hedge within two years of planting. Drought tolerant landscaping materials shall be required and otherwise meet the landscaping standards of City Code Section 4.176. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height and would not affect the stability of the guys should they be uprooted. Landscaping shall be compatible with other nearby landscaping.
- ~~V. (.06) Conflict with Right-of-Way.~~ No WCF shall be located within a planned or existing public right-of-way, unless it is specifically designed for the purpose in a way that will not impede pedestrian, bicycle, or vehicular traffic and the installation of any sidewalk or path that is a planned future improvement.
- ~~W. (.07) Change to Approved WCF.~~ Any change to or expansion of a WCF that will in any way change the physical appearance of the WCF will require a new application.

(.02) Additional development standards applicable to new Macro WCF:

- A. **Site Size.** The site on which a transmission tower/pole is located shall be of a sufficient shape and size to provide all required setbacks as specified in this Code Section. Towers or poles only as permitted herein may be located on sites containing other principal uses in the same buildable area as long as all of the other general requirements of this Code Section are met.
- B. **Separation and Setbacks.**
1. **WCF shall be set back from any other property line by a distance at least equal to the maximum height of the facility including any antennas or other appurtenances attached thereto unless this requirement is specifically waived by the Planning Director or the Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.**
 2. **A guyed tower located on sites containing other principal uses must maintain a minimum distance between the tower and other principal uses of the greater of 100 percent breakpoint or 25 feet, unless this requirement is specifically waived by the Planning Director or Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.**
 3. **WCF mounted on rooftops or City-approved alternative tower structures shall be exempt from these minimum separation requirements. However, WCF and related equipment may**

Commented [RK21]: Moved from (.01)

be required to be set back from the edge of the roof line in order to minimize their visual impact on surrounding properties and must be screened.

4. WCF towers and poles are prohibited in the required front yard, back yard, or side yard setback of any lot in any zone, and no portion of any antenna array shall extend beyond the property lines. For guyed towers or poles, all guy anchors shall be located outside of the setback from all abutting properties.

Section 4.804. Review Process and Approval Standards.

(.01) *Class I Process.* The following WCF are allowed with the approval of a WCF Site Plan to be reviewed by the Planning Director pursuant to a Class I process under City Code Section 4.030 (.01) A:

- A. Small Wireless Facilities in the public right-of-way.
- B. ~~Replacement of existing antennas on approved tower at same height.~~ WCF Co-locations meeting the criteria outlined in Wilsonville Code Section 4.802.

Commented [JC22]: Clarify if this applies to both colocation and free standing.

Also, for SWF outside of the ROW - Class 2 if current language does not change.

(.02) *Class II Process.* The following WCF are allowed with the approval of a WCF Site Plan to be reviewed by the Planning Director pursuant to a Class II process under City Code Section 4.030(.01)B:

- A. New Macro WCF proposed in the following locations excepted as noted in (.01) above:
1. Any property owned by the City of Wilsonville, including public right-of-way;
 2. Any school property owned by any public school district;
 3. Any fire station property owned by any fire district;
 4. Any property within an electric utility substation.
- B. Camouflaged WCFs attached to existing light, power, or telephone poles in all zones, subject to the development standards of Section 4.803.
- C. WCF Co-locations not meeting the criteria outlined in Wilsonville Code Section 4.802.
- D. Satellite dishes larger than one meter.

Commented [RK23]: Clarify if this is still needed

(.03) *Conditional Use Permit Requirements.* Applications for WCF in all other locations and situations, including moderate or high visibility facilities that exceed the height limit of the applicable zone, shall also require a Conditional Use Permit to be reviewed by the Development Review Board. In addition to the approval standards in City Code Section 4.030, the applicant shall demonstrate that the WCF Site Plan approval standards in this Section are met.

(.04) *Approval Criteria.* The Development Review Board shall approve the use and WCF Site Plan for any of the WCF listed in subsections of this Section upon a determination that the following criteria are met:

- A. The height of the proposed WCF does not exceed the height limit of the underlying zoning district, or does not increase the height of an existing facility.
- B. The location is the least visible of other possible locations and technological design options that achieve approximately the same signal coverage objectives.
- C. The location, size, design, and operating characteristics of the proposed WCF will be compatible with adjacent uses, residences, buildings, and structures, with consideration given to:
1. Scale, bulk, coverage, and density;
 2. The suitability of the site for the type and intensity of the proposed WCF; and
 3. Any other relevant impact of the proposed use in the setting where it is proposed.

- D. All required public facilities have adequate capacity, as determined by the City, to serve the proposed WCF; and
- E. The proposed WCF complies with all of the general regulations contained in this Section 4.800—4.812.

(.05) *Conditions of Approval.* The City may impose any other reasonable condition(s) deemed necessary to achieve compliance with the approval standards, including designation of an alternate location. If compliance with all of the applicable criteria cannot be achieved through the imposition of reasonable conditions, the Application shall be denied.

(Ord. No. 831, 1-24-2019)

Section 4.805. Exemptions.

The following shall be considered exempt structures or activities under this Code Chapter:

- (.01) ~~Antennas (including direct to home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations regardless of zone capacity.~~
- (.02) ~~Cell on Wheels (COW), which are permitted as temporary uses in nonresidential zones for a period not to exceed 60 days, except that such time period may be extended by the City during a period of emergency as declared by the City, County, or State.~~
- (.03) ~~Replacement antennas or equipment, provided the replacement antennas and/or equipment have the same function, size, and design to the replaced antenna and/or equipment and do not exceed the overall size of the original approved antenna and/or equipment.~~

(Ord. No. 831, 1-24-2019)

Section 4.8056. Damage, Destruction, or Interference to Other Utilities.

In the installation of any WCF within the right-of-way, care must be taken to install in such a way that does not damage, interfere with, or disturb any of the several other utilities that may already be located in the area. Any damage done to such other utilities must be immediately reported to both the City and the owner of the damaged utility, and must be promptly repaired by the permittee or the utility owner, with the permittee being responsible for all costs of repair, including any extra charges that may be assessed for emergency repairs. Failure to notify the City and the damaged utility provider will result in revocation of the WCF. When approving the location for a WCF, the location of other utilities, or the need for the location of other utilities, within the right-of-way must be considered before approval to locate the WCF will be given in order to ensure those other services to the public are not disrupted.

No additional changes proposed in this section

Commented [JC24]: Moved above to use section

Commented [JC25]: Renumber from here down - no other changes proposed past this point.

Development Code Process Clarifications

City Council Work Session –
August 7, 2023



Project Overview

- Goals
 - Update review processes
 - Clarify application requirements
 - Correct Development Code inconsistencies
- Changes are procedural in nature

Wireless Communications Facilities

- Issues
 - Co-locations subject to 6409(a) processed via Class 2 process
 - Application requirements cover all WCF, many not applicable to most common application types
- Resolution
 - Change 6409(a) co-location review process to Class 1
 - Clarify permitted vs. conditional uses
 - Reorganize application requirements to distinguish between co-locations, SWFs, and new WCFs

Other Edits

- Development Approval Extensions
- Temporary Uses and Signs
- Development Application Submittal

Anticipated Timing

- Planning Commission Public Hearing
 - September 13, 2023
- City Council Public Hearing
 - September 18, 2023

- What comments or questions does the City Council have about the proposed Development Code amendments?

City Council Meeting Action Minutes August 7, 2023

COUNCILORS PRESENT

Mayor Fitzgerald
Council President Akervall
Councilor Linville
Councilor Berry
Councilor Dunwell

Amanda Guile-Hinman, City Attorney
Dan Pauly, Planning Manager
Dustin Schull, Parks Supervisor
Kimberly Rybold, Senior Planner
Kimberly Veliz, City Recorder
Mark Ottenad, Public/Government Affairs Director
Miranda Bateschell, Planning Director
Stephanie Davidson, Assistant City Attorney

STAFF PRESENT

Bryan Cosgrove, City Manager

AGENDA ITEM	ACTIONS
WORK SESSION	START: 5:05 p.m.
A. Willamette Falls Locks Authority Update	Staff updated Council on the ongoing work of the Willamette Falls Locks Authority (WFLA) and the Army Corps of Engineers to repair and re-open the locks to river traffic. Council affirmed its commitment to supporting these efforts.
B. Sofia Playground Replacement Project and Contract Award	Staff shared community feedback received on new play equipment to be purchased and installed at Sofia Park in Villebois.
C. Development Code Process Clarifications	Staff shared a summary of proposed amendments to the Development Code that would clarify the review process for applications and amend language to correct inconsistencies.
D. Housing Our Future	Staff introduced the Housing Our Future project, which would analyze the City's housing inventory to understand current and future needs, and to develop strategies.
E. Frog Pond East and South Master Plan Development Code	Council provided input on proposed Development Code amendments that pertain to urban form and architectural standards of structures to be developed in Frog Pond East and South.
ADJOURN	7:20 p.m.



PLANNING COMMISSION

WEDNESDAY, JULY 12, 2023

WORK SESSION

2. Procedural Development Code Cleanup (Rybold) (60 minutes)



PLANNING COMMISSION MEETING STAFF REPORT

Meeting Date: July 12, 2023		Subject: Development Code Process Clarifications	
		Staff Members: Kimberly Rybold, AICP, Senior Planner	
		Department: Community Development	
Action Required		Advisory Board/Commission Recommendation	
<input type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable	
		Comments: N/A	
Staff Recommendation: Review draft Development Code amendments that clarify review processes for certain development application types.			
Recommended Language for Motion: N/A			
Project / Issue Relates To:			
<input type="checkbox"/> Council Goals/Priorities:	<input type="checkbox"/> Adopted Master Plan(s):	<input checked="" type="checkbox"/> Not Applicable	

ISSUE BEFORE COMMISSION:

The project team will present proposed Development Code amendments to clarify the review process for certain application types, including wireless communications facilities, extensions of development approvals, and temporary use and sign permits.

EXECUTIVE SUMMARY:

The proposed Development Code process clarifications will update review processes for certain application types, clarify application requirements, and correct inconsistencies in the Development Code regarding existing review processes. The proposed amendments (Attachment 1) are intended to reduce confusion among applicants and the broader public on required review processes and information needed for certain application types. The proposed amendments will also adjust the review process for some Wireless Communications Facility (WCF) applications.

The primary focus of this work is to clarify application requirements and review processes for various types of WCF applications to better reflect Federal review and approval requirements and the level of information needed to review different types of WCFs. Key amendments include the following:

- **Review Process for Co-locations** – Revisions to Section 4.804 (Review Process and Approval Standards) to enable WCF applications subject to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. § 1455(a)) to be reviewed through the Class 1 Administrative Review process. Section 6409(a) applications are required to be reviewed in a condensed timeline of 60 days (with limited tolling of this review timeline) and must be approved if all applicable criteria are met. Given the ministerial nature of this review and the inability to incorporate input received through the public comment period, a Class 1 Administrative Review process is most appropriate for these application types. This would be the same as the review process for Small Wireless Facilities (SWFs), which are governed by similar Federal review mandates.
- **Application Requirements** – Specificity added to Section 4.800 about the different WCF types to directly address which ones are permitted, conditional, prohibited, or exempt. Within Section 4.801, the proposed amendments clarify what application materials must be submitted for different WCF types. This clarification will reduce applicant confusion for co-locations and SWFs, as many of the required items are only applicable to new WCF.

Other process clarifications are proposed as noted below:

- **Extension of Development Approvals** – Revisions to Sections 4.023 (Expiration of Development Approvals) and 4.140 (Planned Development Regulations) to resolve conflicting process language regarding the review process for development approval extensions. Revisions would clarify that these requests are reviewed as a Class 1 Administrative Review.
- **Temporary Use Permits** – Amendments to Section 4.030 (Jurisdiction and Powers of Planning Director and Community Development Director) clarify how the time period of the permit is calculated consistent with current practice that allows permits for non-consecutive days. Approval criteria for Class 2 Temporary Use Permits would be updated to be consistent with Class 1 Temporary Use Permits.
- **Temporary Sign Permits** – Amendments adding clarifying language to Section 4.156.09 (Temporary Signs in all Zones) describing which temporary signs need a permit.

- **General Administration** – Clarification in Section 4.011 (How Applications are Processed) that to be considered filed, applications must include authorization as specified in Section 4.009 (Who May Initiate Applications). Addition of Type B Tree Removal Permits to the list of Class 2 Administrative Review applications consistent with Section 4.610.30 (Type B Permit).

During this work session the project team will look for the following question to be answered by the Planning Commission:

- What comments or questions does the Planning Commission have about the proposed Development Code amendments?

EXPECTED RESULTS:

Presentation of proposed Development Code amendments.

TIMELINE:

Upon review of Planning Commission feedback, the Development Code amendments will be scheduled for adoption in fall 2023.

CURRENT YEAR BUDGET IMPACTS:

Consultant costs will be paid by the Planning Division's professional services budget. Staff time for this update will be paid from the Planning Division's budget.

COMMUNITY INVOLVEMENT PROCESS:

Existing Development Code regulations were adopted by the City after community outreach. The proposed Development Code amendments are procedural, not policy-based, in nature. The community will be notified of Planning Commission and City Council public hearings and will have the opportunity to provide oral or written testimony on the amendments.

POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:

Adoption of the proposed Development Code modifications will provide applicants and the community additional clarity and certainty on the review process for affected development applications.

ALTERNATIVES:

The Planning Commission may suggest modifications to the proposed Development Code amendments to add additional clarity.

ATTACHMENT:

1. DRAFT Proposed Development Code Edits – July 2023

DRAFT Proposed Development Code Edits – July 2023

Proposed added language **bold underline**. Proposed removed language ~~struck through~~.

Section 4.011. How Applications are Processed.

- (.01) Applications submitted without the required filing fee, **or the correct authorization as specified in Section 4.009,** shall not be considered to be "filed" and shall be returned to the prospective applicant without being processed.

No additional changes proposed in this section

Commented [JC1]: Suggested for redundancy based on the practice of not accepting development applications without property owner signatures.

Section 4.023. Expiration of Development Approvals (See also Section 4.140).

- (.01) Except for Specific Area Plans (SAP), land use and development permits and approvals, including both Stage I and Stage II Planned Development approvals, shall be valid for a maximum of two years, unless extended as provided in this Section. Specific Area Plan approvals shall not expire.
 - A. Substantial development, as defined in this Chapter, has taken place in compliance with the permit or approval; or
 - B. A time extension has been granted by city staff for good cause. ~~Except as provided in subsection (.05) below, not~~ **Not** more than three such extensions may be granted, for not more than one year each.
- (.02) If the development approval is for a subdivision or partition, the developer has two years from the date of approval to submit the final plat for recordation, unless a time extension has been granted as specified in Section 4.023(.01), above. Use of the site or substantial development does not obviate the need for submittal of the final plat within the specified time limits.
- (.03) Zone changes shall not expire unless expiration provisions are specifically included in the zone order adopted by the City Council.
- (.04) Requests for time extensions shall be submitted in writing, including written justification therefore, and received by the Planning Department not less than ~~eight (8)~~ **30** calendar days prior to the expiration date of the permit or approval.
- ~~(.05) Notwithstanding the limitations and requirements in Section 4.023(.01)(B.) and (.04), beginning June 1, 2009 and ending June 1, 2010, city staff shall approve all applications for one year extensions, which applications shall not require a demonstration of good cause, but shall be accompanied by a filing fee which shall not exceed the fee for a Class 1 Administrative Review, and which extensions shall not be counted toward the maximum number of extensions allowed in Subsection 4.023(.01)(B.).~~

Section 4.030. Jurisdiction and Powers of Planning Director and Community Development Director.

- (.01) *Authority of Planning Director.* The Planning Director shall have authority over the daily administration and enforcement of the provisions of this Chapter, including dealing with non-discretionary matters, and shall have specific authority as follows:
 - A. A Class I application shall be processed as a ministerial action without public hearing, shall not require public notice, and shall not be subject to appeal or call-up, except as noted below. Pursuant to Class I

procedures set forth in Section 4.035, and upon finding that a proposal is consistent with the provisions of this Code and any applicable Conditions of Approval, shall approve the following, with or without conditions:

1. Minor site clearing and grading, prior to the approval of a Site Development Plan, provided that:
 - a. No clearing or grading occurs within the Significant Resource Overlay Zone. Clearing or grading in the Significant Resource Overlay Zone shall require, at a minimum, approval of a Class II permit through the procedures specified below;
 - b. No clearing or grading occurs within 25 feet of an area that has been identified by the City as a wetland;
 - c. Not more than three trees are proposed to be removed;
 - d. No fill or removal is proposed;
 - e. Adequate measures are utilized to control erosion and runoff from the site and that the applicant will submit a final Site Development application within seven days of submitting the minor site grading application. All grading activities require compliance with the requirements of the applicable building code and City Public Works standards.
2. Class I Sign Permits, and Temporary Sign Permits for 30 days or less.
3. Architectural, landscape, tree removal, grading and building plans that substantially conform to the plans approved by the Development Review Board and/or City Council. The Planning Director's approval of such plans shall apply only to Development Code requirements and shall not alter the authority of the Building Official or City Engineer on these matters.
4. Building permits for single family dwellings, middle housing, and in the Village zone, row houses or apartments, meeting zoning requirements and located on lots that have been legally created. The Planning Director's approval of such plans shall apply only to Development Code requirements and shall not alter the authority of the Building Official or City Engineer on these matters.
5. Lot line adjustments, where none of the lots increase in area by 50 percent or more, subject to the standards specified in Section 4.233.
6. A temporary use permit for not more than 30 days, **Permitted days may or may not be consecutive, but shall not exceed 30 days within the calendar year for which the permit was applied. Temporary use permits are** subject to the following standards:
 - a. The applicant has the written permission of the property owner to use the site;
 - b. The proposed use will not create an obstruction within a sight vision clearance area that would impair the vision of motorists entering onto or passing by the property;
 - c. Adequate parking is provided;
 - d. Signs shall meet the standards of Section 4.156.09. A maximum of two signs, not exceeding a combined total of 24 square feet, are allowed; and
 - e. The proposed use has the approval of the Fire Marshal.
7. Determination that an existing use or structure is a non-conforming use or non-conforming structure, as defined in this Code. Except, however, that the Planning Director may, in cases where there is any uncertainty as to the history of the property, choose to process such determinations through the Class II procedures below.
8. Actions taken subject to Site Development Permits which have been approved by the appropriate decision-making body of the City.

Commented [JC2]: Codifies the City's interpretation for multi-week temporary use permits. Ex. a permit for every Saturday over a three-month period.

9. Final plats for condominiums, subdivisions, or partitions that are substantially the same as tentative plats approved by the City and which are submitted for review and signature prior to recordation with the appropriate county.
 10. Type A tree removal permits as provided in Section 4.600.
 11. Determination, based upon consultation with the City Attorney, whether a given development application is quasi-judicial or legislative. Except, however, that the Planning Director may, in cases where there is any uncertainty as to the nature of the application, choose to process such determinations through the Class II procedures below.
 12. Expedited land divisions and middle housing land divisions requiring expedited review under state law. Applications for expedited land divisions and middle housing land divisions requiring expedited review under state law, as provided for in Section 4.232 of this Code and ORS Chapter 197 shall be processed without public hearing, and shall be subject to appeal through the special appeal procedures specified in Section 4.232.
 - a. Authority of Planning Director. The Planning Director shall have authority to review applications for expedited land divisions and middle housing land divisions requiring expedited review under state law and to take action approving, approving with conditions, or denying such applications, based on findings of fact.
 - b. Tentative Plat Requirements for Expedited Land Divisions and middle housing land divisions requiring expedited review under state law. Tentative plats and all other application requirements for expedited land divisions and middle housing land divisions requiring expedited review under state law shall be the same as for other forms of land divisions, except as those requirements are specifically altered by the Oregon Revised Statutes.
 - c. Administrative Relief Not Available. In taking action on an application for an expedited land division or middle housing land divisions requiring expedited review under state law, the Planning Director is not authorized to grant Variances or waivers from the requirements of the Code.
 - d. Residential Areas Only. As specified in ORS 197, expedited land divisions shall only be approved in areas zoned for residential use.
- B. A Class II application shall be processed as an administrative action, with or without a public hearing, shall require public notice, and shall be subject to appeal or call-up, as noted below. Pursuant to Class II procedures set forth in Section 4.035, the Director shall approve, approve with conditions, deny, or refer the application to the Development Review Board for a hearing:
1. Minor alterations to existing buildings or site improvements of less than 25 percent of the previous floor area of a building, but not to exceed 1,250 square feet, or including the addition or removal of not more than ten parking spaces. Minor modifications to approved Architectural and Site Development Plans may also be approved, subject to the same standards.
 2. Residential accessory buildings or structures with less than 120 square feet of floor area located within the Willamette River Greenway Boundary pursuant to Section 4.500 and subject to the flood plain development standards of Section 4.172. Approval of such accessory structures in the Greenway shall be based on all of the following findings of fact:
 - a. The building or structure is located so that the maximum amount of landscape area, open space and/or vegetation is provided between the river and the building;
 - b. Public access to the river is preserved or is provided in accordance with an approved and adopted plan; and
 - c. That the change of use, intensification of use, or development will be directed away from the river to the greatest possible degree while allowing a reasonable use of the property.

3. Written interpretations of the text or maps of this Code, the Comprehensive Plan or sub-elements of the Comprehensive Plan, subject to appeal as provided in Section 4.022. The Planning Director may review and interpret the provisions and standards of Chapter 4 (Planning) of the Wilsonville Code upon receiving the required filing fee along with a specific written request. The Director shall publish and mail notice to affected parties and shall inform the Planning Commission and City Attorney prior to making a final written decision. The Director's letter and notice of decision shall be provided to the applicant, the Planning Commission, the City Council, and City Attorney and the notice shall clearly state that the decision may be appealed in accordance with Section 4.022 (Appeal Procedures). A log of such interpretations shall be kept in the office of the Planning Department for public review.
4. A permit to locate an accessory use on a lot adjacent to the site of the principal use.
5. Subdivisions located within the Coffee Creek Industrial Design Overlay District and land partitions, other than expedited land divisions, pursuant to Section 4.210. Approval shall be based on all of the following findings of fact:
 - a. The applicant has made a complete submittal of materials for the Director to review, as required in Section 4.210;
 - b. The proposed plan meets the requirements of the Code regarding minimum lot size and yard setbacks;
 - c. The approval will not impede or adversely affect the orderly development of any adjoining property or access thereto;
 - d. The public right-of-way bordering the lots or parcels will meet City standards;
 - e. Any required public dedications of land have been approved for acceptance by the City and will be recorded with the County prior to final plat approval;
 - f. Adequate easements are proposed where an existing utility line crosses or encroaches upon any other parcel to be created by the partition;
 - g. All public utilities and facilities are available or can be provided prior to the issuance of any development permit for any lot or parcel; and
 - h. Roads extended or created as a result of the land division will meet City standards.
6. Decisions on the following:
 - a. Lot line adjustments, where any of the lots increase by more than 50 percent in area, subject to the provisions of Section 4.233.
 - b. Temporary use permits for periods exceeding 30 days **but not more than 120 days**. **Permitted days may or may not be consecutive, but shall not exceed 120 days within the calendar year for which the permit was applied.** Temporary use permits may allow specific activities associated with the primary use or business located on the property for up to 120 days provided that:
 - i. the property owners have given written permission;
 - ii. no structure, sign or any other object shall exceed 20 feet in height;
 - iii. adequate parking is provided in designated spaces;
 - iv. signs **shall meet the standards of Section 4.156.09 and** are limited to a maximum of two and shall not exceed a total combined area of 24 square feet;
 - v. electrical and building permits are obtained as required;

- vi. undue traffic congestion will not result and, if traffic congestion is expected, a traffic control plan is submitted along with the application that identifies the traffic control procedures that will be used;
 - vii. the activity and/or use shall not unduly interfere with motorists driving on adjacent roads and streets, including I-5; and
 - viii. public notice has been provided and the comments of interested parties have been considered in the action that has been taken-;
 - ix. the proposed use will not create an obstruction within a sight vision clearance area that would impair the vision of motorists entering onto or passing by the property; and**
 - x. the proposed use has the approval of the Fire Marshal.**
7. Solar access permits, as specified in Section 4.137.3.
 8. Class II Sign Permits.
 9. Site design review, as authorized in Section 4.400 for properties located within the Coffee Creek Industrial Design Overlay District, which satisfy all applicable standards and adjustment criteria in Section 4.134.10.
 10. Review of Stage I and Stage II Planned Development applications for properties located within the Coffee Creek Industrial Design Overlay District, which satisfy all applicable standards and adjustment criteria in Section 4.134.
- 11. Type B tree removal permits as provided in Section 4.600.**
- ~~12.~~ Type C tree removal permits as provided in Section 4.600 for properties located within the Coffee Creek Industrial Design Overlay District.

No additional changes proposed in this section

Section 4.140. Planned Development Regulations.

No changes proposed in Subsections (.01) to (.08)

(.09) Final Approval (Stage Two):

[Note: Outline Number is incorrect.]

- A. Unless an extension has been granted by the ~~Development Review Board or~~ Planning Director, as applicable, within two years after the approval or modified approval of a preliminary development plan (Stage I), the applicant shall file with the City Planning Department a final plan for the entire development or when submission in stages has been authorized pursuant to Section 4.035 for the first unit of the development, a public hearing shall be held on each such application as provided in Section 4.013. As provided in Section 4.134, an application for a Stage II approval within the Coffee Creek Industrial Design Overlay District may be considered by the Planning Director without a public hearing as a Class II Administrative Review as provided in Section 4.035(.03).
- B. The Development Review Board or Planning Director, as applicable, shall determine whether the proposal conforms to the permit criteria set forth in this Code, and shall approve, conditionally approve, or disapprove the application.
- C. The final plan shall conform in all major respects with the approved preliminary development plan, and shall include all information included in the preliminary plan plus the following:

-
1. The location of water, sewerage and drainage facilities;
 2. Preliminary building and landscaping plans and elevations, sufficient to indicate the general character of the development;
 3. The general type and location of signs;
 4. Topographic information as set forth in Section 4.035;
 5. A map indicating the types and locations of all proposed uses; and
 6. A grading plan.
- D. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development or phase of development. However, Site Design Review is a separate and more detailed review of proposed design features, subject to the standards of Section 4.400.
- E. Copies of legal documents required by the Development Review Board or Planning Director, as applicable, for dedication or reservation of public facilities, or for the creation of a non-profit homeowner's association, shall also be submitted.
- F. Within 30 days after the filing of the final development plan, the Planning staff shall forward such development plan and the original application to the Tualatin Valley Fire and Rescue District, if applicable, and other agencies involved for review of public improvements, including streets, sewers and drainage. The Development Review Board or Planning Director, as applicable, shall not act on a final development plan until it has first received a report from the agencies or until more than 30 days have elapsed since the plan and application were sent to the agencies, whichever is the shorter period.
- G. Upon receipt of the final development plan, the Development Review Board or Planning Director, as applicable shall examine such plan and determine:
1. Whether it conforms to all applicable criteria and standards; and
 2. Whether it conforms in all substantial respects to the preliminary approval; or
 3. Require such changes in the proposed development or impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards.
- H. If the Development Review Board or Planning Director, as applicable, permits the applicant to revise the plan, it shall be resubmitted as a final development plan within 60 days. If the Board or Planning Director approves, disapproves or grants such permission to resubmit, the decision of the Board shall become final at the end of the appeal period for the decision, unless appealed to the City Council, in accordance with Sections 4.022 of this Code.
- I. All Stage II Site Development plan approvals shall expire two years after their approval date, if substantial development has not occurred on the property prior to that time. Provided, however, that the ~~Development Review Board or Planning Director, as applicable,~~ may extend these expiration times for up to three additional periods of not more than one year each. Applicants seeking time extensions shall make their requests in writing at least 30 days in advance of the expiration date. Requests for time extensions shall only be granted upon (1) a showing that the applicant has in good faith attempted to develop or market the property in the preceding year or that development can be expected to occur within the next year, and (2) payment of any and all Supplemental Street SDCs applicable to the development. Upon such payment, the development shall have vested traffic generation rights under [section] 4.140(.10), provided however, that if the Stage II approval should expire, the vested right to use trips is terminated upon City repayment, without interest, of Supplemental Street SDCs. For purposes of this Ordinance, "substantial development" is deemed to have occurred if the required building permits or public works permits have been issued for the development, and the development has been diligently pursued, including the completion of all conditions of approval established for the permit.

-
- J. A planned development permit may be granted by the Development Review Board or Planning Director, as applicable, only if it is found that the development conforms to all the following criteria, as well as to the Planned Development Regulations in Section 4.140:
1. The location, design, size and uses, both separately and as a whole, are consistent with the Comprehensive Plan, and with any other applicable plan, development map or Ordinance adopted by the City Council.
 2. That the location, design, size and uses are such that traffic generated by the development at the most probable used intersection(s) can be accommodated safely and without congestion in excess of Level of Service D, as defined in the Highway Capacity Manual published by the National Highway Research Board, on existing or immediately planned arterial or collector streets and will, in the case of commercial or industrial developments, avoid traversing local streets. Immediately planned arterial and collector streets are those listed in the City's adopted Capital Improvement Program, for which funding has been approved or committed, and that are scheduled for completion within two years of occupancy of the development or four year if they are an associated crossing, interchange, or approach street improvement to Interstate 5.
 - a. In determining levels of Service D, the City shall hire a traffic engineer at the applicant's expense who shall prepare a written report containing the following minimum information for consideration by the Development Review Board:
 - i. An estimate of the amount of traffic generated by the proposed development, the likely routes of travel of the estimated generated traffic, and the source(s) of information of the estimate of the traffic generated and the likely routes of travel;
 - ii. What impact the estimate generated traffic will have on existing level of service including traffic generated by (1) the development itself, (2) all existing developments, (3) Stage II developments approved but not yet built, and (4) all developments that have vested traffic generation rights under section 4.140(.10), through the most probable used intersection(s), including state and county intersections, at the time of peak level of traffic. This analysis shall be conducted for each direction of travel if backup from other intersections will interfere with intersection operations.
 - b. The following are exempt from meeting the Level of Service D criteria standard:
 - i. A planned development or expansion thereof which generates three new p.m. peak hour traffic trips or less;
 - ii. A planned development or expansion thereof which provides an essential governmental service.
 - c. Traffic generated by development exempted under this subsection on or after Ordinance No. 463 was enacted shall not be counted in determining levels of service for any future applicant.
 - d. Exemptions under 'b' of this subsection shall not exempt the development or expansion from payment of system development charges or other applicable regulations.
 - e. In no case will development be permitted that creates an aggregate level of traffic at LOS "F".
 3. That the location, design, size and uses are such that the residents or establishments to be accommodated will be adequately served by existing or immediately planned facilities and services.
-

-
- K. Mapping: Whenever a Planned Development permit has been granted, and so long as the permit is in effect, the boundary of the Planned Development shall be indicated on the Zoning Map of the City of Wilsonville as the appropriate "PD" Zone.

No additional changes proposed in this section

Section 4.156.09. Temporary Signs in all Zones.

~~The following temporary signs may be permitted:~~ In addition to the permanent signs allowed in different zones and exempt temporary signs, unless specifically prohibited in a master sign plan or other sign approval, the following temporary signs may be permitted through a temporary sign permit:

- (.01) *General Allowance.* Except as noted in subsection (.02) below up to two temporary signs not exceeding a combined total of 24 square feet may be permitted per lot or non-residential tenant. Such signs may be banners, rigid signs, lawn signs, portable signs, or other signs of similar construction.

No additional changes proposed in this section

Section 4.800. Wireless Communications Facilities—Permitted, Conditionally Permitted, and Prohibited Uses.

Purpose:

Wireless Communications Facilities ("WCF") play an important role in meeting the communication needs of the Wilsonville community citizens. This Section aims to balance the proliferation of and need for WCF with the importance of keeping Wilsonville a livable and attractive City, consistent with City regulations for undergrounding utilities to the greatest extent possible.

In accordance with the guidelines and intent of Federal law and the Telecommunications Act of 1996, these regulations are intended to: 1) protect and promote the public health, safety, and welfare of the Wilsonville community citizens; 2) preserve neighborhood character and overall City-wide aesthetic quality; and 3) encourage siting of WCF in locations and by means that minimize visible impact through careful site selection, design, configuration, screening, and camouflaging techniques.

As used herein, reference to Wireless Communications Facilities is broadly construed to mean any facility, along with all of its ancillary equipment, used to transmit and/or receive electromagnetic waves, radio or television signals including, but not limited to, antennas, dish antennas, microwave antennas, small cells, distributed antenna systems ("DAS"), 5G, small cell sites/DAS, and any other types of equipment for transmission or receipt of signals, including telecommunication towers, poles, and similar supporting structures, equipment cabinets or buildings, parking and storage areas, and all other accessory development.

Reference to Small Wireless Facilities (SWF) herein is construed to mean ~~telecommunications facilities~~ WCF and associated equipment that meet the definition of small wireless facilities as stated in 47 C.F.R. § 1.6002(l).

Reference to Macro WCF means WCF that do not meet the definition of small wireless facilities.

This Section does not apply to (i) amateur radio stations defined by the Federal Communication Commission and regulated pursuant to 47 C.F.R. Part 97; or (ii) WCF owned by, or operated solely for, the City of Wilsonville.

If any provision of this Code directly conflicts with State or Federal law, where State or Federal law preempts local law, then that provision of this Code shall be deemed unenforceable, to the extent of the conflict, but the balance of the Code shall remain in full force and effect.

Nothing contained in this Section shall be construed in any way to waive or limit the City's proprietary rights over its real and personal property, including without limitation any proprietary interest in the right-of-way. Thus, if it is

determined the City has authority to exert greater rights or impose additional conditions or limitations beyond those set forth in this Section, the City reserves the absolute right to do so, as it determines appropriate or necessary.

(.01) *Permitted Uses:*

- A. ~~New~~ Towers, poles, and structures for Macro WCF and ancillary facilities thereto are permitted in all of the following locations:
 - 1. Any property owned by the City of Wilsonville, including public right-of-way;
 - 2. Any property owned by the West Linn - Wilsonville School District;
 - 3. Any property owned by the Tualatin Valley Fire District;
 - 4. Any property within an electric utility substation.

B. ~~Co-located~~ WCF pursuant to Section 4.802 is ~~encouraged~~ on all existing, legally established, towers, poles, and structures in all zones ~~and may be required on City property.~~

C. Modification of existing towers, poles, and structures for WCF and ancillary facilities not meeting the co-location requirements of Section 4.802.

D. SWF as follows:

- 1. Attached to an existing structure (i.e., utility pole, tower, streetlight, traffic signal, building, etc.) within the public right-of-way.
- 2. Incorporated into a freestanding or replacement structure (i.e., a standalone pole intended to support only the wireless equipment or a replacement pole that supports both the wireless equipment and the other utilities, traffic control or other pre-existing attachments) within the public right-of-way.
- 3. Attached or mounted to an existing structure (i.e., rooftop, building façade, sports field light, etc.) outside the public right-of-way.

E. Satellite communications antennas:

- 1. Not exceeding one meter in diameter shall be permitted in any zone without requiring Administrative Review.
- 2. One meter or larger shall be subject to Administrative Review.

~~C. Satellite communications antennas not exceeding one meter in diameter shall be permitted in any zone without requiring Administrative Review.~~

~~D.F. Camouflaged WCF antennas, excluding SWF, attached to existing light, power, or telephone poles are permitted in all zones, subject to the development standards of Section 4.803.~~

~~F. The City of Wilsonville is an underground utility City (Undergrounding District) where mandatory aesthetic design standards do not unreasonably preclude WCF by requiring undergrounding of all equipment to the maximum extent possible. Therefore, no new vertical elements will be allowed on City property if there are existing facilities available to reasonably accommodate the WCF, and all equipment other than the antennas shall be placed underground to the maximum extent possible. The following shall be used to determine maximum extent possible:~~

- 1. ~~Equipment functional underground;~~
- 2. ~~Location available to underground near associated antenna; and~~
- 3. ~~Conflicts with other underground uses as determined by the City.~~

Commented [JC3]: Reorganization / clarification - same language and intent

Commented [RK4]: Confirm if this would apply to anything other than SWFs

Commented [JC5]: Reorganized - repeated below with same language and intent

(.02) Conditional Uses. Except as indicated as permitted in (.01) above, WCF can be conditionally permitted in all zones, pursuant to Section 4.184 of the Wilsonville Code

Commented [JC6]: Moved below to (.02)(D)

A. Historical Buildings and Structures. No WCF shall be allowed on any building or structure, or in any district, that is listed on any Federal, State, or local historical register unless it is determined by the Development Review Board that the facility will have no adverse effect on the appearance of the building, structure, or district. No change in architecture and no high visibility facilities are permitted on any such building, any such site, or in any such district.

B. Tower or Pole Heights. Towers or poles may exceed the height limits otherwise provided for in the Development Code with compelling justification only. Costs and cost efficiency are not compelling justifications.

C. Lighting. If beacon lights or strobe lights are required by the Federal Aviation Administration (FAA) or other applicable authority, the Development Review Board shall review the available alternatives and approve the design with the least visual impact.

Commented [JC7]: Referenced in other areas of the code as being conditional uses. Brought here for clarity

D. Except as indicated as permitted in (.01) above, WCF can be conditionally permitted in all zones, pursuant to Section 4.184 of the Wilsonville Code.

Commented [JC8R7]: Previously: WC 4.803(.01)(D) , WC 4.803(.01)(E), WC 4.803(.01)(P)

(.03) Prohibited Uses. WCF are prohibited on all lands ~~designated as~~ within the Significant Resource Overlay Zone ~~lands~~.

(.04) Exemptions. The following shall be considered exempt structures or activities under this Code Chapter:

A. Antennas (including direct-to-home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations regardless of zone capacity.

B. Cell on Wheels (COW), which are permitted as temporary uses in nonresidential zones for a period not to exceed 60 days, except that such time period may be extended by the City during a period of emergency as declared by the City, County, or State.

C. Replacement antennas or equipment, provided the replacement antennas and/or equipment have the same function, size, and design to the replaced antenna and/or equipment and do not exceed the overall size of the original approved antenna and/or equipment.

Commented [JC9]: Referenced in other areas of the code as being exempt

(.05) Undergrounding Requirement. The City of Wilsonville is an underground utility City (Undergrounding District) for the purposes of public safety, service reliability, and aesthetic design; where these mandatory design standards do not unreasonably preclude WCF by requiring undergrounding of all equipment to the maximum extent possible. Therefore, no new vertical elements will be allowed on City property if there are existing facilities available to reasonably accommodate the WCF, and all equipment other than the antennas shall be placed underground to the maximum extent possible. The following shall be used to determine maximum extent possible:

A. Equipment functional underground;

B. Location available to underground near associated antenna; and

C. Conflicts with other underground uses as determined by the City.

(Ord. No. 831, 1-24-2019)

Section 4.801. Application Requirements.

Cable providers that occupy any portion of the City's right-of-way are required to enter into a Franchise Agreement with the City. Other utilities, including Competitive Local Exchange Competitor carriers are subject to the terms of the City's Privilege Tax Ordinance No. 616. In order to be permitted, an applicant must complete: 1) a Site

Development Permit Application; 2) a Public Works Permit; 3) a Building Permit; and 4) enter into a Lease Agreement with the City for use of the public Right-of-Way. In preparing the Application, the applicant should review all provisions of this Code Section, particularly the portion attached to the Development Review Standards. The WCF Application process shall include all of the following:

Commented [JC10]: Rearranged and moved to standard (.01)

(.01) Cable providers that occupy any portion of the City's right-of-way are required to enter into a Franchise Agreement with the City. Other utilities, including Competitive Local Exchange Competitor carriers are subject to the terms of the City's Privilege Tax Ordinance No. 616. In order to be permitted, an applicant must complete: 1) a Site Development Permit Application; 2) a Public Works Permit; 3) a Building Permit; and 4) enter into a Lease Agreement with the City for use of the public Right-of-Way.

(.02) Required for all WCF, including SWF applications:

A. Property Owner Signature. The signature of the property owner(s) on City of Wilsonville application forms or a written signed statement from the property owner(s) granting authorization to proceed with the land use application and building permits, pursuant to WC Section 4.009.

B. ~~(.01)~~ Speculation. No Application for a WCF shall be approved from an applicant that constructs WCF and leases tower space to service providers that is not itself a wireless service provider, unless the applicant submits a binding written commitment or executed lease from a service provider to utilize or lease space on the WCF.

C. ~~(.02)~~ Geographical Survey. **This Section (C) is not applicable to applications submitted subject to the provisions of 47 U.S.C. 1455(a). The applicant shall identify the geographic service area for the proposed WCF, including a map showing all of the applicant's existing sites in the local service network associated with the gap that the proposed WCF is proposed to close. The applicant shall **identify technically feasible alternative site locations within the geographic service area** describe how this service area fits into and is necessary for the service provider's service network.**

Commented [JC11]: Moved from below. This states that 6409(a) applications need not comply. Need to confirm if this still applies to SWFs

1. Prior to the issuance of any building permits, applicants for WCF shall provide a copy of the corresponding FCC Construction Permit or license for the facility being built or relocated, if required.

2. The applicant shall include a vicinity map clearly depicting where, within a one-half mile radius, any portion of the proposed WCF could be visible, and a graphic simulation showing the appearance of the proposed WCF and all accessory and ancillary structures from two separate points within the impacted vicinity, accompanied by an assessment of potential mitigation and screening measures. Such points are to be mutually agreed upon by the Planning Director or the Planning Director's designee and the applicant. ~~This Section (2) is not applicable to applications submitted subject to the provisions of 47 U.S.C. 1455(a).~~

D. ~~(.03)~~ Visual Impact, Technological Design Options, and Alternative Site Analysis. The applicant shall provide a visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette, and proposed screening for all components of the facility. The analysis shall include photo simulations and other information as necessary to determine visual impact of the facility as seen from multiple directions. The applicant shall include a map showing where the photos were taken. The applicant shall include an analysis of alternative sites **that would meet City design and locational standards and **alternative** technological design options for the WCF, within and outside of the City, ~~that~~ **which** are capable of meeting the same service objectives as the preferred site with an equivalent or lesser visual impact. If a new tower or pole is proposed as a part of the proposed WCF, the applicant must demonstrate the need for a new tower and pole and why existing locations or design alternatives, such as the use of microcell technology, cannot be used to meet the identified service objectives. Documentation and depiction of all steps that**

will be taken to screen or camouflage the WCF to minimize the visual impact of the proposed facility must be submitted.

~~E. (-04)~~ **Application Narrative.** ~~Number of WCF.~~ The Application shall include a detailed narrative of all of the equipment and components to be included with the WCF, including, but not limited to, antennas and arrays; equipment cabinets; back-up generators; air conditioning units; poles; towers; lighting; fencing; wiring, housing; and screening. The applicant must provide the number of proposed WCF at each location and include renderings of what the WCF will look like when screened. The Application must contain a list of all equipment and cable systems to be installed, including the maximum and minimum dimensions of all proposed equipment. Wilsonville is an Undergrounding District, meaning that the City will require any utility that can be fully or partially located underground to the maximum extent possible to help preserve the aesthetic appearance of the right-of-way and community and to prevent aboveground safety hazards. Therefore, all components of the WCF must be undergrounded to the extent reasonably feasible. Those components of the WCF that must be above ground must be identified by type of facility, dimension of facility, with proposed screening to reduce to the maximum extent possible the visual impact of aboveground facilities and equipment. A written narrative of why any portion of the WCF must be above ground is required.

Commented [JC12]: This requirement predominately asks for narrative descriptions, and so I believe the name is misleading.

~~F. (-05)~~ **Safety Hazards.** Any and all known or expected safety hazards for any of the WCF facilities must be identified and the applicant who must demonstrate how all such hazards will be addressed and minimized to comply with all applicable safety codes.

~~G. (-06)~~ **Landscaping.** The Application shall provide a landscape plan, drawn to scale, that is consistent with the need for screening at the site, showing all proposed landscaping, screening and proposed irrigation (if applicable), with a discussion of how proposed landscaping, at maturity, will screen the site. Existing vegetation that is proposed to be removed must be clearly indicated and provisions for mitigation included.

~~H. (-07)~~ **Height.** The Application shall provide an engineer's diagram, drawn to scale, showing the height of the WCF and all of its above-ground components. Applicants must provide sufficient evidence that establishes that the proposed WCF is designed to the minimum height required to meet the carrier's coverage objectives. If a tower or pole height will exceed the base height restrictions of the applicable zone, this narrative shall include a discussion of the physical constraints (topographical features, etc.) making the additional height necessary. The narrative shall include consideration of design alternatives, including the use of multiple sites or designs that would avoid the need for the new WCF or over zone height WCF. Except as noted in (a) and (b) below, the maximum height allowed in the right-of-way is 50 feet.

~~1. A-~~ The maximum height for a freestanding SWF in the public right-of-way is no more than ten percent taller than other adjacent structures in the right-of-way.

~~2. B-~~ When collocated on an existing structure in the public right-of-way, the SWF and the existing structure (including the antenna and any equipment enclosures contained within the structure) shall not exceed 50 feet or more than ten percent of the existing structure or nearby structures, whichever is greater.

~~I. (-08)~~ **Construction.** The Application shall describe the anticipated construction techniques and time frame for **construction or** installation of the WCF. **This narrative must include all temporary staging, site access, and the types of vehicles and equipment to be used.**

~~J. (-09)~~ **Maintenance.** The Application shall describe the anticipated maintenance and monitoring program for the WCF, including antennas, back-up equipment, poles, paint, and landscaping; **and a description of anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and potential safety impacts of such maintenance.**

Commented [JC13]: Merged from repeated maintenance standard contained in (.18)

K. (~~10~~) *Noise/Acoustical Information.* The Application shall provide manufacturer's specifications for all noise-generating equipment, such as air conditioning units and back-up generators, and a depiction of the equipment location in relation to adjoining properties. The applicant shall provide a noise study prepared and sealed by a qualified Oregon-license Professional Engineer that demonstrates that the WCF will comply with intent and goals of Section 6.204 et seq. of this Code.

~~(.11) Parking. The Application shall provide a site plan showing the designated parking areas for maintenance vehicles and equipment, if any. No parking of maintenance vehicles and equipment parking shall be permitted in any red curb zone, handicap parking zone, or loading zone.~~

Commented [JC14]: Only applicable to new macro WCF

~~(.12) Co-Location. In the case of new multi-user towers, poles, or similar support structures, the applicant shall submit engineering feasibility data and a letter stating the applicant's willingness to allow other carriers to co-locate on the proposed WCF.~~

Commented [JC15]: Only applicable to new macro WCF

L. (~~13~~) *Lease.* The site plan shall show the lease area of the proposed WCF.

M. (~~14~~) *FCC License and Radio Frequency Safety Compliance.* The Application shall provide a copy of the applicant's FCC license and/or construction permit, if an FCC license and/or construction permit is required for the proposed facility. The applicant shall provide documentation showing that the party responsible for radio frequency transmissions is in planned or actual compliance with all FCC RF emissions safety standards and guidelines at 47 C.F.R. § 1.1307 et seq. and FCC Office of Engineering Technology Bulletin 65.

N. (~~15~~) *Lighting and Marking.* The Application shall describe any proposed lighting and marking of the WCF, including any required by the FAA.

O. (~~16~~) *Co-Location Feasibility.* A feasibility study for the co-location of any WCF as an alternative to new structures must be presented and certified by an Oregon-licensed Professional Engineer. Co-location will be required when determined to be feasible. The feasibility study shall include:

Commented [RK16]: Need to clarify if this should only apply to Macro WCF. If so move to (.03)

1.A An inventory, including the location, ownership, height, and design of existing WCF within one-half mile of the proposed location of a new WCF. The planning director may share such information with other applicants seeking permits for WCF, but shall not, by sharing such information, in any way represent or warrant that such sites are available or suitable.

2.B Documentation of the efforts that have been made to co-locate on existing or previously approved towers, poles, or structures. The applicant shall make a good faith effort to contact the owner(s) of all existing or approved towers, poles, or structures and shall provide a list of all owners contacted in the area, including the date, form, and content of such contact.

3.C Documentation as to why co-location on existing or proposed towers, poles, or commercial structures within 1,000 feet of the proposed site is not practical or feasible. Co-location shall not be precluded simply because a reasonable fee for shared use is charged or because of reasonable costs necessary to adapt the existing and proposed uses to a shared tower. The Planning Director and/or Development Review Board may consider expert testimony to determine whether the fee and costs are reasonable when balanced against the market and the important aesthetic considerations of the community.

P. (~~17~~) *Engineering Report for New Location.* A. An Application for a new WCF, whether co-located or new, shall include, as applicable, a report from an Oregon licensed Professional Engineer documenting the following:

1. A description of the proposed WCF height and design, including technical, engineering, and other pertinent factors governing selection of the proposed design. A cross-section of the proposed WCF structure shall be included. The engineer shall document whether the

structure is at its maximum structural capacity and, if not, the additional weight the structure could support.

2. Documentation that the proposed WCF will have sufficient structural integrity for the proposed uses at the proposed location, in conformance with the minimum safety requirements of the State Structural Specialty Code and EIA/TIA 222 (Structural Standards for Communication and Small Wind Turbine Support Structures), latest edition at the time of the application.
- ~~3B.~~ A description of mitigation methods which will be employed to avoid ice hazards, including increased setbacks, and/or de-icing equipment, if required by any safety law, regulation, or code.
- 4C. Evidence that the proposed WCF will comply with all applicable requirements of the Federal Aviation Administration, the Aeronautics Section of the Oregon Department of Transportation, and the Federal Communications Commission.

~~(-18) Maintenance.~~ The applicant shall provide a description of anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and potential safety impacts of such maintenance.

Commented [JC17]: Repeated above

~~(-19) Recordation Requirements.~~ If a new WCF is approved, the owner shall be required, as a condition of approval, to:

- A. Record the conditions of approval specified by the City with the Deeds Records Office in the Office of the County Recorder of the county in which the WCF is located;
- B. Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;
- C. Negotiate in good faith for shared use by others; and
- D. Such conditions shall run with the land and be binding on subsequent purchasers of the WCF.

Commented [JC18]: Applies to new WCF

Q. All SWF applications must demonstrate compliance with all requirements in Section 2 "Design Elements" of the "City of Wilsonville Small Wireless Facility Infrastructure Design Standards".

~~R. (-20)~~ The Planning Director may request any other information deemed necessary to fully evaluate and review the information provided in the application.

(.03) Additional Application Requirements for new Macro WCF applications.

- A. **Parking.** The Application shall provide a site plan showing the designated parking areas for maintenance vehicles and equipment, if any. No parking of maintenance vehicles and equipment parking shall be permitted in any red curb zone, handicap parking zone, or loading zone.
- B. **Co-Location.** In the case of new multi-user towers, poles, or similar support structures, the applicant shall submit engineering feasibility data and a letter stating the applicant's willingness to allow other carriers to co-locate on the proposed WCF.
- C. **Recordation Requirements.** If a new WCF is approved, the owner shall be required, as a condition of approval, to:
 1. Record the conditions of approval specified by the City with the Deeds Records Office in the Office of the County Recorder of the county in which the WCF is located;
 2. Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;
 3. Negotiate in good faith for shared use by others; and
 4. Such conditions shall run with the land and be binding on subsequent purchasers of the WCF.

Commented [JC19]: No language change - just restructuring

Section 4.802. Co-Location.

In order to encourage shared use of towers, poles, or other facilities for the attachment of WCF, no conditional use permit shall be required for the addition of equipment, provided that:

- (.01) There is no change to the type of tower or pole.
- (.02) All co-located WCF shall be designed in such a way as to be visually compatible with the structures on which they are placed.
- (.03) All co-located WCF must comply with the conditions and concealment elements of the original tower, pole, or other facility upon which it is co-locating.
- (.04) Shall not disturb, or will mitigate any disturbed, existing landscaping elements.
- (.05) Does not entail excavation or deployment outside site of current facility where co-location is proposed.
- (.06) All co-located WCF, and additions to existing towers, poles, or other structures, shall meet all requirements of the State of Oregon Structural Specialty Code and EIA/TIA 222 (Structural Standards for Communication and Small Wind Turbine Support Structures), latest edition at the time of the application. A building permit shall be required for such alterations or additions. Documentation shall be provided by an Oregon-licensed Professional Engineer verifying that changes or additions to the tower structure will not adversely affect the structural integrity of the tower.
- (.07) Additional Application Requirements for Co-Location:
 - A. A copy of the site plan approved for the original tower, pole, or other base station facility to which the co-location is proposed.
 - B. A site survey delineating development on-the-ground is consistent with the approved site plan.

Section 4.803. Development Review Standards.

All WCF shall comply with the following Development Review standards, unless grandfathered under State or Federal law:

- (.01) The following development standards are applicable to all WCF and SWF applications: ~~Visual Impact:~~
 - A. *Maximum Number of High Visibility Facilities Per Lot or Parcel.* No more than one high visibility WCF is allowed on any one lot or parcel of five acres or less. The Development Review Board may approve exceeding the maximum number of high visibility WCF per lot or parcel if one of the following findings is made through a Class III review process: (1) co-location of additional high visibility WCF is consistent with neighborhood character, (2) the provider has shown that denial of an application for additional high visibility WCF would prohibit or have the effect of prohibiting service because the WCF would fill a significant gap in coverage and no alternative locations are available and technologically feasible, or (3) the provider has shown that denial of an application for additional high visibility WCF would unreasonably discriminate among providers of functionally equivalent services. In such cases, the Development Review Board shall be the review authority for all related applications.
 - B. *Height.* The tower or pole height of a freestanding WCF in R, PDR and RA-H zones shall not exceed 50 feet, except the following:
 - 1. RA-H zoned property occupied by the City Wastewater Treatment Plant and the PDR zoned property occupied by the Elligsen Road Water Reservoir shall be exempted from the height limitations of the subject zones, and subsection 4.803(.01)A, above, shall apply.

Created: 2023-03-15 13:14:20 [EST]

(Supp. No. 2)

2. **Small Wireless Facilities in the public right-of-way.** SWF in the public right-of-way shall not exceed the height permitted under WC 4.801(.07).

- C. *WCF Adjacent to Residentially Designated Property.* In order to ensure public safety, all WCF located adjacent to any property designated as residential in Wilsonville shall be set back from all residential property lines by a distance at least equal to the maximum height of the facility including any antennas or other appurtenances attached thereto. The setback shall be measured from that part of the WCF that is closest to the neighboring residentially designated property.
- D. ~~*Historical Buildings and Structures.* No WCF shall be allowed on any building or structure, or in any district, that is listed on any Federal, State, or local historical register unless it is determined by the Development Review Board that the facility will have no adverse effect on the appearance of the building, structure, or district. No change in architecture and no high visibility facilities are permitted on any such building, any such site, or in any such district.~~
- D. ~~E.~~ *Tower or Pole Heights.* ~~Towers or poles may~~ **WCFs shall not** exceed the height limits ~~otherwise~~ provided for in the Development Code with **out a conditional use review and** compelling justification ~~only~~. Costs and cost efficiency are not compelling justifications.
- E. ~~F.~~ *Accessory Building Size.* Within the public right-of-way, no above-ground accessory buildings shall be permitted. Outside of the public right-of-way, all accessory buildings and structures permitted to contain equipment accessory to a WCF shall not exceed 12 feet in height unless a greater height is necessary and required by a condition of approval to maximize architectural integration. Each accessory building or structure is limited to 200 square feet, unless approved through a Conditional Use Permit.
- E. ~~G.~~ *Utility Vaults and Equipment Pedestals.* Within the public right-of-way, utility vaults and equipment pedestals associated with WCF must be underground to the maximum extent possible.
- G. ~~H.~~ *Visual Impact.* All WCF shall be designed to minimize the visual impact to the maximum extent possible by means of placement, screening, landscaping, and camouflage. All WCF shall also be designed to be compatible with existing architectural elements, building materials, and other site characteristics. All WCF shall be sited in such a manner as to cause the least detriment to the viewshed from other properties. The use of radomes and/or other camouflage techniques acceptable to the City to conceal antennas, associated equipment and wiring, and antenna supports is required.
- H. ~~I.~~ *Color Schemes.* For the sake of visual impact, no wooden poles are allowed except Small Wireless Facilities on existing poles with high voltage power lines that would require thermal hydraulic cooling if undergrounded. Color schemes must be approved by the City to best camouflage with the surrounding landscape.
- I. ~~J.~~ *Antennas.* Façade-mounted antennas shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. As appropriate, antennas shall be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Façade-mounted antennas shall not extend more than two feet out from the building face. Roof-mounted antennas shall be constructed at the minimum height possible to serve the operator's service area and shall be set back as far from the building edge as possible or otherwise screened to minimize visibility from the public right-of-way and adjacent properties.
- J. ~~K.~~ *Noise.* Noise from any equipment supporting the WCF shall meet the requirements of City Code Section 6.204—Noise.
- K. ~~L.~~ *Signage.* No signs, striping, graphics, or other attention-getting devices are permitted on any WCF except for warning and safety signage with a surface area of no more than three square feet. Except as required by law, all signs are prohibited on WCF except for one non-illuminated

Commented [JC20]: These references need to be corrected when agreed-upon structure is final.

sign, not to exceed two square feet, which shall be provided at the main entrance to the WCF, stating the owner's name, the wireless operator(s) if different from the owner, and address and a contact name and phone number for emergency purposes. WCF may be placed entirely behind existing street or building signs as one method of camouflage.

- ~~L. M.~~ **Traffic Obstruction.** Maintenance vehicles servicing facilities located in the public right-of-way shall not park on the traveled way or in a manner that obstructs traffic. No maintenance vehicle parking shall be permitted in red curb zones, handicap zones, or loading zones.
- ~~M. N.~~ **Parking.** No net loss in minimum required parking spaces shall occur as a result of the installation of any WCF.
- ~~N. O.~~ **Sidewalks and Pathways.** Cabinets and other equipment shall not impair pedestrian use of sidewalks or other pedestrian paths or bikeways on public or private land and shall be screened from view. Cabinets shall be undergrounded, to the maximum extent possible.
- ~~O. P.~~ **Lighting.** WCF shall not include any beacon lights or strobe lights, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If beacon lights or strobe lights are required, the Development Review Board shall review the available alternatives and approve the design with the least visual impact. All other site lighting for security and maintenance purposes shall be shielded and directed downward, and shall comply with the City's outdoor lighting standards in City Code Section 4.199, unless otherwise required under Federal law.
- ~~P. Q.~~ **Paint and Finish.** Towers, poles, antennas, and associated equipment shall either maintain a galvanized steel finish or be painted a non-reflective, neutral color, as approved by the Planning Director or Development Review Board, to minimize visibility. Attached communication facilities shall be painted so as to be identical to or compatible with the existing structure. Towers more than 200 feet in height shall be painted in accordance with the Oregon State Aeronautics Division and Federal Aviation Administration rules. Applicants shall attempt to seek a waiver of OSAD and FAA marking requirements. When a waiver is granted, towers shall be painted and/or camouflaged in accordance with subsection (.01), above. All ancillary facilities shall be colored or surfaced so as to blend the facilities with the surrounding natural and built environment.
- ~~Q. R.~~ **Use of Concealments.** Concealments are customized structures engineered to cover cell towers, antennas, DAS equipment and beautify them and make them either less visible or more pleasing to have in the landscape. Applicant shall present a proposal for concealment intended to meet the foregoing goal.
- ~~R. S.~~ **Public Works Standards.** Additional applicable construction and design standards are as set forth in the City's 2015 Public Works Standards.
- ~~S. T.~~ **Compliance With All Laws.** Every WCF shall comply with all local, state, and federal laws, codes, and regulations including without limitation to the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.

~~(.02) Site Size.~~ The site on which a transmission tower/pole is located shall be of a sufficient shape and size to provide all required setbacks as specified in this Code Section. Towers or poles only as permitted herein may be located on sites containing other principal uses in the same buildable area as long as all of the other general requirements of this Code Section are met.

~~(.03) Separation and Setbacks.~~

- ~~A.~~ WCF shall be set back from any other property line by a distance at least equal to the maximum height of the facility including any antennas or other appurtenances attached thereto unless this requirement is specifically waived by the Planning Director or the Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.

- ~~B. A guyed tower located on sites containing other principal uses must maintain a minimum distance between the tower and other principal uses of the greater of 100 percent breakpoint or 25 feet, unless this requirement is specifically waived by the Planning Director or Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.~~
- ~~C. WCF mounted on rooftops or City approved alternative tower structures shall be exempt from these minimum separation requirements. However, WCF and related equipment may be required to be set back from the edge of the roof line in order to minimize their visual impact on surrounding properties and must be screened.~~
- ~~D. WCF towers and poles are prohibited in the required front yard, back yard, or side yard setback of any lot in any zone, and no portion of any antenna array shall extend beyond the property lines. For guyed towers or poles, all guy anchors shall be located outside of the setback from all abutting properties.~~

~~T. (.04) Security Fencing.~~ WCF or towers shall be enclosed by decay-resistant security fencing not less than six feet in height and shall be equipped with an appropriate anti-climbing device. Fencing shall be compatible with other nearby fencing. Such requirements may be waived for attached WCF.

~~U. (.05) Landscaping.~~ Landscaping shall be placed around the outside perimeter of the security fencing and shall consist of fast growing vegetation that can be expected to reach a minimum height of six feet and form a continuous hedge within two years of planting. Drought tolerant landscaping materials shall be required and otherwise meet the landscaping standards of City Code Section 4.176. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height and would not affect the stability of the guys should they be uprooted. Landscaping shall be compatible with other nearby landscaping.

~~V. (.06) Conflict with Right-of-Way.~~ No WCF shall be located within a planned or existing public right-of-way, unless it is specifically designed for the purpose in a way that will not impede pedestrian, bicycle, or vehicular traffic and the installation of any sidewalk or path that is a planned future improvement.

~~W. (.07) Change to Approved WCF.~~ Any change to or expansion of a WCF that will in any way change the physical appearance of the WCF will require a new application.

(.02) Additional development standards applicable to new Macro WCF:

A. **Site Size.** The site on which a transmission tower/pole is located shall be of a sufficient shape and size to provide all required setbacks as specified in this Code Section. Towers or poles only as permitted herein may be located on sites containing other principal uses in the same buildable area as long as all of the other general requirements of this Code Section are met.

B. **Separation and Setbacks.**

1. **WCF shall be set back from any other property line by a distance at least equal to the maximum height of the facility including any antennas or other appurtenances attached thereto unless this requirement is specifically waived by the Planning Director or the Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.**
2. **A guyed tower located on sites containing other principal uses must maintain a minimum distance between the tower and other principal uses of the greater of 100 percent breakpoint or 25 feet, unless this requirement is specifically waived by the Planning Director or Development Review Board for purposes of mitigating visual impacts or improving compatibility with other uses on the property.**
3. **WCF mounted on rooftops or City-approved alternative tower structures shall be exempt from these minimum separation requirements. However, WCF and related equipment may**

Commented [RK21]: Moved from (.01)

be required to be set back from the edge of the roof line in order to minimize their visual impact on surrounding properties and must be screened.

4. WCF towers and poles are prohibited in the required front yard, back yard, or side yard setback of any lot in any zone, and no portion of any antenna array shall extend beyond the property lines. For guyed towers or poles, all guy anchors shall be located outside of the setback from all abutting properties.

Section 4.804. Review Process and Approval Standards.

(.01) *Class I Process.* The following WCF are allowed with the approval of a WCF Site Plan to be reviewed by the Planning Director pursuant to a Class I process under City Code Section 4.030 (.01) A:

- A. Small Wireless Facilities in the public right-of-way.
- B. ~~Replacement of existing antennas on approved tower at same height.~~ WCF Co-locations meeting the criteria outlined in Wilsonville Code Section 4.802.

Commented [JC22]: Clarify if this applies to both colocation and free standing.

Also, for SWF outside of the ROW - Class 2 if current language does not change.

(.02) *Class II Process.* The following WCF are allowed with the approval of a WCF Site Plan to be reviewed by the Planning Director pursuant to a Class II process under City Code Section 4.030(.01)B:

- A. New Macro WCF proposed in the following locations excepted as noted in (.01) above:
 1. Any property owned by the City of Wilsonville, including public right-of-way;
 2. Any school property owned by any public school district;
 3. Any fire station property owned by any fire district;
 4. Any property within an electric utility substation.
- B. Camouflaged WCFs attached to existing light, power, or telephone poles in all zones, subject to the development standards of Section 4.803.
- C. WCF Co-locations not meeting the criteria outlined in Wilsonville Code Section 4.802.
- D. Satellite dishes larger than one meter.

Commented [RK23]: Clarify if this is still needed

(.03) *Conditional Use Permit Requirements.* Applications for WCF in all other locations and situations, including moderate or high visibility facilities that exceed the height limit of the applicable zone, shall also require a Conditional Use Permit to be reviewed by the Development Review Board. In addition to the approval standards in City Code Section 4.030, the applicant shall demonstrate that the WCF Site Plan approval standards in this Section are met.

(.04) *Approval Criteria.* The Development Review Board shall approve the use and WCF Site Plan for any of the WCF listed in subsections of this Section upon a determination that the following criteria are met:

- A. The height of the proposed WCF does not exceed the height limit of the underlying zoning district, or does not increase the height of an existing facility.
- B. The location is the least visible of other possible locations and technological design options that achieve approximately the same signal coverage objectives.
- C. The location, size, design, and operating characteristics of the proposed WCF will be compatible with adjacent uses, residences, buildings, and structures, with consideration given to:
 1. Scale, bulk, coverage, and density;
 2. The suitability of the site for the type and intensity of the proposed WCF; and
 3. Any other relevant impact of the proposed use in the setting where it is proposed.

- D. All required public facilities have adequate capacity, as determined by the City, to serve the proposed WCF; and
- E. The proposed WCF complies with all of the general regulations contained in this Section 4.800—4.812.

(.05) *Conditions of Approval.* The City may impose any other reasonable condition(s) deemed necessary to achieve compliance with the approval standards, including designation of an alternate location. If compliance with all of the applicable criteria cannot be achieved through the imposition of reasonable conditions, the Application shall be denied.

(Ord. No. 831, 1-24-2019)

Section 4.805. Exemptions.

Commented [JC24]: Moved above to use section

The following shall be considered exempt structures or activities under this Code Chapter:

- (.01) Antennas (including direct to home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations regardless of zone capacity.
- (.02) Cell on Wheels (COW), which are permitted as temporary uses in nonresidential zones for a period not to exceed 60 days, except that such time period may be extended by the City during a period of emergency as declared by the City, County, or State.
- (.03) Replacement antennas or equipment, provided the replacement antennas and/or equipment have the same function, size, and design to the replaced antenna and/or equipment and do not exceed the overall size of the original approved antenna and/or equipment.

(Ord. No. 831, 1-24-2019)

Section 4.8056. Damage, Destruction, or Interference to Other Utilities.

Commented [JC25]: Renumber from here down - no other changes proposed past this point.

In the installation of any WCF within the right-of-way, care must be taken to install in such a way that does not damage, interfere with, or disturb any of the several other utilities that may already be located in the area. Any damage done to such other utilities must be immediately reported to both the City and the owner of the damaged utility, and must be promptly repaired by the permittee or the utility owner, with the permittee being responsible for all costs of repair, including any extra charges that may be assessed for emergency repairs. Failure to notify the City and the damaged utility provider will result in revocation of the WCF. When approving the location for a WCF, the location of other utilities, or the need for the location of other utilities, within the right-of-way must be considered before approval to locate the WCF will be given in order to ensure those other services to the public are not disrupted.

No additional changes proposed in this section

Development Code Process Clarifications

Planning Commission Work
Session – July 12, 2023



Project Overview

- Goals
 - Update review processes
 - Clarify application requirements
 - Correct Development Code inconsistencies
- Changes are procedural in nature

Wireless Communications Facilities

- Issues
 - Co-locations subject to 6409(a) processed via Class 2 process
 - Application requirements cover all WCF, many not applicable to most common application types
- Resolution
 - Change 6409(a) co-location review process to Class 1
 - Clarify permitted vs. conditional uses
 - Reorganize application requirements to distinguish between co-locations, SWFs, and new WCFs

Development Approval Extensions

- Issues
 - Conflicting timeline and process in Sections 4.023 and 4.140
 - Outdated language in Section 4.023
- Resolution
 - Clarify that extensions are approved by the Planning Director via a Class 1 Administrative Review
 - Clarify that extensions must be applied for 30 days prior to expiration
 - Remove outdated language

Temporary Uses and Signs

- Issues
 - Lack of clarity on how days are calculated
 - Inconsistent approval criteria – Class 1 vs. Class 2
 - Unclear that temporary signs require a permit
- Resolution
 - Days can be non-consecutive within calendar year
 - Add Class 1 criteria to Class 2
 - State that temporary signs require a permit

Development Applications

- Issue
 - Section 4.011 does not explicitly state applications are not filed without proper authorization
- Resolution
 - Add language to clarify, consistent with current practice

- What comments or questions does the Planning Commission have about the proposed Development Code amendments?



PLANNING COMMISSION MEETING MINUTES

July 12, 2023 at 6:00 PM

City Hall Council Chambers & Remote Video Conferencing

Draft PC Minutes are to be reviewed and approved at the September 13, 2023 PC Meeting.

CALL TO ORDER - ROLL CALL

A regular meeting of the Wilsonville Planning Commission was held at City Hall beginning at 6:00 p.m. on Wednesday, July 12, 2023. Chair Heberlein called the meeting to order at 6:00 p.m., followed by roll call. Those present:

Planning Commission: Ron Heberlein, Andrew Karr, Kamran Mesbah, and Kathryn Neil. Jennifer Willard arrived after Roll Call. Olive Gallagher and Nicole Hendrix were absent.

City Staff: Miranda Bateschell, Daniel Pauly, Amy Pepper, Kimberly Rybold, and Mandi Simmons.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

CITIZEN INPUT

This is an opportunity for visitors to address the Planning Commission on items not on the agenda. There was none.

ADMINISTRATIVE MATTERS

1. Consideration of the June 14, 2023 Planning Commission Minutes

The June 14, 2023 Planning Commission Minutes were accepted as presented.

WORK SESSION

2. Procedural Development Code Cleanup (Rybold)

Miranda Bateschell, Planning Director, introduced the agenda item noting that when reviewing Code and processing applications, unclear edits or inconsistencies in the Code are found and that changes or updates to federal government guidelines also impact the processing of applications. The Code Cleanup would help ensure consistency and provide clarification between Staff and applicants.

Kimberly Rybold, Senior Planner, introduced Consultant, Jamie Crawford, who had worked with the planning team particularly on the wireless applications and had prepared a number of the proposed Development Code changes related to those components.

Ms. Rybold and Jamie Crawford, Winterbrook Planning, presented the Development Code Process Clarifications via PowerPoint, noting the goals of the project and reviewing proposed Code updates related to wireless communications facilities, development approval extensions, temporary uses and signs, and development applications. Staff's goal was to return to the Planning Commission in September for a public hearing on the Code amendments.

Ms. Rybold addressed Commissioner questions as follows:

- Staff believed submitting a development approval extension 30 days prior to expiration was enough time to resolve anything that might be missing. An extension request involved the application form, fee, and a written statement explaining the reason for the request. The goal was to ensure decisions are issued before the permit expires. (Slide 4)
 - She confirmed the Code change was from 8 to 30 calendar days, making Code Section lines 4.140 and 4.023 consistent.
 - Applications that did not include payment were not considered successful applications, as noted in the Code sections that discussed what constituted a filed application.
 - The fee and correct authorization must be in place 30 days before the application process begins.

3. Frog Pond East and South Implementation-Development Code (Pauly)

Daniel Pauly, Planning Manager, noted Development Engineering Manager Amy Pepper, Natural Resource Manager Kerry Rappold, and City Engineer Zach Weigel have worked on the Frog Pond stormwater standards, which were an important component when considering a neighborhood layout because stormwater was integrated and consumed land.

Mr. Pauly and Ms. Pepper presented the Stormwater Facilities Standards for Frog Pond East and South via PowerPoint, describing the purpose and background of the City's NPDES MS4 Permit requirements and reviewing the various components of the proposed stormwater standards.

Comments from the Planning Commission was as follows with responses by Staff to Commissioner questions as noted:

- Ms. Pepper clarified the reference to Section 4.113.(05)A, stating, "as required by the City's NPDES MS4 permit." involved only one permit.
- In Section 4.113.(05)C.2.a which described Lower Priority landscaping areas within so many feet of the buildings, stated, "except for detached single-family, middle housing, ..." Did "except" mean they were a higher priority or excluded completely. More language may need to be added for clarity.
 - Ms. Pepper understood the intent was to address stormwater facilities for middle housing which has smaller lots and bigger footprints, and since detached stormwater facilities needed to be 10 ft from a foundation and 5 ft from a property line, there was not enough room for a stormwater facility.