ORDINANCE NO. 17-009

AN ORDINANCE repealing and replacing Chapter 18.35 of the Camas Municipal Code relating to wireless communication facilities.

THE COUNCIL OF THE CITY OF CAMAS DO ORDAIN AS FOLLOWS:

Section I

Chapter 18.35 of the Camas Municipal Code is hereby repealed and shall be replaced with the terms as set forth within the attached Exhibit "A".

Section II

This ordinance shall take force and be in effect five (5) days from and after its publication according to law.

PASSED by the Council and APPROVED by the Mayor this 3rd day of July, 2017.

SIGNED: _____
Mayor

ATTEST: _____
Clerk

APPROVED as to form:

_____
City Attorney

EXHIBIT "A"

Chapter 18.35 Wireless Communication Facilities

Section 18.35.010 Purpose

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Section 18.35.010 Purpose

The purpose of this Chapter is to provide a uniform and comprehensive set of standards for the development, siting and installation of wireless telecommunication facilities. These regulations are intended to protect the public health, safety and welfare of the residents of Camas, to preserve community character and protect aesthetic quality in accordance with guidelines and intent of federal regulations and to encourage siting in preferred locations to minimize aesthetic impacts and to minimize the intrusion of towers into residential areas (R, MF zones) and Gateways as designated on the City of Camas Zoning Map.

Section 18.35.020 Definitions

The following words and phrases used in this chapter shall have the following meanings:

A. "Antenna" means one or more rods, panels, discs or similar devices used for wireless communication, which may include, but is not limited to, omni-directional antenna (whip), directional antenna (panel), and parabolic antenna (dish).

B. "Antenna Array" means a single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

C. "Base Station" means a structure or equipment at a fixed location that enables Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this chapter or any equipment associated with a tower.
   1. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
   2. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small cell networks).
   3. The term includes any structure other than a tower that, at the time the relevant application is filed with the City under this section, supports or houses equipment described in this section that has been reviewed and approved under the applicable zoning or siting process, or under Washington or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
   4. The term does not include any structure that, at the time the relevant application is filed with the state of Washington or the City under this section, does not support or house equipment described in this section.

D. "Collocation" means the mounting or installation of transmission equipment on a support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

E. "Commission" means the Federal Communications Commission ("FCC").

F. "Distributed Antenna System" or "DAS" means a network consisting of transceiver equipment at a central hub site to support multiple antenna locations throughout the desired coverage area. "DAS".

G. "Small Cells" (aka micro cells) mean compact wireless base stations containing their own transceiver equipment and function like cells in a mobile network but provide a smaller coverage area than traditional macrocells. Small cell antennas are mounted at street level, typically on the external walls of external structures, lamp-posts and other street furniture or utility structures and can often blend in to the building features. For purposes of these definitions, volume is a measure of the exterior displacement, not the interior volume of the enclosures. Antennas or equipment concealed from public view in or

behind an otherwise approved structure or concealment are not included in calculating volume.

1. Small Cell Antenna: Each antenna shall be no more than three (3) cubic feet in volume.

2. Small Cell Equipment: Each equipment enclosure shall be no larger than seventeen (17) cubic feet in volume. Associated conduit, mounting bracket or extension arm, electric meter, concealment, telecommunications demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch may be located outside the primary equipment enclosure(s) and are not included in the calculation of equipment volume.

H. "Stealth design" means technology that minimizes the visual impact of wireless communications facilities by camouflaging, disguising, screening, and/or blending into the surrounding environment. Examples of stealth design include but are not limited to facilities disguised as trees, flagpoles, bell towers, and architecturally screened roof-mounted antennas.

I. "Tower" means any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

J. "Tower Height" means the vertical distance measured from the base of the tower structure at grade to the highest point of the structure including the antenna but does not include a lightning rod

K. "Transmission Equipment" means equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

L. "Utility Support Structure" means poles or towers with a primary purpose of supporting utility electrical, telephone land lines, cable or other similar facilities; street lights; pedestrian light s; traffic light structures; traffic sign structures; or water towers.

M. "Wireless Communication Facilities" or "WCF" means a staffed or unstaffed facility or location for the transmission and/or reception of radio frequency (RF) signals or other wireless communications or other signals for commercial or governmental communications purposes, typically consisting of one or more antennas or group of antennas, a tower or attachment support structure, transmission cables and other transmission equipment, and an equipment enclosure or cabinets.

Section 18.35.030 Towers

A. Towers shall be located only in those areas and pursuant to the process described in CMC Tables 18.35-1 and 18.35-2, provided that towers that are proposed to be located in a residential zone or within 150 feet of a residential zone shall be subject to the siting priorities set forth for preferred tower locations in CMC 18.35.050.

Table 18.35-1
New Wireless Communication Tower Criteria Allowed by Type II Permit

Zone Category	Located in Public Right-of-way (ROW)	Maximum Tower Height [3]	Stealth Design	Setback from Property Lines (does not apply within ROW)[2]
NP, SU[1]	Yes	50'	Optional[1]	N/A
	No	75'	Optional[1]	20'; and 60' from any ROW
RC, CC, NC [1]	Yes	50'	Optional[1]	N/A
	No	60'	Optional[1]	20'; and 60' from any ROW
BP [1]	Yes	50'	Optional[1]	N/A
	No	70'	Optional[1]	20'; and 70' from any ROW
LI, LI/BP[1]	Yes	50'	Optional[1]	N/A
	No	150'	Optional[1]	20'; and 100' from any ROW
HI[1]	Yes	70'	Optional[1]	N/A
	No	150'	Optional[1]	20' and 100' from any ROW

[1] If an applicant wants to construct a tower in a residential zone or within 50' of a residential zone, then a Type III process and stealth design are required. If an applicant wants to construct a tower within 51' - 150' of a residential zone, then a Type II process and stealth design are required. If an applicant wants to construct a tower beyond 150' of a residential zone, then the review process is that which is required in the zone in which the tower is to be located.
[2] See exception for locations adjacent to a residence in CMC 18.35.070(B).

[3] Lesser of the maximum tower height or the height necessary to serve a gap in service.

Commented [PB1]: Added by PC. Staff recommends deleting this footnote and maintaining the maximum height with the ability to get an exception. Staffs concern is if a gap and service exists, denial of the necessary height could run afoul of federalrequirements.

Table CMC 18.35-2 New Wireless Communication Tower Criteria Allowed by Type III Conditional Use Permit				
Zone Category	**Located in Public Right-of-way (ROW)**	**Maximum Tower Height [5]**	**Stealth Design**	**Setback from Property Lines[2] (does not apply within ROW)**
All R, MF, MX, DC[1]	No	60'	Required	20'
NP, SU,RC,CC,NC[1]	No	61' - 70'[3]	Optional [1]	20'
BP[1]	No	71' - 90'[4]	Optional[1]	20'

[1] All new towers in a residential zone or within 50' of a residential zone shall require stealth design.
[2] See exceptions for locations adjacent to a residence in CMC 18.35.070(B).
[3] An additional 20 feet in height is allowed if applicant uses stealth design.
[4] An additional 30 feet in height is allowed if applicant uses stealth design.

[5] Lesser of the maximum tower height or the height necessary to serve a gap in service.

Commented [PB2]: Added by PC. Staff recommends deleting this footnote and maintaining the maximum height with the ability to get an exception. Staffs concern is if a gap and service exists, denial of the necessary height could run afoul of federal requirements.

Section 18.35.040 Collocation of Antennas, DAS, and Small Cells

A. To the extent not otherwise covered by this chapter, collocation and new wireless communication antenna arrays are permitted in all zones via administrative (building permits) approval provided that they are attached to or inside of an existing structure (except on the exterior of pole signs or anywhere on a billboard) that provides the required clearances for the array's operation without the necessity of constructing a tower or other apparatus to extend the antenna array more than 15 feet above the structure.
B. For antenna arrays on City-owned property or right of way, the execution of necessary agreements is also required.
C. If any support structure must be constructed to achieve the needed elevation or if the attachment adds more than 15 feet above the existing structure, the proposal is subject to Type II review. The limitation to15 feet is applicable to cumulative increases and any previously approved additions to height made under this section must be included in its measurement.
D. Any equipment shelter or cabinet and other ancillary equipment are subject to the general development standards of CMC 18.35.070.
E. Distributed Antenna Systems and Small Cells.

1. Distributed Antenna Systems (DAS) and Small Cells are permitted in all land use zones and public right of ways, regardless of the siting preferences listed in CMC 18.35.050.
2. DAS and small cells systems are subject to approval via administrative Type II review under 18.35.070. Additionally, Design Review is required when the applicant proposes a new utility support structure or building.
3. Multiple Site DAS and Small Cells. Consolidated review of multiple site DAS and Small Cells shall be provided.

Section 18.35.050 Tower, Sharing, Collocation and Preferred Tower Locations

A. Tower Sharing and Collocation. New WCF facilities must, to the maximum extent feasible, collocate on existing towers or other structures to avoid construction of new towers, unless precluded by zoning constraints such as height, structural limitations, inability to obtain authorization by the owner of an alternative location, or where an alternative location will not meet the service coverage objectives of the applicant. Applications for a new tower must address all existing towers or structures of a similar height within 1/2 mile of the proposed site as follows: (a) by providing evidence that a request was made to locate on the existing tower or other structure, with no success; or (b) by showing that locating on the existing tower or other structure is infeasible.

B. All new wireless telecommunication towers shall be designed and built to accommodate collocation or additional loading. For the purposes of this provision, this means that the tower shall be designed specifically to accommodate no less than the following equipment, in addition to the applicant's proposed equipment:
   1. Twelve antennas with a float plate wind-loading of not less than four square feet per antenna;
   2. A standard mounting structure, standoff arms, platform or other similar structure designed to hold the antennas;
   3. Cable ports at the base and antenna levels of the tower; and
   4. Sufficient room within or on the tower for 12 runs of 7/8" coaxial cable from the base of the tower to the antennas.

C. New towers shall be prohibited in all R and MF zones unless such a prohibition would constitute a denial of service coverage objectives under the Federal Telecommunication Act.

D. Preferred Tower Locations. All new towers in residential (R, MF) zones or within 150 feet of a residential zone shall require a demonstration that the tower will be sited in the most preferred zoning district/area that will address a defined service coverage objective based upon the following priorities, ordered from most-preferred (1) to least-preferred (8):
   1. City-owned or operated property, facilities and right of ways excepting therefrom, right-of-way and city facilities located in residential zones (R, MF zones) or Gateways designated on the zoning maps of the City of Camas, and where the tower will not be located within 150 feet of a residential zone;
   2. HI, I, LIBP zones;
   3. BP zones;
   4. RC and CC zones;
   5. NC and DC zones;
   6. City-owned or operated property (not right of way) and facilities in any zone, as long as less than 50% of height of the tower is visible as viewed from a public street, public open areas (eg. fields, playgrounds, parking areas), or property that is being used for residential purposes;

7. Parcels of land in residential zones (R, MF zones);

Section 18.35.060 Application Submittal Requirements

In addition to the application materials required elsewhere in the CMC, Type II and Type III applications submitted under this chapter shall include the following materials, as applicable to the type of use or facility proposed:

A. Requirement for FCC Documentation. The applicant shall provide a copy of:
   1. Documentation for FCC license submittal or registration, and
   2. The applicant's FCC license or registration.

B. Speculation. No application shall be accepted,approved, constructed or maintained for a speculation tower, *i.e.*, solely from an applicant that simply constructs towers and leases tower space to service providers, but is not a service provider. An application made on behalf of a service provider and consented to by the service provided would not be considered to be a speculation tower.

C. Site plans. Complete and accurate plans and drawings to scale, prepared, signed and sealed by a Washington-licensed engineer, land surveyor and/or architect, including (1) plan views and all elevations before and after the proposed construction with all height and width measurements called out; (2) a depiction of all proposed transmission equipment; (3) a depiction of all proposed utility runs and points of contact; and (4) a depiction of the leased or licensed area with all rights-of-way and/or easements for access and utilities in plan view.

D. Visual analysis. A color visual analysis that includes to-scale visual simulations that show unobstructed before-and-after construction daytime and clear-weather views from at least four angles, together with a map that shows the location of each view. The applicant shall provide an analysis of alternative sites and technology design options for the facility within and outside of the city that are capable of closing the same gap in service provider's service area as the preferred site with an equivalent or lesser visual impact.

E. Statement of Purpose/RF Justification for WCF. A clear and complete written Statement of Purpose shall minimally include: (1) a description of the technical objective to be achieved; (2) a to-scale map that identifies the proposed site location and the targeted service area to be benefited by the proposed project; and (3) full-color signal propagation maps with objective units of signal strength measurement that show the applicant's current service coverage levels from all adjacent wireless sites without the proposed site, predicted service coverage levels from all adjacent wireless sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent wireless sites. These materials shall be reviewed and signed by a Washington-licensed professional engineer or a qualified employee of the applicant. The qualified employee of the applicant shall submit his or her qualifications with the application.

F. Design justification. A clear and complete written analysis that explains how the proposed design complies with the applicable design standards under this chapter to the maximum extent feasible. A complete design justification must identify all applicable design standards under this chapter and provide a factually detailed reason why the proposed design either complies or cannot feasibly comply.

G. Collocation and alternative sites analysis.

1. All Towers. All applications for a new tower must demonstrate that collocation is not feasible, consistent with CMC 18.35.050.

2. Towers in a residential zone or within 150 feet of a residential zone.

    a. For towers in or within 150 feet of a residential zone, the applicant must address the City's preferred tower locations in CMC 18.35.050 with a detailed explanation justifying why a site of higher priority was not selected. The City's tower location preferences must be addressed in a clear and complete written alternative site analysis that shows at least five (5) higher ranked, alternative sites considered that are in the geographic range of the service coverage objectives of the applicant, together with a factually detailed and meaningful comparative analysis between each alternative candidate and the proposed site that explains the substantive reasons why the applicant rejected the alternative candidate. An applicant may reject an alternative tower site for one or more of the following reasons:
        1. preclusion by structural limitations;
        2. inability to obtain authorization by the owner;
        3. failure to meet the service coverage objectives of the applicant;
        4. failure to meet other engineering requirements for such things as location, height and size;
        5. zoning constraints, such as the inability to meet setbacks;
        6. physical or environmental constraints, such as unstable soils or wetlands; and/or
        7. being a more intrusive location based on physical features and land uses on the site or in the surrounding area despite the higher priority in this chapter as determined by the Planning Director or Hearing Examiner, as applicable.

    b. A complete alternative sites analysis provided under this subsection (F)(2) may include less than five (5) alternative sites so long as the applicant provides a factually detailed written rationale for why it could not identify at least five (5) potentially available, higher ranked, alternative sites.

3. Required description of coverage objectives. For purposes of disqualifying potential collocations and/or alternative sites for the failure to meet the applicant's service coverage objectives the applicant will provide (a) a description of its objective, whether it be to close a gap or address a deficiency in coverage, capacity, frequency and/or technology; (b) detailed technical maps or other exhibits with clear and concise RF data to illustrate that the objective is not met using the alternative (whether it be collocation or a more preferred location); and (c) a description of why the alternative (collocation or a more preferred location) does not meet the objective.

H. DAS and small cells. As outlined in CMC 18.35.010, the City encourages, but does not require, the use of DAS and small cells. Each applicant will submit a statement that explains how it arrived at the structure and design being proposed.

    1. All pole-mounted DAS or small cell equipment shall be painted with flat, non-reflective colors or shades of either black, brown or grey that blend with the visual environment.

2. For all DAS or small cell equipment to be located within the right-of-way, prior to submitting for a building permit, the applicant must have a valid municipal master permit, municipal franchise, or exemption otherwise granted by applicable law, addressing this technology to the extent consistent with RCW 35.21.860.

I. Radio frequency emissions compliance report for WCF. A written report, prepared, signed and sealed by a Washington-licensed professional engineer or a competent employee of the applicant, which assesses whether the proposed WCF demonstrates compliance with the exposure limits established by the FCC. The report shall also include a cumulative analysis that accounts for all emissions from all WCFs located on or adjacent to the proposed site, identifies the total exposure from all facilities and demonstrates planned compliance with all maximum permissible exposure limits established by the FCC. The report shall include a detailed description of all mitigation measures required by the FCC.

J. Accessory Equipment. All equipment for WCF, DAS and Small Cells shall be located or placed in an existing building, underground, or in an equipment shelter that is (a) designed to blend in with existing surroundings, using architecturally compatible construction and colors; and (b) located so as to be as unobtrusive as possible consistent with the proper functioning of the WCF, DAS or Small Cell technology. Accessory equipment located within a ROW shall be limited to placement underground.

K. Noise study. A noise study, prepared, signed and sealed by a Washington-licensed engineer, for the proposed WCF and all associated equipment demonstrating compliance with CMC 9.32.050 Public Disturbance Noises.

L. Collocation consent for WCF's. A written statement, signed by a person with the legal authority to bind the applicant and the project owner, which indicates whether the applicant is willing to allow other transmission equipment owned by others to collocate with the proposed wireless communication facility whenever technically and economically feasible and aesthetically desirable.

M. Other published materials. All other information and/or materials that the City may, from time to time, make publicly available and designate as part of the application requirements.

Section 18.35.070 General Development Standards Applicable to WCFs

The following criteria shall be applied in approving, approving with conditions or denying a WCF that is subject to a Type II or III review procedure. Unless otherwise provided in this chapter, WCF construction shall be consistent with the development standards of the zoning district in which it is located.

A. Height. Refer to CMC Tables 18.35 -1 and 2.

1. Setback Requirements. Refer to CMC Tables 18.35-1 and 2 for towers. All equipment shelters, cabinets or other on-the-ground ancillary equipment shall be buried or meet the setback requirement of the zone in which located.

2. Notwithstanding the setbacks provided for in Tables 18.35-1 and 2, when a tower is located adjacent to a parcel zoned for residential (R,MF zones), the minimum setback from the lot line for a new tower must be equal to the height of the proposed tower, unless the setback is waived by the owner of the residentially

zoned parcel.

B. Landscaping. All landscaping shall be installed and maintained in accordance with this chapter. Existing on-site vegetation shall be preserved to the greatest extent reasonably possible and/or improved, and disturbance of the existing topography shall be minimized. The approval authority may grant a waiver from the required landscaping based on findings that a different requirement would better serve the public interest.

    1. Tower bases, when fenced (compounds), or large equipment shelters (greater than three feet by three feet by three feet), shall be effectively visually softened through the planting of a 15 foot perimeter planting to include a combination of groundcover, shrubs and trees, or as otherwise required based on the underlying zone or street standard.

    2. If fencing is installed, it shall consist of decorative masonry or wood fencing. In commercial districts other than the DC zone, and industrial zones, three strands of barbed wire may be placed atop a lawful fence if the fence is not visible from an adjacent street or is placed behind a sight-obscuring fence or wall. Electrified fences are not permitted in any zone. Razor or concertina wire is not allowed.

    3. Applicant shall demonstrate an irrigation plan is designed and will be in place to ensure the full establishment of plantings for two years.

C. Visual Impact. All WCFs in residential zones and within 150 feet of residential zones, including equipment enclosures, shall be sited and designed to minimize adverse visual impacts on surrounding properties and the traveling public to the greatest extent reasonably possible, consistent with the proper functioning of the WCF. Such WCFs and equipment enclosures shall be integrated through location and design to blend in with the existing characteristics of the site. Such WCFs shall also be designed to either resemble the surrounding landscape and other natural features where located in proximity to natural surroundings, or be compatible with the urban, built environment, through matching and complimentary existing structures and specific design considerations such as architectural designs, height, scale, color and texture, and/or be consistent with other uses and improvements permitted in the relevant zone. If a new tower is proposed, the applicant must demonstrate the need for a new tower and why alternative locations and design alternatives such as the use of microcell cannot be used to close the gap in service provision.

D. Use of Stealth Design/Technology. The applicant shall make an affirmative showing as to why they are not employing stealth technology. More specifically:

    1. Stealth design is required in residential zones and to the extent shown in Tables 18.35 -1 and 2. Stealth and concealment techniques must be appropriate given the proposed location, design, visual environment, and nearby uses, structures, and natural features. Stealth design shall be designed and constructed to substantially conform to surrounding building designs or natural settings, so as to be visually unobtrusive. Stealth design that relies on screening wireless communications facilities in order to reduce visual impact must screen all substantial portions of the facility from view. Stealth and concealment techniques incorporating faux-tree designs are limited to trees native to the Pacific Northwest.

E. Lighting. For new wireless communication support towers, only such lighting as is necessary to satisfy FAA requirements is permitted. All FAA-required lighting shall use lights that are designed to minimize downward illumination. Security lighting for the equipment shelters or cabinets and other on-the-ground ancillary equipment is also permitted as long as it is down shielded to keep light within the boundaries of the site. Motion detectors for security lighting are encouraged in residential, R and MF zones or adjacent to residences.

F. Signage. No facilities may bear any signage or advertisement(s) other than signage required by law or expressly permitted/required by the City.

G. Code compliance. All facilities shall at all times comply with all applicable federal, State and local building codes, electrical codes, fire codes and any other code related to public health and safety.

H. Building-mounted WCFs.
   1. In residential (R,MF) zones, all transmission equipment shall be concealed within existing architectural features to the maximum extent feasible. Any new architectural features proposed to conceal the transmission equipment shall be designed to mimic the existing underlying structure, shall be proportional to the existing underlying structure or conform to the underlying use and shall use materials in similar quality, finish, color and texture as the existing underlying structure.
   2. In residential zones, all roof-mounted transmission equipment shall be set back from all roof edges to the maximum extent feasible.
   3. In all other zones, antenna arrays and supporting transmission equipment shall be installed so as to camouflage, disguise or conceal them to make them closely compatible with and blend into the setting and/or host structure.

I. WCFs in the public rights-of-way.
   1. *Preferred locations.* Facilities shall be located as far from residential uses as feasible. Facilities in the rights-of-way shall maintain at least a two hundred (200) foot separation from other wireless facilities (except with respect to DAS or Small Cells), except when collocated or on opposite sides of the same street.
   2. *Pole-mounted or tower-mounted equipment.* All pole-mounted and tower-mounted transmission equipment shall be mounted as close as possible to the pole or tower so as to reduce the overall visual profile to the maximum extent feasible. All pole-mounted and tower-mounted transmission equipment shall be painted with flat, non-reflective colors or shades of either black, brown or grey that blend with the visual environment.
   3. For all WCFs to be located within the right-of-way, prior to submitting for a building permit, the applicant must have a valid municipal master permit, municipal franchise, or exemption otherwise granted by applicable law, to the extent consistent with RCW 35.21.860.

J. Accessory Equipment. All equipment shall be located or placed in an existing building, underground, or in an equipment shelter that is (a) designed to blend in with existing surroundings, using architecturally compatible construction and colors; and (b) located so as to be unobtrusive as possible consistent with the proper functioning of the WCF.

K. Spacing of Towers. Towers shall maintain a minimum spacing of one-half mile, unless it can be demonstrated that physical limitations (such as topography, terrain, tree cover or location of buildings) in the immediate service area prohibit adequate service by the

existing facilities and that collocation is not feasible under CMC 18.35.050.

L. Site Design Flexibility. Individual WCF sites vary proximity to adjacent buildings, existing trees, topography and other local variables. By mandating certain design standards, there may result a project that could have been less intrusive if the location of the various elements of the project could have been placed in more appropriate locations within a given site. Therefore, the WCF and supporting equipment may be installed so as to best camouflage, disguise them, or conceal them, to make the WCF more closely compatible with and blend into the setting and/or host structure, upon approval by the approval authority. The design flexibility allowed under this subsection includes additional height for a tower located within tall trees on (i) City property or (ii) other parcels at least 5 acres in size, so that the impact of the tower may be minimized by the trees while still allowing for the minimum clearance needed for the tower to achieve the applicant's coverage objectives. A formal exception from standards under CMC 18.35.090 is not required for proposals meeting this subsection by being a less intrusive design option.

M. Structural Assessment. The applicant of a proposed tower shall have a structural assessment of the tower conducted by a professional engineer, licensed in the State of Washington, which shall be submitted with the application for a building permit and demonstrate the structural stability and carrying capacity for antennae.

Section 18.35.080 Regulations for Facilities Subject to a Conditional Use Permit

A. Approval criteria. In addition to the development standards in this chapter and the approval criteria in CMC 18.43.050, the following additional approval criteria apply:
    1. The need for the proposed tower shall be demonstrated if it is to be located in a residential zone or within one hundred fifty feet of an existing residential lot. An evaluation of the operational needs of the wireless communications provider, alternative sites, alternative existing facilities upon which the proposed antenna array might be located, and collocation opportunities on existing support towers within one-half mile of the proposed site shall be provided. Evidence shall demonstrate that no practical alternative is reasonably available to the applicant.

    2. The proposed tower satisfies all of the provisions and requirements of this Chapter.

B. Public Notice. In addition to the notice of hearing requirements of CMC 18.55, for proposals in residential zones and within 150 feet of a residential zone, the mailed public notice should include a black and white architectural elevation and color photo simulation renderings of the proposed WCF.

Section 18.35.090 Exception from Standards

A. Applicability. Except as otherwise provided in this chapter (under Site Design Flexibility), no WCF shall be used or developed contrary to any applicable development standard unless an exception has been granted pursuant to this Section. These provisions apply exclusively to WCFs and are in lieu of the generally applicable variance and design deviation provisions in CMC Title 17 and 18.

B. Procedure Type. A wireless communications facility exception is a Type III procedure.

C. Submittal Requirements. In addition to the general submittal requirements for a Type III application, an application for a wireless communication facility exception shall include:

1. A written statement demonstrating how the exception would meet the criteria.
2. A site plan that includes:
    a. Description of the proposed facility's design and dimensions, as it would appear with and without the exception.
    b. Elevations showing all components of the wireless communication facility as it would appear with and without the exception.
    c. Color simulations of the wireless communication facility after construction demonstrating compatibility with the vicinity, as it would appear with and without the exception.

D. Criteria. An application for a wireless communication facility exception shall be granted if the following criteria are met:

1. The exception is consistent with the purpose of the development standard for which the exception is sought.
2. Based on a visual analysis, the design minimizes the visual impacts to residential zones through mitigating measures, including, but not limited to, building heights, bulk, color, and landscaping.
3. The applicant demonstrates the following:
    a. A significant gap in the coverage, capacity, or technologies of the service network exists such that users are regularly unable to connect to the service network, or are regularly unable to maintain a connection, or are unable to achieve reliable wireless coverage within a building;
    b. The gap can only be filled through an exception to one or more of the standards in this chapter; and
    c. The exception is narrowly tailored to fill the service gap such that the wireless communication facility conforms to this chapter's standards to the greatest extent possible.
4. Exceptions in Residential Zones. For a new tower proposed to be located in a residential zone or within 150 feet of a residential zone, unless the proposal qualifies as a preferred location on City-owned or operated property or facilities under CMC 18.35.050(C)(1), the applicant must also demonstrate that the manner in which it proposes to fill the significant gap in coverage, capacity, or technologies of the service network is the least intrusive on the values that this chapter seeks to protect.

Section 18.35.100 Final Inspection

A. A Certificate of Occupancy will only be granted upon satisfactory evidence that the WCF was installed in substantial compliance with the approved plans and photo simulations.

B. Failure to Comply. If it is found that the WCF installation does not substantially comply with the approved plans and photo simulations, the applicant shall immediately make any and all such changes required to bring the WCF installation into compliance.

Section 18.35.110 Maintenance

A. All wireless communication facilities must comply with all standards and regulations of the FCC and any other State or federal government agency with the authority to regulate

wireless communication facilities.

B. The site and the wireless communication facilities, including all landscaping, fencing and related transmission equipment must be maintained at all times in a neat and clean manner and in accordance with all approved plans.

C. All graffiti on wireless communication facilities must be removed at the sole expense of the permittee after notification by the City to the owner/operator of the WCF.

D. If any FCC, State or other governmental license or any other governmental approval to provide communication services is ever revoked as to any site permitted or authorized by the City, the permittee must inform the City of the revocation within thirty (30) days of receiving notice of such revocation.

Section 18.35.120 Discontinuation of Use

A. Any wireless communication facility that is no longer needed and its use is discontinued shall be reported immediately by the service provider to the community development director. Discontinued facilities shall be completely removed within six months and the site restored to its pre-existing condition.

B. There shall also be a rebuttable presumption that any WCF that is regulated by this chapter and that is not operated for a period of six (6) months shall be considered abandoned. This presumption may be rebutted by a showing that such WCF is an auxiliary back-up or emergency utility or device not subject to regular use or that the WCF is otherwise not abandoned. For those WCFs deemed abandoned, all equipment, including, but not limited to, antennas, poles, towers, and equipment shelters associated with the WCF shall be removed within six (6) months of the cessation of operation. Irrespective of any agreement among them to the contrary, the owner or operator of such unused facility, or the owner of a building or land upon which the WCF is located, shall be jointly and severally responsible for the removal of abandoned WCFs. If the WCF is not thereafter removed within ninety (90) days of written notice from the City, the City may remove the WCF at the expense of the property owner and WFC owner. Both owners are jointly and severally liable for the City's removal costs ., including all costs and attorneys' fees. If there are two or more wireless communications providers collocated on a single support structure, this provision shall not become effective until all providers cease using the WCF for a continuous period of six (6) months.

Section 18.35.130 Independent Technical Review

Although the City intends for City staff to review administrative matters to the extent feasible, the City may retain the services of an independent, radio frequency technical expert of its choice to provide technical evaluation of permit applications for WCFs, including administrative and conditional use permits. The technical expert review may include, but is not limited to (a) the accuracy and completeness of the items submitted with the application; (b) the applicability of analysis and techniques and methodologies proposed by the applicant; (c) the validity of conclusions reached by the applicant; and (d) whether the proposed WCF complies with the applicable approval criteria set forth in this chapter. The applicant shall pay the cost for any independent consultant fees, along with applicable overhead recovery, through a deposit, estimated by the City, paid within ten (10) days of the City's request. When the City requests such payment, the application shall be deemed incomplete for purposes of application processing

timelines. In the event that such costs and fees do not exceed the deposit amount, the City shall refund any unused portion within thirty (30) days after the final permit is released or, if no final permit is released, within thirty (30) days after the City receives a written request from the applicant. If the costs and fees exceed the deposit amount, then the applicant shall pay the difference to the City before the permit is issued.

Section 18.35.140 Exempt Facilities

The following are exempt from this chapter:

A. FCC licensed amateur (ham) radio facilities;

B. Satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter in diameter;

C. A government-owned WCF installed upon the declaration of a state of emergency by the federal, state or local government, or a written determination of public necessity by the City; except that such facility must comply with all federal and state requirements;

D. A temporary, commercial WCF installed for providing coverage of a special event such as news coverage or sporting event, subject to approval by the City. The WCF shall be exempt from the provisions of this chapter for up to one week before and after the duration of the special event;

E. In locations more than 150 feet from a residential zone, other temporary, commercial WCFs installed for a period of 90 days, subject to renewals at the City's discretion; provided, that such temporary WCF will comply with applicable setbacks and height requirements.

Section 18.35.150 Indemnification

Each permit issued shall have as a condition of the permit a requirement that the applicant defend, indemnify and hold harmless the City and its officers, agents, employees, volunteers, and contractors from any and all liability, damage, or charges (including attorneys' fees and expenses) arising out of claims, suits, demands, or causes of action as a result of the permit process, granted permit, construction, erection, location, performance, operation, maintenance, repair, installation, replacement, removal, or restoration of the WCF on City property or in the public right-of-way.