



STAFF REPORT TO THE PLANNING COMMISSION

Prepared February 17, 2016

HEARING DATE: February 25, 2016

FILE NUMBERS: L15-0014 Wireless Communications Update

APPLICANT: City of Tukwila

REQUEST: Updates to TMC 18.58, the Wireless Communication Facilities regulations, are needed to come into compliance with new Federal Communication Commission rules. The Planning Commission will hold a hearing on the code changes and forward a recommendation to the City Council for review and adoption.

LOCATION: Citywide

NOTIFICATION: Hearing Notice was published in the Seattle Times on February 11, 2016, and posted on the City of Tukwila website on February 17, 2016.

SEPA DETERMINATION: Exempt

STAFF: Nora Gierloff, Deputy DCD Director

ATTACHMENTS: A. Draft Wireless Facilities Ordinance
B. 2/8/16 Community Affairs and Parks Committee meeting minutes

BACKGROUND

New regulations regarding wireless communication facilities were included in the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act).¹ In that legislation Section 6409(a) provides, in part, that “a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.”² The intention was to streamline approval of technology updates by wireless carriers. The FCC elaborated this mandate into new rules that require cities to approve qualified applications within 60 days, allow limited expansion at these sites and clarify that these rules cannot be used to defeat any “stealthing” conditions that applied to the original approval of the site.

The full text of the FCC Wireless Infrastructure Report and Order can be found at <http://www.fcc.gov/document/wireless-infrastructure-report-and-order> . In order to comply with the mandate staff has prepared the code amendments in Attachment A.

The draft ordinance was reviewed by CAP on February 8, 2016 and they forwarded it to the Planning Commission for a hearing and recommendation.

FINDINGS

Tukwila has three main categories of wireless facilities ranging from least to most obtrusive. The higher the category the more information is needed from the applicant to justify the installation. The proposed new permit type, eligible facilities modification, would be categorized as Type 1 because it is limited to colocations on towers and buildings with existing antenna arrays. These installations must also abide by any “stealthing” requirements placed on the original approval and must not constitute a substantial change to the site as defined in the ordinance.

These rule changes can be accommodated by minor edits to Tukwila’s existing zoning regulations for wireless communication facilities. The primary effect is to require that we issue permit decisions for affected proposals within 60 days, rather than the current 120 day clock. As our review is generally faster than that it should have little impact.

Staff has made the draft ordinance available to wireless industry representatives for their comments. The issue of height exemptions for Bird Safety/Exclusionary devices was raised by the Port of Seattle, who requested that carriers install bird exclusionary devices on existing towers within 5 miles of SeaTac Airport to reduce the likelihood of bird strikes on airplanes and prevent injury to the birds.

- 90% of cell tower nests are Ospreys
- 5% of cell tower nests are Bald Eagles
- 2.5% of cell tower nests are Red-tailed Hawks
- 2.5% of cell tower nests are Great Horned Owls

¹ See Spectrum Act § 6409(a). Section 6409(a) has since been codified in the Communications Act as 47 U.S.C. § 1455(a).

² Spectrum Act § 6409(a)(1).



AT&T also requested that we exempt single purpose cell towers from the Zoning building height limits. Staff does not support this change as there are other options including co-location on existing utility poles, building mounted installations and an existing height waiver process at 18.58.170 in the case of particular hardship.

In addition to these changes we are proposing some housekeeping edits including:

- Clarifying when updating antenna technology is exempt from wireless permit review
- Replacing references to the Planning Commission with the Hearing Examiner per TMC 18.104.010
- Reflecting case law since 2006 when the chapter was rewritten

REQUESTED ACTION

The Planning Commission is asked to hold a hearing on the proposed ordinance, develop a recommended version and forward it to the City Council for final action.