

City of Scottsbluff, Nebraska

Monday, May 13, 2013

Regular Meeting

Item NewBiz2

Code amendment WCF

Zoning Code: Amendment Addition of requirements for Wireless Com. Facilities

Applicant: City of Scottsbluff

Owner: N/A

Staff Contact:

SCOTTSBLUFF PLANNING COMMISSION – Staff Report

ORDINANCE AMENDMENT REQUEST - Wireless Communications Facilities May 2013

This matter was continued at the April hearing, primarily to provide additional opportunity to obtain public input. The Star-Herald published a front page article on April 20. The only call we received was from Action Communications. We sent them copies of the materials you received for April meeting. We have received no comments.

As we are hearing a request to amend the Code in Alliance we are considering the same matter there. A special invite for public comment was posted on the City web site and the City Facebook page. Two comments have been received. One was all for the concept to enhance services. The other suggested that the City build a tower and rent the space.

Comment has continued to be requested from Verizon as well as from Action Communications and from Wireless & Broadcast Siting-Advisors, LLC. To date there has been no feedback from anyone except Viaero.

Currently, the Code does not allow WCFs in Residential or Agricultural Zoning Districts. This proposal would limit towers in Residential to 75 feet, with exceptions.

The Code already allows towers up to 150 feet as a use by right in all Commercial and Industrial Districts. The proposal is currently to leave that, but discussion on requiring a CUP in those zones is a possible consideration.

Changes that I have made to the first Draft include:

Adding - “C”, that towers in Agricultural and Agricultural Residential may be considered with a CUP without a particular height restriction.

Adding - less preferred locations to include; subdivisions with underground utilities.

Adding language such that “Required setbacks will be determined on individual site bases through review of each Conditional Use Permit. Collapsible tower design may be required in certain instances.”

Adding - that towers may be required to blend in and enhance compatibility with adjacent land uses as reasonably feasible.

Adding to 8.- an appropriate privacy-type fence may be required to improve compatibility in residential neighborhoods

Adding a definition: Utility Sublot means a lot that may be smaller than the minimum allowed in a District or otherwise out of standard compliance. A Utility Sublot must have legal vehicular access. Water may be allowed for property maintenance, but there shall be no sewer service allowed.

I have requested input from the Attorney on how and where we amend the Code to allow Utility Sublots. This will involve the Subdivision Regulations as well. We may need to advertise and hear any amendments to the Subdivision Regulations at another hearing.

Please consider whether the language in 12 and/or 13 needs to be fleshed out to provide more detail of process.

We need to consider landscaping and/or property maintenance. If we do not allow water on Utility Sublots it might be difficult, plus you cannot screen the tower, just the services around the base that we have already covered with fencing requirements. We will add a small section into the Draft Amendment to the Code under 13 to cover property maintenance and we will allow water, but no sewer service on a Utility Sublot.

RECOMMENDATION: Approve this or an amended version of the proposed Ordinance Amendment.

Findings of Fact could include; there is a need for high capacity service in residential areas; all sites in residential areas will require a special review for a Conditional Use Permit; consideration has been given to lessen potential incompatibility; there have been no objections raised from the public; input from the public was solicited through a front page article in the Star-Herald;

ORDINANCE AMENDMENT

WIRELESS COMMUNICATION FACILITIES (WCF)

Intent and Purpose

The purpose of the WCF regulations is to encourage and promote wireless communications coverage for all areas of the City while minimizing the visual, environmental and neighborhood impacts. The goals include providing personal wireless services throughout the City quickly, effectively and efficiently while ensuring that basic matters such as FAA, FCC and Airport Zoning requirements are met as well as addressing security, decommissioning and preferred locations.

More preferred locations include commercial, industrial and agricultural areas and less preferred locations include residential areas. More preferred locations in residential areas include public lands, proximity to existing overhead utility corridors and proximity or attachment to existing structures that might assist with screening.

Definitions

For the purposes of this chapter, certain terms and words are defined.

Antenna means any exterior device designed and intended for telephonic, radio, data, internet or television communications through the sending and/or receiving of electromagnetic waves. For purposes of this chapter the term “antenna” shall not include an antenna used by an amateur radio operator nor an antenna or satellite dish used for the private or non-commercial reception of television or radio signals.

Antenna Height means the vertical distance from natural grade to the top of all appurtenances.

Antenna Support Structure means any building or structure other than a tower which can be used for location of telecommunications facilities.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

PWS means Personal Wireless Service Provider, which means a personal wireless service facility owner, operator, lessee or any officer or employee thereof.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers.

Utility Sublot means a lot that may be smaller than the minimum allowed in a District or otherwise out of standard compliance. A Utility Sublot must have legal vehicular access. Water may be allowed for property maintenance, but there shall be no sewer service allowed.

WCF means Wireless Telecommunications Facility.

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

Zoning

- A. Antennas in all Zoning Districts may be allowed by administrative review when attached to existing structure, including roof-tops, building faces, water tower or existing utility

structure provided the antenna does not exceed 12 feet in height above the existing structure and blends in with said structure.

- B. This chapter recognizes two types of towers associated with PWS: those up to 75 feet in height, which are constructed primarily for local distribution and reception of wireless signals; and those greater than 75 feet in height, which are constructed primarily for the concentration and transmission of signals to and from other towers.
- C. Towers of any height shall be a conditionally permitted use by special review in A Agricultural and AR Agricultural Residential zones.
- D. Except as noted in E., towers over 75 feet in height shall not be affected by the ordinances set forth in this chapter.
- E. Towers no greater than 75 feet in height shall be a conditionally permitted use by special review in all Zones, except where current zoning permits towers as a use by right. However, allowances may be made to towers exceeding 75 feet in height if such towers must be extended due to local circumstances or to accommodate co-location by other service providers. The following conditions shall apply to towers in this paragraph.
 - 1. Applications for Conditional Use Permits (CUP) shall include the following: The legal description of the parcel upon which the PWS facilities are to be located; a survey of the parcel by a licensed surveyor; a scaled site plan clearly indicating the location, type and height of proposed tower; adjacent land uses and zoning; adjacent roadways and proposed means of access. The site plan shall indicate the antenna, antenna support structure, building, fencing, buffering and all other items required in this chapter.
 - 2. There are more preferred areas for towers and less preferred areas for towers. More preferred areas include; parks, public lands, proximity to existing overhead utility corridors and proximity to what might be termed “shadow” structures, such as churches, schools and public facilities, especially those that are multi-story. Less preferred areas might include subdivisions that are wholly served by underground utilities.
 - 3. Towers, where possible, shall be constructed on existing utility easement and rights-of-ways, subject to existing utility restrictions, such as areas where underground utilities are required.
 - 4. Towers may be constructed on private land; as a permanent easement, as a land rental arrangement or on a lot owned by the PWS. Creation of utility-type sub-lots will not be subject to minimum lot size, but will be subject to access requirements and no water service.

5. Required setbacks will be determined on individual site bases through review of each Conditional Use Permit. Collapsible tower design may be required in certain instances.
6. Towers may be built on municipal land subject to the CUP process and subject to such legal and administrative contracts as deemed appropriate and necessary.
7. Towers may be required to blend in and enhance compatibility with adjacent land uses as reasonably feasible.
8. Towers must be enclosed and secured by a chain-link fence or equivalent, of a minimum of six feet in height, however an appropriate privacy-type fence may be required to improve compatibility in residential neighborhoods. Anti-climb protection must be installed to prevent, to the extent possible, unauthorized access. The security fence must enclose all components of the site, including footings, guy wires (if present), cabinets, equipment building and back-up generator. No property line setbacks are automatically required for towers in this category, however, the security fence enclosure must be adequate for the safe access and maintenance of the tower and its equipment.
9. PWS must provide evidence that proposed towers have met all applicable regulations, including local Airport Zoning, the FAA and the FCC prior to construction and be Compliant with E-911 Public Safety Access Point.
10. No PWS shall act to exclude any other provider from using the same facility, building, structure or location. PWSs shall cooperate in good faith to achieve co-location of facilities and equipment with other PWSs.
11. Upon request by the City, a PWS shall provide evidence why co-location is not feasible.
12. Any tower approved in this chapter must be maintained in a manner consistent with generally accepted industry practices. A tower may be inspected at any time, subject to approved access by the service provide, to insure the safety of the general public. Any deficiencies in structure or operation shall be promptly remedied.
13. The property shall be maintained in a reasonable manner and be kept weed free; options can include rock, mulch, landscaping and maintenance or any combination thereof.
14. A PWS or its successors or assigns shall promptly remove a tower and return a tower site to its pre-construction conditions, should a tower be decommissioned or otherwise deemed unnecessary or unusable.





