

Ordinance No. 688
Exhibit D
Title 23 Telecommunications Amendments

Chapter 23.05 Telecommunications

23.05.080 Penalties.

A. Criminal Penalties. Any person found violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this title shall be guilty of a misdemeanor. Upon conviction, any person violating any provision of this title shall be subject to a fine of up to \$1,000 or by imprisonment for a period of up to 90 days, or by both such fine and imprisonment. A separate and distinct violation shall be deemed committed each day on which a violation occurs or continues.

B. Civil Penalties. Any person who fails to comply with the provisions of this chapter is, in addition to any criminal penalties, subject to a maximum civil penalty of \$500.00 for each day or portion of the day that the violation continues.

C. Other Legal Remedies. Nothing in this chapter limits the right of the City to pursue other lawful, criminal, civil or equitable remedies to abate, discontinue, correct or discourage unlawful acts under or in violation of this chapter.

~~**23.05.090 Other remedies.**~~

~~Nothing in this title shall be construed as limiting any other remedies that the City may have, at law or in equity, for enforcement of this title.~~

Chapter 23.45 Wireless Communications Facilities For Persons And Government

23.45.020 Definitions.

For the purpose of this title, the following terms shall have the meaning ascribed to them below:

“Abandonment” means: (1) to cease operation for a period of 60 or more consecutive days; (2) to reduce the effective radiated power of an antenna by 75 percent for 60 or more consecutive days; (3) to relocate an antenna at a point less than 80 percent of the height of an antenna support structure; or (4) to reduce the number of transmissions from an antenna by 75 percent for 60 or more consecutive days.

“Antenna” means any exterior apparatus designed for telephonic, radio, data, internet, or television communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower or building for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for “cellular,” “enhanced specialized mobile radio” and “personal communications services,” telecommunications services, and its attendant base station.

“Antenna height” means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped

grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

“Antenna support structure” means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

“Applicant” means any provider or any person, partnership, or company who files an application for any permit necessary to install, maintain, or remove a personal wireless service facility within the City.

“Balloon test” means a test for a reasonable period of time, not less than three consecutive workdays, whereby a balloon of sufficient size to replicate the size of the top of a proposed tower and antenna array is tethered to the ground at the location of the proposed base for a pending new tower application and the balloon is suspended at the height that replicates the height of the proposed tower and antenna array. No trees shall be removed to conduct the balloon test.

“Camouflaged” means a personal wireless service facility that is disguised, hidden, or integrated with an existing structure that is not a monopole or tower, or a personal wireless service facility that is placed within an existing or proposed structure, or new structure, tower, or mount within trees so as to be significantly screened from view.

“Cell site” or “site” means a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to personal wireless services.

“City center area” means a circular area extending 700 feet in radius from the center of the intersection of 40th Street West and Bridgeport Way West, together with a rectangular area extending 450 feet east and west from the centerline of Bridgeport Way between 35th Street West and 44th Street West.

“Co-location” means the use of a personal wireless service facility or cell site by more than one personal wireless service provider.

“Conditional use permit” or “CUP” means a process and approval as described in UPMC Title [22](#), Administration of Development Regulations, and in the UPMC Title [19](#), Zoning.

“COW” means “cell on wheels.”

“Design” means the appearance of personal wireless service facilities, including such features as their materials, colors, and shape.

“EIA” means the Electronics Industry Association.

“Equipment enclosure” means a structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies and emergency generators.

“Eligible facilities request” means any request for facility modification of an existing wireless tower or base station that involves:

1. Collocation of new transmission equipment;
2. Removal of transmission equipment; or
3. Replacement of transmission equipment.

“FAA” means the Federal Aviation Administration.

“FCC” means the Federal Communications Commission.

“Facility modification” means any modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

“Governing authority” means the City Council of the City of University Place.

“Governmental entity” means the State of Washington, Pierce County, the City, municipally owned utilities, and special purpose districts including the school, fire and library districts.

“Hearings Examiner” means the duly appointed Hearings Examiner of the City.

“Modification” means the changing of any portion of a personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design.

“Mount” means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts:

1. Building Mounted. A personal wireless service facility mount fixed to the roof or side of a building.
2. Ground Mounted. A personal wireless service facility mount fixed to the ground, such as a tower.
3. Structure Mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

“Personal wireless service,” “personal wireless service facilities,” and “facilities” used in this title shall be defined in the same manner as in 47 U.S.C. 332(c)(7)(C), as they may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

“Provider” means every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual that provides personal wireless service over personal wireless service facilities.

~~“Public facility permit” or “PFP” means a process and approval as described in UPMC Title 22, Administration of Development Regulations, and in the UPMC Title 19, Zoning.~~

“Screening” means a personal wireless telecommunications facility such as a tower or mount placed amongst and adjacent to (within 20 feet) three or more trees at least 75 percent of the height of the facility.

“Secondary use” means a use subordinate to the principal use of the property, such as commercial, residential, utilities, etc.

“Security barrier” means a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

“Substantially change” means to increase the height of an existing wireless tower by more than 10 percent, or by a height exceeding 20 feet, whichever is greater.

“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. The term encompasses personal wireless service facilities including radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

“Unlicensed wireless services” means commercial mobile services that operate on public frequencies and do not need an FCC license.

23.45.080 Priority of locations.

The order of priorities for locating new personal wireless service facilities shall be as follows:

- A. Place antennas and towers on public property if practical.
- B. Place antennas on appropriate rights-of-way and existing structures, such as buildings, towers, and water towers in the MU, MU-O, MU-M, NC, CC, TC and LI-BP ~~light industrial-business park, mixed use, mixed use-office, neighborhood commercial and commercial~~ zones.
- C. Place antennas and towers in ~~districts zoned~~ the LI-BP zone ~~light industrial-business park~~.
- D. Place antennas and towers in ~~the areas zoned~~ MU, MU-O, MU-M and NC zones ~~mixed use-office, mixed use, neighborhood commercial, and commercial~~ on properties ~~that~~ which do not adjoin or adversely impact residential neighborhoods.
- E. Place antennas and towers on other nonresidential property.
- F. Place antennas on multifamily residential structures exceeding 30 feet in height.
- G. Place antennas and towers in the CC and TC town-center zones ~~on~~ properties ~~that~~ which do not adjoin or adversely impact residential neighborhoods.
- H. Place antennas and towers in R1, and R2, MF-L and MF-H residential zones ~~or the MF multifamily zone~~ (1) only if locations are not available on existing structures or in nonresidential districts; and (2) only on or in existing churches, parks, schools, gun clubs, cemeteries, or utility facilities, ~~or appropriate public facilities~~.
 1. An applicant that wishes to locate a new antenna support structure in a residential zone shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government facility, a private institutional structure, or other appropriate existing structures within a nonresidential zone, and that due to valid considerations including physical constraints, and economic or technological feasibility, no appropriate location is available.
 2. Applicants are required to demonstrate that they: (i) have contacted the owners of structures in excess of 30 feet within a one-quarter mile radius of the site proposed and which from a location standpoint could provide part of a network for transmission of signals; (ii) have asked for permission to install the antenna on those structures; and (iii) were denied for reasons other than economic feasibility.
 3. The information submitted by the applicant shall include (i) a map of the area to be served by the tower or antenna, (ii) its relationship to other cell sites in the applicant's network, and (iii) an evaluation of existing buildings taller than 30 feet, within one-quarter mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals.
 4. ~~A conditional use or public facility permit is required for all personal wireless facilities located in an R1, R2 or MF zone.~~

23.45.100 Required submittals and testing.

Required submittals include:

A. Applications for conditional use permit, ~~public facility permit~~, administrative use permit, or building permit. A balloon test is required for any wireless facility that needs a conditional use ~~or public facility~~ permit;

B. The balloon test shall be conducted prior to the hearing on the permit application. The purpose of the balloon test is to enable the applicant, abutting and neighboring property owners, and the city to better understand the height and visual impact of the proposed tower and antenna array and to provide useful evidence for consideration before the hearings examiner on the permit application. A balloon test is also required when an application proposes to add 20 feet or more to the height of an existing wireless facility;

C. Other related requests may include any combination of site plans, surveys, maps, technical reports, or written narratives necessary to convey the following information in addition to the requirements of UPMC Title [22](#), Administration of Development Regulations, and other applicable ordinances;

D. If a balloon test is not required then a photo-simulation of the proposed facility from affected residential properties and public rights-of-way at varying distances must be provided. If a balloon test is required, then photos of the balloon test from six locations located approximately 300 feet from the base of the proposed tower and spaced evenly around the proposed tower shall be submitted within two weeks after the commencement of the balloon test;

E. A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, and the proposed color(s) of the facility;

F. A signed statement indicating that (1) the applicant and landowner agree they will diligently negotiate in good faith to facilitate co-location of additional personal wireless service facilities by other providers on the applicant's structure or within the same site location, and (2) the applicant and/or landlord agree to remove the facility within 60 days after abandonment;

G. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC Para. 1.1307, or, in the event that an FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment;

H. A site plan clearly indicating the location, type and height of the proposed tower or antenna support structure and antenna, accessory buildings, fencing, landscaping, other on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and all other items required in this chapter;

I. A current map and aerial showing the location of the proposed tower, a map showing the locations and service areas of other personal wireless service facilities operated by the applicant and those proposed by the applicant that are close enough to impact service within the city;

J. Legal description of the parcel, if applicable;

K. The approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties;

- L. A landscape plan showing specific landscape materials;
- M. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination;
- N. A letter signed by the applicant stating the tower will comply with all FAA regulations and EIA standards and all other applicable federal, state and local laws and regulations;
- O. A statement by the applicant that the design of the tower will accommodate co-location of additional antennas for future users;
- P. The telecommunications company must demonstrate that it is licensed by the FCC if required to be licensed under FCC regulations;
- Q. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC; and
- R. At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the city.

23.45.110 Co-location.

To minimize adverse visual impacts associated with the proliferation of towers, co-location of personal wireless service facilities on existing or new towers is encouraged as follows:

- A. Proposed facilities may, and are encouraged to, co-locate onto existing towers.
- B. The conditional use ~~or public facility~~ permit requirement for a facility will be waived in nonresidential zones if the applicant locates the antenna on an existing structure or an existing tower unless additional height requires a conditional use permit. Any co-location must be accomplished in a manner consistent with the policy, site criteria, and landscape/screening provisions contained in this chapter.

The applicant must submit detailed plans to the ~~community planning and development services department~~ director for an administrative use permit to determine if the conditional use ~~or public facility~~ permit process and public hearing can be waived. No building permit will be issued until approval is granted by an administrative use permit or conditional use ~~or public facility~~ permit.

- C. The city may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on an existing structure or tower.
- D. To reduce the number of antenna support structures needed in the city in the future, new proposed support structures shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates why such design is not feasible for technical or physical reasons.
- E. Unless co-location is not feasible: (i) an applicant's site plan shall reserve an area for other providers' equipment near the base of the applicant's tower. A first right-of-refusal (which is either executed or maintained while the providers personal wireless facilities and services are in use) to lease the area at the base of the tower or mount for other providers will meet the reservation requirement; and (ii) the site plan for towers in excess of 100 feet above ground level must propose space for two comparable providers, while the site plan for towers 100 feet or less must propose space for one comparable provider.

F. All personal wireless service providers or lessees or agents thereof shall cooperate in good faith to accommodate co-location with competitors. If a dispute arises about the feasibility of co-locating, the city manager may require a third party technical study, at the expense of either or both parties, to resolve the dispute.

G. While co-location and the requirements herein are encouraged, co-location shall not take precedence over the construction of shorter towers with appropriate screening.

23.45.120 Design criteria.

A. As provided above, new facilities shall be designed to accommodate co-location, unless the applicant demonstrates why such design is not feasible for economic, technical, or physical reasons.

B. Facilities shall be architecturally compatible with the surrounding buildings and land uses in the zoning district and screened or otherwise integrated, through location and design, to blend in with the existing characteristics of the site.

1. Setback. A tower's setback shall be measured from the base of the tower to the property line of the parcel on which it is located. In R1, R2, ~~MF-L and MF-H or multifamily~~ zones or where a proposed tower is on property abutting a residential use, towers shall be set back from all property lines a distance equal to 100 percent of tower height as measured from ground level. However, if there are unusual geographical limitations or if better screening can be achieved, setbacks may be reduced at the city's discretion. All towers shall be set back a minimum of 30 feet. When making a discretionary decision to reduce setbacks, considerations shall include by way of illustration and not limitation:

- a. Impact on adjacent properties;
- b. Alternative sites for personal wireless facilities; and
- c. The extent to which screening and camouflaging will mitigate the effects of the personal wireless facilities.

2. Right-of-Way Setback Exception. The setback requirement is waived if the antenna and antenna support structure are located in the city right-of-way provided antenna is attached to an existing utility pole and does not increase the height of the utility pole and/or extend above the utility pole by more than 10 feet. Wireless facilities attached to utility poles are only permitted in the ~~MU, MU-O, MU-M, NC, CC, TC and LI-BP~~ light industrial-business park, mixed use, mixed use-office, neighborhood-commercial and commercial zones subject to license or franchise agreements with the city.

3. Tower and Antenna Height. The applicant shall have the burden of demonstrating that the tower and antenna is the minimum height required to meet the proven communications need. No tower or antenna that is taller than this minimum height shall be approved. No tower or mount together with antenna shall exceed 60 feet in ~~residential~~ R1, R2, MF-L, MF-H, POS or TC or multifamily zones or 110 feet in the ~~MU, MU-O, NC, CC and LI-BP~~ light industrial-business park, commercial, neighborhood-commercial, mixed use, mixed use-office and town-center zones. Towers or mounts and antenna shall not exceed the height limits specified in UPMC 19.45.100 and UPMC 19.45.110 in the MU-M zone, 60 feet in the city-center area.

4. Tower Separation. In no case shall towers be located closer than 500 feet from another tower whether it is owned or utilized by applicant or another provider, unless the city designates areas where multiple towers can be located in closer proximity.

5. View Corridors. Due consideration shall be given so that placement of towers, antennas, and personal wireless service facilities do not obstruct or significantly diminish views from public areas of Mt. Rainier, Puget Sound or the Olympic Mountains.

6. Color. Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.

7. Signs. No signs, banners or similar devices or materials may be attached to the tower, antenna support structures or antennas.

8. Lights, Signals and Signs. No signals, lights, or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, in cases where there are residents located within a distance that is 300 percent of the height of the tower, then dual mode lighting shall be requested from the FAA.

9. Fencing. A well-constructed wall or wooden fence not less than six feet in height from the finished grade shall be provided around each personal wireless service facility. Access to the tower shall be through a locked gate. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by a minimum eight-foot-wide landscaping strip.

10. Landscaping.

a. Landscaping. Landscaping, as described herein, shall be required to buffer personal wireless service facilities as much as possible, to soften the appearance of the cell site. The city may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

b. Buffers. The visual impacts of a personal wireless service facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering shall be required around the perimeter of the tower and accessory structures, except that the city may waive the standards for those sides of the facility that are not in public view. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping requirements.

i. A row of evergreen trees a minimum of six feet tall at planting a maximum of six feet apart shall be planted around the perimeter of the fence.

ii. A continuous hedge at least 36 inches high at planting capable of growing to at least 48 inches in height within 18 months shall be planted in front of the tree line referenced above.

iii. To guarantee required landscaping the applicant shall provide the city with an ~~36~~18-month landscape maintenance guarantee in accordance with UPMC [19.65.230\(B\)](#).

iv. In the event that landscaping is not maintained at the required level after the 18-month landscape guarantee period, the City after giving 30 days' advance written notice may maintain or establish the landscaping and bill both the owner and lessee for such costs until such costs are paid in full.

11. Screening. Screening, camouflaging or otherwise integrating a telecommunications facility into existing structures on the site in order to make the facility as visually unobtrusive as possible shall take priority over increased height to accommodate co-location. A personal

wireless telecommunications facility shall be integrated through location and design to blend in with the existing “character” (as defined in Chapter [19.10](#) UPMC) of the site so as to be visually unobtrusive or screened. To be considered screened, the tower or mount shall be placed amongst and adjacent to (within 20 feet) the drip line of three or more trees at least 75 percent of the height of the facility. To ensure the screening trees are preserved the following note shall be recorded on the property title:

All trees within 50 feet of the telecommunications facility located on this property, which serve to screen the telecommunications facility, shall be retained for the life of the telecommunications facility. Screening trees may only be removed if deemed diseased or dangerous by a certified arborist. Before any trees can be removed a report from the certified arborist shall be submitted to the City for review and approval. Unless approved by the City, only that portion of the tree required to remove the hazard can be removed.

12. Required Parking. If the cell site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, arrangements for adequate off-street parking shall be made and documentation thereof provided to the City. Security fencing should be colored or should be of a design which blends into the “character” (as defined in Chapter [19.10](#) UPMC) of the existing environment.

13. Antenna Criteria. Antenna on or above a structure shall be subject to the following:

- a. The antenna shall be architecturally compatible with the building and wall on which it is mounted, and shall be designed and located so as to minimize any adverse aesthetic impact.
- b. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless it must be for technical reasons. In no event shall an antenna project more than 16 feet above the roof line, including parapets.
- c. The antenna shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.
- d. The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than the enclosure.
- e. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color.
- f. The antenna and any accessory buildings must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.
- g. Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the City, in the City’s sole discretion.
- h. On buildings 30 feet or less in height, the antenna may be mounted on the roof if the following additional criteria are satisfied:
 - i. The City finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.

- ii. No portion of the antenna, base station or screening causes the building to exceed the maximum height allowed in the zone.
- iii. Roof mounted antenna and related base stations are completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.
- iv. No portion of the antenna may exceed 16 feet above the height of the existing building.
 - i. For antenna attached to the roof or sides of a building at least 30 feet in height, an existing tower, a water tank, or a similar structure, the antenna must be either:
 - i. An omni-directional or whip antenna no more than seven inches in diameter and extending no more than 16 feet above the structure to which it is attached; or
 - ii. A panel antenna no more than two feet wide and six feet long, extending above the structure to which they are attached by no more than 10 feet.
 - iii. Antenna, antenna arrays, and support structures not on publicly owned property shall not extend more than 16 feet above the highest point of the structure on which they are mounted. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires. The antenna, antenna array, and their support structure shall be a color that blends with the structure on which they are mounted.
 - j. Guy Wires Restricted. No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except when used to anchor the antenna, antenna array, or support structure to an existing building to which such antenna, antenna array, or support structure is attached.
 - k. If a proposed antenna is located on a building or a lot subject to a land use permit, approval is required prior to the issuance of a building permit.
 - l. No person shall locate an antenna or tower for wireless communications services upon any lot or parcel except as provided in this chapter.

14. Equipment Structures.

- a. Ground level equipment, buildings, and the tower base shall be screened from public view. The standards for the equipment buildings are as follows:
 - i. The maximum floor area is 300 square feet and the maximum height is 12 feet. Except in unusual circumstances or for other public policy considerations, the equipment building may be located no more than 250 feet from the tower or antenna. Depending upon the aesthetics and other issues, the City, in its sole discretion, may approve multiple equipment structures or one or more larger structures.
 - ii. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other City ordinances.
 - iii. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures.

b. Roof Mounted. Equipment buildings mounted on a roof shall have a finish similar to the exterior building walls. Equipment for roof mounted antenna may also be located within the building on which the antenna is mounted.

c. Equipment buildings, antenna, and related equipment shall occupy no more than 25 percent of the total roof area of the building the facility is mounted on, which may vary in the City's sole discretion if co-location and an adequate screening structure is used.

15. Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the Federal government with the authority to regulate towers and antennas. If those standards and regulations are changed, then personal wireless service providers governed by this chapter shall bring their towers and antennas into compliance with the revised standards and regulations within three months of their effective date or the timelines provided by the revised standards and regulations, whichever time period is longer. The revised standards and regulations are not retroactively applicable to existing providers, unless otherwise provided or permitted by Federal law. Failure to bring towers and antennas into compliance with the revised standards and regulations shall constitute grounds for the City to remove a provider's facilities at the provider's expense.

16. Building Codes – Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable City building codes and the applicable standards for towers that are published by the Electronic Industries Association (EIA), as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within 30 days, the City may remove the tower at the owner's expense.

17. Structural Design. Towers shall be constructed to the EIA standards, which may be amended from time to time, and to all applicable construction/building codes. Further, any improvements or additions to existing towers shall require submission of site plans stamped by a professional engineer that demonstrate compliance with the EIA standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.

No personal wireless service provider or lessee shall fail to assure that its antenna complies at all times with the current applicable FCC RF Emission standards. After installation, but prior to putting the antenna in service, each provider shall submit a certification by an independent professional engineer to that effect. In the event that an antenna is co-located with another antenna, the certification must provide assurances that FCC approved levels of electromagnetic radiation will not be exceeded by the co-location.

18. Antenna Support Structure Safety. The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

23.45.130 Permits required.

~~In addition to the other provisions of this chapter, the following permits are required unless otherwise stated: GA.~~ Project permit review procedures are specified in UPMC Title [22](#), Administration of Development Regulations. The following table specifies the permits required

for the various types of personal wireless service facilities that meet the standards of this chapter.

Permit Table¹				
Type of Use	Conditional Use <u>Permit</u>²	Administrative Use <u>Permit</u>	<u>Building Permit Over Counter</u>	<u>Variance</u>
<u>Towers ≤ 60 Feet in R1, R2, MF-L, MF-H, POS and TC Zones and Towers ≤ 65 Feet in MU-M Zone</u> ^{3,2}	<u>X</u>	<u>X</u>		
<u>Towers ≤ 60 Feet in MU, MU-0, NC, CC, TC and LI-BP Zones</u>		<u>X</u>		
<u>Towers > 60 Feet in MU, MU-0, NC, CC, TC and LI-BP Zones</u>	X			<u>X</u> ⁴
<u>Towers > 110 Feet</u> ³	<u>X</u>			<u>X</u>
<u>Towers in R1, R2, and MF Zones</u> ⁵	<u>X</u>			
<u>Antenna Mounted on Existing Antenna Support Structure with additional height ≤ 60 feet or ≤ the maximum height specified in UPMC 19.45.100 and UPMC 19.45.110. Mounted</u>		<u>X</u> ⁶	<u>X</u> ³	
<u>Antenna Mounted on Existing Antenna Support Structure with additional height > 60 feet</u>	<u>X</u>			
<u>Antenna Mounted on Building Mounted</u>			X	
<u>Co-Location, including “Eligible Facilities Request” pursuant to federal law</u>			X	
<u>Tower Modification ≤ 60 Feet</u>		<u>X</u>		
<u>Tower Modification > 60 feet</u>	<u>X</u>	<u>X</u> ⁶		<u>X</u> ⁷

Notes:

¹ Right-of-way and site development permits may also be required depending on type and location of facilities.

~~² A public facility permit is required in public facility zones.~~

~~³ Towers must be located in a nonresidential zone.~~

~~⁴ In residential zones.~~

~~⁵⁻² Towers must be located on nonresidential property.~~

³ Antenna mounted on existing antenna support structure in the LI-BP, CC, NC, MU, MU-O, MU-M and TC zone at ≤ the maximum building height allowed in the zone may be permitted following building permit review and submittal of an affidavit of compliance with this chapter and other City regulations.

~~⁶ If additional height above 60 feet is proposed, a conditional use or public facility permit is required⁷ For towers in excess of 110 feet in nonresidential zones.~~

~~A. An administrative use permit is required for a tower or antenna support structure together with antenna 60 feet or less in height in the light industrial business park, mixed use, mixed use-office, town center, neighborhood commercial and commercial zones.~~

~~B. A conditional use or public facility permit is required for any tower, antenna support structure and/or antenna located in an R1 or R2, public facility or multifamily zone.~~

~~C. A conditional use permit or public facility permit is required for a tower, antenna support structure and/or antenna more than 60 feet in height, in all other zones.~~

~~D. Antennas mounted on existing structures in the light industrial business park, commercial, neighborhood commercial, mixed use, mixed use-office and town center zones which will not exceed the maximum building height allowed in the zone do not require an administrative use permit but may be permitted following an administrative review and submittal of an affidavit of compliance, with this chapter and other City regulations.~~

EB. If a wireless facility is not greater than 1.5 cubic feet in size, has two or fewer antennas that are no more than two feet in length, and is attached to an existing electric, telephone or light pole at a height no lower than 15 feet above ground in nonresidential districts of the City, then only administrative use and building permit review are required. Such a facility shall not be subject to setbacks and screening requirements.

FC. A variance from the height limit may be granted if the applicant can show by evidence that the additional height is necessary to provide adequate service to the residents of the City and no other alternative is available. When granting a variance the Examiner shall require that a significant portion of the ~~of the~~ tower and related facilities be screened by existing trees or existing structures. In the City center area, a variance may only be granted in extraordinary circumstances.

1. The purpose of this subsection is to provide a means of increasing the maximum height of tower and antenna in specific instances where the strict application of those limits would deprive a tower or antenna operator from achieving the minimum height required to meet the proven communications need.

2. The Examiner shall have the authority to grant a variance from the maximum height allowed for tower or antenna when, in his/her opinion, the conditions as set forth in subsection (**FC**)(3) of this section have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this chapter.

3. Before a height variance can be granted, it shall be shown that the applicant demonstrates all of the following:

a. That there is evidence that additional height is required to provide adequate service to the residents of the City and that no other alternative is available;

b. That there are special circumstances applicable to the subject property such as shape, topography, location, or surroundings that prevent the operator from achieving the minimum height required to meet the proven communications need;

- c. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity;
 - d. That any visual impacts will be mitigated to the greatest extent possible using camouflage or screening, including but not limited to strategic placement next to existing buildings or vegetation or incorporation with architectural features of existing buildings or structures;
 - e. That the location of the tower and antenna has been chosen so as to minimize the visibility of the facility from residentially-zoned land and to minimize the obstruction of scenic views from public properties; and
 - f. That the variance is the minimum necessary to grant relief to the applicant.
4. The applicant has the burden of proving that the proposed variance meets all of the criteria in subsection (FC)(3) of this section, decision criteria.
5. The Examiner may approve an application for a variance with additional requirements above those specified in this title or require modification of the proposal to comply with specified requirements or local conditions.
6. The Examiner shall deny a variance if the proposal does not meet or cannot be conditioned or modified to meet subsection (FC)(3) of this section.

23.45.180 Violation – Penalty.

- A. Any person violating any of the provisions of this chapter upon conviction shall be punishable by a fine not to exceed \$1,000 or by imprisonment for a period of up to 90 days, or by both such fine and imprisonment, for each day during which an offense occurs.
- B. In addition to receiving any monetary remuneration, the City shall have the right to seek injunctive relief for any and all violations of this chapter, for relief under Chapter [1.20 UPMC](#), [Chapter 1.30 UPMC](#), and all other remedies provided at law or in equity.