

ORDINANCE BILL NO. 14 FOR 2003

ORDINANCE NO. 1160

AN ORDINANCE ADOPTING SWEET HOME MUNICIPAL CODE CHAPTER 17.98 PERTAINING TO WIRELESS TELECOMMUNICATIONS FACILITIES; AMENDING SWEET HOME MUNICIPAL CODE 17.08.070 PERTAINING TO EXCEPTIONS TO BUILDING HEIGHT LIMITATIONS; AMENDING SWEET HOME MUNICIPAL CODES 17.24.030, 17.28.030, 17.32.030, 17.36.030, PERTAINING TO CONDITIONAL USES; AND AMENDING SWEET HOME MUNICIPAL CODE 17.44.020 PERTAINING TO OUTRIGHT USES IN THE INDUSTRIAL ZONE; AND DECLARING A NEED FOR EXPEDIENCY.

WHEREAS, the Planning Commission has held a hearing on the proposed ordinance and recommended Council approval; and,

WHEREAS, the City Council held a hearing on the proposed ordinance; and,

WHEREAS, the City of Sweet Home declares a need for expediency for the purposes of protecting the health, safety and welfare of Sweet Home residents and for the purposes of securing short term and long term economic security for the community.

NOW, THEREFORE, THE CITY OF SWEET HOME DOES ORDAIN AS FOLLOWS:

Section 1.

Section 17.98  
WIRELESS TELECOMMUNICATIONS FACILITIES

Sections:

- 17.98.010 Purpose
- 17.98.020 Definitions
- 17.98.030 Review Procedures
- 17.98.040 Siting Preferences
- 17.98.050 Standards and Requirements
- 17.98.060 Attached Telecommunications Facilities
- 17.98.070 Abandonment of Facilities
- 17.98.080 Application
- 17.98.090 Special Review Criteria

17.98.010 Purpose

The purpose of this section is:

- a. To minimize adverse health, safety, public welfare, or visual impacts of towers, through careful design, siting, landscaping, and innovative visual compatibility techniques;
- b. To encourage shared use/co-location of towers and antenna support structures as a primary option rather than construction of additional single-use towers;
- c. To encourage utilization of technological designs that will either eliminate or reduce the

- need for construction of new tower facilities;
- d. To avoid potential damage to property caused by facilities, by ensuring such structures are sound and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound;
  - e. To ensure that towers are compatible with surrounding land uses.

17.98.020 Definitions:

“Antenna, Wireless Telecommunications” means the physical device, commonly in the form of a metal rod, wire panel or dish, through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators, police, fire, and AM radio are excluded from this definition.

“Attached Wireless Telecommunications Facility” means a wireless telecommunications facility that is affixed to an existing structure, other than a Wireless Telecommunications Tower.

“Co-Location” means a wireless telecommunications facility comprised of a single telecommunications tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one provider.

“Lattice Tower” means a support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

“Monopole” means a support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

“Provider” means a company holding a Federal Communications Commission (FCC) license that is in business to provide telecommunications services.

“Wireless Telecommunications” means the transmission, via radio frequency electromagnetic waves, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

“Wireless Telecommunications Accessory Structure/Equipment” means equipment shelters or radio equipment necessary for the operation of wireless telecommunications in addition to the antenna and tower.

“Wireless Telecommunications Facility (WTF)” means a facility consisting of the equipment and structures involved in receiving and or transmitting telecommunications or radio signals.

“Wireless Telecommunications Equipment Shelter” means the structure in which the electronic radio equipment and relay equipment for a wireless telecommunications facility is housed.

“Wireless Telecommunications Support Facility” means a Wireless Telecommunications Tower.

“Wireless Telecommunications Tower” means a structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice towers, but not excluding any other approved structure.

“Visual Compatibility Characteristics” means characteristics that minimize the visual impact of a tower or antennas.

17.98.030 Review Procedures. Wireless Telecommunications Facilities, hereby referred to as “WTFs” and/or “facilities” within this section, require a Conditional Use Permit.

The process of review is dependent on the type of facility proposed (i.e. co-located/attached or freestanding) and its proposed location.

- a. Notice. When mailed notice of a public hearing or an administrative action relating to a wireless communication facility is required by this ordinance, such notice shall be sent to owners of record of property where such property is located as follows:
  - i. Within 300 feet from the exterior boundary of the subject property when the proposed WTF meets the height requirement of this Title;
  - ii. For WTF’s that exceed the height requirement of this Title, an additional 50 feet of notice area is required for every 10 foot increment in height.
- b. Action and findings by Planning Commission. For applications proposing the siting of wireless telecommunications facilities through means other than attachment, the Planning Commission shall conduct a public hearing in accordance with SHMC 17.12. Following the close of the hearing the Planning Commission shall either approve, conditionally approve, or deny the Development Plan. A Wireless Communication Facility, as authorized, shall be subject to all conditions imposed and shall be varied from other provisions of this ordinance only to the extent specified in the approval.
- c. Conditional Uses Permitted. Wireless Telecommunications Facilities shall be permitted upon granting of a Conditional Use Permit in all zones, except (d) of this Section.
- d. Uses Prohibited. Wireless Telecommunications Facilities shall be prohibited in the Natural Resources Overlay Zone.

17.98.040 Siting Preferences:

WTFs shall be sited in accordance with the following priorities, in order of their preference. If the applicant proposes a facility on lower priority preferences, the applicant shall prove conclusively, that each of the higher priorities has been considered and found to be not feasible.

- a. Priority #1: Use of an Attached Wireless Communication Facility whereby transmission and reception devices are placed on existing structures which are consistent in height with and situated similarly to types normally found in the surrounding area, such as telephone, electrical, or light poles.
- b. Priority #2: Co-location by placement of antennas or other transmission and reception devices on an existing tower, building, or other structure, such as a utility pole, water tank, or similar existing structure.
- c. Priority #3: Siting of a new tower, in a visually subordinate manner, using visual

- compatibility techniques.
- d. Priority #4: Siting of a new tower in a visually dominant location, but employing visual compatibility techniques.
- e. Priority #5: Siting of a tower in a visually dominant location, not employing visual compatibility techniques.

17.98.050 Standards and Requirements.

- a. All facilities shall meet all requirements established by the other provisions of SHMC that are not in conflict with the requirements contained in this Chapter.
- b. All facilities shall comply with all federal, state, and city codes, including, but not limited to, Federal Communication Commission and Federal Aviation Administration standards.
- c. Access. Access shall meet the standards of the underlying zone.
- d. Height. Height of a facility shall be measured from the natural, undisturbed ground surface below the center of the base of the proposed facility to the top of the facility or if higher, the tip of the highest antenna or other transmission or reception device.
  - i. No WTF shall exceed the height standard of this Title, except where attached to an existing structure that exceeds that height and the attached antennas do not increase the total height of that structure by more than 10'.
- e. Co-Location.
  - i. New facilities, if technically feasible, will be designed and constructed for three antennas/providers to co-locate on the facility and to allow antennas mounted at varying heights.
  - ii. The owner of a facility may not deny a wireless telecommunications provider the ability to co-locate on its wireless communication facility at a fair market rate or at another cost agreed to by the affected parties.
  - iii. A facility may be attached to any existing structure as long as the height of that structure is not increased by more than 10' and so long as it meets all relevant requirements of this Section.
  - iv. Co-location shall not be precluded simply because a reasonable fee or shared use is charged or because reasonable costs necessary to adopt the existing or proposed uses to a shared tower. The Planning Commission may consider expert testimony to determine whether the fees and costs are reasonable.
  - v. Co-location costs that exceed new tower development costs are considered to be unreasonable.
- f. Construction.
  - i. All facilities must meet the requirements of the Uniform Building Code and/or the Oregon Structural Specialty Code.
- g. Design. Where possible new facilities will be located in such a manner that they blend in with the background around them, using techniques to ensure visual compatibility characteristics.
  - i. All new WTF towers shall be a monopole or lattice tower structure constructed out of metal or other nonflammable material.

- ii. All accessory structures (i.e vaults, equipment rooms, utilities, and equipment enclosures) shall be concealed, camouflaged, shall be consistent with the underlying zone, or shall be placed underground.
- iii. Visible exterior surfaces of accessory facilities (i.e. vaults, equipment rooms, utilities and equipment enclosures) shall be constructed out of nonreflective materials.
- iv. WTFs shall be initially painted and thereafter repainted as necessary with a “flat” paint. The color shall be one that will minimize the facility’s visibility to the maximum extent feasible.
- h. Landscaping. All WTFs shall be installed in such a manner as to maintain and enhance existing vegetation. Where no vegetation exists, a landscaping plan must be submitted for the site.
- i. Lighting. No lighting shall be permitted on a WTF except as required for security and as required by the Federal Aviation Administration. Security lighting shall be located in such a manner so as not to face directly, shine or reflect glare onto any street or a lot in a residential zone.
- j. Location. No telecommunications facility shall be installed on an exposed ridge line unless it blends with the surrounding existing natural and man-made environment in such a manner as to be visually compatible with the environment.
- k. Setbacks. Facilities shall be set back at least twenty-five percent (25%) of the tower height from all property lines or shall meet the setbacks of the underlying zone, whichever is greater.
- l. Safety. All WTFs shall maintain in place a security program that will deter unauthorized access and vandalism.
- m. Underground equipment shelters should be considered.
- n. Signs. Signs shall comply with the requirements set forth in this Title.
  - i. All Telecommunications Facilities shall be clearly identified as to the location and operator so as to facilitate emergency response.

17.98.060 Attached Telecommunications Facilities. All attached facilities shall be located and designed to appear an integral part of the structure.

- a. Roof mounted antennas and all building mounted accessory equipment shall be located no closer to the nearest edge of the roof than the height of the antenna or accessory equipment, whichever is greater.
- b. Wall mounted antennas shall be architecturally integrated into the building.
- c. Wall mounted antennas shall be located no more than four feet (4') from the face of the wall.
- d. Accessory structures for attached facilities, such as equipment shelters, cabinets or other enclosed structures containing electronic equipment, shall be camouflaged or otherwise constructed using visual compatibility techniques.

17.98.070 Abandonment of Facilities.

- a. Wireless Telecommunications Facilities that do not have functioning antennas for a period of six (6) months shall be considered abandoned and shall be removed by the owner or operator within 60 days thereafter.

17.98.080 Application.

- a. Application Requirements.
- i. One copy of the narrative on 8.5" by 11" sheets; and
  - ii. A development site plan drawn to scale with sheet size not to exceeding 24" by 36". Where necessary, an overall plan with additional detail sheets may be submitted; and
  - iii. All information necessary to evaluate the request.
  - iv. One set of the plan shall be reduced to fit on 8.5" by 11" sheets of paper. Names and numbers must be legible on this sheet size.
  - v. After the application is accepted as complete, any revisions may require a new application, additional filing fees, and rescheduling of the public hearing.
- b. Development Plan Required. All applications shall be accompanied by a Development Plan drawn to scale showing the following:
- i. Use or uses,
  - ii. Location of the proposed facility and relevant dimensions.
  - iii. Height of the proposed facility.
  - iv. Setbacks for the proposed facility.
  - v. A photo simulation of the proposed WTF for the maximum number of providers.
  - vi. Dimensions and location of areas to be reserved for vehicular and pedestrian access and circulation.
  - vii. A landscaping plan that indicates how the facility will be screened from adjoining uses.
  - viii. A fencing plan that indicates the location, height and design of any proposed fencing.
  - ix. A lighting plan that indicates the type and location of any proposed lighting.
  - x. A sign plan that indicates the size, location, and design of any proposed signage.
  - xi. Drawings demonstrating the materials, color and design of the proposed facility.
  - xii. A map showing all existing wireless communication facility sites operated by the provider within two miles of the Sweet Home boundary, or the top of the nearby ridges, whichever is greater, including a description of the facility at each location.
  - xiii. A propagation study indicting proposed facility and the adjacent hand-off sites.
  - xiv. If provider proposes to construct a new facility (tower), all applications shall include findings that demonstrate that it is not legally or technically feasible to co-locate.
    - (1) Documentation of the efforts that have been made to co-locate on existing or previously approved towers.
    - (2) Each provider shall make a good faith effort to contact the

owner(s) of all existing or approved towers and shall provide a list of all owners contacted in the area, including the date, form of contact and the result of contact.

- (3) Documentation as to why co-locating on an existing or proposed tower or attachment to existing structures within one-half mile of the proposed site is not feasible.
- xv. Such other pertinent information shall be included as may be considered necessary by the Review Authority to make a determination that the contemplated arrangement or use makes it necessary and desirable to apply regulations and requirements differing from those ordinarily applicable under this ordinance and the Subdivision Ordinance.

c. Narrative Required. A written statement shall include the following information:

- i. The name and contact information for the provider;
- ii. A description of the character of the proposed facility;
- iii. Analysis of how the application meets the review criteria;
- iv. Applicants/providers shall provide evidence of legal access to the proposed Wireless Telecommunications Facility.
- v. The applicant/provider shall provide evidence that legal access to the facility site will be maintained for the duration of the facility's operation.
- vi. Where a proposed Wireless Telecommunications Facility is located on a property not owned by the provider, the applicant/provider shall present documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that vehicular access is provided to the facility.
- vii. The applicant shall provide evidence that describes the facility tower's structural capacity to carry the antennas of at least three Wireless Telecommunications providers.
- viii. The applicant shall provide evidence of steps the provider will take to avoid interference with normal radio and television reception in the surrounding area and with any public safety agency or organization, per FCC requirements.
- ix. The applicant shall demonstrate that the WTF is intended to provide service primarily within the community.
  - (1) The City reserves the right to deny a permit if it is shown that the facility is not intended to provide service primarily within the community.
- x. The applicant/provider shall demonstrate that the Wireless Telecommunications Facility must be located where it is proposed in order to service the provider's service area. There shall be an explanation of why a facility at this proposed site is technically necessary.
- xi. If the applicant/provider proposes a new tower or co-located facility, the applicant shall provide evidence that the facility's height is the lowest height at which the gap in coverage can be filled.
- xii. All applications shall include evidence that at least one provider will use the proposed facility to provide wireless telecommunications service

immediately upon construction completion of the facility.

- (1) The City reserves the right to deny applications that propose a facility without a provider.
- xiii. The application shall include a written agreement that Wireless Telecommunications Facilities owned by the provider, that do not have an operating antenna for a period of six (6) months, shall be considered abandoned and shall be removed by the operator within 60 days thereafter.
- xiv. The application shall include a written agreement from the property owner that if the provider fails to remove an abandoned WTF, the property owner has full legal and fiscal responsibility for the WTF removal.

17.98.090 Special Review Criteria:

- a. Residential Zones. A Wireless Telecommunications Facility is not allowed in any Residential Zone unless it is an Attached WTF that meets the requirements of this Section.
  - i. Access. Standards for access are the set by the underlying zone.
  - ii. Height. A facility that is attached to an existing structure may not exceed the height of the existing structure, unless findings are made by the Planning Commission that such an increase will have a minimal impact on the appearance of the structure.
  - iii. Landscaping. Existing trees and other screening vegetation in the vicinity and along the access road shall be protected from damage, both during the construction period and thereafter.
  - iv. Signs. Facilities shall be identified with an identification sign not exceeding two (2) square feet in size.
  - v. Accessory Facilities. Accessory structures for attached facilities, such as equipment shelters, cabinets or other enclosed structures containing electronic equipment, shall be camouflaged or otherwise constructed using visual compatibility techniques.
- b. Commercial Zones. A Wireless Telecommunications Facility in any Commercial Zone must be either an Attached WTF or a Monopole, and that meets the requirements of this Section.
  - i. Access. Standards for access are the set by the underlying zone
  - ii. Height. The height of a WTF shall not exceed 80' feet.
  - iii. Landscaping. Existing trees and other screening vegetation in the vicinity and along the access road shall be protected from damage, both during the construction period and thereafter. The accessory structure shall be screened by an evergreen material with an ultimate height of at least eight (8) feet and a planted height of at least three feet. The landscaping must be protected and maintained.



- iv. Signs. Facilities shall be identified with an identification sign not exceeding two (2) square feet in size.
  - v. Accessory Facilities. Accessory structures for attached facilities, such as equipment shelters, cabinets or other enclosed structures containing electronic equipment, shall be camouflaged or otherwise constructed using visual compatibility techniques.
- c. Industrial Zones
- i. Access. Standards for access are the set by the underlying zone.
  - ii. Height. Facilities shall not exceed 100'.
  - iii. Landscaping. Existing trees and other screening vegetation in the vicinity and along the access road shall be protected from damage, both during the construction period and thereafter. The accessory structure shall be screened by an evergreen material with an ultimate height of at least eight (8) feet and a planted height of at least three feet. The landscaping must be protected and maintained.
  - iv. Signs. Facilities shall be identified with an identification sign not exceeding two (2) square feet in size.
  - v. Accessory Facilities. Accessory structures for facilities, such as equipment shelters, cabinets or other enclosed structures containing electronic equipment, shall be camouflaged or otherwise constructed using visual compatibility techniques.

Section 2. SHMC 17.09.070 is amended to read as follows:

17.08.070 Exception to building height limitations. Vertical projections such as chimneys, spires, and flag poles, are not subject to the building height limitations of this title. Amateur radio, AM radio, police, and fire antennas are not subject to the building height limitation of this title when approved by the Planning Commission.

Section 3. SHMC 17.24.030, conditional uses permitted, is amended to add the following:

P. Amateur radio, police, and fire antennas.

Section 4. SHMC 17.28.030, conditional uses permitted, is amended to add the following:

D. Amateur radio, police, and fire antennas.

Section 5. SHMC 17.32.030 is amended to add the following:

H. Amateur radio antennas

I. Commercial radio stations and antennas.

Section 6. SHMC 17.36.030 is amended to add the following:

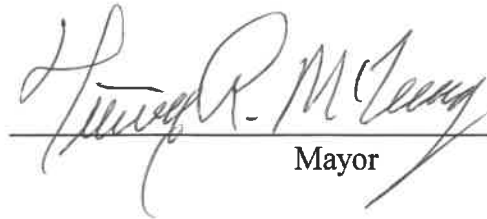
- H. Amateur radio antennas
- I. Commercial radio stations and antennas.

Section 7. SHMC 17.44.020 is amended to add the following:

- D. Amateur radio antennas
- E. Commercial radio stations and antennas.

Section 8. Expediency: It is in the best interest and benefit of the City that this ordinance becomes effective immediately, as set forth in the City of Sweet Home Charter, Section 29. Therefore, this ordinance shall be in full force and effect after the passage by the Council and approval by the Mayor.

PASSED by the Council and approved by the Mayor this 9th day of Dec., 2003.

  
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Mayor

ATTEST:

  
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City Manager - Ex Officio City Recorder