COLVILLE CITY COUNCIL AGENDA ITEM
BRIEFING SHEET

Meeting Date: **October 9, 2018**

Contact: **Logan Worley**

Topic or Problem Statement: **Small Cell Ordinance for future Small Cell antennas (Wireless Facilities)**
This Ordinance provides a process for the review of applications, and sets forth requirements of new small cell antennas located in the public right of way.

Information on Small Cell Deployments was given to the Council previously to see if council wanted to go ahead with an ordinance to set up an application process and to provide some control to the City.

Type of Briefing:

☐ **Information Only** ☐ **Discussion Only** ☒ **Decision Needed**

Background of Situation:
Small Cell Ordinances have been widely adopted by larger cities in Washington and throughout the country. An ordinance helps set up a plan for review of applications, and gives the City some ability to control aesthetic aspects of Small Cell infrastructure.

Goals and Objectives: **i.e., CFP, Comprehensive Plan, Safety, etc.**
Comprehensive Plan, Safety,

Evaluate Alternatives or Options/Consequences of Inaction:
The proposed ordinance sets forth an application review process for the city, and sets forth guidelines for applicants, and gives some control over the aesthetics of the Small Cell Antennas and the supporting infrastructure.

If the City does not adopt an ordinance the City has less control over the aesthetics of the small cell antennas, and may not recoup all the fees and costs of reviewing applications for small cell antennas.

Funding Needed and Recommended Source (BARS #):
None

Attachments:

Recommended Action with Justification:
Adoption of the Small Cell Ordinance to provide a timely process for small cell applications to be reviewed and to give the City some control over the siting, size, and other elements of small cell infrastructure.

ORDINANCE NO. _____ N.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLVILLE, WASHINGTON ADOPTING A NEW COLVILLE MUNICIPAL CODE SECTION 15.30 WIRELESS SERVICE FACILITIES.

WHEREAS, it is necessary and beneficial for the health, safety and welfare of the community to add regulations for the streamlined development of wireless telecommunications facilities; and

WHEREAS, it is important to accommodate the growing need and demand for telecommunications services while protecting the character of the City of Colville; and

WHEREAS, there is a need to establish standards for location, aesthetics and compatibility for wireless service facilities, and uses; and

WHEREAS, it is necessary to encourage the location and collocation of wireless service facilities on existing buildings and structures in order to reduce the need for new towers, thereby minimizing visual clutter, public safety impacts, and effects upon the natural environment, as well as to encourage concealed technologies; and

WHEREAS, there is a need to encourage the availability of affordable, high- speed internet and cellular telephone access for businesses and residents, acknowledging that a growing number of businesses are conducted in whole or in part from homes and/ or on- the-go, that increasingly education incorporates on- line learning necessitating good home internet connections for students and faculty, and that government participation and emergency service to the general public are enhanced by fast and reliable cellular and home internet connectivity; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLVILLE, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1.

Chapter 15.30 – WIRELESS SERVICE FACILITIES

Sections:

15.30.10 Policy Statement

The purpose of this chapter is to provide specific regulations for the placement, construction, modification and removal of Wireless Service Facilities "WSF" in the City of Colville right of way. Pursuant to the guidelines of Section 704 of the Federal Telecommunications Act of 1996, 47 USC, Chapter 5, Subchapter III, Part I, Section 332(c)(7), the provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of wireless services, nor shall the provisions of this chapter be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent wireless services.

1. The goals of this chapter are to:

a. Encourage the location of towers in nonresidential areas and to minimize the total number of tall towers throughout the City;

b. Encourage the joint use of existing tower sites;

c. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the impact on the City is minimal;

d. Encourage users of towers and antennas to configure them in a way that minimizes the visual impact of the towers and antennas;

e. Strongly encourage the providers of wireless services to use concealment technology;

f. Provide standards for the siting of WSF and other wireless communications facilities (such as television and AM/FM radio towers);

g. Facilitate the ability of the providers of wireless services to provide such services throughout the City quickly, effectively and efficiently; and

h. Prioritize the location of WSF on existing structures.

2. Accordingly, the City Council finds that the promulgation of this chapter is warranted and necessary to:

a. Manage the location of towers and antennas in the City;

b. Protect residential areas and other land uses from potential adverse impacts of towers and antennas;

c. Minimize visual impacts of towers and antennas through careful design, siting, landscaping, screening, innovative camouflaging techniques and concealment technology;

d. Accommodate the growing need for towers and antennas;

e. Promote and encourage shared use and co-location on existing towers as a desirable option rather than construction of additional single-use towers; and

f. Avoid potential damage to adjacent properties through engineering and proper siting of WSF.

15.30.15 Definitions

For the purpose of this chapter, the following terms shall have the meaning ascribed to them below. Terms not defined in this section shall be defined as set forth in Chapter 16 of the CMC:

1. "Antenna": any exterior apparatus designed for telephonic, radio, data, Internet or other communications through the sending and/or receiving of radio frequency signals including, but not limited to, equipment attached to a tower, pole, light standard, building or other structure for the purpose of providing wireless services. Types of antennas include:

a. An "omni-directional antenna" receives and transmits radio frequency signals in a 360-degree radial pattern;

b. A "whip antenna" is an omni-directional antenna that is up to 15 feet in height and up to four (4) inches in diameter; and

c. A "directional or panel antenna" receives and transmits radio frequency signals in a specific directional pattern of less than 360 degrees.

2. "Antenna height": the vertical distance measured from average building elevation to the highest point of the antenna, or if on a rooftop or other structure, from the top of the roof or structure to the highest point of the antenna. For replacement structures, antenna height is measured from the top of the existing structure to the highest point of the antenna or new structure, whichever is greater.

3. "Approved WSF": any wireless service facility (WSF) that has received all required permits.

4. "Base station": the structure or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications network. The term does not encompass a tower as defined in this section or any equipment associated with a tower.

5. "Cell site": a tract or parcel of land or building that contains the WSF including any antenna, antenna support structure, accessory buildings, and associated parking, and may include other uses associated with and ancillary to wireless services.

6. "Co-location": the use or placement of WSF on a tower by two (2) or more wireless service providers or by one (1) wireless service provider for more than one (1) type of communication technology; or the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes.

7. "Concealment": eligible support structures and transmission facilities designed to look like some feature other than a wireless tower or base station.

8. "Conductor": a material or object designed and used to conduct heat, electricity, light, or sound, and contains electrical charges that are relatively free to move through the material. The term "conductor" does not include "insulator" or any connecting or support device.

9. "Eligible facilities modification": a proposed facilities modification that does not result in a substantial change in the physical dimensions of an eligible support structure.

10. "Eligible facilities modification permit" or "permit": a written document issued by the approval authority pursuant to this chapter approving an eligible facilities modification application.

11. "Eligible support structure": any existing tower or base station as defined in this chapter; provided, that it is in existence at the time the eligible facilities modification application is filed with the City under this chapter.

12. "Equipment structure": a facility, shelter, cabinet or vault used to house and protect electronic or other associated equipment necessary for processing wireless communications signals. "Associated equipment" may include, for example, air conditioning, backup power supplies and emergency generators.

13. "Existing": a constructed tower or base station that has been reviewed and approved under the applicable zoning or siting process of the City, or under another state, county or local regulatory review process.

14. "Insulator": material in a unit form designed and used so as to support a charged conductor and electrically isolate it.

15. "Nonresidential" or "nonresidential zone": all portions of the City (including rights-of-way adjacent thereto, measured to the centerline of the right-of-way) in an area not zoned residential as defined in this chapter.

16. "Other support structure": a structure used to support WSF or equipment structures, excluding buildings, utility poles, and water reservoirs. Examples of "other support structures" include flagpoles and ballfield light standards.

17. "Prior approval": certification of approval(s) from the jurisdiction authorizing the initial installation of a specific wireless carrier's WSF on a base station or tower. Prior approval may also include the subsequent approval(s) from the jurisdiction authorizing modifications to the initial installation that have resulted in the existing state of the WSF including, but not limited to, the number and location of equipment structures, antennas, antenna support structures, and ancillary equipment.

18. "Small cell network": an interrelated network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area, including facilities similar in nature to small cell facilities, micro-cells, and Distributed Antenna Systems (DAS).

19. "Residential zone" shall be as set forth in CMC Chapter 17.10.

20. "Tower": any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including any antenna support structure, self-supporting lattice towers or monopole towers. A "tower" shall not include a replacement utility pole as authorized by CMC 15.30.40(6).

21. "Utility pole": a structure designed and used primarily for the support of electrical wires, telephone wires, television cable, traffic signals, or lighting for streets, parking areas, or pedestrian paths.

22. "Wireless services" and "wireless service facilities (WSF)": shall be defined in the same manner as in Title 47, United States Code, Chapter 5, Subchapter III, Part I, Section 332(c)(7)(C), as they may be amended now or in the future.

15.30.20 Applicability

1. New WSF – All new WSF shall comply with this chapter unless specifically exempted by CMC 15.30.25. See also subsection (2)(c) of this section.

2. Approved WSF

a. The use of approved WSF shall be allowed to continue. Routine maintenance and repair of WSF shall be permitted. Activity not included in routine maintenance and repair requires compliance with this chapter except as stated in subsections (2)(b) and (c) of this section.

b. WSF may be replaced by new WSF, if such new WSF are a minor modification. However, the replacement of an existing tower, whether that tower conforms or does not conform to the provisions of this chapter, shall be treated and processed as a new facility.

c. New antennas may be added to existing platforms or arms that are appended to approved towers if such new antennas are a minor modification. However, new platforms or arms on approved towers will require compliance with this chapter.

d. Modifications may be made to eligible support structures pursuant to the provisions of CMC 15.30.40(1)(a)(1) if they do not constitute a substantial change in the physical dimensions of an eligible support structure.

3. Not Approved WSF – Any WSF for which there is no record of a permit must be removed or receive a permit to comply with this chapter.

4. Other Wireless Communication Facilities – All of the provisions of this chapter, which address wireless services and WSF, shall also be deemed to cover other wireless communications facilities.

15.30.25 Exemptions

The following are exempt from the provisions of this chapter and shall be permitted in all zones, subject to any other applicable provisions of this code:

1. Temporary WSF during an emergency declared by the City.

2. Temporary WSF located on the same site as, and during the construction of, a permanent WSF for which appropriate permits have been granted.

3. Licensed amateur (ham) radio stations.

4. Satellite dish antennas two (2) meters or less in diameter when located in nonresidential zones, and satellite dish antennas one (1) meter or less in diameter when located in residential zones, including direct to home satellite services, when used as an accessory use of the property.

15.30.30 Permit Required

1. In all instances, a permit must be obtained from the City before any WSF may be constructed on any City property or right-of-way.

2. The permit fee for each new permit for each site shall be $500.00, together with the actual charges for staff time for processing the application at the rates established by city council, and all consulting costs actually incurred by the city in processing the application. If more than one installation is sought to be approved under a single permit, a full permit fee shall be paid for each installation; provided, that if the facility is exempt from FCC regulation and if the city administrator finds that each separate facility is insignificant in terms of aesthetic impact upon the surrounding neighborhood the Public Works Director may, in his or her sole discretion, reduce the permit fees to be charged. Such reduction may only be made after public hearing on the permit.

3. The director may engage the services of a consultant with expertise in wireless communication technology, planning and engineering to assist staff or the hearing examiner as may be needed in the review of applications for compliance with all applicable requirements of this chapter. The cost for any such consultant review will be borne by the applicant.

15.30.35 Application Review Process

1. All Applications to site a WSF, or modify an existing facility, shall be reviewed by the Public Works Director or an appointee, and shall be reviewed by the City's Technical Review Committee with a recommendation from the Public Works Director or appointee.

2. All permits shall be reviewed within 60 days from the date the City accepts the application.

3. All Applications must comply with the standards set forth in CMC 15.30.40 and 15.30.45.

15.30.40 WSF Standards

1. Context – The location and design of a cell site shall consider its visual and physical impact on the surrounding neighborhood and shall, to the extent feasible, reflect the context within which it is located.

2. Design Compatibility – WSF shall be architecturally compatible with the surrounding buildings and land uses or otherwise integrated, through location, design, and/or concealment technology, to blend in with the existing characteristics of the site and streetscape to the maximum extent practical.

3. Concealment Technology – One (1) or more of the following concealment measures must be employed unless the City determines through the applicable review process that alternative measures would be more appropriate given the contextual setting of the WSF:

a. For wireless service towers:

If within an existing stand of trees, the tower shall be painted a dark color, and be made of wood or metal.

Towers in a more open setting shall have a backdrop (for example, but not limited to, trees, a hillside, or a structure) on at least two (2) sides, be a color compatible with the backdrop, be made of materials compatible with the backdrop, and provide architectural or landscape screening for the remaining sides.

Antennas shall be integrated into the design of any tower to which they are attached. External projections from the tower shall be limited to the greatest extent technically feasible. Where antennas are completely enclosed within the tower, the need for the backdrop described in the preceding paragraph may be reduced or eliminated, depending on the tower design and context.

b. For rooftop antennas or antennas mounted on other structures:

Omni-directional antennas mounted on the roof shall be of a color compatible with the roof, structure or background.

Other antennas shall use compatible colors and architectural screening or other techniques approved by the City.

Antennas shall be integrated into the design of the structure to which they are attached. External projections from the structure shall be limited to the greatest extent technically feasible.

c. Antennas mounted on one (1) or more building facades shall:

(1) Use color and materials to provide architectural compatibility with the building;

(2) Be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible; and

(3) Not project above the wall on which it is mounted.

d. Where feasible, cable and/or conduit shall be routed through the inside of any new tower, utility pole, or other support structure. Where this is not feasible, or where such routing would result in a structure of a substantially different design or substantially greater diameter than that of other similar structures in the vicinity or would otherwise appear out of context with its surroundings, the City may allow or require that the cable or conduit be placed on the outside of the structure. The outside cable or conduit shall be the color of the tower, utility pole, or other support structure, and the City may require that the cable be placed in conduit.

e. Alternative measures for concealment may be proposed by the applicant and approved by the City, if the City determines through the applicable review process that the optional measures will be at least as effective in concealing the WSF as the measures required above.

f. Notwithstanding the above, the manner of concealment for any WSF that requires approval through Process IIA or Process IIB shall be reviewed and determined as part of that process.

4. Setbacks – The following regulations apply, except for structures located in public right-of-way:

a. New towers in any zone shall be set back a minimum of 20 feet from any property line, plus an additional one-half (1/2) foot for each foot of tower height above 40 feet (e.g., if the tower is 40 feet in height, the setback will be 20 feet from any property line; if the tower is 50 feet in height, the setback shall be 25 feet from any property line).

b. Replacement structures intended to accommodate a WSF shall be set back a distance equal to or greater than the setback of the original structure from any property line adjacent to or across the street from a residential use or residential zone; and the lesser of 10 feet or the distance of the original structure from any property line adjacent to or across the street from all other uses or zones.

5. Tower and Antenna Height – The applicant shall demonstrate, to the satisfaction of the City, that the tower and antenna are the minimum height required to function satisfactorily. Wireless service towers shall not exceed 40 feet in residential zones, as measured from the average building elevation at the tower base to the highest point of the tower, antenna, or other physical feature attached to or supported by the tower. Examples of information that can be used to demonstrate that the tower and antennas are the minimum height necessary include, but are not limited to, propagation maps showing the necessity of the height to provide the required coverage, and a letter from a radio frequency engineer stating and explaining the necessity of the proposed height.

6. Antennas on a Utility Pole – Antennas mounted to an existing or replacement utility pole shall be subject to the following height limits:

a. In any zone, 15 feet above the top of a pole not used to convey electrical service;

b. In a residential zone, 15 feet above the electrical distribution or transmission conductor (as opposed to top of pole) if the pole is used to convey electrical service; and

c. In a nonresidential zone, 15 feet above an electrical distribution conductor or 21 feet above an electrical transmission conductor (as opposed to top of pole) if the pole is used to convey electrical service.

d. In any zone, antennas on a utility pole or replacement utility pole that have prior approval and exceed the height limits in subsections (6)(a) through (c) of this section may be replaced with new antennas at, but not exceeding, previously approved antenna tip height.

7. Antennas on a Building, Mechanical Equipment Enclosure, or Water Reservoir

a. Antennas, including panel or directional antennas, may be attached to the sides, parapets, mechanical penthouses, or similar elements, of buildings, subject to the limitations of this chapter.

b. Antenna height is measured above the top of the roof, not from the parapet or from the average building elevation of the building, mechanical equipment enclosure, or water reservoir.

c. Omni-directional antennas may be roof-mounted, but may not be mounted on top of rooftop appurtenances. No panel or directional antennas may be mounted on roofs or project above the roofline, except as provided in subsection (7)(g) of this section.

d. Whip antennas may exceed the structure height by 15 feet, and other omni-directional antennas may exceed the structure height by 10 feet.

e. Antennas, including flush-mounted panel or directional antennas, may be attached to an existing conforming mechanical equipment enclosure or stair or elevator penthouse or similar rooftop appurtenance which projects above the roof of the building, but may not project any higher than the enclosure.

f. Roof-mounted antennas must be set back from the edge of the roof a distance equal to 100 percent of antenna height.

g. Roof-mounted antennas shall be consolidated and centered in the roof to the maximum extent feasible rather than scattered.

h. Building parapets or other architectural features, including rooftop mechanical equipment enclosures, stair or elevator penthouses, or similar rooftop appurtenances, shall not be increased in size or height solely for the purpose of facilitating the attachment of WSF components.

8. Applications for WSF on buildings, designated as historic buildings by the Colville Historic Society shall be subject to the provisions of this chapter. The City shall notify the Colville Historic Society in order to provide an opportunity for comments and recommendation on the application. The recommendation will be considered when making a decision on the application.

9. Support Wires – No guy or other support wires shall be used in connection with antennas, antenna arrays or support structures except when required by construction codes adopted by the City.

10. Views – WSF, including towers, must be located and oriented in such a way as to minimize view blockage.

11. Lights, Signals and Signs – No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA.

12. Federal Requirements – All WSF must meet 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 such standards and regulations are changed, the owners of the WSF shall bring such WSF into compliance with such changes in accordance with the compliance deadlines and requirements of such changes. Failure to bring towers and antennas into compliance shall constitute grounds for the removal of the tower or antenna at the owner's expense. If, upon inspection, the City concludes that a WSF fails to comply with such regulations and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the WSF, the owner shall have 30 days to bring such WSF into compliance with such standards and regulations. If the owner fails to bring such WSF into compliance within said 30 days, the City may remove such WSF at the owner's expense.

15.30.45 Equipment and Equipment Structure Standards

1. Maximum Size of Ground-Mounted Equipment in Residential Zones – Equipment structures shall not exceed five (5) feet in height. Equipment structure enclosures shall not exceed 125 square feet each. These limitations shall apply to each individual equipment structure and enclosure; provided, that equipment structures that are fully contained within a legally established building that houses or is accessory to a principal permitted use shall not be subject to these limitations.

2. Maximum Size in Nonresidential Zones – Gross floor area of equipment structures shall be the minimum necessary but not greater than 240 square feet per provider. Maximum height for ground-mounted equipment structures is 10 feet above average building elevation.

3. Equipment Structures Located in Right-of-Way

a. If ground-mounted, equipment structures shall not exceed a height of 30 inches. If mounted on poles, said structures shall comply with subsection (6) of this section. Setback requirements do not apply to equipment structures located in the right-of-way.

b. Exception – The Public Works Official may increase the 30-inch height limitation for ground-mounted equipment structures to a maximum of 66 inches, if:

1) The height increase is required by the serving electrical utility; and

2) No feasible alternative exists for reducing the height of the structure; and

3) Concealment measures are employed; and

4) The height increase will not adversely impact the neighborhood or the City.

4. Equipment Mounted on Poles or Towers

a. Electronic and other associated equipment may be mounted on utility poles or towers. The location and vertical clearance of such structures shall be reviewed by the Public Works Department and verified by the underlying utility owner to ensure that the structures will not pose a hazard to other users of the right-of-way.

b. Electronic and other associated equipment mounted on utility poles or towers shall be located in a manner that minimizes clutter and visual impact.

c. Electronic and other associated equipment mounted on utility poles or towers shall be of a similar color to that of the pole or tower to which it is attached, unless alternative measures are approved by the City as part of the applicable review process.

5. Compatibility – Equipment structures shall be designed to be compatible with the surrounding area in which they are located. For example, in a residential area, a sloped roof or wood siding may be required.

6. Concealment – One (1) or more of the following concealment measures must be employed unless the City determines through the applicable review process that alternative measures would be more appropriate given the contextual setting of the equipment or equipment structure:

a. Locating within a building or building appendage constructed in accordance with all applicable City codes;

b. Locating on top of a building, with architecturally compatible screening;

c. Locating underground; or

d. Locating above ground with a solid fence and landscaping subject to the approval of the City Public Works Director or Appointee.

7. Noise Standards – Equipment structures shall be oriented so that exhaust ports or outlets are pointed away from properties that may be impacted by noise. The installation and operation of equipment structures shall comply with noise regulations in CMC 9.45. The City may require an assessment of noise after operation begins and remediation if the noise levels created are not within the prescribed limits. Cumulative noise impacts will be measured in cases where there is more than one (1) equipment structure.

15.30.50 Removal from City Property – When Required

A WSF mounted to any City-owned property, utility pole, or other structure shall be removed if the City deems removal is necessary for the undergrounding of utilities, the sale, development, or redevelopment of City-owned property, or the demolition or alteration of a City-owned building or other structure. The WSF shall be removed at no expense to the City.

15.30.55 Appeals and Judicial Review

The decision of the City Public Works Director or Appointee is appealable to the city council. Any appeal shall be in writing. A quorum of the City Council shall hear an appeal of the decision of the City Public Works Director, and a majority of the quorum shall decide to grant or deny the appeal.

15.30.60 Compliance with Other City Codes

Compliance with the provisions of this chapter does not constitute compliance, or remove from the applicant the obligation to comply, with other applicable provisions of this code, the Comprehensive Plan, or any other ordinance or regulation of the City.

15.30.65 Conflict

Notwithstanding the requirements of CMC 15.30.60, to the extent that any provision or provisions of this chapter are inconsistent or in conflict with any other provision of the Zoning Code, Comprehensive Plan or any ordinance or regulation of the City, the provisions of this chapter shall be deemed to control. WSF are permitted in the City pursuant to this chapter

15.30.70 Violations and City Remedies

Any person who violates any of the provisions of this chapter shall be subject to the provisions of CMC Chapter 1.10, Civil Enforcement. In addition to fines, the City shall have the right to seek damages and injunctive relief for any and all violations of this chapter and all other remedies provided at law or in equity.

15.30.75 Bonds

The Public Works Official may require a bond to ensure compliance with any aspect of this chapter.

SECTION 2

This Ordinance shall take effect and be in full force five (5) days from its passage, approval and publication.

Passed and adopted by the City Council of the City of Colville, Washington the ____ day of _____, 2018.

_____ Attest:_____

MAYOR LOUIS F. JANKE

Holly Pannell, MMC, PFO, City Clerk/
Human Resources Manager

Approved as to form:

_____

City Attorneys McGrane and Schuerman

Ord – Colville Noise Ordinance

Adopted by Council on

Published on

Effective on