

ORDINANCE NO. 1462

AN ORDINANCE OF RUSTON, WASHINGTON, RELATING TO ZONING REQUIREMENTS FOR WIRELESS COMMUNICATIONS FACILITIES, AMENDING SECTION 25.02.080 OF THE RUSTON MUNICIPAL CODE TO INCORPORATE A HEARING EXAMINER SYSTEM INTO THE PERMIT PROCEDURES, CONSISTENT WITH RECENTLY AMENDED TITLE 19 OF THE RUSTON MUNICIPAL CODE, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in January 2015, the City Council created the Office of the Hearing Examiner by adoption of Ordinance No. 1450 which is codified as Chapter 1.20 of the Ruston Municipal Code (“RMC”); and

WHEREAS, in accordance with RMC 1.20.020(A), the City Council is authorized to appoint the City Hearing Examiner; and

WHEREAS, on February 17, 2015, the City Council by Resolution No. 598 appointed a City Hearing Examiner; and

WHEREAS, in order to have the Hearing Examiner hear certain matters for the City, the Ruston Municipal Code needs to be updated to change the applicable decision maker to the City’s Hearing Examiner; and

WHEREAS, on September 1, 2015, the City Council updated the permit procedures contained in Chapters 19.01, 19.04, 19.05 and 19.09 of the Ruston Municipal Code by adoption of Ordinance Nos. 1463, 1464, 1465 and 1466; and

WHEREAS, for consistency these updates, additional revisions to Chapter 25.02 RMC are needed to use the Hearing Examiner for decisions on locating wireless communication facilities in City parks, rather than the Planning Commission and City Council; and

WHEREAS, clean-up amendments should also be made during this update process; and

WHEREAS, the City's SEPA Responsible Official has determined that this Ordinance is exempt from SEPA under WAC 197-11-800(19); and

WHEREAS, the City sent a copy of this Ordinance to the Washington State Department of Commerce on ____ August 28, 2015 as per WAC 365-195-620(1) and RCW 36.70A.106 and more than sixty (60) days have passed and this Ordinance is ready for passage on or before the date set for Second Reading by the Council; and

WHEREAS, on September 23, 2015 a public hearing was held by the Planning Commission on this Ordinance to elicit community input; and

WHEREAS, the Planning Commission found that this Ordinance is consistent with the goals and policies of the City's Comprehensive Plan; and

WHEREAS, the Planning Commission voted to recommend Council approval of this Ordinance; and

WHEREAS, on October 20, 2015, the City Council held the first reading of this Ordinance; and

WHEREAS, on November 3, 2015, the City Council adopted this Ordinance during its regular meeting at the second reading; **NOW, THEREFORE,**

THE CITY COUNCIL OF THE CITY OF RUSTON HEREBY ORDAINS AS FOLLOWS:

Section 1. Section 25.02.080 of the Ruston Municipal Code is hereby amended to read

25.02.080 - Siting priority on public property.

- (a) Where public property is sought to be utilized by an applicant, priority for the use of CityTown-owned land for wireless antennas and towers will be given to the following entities in descending order:
- (1) CityTown of Ruston;
 - (2) Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the CityTown of Ruston and private entities with a public safety agreement with the CityTown of Ruston;
 - (3) Other governmental agencies, for uses which are not related to public safety; and
 - (4) Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), data, Internet, paging, and similar services that are marketed to the general public.
- (b) Minimum Requirements. The placement of personal wireless service facilities on CityTown-owned property must comply with the following requirements:
- (1) The facilities will not interfere with the purpose for which the CityTown -owned property is intended;
 - (2) The facilities will have no significant adverse impact on surrounding private property;
 - (3) The applicant is willing to obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The CityTown shall establish fees after considering comparable rates in other cities, potential expenses, risks to the CityTown, and other appropriate factors;
 - (4) The applicant will submit a letter of credit, performance bond, or other security acceptable to the CityTown to cover the costs of removing the facilities;
 - (5) The antennas or tower will not interfere with other users who have a higher priority;
 - (6) Unless otherwise agreed, the applicant must agree that upon the occurrence of issues affecting public health, safety or welfare and following reasonable notice, the CityTown may require the applicant to remove the facilities at the applicant's expense;
 - (7) The applicant must reimburse the CityTown for any related costs which the CityTown incurs because of the presence of the applicant's facilities;
 - (8) The applicant must obtain all necessary land use approvals; and
 - (9) The applicant must cooperate with the CityTown's objective to promote co-locations and thus limit the number of cell sites requested, or camouflage the site.
- (c) Special Requirements for Parks. The use of CityTown -owned parks for personal wireless service facilities brings with it special concerns due to the unique nature of these sites. The placement of personal wireless service facilities in a park will be allowed only when the following additional requirements are met:
- (1) The ~~Planning Commission~~City Planning Director, in consultation with the Maintenance Supervisor, has reviewed and made a recommendation regarding proposed personal wireless service facilities to be located in the park and this recommendation must be

forwarded to the Town Council Hearing Examiner along with all submittals on the proposed facilities as described in this chapter for consideration and decision on whether the facilities should be allowed to be located in or upon the City's park property;

- (2) In no case shall personal wireless service facilities be allowed in designated critical areas;
 - (3) Before personal wireless service facilities may be located in public parks, consideration shall be given to visual impacts and disruption of normal public use for facility, including impacts during construction;
 - (4) Personal wireless service facilities may be located in park maintenance facilities.
- (d) Required Submittals. Application for conditional use permit, building permit, and 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 Title 19 of this code, and other applicable ordinances:
- (1) Photosimulations of the proposed facility from affected residential properties and public rights-of-way at varying distances;
 - (2) 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;
 - (3) A signed statement indicating that:
 - (A) 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
 - (B) The applicant and/or landlord agree to remove the facility within 60 days after abandonment;
 - (4) 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;
 - (5) A ~~stamped~~-site plan bearing the stamp of a licensed engineer which clearly indicates ~~ing~~ the location, type and height of the proposed tower and antenna, 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 any other proposed structures;
 - (6) 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 CityTown;
 - (7) Legal description of the parcel, if applicable;

- (8) The approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties;
- (9) A landscape plan showing specific landscape materials;
- (10) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination;
- (11) 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;
- (12) A statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users;
- (13) Certification that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions;
- (14) The telecommunications company must demonstrate that it is licensed by the FCC if required to be licensed under FCC regulations;
- (15) 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;
- (16) A full site plan shall be required for all sites, showing the tower, antenna, antenna support structure, building, fencing, buffering, access, and all other items required in this chapter. The site plan shall not be required if the antenna is to be mounted on an existing structure; and
- (17) At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the CityTown.

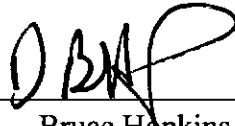
Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 4. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

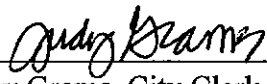
ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 3rd day of November, 2015.

APPROVED by the Mayor this 3rd day of November, 2015.



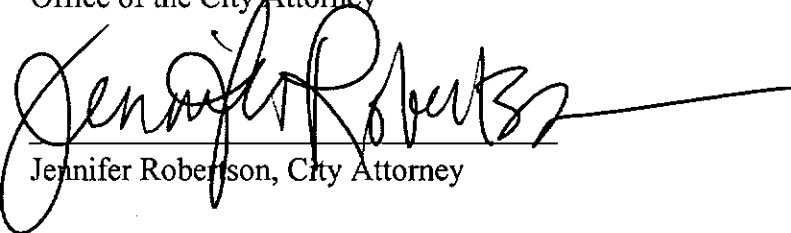
Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:



Judy Grams, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney



Jennifer Robertson, City Attorney

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
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