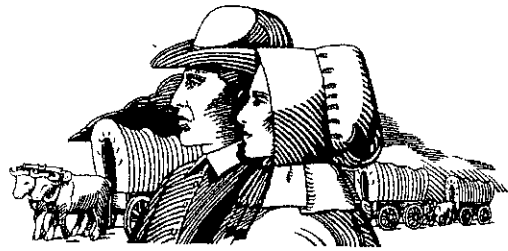


CITY OF OREGON CITY

PLANNING COMMISSION

320 WARNER MILNE ROAD
TEL (503) 657-0891

OREGON CITY, OREGON 97045
FAX (503) 722-3880



AGENDA

**City Commission Chambers - City Hall
December 10, 2001 at 7:00 P.M.**

**REMINDER: The December 24, 2001 Planning Commission meeting
is cancelled due to the Christmas Holiday.**

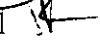
PLANNING COMMISSION WORKSESSION

- 7:00 p.m. 1. **CALL TO ORDER**
- 7:05 p.m. 2. **PUBLIC COMMENT ON ITEMS NOT LISTED ON THE AGENDA**
- 7:10 p.m. 3. **APPROVAL OF MINUTES:** Will be mailed separately.
- 7:15 p.m. 4. **WORKSESSIONS:**
 - A. Cell Tower Ordinance:** Tony Konkol
 - 8:30 p.m. **B. Accessory Dwelling Units Work Session:** Christina Robertson
 - 9:00 p.m. **C. Glen Oak Charette:** Maggie Collins – Will be mailed separately.
- 9:05 p.m. 5. **OLD BUSINESS:**
- 9:10 p.m. 6. **NEW BUSINESS:**
 - A. Election for 2002 Officers**
- 9:30 p.m. 7. **ADJOURN**

NOTE: HEARING TIME AS NOTED ABOVE IS TENTATIVE. FOR SPECIAL ASSISTANCE DUE TO DISABILITY, PLEASE CALL CITY HALL, (503) 657-0891, 48 HOURS PRIOR TO MEETING DATE.

COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

MEMORANDUM

TO: Planning Commission
FROM: Tony Konkol 
DATE: December 3, 2001
SUBJECT: Cell Tower Ordinance

Enclosed you will find a draft version of the Cell Tower Ordinance. I have used the Cities of Milwaukie and Eugene and the Clackamas and Clark Counties for guidance.

Chapter 17.80
Wireless Communication Towers

Sections:

- 17.80.010 Purpose.
- 17.80.020 Definitions.
- 17.80.030 Applicability and Exemptions.
- 17.80.040 Permit Application Requirements.
- 17.80.050 Site Review Process.
- 17.80.060 Co-location of Additional Antenna(s) on Existing Support Towers.
- 17.80.070 Co-location of Additional Antenna(s) on Support Structures.
- 17.80.080 Co-location of Additional Antenna(s) on Utility Poles, Light Standards and Light Poles.
- 17.80.090 Construction or Modification of a Support Tower.
- 17.80.100 Support Tower Location Requirements.
- 17.80.110 Design Standards.
- 17.80.120 Variance.
- 17.80.130 Temporary Facilities.
- 17.80.140 Removal for Discontinuance of Service.
- 17.80.150 Fees.

17.80.010 Purpose.

The provisions of this chapter are to protect the visual, aesthetic, and historical features of Oregon City, ensure that wireless communications services are located, designed, installed, maintained, and removed in an appropriate manner for the safety, health, and welfare of the citizens of Oregon City, and to provide for planned development consistent with the Oregon City Comprehensive Plan by achieving the following goals:

1. Promote maximum utilization and encourage collocation of new and existing wireless communication antennas to minimize the total number of support structures and towers throughout the City;
2. Encourage careful consideration of topography, greenways, location, and historical significance of the proposed site to ensure development has minimal impacts on the community, views, and historical areas;
3. Encourage the location of support towers and antenna arrays in non-residential areas; and
4. Encourage the use of existing buildings, light or utility poles, or water towers as opposed to construction of new telecommunication towers.

17.80.020 Definitions.

The following definitions shall apply to this chapter:

1. Antenna – Any pole, panel, rod, reflection disc or similar device used for the transmission or reception of radio frequency signals, including, but not limited to omnidirectional antenna (whip), directional antenna (panel), micro cell, and parabolic antenna (dish). The antenna does not include the support structure or tower.
2. Attachment – An antenna or other piece of related equipment affixed to a transmission tower, building, light or utility pole, or water tower.

3. Array – The combination of antennas mounted on a support structure or support tower.
4. Auxiliary Support Equipment – All equipment necessary to provide wireless communication signals and data, including but not limited to, electronic processing devices, air conditioning, emergency generators, and cabling interface devices. For the purpose of this chapter, auxiliary support equipment shall also include the shelter, cabinets, and other structural facilities used to house and shelter necessary equipment. Auxiliary support equipment does not include support towers or structures.
5. Camouflage – The use of technology through which a wireless communications facility (WCF) is designed and constructed to resemble an object that is not a WCF and which is typically present in the environment.
6. Co-location – Use of a common wireless communications support structure or tower for two or more antenna arrays.
7. Federal Aviation Administration (FAA) – The federal regulatory agency responsible for the safety of the nation's air traffic control system, including airspace impacted by wireless communications support structures and towers.
8. Federal Communications Commission (FCC) – The federal regulatory agency charged with regulating interstate and international communications by radio, television, wire, satellite, and cable.
9. Height – When referring to a wireless communications facility, height shall mean the distance measured from the original grade at the base of the support tower or structure to the highest point on the support tower or structure, including the antenna(s) and lightning rod(s).
10. Infrastructure Provider - An applicant whose proposal includes only the construction of new support towers or auxiliary structures to be subsequently utilized by service providers.
11. Lattice Tower – A support tower characterized by an open framework of lateral cross members which stabilize the tower.
12. Micro cell - A wireless communications facility consisting of an antenna that is either: (a) Four (4) feet in height and with an area of not more than five hundred eighty (580) square inches; or (b) if a tubular antenna, no more than four (4) inches in diameter and no more than six (6) feet in length.
13. Monopole - A support tower composed of a single upright pole, engineered to be self-supporting, and used to support one or more antenna(s) or array(s). A monopole does not include towers requiring guy wires or lattice cross supports.
14. Radio Frequency (RF) Energy - The energy used by cellular telephones, telecommunications facilities, and other wireless communications devices to transmit and receive voice, video and other data information.
15. Screening – To effectively obscure the view of the base of the Wireless Communication Facility to a minimum height of 6 feet.
16. Setback – For purposes of this chapter, a setback is the required distance from any structural part of a wireless communication facility (including support wires, support attachments, auxiliary support equipment, and security fencing) to the property line of the parent parcel on which the wireless communication facility is located or to the nearest dwelling other than one associated with the WCF.
17. Support Structure – An existing building or other structure to which an antenna is or will be attached, including, but not limited to, buildings, steeples, water towers, and signs.

Support structures do not include support towers, buildings or structures used for residential purposes, Utility Poles, Light Standards, or Light Poles.

18. Support Tower – A structure designed and constructed exclusively to support a wireless communication facility or an antenna array, including, but not limited to, monopoles, lattice towers, guyed towers, and self-supporting towers.
19. Temporary Wireless Communication Facility (Temporary WCF) - Any wireless communication facility that is to be placed in use for not more than 60 days, is not deployed in a permanent manner, and does not have a permanent foundation.
20. Utility Pole Placement/Replacement - Placement of antennas or antenna arrays on existing or replaced structures such as utility poles, light standards, and light poles for streets and parking lots.
21. Wireless Communications - Wireless Communications shall mean any personal wireless services as defined by the Federal Telecommunications Act of 1996, including but not limited to cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar FCC licensed commercial wireless telecommunications services that currently exist or that may in the future be developed.
22. Wireless Communications Facility (WCF) - Any unstaffed facility for the transmission and/or reception of radio frequency (RF) signals, which includes, but is not limited to, all auxiliary support equipment, any support tower or structure used to achieve the necessary elevation for the antenna, transmission and reception cabling and devices, and all antenna arrays.

17.80.030 Applicability and Exemptions.

- A. Applicability - All wireless communication facilities that are not exempt pursuant to this section shall conform to the standards specified in this chapter.
- B. Exemptions - The following are exempt from the provisions of this chapter and shall be allowed in all zoning districts:
 1. Wireless communication facilities that were legally established prior to the effective date of this ordinance;
 2. Temporary facilities used on the same property for sixty (60) days or less;
 3. Temporary wireless communications facilities of all types that are used solely for emergency communications in the event of a disaster, emergency preparedness, or public health or safety purposes;
 4. Any maintenance or repair of previously approved wireless communications facilities provided that such activity does not increase height, width, or mass of the facility; and
 5. Roof-mounted dish antennas used for residential purposes, and VHF and UHF receive-only television antennas, provided they are fifteen (15) feet or less above the existing or proposed roof of the associated residential structures.

17.80.040 Permit Application Requirements.

A. Uses allowed under 17.80.050(A) – Compatibility Review.

1. Planning Department Land Use Application from;
2. A narrative of the proposed project that includes a description of the following:
 - a. Need for the project;
 - b. Rational and supporting evidence for the location;
 - c. Description of the project design and dimensions;
3. Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIE) emissions standards as set forth by the Federal Communications Commission (FCC) particularly with respect to any habitable areas within the structure on which the antenna(s) are co-located on or in structures directly across from or adjacent to the antenna(s);
4. Documentation that the auxiliary support equipment shall not produce sound levels in excess of those standards in Chapter 17.80.110(G), or designs showing how the sound is to be effectively muffled and reduced pursuant to those standards.
5. Signature of the property owner(s) on the application form or a statement from the property owner(s) granting authorization to proceed with building permit and land use process;
6. Documentation to the integrity of the support tower, support structure, utility pole, light standard, or light pole to safely handle the load created by the co-location;
7. Elevations showing all improvements and connections to utilities; and
8. Color simulations of the site after construction demonstrating compatibility.

B. Uses allowed under 17.80.050(B) – Site Plan and Design Review. The applicant shall submit the following information:

1. Requirements listed under Chapter 17.80.050(A);
2. Pre-application notes;
3. A vicinity map showing adjacent properties, land uses, zoning, and roadways within 300 feet of the proposed site.
4. Mailing labels for property owners within 300 feet of the proposed site;
5. For Chapters 17.80.060(B) and 17.80.070(B), rational for being unable to co-locate in areas identified in 17.80.060(A) and 17.80.070(A) respectively; and
6. For an applicant under Chapter 17.80.090 – Construction or Modification of a Support Tower, the requirements listed under Chapter 17.62 – Site Plan and Design Review.
7. For an application under Chapter 17.80.090 – Construction or Modification of a Support Tower, additional information is required in Chapter 17.80.050(D).

C. Uses allowed under 17.80.050(C) – Conditional Use Review. The applicant shall submit the following information:

1. Requirements listed under Chapter 17.80.050(A) and (B); and
2. Responses to Conditional Use Review criteria under Chapter 17.56.010; and
3. For Chapter 17.80.080(B), rational for being unable to co-locate in areas identified in 17.80.080(A).
4. For an application under Chapter 17.80.090 – Construction or Modification of a Support Tower, additional information is required in Chapter 17.80.050(D).

D. Uses allowed under 17.80.090 – Construction or Modification of a Support Tower. The applicant shall submit the following information:

1. The capacity of the support tower in terms of the number and type of antennas it is designed to accommodate;
2. A signed agreement, as supplied by the City, stating that the applicant shall allow co-location with other users, provided all safety, structural, technological, and monetary requirements are met. This agreement shall also state that any future owners or operators will allow co-location on the tower.
3. Documentation demonstrating that the FAA has reviewed and approved the proposal, and Oregon Aeronautics Division has reviewed the proposal. Alternatively, a statement documenting that notice of the proposal has been submitted to the FAA and Oregon Aeronautics Division may be submitted. The review process may proceed and approval may be granted for the proposal as submitted, subject to FAA approval. If FAA approval requires any changes to the proposal as initially approved, then that initial approval shall be void. A new application will need to be submitted, reviewed, and approved through an additional Site Plan and Design Review or Conditional Use Review process. No building permit application shall be submitted without documentation demonstrating FAA review and approval and Oregon Aeronautics Division review.
4. A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed tower, antennas, and auxiliary support equipment from at least 5 points within a 1-mile radius. Such points shall be chosen by the provider with a review and approval by the Planning Manager to ensure that various potential views are represented.
5. Documentation that one or more wireless communications service providers will be using the support tower within 60 days of construction completion.

6. A site plan, drawn to scale, that includes:
 - a. existing and proposed improvements;
 - b. adjacent roads;
 - c. parking, circulation, and access;
 - d. connections to utilities, right-of-way cuts required, and easements required;
 - e. a landscape plan describing the maintenance plan and showing areas of existing and proposed vegetation to be added, retained, replaced, or removed; and
 - f. setbacks from property lines or support structure edges of all existing and proposed structures. (Plans that have been reduced, but have not had their scale adjusted, will not be accepted as satisfying this requirement.)
7. An alternative analysis demonstrating compliance with the co-location requirements of Chapter 17.80.100.

17.80.050 Site Review Process.

No wireless communications facilities, as defined in Chapter 17.80.020, may be constructed, modified to increase height, installed, or otherwise located within the City except as provided in this section. Depending on the type and location of the wireless communication facility, the facility shall be subject to a Compatibility Review, Site Plan and Design Review, or a Conditional Use Review unless co-location or an increase in height was granted through a prior land use process.

- A. Compatibility Review. A wireless communication facility which, pursuant to Chapters 17.80.060 – 17.80.070, is subject to a Compatibility Review shall be processed in accordance with Standards of Chapter 17.80.110. The criteria contained in Chapter 17.80.110 shall govern approval or denial of the of the Compatibility Review application. No building permit shall be issued prior to completion of the Compatibility Review process.
- B. Site Plan and Design Review. A wireless communication facility which, pursuant to Chapters 17.80.060 – 17.80.090, is subject to Site Plan and Design Review shall be processed in accordance with the Standards of Chapters 17.80.110 and 17.62 where applicable. The criteria contained in Chapters 17.80.110 and 17.62 shall govern approval or denial of the Site Plan and Design Review application. In the event of a conflict in criteria, the criteria contained in this Chapter shall govern. No building permit shall be issued prior to completion of the Site Plan and Design Review process, including any local appeal.
- C. Conditional Use Review. A wireless communication facility which, pursuant to Chapters 17.80.070 – 17.80.090, is subject to Conditional Use Review shall be processed in accordance with the Standards of Chapters 17.80.110 and 17.56 where applicable. The criteria contained in Chapters 17.56 and 17.80.120 shall govern approval or denial of the Conditional Use Review application. In the event of a conflict in criteria, the criteria contained in this Chapter shall govern. No building permit shall be issued prior to completion of the Conditional Use Review and Site Plan and Design Review processes, including any local appeal.

17.08.060 Co-location of Additional Antenna(s) on Existing Support Towers.

- A. Compatibility Review. Property is zoned M-2, M-1, CI, TC, or C.
- B. Site Plan and Design Review. All cases other than those identified in 17.08.060 (A).

17.80.070 Co-location of Additional Antenna(s) on Support Structures.

The following standards shall apply for antenna(s) and auxiliary support equipment which are setback a minimum of 20 feet from each edge of the support structure, and do not exceed a total height of 12 feet or a total width of 8 feet, unless the antenna(s) is less than 4 inches in diameter and does not exceed a total height of 20.

- A. Compatibility Review. Property zoned M-2, M-1, CI, or TC.
- B. Site Plan and Design Review. If one of the following exists:
 - 1. Property is zoned M-2, M-1, CI, or TC and does not meet the criteria of 17.80.070 (A); or
 - 2. Property zoned C;
- C. Conditional Use Review. All cases other than those identified in 17.08.070 (A) and (B).

17.80.080 Co-location of Additional Antenna(s) on Utility Poles, Light Standards, and Light Poles. The following standards shall apply for antenna(s) and auxiliary support equipment which will not require an extension of the original utility pole, light standard, or light pole; will not exceed the diameter of the pole at the mounting point; and all auxiliary support equipment shall be placed underground or are consistent with standards for utility carrier cabinets, as identified in OCMC Chapter XXXX(Check with P.W.).

- A. Site Plan and Design Review. Property is zoned M-2, M-1, CI, TC, or C.
- B. Conditional Use Review. All cases other than those identified in 17.08.080 (A).

17.80.090 Construction or Modification of a Support Tower. The following standards shall apply to the construction or modification of a support tower.

- A. Site Plan and Design Review. If the following exists:
 - 1. Property is zoned M-2, M-1, CI, TC, or C; and
 - 2. The adjacent parcels are not zoned for a residential use.
- B. Conditional Use Review. If one of the following exists:
 - 1. Property is zoned M-2, M-1, CI, TC, or C and does not meet the criteria of 17.80.090 (A); or
 - 2. Property is zoned LO, LC, or NC; or
 - 3. Modification to an existing support tower which does not meet the criteria of 17.80.090 (B)(1 or 2).
- C. Prohibited Zoning Districts and Locations. No new support towers shall be permitted in any zoning district not included in Chapter 17.80.090 (A) and (B), nor within the Canemah Historic Neighborhood, McLoughlin Conservation District, The Oregon Trail-Barlow Road Historic Corridor, 500 feet of the Willamette Greenway Corridor, or any new National Register Districts unless the applicant can demonstrate that failure to allow the support tower would effectively prevent the provision of communication services in that area. If the applicant makes such a demonstration, the minimum height required to allow that service shall be the maximum height allowed for the tower.

Chapter 17.80.100 Support Tower Location Requirements. No new support tower shall be permitted under the provisions of Chapter 17.80.090 unless the applicant demonstrates to the satisfaction of the Planning Manager, and the results are verified by a State of Oregon certified engineer, that no existing co-location possibility can accommodate the applicant's proposed support tower. All proposals for new support towers must be accompanied by a statement and documentation from a qualified person, as determined by the Planning Manager, that the necessary service cannot be provided by co-location for one or more of the following reasons:

- A. No existing support towers or support structures are located within the geographic area required to meet the applicant's engineering requirements;
- B. Existing support towers or support structures are not of sufficient height to meet the applicant's engineering requirements;
- C. That fees, costs, or contractual provisions required by the owner in order to share or adapt to an existing support tower or support structure for co-location are unreasonable;
- D. Existing support towers or support structures do not have sufficient structural strength to support the applicant's proposed antenna(s) and related equipment.
- E. The applicant's proposed antenna would cause electromagnetic interference with the antenna(s) on the existing support tower or support structure, or the existing antenna would cause interference with the applicant's proposed antenna(s); and
- F. The applicant demonstrates that there are other limiting factors that render existing support towers and support structures unsuitable.

17.80.110 Design Standards.

Installation, construction, or modification of all support towers and antennas shall comply with the following standards, unless a variance is obtained pursuant to the provisions of Chapter

17.80.120. In no case shall a support tower with guyed wires be permitted.

- A. Separation between Support Towers. No support towers may be constructed within 2000 feet of any pre-existing support tower. Tower separation shall be measured by following a straight line from the portion of the base of the proposed tower that is closest to the base of any pre-existing tower. For purposes of this paragraph, a tower shall include any support tower for which the City has issued a building permit, or for which an applicant has been filed and not denied. Support towers constructed or approved may be modified to accommodate additional providers consistent with provisions for collocation in this Chapter.
- B. Height Limitation. Support Tower and antenna heights shall not exceed the maximum heights provide below. In no case shall a height variance be granted from the limitations of number 4 below.
 - 1. If the property is zoned M-2, M-1, or CI, and the adjacent parcels are not zoned residential, the maximum height of a support tower, including antennas, is 120 feet. In no event shall a variance be granted to construct a support tower in excess of 150 feet.
 - 2. If the property is zoned:
 - a. M-2, M-1, CI, TC, or C, and an adjacent parcel is zoned residential; or
 - b. TC, or C.the maximum height of a support tower, including antennas, is 100 feet. In no event shall a variance be granted to construct a support tower in excess of 120 feet.

3. If the property is zoned LO, LC, or NC, the maximum height of a support tower, including antennas, is 75 feet. In no event shall a variance be granted to construct a support tower in excess of 100 feet.
 4. In all other cases, the maximum height of a support tower, including antennas, is 75 feet.
- C. Co-location. New support towers shall be designed to accommodate co-location of additional providers.
1. New support towers of a height greater than 75 feet shall be designed to accommodate co-location of a minimum of two additional providers either outright or through future modification of the tower.
 2. New support tower of a height of at least 60 feet and no more than 75 feet shall be designed to accommodate co-location of a minimum of one additional provider either outright or through future modification of the tower.
- D. Setbacks. The following setbacks from all adjacent property lines, not the lease area, for support towers, auxiliary support equipment, and perimeter fencing shall be required. In no event shall a variance be granted from the limitations of c below.
1. Support towers not designed to collapse within themselves shall be setback from all property lines a distance equal to $\frac{1}{2}$ the proposed height of the support tower.
 2. Support towers designed to collapse within themselves shall be setback from the property line a distance equal to the following:
 - a. If the property is zoned M-2, M-1, or CI, and an adjacent parcel is not zoned residential, the underlying zone shall apply;
 - b. If the property is zoned:
 - i. M-2, M-1, or CI, and an adjacent parcel is zoned residential;
 - ii. TC, C; LO, LC or NC;the setback shall be a minimum of 25 feet from all adjacent residentially zoned property lines and the underlying zoning setback for all other adjacent property lines; or
 - c. In all other cases, the setback shall be a minimum of 25 feet from all adjacent property lines.
- E. Auxiliary Support Equipment. The following standards shall be required. In no event shall a variance be granted from the limitations of 2 below.
1. If the property is zoned M-2, M-1, CI, TC, C, LO, LC, or NC the auxiliary support equipment shall not exceed an area of 340 square feet and 15 feet in height.
 2. In all other cases, the auxiliary support equipment shall be located in an underground vault to the maximum extent technology allows.
 3. Only one accessory cabinet shall allowed.

- F. Landscaping. In all zoning districts, existing vegetation shall be preserved to the maximum extent possible.
1. If the property is zoned M-2, M-1, or CI, and an adjacent parcel is not zoned residential, landscaping may not be required if water quality issues are addressed and appropriate screening around the facility is proposed.
 2. For all other cases landscaping shall be placed completely around the perimeter of the wireless communication facility, except as required to gain access. The minimum planting height shall be a minimum of 6 feet at the time of planting, densely placed so as to appropriately screen the facility, shall be compatible with vegetation in the surrounding area, and shall be kept healthy and well maintained as long as the facility is in operation. Failure to maintain the site will be grounds to revoke the ability to operate the facility.
- G. Noise Reduction. Noise generating equipment shall be baffled to reduce sound level measured at the property line to the following levels:
1. For any property where an adjacent parcel is not zoned residential, the sound level shall not be greater than 50 dB;
 2. For all other cases, the sound level shall not be greater than 40 dB when measured to the nearest residential parcel.
- H. Lighting.
1. Unless required by the FAA, artificial lighting of wireless communication towers and antennas shall be prohibited.
 2. Strobe lighting is prohibited unless required by the FAA.
 3. Security lighting for equipment shelters or cabinets and other on-the-ground auxiliary equipment shall be initiated by motion detecting lighting, the lighting shall be the minimal necessary to secure the site, and shielded to keep direct light within the site boundaries.
- I. Color.
1. Unless otherwise required by the FAA, all support towers and antennas shall have a non-glare finish and blend with the natural background.
- J. Signage.
1. Support towers and antenna(s) shall not be used for signage, symbols, flags, banners, or other devices or objects attached to or painted on any portion of a WCF.
- K. Access Drives.
1. On a site with an existing use, access shall be achieved through use of the existing drives to the greatest extent possible;
 2. Site shall be serviced by an access drive adequate to ensure fire protection of the site.

L. Informing the City. All service providers with facilities within the City of Oregon City shall be required to report in writing to the Planning Manager any changes in the status of their operation.

1. An annual written statement shall be filed with the Planning Director verifying continued use of each of their facilities in the City's jurisdiction as well as continued compliance with all state and federal agency regulations.
2. The report shall include any of the following changes:
 - a. Changes in or loss of FCC license from the FCC to operate;
 - b. Receipt of notice of failure to comply with the regulations of any other authority over the business or facility;
 - c. Change in ownership of the company that owns WCF or provides telecommunications services; or
 - d. Loss or termination of lease with the telecommunications facility for a period of six (6) months or longer.

17.80.120 Variance.

Any variance to the requirements of Chapter 17.80.110 shall be granted only pursuant to the following provisions providing the applicant can meet the requirements.

1. Chapter 17.80.110(A) – Separation between Support Towers. The City may grant a variance to this section provided the applicant demonstrates, and the results verified by a State of Oregon certified engineer, that:
 - a. It is technologically impossible to locate the proposed tower on available sites more than 2,000 feet from a pre-existing support tower and still provide the approximate coverage the tower is intended to provide;
 - b. The pre-existing support tower that is within 2,000 feet of the proposed tower cannot be modified to accommodate another provider;
 - c. There are no available support structures, utility poles, light standards, or light poles on which antennas may be located and still provide the approximate coverage the tower is intended to provide.
2. Chapter 17.80.110(B) – Height Limitations. The City may grant a variance to the height limitation providing the applicant demonstrates that a support tower taller than the allowed height would directly eliminate the need for one or more additional support towers from the category in which they are applying.
3. Chapter 17.80.110(D) – Setback. The City may grant a variance to the setback requirements upon finding that stealth design, proposed screening, configuration of the site, or the presence of mature trees obviates the need for compliance, however, in no case shall a variance be given to reduce the 25-foot setback requirement from all adjacent parcels zoned residential.
4. Chapter 17.80.110(E) – Auxiliary Support Equipment. The City may grant a variance to:
 - a. 17.80.110(E)(1) provided the applicant can show that the allowed area size or height would prevent the facility from being used to the maximum potential;
 - b. 17.80.110(2) provided the applicant can show that the allowed one cabinet would prevent the facility from being used to the maximum potential.

17.80.130 Temporary Facilities.

In order to facilitate continuity of services during maintenance or repair of existing installations, or prior to completion of construction of a new WCF, temporary wireless communication facilities shall be allowed subject to a Type I administrative review. Temporary WCFs shall not be in use in excess of six (6) month period. Temporary WCFs shall not have a permanent foundation, and shall be removed within thirty (30) days of suspension of service they provide.

17.80.140 Removal for Discontinuance of Service.


Any WCF that has not provided service for 6 months shall be deemed a nuisance and subject to removal as provided in OCMC Chapter 8.08. The Planning Manager may grant a 6-month extension where a written request has been filed, within the initial 6 months period, to reuse the support tower or antenna(s).

17.80.150 Fees.

Notwithstanding any other provisions of this code, the Planning Manager may require, as part of the application fees for Land Use Permits, an amount sufficient to recover all of the City's costs in retaining consultants to verify statements made in conjunction with the permit application, to the extent that verification requires telecommunication experts.

**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

MEMORANDUM

TO: Planning Commission
FROM: Christina Robertson 
DATE: December 3, 2001

SUBJECT: Accessory Dwelling Unit Ordinance

Enclosed you will find a draft version of the Accessory Dwelling Unit (ADU) Ordinance. This ordinance is another step in the larger task of updating the City's housing policies for the Comprehensive Plan update. I have used the Cities of Portland and Corvallis, the Municipal Research & Service Center of Washington, and other City Departments for guidance.

I have also enclosed a talking points/information sheet that describes the purpose and benefits of ADUs in further detail.

The ADU Ordinance will be part of a larger housekeeping code update package.

Draft Ordinance

ACCESSORY DWELLING UNITS

SECTIONS:

Definitions

Purpose and Intent

Standards and Criteria

Application Procedures

DEFINITIONS

1. "Accessory Dwelling Unit" (ADU) is a habitable living unit that provides the basic requirements of shelter, heating, permanent cooking, and sanitation.
2. "Principle Dwelling Unit" is the existing and primary residence for a particular Tax Lot.

PURPOSE AND INTENT

A. The installation of an ADU in new and existing single-family dwellings (herein after Principle Dwelling Units) shall be allowed in single-family zones subject to specific development, design, and owner-occupancy standards.

B. The purpose of allowing ADUs is to:

1. Provide homeowners with a means of obtaining, through tenants in either the ADU or the Principle Dwelling Unit, rental income, companionship, security, and services.
2. Add affordable units to the existing housing inventory.
3. Make housing units available to moderate-income people who might otherwise have difficulty finding homes within the City.
4. Develop housing units in single-family neighborhoods that are appropriate for people at a variety of stages in the life cycle.
5. Protect neighborhood stability, property values, and the single-family residential appearance of the neighborhood by ensuring that ADUs are installed under the conditions of this Section.

STANDARDS AND CRITERIA

A. ADUs shall meet the following standards and criteria:

1. The design and size of the ADU shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire, health, and any other applicable codes. Increased firewalls or building separation may be required as a means of assuring adequate fire separation from one unit to the next. Applicants are encouraged to contact, and work closely with, the Building Division of the City's Community Development Department to assure that Building Code requirements are adequately addressed.
2. When there are practical difficulties involved in carrying out the provisions of this Section, the Planning Division may grant approvals for individual cases.
3. Any additions to an existing building shall not encroach into the existing setbacks in the underlying zone. However, access structures (e.g. stairs or ramps) may be allowed within the setback if no access can be granted to the unit without encroaching into the setback area.
4. The ADU may be attached to, or detached from, the Principle Dwelling Unit.
5. Only one ADU may be created per lot or parcel.
6. An ADU may be developed in either an existing or a new residence.
7. The ADU shall not exceed the height of the Principle Dwelling Unit
8. The property owner, which shall include title holders and contract purchasers, must occupy either the Principle Dwelling Unit or the ADU as their permanent residence, for at least 7 months out of the year, and at no time receive rent for the owner-occupied unit.
9. In no case shall an ADU be more than 40 percent of the Principle Dwelling Unit's total floor area, nor more than 800 square feet, nor less than 300 square feet, nor have more than 2 sleeping areas. The primary entrance to the ADU shall be located in such a manner as to be unobtrusive from the street.
10. The ADU shall be compatible with the Principle Dwelling Unit, specifically in:
 - a. Exterior finish materials. The exterior finish material must be the same or visually match in type, size and placement, the exterior finish material of the Principle Dwelling Unit

- b. Trim. Trim must be the same in type, size, and location as the trim used on the Principle Dwelling Unit.
- c. Windows. Windows must match those in the Principle Dwelling Unit in proportion (relationship of width to height) and orientation (horizontal or vertical).
- d. Eaves. Eaves must project from the building walls at the same proportion as the eaves on the Principle Dwelling Unit.

11. Parking.

a. Purpose. The parking requirements balance the need to provide adequate parking while maintaining the character of single-dwelling neighborhoods and reducing the amount of impervious surface on a site. More parking is required when a vacant lot is being developed because, generally, the site can more easily be designed to accommodate two parking spaces while minimizing impervious surface. In situations where an accessory dwelling unit is being added to a site with an existing dwelling unit, it is appropriate to not require additional impervious surface if adequate on-street parking is available.

b. The following parking requirements apply to accessory dwelling units.

(1) No additional parking space is required for the accessory dwelling unit if it is created on a site with a Principle Dwelling Unit and the roadway for at least one abutting street is at least 28 feet wide.

(2) One additional parking space is required for the accessory dwelling unit as follows:

- i When none of the roadways in abutting streets are at least 28 feet wide; or
- ii When the accessory dwelling unit is created at the same time as the Principle Dwelling Unit.

APPLICATION PROCEDURE

1. Application for a building permit for an ADU shall be made to the building official in accordance with the permit procedures established in OCMC 15.12, and shall include:

a. A letter of application from the owner(s) stating that the owner(s) shall occupy one of the dwelling units on the premises, except for bona fide temporary absences, for 7 months out of each year.

2. The registration application or other forms as required by the building official shall be filed as a deed restriction with Clackamas County Records Division to indicate the presence of the ADU, the requirement of owner-occupancy, and other standards for maintaining the unit as described above.

3.The building official shall report annually to the Planning Manager on ADU registration with the number of units and distribution throughout the City.

4.Cancellation of an ADU's registration may be accomplished by the owner filing a certificate with the building official for recording at the Clackamas County Records Division, or may occur as a result of enforcement action.

Accessory Dwelling Units¹

What are Accessory Dwelling Units (ADUs)?

ADUs are most commonly understood to be a separate additional living unit, including separate kitchen, sleeping, and bathroom facilities, attached or detached from the primary residential unit, on a single-family lot. ADUs are subordinate in size, location, and appearance to the primary unit.

Attached units, contained within a single-family home, known variously as "mother-in-law apartments," "accessory apartments," or "second units," are the most common types of accessory dwelling units. Accessory apartments usually involve the renovation of a garage, basement, attached shed, or similar space in a single-family home.

Accessory Dwelling Units Are Not New.

In the 1940s and '50s, many American families rented out an extra apartment over their garages or in the basement of their homes as a way to earn some extra income to help with the mortgage payment or with other household expenses. In fact, backyard cottages and attic and basement apartments were a common feature in many communities across the country. Since then, as more communities have adopted restrictive residential zoning regulations, such apartments, technically known as accessory dwelling units (ADUs), have been either severely limited or banned altogether, usually in the name of protecting single-family neighborhoods.

Changing Perceptions

Recently, however, perceptions and attitudes toward accessory dwelling units are once again beginning to change. Much of this transformation can be attributed to the effects of the affordable housing crisis. Demographic trends that have resulted in growing numbers of smaller households have also contributed to the increased interest in accessory dwelling units. In addition, Metro 2040Goals are requiring communities to plan for and accommodate higher housing densities. Against this backdrop, many communities in Oregon have begun to reexamine the appropriateness of zoning regulations that severely limit or prohibit accessory dwelling units.

Allowing accessory dwelling units in single-family neighborhoods is not a panacea for all of a community's housing problems. They should also be considered with a variety of other possible approaches for achieving your community's housing goals.

¹

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Allowing the development of accessory dwelling units, or ADUs, in single-family homes is becoming an increasingly popular technique for creating low- and moderate-income housing for both homeowners and renters. Homeowners benefit from the additional rental income that they can use to pay part of their mortgage payment or to help with the upkeep on their homes. Renters benefit from the availability of moderately priced rental housing in single-family neighborhoods. The community benefits from the addition of affordable housing for little or no public expense.

Benefits

ADUs can provide a surprising number of benefits to communities, homeowners and renters. Although much of the attention given to ADUs revolves around their potential for increasing the supply of affordable housing opportunities, ADUs may also help to address other social issues, particularly those relating to housing options for our growing elderly population.

Community Benefits

ADUs Can Help to Increase the Supply of Affordable Housing Without Government Subsidies. Allowing ADUs is one way that communities can provide more affordable housing opportunities without the necessity of local government expenditures or subsidies. This is a particularly good feature in view of the recent declines in federal support for the construction of new affordable housing units. When compared to the costs of constructing new government-subsidized apartments, the lower cost of converting existing units, which are paid for by the homeowner, will be an attractive option for most communities.

ADUs also tend to be better integrated into the community, unlike other forms of affordable housing that may be concentrated in a few areas. In most communities this dispersion occurs without the necessity for government intervention. ADUs add to affordability both from the perspective of potential tenants, for whom rents are usually cheaper than for market units, and from the perspective of homeowners, who can use the rental income from an ADU to ease the burden of home mortgage and maintenance expenses.

ADUs Encourage Efficient Use of Existing Housing Stocks and Infrastructure. Many homes built during the 40's, 50's, and 60's were designed to hold large (by today's standards) households. Demographic trends since those times have resulted in lower fertility rates, a reduction in family size preferences, and smaller average household sizes. One consequence of these trends has been a widespread increase in the number of homes with surplus living space

ADUs Encourage Better Housing Maintenance and Neighborhood Stability. By allowing ADUs, communities can encourage better upkeep of the existing housing stock since homeowners can apply a portion of the income from their rental unit to maintaining

their property. Homeowners can also exchange rent reductions for maintenance services by tenants.

ADUs also help to enhance neighborhood stability since they can provide homeowners (e.g., elderly homeowners on fixed incomes and single parents with low incomes) with the extra income they may need to remain in their homes for longer periods.

ADUs Can Help to Meet Growth Management Goals by Creating More Housing Opportunities Within Existing Urban Areas. A fundamental principle of Metro's 2040 Plan is to steer new growth to areas that are already urban or urbanizing. Using surplus space in existing housing is one way that communities can take action to meet Metro growth management goals to conserve land, house more people within urban growth areas, and prevent more sprawl.

Homeowner Benefits

ADUs Make it Possible for Adult Children to Provide Care and Support to a Parent in a Semi-Independent Living Arrangement. Many baby boomers are now facing the prospect of having to arrange for the care and housing of their aging parents or other close relatives. By allowing ADUs, the community can give these families the option of providing for either live-in care in their parents' house or of having their parents move in with them. With an ADU in their home, adult children can care for an aging parent while retaining a semi-independent living arrangement both for themselves and their parents.

ADUs Can Provide Homeowners with Extra Income to Help Meet Rising Homeownership Costs. ADUs can provide many homeowners with needed additional income to meet high mortgage and maintenance costs. For a young family in their first home or for a single parent after a divorce, the additional income from an ADU may spell the difference between being able and not being able to stay in their home.

The additional income from an ADU may be particularly helpful for many elderly homeowners who are living on fixed incomes. Contrary to popular notions, most elderly people do not move to retirement homes or senior citizen communities as they age. The vast majority actually age in place in single-family homes. However, many elderly people on fixed incomes may find it difficult to stay in their homes in the face of rising costs for utilities, maintenance and property taxes. ADUs may allow some of these elderly homeowners to stay in their homes, even on fixed incomes, where the extra income from an ADU helps them to offset some of their living expenses.

ADUs Provide Homeowners with the Ability to Trade Rent Reductions for Needed Services. Homeowners may also offer lower rents to tenants in exchange for assistance in performing various household services. For some elderly homeowners, being able to exchange rent reductions for needed services could be a deciding factor enabling them to stay in their homes.

The ability to exchange reduced rents for services will also benefit many other groups of homeowners, including young families, single parents, and handicapped persons. For example, a mother with young children may rent an ADU to an elderly couple and make an arrangement for reduced rent in exchange for regular babysitting.

ADUs Provide Increased Security and Companionship. Besides the financial benefits, many homeowners will also benefit from the security and companionship provided by having a tenant who lives close by. For an elderly person, concerns about injuries while they are home alone and fears about rising neighborhood crime rates may be greatly reduced just by the fact of having someone else living under the same roof. The presence of a tenant may also enhance security while homeowners are out of town.

ADUs Can Help First-Time Buyers Qualify for Loans and Help Offset Mortgage Payments. For a single individual or a young family buying their first home, the presence of an ADU and its potential rental income may help them to qualify for a larger mortgage loan than they otherwise might get. After purchasing a home, the rental income from an ADU could help reduce the financial burden of a high mortgage payment. Young families could rent out an ADU until a time when their incomes have risen and they need more room. In this way ADUs allow families the flexibility to adjust the way they use their homes to suit changing life-cycle needs.

Tenant Benefits

Moderately-Priced Rental Housing. Studies have shown that ADUs rent for less than average market rent levels. Lower rents are possible primarily because ADUs do not require the development of new land and are cheaper to build than conventional rental units. Homeowners are also less likely to charge market rents because of their interest in getting and keeping good tenants.

Lower rents for ADUs may make it easier for some tenants to save for a downpayment on a home of their own. Rising rents for multifamily housing have been cited as a major barrier to many prospective homebuyers who are having a more difficult time saving enough to make the required down payment on a new home.

ADUs Provide Affordable Rental Housing in Single-Family Neighborhoods. ADUs also offer housing opportunities in more desirable single-family neighborhoods for some who might not otherwise be able to afford to live there. For many single individuals, single parents, or others with modest incomes, the only other housing option available may be apartment complexes. Living in an ADU would give these households the opportunity to enjoy the amenities typically found in many single-family neighborhoods, including more privacy, a quieter environment, and less traffic congestion.

ADUs Increase Housing Opportunities for Handicapped People. Handicapped people often face limited opportunities for housing that can meet their special needs. ADUs can provide many handicapped individuals with the opportunity to live independently in their own home but close enough to others to provide needed assistance.

CITY OF OREGON CITY PLANNING COMMISSION

Policy Analysis: Glen Oak Area

Background

With the advent of the new Oregon City high School campus within the Glen Oak Area of the City, the Planning Commission believed it was important to review the Area's constraints and opportunities, Comprehensive Plan Map designations and Zoning Districts; and natural resource features.

After doing so the Planning Commission articulated some planning principles and developed some recommendations.

Planning Principles

1. *A need for additional space for Clackamas Community College.* Parking and transit requirements should be considered and accommodated in planning for the school.
2. *Park space, a place for children to play.* There should be a collaborative approach to the land use between the schools and the rest of the community. Despite the play fields at the high school and College, there is still a shortage of ball fields in Oregon City.
3. *Residential links/Connectivity.* For example, play fields at the College are not currently accessible to residents of the area. Connection of existing and future uses is of utmost importance.
4. *Need a focal point for the Glen Oak area.* With the high school and College presence, it is possible that this area could become the focus of Oregon City. There is a high possibility for a combination Education/Manufacturing dominance. Industrial uses help increase the tax base much more than residential uses. Mutually beneficial relationships between education and industrial zones could be developed. To be marketable for industrial growth, transportation and larger parcels of land are often essential. However, intensity of employment could be achieved through four story buildings, thereby creating a higher density of tax paying entities.
5. *Build up rather than out on the Clackamas Community College campus. Build parking garages.* The current practice of building one-story buildings does not optimize taxpayer investment.
6. *Light rail/transit hub at Clackamas Community College.*




7. *Conference center at Clackamas Community College.*
8. *Recreational areas.* Trails around the high school and College grounds that augment the natural resource spots and offer a recreational opportunity for the entire community.
9. *Overall transportation network.* Current public transportation accessibility is poor in this area now and must be improved in the future. Moreover, transit options encourage manufacturing entities to locate in Oregon City because their employees can have better workplace mobility. .
10. *Wetlands, water resources and drainage areas can be seen as a plus.*
11. *Power lines restrict construction zones and uses.*
12. *“Gateway” landmarks should be considered.* The Glen Oak area has great promise for building into a vital and prosperous subarea for Oregon City, if great attention is focused on visual effects, higher density and intensity, employment uses, and multi-modal traffic options.




Planning Commission Conclusions

1. Existing property Plan Map-designated “Industrial” should remain so.
2. Existing property zoned “C-I” or “M-1” should remain so.
3. Land annexed into the Glen Oak Area should come in under the “Industrial” Plan Map designation and the “C-I Campus Industrial” Zoning District.
4. Appropriate changes should be considered to the City’s “CI” Zoning District to promote maximum efficiency.
5. The City should move a program of Glen Oak Road improvements to a very high priority.

Adopted _____ by the Oregon City Planning Commission

Glen Oak Area Opportunities Map

-  Taxlots
-  Planning Boundary
-  Wetlands
-  Vegetation Corridor

-  Streams
-  UGB
-  City Limits

0 500 1000 1500 Feet

MAP FOR REFERENCE PURPOSES ONLY.
The information on this map is derived from Oregon City's digital database. However, there may be map errors or omissions. Please contact Oregon City directly to verify map information. Notification of any errors will be appreciated.



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Plot date: Dec 3, 2001; g:\gis\projects\charette\charette.apr