CITY OF PHOENIX
PHOENIX, OREGON

ORDINANCE NO. 951

AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE, CHAPTER 2.3.10 (CITY CENTER - SPECIAL STANDARDS), CHAPTER 2.4.5 (COMMERCIAL HIGHWAY - SPECIAL STANDARDS), AND 3.10.1 (WIRELESS COMMUNICATION FACILIITES)

WHEREAS, the Comprehensive Plan has an adopted policy to "advocate the delivery of sophisticated digital communication service to every household, business, school and government building within the City" (Economic Element, Goal 6); and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission has held a public hearing on April 14, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted unanimously to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-02; and

WHEREAS, the Public Hearing on June 2, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes.

WHEREAS, the Council, after considering the presentation by the Staff, the recommendations of the Planning Commission and the public testimony received at the hearing, elected to grant approval of the amendments.

NOW THEREFORE, The City Council of the City of Phoenix ORDAINS as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC:14-02, Exhibit A.

Section 2: The Land Development Code chapters 2.3.10, 2.4.5, and 3.10.1 are amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective 30 days after its date of adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 16 day of June, 2014

_, Mayor

ATTEST:

_, City Manager/ Recorder

CITY OF PHOENIX
O • R • E • G • O • N

PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT (541) 535-2050 • FAX (541) 535-5769

TITLE: **AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING WIRELESS COMMUNICATION FACILITIES AND AMENDING CHAPTERS 2 AND 3**

FILE NUMBER: LDC: 14-02

APPLICANT: City of Phoenix

STAFF REPORT: Available May 19, 2014 at the City of Phoenix, 112 W 2nd Street (M-F, 8:00 am to 5:00 pm) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, (541)535-2050.

DATE OF PLANNING COMMISSION HEARING: April 14, 2014

DATE OF COUNCIL HEARING: June 2, 2014

I. PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) amend list of zones which allow the installation of wireless communication facilities and; 2.) clarify need to justify the need for freestanding facilities.

The Code was not clear about the locations for wireless communication facilities. The proposed amendments will clearly state that in residential and City Center districts, only attached equipment is allowed. This will protect the aesthetics of these two districts. The Commercial Highway and Industrials areas will include both Attached and Freestanding facilities. The freestanding facilities will be required to be stealth, to reduce the visual impact of the facilities or to be co-located with existing facilities.

II. PROPOSED AMENDMENTS: The proposed amendments are:

Chapter 2.3 - City Center District

Chapter 2.3.10 - Special Standards

G. Wireless communication equipment includes ration (i.e. cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter 3.10.1 – Wireless Communication Facilities and Conditional Use Permit requirements. Wireless communication equipment shall also comply with required development setbacks, lot coverage and other applicable standards of the Commercial Highway District.

Footnote: Italics indicate new language; strikeouts indicate deleted language

Chapter 2 - 4 Commercial Highway Zone

Chapter 2.4.5 - Special Standards for Certain Uses.

J. Wireless communication equipment includes ration (i.e. cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter 3.10.1 – Wireless Communication Facilities and Conditional Use Permit requirements. Wireless communication equipment shall also comply with required development setbacks, lot coverage and other applicable standards of the Commercial Highway District.

Note: Tables 2.2.2, 2.3.2, and 2.4.2 will be changed to reflect the above changes.

Chapter 3.10 - Other Design Standards

Chapter 3.10.1 - Wireless Community Facilities

A. Purpose, Intent, and Available Locations. The purpose of this Section is to establish standards that regulate the placement, appearance, and impact of wireless communication facilities, while providing residents with the ability to access and adequately utilize the services that these facilities support. Because of the physical characteristics of wireless communication facilities, the impact imposed by these facilities affect not only the neighboring residents, but also the community as a whole. The standards are intended to ensure that the visual and aesthetic impacts of wireless communication facilities are mitigated to the greatest extent possible, especially near residential areas.

Residential Districts. Wireless Communication Facilities shall be permitted only as a conditional use and only in the R-3 district and only ~~in the residential districts~~ when co-located on existing structures, such as multi-story buildings or church steeples. Freestanding towers and monopoles shall be prohibited in ~~these~~ ***this*** district. ***All Wireless Communication Facilities are prohibited in R-1 and R-2 districts.***

City Center District. Wireless Communication Facilities shall be permitted only as a conditional use in City Center District and only when located on existing structures, such as multi-story buildings or church steeples. Freestanding towers and monopoles shall be prohibited in this district.

Commercial Highway. Attached and freestanding Wireless Communication Facilities shall be permitted only as a conditional use in Commercial Highway District .

Industrial Districts. Attached and freestanding Wireless Communication Facilities shall be permitted only as a conditional use in Industrial Districts.

The requirements of this Chapter shall not apply to amateur radio facilities owned and operated by a federally licensed amateur radio operator or used exclusively as non-

commercial, receive only antennas. However, such facilities may not co-locate a Wireless Communication Facility.

B. In addition to the submittal for a ***Type II or*** Type III Site Design Review in Chapter 4.2

Chapter 3.10.C. - Design Standards

2. Preferred Designs

a. Where possible, co-location of new facilities on existing facilities shall be required. The applicant must submit a study showing that co-location is not feasible before using option "b", below.

b. If "a" above is not feasible, Wireless Communication Facilities shall be attached to pre-existing structures when feasible. ***The applicant must submit a study showing that attaching to a pre-existing structure is not feasible before using option "c" below.***

c. If "a" or "b" above are not feasible, alternative structures shall be used with design features that conceal, camouflage or mitigate the visual impacts created by the proposed Wireless Community Facility.

d. ~~**If "a", "b", "c" listed above are not feasible, a monopole design shall be used with the attached antennas positions in a vertical manner to lessen the visual impact compared to the antennas in a platform design. Platform design shall be used only if it is shown that the use of an alternate attached antenna design is not feasible.**~~

~~**e.**~~ **d.** Lattice towers are prohibited as freestanding wireless communication support structures.

III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with Section 4.7.2.

FINDING: This proposed amendment was reviewed by the Planning Commission at a noticed public hearing on April 14, 2014. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014. The hearing by the Council was noticed by posting the information beginning May 14, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

FINDING: A copy of all notifications is available at the City Planning Office.

Footnote: Italics indicate new language; strikeouts indicate deleted language

Section 4.7.3.B .1 – Demonstration of compliance with all applicable Comprehensive Plan policies and Map Designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

> **FINDING:** The proposed changes clarify the review processes and requirements for Wireless Communication Facilities and are in compliance with Comprehensive Plan policies. Specifically, Goal 3 of the Housing Element, "Promote the efficient use and aesthetic design of urban residential uses." Wireless towers, attached or unattached, are not aesthetic. They should be located in more dense areas or commercial/industrial areas.

> **FINDING:** The changes proposed are in compliance with Comprehensive Plan policies. Specially, Housing Element, Goal 3, Policy 3.2 "Residential site design standards should be developed for consideration by the City Council." This recognition that there is no design standard that will create a wireless facility to fit in a residential neighborhood.

> **FINDING:** The changes are in compliance with Economic Element, Goal 6, "Advocate the delivery of sophisticated digital communication service to every household, business, school and government building within the City." This proposal does not limit access to these facilities. It works hand in hand with the goal by making the towers much more attractive and, therefore, making their installation a more position project for the community.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this Code and other applicable implementing ordinances.

> **FINDING:** The proposed changes do not impact other applicable standards.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, applicable.

> **FINDING:** The proposed change is not based on a mistake in the Comprehensive Plan or the Land use Map. The proposed change does not impact Transportation needs in the City.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

> **FINDING:** The changes to the processes and requirements will have no impact to the City transportation facility.

> **FINDING:** The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

IV. RECOMMENDATION: Planning Commission recommends the Council amend the sections of the Phoenix Land Development Code regarding Wireless Communication Facilities..

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EXHIBIT B
CHAPTERS 2 AND 3 OF THE CITY OF PHOENIX LAND DEVELOPMENT CODE (PLCD), AS AMENDED BY ORDINANCE 951 ON JUNE 16, 2014, SHALL READ AS FOLLOWS:

Chapter 2.3 - City Center District

Chapter 2.3.10 - Special Standards

G. Wireless communication equipment includes ration (i.e. cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter 3.10.1 – Wireless Communication Facilities and Conditional Use Permit requirements. Wireless communication equipment shall also comply with required development setbacks, lot coverage and other applicable standards of the Commercial Highway District.

Chapter 2.4 - Commercial Highway (C-H)

Chapter 2.4.5 - Special Standards for Certain Uses.

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Chapter 3.10 - Other Design Standards

Chapter 3.10.1 - Wireless Community Facilities

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Residential Districts. Wireless Communication Facilities shall be permitted only as a conditional use and only in the R-3 district and only when co-located on existing structures, such as multi-story buildings or church steeples. Freestanding towers and monopoles shall be prohibited in this district. All Wireless Communication Facilities are prohibited in R-1 and R-2 districts.

City Center District. Wireless Communication Facilities shall be permitted only as a conditional use in City Center District and only when located on existing structures, such as multi-story buildings or church steeples. Freestanding towers and monopoles shall be prohibited in this district.

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Industrial Districts. Attached and freestanding Wireless Communication Facilities shall be permitted only as a conditional use in Industrial Districts.

The requirements of this Chapter shall not apply to amateur radio facilities owned and operated by a federally licensed amateur radio operator or used exclusively as non-commercial, receive only antennas. However, such facilities may not co-locate a Wireless Communication Facility.

B. Submittals. In addition to the submittal for a Type II or Type III Site Design Review in Chapter 4.2 – Development Review and Site Design Review the following items shall be provided as part of the application for a wireless communication facility.

1. A photo of each of the major components of a similar installation, including a photo layout of the overall facility as proposed.

2. Exterior elevations of the proposed wireless communication facility with a minimum scale of 1" = 10'.

3. A set of manufacturers specifications of the support structure, antennas, and accessory buildings with a listing of materials being proposed including colors of the exterior materials.

4. A site plan indicating all structures, land uses and zoning designation within 200 feet of the site boundaries or 500 feet if the height of the structure is greater than 80 feet.

5. A map showing existing wireless communication facility sites operated by the applicant within a eight-mile radius of the proposed site.

6. A copy of the lease agreement for the proposed site.

7. Documentation detailing the general capacity of the tower in terms of the number and type of antennas it is designed to accommodate.

8. Any additional documentation that the Planning Director requires that is relevant to comply with the applicable design standards.

Chapter 3.10.C. - Design Standards

1. General Provisions

2. Preferred Designs

a. Where possible, co-location of new facilities on existing facilities shall be required. The applicant must submit a study showing that co-location is not feasible before using option "b", below.

b. If "a" above is not feasible, Wireless Communication Facilities shall be attached to pre-existing structures when feasible. The applicant must submit a study showing that attaching to a pre-existing structure is not feasible before using option "c" below.

c. If "a" or "b" above are not feasible, alternative structures shall be used with design features that conceal, camouflage or mitigate the visual impacts created by the proposed Wireless Community Facility.

d. Lattice towers are prohibited as freestanding wireless communication support structures.