CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: **Development Services / Planning Division**

AGENDA DATE: **Introduction 12/4/07: Public Hearing 1/2/08**

CONTACT PERSON/PHONE: **Christina Valles, Lead Planner – 541-4930**

DISTRICT(S) AFFECTED: **All Districts**

SUBJECT:

An Ordinance amending Title 20 (Zoning) Chapter 20.10 (Supplemental Use Regulations) Section 20.10.455(Personal Wireless Service Facilities) of The El Paso City Code by adding a subsection to address Personal Wireless Service Facilities in the Manufacturing, Industrial and Quarry Districts, the penalty is as provided for in chapter 20.24 of The El Paso City Code. Applicant: City of El Paso (All Districts)

BACKGROUND / DISCUSSION:
The Personal Wireless Service Facilities (PWSF) Ordinance was approved on September 5, 2006 following a moratorium on applications for this use and a review of the regulations in place at that time. No changes to this section were proposed in the current Zoning Ordinance (Title 20) that was approved on June 5, 2007 and went into effect on November 1, 2007. The section regulating PWSFs in Manufacturing, Industrial and Quarry Districts was inadvertently omitted when Title 20 was replaced.

PRIOR COUNCIL ACTION:
September 5, 2006 - The Personal Wireless Service Facilities (PWSF) Ordinance was approved.
June 5, 2007 - The current Zoning Ordinance was approved with an effective date of November 1, 2007.

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:
Development Coordinating Committee: N/A
City Plan Commission: N/A

**********REQUIRED AUTHORIZATION**********

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: R. Alan Shubert

APPROVED FOR AGENDA:

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ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 20 (ZONING) CHAPTER 20.10 (SUPPLEMENTAL USE REGULATIONS) SECTION 20.10.455(PERSONAL WIRELESS SERVICE FACILITIES) OF THE EL PASO CITY CODE BY ADDING A SUBSECTION TO ADDRESS PERSONAL WIRELESS SERVICE FACILITIES IN THE MANUFACTURING, INDUSTRIAL AND QUARRY DISTRICTS, THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, Title 20 (Zoning) of the El Paso City Code was adopted to promote the health, safety, morals and general welfare of the community; and

WHEREAS, the City Council of the City of El Paso, by Ordinance 016653 approved on June 5, 2007, replaced Title 20, (Zoning) of the El Paso City Code in its entirety; and,

WHEREAS, the effective date of the revised Title 20 was November 1, 2007; and,

WHEREAS, the section establishing the standards for the supplemental use of personal wireless service facilities in a manufacturing, industrial or quarry district was inadvertently deleted; and,

WHEREAS, City Council has determined that the regulation of personal wireless service facilities in a manufacturing, industrial or quarry district is necessary to promote the health, safety, morals and general welfare of the community;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

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SECTION 1. That the following amendment is hereby made in Title 20 (Zoning), Chapter 20. 10 (Supplemental Use Regulations), Section 20.10.455 (Personal Wireless Service Facilities) by adding the following subsection:

G. M-1, M-2, M-3, P-I, & Q (Manufacturing, Industrial and Quarry Districts)

1. **Ground-mounted** PWSF antenna support structures with appurtenant equipment storage facilities are permitted with the following restrictions:

a. **Setbacks:** The PWSF antenna support structure shall meet the yard standards of the district, except that a setback of one foot for each foot of height, measured from the PWSF antenna support structure base to any abutting property line of property in a residential or apartment zoning district shall be required. In the case where a right-of-way or easement separates the property from a residential zoning district,

the width of such right-of-way or easement shall be included in meeting the setback requirement; provided, however, that the setback from the property line shall never be less than that required in the district yard standards.

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b. **Separation between PWSF antenna support structures:** The minimum separation distance between ground-mounted PWSF antenna support structures shall be one-half mile, except as provided in G.1.c. Separation distance shall be measured by drawing or following a straight line between the base of any existing PWSF antenna support structure and the proposed base of a new PWSF antenna support structure.

c. **Modified Separation between PWSF antenna support structures:** The minimum separation between ground-mounted PWSF antenna support structures may be reduced below one-half mile by City Council upon approval of a special permit application if the City Council finds that:

(1) The applicant is reasonably unable to use property that is more than one-half mile from another PWSF antenna support structure and be able to reasonably serve the area designated in a manner that is technically feasible and commercially reasonable; and

(2) The property on which the PWSF antenna support structure is to be located is the only reasonably available property for use within one-half mile of another PWSF antenna support structure that will enable the applicant to reasonably serve the area designated in a manner that is technically feasible and commercially reasonable; and

(3) The area designated by the applicant cannot be reasonably served in a manner that is technically feasible and commercially reasonable by locating additional antennas on the applicant's existing PWSF antenna support structures because such existing PWSF antenna support structures cannot safely support additional antennas; and

(4) The applicant is unable to collocate its antennas on an existing PWSF antenna support structure that is owned or operated by a third person or entity and located such that the applicant is able to reasonably serve the area designated in a manner that is technically feasible and commercially reasonable; and

(5) The applicant shall submit a list of addresses/locations showing all existing PWSF within a one-half mile radius of the proposed site and a map depicting such locations with the special permit application.

d. **Height Restriction:** The PWSF antenna support structure and appurtenant antennas shall not exceed 150 feet in height, except as provided in G.1.e or G.1.f.

e. **Modified Height Restriction:** If the applicant is collocating two or more antennas on a structure or if the structure is camouflaged, then the height for a PWSF antenna support structure and appurtenant antennas shall not exceed 175 feet.

f. **Special permit for additional height:** The height for a ground-mounted PWSF antenna support structure and appurtenant antennas may be increased by City Council upon approval of a special permit application, if the City Council finds that that:

(1) The property on which the PWSF antenna support structure is to be located is the only property reasonably available for use by the applicant for a PWSF antenna support structure of the height being proposed by the applicant that will enable the applicant to reasonably serve the area designated in a manner that is technically feasible and commercially reasonable; and

(2) The applicant is unable to collocate its antennas on an existing PWSF antenna support structure that is owned or operated by a third person or entity and located such that the applicant is able to reasonably serve the area designated in a manner that is technically feasible and commercially reasonable; and

(3) The applicant cannot use another PWSF antenna support structure that is located such that will enable the applicant to reasonably serve the area designated in a manner that is technically feasible and commercially reasonable or that the other PWSF antenna support structures used by the applicant will not safely support additional antennas; and

(4) Due to topographical conditions, the proposed height of the PWSF antenna support structure is reasonably necessary to enable the applicant to reasonably serve the area designated in a manner that is technically feasible and commercially reasonable.

g. **Camouflage and Screening.**

(1) Camouflage is required for any ground-mounted PWSF located on property abutting a residential or apartment zoning district. Camouflaging is a method of disguising or concealing the appearance of an object by changing its usual color, modifying its shape or locating it in a structure that complements the natural setting, existing and surrounding structures. In the context of this section, camouflaging, includes, but is not limited to, making PWSF antenna support structures resemble man-made trees, locating PWSF antenna support structures in bell steeples or clock towers, or on similar alternative-design mounting structures.

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(2) Metallic surfaces shall be painted to reduce glare and reflections. No exterior paint colors shall be used which have a light reflecting value (LRV) greater than forty percent. The LRV of a paint is available from paint manufacturers and it measures the amount of light reflected by a certain color.

(3) Screening of antennas on PWSF antenna support structures may include the use of existing parapets, walls, or similar architectural elements provided that it is painted and texturized to integrate with the architecture of the surrounding structure.

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h. **Other Requirements.** The following must accompany a request for a building permit or special permit:

(1) A detailed plan showing the PWSF antennas support, antennas, and equipment in relation to the existing surroundings including screening, fencing, camouflage, off-street parking, and access from the PWSF antennas support site to the nearest public street; and,

(2) A verification letter that all required FAA and FCC approvals have been requested and that site-specific structural engineering and nonionizing electromagnetic radiation (NIER) reports are available on request from the applicant; and,

i. The design of related support structures for new PWSF antenna support structures shall incorporate materials, colors, textures, screening, and camouflaging techniques that will blend them to the extent reasonably possible into the natural setting and surrounding structures. The applicant will be required to provide photographs of predevelopment views versus post-development illustrations, at ninety-degree (90°) angles for a full three hundred sixty-degree (360°) radius, shown to scale. The Building Official shall review and consider any of the five items above to mitigate negative visual impacts created by the proposed PWSF antenna support structure and may require reasonable revisions necessary to bring the application into compliance with one or more of the five items above.

j. A six-foot high screening fence or wall of other than chain-link shall be constructed around the base of an antenna support structure to provide for security. The gate which provides access to the antenna support shall remain locked at all times except when being used for access by maintenance personnel.

k. The access driveway and off-street parking spaces for use by maintenance vehicles shall be paved as approved by the Building Official.

l. Collocation or installation of additional antennas on an existing antenna support structure shall be permitted. A structural recertification report prepared and sealed by a licensed professional engineer shall be required, and such report shall be

reviewed and approved by the Building Official prior to issuance of a building permit.

2. **Roof-mounted** PWSF antenna support structures with appurtenant equipment storage facilities are permitted with the following restrictions:

a. **Where permitted:** Roof-mounted PWSF antenna support structures shall only be permitted on commercial or mixed use structures or those residential structures consisting of five or more units.

b. **Height Restriction:** The PWSF antenna support structure and appurtenant antennas shall not exceed 30 feet in height above the existing roofline; except that when abutting a residential zoning district it shall not exceed ten feet in height above the existing roofline.

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c. **Modified Height Restriction:** The height for a roof-mounted PWSF antenna support structure and appurtenant antennas may be increased as follows:

(1) Up to 10 additional feet if the building exceeds 45 feet in height or three stories, and up to 20 additional feet if the building exceeds 60 feet in height or five stories; or

(2) Up to a maximum height of 30 feet, measured from the existing roofline, on property abutting a residential zoning district, by approval of a special permit application, if the City Council finds that:

(a) The property on which the PWSF antenna support structure is to be located is the only property reasonably available for use by the applicant for a PWSF antenna support structure of the height being proposed by the applicant that will enable the applicant to reasonably serve the area designated in a manner that is technically feasible and commercially reasonable; and,

(b) The applicant is unable to collocate its antennas on an existing PWSF antenna support structure that is owned or operated by a third person or entity and located such that the applicant is able to reasonably serve the area designated in a manner that is technically feasible and commercially reasonable; and,

(c) The applicant cannot use another PWSF antenna support structure that is located such that will enable the applicant to reasonably serve the area designated in a manner that is technically feasible and commercially reasonable or that the other PWSF antenna support structures used by the applicant will not safely support additional antennas; and,

(d) Due to topographical conditions, the proposed height of the PWSF antenna support structure is reasonably necessary to enable the applicant to reasonably serve the area designated in a manner that is technically feasible and commercially reasonable.

d. **Other Requirements.** The following must accompany a request for a building permit:

(1) A detailed plan showing the PWSF antenna support structure, antennas and appurtenant equipment in relation to the surroundings including screening, fencing and camouflage; and

(2) A verification letter that all required FAA and FCC approvals have been requested and that site-specific structural engineering report for the support structure and the roof and nonionizing electromagnetic radiation (NIER) reports are available on request from the applicant.

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e. **Increases in elevation on existing PWSF antennae support structure:** Increases in elevation, not to exceed 30 feet, of an existing permitted PWSF antenna support structure shall be permitted only to allow for collocation of additional antennas. A structural recertification report for both the structure and the roof, prepared and sealed by a licensed professional engineer, shall be required, and such report shall be reviewed and approved by the Building Official prior to issuance of a building permit.

3. **Facility-mounted** PWSF antennas and equipment storage facilities are permitted subject to the following restrictions:

a. **Where permitted:** Antennas may only be mounted on functioning facility-structures whose primary purpose is, and will continue to be, a use other than as an PWSF antenna support structure.

b. **Height Restriction:** New facility-mounted PWSF shall not exceed 150 feet in height. An existing facility-structure may be replaced for structural purposes, however the use shall not be changed to another use, and the new facility-structure shall not exceed 150 feet in height.

c. **Modified Height Restriction:** The height for a facility-mounted PWSF antenna support structure may be increased up to 25 feet on an existing facility to accommodate collocation of additional antennas, however in no instance shall the height exceed 175 feet, which shall include the height of the facility-structure.

d. **Other Requirements.** The following must accompany a request for a building permit:

(1) A detailed plan showing the facility structure, antenna structures and equipment in relation to the existing surroundings, including screening, fencing, off-street parking and access from the facility structures site to the nearest public street; and

(2) A verification letter that all required FAA and FCC approvals have been requested and that site-specific structural engineering and nonionizing electromagnetic radiation (NIER) reports are available on request from the applicant; and

(3) The applicant shall provide documentation to the Building Permits and Inspections Division that the applicant has the permission from the structure owner to install the antennas(s) on the structure.

f. **Collocation:** Collocation or installation of additional antennas on an existing facility structure shall be permitted. A structural recertification report, prepared and sealed by a licensed professional engineer, shall be required, and such report shall be reviewed and approved by the Building Official prior to issuance of a building permit.

SECTION 2. Except as herein amended Title 20 (Zoning) of the El Paso City Code shall remain if full force and effect.

PASSED and APPROVED this _____ day of _____, 2008.

THE CITY OF EL PASO

_____
John Cook, Mayor

ATTEST

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

for _____
Kelly Carpenter, Deputy Director
DSD – Planning Division

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