
Sec. 94-339. - Variance or waiver.

- a. An applicant may request a variance or waiver from the requirements of this article for a wireless communications permit. A request for such variance or waiver shall include all information described in this subsection and any other reasonable information the city may require, along with the applicable waiver request fee, as established by resolution.
- b. A request for a variance or waiver from the requirements of a wireless communications permit Level I or Level II request shall be made to the downtown action committee, for applications within the downtown master plan area, the historic preservation board for applications within an historic district or property, or the zoning board of appeals for all other applications, pursuant to the applicable provisions of [Chapter 94](#) of this Code. In addition to all other application requirements for variances or waivers contained in this Code, and for special use permits, as applicable, an application for a variance or waiver from the requirements of this article shall include the following additional information:
 - i. A detailed explanation, with supporting engineering or other data, as to why a waiver from the requirements of this section is required in order to allow the registrant/applicant to have nondiscriminatory and competitively neutral use of city rights-of-way;
 - ii. Availability of co-location opportunities;
 - iii. Size and height of the proposed facilities;
 - iv. Location and separation distances of the proposed facilities;
 - v. Location of the nearest residential units or residentially zoned properties;
 - vi. Adjacent and nearby topography, tree coverage and foliage;
 - vii. Design of the proposed facilities with particular reference to elimination of visual impacts of such facilities;
 - viii. Any other factors the city determines to be relevant.
- c. In addition to all other applicable criteria for variances or waivers contained in this Code, and for special use permits, as applicable, the downtown action committee, the historic preservation board, or the zoning board of appeals shall consider the following additional factors:
 - i. Supporting engineering or other data, as to why a waiver from the requirements of this section is required in order to allow the registrant/applicant to have nondiscriminatory and competitively neutral use of city rights-of-way;
 - ii. Availability of co-location opportunities;
 - iii. Size and height of the proposed facilities;
 - iv. Location and separation distances of the proposed facilities;
 - v. Location of the nearest residential units or residentially zoned properties;
 - vi. Adjacent and nearby topography, tree coverage and foliage;
 - vii. Design of the proposed facilities with particular reference to elimination of visual impacts of such facilities;
- d. In granting any waiver, the downtown action committee, the historic preservation board or zoning board of appeals, as applicable, may impose conditions to the extent considered necessary to minimize any adverse effects of the proposed facility on adjoining and nearby properties or to protect the health, safety and welfare of the city and the public.

(Ord. No. 4549-15, § 2(94-349), 6-8-2015)