PLANNING COMMISSION WORK SESSION AGENDA
Monday, November 23, 2020 - 6:00 PM
City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

This meeting will be held electronically. The public can live-stream this meeting at https://newportoregon.gov. To access the livestream, visit the Planning Commission page at https://www.newportoregon.gov/citygov/comm/pc.asp. Once there, an "in progress" note will appear if the meeting is underway; click on the "in progress" link to watch the livestream. It is not possible to get into a meeting that will be livestreamed before the meeting starts. The meeting will also be broadcast on Charter Channel 190.

Public comment may be made, via e-mail, by noon on the scheduled date of the meeting at publiccomment@newportoregon.gov. To make a "real time" comment during a meeting, a request to speak must be received by 2:00 P.M. on the scheduled date of the meeting. The request to speak should include the agenda item on which the requestor wishes to speak. If the comments are not related to a particular agenda item, the request to speak should include a notation that the request is for general public comment, and the general topic. The request should be e-mailed to publiccomment@newportoregon.gov. Once a request to speak has been received, staff will send the requestor the Zoom meeting link. This link will allow a requestor to participate via video or telephone.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

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1. CALL TO ORDER

2. UNFINISHED BUSINESS

2.A Updated Draft of Small Wireless Facility Design Standards.
Memorandum
Small Wireless Facility Design Standards, dated 11/19/20

3. NEW BUSINESS

3.A Review of Land Use Regulatory Options for Wireless Telecommunication Facilities.
Memorandum
PowerPoint Outlining Options for Amending Wireless Land Use Standards
47 U.S.C. §332(c)(7) Preservation of Local Zoning Authority
Compilation of Local Government Codes

4. ADJOURNMENT

City of Newport

Community Development Department

Memorandum

To: Planning Commission / Commission Advisory Committee

From: Derrick I. Tokos, AICP, Community Development Director

Date: November 19, 2020

Re: Updated Draft of Small Wireless Facility Design Standards

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Enclosed is an updated version of the draft design standards with changes responding to feedback the Commission and Commission Advisory Committee provided at the 10/26/20 work session. Deleted language is shown in ~~strikethrough~~ and new language is depicted with a double underline.

Also, I have added definitions as an appendix to the standards. They are the same definitions as those contained in the latest version of the draft Newport Municipal Code amendments that would add a new Chapter 9.25 regulating the placement of small wireless facilities within rights-of-way.

This has been scheduled as a work session item to provide Commission and Advisory Committee members an opportunity to confirm that the needed revisions have been completed. A draft without the mark-ups is included with the regular meeting agenda item where the Commission is being asked to make a recommendation to the City Council regarding the adoption of a new NMC Chapter 9.25 and its corresponding design guidelines.

Attachments
Small Wireless Facility Design Standards, dated 11/19/20

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Small Wireless Facility Design Standards

A. **Definitions.**

The definition of terms listed in the NMC Section 9.25.010 of the City of Newport's Small Wireless Facility Ordinance apply to the design standards outlined below.

Staff: Wireless providers should familiarize themselves with the ordinance, and including a cross reference to defined terms might help in that regard. Alternatively, we can replicate the definitions in this document.

B. **General Requirements.**

1. Ground-mounted equipment in the right-of-way is ~~discouraged~~not permitted~~,~~ unless the applicant can demonstrate that pole-mounted equipment is not technically feasible, or the electric utility requires placement of equipment on the ground (such as an electric meter). If ground-mounted equipment is necessary, then the applicant shall conceal the equipment in a cabinet, in street furniture or with landscaping.

   Staff: The League of Oregon Cities (LOC) design standards list this as optional language. It can be difficult to accommodate ground-mounted equipment within rights-of-way, particularly those that are fully developed, as they can obstruct access to underground utilities and impede user mobility (e.g. blocking pedestrian access). Requiring the equipment be elevated where technically feasible is a reasonable requirement. As noted in the design standards, the term "technically feasible" is used by the FCC to describe when aesthetic standards may be found to be reasonable and do not materially inhibit the wireless providers ability to provide service. The term "Discouraged" has been replaced with the more definitive "not permitted" at the Commission's suggestion during a 10/26/20 work session.

2. Replacement poles, new poles and all antenna equipment shall comply with the Americans with Disabilities Act ("ADA"), city construction and sidewalk clearance standards and city, state and federal laws and regulations in order to provide a clear and safe passage within, through and across the right-of-way. Further, the location of any replacement pole, new pole, and/or antenna equipment must comply with applicable traffic requirements, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices).

   Staff: Language mirrors the LOC design standards except for the reference to "and not adversely affect public health, safety or welfare," as that phrase is too open ended. Standards need to be specific enough that applicants know how to comply with them.

3. Replacement poles shall be located as near as feasible to the existing pole. The abandoned pole must be removed within 30 days, unless an alternative timeline is agreed to, in writing, by the City engineer, or designee.

   Staff: This language aligns with the abandonment provisions outlined in NMC Section 9.05.280 of the City's franchise code.

4. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section H.

5. No advertising, branding or other signage is allowed unless approved by the City as a concealment technique or as follows:

   a. Safety signage as required by applicable laws, regulations, and standards; and,

   b. Identifying information and 24-hour emergency telephone number (such as the telephone number for the operator's network operations center) on wireless equipment in an area that is visible.

   Staff: The language in (4) and (5) above aligns with what is contained in the LOC design standards. Safety signage is likely to be most relevant for colocation on poles with overhead utility lines. That issue is specifically addressed by Central Lincoln PUD. The city could require that signage be legible when viewed from the ground; however, that could lead to large lettering that runs counter to concealment objectives, particularly for units mounted at the upper end of the 50-foot height limit.

6. The total volume of multiple antennas on one structure shall not exceed fifteen (15) cubic feet, unless additional antenna volume is requested and approved pursuant to Section H.

   Staff: The "Small Wireless Facility" definition limits antenna, excluding associated equipment, to three cubic feet in volume.

7. Antennas and antenna equipment shall not be illuminated except as required by municipal, federal or state authority, provided this shall not preclude deployment on a new or replacement street light.

8. Small wireless facilities may not displace any existing street tree or landscape features unless such displaced street tree or landscaping is replaced ~~with native and/or drought-resistant trees, plants or other landscape features,~~ in accordance with the City's adopted Tree Manual.

   Staff: The language in (7) above aligns with the LOC design standards. Removal of trees within the right-of-way is governed by the City's right-of-way permitting process that relies upon an adopted Tree Manual. The language in (8) has been drafted to be consistent. Language streamlined to simply reference the Tree Manual per the Commission's suggestion at the 10/26/20 work session.

C. **Small Wireless Facilities Attached to Wooden Poles and Non-Wooden Poles with Overhead Lines.**

Small wireless facilities located on wooden utility poles and non-wooden utility poles with overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section H:

1. Proposed antenna and related equipment shall meet:

   a. The City's design standards for small wireless facilities;

   b. The pole owner requirements; and

   c. National Electric Safety Code ("NESC") and National Electric Code ("NEC") standards.

2. The pole at the proposed location may be replaced with a taller pole or extended for the purpose of accommodating a small wireless facility; provided that the replacement or extended pole, together with any small wireless facility, does not exceed 50 feet in height or 10 percent taller than the height of adjacent poles, whichever is greater. The replacement or extended pole height may be increased if required by the pole owner, and such height increase is the minimum necessary to provide sufficient separation and/or clearance from electrical and wireline facilities. Such replacement poles may either match the approximate color and materials of the replaced pole or shall be the standard new pole used by the pole owner in the city.

3. To the extent technically feasible, antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall match the approximate material and design of the surface of the pole or existing equipment on which they are attached, or adjacent poles located within the contiguous right-of-way. Near matches may be permitted by the City when options are limited by technical feasibility considerations, such as when high-frequency antennas cannot be placed within an opaque shroud but could be wrapped with a tinted film.

4. Antennas which are mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

5. No antenna shall extend horizontally more than 20 inches past the outermost mounting point (where the mounting hardware connects to the antenna), unless additional antenna space is requested and approved pursuant to Section H.

6. Antenna equipment, including but not limited to radios, cables, associated shrouding, disconnect boxes, meters, microwaves and conduit, which is mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

7. Antenna equipment for small wireless facilities must be attached to the pole, unless otherwise required by the pole owner or permitted to be ground-mounted [pursuant to subsection (B)(1) above]. The equipment must be placed in an enclosure reasonably related in size to the intended purpose of the facility.

Staff: The language above aligns with the LOC design standards. At the 10/26/20 work session the Commission expressed concern about the consistency of the 10% provision in C.2. Clarifying language has been added. This provision aligns with the definition of "small wireless facility" in the FCC Small Cell Order and is required by that order.

8. All cables and wiring shall be covered by conduits and cabinets to the extent that it is technically feasible, if allowed by pole owner. The number of conduits shall be minimized to the extent technically feasible.

D. **Small Wireless Facilities Attached to Non-Wooden Light Poles and Non-Wooden Utility Poles without Overhead Utility Lines.**

Small wireless facilities attached to existing or replacement non-wooden light poles and non-wooden utility poles without overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section H:

1. All equipment (excluding disconnect switches), conduit and fiber must be fully concealed within the pole, if technically feasible. The antennas must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible.

2. In cases where the applicant demonstrates that it is not technically feasible to conceal equipment within the pole, then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible and must be reasonably related in size to the intended purpose of the facility and reasonable expansion for future frequencies and/or technologies, not to exceed the volumetric requirements described in Section A. If the equipment enclosure(s) is mounted on the exterior of the pole, the applicant is encouraged to place the equipment enclosure(s) behind any decorations, banners or signs that may be on the pole. Conduit and fiber must be fully concealed within the pole, if technically feasible.

Staff: The LOC design standards indicate that municipalities may want to consider one or both of these concepts. This version includes both. If it is technically feasible to locate equipment within a pole then they will be required to go that route. Otherwise, they can mount to the exterior of the pole and camouflage. Note that, at this time, all antennas will be exterior mounted. Central Lincoln PUD has indicated that the acorn style ornamental poles are not designed to accommodate the additional weight of wireless equipment, and at 14-ft, 6-in height they are not tall enough to be an attractive collocation option. Pole options can change though, so I don't know that it is relevant to the adoption of an initial set of design standards. The term "if technically feasible" was added at the Commission's request during the 10/26/20 work session so it is clear that camouflage is only an option if conduit and fiber cannot be placed in the pole.

3. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section H.

4. The height of any replacement pole may not extend more than 10 feet above the height of the existing pole, unless such further height increase is required in writing by the pole owner.

Staff: The language in (3) and (4) aligns with the LOC design standards.

E. **New Poles.**

Small wireless facilities may be attached to new poles that are not replacement poles under sections C or D, installed by the wireless provider, subject to the following criteria:

1. Antennas, antenna equipment and associated equipment enclosures (excluding disconnect switches), conduit and fiber shall be fully concealed within the structure. If such concealment is not technically feasible, or is incompatible with the pole design, then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the structure or mounted as close to the pole as feasible, and must be reasonably related in size to the intended purpose of the facility, not to exceed the volumetric requirements for small wireless facilities.

2. To the extent technically feasible, all new poles and pole-mounted antennas and equipment shall substantially conform to the material and design of adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section H.

3. New poles shall be no more than forty (40) feet in height unless additional height is requested and approved pursuant to Section H.

4. The city prefers that wireless providers install small wireless facilities on existing or replacement poles instead of installing new poles, unless the wireless provider can document that installation on an existing or replacement pole is not technically feasible or otherwise not possible (due to a lack of owner authorization, safety considerations, or other reasons acceptable to the City engineer, or designee.

Staff: The above language aligns with the LOC design standards. As noted in the LOC design standards, small cell deployments work best at 35-45-feet in height, so a 40-foot height limitation for new poles should be fine. Language in (4) should help with pole clutter, which could be an issue in areas where existing ornamental lights cannot accommodate collocation of small wireless facilities.

F. **Historic District Requirements.**

Small wireless facilities or poles to support collocation of small wireless facilities located in Historic Districts shall be designed to have a similar appearance, including material and design elements, if technically feasible, of other poles in the rights-of-way within 500 feet of the proposed installation. Any such design or concealment measures may not be considered part of the small wireless facility for purpose of the size restrictions in the definition of small wireless facility.

Staff: The above language aligns with the LOC design standards.

G. **Strand Mounted Equipment.**

Strand mounted small wireless facilities, designed to fit onto existing aerial cables, are permitted, subject to the following criteria:

1. Each strand mounted antenna shall not exceed 3 cubic feet in volume, unless a deviation is requested and approved pursuant to Section H.

2. Only 2 strand mounted antennas are permitted between any two existing poles.

3. Strand mounted devices shall be placed as close as possible to the nearest pole and in no event more than five feet from the pole unless a greater distance is required by the pole owner.

4. No strand mounted device will be located in or above the portion of the roadway open to vehicular traffic.

5. Strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than original strand) to meet the technological needs of the facility.

Staff: The above language aligns with the LOC design standards.

H. **Deviation from Design Standards.**

1. An applicant may obtain a deviation from these design standards if they demonstrate, in writing, that compliance with the standard:

   a. is not technically feasible; or

   b. impedes the effective operation of the small wireless facility; or

   c. impairs a desired network performance objective; or

   d. conflicts with pole owner requirements; or

   e. otherwise materially inhibits or limits the provision of wireless service.

2. When requests for deviation are sought under subsections (H)(1)(a)-(e), the request must be narrowly tailored to minimize deviation from the requirements of these design standards, and the City engineer, or designee, must find the applicant's proposed design provides similar aesthetic value when compared to strict compliance with these standards.

3. City engineer, or designee, may also allow for a deviation from these standards when he/she finds the applicant's proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these standards.

4. The small wireless facility design approved under this Section H must meet the conditions of 47 C.F.R. Sec. 1.6002(l).

5. City engineer, or designee, will review and may approve a request for deviation to the minimum extent required to address the applicant's needs or facilitate a superior design. Such approval shall be in writing, and shall include the reason(s) for the deviations.

Staff: The above language aligns with the LOC design standards, including the recommendation that municipalities document their rationale for granting requests to deviate from design standards.

Appendix A: Definitions

The following definitions apply to these design standards.

Antenna means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended or superseded. The term includes an apparatus designed for the purpose of emitting radio frequencies (RF) to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15.

Antenna Equipment means the same as defined 47 C.F.R. § 1.6002(c), as may be amended or superseded, which defines the term to mean equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

Antenna Facility means the same as defined in 47 C.F.R. § 1.6002(d), as may be amended or superseded, which defines the term to mean an antenna and associated antenna equipment.

Applicable codes means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or state or local amendments to those codes that are of general application and consistent with state and federal law.

Applicant means any person who submits an application as or on behalf of a wireless provider.

Application means requests submitted by an applicant (i) for permission to collocate small wireless facilities; or (ii) to approve the installation, modification or replacement of a structure on which to collocate a small wireless facility in the rights-of-way, where required.

Collocate means the same as defined in 47 C.F.R. § 1.6002(g), as may be amended or superseded, which defines that term to mean (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. "Collocation" has a corresponding meaning.

Day means calendar day. For purposes of the FCC shot clock, a terminal day that falls on a holiday or weekend shall be deemed to be the next immediate business day.

Decorative pole means a pole that is specially designed and placed for aesthetic purposes.

Historic district means a group of buildings, properties, or sites that are either: (1) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register in accordance with Section VI.D.1a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C; or, (2) a design review district established pursuant to Chapter 14.30, or (3) historic buildings or sites listed in the Newport Comprehensive Plan as being significant historical resources which should be preserved and regulated pursuant to Chapter 14.23.

Permissions means a franchise agreement, building permit, right-of-way permit, business license or other authorization needed for SWF deployment.

Person means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

Pole means a type of structure in the rights-of-way that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities; provided, such term does not include a tower, building or electric transmission structures.

Rights-of-Way or "ROW" means areas dedicated to the public and administered by the city for use for transportation purposes, including any city street, road, bridge, alley, sidewalk, trail, or path, and all other public ways and areas managed by the city. Rights-of-Way also includes public utility easements to the extent that the easement allows use by the utility operator planning to use or using the public utility easement. "Right-of-way" includes the subsurface under and airspace over these areas.

Routine Maintenance means inspections, testing, repair, and modifications subject to Section 6409(a) that maintain functional capacity, aesthetic and structural integrity of a small wireless facility and/or the associated pole or structure.

Small wireless facility means a facility that meets each of the following conditions per 47 C.F.R § 1.6002(l), as may be amended or superseded:

A. The facilities (i) are mounted on structures 50 feet or less in height as measured from adjacent finished ground elevation, including the antennas, or (ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or (iii) do not extend existing structures on which they are located to a height of more than 50 feet above the finished ground elevation or by more than 10 percent, whichever is greater; and

B. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume; and

C. All other wireless equipment associated with the structure, including wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume; and

D. The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

Structure means the same as defined in 47 C.F.R. § 1.6002(m), as may be amended or superseded, which defines that term as a pole, tower, or base station, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of service).

Wireless Infrastructure Provider means any person, including a person authorized to provide communications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities, but that is not a wireless services provider.

Wireless Provider means a wireless infrastructure provider or a wireless services provider.

Wireless Services Provider means a person who provides personal wireless services (whether or not it is comingled with other services).

City of Newport

Community Development Department

Memorandum

To: Planning Commission / Commission Advisory Committee

From: Derrick I. Tokos, AICP, Community Development Director

Date: November 19, 2020

Re: Review of Land Use Regulatory Options for Wireless Telecommunication Facilities

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This agenda item is the third and final component of the amendments we are bringing forward relative to standards that apply to wireless telecommunication facilities. The first two parts focused on small wireless facility deployment within rights-of-way. This third part outlines options the City has for amending its land use codes that apply outside of rights-of-way. This component addresses small wireless, but also picks up collocation of other communication facilities, and new towers.

Staff has put together a brief 10-slide PowerPoint presentation that summarizes the City's existing land use requirements, FCC limitations (i.e. sidebars) on local zoning, locations of key wireless facilities within the City, and regulatory options based upon a review of other Oregon land use codes.

Background documents are also enclosed, including copies of codes from Ashland, Astoria, Bend, Corvallis, Eugene, Junction City, and Lincoln City. I would encourage you to review these materials with an eye toward provisions you believe might be appropriate to Newport.

This work session is an opportunity for Commission and Commission Advisory Committee members to identify the types of rules they would like to see brought forward as a package of draft land use code amendments. Staff will then develop a set of amendments based upon the groups feedback for consideration at a future work session.

Attachments
PowerPoint Outlining Options for Amending Wireless Land Use Standards
47 U.S.C. §332(c)(7) "Preservation of Local Zoning Authority
Compilation of Local Government Codes

Potential Amendments to Wireless Telecommunication Facility Land Use Standards

Newport Planning Commission

November 23, 2020 Work Session

Newport's Existing Standards

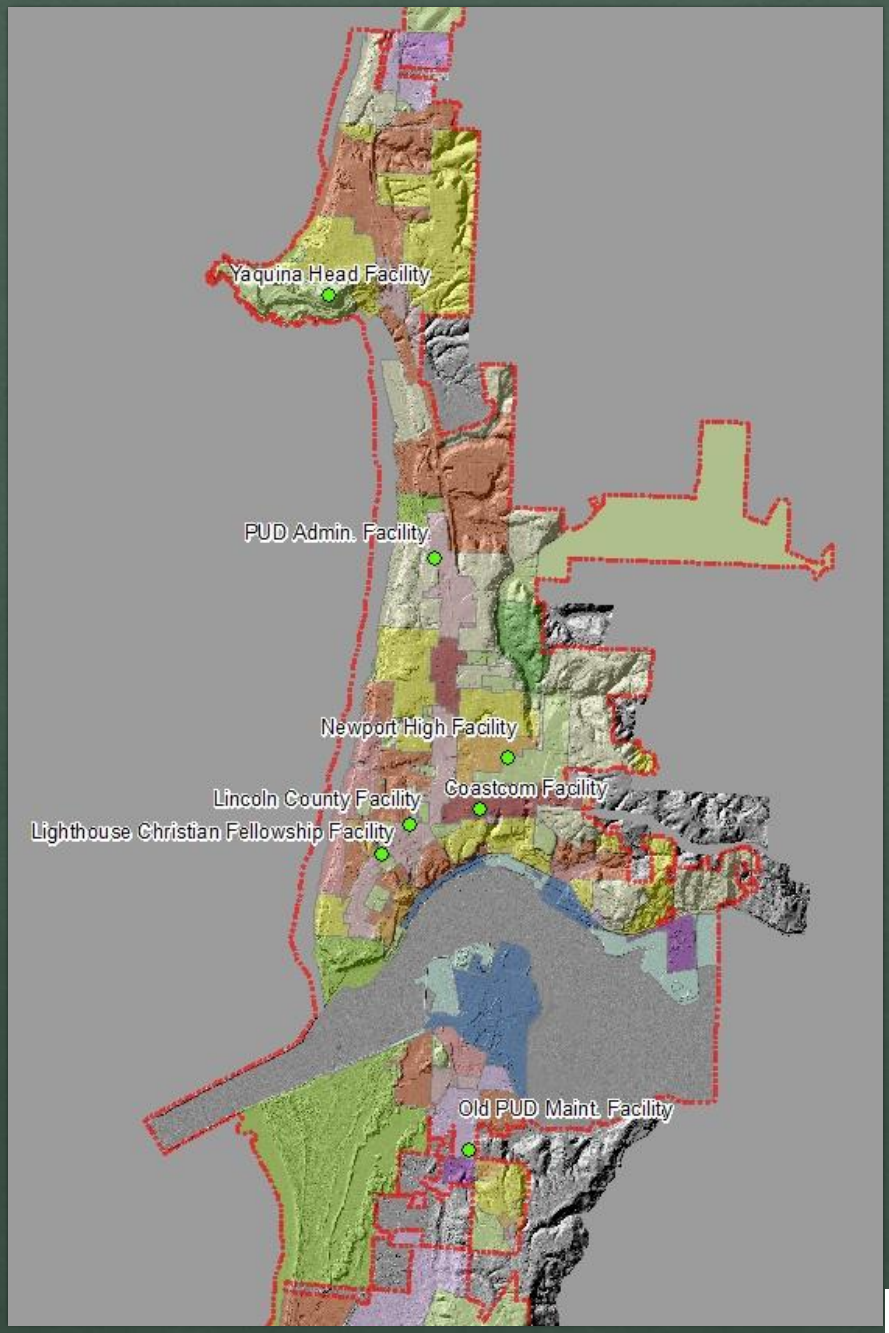
- Towers are permitted outright as "communication facilities" in retail and heavy commercial zones, industrial zones, and public zones
- Towers are prohibited in tourist commercial, water-dependent, water-related and residential zones
- Height limit is 150-ft in industrial zones, 100-ft in commercial and public zones
- More stringent, scalable height limits and landscape screening standards apply to lots that abut residential zoned property
- Antenna allowed as accessory uses on non-residential buildings as long as they do not exceed 25% of the maximum allowable building height
- Construction is subject to 2018 International Building Code (Towers exempted from Oregon Structural Specialty Code in 2019)
- FCC limitations apply within the Municipal Airport approach zones

Federal Communications Commission (FCC) Limitations on Local Zoning

- Cannot prohibit or have the effect of prohibiting wireless services
- May not apply different standards to providers of functionally equivalent services
- Must review requests in accordance with FCC shot clocks
  - Small wireless (5G) on existing structure: 60 days
  - Other collocates: 90 days
  - Small wireless on new structure: 90 days
  - Other new structures: 150 days
- Denial of an application must be in writing and supported by substantial evidence
- May not impose regulations on the basis of environmental effects of radio frequency emissions if they are within FCC parameters

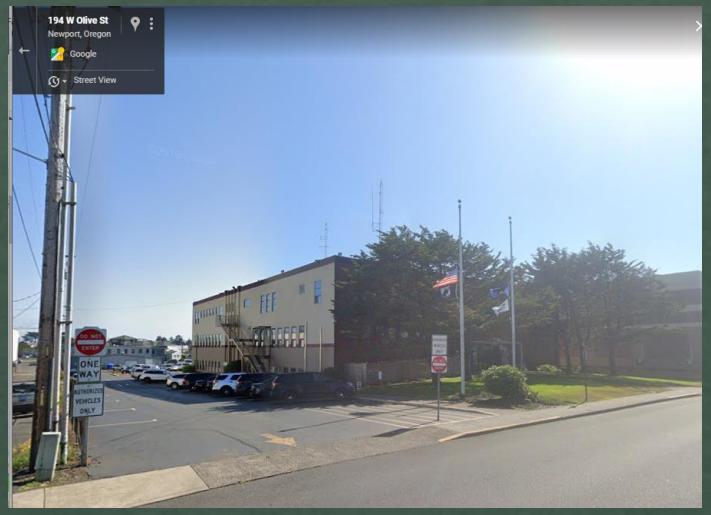
Location of Key Wireless Facilities

- Facilities are owned/leased by a variety of providers
- Common that multiple providers collocate on a single pole or building
- PUD Admin Facility (lattice tower) recently reinforced
- Coastcom Facility is a new monopole (replaced wooden structure)
- No new towers sites developed in over a decade



Images of Existing Facilities

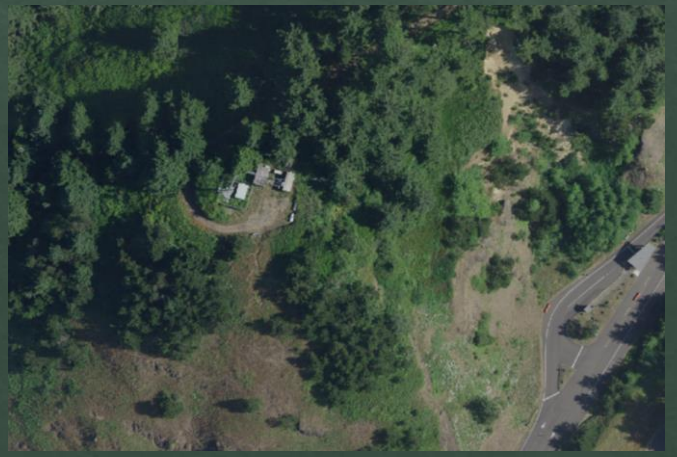
Lincoln County Building Mounted



Newport High School

Lighthouse Christian Fellowship

Yaquina Head Facility

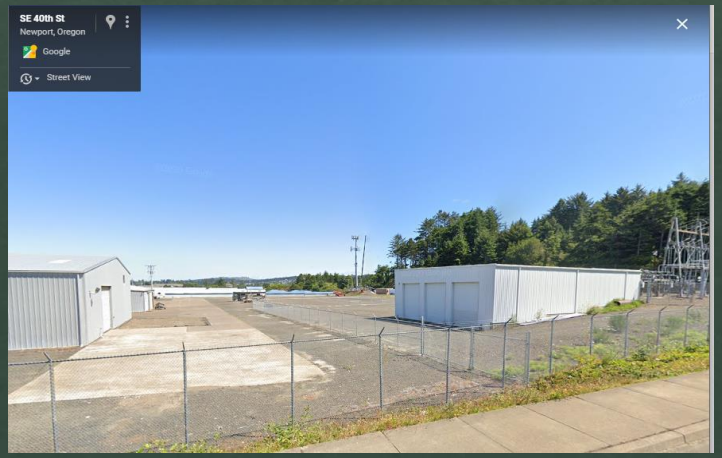


Images of Existing Facilities

Central Lincoln Lattice Tower

Coastcom (Old Wooden Pole)

Former PUD Maintenance Site



Coastcom (New Monopole)

Local Government Regulatory Approach to Wireless Facilities
Small Wireless (5G) and Antenna Collocates

- Small wireless (5G) and antenna collocates on existing towers or non-residential buildings are typically allowed outright
- Some jurisdictions require noticed staff decision if collocates do not deploy stealth technology or antenna extend more than a fixed distance above an existing building
- Small wireless collocates on utility poles and light poles outside rights-of-way are held to the same standards that apply inside rights-of-way
- May require stealth deployment as only option for historic buildings
- FCC 60 and 90 day shot clocks will not allow for hearings process
- Screening vegetation and security fencing may be required for ground mounted equipment

Local Government Regulatory Approach to Wireless Facilities New Towers or Other High Visibility Structures (Part 1)

- Where allowed – Often allowed outright or subject to staff review in industrial, commercial, and mixed use zones. Not commonly allowed in residential or tourist commercial areas. Staff level versus Commission approval can be keyed off height or zone
- Alternatives Analysis – May require provider to explain why collocate is not an option and demonstrate that the structure is not speculative
- Separation Between Towers – Intended to prevent visual impact of clustered facilities. Can be a fixed standard or variable depending upon tower height
- Height Limits – Vary from 60 to 80-ft on the low end, up to 150-ft. Typically more permissive in industrial areas. FCC requires expedited review of tower extensions up to 10% of the height of existing towers
- Setbacks – Typically applied from residential zone district boundaries. Often corelated to height (i.e. 1-ft setback for every 1-ft tower height).

Local Government Regulatory Approach to Wireless Facilities New Towers or Other High Visibility Structures (Part 2)

- Collocation – Some jurisdictions require providers demonstrate that the tower is designed to accommodate a fixed number of collocates
- Viewshed Standards – May be photo simulations or prohibitions above certain contour elevations. Comes into play when a jurisdiction is trying to protect views from specific vantage points or a ridgeline
- Buffering/Screening – Can require it for ground mounted equipment (other than the tower). This can be a general standard or it could apply only to properties adjacent to residential areas
- Security Fencing – Often occurs as a matter of course, but some jurisdictions require it as an approval standard
- FCC Emissions Compliance – May be required as part of the application process. Enforcement is purview of the FCC
- Signage – Typically prohibited unless safety related. Limited in size

Local Government Regulatory Approach to Wireless Facilities New Towers or Other High Visibility Structures (Part 3)

- Noise – Some jurisdictions establish specific noise standards for wireless facilities whereas others rely upon nuisance ordinances
- Colors – Focus is typically on non-obtrusive colors, such as unpainted galvanized steel or light gray paint. Can also require paint to match existing structures or landscape features
- Lighting – Often prohibited unless required by FAA. High intensity white lights and flashing lights may be prohibited. Shielding from the ground might also be desirable
- Prohibited Structures – Lattice towers and guy wired structures are commonly prohibited. Some jurisdictions limit structures to monopoles or stealth technology
- Abandoned Towers – Typically required to be removed within a fixed period of time (e.g. 6 to 12 months)
- Variance Process – Commonly offered for dimensional provisions such as height limits and setbacks

(7)Preservation of local zoning authority

(A)General authority

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

(B)Limitations

(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—

(I)shall not unreasonably discriminate among providers of functionally equivalent services; and

(II)shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

(ii)A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

(C)Definitions

For purposes of this paragraph—

(i)the term "personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(ii)the term "personal wireless service facilities" means facilities for the provision of personal wireless services; and

(iii)the term "unlicensed wireless service" means the offering oftelecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v) of this title).

ASHLAND

Chapter 18.4.10 – Wireless Communication Facilities

Sections

18.4.10.010 Purpose

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 impacts 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 in or near residential areas.

18.4.10.020 Applicability

A. All installation of wireless communication systems shall be subject to the requirements of this section in addition to all applicable Site Development and Design Standards. Installations of wireless communication systems are subject to the following review procedures.

Table 18.4.10.020: Review Procedures for Wireless Communication Systems

Zoning Designations	Attached to Existing Structures	Alternative Structures	Freestanding Support Structures
Residential Zones	CUP	Prohibited	Prohibited
C-1	CUP	CUP	Prohibited
C-1-D (Downtown)	CUP	Prohibited	Prohibited
C-1 - Freeway overlay	Site Review	Site Review	CUP
E-1	Site Review	Site Review	CUP
M-1	Site Review	Site Review	CUP
SOU	Site Review	CUP	CUP
NM (North Mountain)	Prohibited	Prohibited	Prohibited
Historic District	CUP	Prohibited	Prohibited
A-1 (Airport Overlay)	CUP	CUP	CUP
HC (Health Care)	CUP	Prohibited	Prohibited

Table 18.4.10.020: Review Procedures for Wireless Communication Systems

Zoning Designations	Attached to Existing Structures	Alternative Structures	Freestanding Support Structures
CM-NC	CUP	CUP	CUP
CM-OE	Site Review	Site Review	CUP
CM-CI	Site Review	Site Review	CUP
CM-MU	CUP	CUP	CUP
CM-OS	Prohibited	Prohibited	Prohibited

B. Additional Provisions

1. In residential zones, wireless communication facilities are permitted on existing structures greater than 45 feet in height. For the purposes of this section, existing structures shall include the replacement of existing pole, mast, or tower structures (such as stadium light towers) for the combined purposes of their previous use and wireless communication facilities.
2. In the C-1-D zone, wireless communication facilities are permitted on existing structures with a height greater than 50 feet.
3. With the exception of the C-1-D zone as described above, wireless communication facilities are prohibited in the Historic District Overlay, as defined in the Comprehensive Plan.

C. Exemptions. Replacement of previously approved antennas and accessory equipment are permitted outright with an approved building permit, and are allowed without a Site Design Review or Conditional Use Permit as specified in the preceding subsection, provided that these actions meet all of the following requirements.

1. Do not create an increase in the height of the facility.
2. Conform with the conditions of the previously approved planning action.
3 Do not cause the facility to go out of conformance with the standards of section 18.4.10.040.

D. Exceptions and Variances. Requests to depart from the requirements of this chapter are subject to subject to 18.5.2.050.E Exception to the Site Development and Design Standards.

18.4.10.030 Application Submission Requirements

In addition to the submittals required in by chapter 18.5.2 Site Design Review, the following items shall be provided as part of the application for a wireless communication facility.

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

B. Exterior elevations of the proposed wireless communication facility at a scale of at least one inch equals ten feet.

C. A set of manufacturer's specifications of the support structure, antennas, and accessory buildings with a listing of materials being proposed including colors of the exterior materials.

D. A site plan indicating all structures, land uses, and zoning designation within 150 feet of the site boundaries, or 300 feet if the height of the structure is greater than 80 feet.

E. A map that includes the following information.

1. The coverage area of the proposed wireless communication facility.
2. A map showing the existing and approved wireless communication facility sites operated by the applicant, and all other wireless communication facilities within a five mile radius of the proposed site.

F. Details and specifications for exterior lighting.

G. A collocation feasibility study that adequately indicates collocation efforts were made and states the reasons collocation can or cannot occur addressing the collocation standards in 18.4.10.040.C.

H. For applications requesting approval of installation of new wireless communication facilities that are not collocated on a structure used by one or more wireless communications providers, the applicant shall submit, along with the standard application fee, an additional fee to reimburse the City for the cost of having the application materials reviewed by an independent contractor. The contractor must provide objective advice based on professional qualifications and experience in telecommunication/radio frequency engineering, structural engineering, assessment of electromagnetic fields, telecommunications law, and other related fields of expertise. The fee for this independent analysis of application materials shall be in an amount established by resolution of the City Council.

I. A copy of the lease agreement for the proposed site showing that the agreement does not preclude collocation.

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

K. Any other documentation the applicant feels is relevant to comply with the applicable design standards.

L. Documentation that the applicant has held a local community meeting to inform members of the surrounding area of the proposed wireless communication facility. Meeting documentation shall include all of the following.

1. A copy of the mailing list to properties within 300 feet of the proposed facility.
2. A copy of the notice of community meeting, mailed one week prior to the meeting.
3. A copy of the newspaper ad placed in a local paper one week prior to the meeting.
4. A summary of issues raised during the meeting.

18.4.10.040 Design Standards

All wireless communication facilities shall be located, designed, constructed, treated, and maintained in accordance with the following standards.

18.4.10 – Wireless Communication Facilities

A. General Provisions

1. All facilities shall be installed and maintained in compliance with the requirements of the Building Code. At the time of building permit application, written statements from the Federal Aviation Administration (FAA), the Aeronautics Section of the Oregon Department of Transportation, and the Federal Communication Commission (FCC) confirming that the proposed wireless communication facility complies with regulations administered by that agency or that the facility is exempt from regulation.
2. All associated transmittal equipment must be housed in a building, above or below ground level, which must be designed and landscaped to achieve minimal visual impact with the surrounding environment.
3. Wireless communication facilities shall be exempted from height limitations imposed in each zone.
4. Wireless communication facilities shall be installed at the minimum height and mass necessary for its intended use. A submittal verifying the proposed height and mass shall be prepared by a licensed engineer.
5. Lattice towers are prohibited as freestanding wireless communication support structures.
6. Signage for wireless communication facilities shall consist of a maximum of two non-illuminated signs, with a maximum of two square feet each, stating the name of the facility operator and a contact phone number.
7. The applicant is required to remove all equipment and structures from the site and return the site to its original condition, or condition as approved by the Staff Advisor, if the facility is abandoned for a period greater than six months. Removal and restoration must occur within 90 days of the end of the six-month period.
8. All new wireless communication support structures shall be constructed so as to allow other users to collocate on the facility.

B. Preferred Designs. The following preferred designs are a stepped hierarchy, and the standards shall be applied in succession from subsection a to e, with the previous standard exhausted before moving to the following design alterative. For the purpose of chapter 18.4.10, feasible is defined as capable of being done, executed or effected; possible of realization. A demonstration of feasibility requires a substantial showing that a preferred design can or cannot be accomplished.

1. Collocation. Where possible, the use of existing wireless communication facilities sites for new installations shall be encouraged. Collocation of new facilities on existing facilities shall be the preferred option. Where technically feasible, collocate new facilities on pre-existing structures with wireless communication facilities in place or on pre-existing towers.
2. Attached to Existing Structure. If (a) above is not feasible, wireless communication facilities shall be attached to pre-existing structures, when feasible.
3. Alternative Structure. 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 communication facilities.
4. Freestanding Support Structure. If (1), (2), or (3) listed above are not feasible, a monopole

design shall be used with the attached antennas positioned in a vertical manner to lessens the visual impact compared to the antennas in a platform design. Platform designs shall be used only if it is shown that the use of an alternate attached antenna design is not feasible.

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

C. Collocation Standards

1. The collocation feasibility study shall meet all of the following requirements.
   a. Document that alternative sites have been considered and are technologically unfeasible or unavailable.
   b. Demonstrate that a reasonable effort was made to locate collocation sites that meet the applicant's service coverage area needs.
   c. Document the reasons collocation can or cannot occur.
2. Relief from collocation under this section may be granted at the discretion of the approval authority if the application and independent third party analysis demonstrate collocation is not feasible because one or more of the following conditions exist at prospective collocation sites.
   a. A significant service gap in coverage area.
   b. Sufficient height cannot be achieved by modifying existing structure or towers.
   c. Structural support requirements cannot be met.
   d. Collocation would result in electronic, electromagnetic, obstruction, or other radio frequency interference.

D. Landscaping. The following standards apply to all wireless communication facilities with any primary or accessory equipment located on the ground and visible from a residential use or the public right-of-way.

1. Vegetation and materials shall be selected and sited to produce a drought resistant landscaped area.
2. The perimeter of the wireless communication facilities shall be enclosed with a security fence or wall. Such barriers shall be landscaped in a manner that provides a natural sight obscuring screen around the barrier to a minimum height of six feet.
3. The outer perimeter of the wireless communication facilities shall have a ~~ten foot~~ landscaped buffer zone ten feet in width.
4. The landscaped area shall be irrigated and maintained to provide for proper growth and health of the vegetation.
5. One tree shall be required per 20 feet of the landscape buffer zone to provide a continuous canopy around the perimeter of the wireless communication facilities. Each tree shall have a caliper of two inches, measured at breast height, at the time of planting.

E. Visual Impacts

1. Wireless communication facilities shall be located in the area of minimal visual impact within the site which will allow the facility to function consistent with its purpose.

18.4.10 – Wireless Communication Facilities

2. Wireless communication facilities, in any zone, must be set back from any residential zone a distance equal to twice its overall height. The setback requirement may be reduced if, as determined by the approval authority, it can be demonstrated through findings of fact that increased mitigation of visual impact can be achieved within of the setback area. Underground accessory equipment is not subject to the setback requirement.
3. Antennas attached to a pre-existing or alternative structure shall be integrated into the existing building architecturally and to the greatest extent possible shall not exceed the height of the pre-existing or alternative structure.
4. Antennas attached to a pre-existing or alternative structure shall have a non-reflective finish and color that blends with the color and design of the structure to which it is attached.
5. All wireless communication support structures must have a non-reflective finish and color that will mitigate visual impact, unless otherwise required by other government agencies.
6. Exterior lighting for a wireless communication facility is permitted only when required by a federal or state authority.
7. Should it be deemed necessary by the approval authority for the mitigation of visual impact of the wireless communication facility, additional design measures may be required. These may include, but are not limited to: additional camouflage materials and designs, facades, specific colors and materials, masking, and shielding techniques.

ARTICLE 15

WIRELESS COMMUNICATION SERVICE FACILITIES

15.010. PURPOSE.

To accommodate the increasing communication needs of Astoria residents, businesses, and visitors, while protecting the public health, safety and general welfare, and visual and aesthetic environment of the City, these regulations are established to:

1. Provide a process and uniform comprehensive standards for the development and regulation of Wireless Communication Service Facilities.

2. Enhance the ability to provide communications services to City residents, businesses and visitors.

3. Protect the City's scenic, natural, cultural and historical resources, and visual environment from the potential adverse physical and visual effects of Wireless Communication Service Facilities, through careful design and siting standards.

15.015. CONSISTENCY STATEMENT.

These standards and regulations shall be construed to be consistent with any Federal or State standards regulating Wireless Communication Service Facilities which pre-empt or take precedence over the standards and regulations herein. In the event that either the Federal or State government adopt mandatory standards or regulations more stringent than those described herein, the more stringent standards or regulations shall govern.

15.020. APPLICABILITY.

A. All Wireless Communication Service Facilities located within the City of Astoria, whether upon private, public, or City-owned lands, shall comply with the requirements of Article 15.

B. The provisions of this Article do not apply to the following:

1. Antennas owned and operated by Federally-licensed amateur (ham) radio station operators;

2. Any antenna support structure or antenna lawfully in existence within the City on the effective date of this Article; or

3. Emergency Communications Facilities and Temporary Communications Facilities for emergency communications operated by public officials.

(Article 15 added by Ordinance 02-07, 6-2-02)

4. Microwave Receiving Dish/Device (See Section 3.150).
(Section 15.020.B.4 added by Ord 19-05, 6-17-2019)

15.025. DEFINITIONS.

The following definitions shall apply:

ALTERNATIVE ANTENNA SUPPORT STRUCTURES: Roofs of buildings, church steeples, utility poles, flagpoles, street light standards, traffic light and traffic sign structures, billboards and commercial signs, and other similar human-made structures and devices that extend vertically from the adjacent grade to a sufficient height, to be at least 30 feet from adjacent grade, to accommodate the attachment of antennas for wireless communications signal transmission and reception.

ANALOG: In radiotelephony, a process where voice messages are electronically replicated and amplified as they are carried from the transmitting antenna to the receiving antenna.

ANTENNA: A specific exterior transmitting or receiving device used to capture, transmit, or receive radio frequency (RF) signals, microwave signals, and/or other communications energy transmitted from, or to be received by, other antennas. Antennas regulated by this Article include, but are not limited to: Omni-directional (or "whip") antennas, directional (or "panel") antennas, parabolic (or "dish") antennas, and any other devices designed for the reception and/or transmission of radio-frequency (RF) signals or other communications technologies.

ANTENNA ARRAY: Two or more antenna as defined within this Section, above.

ANTENNA SUPPORT STRUCTURE: "Support Structure": A structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting, or otherwise affixing antennas at a height, altitude, or elevation which is above the base of such structure. Antenna support structures include, but are not limited to, the following:

LATTICE TOWER: A vertical support structure consisting of a network of crossed metal braces, forming a tower which may be three, four, or more sided.

GUYED TOWER: A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

MONOPOLE: A vertical support structure consisting of a single vertical metal, concrete, or wooden pole, pipe, tube, or cylindrical structure, typically round or square, and driven into the ground or mounted upon or attached to a foundation.

(Article 15 added by Ordinance 02-07, 6-2-02)

AVOIDANCE AREA: Locations in the City of Astoria where Wireless Communication Service facilities should not be located, as a substantial adverse impact may result, and where there are reasonably feasible alternative locations for the facilities. An avoidance area is NOT a "prohibited area" since there are conditions under which Wireless Communication Service facilities may be located in an avoidance area.

CAMOUFLAGE: A way of painting and mounting an antenna and antenna support structure, resulting in the antenna and antenna support structure being reasonably difficult for the naked eye to detect or observe.

CARRIER: A company which holds a current Federal Communications Commission (FCC) license to provide Wireless Communications Services under the FCC/1996 Telecommunications Act. Also referred to as a "Wireless Communications Service Provider".

CELLULAR: A mobile telephone service operating in the 800 MHz spectrum.

COLLOCATION (CO-LOCATION): The use of a Wireless Communication Service Facility or site by two or more Wireless Communication Service providers or by one Wireless Communication Service providers for more than one type of communications technology and/or placement of two or more Wireless Communication Service Facilities on adjacent properties, or utilization of a single antenna support structure, alternative antenna support structure, or an underground conduit or duct, by more than one Wireless Communication Service provider.

CONCEALMENT TECHNOLOGY: The use of technology through which a Wireless Communication Service Facility is enclosed within a natural or man-made feature, or to design a Wireless Communication Service Facility resulting in the antenna being either reasonably difficult for the naked eye to detect or observe, or made part of the feature enclosing it.

DESIGN: The appearance of Wireless Communication Service Facilities including but not limited to: materials, colors, and shape.

DIGITAL: Digital technology converts voice messages into digits (zeros and ones) that represent sound intensities. Because natural pauses in the conversation are eliminated, more call capacity is realized than with analog, and background noise is minimized. Digital is not the same as Personal Communications Services (PCS), as Cellular can be digital also.

DISGUISE: A Wireless Communication Service Facility designed to appear to be something other than a Personal Wireless Service facility.

(Article 15 added by Ordinance 02-07, 6-2-02)

ENHANCED SPECIALIZED MOBILE RADIOS (ESMR): Private land mobile radio with telephone services.

EQUIPMENT ENCLOSURE: A structure, shelter, cabinet, box, or vault designed for and used to house and protect the electronic equipment necessary and/or desirable for processing wireless communications signals and data, including any provisions for air conditioning, ventilation, or auxiliary electricity generators.
ESMR: Enhanced Specialized Mobile Radios.

FCC: Federal Communications Commission.

FCC GUIDELINES: Includes the Radio Frequency (RF) Performance Standards set forth by the FCC" OET (Office of Engineering and Technology) Bulletin 65, *"Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields"*, as referenced in *"A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance"* Guidebook, dated June 2, 2000, or a subsequent FCC publication delineating required radio frequency performance standards.

MAINTENANCE: Emergency or routine repairs or replacement of transmitters, antennas, or other components of previously approved facilities which do not create a significant change in visual appearance, visual impact or an increase in radio frequency emissions.

MAST: A type of mount that is thinner and shorter than a monopole.

MICROCELL: A low power facility used to provide increased capacity to telecommunications demand areas or provide infill coverage in areas of weak reception, including a separate transmitting and receiving station serving the facility.

MITIGATION: Reduction or elimination of visual impacts by the use of one or more methods such as concealment, camouflage, or disguise.

MODIFICATION: The changing of any portion of a Wireless Communication Service Facility from its description in a previously approved permit.

MOUNT: The structure or surface upon which antennas are placed including but not limited to:

ROOF MOUNTED: Mounted on the roof of a structure.

SIDE-MOUNTED: Mounted on the side of a structure including a tower.

GROUND MOUNTED: Mounted on the ground.

(Article 15 added by Ordinance 02-07, 6-2-02)

NIER: Non-Ionizing Electromagnetic Radiation.

NON-RESIDENTIALLY UTILIZED PROPERTY: Property within a residential, neighborhood commercial, or attached-housing zone that is not used for residential purposes. Such property includes, but is not limited to, schools, churches, public parks, public safety facilities, and streets and highways. A public or privately owned vacant lot in a residential zone shall be not be considered non-residentially utilized property as the capacity for residential use exists.

RADIO FREQUENCY (RF) ENGINEER: A professional engineer, licensed in the State of Oregon, with a degree in electrical engineering, and demonstrated accreditation and experience to perform and certify radio frequency radiation measurements.

RF: Radio Frequency.

PCS: Personal Communications Services.

SITE: A portion of a subject property.

SITING: The method and form of placement of a use or development on a specific area of a subject property.

SMR: Specialized Mobile Radio.

SPECIALIZED MOBILE RADIO (SMR): A form of data transmission, dispatch or two-way communications used by companies that rent space or time from the high mount of a SMR carrier. Used primarily for sending information, for services such as delivery vans, truckers, or taxis within a small, definable geographic areas, the signal is not "handed off" to another cell as in Cellular, PCS, or ESMR.

SPECULATION ("SPEC") TOWER: An antenna support structure designed for the purpose of providing location mounts for Wireless Communication Service Facilities without a binding commitment or option to lease a location upon the tower by a licensed service provider at the time of initial application.

STEALTH: A term meaning "hidden" or "undetectable." The state of being furtive or unobtrusive.

SUBSTANTIAL ADVERSE IMPACT: (Also see "Avoidance Area") An impact caused by a proposed project which would produce an end result which:

a. Is out of character with the scenic, natural, historic, or cultural resources affected, including existing buildings, structures, and features within the vicinity; and/or

(Article 15 added by Ordinance 02-07, 6-2-02)

b. Would diminish the scenic, natural, historic, or cultural value of the vicinity.

WCSF: Wireless Communication Service Facility.

WIRELESS COMMUNICATION SERVICE: Includes, but not limited to Federal Communications Commission (FCC) licensed "commercial mobile services", (mobile services that are for-profit, are available to the public or a substantial portion of the public, and provide subscribers with the ability to access or receive calls from the public switched telephone network, including Cellular, Personal Communications Services (PCS), Specialized Mobile Radio (SMR), and Enhanced Specialized Mobile Radio (ESMR), *as well as*, "unlicensed wireless services" (services that are not licensed by the FCC, but are deployed through equipment that is authorized by the FCC), and "common carrier wireless exchange access services" (offerings designed as competitive alternatives to traditional wireline local exchange providers).

WIRELESS COMMUNICATION SERVICE FACILITY (WCSF): All equipment and property associated with the construction of antenna support structures, antenna arrays, and antennas, including but not limited to cables, wires, conduits, ducts, pedestals, antennas of all descriptions, electronic and mechanical equipment and devices, buildings and similar structures and installations, used for the provision of Wireless Communication Services. A facility for the provision of Wireless Communication Services, as defined by Section 704 of the Telecommunications Act.

WIRELESS COMMUNICATIONS SERVICE PROVIDER: A company which holds a current FCC license to provide Wireless Communication Services under the FCC/1996 Telecommunications Act. Also commonly referred to as a "Carrier."

15.035. PERMITTED LOCATIONS OF WIRELESS COMMUNICATION SERVICE FACILITIES.

A. Zones.

Wireless Communication Service Facilities, including antenna, antenna arrays, and antenna support structures are permitted with administrative or conditional use review in the zones as provided below:

1. Permitted Zones.

Wireless Communication Service Facilities are permitted in the following zones through the Administrative or Conditional Use process in accordance with Astoria Development Code Article 9:

a. A-1 (Aquatic One Development)

(Article 15 added by Ordinance 02-07, 6-2-02)

b. A-2 (Aquatic Two Development)
c. C-3 (General Commercial)
d. C-4 (Central Commercial)
e. GI (General Industrial)
f. IN (Institutional)
g. LR (Land Reserve)
h. S-1 (Marine Industrial Shoreland)
i. S-2 (General Development Shoreland)
j. Non-Residentially Utilized Properties within the following zones:
    1) AH-HC (Attached Housing - Health Care)
    2) AH-MP (Attached Housing - Mill Pond)
    3) C-1 (Neighborhood Commercial)
    4) R-1 (Low Density Residential)
    5) R-2 (Medium Density Residential)
    6) R-3 (High Density Residential)

2. Avoidance Areas.

The following zones, and areas within zones, are "AVOIDANCE AREAS". Wireless Communication Service Facilities are permitted in the following areas through the Conditional Use process in accordance with Astoria Development Code Article 9:

a. A-2A (Aquatic Two A Development)
b. A-3 (Aquatic Conservation)
c. A-4 (Aquatic Natural)
d. C-2 (Tourist Commercial)
e. CA (Campus)
f. FA (Family Activity)
g. HC (Health Care)
h. HR (Hospitality Recreation)
i. LS (Local Service)
j. MH (Maritime Heritage)
k. PD (Planned Development)
l. S-2A (Tourist Oriented Shoreland)
m. S-5 (Natural Shoreland)
n. Within 150 feet (150') of the Columbia River, Youngs River, and Youngs Bay.

(Article 15 added by Ordinance 02-07, 6-2-02)

B. Preferred Location, Siting, and Designs in Priority Order.

1. Administrative Review.

a. Existing Structures

1) Location on Existing Support Structure or Existing Alternative Support Structure; *and*

2) Camouflaged/Concealed Design

2. Conditional Use Review.

a. Location on New Antenna Support Structure

b. Location within AVOIDANCE AREAS

15.045. COLLOCATION AND USE OF ALTERNATIVE ANTENNA SUPPORT STRUCTURES FOR WIRELESS COMMUNICATION SERVICE FACILITIES.

A. Collocation Design Required.

All antenna support structures shall be designed and constructed so as to not preclude collocation.

B. Collocation Required.

Collocation or use of alternative antenna support structure shall be required unless demonstrated to be infeasible to the satisfaction of the Community Development Director or the Astoria Planning Commission.

If an applicant proposes to construct a new antenna support structure, evidence shall be submitted by the applicant to demonstrate the following:

1. That no existing antenna support structures or alternative antenna support structures are located within the geographic area which meet the service provider's engineering requirements to provide service; OR

2. That existing antenna support structures and alternative antenna support structures are not of sufficient height to meet the service provider's engineering requirements to provide service; OR

(Article 15 added by Ordinance 02-07, 6-2-02)

3. That existing support structures and alternative antenna support structures do not have sufficient structural strength to support the service provider's engineering requirements to provide service; OR

4. That an applicant's proposed antennas or antenna arrays would cause detrimental electromagnetic interference, or NIER field interference with nearby antennas or antenna arrays, or vice-versa; OR

5. That there are other limiting factors, such as inadequate space for an equipment shelter, that render existing antenna support structures or alternative antenna support structures unsuitable.

C. Standards Required of Collocation Applicant.

As deemed necessary by the Community Development Director, compliance with location, siting, and design standards described in this Article may be required of a co-locating applicant during review of the application.

D. Technical Expert Review.

In the event collocation is represented to be infeasible, the City may retain a technical expert in the field of telecommunications engineering to verify if collocation at the site is not feasible, or is feasible given the design configuration most accommodating to collocation. The cost for such a technical expert will be at the expense of the applicant.

E. Good Faith Effort to Collocate.

A Wireless Communications Service provider shall exercise good faith in collocating with other providers and sharing antenna sites, provided that such shared use does not technically impair their ability to provide Wireless Communications Service.

15.060. APPLICATION SUBMITTAL REQUIREMENTS.

A. All applications for permits for the placement and construction of Wireless Communication Service Facilities shall be accompanied by the following:

1. A complete description of the proposed WCSF including use of concealment technology, height, location, siting, and design, and description of services the applicant intends to provide from the facility.

2. Proof of ownership of the land upon which the WCSF is proposed; or evidence of an appropriate easement, lease, rental agreement, or land use application signed by the applicant and signed by the underlying property owner.

(Article 15 added by Ordinance 02-07, 6-2-02)

3. Copy of the carrier's current FCC license for the proposed coverage area.

4. Evidence demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the FCC particularly with respect to any habitable areas within the structure on which the antennas are co-locating or in structures adjacent to or across a public right-of-way from the antennas.

5. An accurate and scaled site plan, scaled elevation views, and other supporting drawings, illustrating the location and dimensions of the proposed WCSF, including but not limited to: antenna support structure, alternative antenna support structure, antenna array, antennas, equipment enclosures, and any and all other devices and attachments.

6. Readily discernible map of the proposed area of coverage.

7. Location map of all sites currently operated by the carrier in a five (5) mile radius of the proposed site. Such locations shall be of sufficient detail to be added to the City's GIS data system. For each such site, the targeted area and capabilities of the sites shall be adequately described.

8. Visual impact analysis and demonstrations including mock-ups and/or photo simulations from at least three (3) directional perspectives.

9. Evidence demonstrating that the applicant has filed a request with the Federal Aviation Administration (FAA) and the Oregon Department of Aviation (ODA) to review the application, or evidence demonstrating that the applicant has complied with all FAA and ODA requirements.

10. Evidence demonstrating that the applicant has filed a request with the State Historic Preservation Office to review the application under Section 106 of the National Historic Preservation Act, or evidence demonstrating that the applicant has complied with all State Historic Preservation Office requirements as a result of the Section 106 consultation.

11. A collocation feasibility study conducted for the proposed service area of the facility being proposed. The study will describe the applicant's policy on collocation and demonstrate that collocation efforts were made and provide findings on why collocation can or cannot occur as indicated in Section 15.045.B.

12. Where less preferred locations or design are proposed, a description of other alternatives considered (alternate sites, alternative heights, number of

(Article 15 added by Ordinance 02-07, 6-2-02)

facilities, and equipment utilized) and the reasons why higher priority locations or designs were not selected.

13. Payment of fees.

14. All such additional information as the Community Development Director may identify as being relevant to the permitting process.

15. The Community Development Director may release an applicant from the requirement to provide one or more of the pieces of information on this list upon a finding that in the specific case involved said information is not necessary to process or make a decision on the application being submitted.

15.065. STANDARDS AND REVIEW CRITERIA.

All applications for Wireless Communication Service Facilities shall demonstrate compliance and conformity with the following requirements. The burden of proof is on the applicant to demonstrate such compliance and conformity. The Community Development Director may release an applicant from a requirement when it is determined that the requirement is not applicable to the request.

A. General and Operating Requirements.

1. Owner and Applicant Responsibilities.

The owner and applicant of the Wireless Communication Service Facility and his or her successors and assigns at all times shall have the following responsibilities:

a. The owner shall respond in a reasonable and timely manner to a request for information from a potential collocation applicant. In responding to such a request, the owner and potential collocation applicant shall furnish to each other all non-proprietary information necessary to enable the potential collocation applicant and the owner to determine the feasibility of collocation.

b. The owner and potential collocation applicant shall negotiate in good faith for shared use of the owner's Wireless Communication Service Facility.

2. Environmental and Historic Resource Protection.

All Wireless Communication Service Facilities shall be sited so as to minimize the effect on environmental and historic resources. To that end, the following

(Article 15 added by Ordinance 02-07, 6-2-02)

measures shall be implemented for all Wireless Communication Service Facilities:

a. The facility shall comply with all applicable local, State, and Federal regulations, including but not limited to: Columbia River Estuary Shoreland Overlay, Sensitive Bird Habitat Overlay, Astoria Historic Properties regulations, National Environmental Policy Act, National Historic Preservation Act, and Endangered Species Act;

b. Alteration or disturbance of natural vegetation and topography shall be minimized;

3. Noise.

No testing of back-up power generators shall occur between the hours of 6:00 PM and 7:00 AM. Emergency operation of back-up power generators is permitted at any time.

4. Permits Required.

a. A Building Permit issued by the City is required for each Wireless Communication Service Facility. A building permit will not be issued until all land use approvals have been obtained; until any associated conditions have been met; and until all other applicable local, State, and Federal approvals have been secured and complied with, including but not limited to Astoria Development Code, Article 6 Historic Properties, and Section 106 requirements as set forth by the State Historic Preservation Office.

b. No Wireless Communication Service Facility shall be constructed or operated within the City limits until all necessary City, State, and Federal approvals have been secured. Evidence of approvals shall be provided to the City.

5. Prohibited Structures.

a. Lattice and guyed wire towers and support structures and speculation ("spec") support structures are prohibited in all zones except as noted in Section 5.b.
(Section 15.065.A.5.a amended by Ordinance 14-12, 12-15-2014)

b. Lattice towers and support structures that are required for Emergency Communications Facilities and Temporary Communications Facilities operated by public officials may be located in the LR Zone (Land

(Article 15 added by Ordinance 02-07, 6-2-02)

Reserve). Co-location by private communication providers on a lattice tower with emergency communication facilities is allowed.

(Section 15.065.A.5.b added by Ordinance 14-12, 12-15-2014)

6. Radio Frequency Standards.

   a. The applicant shall provide evidence that the Wireless Communication Service Facility is in compliance with FCC standards and that the Wireless Communication Service Facility will not cause interference with the reception of area television, radio, or emergency communication broadcasts. If at any time, the City finds that the Wireless Communication Service Facilities interfere with such reception, the applicant shall mitigate the interference. If the applicant does not mitigate the interference to the City's satisfaction, the City may revoke or modify the permit.

7. Security.

   The applicant shall insure that sufficient anti-climbing measures have been incorporated into the WCSF, as needed, to reduce potential for trespass and injury.

8. Technical Expert Support.

   The Community Development Director may employ on behalf of the City an independent technical expert to review any technical materials submitted including, but not limited to, those required under this Section, and in those cases where a technical demonstration of unavoidable need or unavailability of alternatives is required.

B. Location, Siting and Design Requirements.

1. Preferred Location, Siting, and Designs in Priority Order.

   See Section 15.035.B of this Code.

2. Adverse Impact.

   WCSF shall not create a substantial adverse impact on the view from any public park, natural scenic vista, historic property (locally designated or on National Register), major scenic and view corridor, or residential area. In determining the potential substantial adverse impact of the proposed facility

(Article 15 added by Ordinance 02-07, 6-2-02)

upon scenic, natural, historic, and cultural resources or vicinity, the following points shall be considered:

a. The extent to which the proposed WCSF is visible from the viewpoint(s) of the impacted resource or vicinity.

b. The type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility.

c. The amount of vegetative screening.

d. The distance of the proposed facility from the impacted resource or vicinity.

e. The presence of reasonable alternatives that allow the facility to function consistently with its purpose.

3. Use of Concealment Technology.

All Wireless Communication Service Facilities shall utilize concealment technology so as to blend in with the surrounding natural and human-made environment in such a manner so as to be either reasonably difficult for the naked eye to detect or observe, or made part of the feature enclosing it. To this end, Wireless Communication Service Facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: concealment technology, use of compatible building materials and colors, vegetative, structural or topographic screening.

4. Access Driveways and Parking.

All access drives and parking areas shall be no longer or wider than necessary and be improved to comply with the requirements of the Astoria Development Code and Astoria City Code.

a. Existing driveways shall be used for access whenever possible.

b. New parking areas shall, whenever feasible, be shared with subsequent Wireless Communication Service Facilities and/or other permitted uses.

5. Color and Materials.

a. All buildings, poles, antenna support structures, antennas, antenna arrays, and other associated components of each Wireless

(Article 15 added by Ordinance 02-07, 6-2-02)

Communication Facility site shall be initially coated and thereafter recoated as necessary with a non-reflective neutral color in muted tones.

b. The color selected shall be one that will minimize visibility of the WCSF to the greatest extent feasible. To this end, improvements which will be primarily viewed against soils, trees, or grasslands shall be coated with colors matching those landscapes, while elements which rise above the horizon shall be coated a color that matches the typical overcast sky (i.e. white, light gray, etc.) or background color at that location.

c. The color and coating shall be reviewed and approved by the Community Development Director or Astoria Planning Commission.

d. Upon a clear showing by the applicant that compliance with the requirements of this section would void a manufacturer's warranty on any specific equipment, or that natural aging of the material would provide greater concealment, the Community Development Director or Astoria Planning Commission may waive the requirements of this section for such specifically identified equipment.

6. Height.

In addition to the maximum structure height requirements of each Zone, Wireless Communication Service Facilities shall comply with the following height requirements:

a. WCSF shall comply with the height limit of the underlying zone, unless a variance to the height limit of the underlying zone is approved.

b. If there is not a height limit in the underlying zone, the maximum height of a ground-mounted facility, including a monopole, shall be 45'.

c. In reviewing Variance requests to the above described height limits, the following shall be considered:

1) The proposed structure and facility uses concealment technology; *and*

2) It is demonstrated that a greater height is required to provide the necessary service.

d. Building or other structure-mounted Wireless Communication Service Facilities shall not project more than ten (10) additional feet above the

(Article 15 added by Ordinance 02-07, 6-2-02)

highest point on the existing building or structure and shall not project higher than the height requirements of the underlying zone, unless a variance to the height limit of the underlying zone is approved.

e. WCSF shall not penetrate imaginary surfaces around the Astoria Airport as defined by the Oregon Department of Aviation, unless a waiver is granted pursuant to Oregon Revised Statutes.

7. Landscape and Screening.

All Wireless Communication Service Facility sites shall be improved with existing native vegetation, suitable landscaping and/or fencing installed to screen the facility, where necessary. To this end, all of the following requirements shall be implemented for all Wireless Communication Service Facilities which are installed on antenna support structures:

a. A landscape plan, meeting the requirements of Development Code Sections 3.105 to 3.120, shall be submitted as part of the application.

b. Any proposed or required fenced area is to be surrounded, where feasible, by a landscaped strip of sufficient width and height to create a visual screen.

c. Planted vegetation shall be of the evergreen variety.

d. The landscape plan shall be subject to review and approval of the Community Development Director or Astoria Planning Commission.

e. The fence shall be a maximum of six (6) feet in height.

f. The fenced area is to be surrounded by evergreen shrubs (or similar type of evergreen landscaping). Required landscaping shall be located outside of the fenced area.

g. The fence shall, where feasible, be installed and maintained around the entire perimeter of the site and surround the WCSF and the equipment shelter.

h. If the Community Development Director determines that a fence surrounding antenna support structures located in a public right-of-way or adjacent to existing structures is not feasible, such structures may be exempted from the fencing requirements of this Section.

i. Chain link fences shall be painted or coated with a non-reflective color.

(Article 15 added by Ordinance 02-07, 6-2-02)

j. Electric, barbed wire, and concertina wire fences are prohibited.

8. Lighting.

a. A Wireless Communication Service Facility shall only be illuminated as necessary to comply with FAA or other applicable State and Federal requirements. Documentation from such State and Federal agencies describing required compliance measures is required.

b. Exterior lighting shall comply with applicable lighting standards in Section 3.128.
(Section 15.065.B.8.b amended by Ord 19-05, 6-17-2019)

c. Strobe lights are prohibited.

9. Setback.

a. Antenna support structures, excluding those utility poles and similar structures which are located within the right-of-way, and excluding equipment enclosures, shall be located no closer to a structure on the subject property, or from the property line of the subject property, than a distance equal to the total height of the structure measured from finished grade, or the distance of "worst-case scenarios", as recommended in the FCC *"A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance"* Guidebook, dated June 2, 2000, whichever is greater. However, utility poles and similar structures which are located within the right-of-way, and equipment enclosures are subject to recommendations in the FCC *"A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance"* Guidebook, dated June 2, 2000.

b. All WCSF equipment enclosures shall be set back from property lines according to the requirements of the Zone.

c. A setback requirement to a property line may be reduced, through Variance approval. A Variance to the setback requirement shall be in accordance with the requirements of Article 12, and the following additional criteria:

1) It shall be demonstrated that the location of the proposed facility will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts.

(Article 15 added by Ordinance 02-07, 6-2-02)

10. Signs.

The use of any portion of a Wireless Communication Service Facility for signs other than warning or equipment information signs is prohibited. For emergency purposes, equipment information limited to the WCSF provider(s) name and contact phone number shall appear at the facility in a discreet yet visible location, either on the equipment cabinet or supporting structure.

11. Storage.

a. WCSF storage facilities (i.e., vaults, equipment rooms, utilities, and equipment cabinets or enclosures) shall be constructed of non-reflective materials (exterior surfaces only) and shall be placed underground where feasible or be sited (i.e., depressed, or located behind earth berms) to minimize their profile.

b. WCSF storage facilities shall be no taller than one story (15 feet) in height and shall be designed to look like a building or facility typically found in the surrounding area.

c. On-premises storage of material or equipment shall not be allowed other than that which is necessary to the use, operation, and maintenance of the WCSF.

15.070. MONITORING AND MAINTENANCE.

A. Testing for Compliance.

All Wireless Communication Service Facilities shall comply with all Federal, State and local regulations. The City at any time may require evidence of testing of a WCSF to determine if the facility is in compliance with all applicable Federal, State, and local regulations. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet the standards of FCC Regulations.

All testing shall be at the cost of the Wireless Communication Service providers. Failure to cooperate with the City in performing such testing shall be adequate basis for revocation of the permit.

B. Maintenance.

The applicant and co-applicant shall maintain the Wireless Communication Service Facility. Such maintenance shall include, but shall not be limited to painting/coating,

(Article 15 added by Ordinance 02-07, 6-2-02)

maintaining structural integrity, and landscaping. In the event the applicant or co-applicant fails to maintain the facility in accordance with permit conditions regarding visual impacts or public safety, the City of Astoria may undertake the maintenance at the expense of the applicant or underlying property owner.

C. Tree Trimming.

On publicly owned property, trees may be trimmed, but shall be trimmed only upon the issuance by the City of a Tree-Trimming Permit. All tree trimming on private property shall comply at all times with the conditions of the Conditional Use permit, or with the approval of the Community Development Director if the level of review under Section 15.035.B was Administrative. Tree-trimming which is disallowed under the conditions of a permit approval shall be adequate grounds for permit revocation.

D. Revocation of Permit.

Any Wireless Communication Service Facility not in compliance with all applicable Federal, State, and local regulations shall be removed, upon failure to bring the facility into compliance after thirty (30) days advance written notice.

15.075. ABANDONMENT.

A. Notice of Abandonment.

At such time that a licensed carrier other than a co-location tenant plans to abandon or discontinue, or is required to discontinue the operation of a Wireless Communication Service Facility, such carrier will notify the City of Astoria Community Development Department by Certified U.S. Postal Service mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations.

B. Failure to Provide Notice of Abandonment.

In the event that such licensed carrier fails to give such notice, the Wireless Communication Service Facility shall be considered abandoned if the antenna or support structure is not operated for a continuous period of six (6) months. The City may request evidence of continuous operation of the Wireless Communication Service Facility. The date of abandonment shall be determined to be the date of written request of such evidence given by the City to the owner of the subject property. Such request of evidence shall be in writing and sent by Certified U.S. Postal Service mail.

C. Removal of Abandoned Facility.

(Article 15 added by Ordinance 02-07, 6-2-02)

Upon abandonment or discontinuation of use, the carrier shall physically remove the Wireless Communication Service Facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

1. Removal of antennae, mounts, equipment cabinets, security barriers, and foundations including entirety of depth of the foundation located below ground surface.

2. Restoring the location of the Wireless Communication Service Facility to a condition acceptable to the Community Development Director, except any remaining landscaping and grading.

During such 90 days, the owner may apply, and for good reason, be granted an extension of time on such terms as the Community Development Director or Building Official shall determine.

D. Failure to Remove Abandoned Facility.

If such structure and equipment enclosure are not so removed, as indicated in Section 15.075, the City may seek and obtain a court order directing such removal and impose a lien upon the real property upon which the structure(s) are situated in an amount equal to the cost of removal.

E. Abandonment of Highest Location on Antenna Support Structure.

When abandonment of the highest usable location on an antenna support structure occurs, the owner of the support structure shall have twelve (12) months from the date of abandonment to collocate another service on the support structure. If another service provider is not added to the support structure within that time period, the owner shall dismantle and remove that portion of the support structure which exceeds the point at which the highest antenna is mounted, but only if such dismantling does not affect the structural integrity of the support structure.

F. Penalties.

Recognizing the extremely hazardous situation presented by abandoned and unmonitored support structures, failure to remove an abandoned facility as required by this Sub-Section shall constitute a violation and be subject to the penalties prescribed in Astoria City Code "Penalty" Sections 1.008 to 1.015.

(Article 15 added by Ordinance 02-07, 6-2-02)

15.080. APPEALS.

A decision of the Approval Authority made pursuant to this Article may be appealed in accordance with Astoria Development Code Article 9.

15.085. FEES.

Applicant shall pay the filing fee at the time of submission of an application. Actual costs incurred in processing the application shall be billed from the filing fee. Upon final decision on an application, and after all expenses have been determined, any remaining filing fee shall be returned to the applicant.

15.090. PROCEDURES.

A. Administrative Permit.

Prior to submittal of the application, a preapplication conference with the Community Development Director or the Associate Planner is required. The Community Development Director shall determine the classification and appropriate process for any application.

1. Application for Administrative Permit.

Applicant shall submit three (3) copies of a complete application and plans; the fee; and other required information in accordance with Article 15.

2. Notice.

a. Mailed Notice.

Public notice shall be mailed to property owners of record within 500 feet of the subject property in accordance with Article 9, at least twenty (20) days prior to the issuance of a permit for the WCSF. Notice shall also be sent to those parties noted in Section 15.090.C "Notice to Other Agencies".

b. Published Notice.

In addition to the required public notice per Article 9, the City shall publish a display ad of no less than four (4) square inches in a newspaper of general circulation in the City of Astoria at the expense of

(Article 15 added by Ordinance 02-07, 6-2-02)

the applicant. The notice shall set forth the required information pertinent to the application.

3. Decision.

A decision shall be made by the Community Development Director after the notice period and after findings of fact are made that the requirements of Article 15 have been met.

A decision of the Community Development Director may be appealed to the Planning Commission in accordance with Article 9.

B. Conditional Use.

Prior to submittal of the application, a preapplication conference with the Community Development Director or the Associate Planner is required. The Community Development Director shall determine the classification and appropriate process for any application.

1. Application for Conditional Use.

Applicant shall submit three (3) copies of a complete Conditional Use application and plans, in accordance with Article 11; the fee; and other required information, in accordance with Article 15.

2. Notice.

a. Mailed Notice.

Public Notice shall be mailed to property owners within 500 feet of the proposed location described within the application. Notice shall also be sent to those parties noted in Section 15.090.C "Notice to Other Agencies".

b. Published Notice.

In addition to the required public notice per Article 9, the City shall publish a display ad of no less than four (4) square inches in a newspaper of general circulation in the City of Astoria at the expense of the applicant. The notice shall set forth the standards required and other information pertinent to the application.

3. Decision.

(Article 15 added by Ordinance 02-07, 6-2-02)

A decision shall be made in Accordance with Article 11, Conditional Use, and after findings of fact are made that the requirements of Article 15 have been met.

A decision of the Planning Commission may be appealed to the City Council in accordance with Article 9.

C. Notice to Other Agencies.

Public Notice to other agencies shall be given to the City of Astoria Public Works Director, Clatsop County Planning Department, Clatsop County Assessment and Taxation Department, U.S. Coast Guard, Port of Astoria, Oregon Department of Aviation, FAA, Regional 911 Coordinator, US Fish and Wildlife, and any special districts and local, State, or Federal agency that may have an interest in the proposed application. Written comments will be incorporated into the record of the public hearing.

D. Notice of Decision.

In addition to the requirements of Article 9, written notice of the decision shall be provided to the Regional 911 Coordinator, U.S. Coast Guard, Port of Astoria, Oregon Department of Aviation, and Clatsop County Assessment and Taxation Department.

(Article 15 added by Ordinance 02-07, 6-2-02)

Chapter 3.7
WIRELESS AND BROADCAST COMMUNICATION FACILITIES
Revised 4/19

– STANDARDS AND PROCESS

Sections:

3.7.100 Purpose and Applicability. Revised 4/19

A. Purpose. This chapter is intended to accommodate the provision of wireless and broadcast communication services and provide a uniform and comprehensive set of standards for the development, siting, and installation of wireless and broadcast communication facilities. In accordance with the guidelines and intent of Federal law and the Telecommunications Act of 1996, these regulations are intended to: (1) protect and promote the public health, safety, and welfare of the residents of Bend; (2) preserve neighborhood character and protect aesthetic quality; (3) encourage siting in preferred locations; and (4) minimize adverse visual impacts through careful design, configuration, screening, and innovative camouflaging techniques.

B. Applicability.

1. This chapter applies to the development, siting, and installation of wireless and broadcast communication facilities, including but not limited to cellular telephone facilities, broadband internet facilities, and radio and TV broadcasting facilities. This chapter in no way prohibits, restricts, or impairs the installation, maintenance, or use of video antennas (including direct-to-home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations.

2. This chapter also applies to an eligible facilities request for a modification of an existing tower or base station that does not substantially change the physical dimension of such tower or base station. See BDC 3.7.550, Eligible Facilities Request for a Modification of an Existing Tower or Base Station. [Ord. NS-2328, 2019; Ord. NS-2158, 2011; Ord. NS-2016, 2006]

3.7.200 Definitions. Revised 4/19

The following words and phrases used in this chapter, which supplement the definitions found in BDC Chapter 1.2 and elsewhere in this code, shall have the following meanings:

Antenna means any system of wires, poles, rods, reflecting discs or similar devices designed for telephonic, radio, facsimile, data, or television communications through sending and/or receiving of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include, but not be limited to, devices having active elements extending in any direction, and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted up and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be part of the antenna.

Antenna height means the vertical distance measured from the ground surface at grade to the tip of the highest point of the antenna on the proposed structure.

Antenna support means any pole, telescoping mast, tower, tripod or any other structure that supports a device used in the transmitting and/or receiving of electromagnetic waves.

Appurtenances means attachments to the tower including, but not limited to, antennas, radios, mounts, rods, and other equipment related to the operation of the wireless communication facility.

Base station means a structure or equipment at a fixed location that enables Federal Communications Commission (FCC) licensed or authorized wireless communications between user

equipment and a communications network. The term does not encompass a tower as defined in this section or any equipment associated with a tower.

1. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

2. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks).

3. The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under BDC 3.7.550, supports or houses equipment described in subsections (1) and (2) of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

4. The term does not include any structure that, at the time the relevant application is filed with the State or local government under BDC 3.7.550, does not support or house equipment described in subsections (1) and (2) of this definition.

Broadcast communication facility means any facility that transmits radio or television signals including, but not limited to, antennas, dish antennas, microwave antennas, and other types of equipment for the transmission of such signals, including towers and similar supporting structures, equipment cabinets or buildings, parking areas, and other accessory development. This definition does not apply to amateur radio stations as defined by the Federal Communications Commission, Part 97 of the Commission's Rules.

Camouflaged means any wireless or broadcast communication facility that is designed to blend into the surrounding environment. Examples of camouflaged facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, towers made to look like trees and antenna support structures designed to look like flag poles or light poles.

Co-location means locating wireless or broadcast communication equipment from more than one provider on a single support structure.

Equipment building, shelter or cabinet means a cabinet or building used to house equipment used by wireless or broadcast communication providers at a facility.

Facade-mounted antenna means an antenna architecturally integrated into the facade of a building or structure.

Facility means a wireless or broadcast communication facility.

Facility or personal wireless service facility for small wireless facilities means an antenna facility or a structure that is used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

Faux tree means a wireless or broadcast communication tower camouflaged to resemble a tree.

Guyed tower means a wireless or broadcast communication tower that is supported, in whole or in part, by guy wires and ground anchors.

High visibility means the following types of wireless or broadcast communication facilities:

1. Monopoles, lattice towers and guyed towers.

2. Any wireless or broadcast communication facilities that do not meet the definition of stealth, low visibility, or moderate visibility.

Lattice tower means a guyed or self-supporting three- or four-sided, open, steel frame support structure used to support wireless or broadcast communication equipment.

Low visibility means the following facilities if they do not exceed the height limit of the applicable zoning district, or if they do not increase the height of an existing facility:

1. Whip antennas not exceeding six feet in length or height, including mounting, and measuring no more than three inches in diameter, located on existing structures including, but not limited to, water storage tanks, high-voltage transmission towers, utility towers and poles, sign standards, and roadway overpasses, with equipment cabinets that are screened from view.

2. Facilities, including equipment cabinets, that are screened from view through the use of architectural treatments, such as cupolas, steeples, and parapets, and are consistent with existing development on adjacent properties.

3. Additions to existing permitted low visibility facilities if the additions themselves meet the definition of low visibility and are designed to minimize visibility of both the facility and equipment cabinets.

4. Changes to an existing building that are consistent with the building's architectural style and the equipment cabinets are not visible.

Maintenance means emergency or routine repairs or replacement of transmitters, antennas, or other components of previously approved wireless telecommunication facilities which do not create a significant change in visual appearance or visual impact.

Microcells provide additional coverage and capacity where there are high numbers of users within urban and suburban macrocells. The antennas for microcells are mounted at street level, typically on the external walls of existing structures, lamp-posts, and other street furniture. Microcell antennas are usually smaller than macrocell antennas, and when mounted on existing structures, can often blend into building features. Microcells provide radio coverage over distances, typically between 100 meters and 1,000 meters, and operate at power levels substantially below those of macrocells.

Moderate visibility means the following facilities if they do not exceed the height limit of the applicable zoning district, or do not increase the height of an existing facility, unless approved through a Conditional Use Permit:

1. Panel-shaped antennas not exceeding eight feet in length or height that are flush-mounted to an existing building facade or other existing structure on at least one edge, or extend a maximum of 24 inches from the building facade or other structure at any edge, do not exceed the height of the building or other structure, and are designed to blend with the color, texture, and design of the existing building or structure, with equipment cabinets that are screened from view.

2. Wireless or broadcast communication facilities that are camouflaged, such as faux trees, flag poles, and light poles; provided, that the equipment building, shelter, or cabinet for the facility is screened or camouflaged.

Monopole means a wireless or broadcast communication facility consisting of a single pole constructed for purposes of supporting one or more antennas without guy wires or ground anchors.

Neighborhood character means those unique attributes including, but not limited to, architecture, historical and cultural features, historical development patterns, landscape, hardscape, and the size, scale and spacing of buildings and other structures that define a neighborhood's identity.

Panel or directional antenna means an antenna or array of antennas designed to concentrate a radio signal in a particular area.

RF means radio frequency.

Roof-mounted antenna means any antenna with its support structure placed directly on the roof of any building or structure.

Screened means concealed from view with a sight-obscuring fence, wall or vegetation.

Service area means the area served by a single wireless or broadcast communication facility.

Side-mounted antennas means those antennas that are mounted on the side of a tower structure at any height, and includes both the antennas and equipment with protective radome coatings. This term also includes microwave dish antennas, solid or not, located at 150 feet or lower on a tower structure, regardless of the dish diameter. The term does not include solid microwave dish antennas exceeding six feet in diameter that are located above 150 feet on a tower structure.

Small top-mounted antennas means any antenna mounted on the top of a tower structure where the antenna is 20 feet or less in height and six inches or less in outside diameter.

Small wireless facility means a low-power wireless communication facility used to increase capacity to wireless communication demand areas or provide infill coverage in areas of weak reception, including a separate transmitting and receiving station serving the facility, or that is considered a small wireless facility under Federal law.

Speculation tower means an antenna support structure designed for the purpose of providing location mounts for wireless or broadcast communication facilities, without a binding written commitment or executed lease from a service provider to utilize or lease space on the tower at the time the application is submitted.

Stealth means facilities, including, but not limited to, microcells, antennas, equipment cabinets, and any other ancillary equipment that cannot be seen from any street or any adjacent property, improved or unimproved, and that do not result in any apparent architectural changes or additions to existing buildings. The addition of landscaping, walls, fences, or grading as screening techniques does not make an otherwise visible facility a stealth facility.

Structure means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or commingled with other types of services).

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Tower or **telecommunications tower** means any mast, pole, monopole, guyed tower, lattice tower, freestanding tower, or other structure designed and primarily used to support antennas.

Whip antenna means an antenna that transmits or receives signals in 360 degrees. Whip antennas are typically cylindrical in shape, less than three inches in diameter and no more than six feet long, including the mounting.

Wireless communication facility means any facility that transmits and/or receives electromagnetic waves, including, but not limited to, antennas, dish antennas, microwave antennas, and other types of equipment for the transmission or receipt of such signals, including telecommunications towers and similar supporting structures, equipment cabinets or buildings, parking areas, and other accessory development. This definition does not apply to amateur radio stations as defined by the Federal Communications Commission, Part 97 of the Commission's Rules. [Ord. NS-2328, 2019; Ord. NS-2158, 2011; Ord. NS-2016, 2006]

3.7.300 Application Requirements. Revised 4/19

Applicants for small wireless facilities must submit an application demonstrating compliance with BDC 3.7.500(A)(2). Applicants for eligible facilities requests must submit an application in compliance with BDC 3.7.550. All other applications for a wireless or broadcast communication facility must provide the following reports, documents or documentation:

A. Geographic Service Area. The applicant must submit a map showing all the applicant's existing sites in the City. Prior to the issuance of any building permits, applicants for AM, FM, HDFM, TV, and DTV projects must provide a copy of the corresponding FCC construction permit or license for the facility being built or relocated.

B. Visual Impact and Alternative Site Analysis. The applicant must provide a visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette, and proposed screening for all components of the facility. The analysis must include photo simulations and other information as necessary to determine visual impact of the facility as seen from multiple directions. The applicant must include a map showing where the photos were taken. Except for Type I applications, the applicant must include an analysis of alternative sites for the facility within and outside of the City that are capable of meeting the same service objectives as the preferred site with an equivalent or lesser visual impact. If a new tower is proposed, the applicant must demonstrate the need for a new tower and why alternative locations cannot be used to meet the identified service objectives.

C. Narrative. The application must include a written narrative that describes in detail all of the equipment and components to be included in the facility, e.g., antenna(s) and arrays, equipment cabinet(s), back-up generator(s), air-conditioning unit(s), lighting, fencing, etc. The following information must also be provided:

1. Height. Provide an engineer's diagram showing the height of the facility and all of its visible components. Carriers must provide evidence that establishes that the proposed facilities are designed to the minimum height required from a technological standpoint for the proposed site to meet the carrier's coverage objectives. If the tower height will exceed the base height restrictions of the applicable zone, this narrative must include a discussion of the physical constraints (topographical features, etc.) making the additional height necessary. The narrative must include consideration of the possibility for design alternatives, including the use of multiple sites or microcell technology that would avoid the need for the new facility or the requested height.

2. Construction. Describe the anticipated construction techniques and time frame for construction or installation of the facilities. This narrative must include all temporary staging and the type of vehicles and equipment to be used.

3. Maintenance. Describe the anticipated maintenance and monitoring program for the antennas, back-up equipment, and landscaping.

4. Noise/Acoustical Information. Provide manufacturer's specifications for all noise-generating equipment such as air-conditioning units and back-up generators, and a depiction of the equipment location in relation to adjoining properties.

5. Landscape Plan. Provide a plan showing all proposed landscaping, screening and proposed irrigation with a discussion of how the chosen materials at maturity will screen the site.

6. Parking. Provide a site plan showing the designated parking area for maintenance vehicles and equipment.

7. Co-location. In the case of new multi-user towers or similar support structures, the applicant must submit engineering feasibility data and a letter stating the applicant's willingness to allow other carriers to co-locate on the proposed facilities wherever technically and economically feasible and aesthetically desirable.

8. Lease. The site plan must show the lease area of the proposed facility.

9. FCC License. Provide a copy of the applicant's FCC license and/or construction permit, if an FCC license and/or construction permit is required for the proposed facility, including documentation showing that the applicant is in compliance with all FCC RF emissions safety standards.

10. Lighting and Marking. Any proposed lighting and marking of the facility, including any required by the FAA. [Ord. NS-2328, 2019; Ord. NS-2158, 2011; Ord. NS-2016, 2006]

3.7.400 General Regulations. Revised 4/19

All applications for wireless and broadcast communication facilities are subject to the following requirements and regulations:

A. Maximum Number of High Visibility Facilities per Lot or Parcel. No more than one high visibility facility is allowed on any one lot or parcel. The Planning Commission may approve exceeding the maximum number of high visibility facilities per lot or parcel if one of the following findings is made through a Type III review process: (1) co-location of additional high visibility facilities is consistent with neighborhood character, (2) the provider has shown that denial of an application for additional high visibility facilities would have the effect of prohibiting service because the facility would fill a significant gap in coverage and no alternative locations are available and technologically feasible, or (3) the provider has shown that denial of an application for additional high visibility facilities would unreasonably discriminate among providers of functionally equivalent services. In such cases, the Planning Commission is the review authority for all related applications (e.g., Wireless or Broadcast Communication Facility Site Plan, Conditional Use Permit).

B. Towers Adjacent to Residentially Designated Property. In order to ensure public safety, all wireless and broadcast communication towers located adjacent to any property designated as Residential on the Bend Comprehensive Plan Map must be set back from all residential property lines by a distance at least equal to the height of the facility, including any antennas or other appurtenances. The setback is measured from that part of the tower that is closest to the neighboring residentially designated property.

C. High visibility facilities require a Conditional Use Permit on any property designated as Residential on the Bend Comprehensive Plan Map, or designated Public Facilities (PF) on the Bend Comprehensive Plan Map but developed as a residential subdivision.

D. Historical Buildings and Structures. No facility is allowed on any building or structure, or in any district, that is listed on any Federal, State or local historical register unless it is determined by the Review Authority that the facility will have no adverse effect on the appearance of the building,

structure, or district. No change in architecture and no high visibility facilities are permitted on any such building, any such site, or in any such district.

E. Equipment Location. No tower or equipment can be located in a front, rear, or side yard setback in any zone, and no portion of any antenna array can extend beyond the property lines. For guyed towers, all guy anchors must be located at least 50 feet from all abutting properties.

F. Tower Heights. Towers may exceed the height limits otherwise provided for in the Development Code. However, all towers greater than the height limit of the underlying zone require a Conditional Use Permit application (Type II process).

1. Exemption to Conditional Use Permit.

a. Type I small wireless facilities in the public right-of-way or in a public utility easement on an existing or replacement utility or light pole.

G. Accessory Building Size. All accessory buildings and structures built to contain equipment accessory to a wireless or broadcast communication facility may not exceed 12 feet in height unless a greater height is necessary and required by a condition of approval to maximize architectural integration. Each accessory building or structure located on any property designated as Public Facilities or Residential on the Bend Comprehensive Plan Map is limited to 200 square feet, unless approved through a Conditional Use Permit.

H. Visual Impact. All facilities must be designed to minimize the visual impact to the greatest extent practicable by means of placement, screening, landscaping, and camouflage. All facilities must also be designed to be compatible with existing architectural elements, building materials, and other site characteristics. The applicant must use the least visible antennas reasonably available to accomplish the coverage objectives. All high visibility facilities must be sited in such a manner as to cause the least detriment to the viewshed of adjoining properties, neighboring properties, and distant properties.

1. Exemption.

a. Small wireless facilities on an existing or replacement utility pole, light pole or structure.

I. Colors and materials for facilities must be nonreflective and chosen to minimize visibility. Facilities, including support equipment and buildings, must be painted, colored or textured using colors to match or blend with the primary background, unless required by any other applicable law.

J. All camouflaged facilities must be designed to visually and operationally blend into the surrounding area in a manner consistent with existing development on adjacent properties. The facility

must also be appropriate for the specific site. In other words, it should not "stand out" from its surrounding environment.

K. Facade-mounted antennas must be architecturally integrated into the building design and otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Facade-mounted antennas must not extend more than two feet out from the building face.

L. Roof-mounted antennas must be constructed at the minimum height possible to serve the operator's service area and be set back as far from the building edge as possible or otherwise screened to minimize visibility from the public right-of-way and adjacent properties.

M. Compliance with Photo Simulations. As a condition of approval and prior to final inspection of the facility, the applicant must submit evidence, such as photos, to the satisfaction of the City sufficient to prove that the facility is in substantial conformance with photo simulations provided with the application. Nonconformance requires modification to compliance within 90 days or the structure must be removed.

N. Noise from any equipment supporting the facility must meet the requirements of BC Chapter 5.50, Noise.

O. No signs, striping, graphics, or other attention-getting devices are permitted on any wireless or broadcast communication facility except for warning and safety signage with a surface area of no more than three square feet. Signs must be affixed to a fence or ancillary facility and limited to no more than two signs unless more are required by law.

P. Traffic Obstruction. Maintenance vehicles servicing facilities located in the public or private right-of-way cannot park on the traveled way or in a manner that obstructs traffic.

Q. No net loss in required parking spaces can occur as a result of the installation of any wireless or broadcast communication facility.

R. Sidewalks and Pathways. Cabinets and other equipment must not impair pedestrian use of sidewalks or other pedestrian paths or bikeways on public or private land and must be screened from view.

S. Lighting. Wireless or broadcast communication facilities cannot include any beacon lights or strobe lights, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If beacon lights or strobe lights are required, the Review Authority shall review the available

alternatives and approve the design with the least visual impact. All other site lighting for security and maintenance purposes must be shielded and directed downward, and must comply with the outdoor lighting standards in BDC 3.5.200, unless otherwise required under Federal law.

T. Speculation. No application can be accepted or approved for a speculation tower, i.e., from an applicant that simply constructs towers and leases tower space to service providers, but is not a service provider, unless the applicant submits a binding written commitment or executed lease from a service provider to utilize or lease space on the tower. [Ord. NS-2328, 2019; Ord. NS-2271, 2016; Ord. NS-2251, 2015; Ord. NS-2158, 2011; Ord. NS-2016, 2006]

3.7.500 Review Process and Approval Standards. Revised 4/19

A. Type I Process. The following facilities are allowed with the approval of a Wireless or Broadcast Communication Facility Site Plan pursuant to a Type I process under BDC Chapter 4.1, Development Review and Procedures:

1. Stealth and Low Visibility Facilities.

2. Small Wireless Facilities.

a. Small wireless facilities proposed in the public right-of-way or in a public utility easement on an existing or replacement utility or light pole, so long as they meet all of the following:

i. The facilities:

(A) Are mounted on existing or replacement structures 50 feet or less in height including their antennas; or

(B) Are mounted on existing or replacement structures no more than 10 percent taller than other adjacent structures; or

(C) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

ii. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume.

iii. All other wireless equipment associated with the facility, including the wireless equipment associated with the antenna and any preexisting associated equipment on the facility, is no more than 28 cubic feet in volume.

iv. The facilities do not result in human exposure to radio frequency radiation in excess of the applicable FCC safety standards.

v. Comply with Part II, Section 8 of the City of Bend Standards and Specifications when located in the public right-of-way or public utility easement.

b. Small wireless facilities proposed on private property on an existing or replacement utility pole, light pole or structure, so long as they meet all of the following:

i. The facilities do not exceed the height limits of the underlying zone or as otherwise authorized by Federal law.

ii. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume.

iii. All other wireless equipment associated with the facility, including the wireless equipment associated with the antenna and any preexisting associated equipment on the facility, is no more than 28 cubic feet in volume.

iv. The facilities do not result in human exposure to radio frequency radiation in excess of the applicable FCC safety standards.

v. Comply with Part II, Section 8 of the City of Bend Standards and Specifications.

3. Facade-mounted antennas or low-powered networked telecommunications facilities, such as those employing microcell antennas, integrated into the architecture of an existing building in such a manner that no change to the architecture is apparent and no part of the facility is visible to public view.

4. Antennas or arrays that are hidden from public view through the use of architectural treatments, e.g., within a cupola, steeple, or parapet which is consistent with the applicable building height limitation.

5. New antennas or arrays that are attached to an existing broadcast communication facility located in any zone; provided, that they do not exceed the following "safe harbor" parameters:

a. Side-mounted antennas.

b. Small top-mounted antennas. No more than three small top-mounted antennas can be placed on the top of any one broadcast communication facility without a Type II review.

6. To minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location of antennas or arrays on existing towers takes precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:

a. An existing tower may be modified or rebuilt to a taller height to accommodate the co-location of additional antennas or arrays, as long as the modified or rebuilt tower will not exceed the height limit of the applicable zoning district. The height change may only occur one time per tower.

b. An existing tower that is modified or reconstructed to accommodate the co-location of additional antennas or arrays must be of the same tower type and reconstructed in the exact same location as the existing tower.

B. Type II Process. The following facilities are allowed with the approval of a Wireless or Broadcast Communication Facility Site Plan pursuant to a Type II process under BDC Chapter 4.1, Development Review and Procedures:

1. High visibility facilities located on any property designated as Commercial, Industrial, Public Facilities, or Mixed-Use on the Bend Comprehensive Plan Map and at least 500 feet from any property designated as Residential on the Bend Comprehensive Plan Map.

2. Moderate visibility facilities that do not exceed the height limit of the applicable zone.

3. New antennas or arrays that are attached to an existing broadcast communication facility located in any zone which exceed the "safe harbor" parameters of subsection (A)(5)(a) or (b) of this section.

4. Small wireless facilities that exceed the thresholds in BDC 3.7.500(A)(2).

C. Conditional Use Permit Requirements. Applications for wireless or broadcast communication facilities in all other locations and situations including moderate or high visibility facilities that exceed the height limit of the applicable zone also require a Conditional Use Permit (Type II process). In addition to the approval standards in BDC Chapter 4.4, Conditional Use Permits, the applicant must demonstrate that the Wireless or Broadcast Communication Facility Site Plan approval standards in subsections (D)(2) through (5) of this section are met.

D. Approval Criteria. The City may approve the use and Wireless or Broadcast Communication Facility Site Plan for any of the facilities listed in subsections (B) and (C) of this section upon a

determination that the following criteria are met:

1. The height of the proposed tower or facility does not exceed the height limit of the underlying zoning district, or does not increase the height of an existing facility.

2. The location is the least visible of other possible locations and technological design options that achieve approximately the same signal coverage objectives.

3. The location, size, design, and operating characteristics of the proposed facility will be compatible with adjacent uses, residences, buildings, and structures, with consideration given to:

a. Scale, bulk, coverage and density;

b. The harmful effect, if any, upon neighboring properties;

c. The suitability of the site for the type and intensity of the proposed facility; and

d. Any other relevant impact of the proposed use in the setting where it is proposed.

4. All required public facilities have adequate capacity, as determined by the City, to serve the proposed wireless or broadcast communication facility.

5. The proposed wireless or broadcast communication facility complies with all of the general regulations contained in BDC 3.7.400.

6. Small wireless facilities must comply with Part II, Section 8 of the City of Bend Standards and Specifications.

E. Conditions of Approval. The City may impose any other reasonable condition(s) deemed necessary to achieve compliance with the approval standards, including designation of an alternate location, or if compliance with all of the applicable approval criteria cannot be achieved through the imposition of reasonable conditions, the application must be denied.

F. Time Frame for Review. Within the time limits imposed by State or Federal law, less any time period that may be excluded by State or Federal law, the Review Authority must approve the application unless the Review Authority determines that the application is not covered by this chapter or does not comply with applicable standards. [Ord. NS-2328, 2019; Ord. NS-2271, 2016; Ord. NS-2251, 2015; Ord. NS-2158, 2011; Ord. NS-2016, 2006]

3.7.550 Eligible Facilities Request for a Modification of an Existing Tower or Base Station. Revised 4/19

A. Applicability. An applicant may submit an eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimension of such tower or base station that involves:

1. Collocation of new transmission equipment;

2. Removal of transmission equipment; or

3. Replacement of transmission equipment.

For purposes of this subsection, "collocation" means (a) mounting or installing an antenna facility on a preexisting structure, and/or (b) modifying a structure for the purpose of mounting or installing an antenna facility on that structure; provided, that, for purposes of eligible facilities requests, "collocation" means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

B. Type I Process. An eligible facilities request for a modification of an existing tower or base station that does not substantially change the physical dimension of such tower or base station is reviewed pursuant to a Type I process under BDC Chapter 4.1, Development Review and Procedures.

C. The applicant must provide documentation or information to verify whether the request is not a substantial change. A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following:

1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna, not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10 percent or more than 10 feet, whichever is greater;

a. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act;

2. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure;

4. It entails any excavation or deployment outside the current site;

5. It would defeat the concealment elements of the eligible support structure; or

6. It does not comply with the conditions of approval associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided, however, that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in subsections (C)(1) through (4) of this section.

D. Approval Criteria. The City may approve an eligible facilities request for a modification of an existing wireless tower or base station upon a determination that the following criterion is met:

1. The eligible facilities request for a modification of an existing tower or base station does not substantially change the physical dimension of such tower or base station.

E. Conditions of Approval. The City may impose any other reasonable condition(s) deemed necessary to achieve compliance with the approval standards, or if compliance with the applicable approval criteria cannot be achieved through the imposition of reasonable conditions, the application must be denied.

F. Time Frame for Review. Within the time limits imposed by State or Federal law, less any time period that may be excluded by State or Federal law, the Review Authority must approve the application unless the Review Authority determines that the application is not covered by this chapter or does not comply with applicable standards. [Ord. NS-2328, 2019]

3.7.600 Exemptions. Revised 4/19

The following are exempt structures or activities under this chapter:

A. Whip or other similar antennas no taller than six feet with a maximum diameter of two inches.

B. Antennas (including direct-to-home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations regardless of zone category.

C. Low-powered networked telecommunications facilities such as microcell radio transceivers located on existing utility poles and light standards within public right-of-way. Low-powered networked telecommunications facilities must comply with this chapter.

D. All military, Federal, State, and local government communication facilities except for towers.

E. Cells on Wheels (COW), which are permitted as temporary uses in nonresidential zones for a period not to exceed 180 days, in residential zones for a period not to exceed 14 days, or during a period of emergency as declared by the City, County, or State.

F. Replacement antennas or equipment, provided the replacement antennas and/or equipment (1) have a function similar to the replaced antenna and/or equipment and do not exceed the overall size of the original antenna and/or equipment or (2) the replacement equipment will be located in an existing cabinet or base station. [Ord. NS-2328, 2019; Ord. NS-2158, 2011; Ord. NS-2016, 2006]

3.7.700 Maintenance. Revised 4/19

The following maintenance requirements apply to all facilities:

A. All landscaping must be maintained at all times and be promptly replaced if not successful.

B. If a flag pole is used for camouflaging a facility, flags must be flown and must be properly maintained at all times.

C. All wireless and broadcast communication sites must be kept clean and free of litter.

D. All wireless and broadcast communication sites must maintain compliance with current RF emission standards of the FCC, the National Electric Safety Code, and all State and local regulations.

E. All equipment cabinets must display a legible operator's contact number for reporting maintenance problems. [Ord. NS-2328, 2019; Ord. NS-2158, 2011; Ord. NS-2016, 2006]

3.7.800 Inspections. Revised 4/19

A. The City or its agents have authority to enter onto the property upon which a wireless or broadcast communication facility is located to inspect the facility for the purpose of determining whether it complies with the Building Code and all other construction standards provided by the City and Federal and State law.

B. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the wireless or broadcast communication facility owner. In the event such inspection results in a determination that violation of applicable construction and maintenance standards set forth by the City has occurred, remedy of the violation may include cost recovery for all costs incurred in confirming and processing the violation. [Ord. NS-2328, 2019; Ord. NS-2158, 2011; Ord. NS-2016, 2006]

3.7.900 Preexisting Towers. Revised 4/19

Towers that lawfully existed prior to the adoption of this chapter are allowed to continue their use as they presently exist. This code does not make lawful any towers that are not lawfully approved on the date the ordinance codified in this code is adopted. Routine maintenance is permitted on such lawful preexisting towers.

Lawfully existing towers may be replaced as long as the replacement is located on the same property, no closer to the nearest property line than the existing tower, no taller than the existing tower, has a width no more than 10 percent larger than the existing tower and has identical lighting and painting. The tower being replaced must be removed within 30 days of completion of the replacement tower. Any other changes or modifications to a replacement tower must be treated as new construction, and must comply with the requirements of this chapter. [Ord. NS-2328, 2019; Ord. NS-2158, 2011; Ord. NS-2016, 2006]

3.7.1000 Abandonment or Discontinuation of Use. Revised 4/19

The following requirements apply to the abandonment and/or discontinuation of use for all facilities:

A. All facilities located on a utility pole must be promptly removed at the operator's expense at any time a utility is scheduled to be placed underground or otherwise moved.

B. All operators who intend to abandon or discontinue the use of any wireless or broadcast communication facility must notify the City of such intentions no less than 60 days prior to the final day of use.

C. Wireless or broadcast communication facilities are considered abandoned 90 days following the final day of use or operation.

D. All abandoned facilities must be physically removed by the facility owner no more than 90 days following the final day of use or of determination that the facility has been abandoned, whichever occurs first.

E. The City reserves the right to remove any facilities that are abandoned for more than 90 days at the expense of the facility owner.

F. Any abandoned site must be restored to its natural or former condition. Grading and landscaping in good condition may remain. [Ord. NS-2328, 2019; Ord. NS-2158, 2011; Ord. NS-2016, 2006]

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g. Only one ADU shall be allowed on a lot, parcel, or lot of record. However, on properties containing multiple detached single-family dwellings, one ADU shall be permitted per detached single-family dwelling provided that each ADU is attached to the primary dwelling unit.

[Section 4.9.40 amended by Ordinance 2012-16, effective December 13, 2012; amended by Ordinance 2014-18, effective December 11, 2014; amended by Ordinance 2018-16, effective June 25, 2018; amended by Ordinance 2020-04, effective March 3, 2020]

Section 4.9.50 - EXCEPTIONS TO BUILDING HEIGHTS AND PROJECTIONS

4.9.50.01 - General Exceptions to the Building Height Limitations -

Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, and other similar objects not used for human occupancy are subject to the height limitations specified in each zone. Such structures exceeding a zone's height limitations may be permitted subject to Chapter 2.13 - Plan Compatibility Review, and upon a finding by the State of Oregon Aeronautics Division that the proposed structure does not pose a hazard to air traffic.

Flagpoles are subject to Section 4.7.70.b of Chapter 4.7 - Sign Regulations, which limits their height to 20 ft. or 110 percent of the maximum height of a primary structure, whichever is greater. Wireless Telecommunication Facilities are subject to Section 4.9.60 below.

4.9.50.02 - Projections from Buildings -

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, fireplaces, and flues may project up to three ft. into a required yard, provided that a minimum 30 in. setback is maintained from any property line. Larger encroachments into front yard areas are allowed in residential zones, as specified in those zoning chapters of this Code. However, no architectural features shall be located within a Vision Clearance Area as defined by the City Engineer. For the purposes of this Section, Architectural Features shall not include any portion of a structure built for the support, conveyance, occupancy, shelter, or enclosure of persons, chattels, or property of any kind.

Section 4.9.60 - WIRELESS TELECOMMUNICATION FACILITIES

4.9.60.01 - Siting Criteria and Review Procedures -

Wireless Telecommunication Facilities, as defined in Chapter 3.0 - Use Classifications, may be permitted outright, may require Plan Compatibility Review in accordance with

Chapter 2.13 - Plan Compatibility Review, or may require Conditional Development approval in accordance with Chapter 2.3 - Conditional Development, depending on the type of facility, such as Colocated/attached or Freestanding, and its proposed location. Uses that are permitted outright require Building Permits only.

All facilities that have a Willamette River Greenway Overlay are subject to the provisions of Chapter 3.30 - Willamette River Greenway (WRG) Overlay. All facilities located on Designated Historic Resources are subject to the provisions of Chapter 2.9 - Historic Preservation Provisions. All Wireless Telecommunication Facilities and their related appurtenances located in areas with a Planned Development Overlay, except those within residential zones, are exempt from the requirements to have an approved Conceptual Development Plan and/or Detailed Development Plan in accordance with sections 2.5.40 and 2.5.50 of Chapter 2.5 - Planned Development. Facilities proposed for location in residential zones with a Planned Development Overlay shall be treated as a Minor Modification to the approved Conceptual and/or Detailed Development Plan, and processed accordingly.

4.9.60.02 - Standard Requirements -

All Wireless Telecommunication Facilities must demonstrate compliance with the following standard requirements prior to a City-required final inspection. Only alternative setbacks and spacing requirements are allowed, provided they are approved under the Conditional Development process in accordance with Chapter 2.3 - Conditional Development.

a. **Height** - No Wireless Telecommunication Facility shall exceed 150 ft. in height except where attached to an existing structure that exceeds 150 ft. in height and the attached antennas do not increase the total height of that structure. All Wireless Telecommunication Facilities are exempt from the provisions in Section 4.9.50. Additional height limitations are defined under allowed uses for individual development zones - Chapter 3.1 - RS-3.5 (Low Density) Zone through Chapter 3.38 - Conservation-Open Space (C-OS) Zone.

b. **Setbacks** -

1. Setbacks for Freestanding Wireless Telecommunication Facilities, including associated ground-level equipment, are as follows:

    a) A facility shall be set back by a distance greater than or equal to two times the height of the facility structure, including attached antennas, from the nearest property line of any property that either contains an existing Residential Use or is located in a residential development zone.

b) A facility located on a site adjacent to the Corvallis Gateway Corridor, defined as the rights-of-way of highways 99W and 20/34 that are within the Corvallis City limits, shall be set back from the right-of-way by a distance greater than or equal to three times the height of the facility structure, including attached antennas.

c) All said facilities shall comply with the setback requirements of the underlying development zone.

2. Ground-level equipment associated with colocated/attached Wireless Telecommunication Facilities shall meet the setback requirements of the underlying development zone. When the ground-level equipment is on a site abutting a residential zone or an existing Residential Use, this equipment shall be set back from the nearby residential property line(s) by at least 25 ft.

c. Spacing -

1. A facility greater than or equal to 100 ft. in height, including attached antennas, must be separated from other Freestanding Wireless Telecommunication Facilities by at least 3,000 ft.

2. A facility between 51 and 99 ft. in height, including attached antennas, must be separated from other Freestanding Wireless Telecommunication Facilities by at least 1,500 ft.

3. A facility under 51 ft. in height, including attached antennas, must be separated from other Freestanding Wireless Telecommunication Facilities by at least the height of the facility's structure.

d. Colocation -

1. A Freestanding Wireless Telecommunication Facility shall be approved only if the applicant demonstrates that it is not feasible to site the facility on an existing structure. The application shall document that alternative sites within a radius of least 2,000 ft. have been considered and are technologically unfeasible or unavailable. The application also must document why colocation is impractical on existing structures for one or more of the following reasons: structural support limitations, safety considerations, lack of available space, failure to meet service coverage area needs, or unreasonable economic constraints.

2. Freestanding Wireless Telecommunication Facilities shall be designed to accommodate future colocation, as follows:

a) Facilities up to 120 ft. in height shall accommodate at least two facilities/providers.

b) Facilities between 120 ft. and 150 ft. in height shall be designed to accommodate at least three facilities/providers.

e. **Compliance with Emission Standards** - All facility applications shall contain documentation showing that the emissions of the proposed facility, and the cumulative emissions of the facility and any colocated or nearby facilities, will meet the occupational/controlled and general population/uncontrolled electromagnetic radiation emission standards established by the Federal Communications Commission, 47 CFR §1.1310. as amended.

f. **Painting** - All facilities shall be painted in a non-reflective color to match the existing or attached structure and/or to blend into the surrounding environment. Alternative neutral colors may be approved by the Director.

g. **Landscaping/Screening** - All ground-level facilities shall be screened in accordance with the provisions in Section 4.2.50 of Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting.

h. **Noise Reduction** - All applications shall contain documentation showing that the noise levels from the proposed facility will meet the following standards:

1. A facility located on a site adjacent to a residential development zone or existing Residential Uses must limit noise levels to 35 DBA or less, as measured at the residential property line(s).

2. A facility located on any other site must comply with the industrial and commercial quiet-area noise standards established by the Oregon State Department of Environmental Quality, OAR 340-35-035, Table 9, as amended.

i. **Lighting** - No lighting of Wireless Telecommunication Facilities is allowed, except as required by the Federal Aviation Administration (FAA). Required lighting shall be shielded from the ground, to the extent practicable. The application for a facility subject to FAA requirements shall document compliance with FAA requirements.

j. **Signage** - Warning and safety signs, up to three sq. ft. in area, are allowed. All other signs are prohibited.

k. **Site Access** - Site access is subject to the provisions in Section 4.1.40 of Chapter 4.1 - Parking, Loading, and Access Requirements. The facility operator shall implement measures to prohibit unauthorized site access.

l. **Decommissioning** - A facility shall be removed by the facility owner or operator within six months from the date the facility ceases to be operational. The Director may grant a six-month extension to this requirement. Requests for extensions must be in writing and must be received by the Director within the initial six-month period. The property owner shall bear the ultimate responsibility for removal of decommissioned facilities.

m. **Landscaping, Natural Hazards, Minimum Assured Development Area (MADA), and Natural Resources** - Landscaping, Natural Hazards, Minimum Assured Development Area (MADA), and Natural Resources shall be addressed in accordance with Chapter 2.11 - Floodplain Development Permit, Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Floodplain Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, Chapter 4.13 - Riparian Corridor and Wetland Provisions, and Chapter 4.14 - Landslide Hazard and Hillside Development Provisions.

Section 4.9.70 - COMMERCIAL DAY CARE AND SCHOOL FACILITY REGULATIONS

Area Per Child - A minimum of 2,500 sq. ft. of outdoor play area shall be provided for 15 or fewer children, with 75 additional sq. ft. provided for each additional child. Any such play area within or abutting a residential zone or residential land uses shall be enclosed by a decorative wood fence or masonry wall, and shall have a minimum width of five ft. of landscape screening in accordance with the landscape screening provisions in Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting. The height of such fencing and landscape screening shall be a minimum of six ft. Where access to Commercial Day Care facilities is provided by other than local streets, an off-street vehicular bay or driveway shall be provided for the purpose of loading and unloading children. There shall be an indoor floor space reserved for play and/or school purposes of 40 sq. ft. per child.

Section 4.9.80 - HOUSING TYPE VARIATION REQUIREMENTS PER RESIDENTIAL ZONE

A variety of Housing Types shall be provided for residential developments, in accordance with the provisions this Section, including the provisions in Table 4.9-1 - Options A and B for Developments Five - 10 Acres, Table 4.9-2 - Options A and B for Developments Greater than 10 acres, and Table 4.9-3 - Allowed Housing Types by Zone.

9.5750

Telecommunication Devices – Siting Requirements and Procedures.

(1) *Purpose.* The provisions of this section are intended to ensure that telecommunication facilities are located, installed, maintained and removed in a manner that:

(a) Minimizes the number of transmission towers throughout the community;

(b) Encourages the collocation of telecommunication facilities;

(c) Encourages the use of existing buildings, light or utility poles or water towers as opposed to construction of new telecommunication towers;

(d) Recognizes the need of telecommunication providers to build out their systems over time; and

(e) Ensures that all telecommunication facilities, including towers, antennas, and ancillary facilities are located and designed to minimize the visual impact on the immediate surroundings and throughout the community, and minimize public inconvenience and disruption. Nothing in this section shall apply to amateur radio antennas, or facilities used exclusively for the transmission of television and radio signals.

(2) *Siting Restricted.* No telecommunication facility, as defined in this land use code, may be constructed, modified to increase its height, installed or otherwise located within the city except as provided in this section. Depending on the type and location of the telecommunication facility, the telecommunication facility shall be either an outright permitted use, subject to site review procedures, or require a conditional use permit.

(a) *Outright Permitted Uses.* No land use permit is required for a telecommunication facility which, pursuant to subsections (3) through (5) of this section, is an outright permitted use. Such a telecommunication facility shall require only a development permit or permits.

(b) *Site Review.* A telecommunication facility which, pursuant to subsections (3)through (5) of this section, is subject to site review shall be processed in accordance with the site review procedures of this land use code. The criteria contained in this section, as well as the criteria contained in EC 9.8440 Site Review Approval Criteria – General, shall govern approval or denial of the site review application. In the event of a conflict in criteria, the criteria contained in this section shall govern. No development permit shall be issued prior to completion of the site review process, including any local appeal.

(c) *Conditional Use Permit.* A telecommunication facility which, pursuant to subsections (4) or (5) of this section, requires a conditional use permit shall be processed in accordance with the conditional use permit procedures of this land use code, except that the variance provisions shall not apply. The criteria contained in

EC 9.8090 Conditional Use Permit Approval Criteria – General and subsections (6)and (7) of this section shall govern approval or denial of the conditional use permit application. In the event of a conflict in criteria, the criteria contained in subsections (6) and (7) of this section shall govern. No development permit shall be issued prior to completion of the conditional use permit process, including any local appeal.

(3) *Collocation of Additional Antennas on Existing Transmission Tower.*

(a) *Permitted Use.* Collocation of an additional antenna on an existing transmission tower shall be considered an outright permitted use if property is zoned GO, PL, S, C-2, C-3, E-1, E-2, I-2, or I-3 or if the transmission tower is in any other zone and the city specifically approved, as part of a prior land use process authorizing the transmission tower, collocation of additional antennas.

(b) *Site Review.* Collocation of an additional antenna on an existing transmission tower shall be subject to site review approval if property is zoned AG, R-1, C-1 or PRO and approval for collocation was not granted through a prior land use process.

(4) *Collocation of Antennas on Existing Buildings, Light or Utility Poles, and Water Towers.* In addition to collocation on a transmission tower, an antenna may be collocated on existing buildings, light or utility poles, and water towers.

(a) *Permitted Use.* Such collocation on a building, light or utility pole, or water tower, shall be considered an outright permitted use provided that the antennas and ancillary facilities comply with the standards contained in EC 9.5750Telecommunications Devices-Siting Requirements and Procedures, the color of the antennas blends in with the existing structure and surroundings, and one of the following is met:

1. The property is zoned PL, C-2, C-3, R-4, E-1, E-2, I-2, I-3, or S-WS and the antennas do not exceed the height limitation of the zone; or

2. The property is zoned AG, R-1, R-2, R-3, C-1, GO, S (except as provided in 1., above), H, or PRO, and the antennas extend no more than 18 feet above, and project no more than 2 feet horizontally away from the existing structure.

(b) *Site Review.* Such collocation on a building, light or utility pole, or water tower shall be subject to site review approval provided that the antennas and ancillary facilities comply with the standards contained in EC 9.5750 Telecommunications Devices-Siting Requirements and Procedures, the color of the antennas blend in with the existing structure and surroundings, and:

1. The property is zoned AG, R-1, R-2, R-3, C-1, GO, S (other than S-WS), H, or PRO, and the antennas extend more than 18 feet above, or project more than 2 feet horizontally away from the existing structure.

(c) *Conditional Use Permit.* In all cases other than those listed in subparagraphs (a) and (b), such collocation shall require a conditional use permit. No exceptions to the standards contained in EC 9.5750 Telecommunications Devices-Siting Requirements and Procedures shall be permitted except as authorized by subsection (9) of this

section. In no event shall a conditional use permit authorize a tower or antennas to exceed the height limitation for a zone as established by Chapter 9 except as provided for in this section.

(5) *Construction of Transmission Tower.* Construction of a transmission tower, or a modification of an existing transmission tower to increase its height, shall be allowed as follows:

(a) *Permitted Use.*

1. Such construction or modification shall be considered an outright permitted use in the E-1, E-2, I-2 and I-3 zone.

2. Modification to increase the height of an existing transmission tower shall be considered an outright permitted use in all other zones if the city approved an increase in tower height, as part of a prior land use process authorizing the transmission tower. The increase in height allowed under this paragraph shall be limited to the specific height authorized in the prior land use process.

(b) *Site Review.* Such construction shall require site review approval in the PL, C-2, C-3, and S-WS zones.

(c) *Conditional Use Permit.* Such construction shall require a conditional use permit in the R-1, C-1, S (other than S-WS) and GO zones.

(d) *Prohibited Zones and Locations.* No new transmission tower shall be permitted in any zones not included in subparagraphs (a) to (c) above, including the AG, R-2, R-3, R-4, H, NR, and PRO zones; or in the Willamette Greenway, on Gillespie Butte above the elevation of 450 feet, on the ridgeline as defined in the South Hills Study or on Judkins Point.

(6) *Application Requirements.*

(a) *Collocation of Antennas.* In addition to standard required application material, an applicant for collocation of antennas shall submit the following information; additional application material is required, as specified in paragraph (c) below, for applications requiring a site review or conditional use process.

1. A description of the proposed antennas location, design and height.

2. Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC) particularly with respect to any habitable areas within the structure on which the antennas are co-locating on or in structures directly across from or adjacent to the antennas.

3. A statement documenting that placement of the antenna is designed to allow future collocation of additional antennas if technologically possible.

4. Documentation that the ancillary facilities will not produce sound levels in excess of those standards specified in subsection (7)(f) of this section, or designs showing how the sound is to be effectively muffled and reduced pursuant to those standards.

5. Plans showing the connection to utilities/right-of-way cuts required, ownership of utilities and easements required.

6. Documents demonstrating that necessary easements have been obtained.

7. Plans showing how vehicle access will be provided.

8. Signature of the property owner(s) on the application form or a statement from the property owner(s) granting authorization to proceed with development permit and land use processes.

9. If ancillary facilities will be located on the ground, a landscape plan drawn to scale showing proposed and existing landscaping, including type, spacing, size and irrigation methods.

10. Documents demonstrating that the FAA has reviewed and approved the proposal, and the Oregon Department of Aviation has reviewed the proposal. Alternatively, when a site review or conditional use process is required, submit a statement documenting that notice of the proposal has been submitted to the FAA and Oregon Department of Aviation. The site review or conditional use 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 review or conditional use process. No development permit application shall be submitted without documents demonstrating FAA review and approval and Oregon Department of Aviation review.

(b) *Construction of Transmission Tower.* In addition to standard required application material, an applicant for a transmission tower shall submit the following information; additional application material is required, as specified in paragraph (c) below, for applications requiring a site review or conditional use process:

1. A description of the proposed tower location, design and height.

2. The general capacity of the tower in terms of the number and type of antennas it is designed to accommodate.

3. Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC).

4. A signed agreement, as supplied by the city, stating that the applicant will allow collocation with other users, provided all safety, structural, and technological requirements are met. This agreement shall also state that any future owners or operators will allow collocation on the tower.

5. Documentation that the ancillary facilities will not produce sound levels in excess of those standards specified in subsection (7) of this section, or designs showing how the sound is to be effectively muffled and reduced pursuant to those standards.

6. A landscape plan drawn to scale showing proposed and existing landscaping, including type, spacing, size and irrigation methods.

7. Plans showing the connection to utilities/right-of-way cuts required, ownership of utilities and easements required.

8. Documents demonstrating that necessary easements have been obtained;

9. Plans showing how vehicle access will be provided;

10. Signature of the property owner(s) on the application form or a statement from the property owner(s) granting authorization to proceed with development permit and land use processes;

11. Documents demonstrating that the FAA has reviewed and approved the proposal, and Oregon Department of Aviation has reviewed the proposal. Alternatively, when a site review or conditional use process is required, submit a statement documenting that notice of the proposal has been submitted to the FAA and Oregon Department of Aviation. The site review or conditional use 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 review or conditional use process. No development permit application shall be submitted without documents demonstrating FAA review and approval and Oregon Department of Aviation review.

(c) *Site Review and Conditional Use Permit Applications.* In addition to the application requirements specified in paragraph (b) above, applications for site review or conditional use permits also shall include the following information:

1. A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed tower, antennas, and ancillary facilities from at least 5 points within a 3 mile radius. Such points shall be chosen by the provider with review and approval by the planning director to ensure that various potential views are represented.

2. Documentation that alternative sites within a radius of at least 2000 feet have been considered and have been determined to be technologically unfeasible or unavailable. For site reviews, alternative sites zoned E-1, E-2, I-2, and I-3 must be considered. For conditional use permits, alternative sites zoned PL, C-2, C-3, E-1, E-2, I-2, I-3 and S-WS must be considered.

3. Evidence demonstrating collocation is impractical on existing tall buildings, light or utility poles, water towers, existing transmission towers, and existing tower facility sites for reasons of structural support capabilities, safety, available space, or failing to meet service coverage area needs.

4. A current overall system plan for the city, showing facilities presently constructed or approved and future expansion plans.

5. A statement providing the reasons for the location, design and height of the proposed tower or antennas.

(7) *Standards for Transmission Towers and Antennas.* Installation, construction or modification of all transmission towers and antennas shall comply with the following standards, unless a variance is obtained pursuant to the provisions of subsection (9) of this section:

(a) *Separation Between Transmission Towers.* No transmission tower may be constructed within 2000 feet of any pre-existing transmission tower. Tower separation shall be measured by following a straight line from the portion of the base of the proposed tower which is closest to the base of any pre-existing tower. For purposes of this paragraph, a tower shall include any transmission tower for which the city has issued a development permit, or for which an application has been filed and not denied. Transmission towers constructed or approved prior to February 26, 1997 may be modified to accommodate additional providers consistent with provisions for collocation in this section.

(b) Height Limitation: Transmission tower heights shall be governed by this section except as provided for below. No transmission tower shall exceed the maximum heights provided below. In no case shall a variance be granted from the limitations of subparagraphs (1) through (4) below.

1. In any zones, no transmission tower shall exceed the height limitations established for buildings and structures in the specified areas surrounding Skinner Butte contained in EC 9.6715 Height Limitation Areas of this land use code to protect views to and from Skinner Butte.

2. In any zone within the area east of Willagillespie Road, south of Cal Young Road, west of Oakway Road, and north of Southwood Lane and Country Club Road, no transmission tower shall exceed 75 feet in height to protect views to and from Gillespie Butte.

3. If located within a PL, C-2, C-3, R-4, E-1, E-2, I-2, I-3 or S-WS zone, the height limitation for that zone shall apply.

4. If located within a C-1, S (other than S-WS) or GO zone, the maximum height of a transmission tower, including antennas, is 100 feet.

5. If located within an R-1 zone, the maximum height of a transmission tower, including antennas, is 75 feet, unless a variance is granted pursuant to the provisions of subsection (9) of this section. In no event shall a variance be granted to construct such a tower in excess of 100 feet.

(c) *Collocation.* New transmission towers shall be designed to accommodate collocation of additional providers:

1. New transmission towers of a height of 80 feet or more shall be designed to accommodate collocation of a minimum of 2 additional providers either outright or through future modification to the tower.

2. New transmission towers of a height of at least 60 feet and no more than 80 feet shall be designed to accommodate collocation of a minimum of 1 additional provider either outright or through future modification to the tower.

(d) *Setback.* The following setbacks from adjacent property lines and adjacent streets shall be required unless a variance is granted pursuant to the provisions of subsection (9) of this section:

1. If located within a PL, S, C-2, C-3, E-1, E-2, I-2, I-3 or S-WS zone, no setback from adjacent property lines shall be required beyond that required by this land use code or the provisions applicable to the S zone.

2. If located within an R-1, C-1, or GO zone, the transmission tower shall be set back from adjacent property lines a minimum number of feet that is equal to the height of the transmission tower.

3. In the R-1, PL, C-1 and GO zones, transmission towers shall be set back from adjacent public street(s) a minimum number of feet that is equal to the height of the tower. In all other zones, the setback from adjacent public streets shall be a minimum of 25 feet.

(e) *Buffering.* In all zones, existing vegetation shall be preserved to the maximum extent possible. In the E-1, E-2, I-2 and I-3 zones, no buffering is required beyond that required by this land use code. In all other zones, landscaping shall be placed completely around the transmission tower and ancillary facilities located at ground level except as required to access the facility. Such landscaping shall consist of evergreen vegetation with a minimum planted height of 6 feet placed densely so as to form a screen. Landscaping shall be compatible with other nearby landscaping and shall be kept healthy and well maintained.

(f) *Noise Reduction.* In R-1, R-2, R-3, R-4, C-1, and GO and in all other zones when the adjacent property is zoned for residential use or occupied by a dwelling, hospital, school, library, or nursing home, noise generating equipment shall be sound-buffered by means of baffling, barriers, or other suitable means to reduce sound level measured at the property line to 45dBa.

(g) *Status of Location.* No permit may be issued for the location of a new telecommunications facility within an R-1 or C-1 zone unless the lot on which it is to be placed is vacant or developed with a non-residential use at the time the permit application is submitted. This restriction does not apply within other zones.

(h) *Lighting.* No lighting shall be permitted on transmission towers except that required by the Federal Aviation Administration. No high intensity white lights may be located on transmission towers in an R-1, C-1, or PRO zone.

(i) *Color.* The transmission tower and attached antennas shall be unpainted galvanized steel or painted neutral colors or such shades as are appropriate and compatible with the surrounding environment, as approved by the city.

(j) *Viewshed.* The transmission tower shall be located down slope from the top of a ridgeline so that when viewed from any point along the northern right-of-way line of 18th Avenue, the tower does not interrupt the profile of the ridgeline or Spencer Butte. In addition, a transmission tower shall not interrupt the profile of Spencer Butte when viewed from any location in Amazon Park. Visual impacts to prominent views of Skinner Butte, Judkins Point, and Gillespie Butte shall be minimized to the greatest extent possible. Approval for location of a transmission tower in a prominent view of these Buttes shall be given only if location of the transmission tower on an

alternative site is not possible as documented by application materials submitted by the applicant, and the transmission tower is limited in height to the minimum height necessary to provide the approximate coverage the tower is intended to provide.

(k) *Display.* No signs, striping, graphics or other attention getting devices are permitted on the transmission tower or ancillary facilities except for warning and safety signage with a surface area of no more than 3 square feet. Such signage shall be affixed to a fence or ancillary facility and the number of signs is limited to no more than 2.

(8) *Standards for Ancillary Facilities.* All ancillary facilities shall comply with the standards of subsections (7)(e) and (7)(f) of this section. In addition, all ancillary facilities within an R-1, PL, C-1, GO, and PRO zone must be located underground to the maximum extent technology allows, unless a variance is obtained pursuant to the provisions of subsection (9) of this section. This restriction does not apply within other zones.

(9) *Variance.*

(a) Any variance to the requirements of this section shall be granted only pursuant to the following provisions. The criteria for granting a variance shall be limited to this section, and shall not include the standard variance criteria beginning at EC 9.8750 Purpose of Variances.

(b) The city may grant a variance from the provisions of subsection (7)(a) of this section providing the applicant demonstrates that:

1. It is technologically impossible to locate the proposed tower on available sites more than 2,000 feet from a pre-existing transmission tower and still provide the approximate coverage the tower is intended to provide;

2. The pre-existing transmission tower that is within 2,000 feet of the proposed tower cannot be modified to accommodate another provider; and

3. There are no available buildings, light or utility poles, or water towers on which antennas may be located and still provide the approximate coverage the tower is intended to provide.

(c) The city may grant a variance to the setback and undergrounding requirements of subsections (7)(d) or (8) upon finding that stealth design, proposed landscaping, configuration of the site, or the presence of mature trees obviates the need for compliance.

(d) The city may grant a variance to the 75 foot height limitation in the R-1 zone to a maximum of 100 feet providing the applicant demonstrates that a transmission tower taller than 75 feet will directly eliminate the need for 1 or more additional transmission towers in an R-1 zone.

(e) If the proposed transmission tower or ancillary facility requires site review or a conditional use permit, the request for variance shall be considered as part of the site review or conditional use permit process. If the proposed transmission tower or ancillary facility is an outright permitted use, the request for a variance shall be

processed pursuant to Type II application procedures beginning at EC 9.7200General Overview of Type II Application Procedures except that the decision shall be based on the criteria in this section.

(10) *Removal of Facilities.*

(a) All transmission towers and antennas shall be removed by the person who constructed the facility, by the person who operates the facility, or by the property owner, within 6 months of the time that the facilities have ceased being used to transmit, receive or relay voice and data signals to or from wireless communication devices. The city manager may grant a 6-month extension where a written request has been filed, within the initial 6-month period, to reuse the tower or antennas.

(b) If a transmission tower is located within an R-1, PL, C-1 or GO zone, the provisions of subparagraph (a) also shall apply to the tower substructure and all above ground ancillary facilities.

(c) The city may require the posting of an open ended bond before development permit issuance to insure removal of the transmission tower, substructure or antennas after the facility no longer is being used.

(11) *Application Review and Fees.* The city manager shall retain one or more consultants to verify the accuracy of statements made in connection with an application for a building or land use permit for a telecommunications facility. Notwithstanding any other provision of this code, the city manager shall require the applicant to pay, as part of the application fees, an amount sufficient to recover all of the city's costs in retaining the consultant(s).

(Section 9.5750, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20332, enacted December 10, 2004, effective January 9, 2005; Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006; Ordinance No. 20460, enacted July 12, 2010, effective August 14, 2010; and Ordinance No. 20528, enacted May 14, 2014, effective June 23, 2014.)

9.5800

Chapter 17.120
WIRELESS TELECOMMUNICATIONS FACILITIES

Sections:

17.120.010 Purpose.

The purpose of this chapter is to establish general guidelines for the siting of wireless telecommunications towers and antennas. [Ord. 1105 § 1, 2002; Ord. 950 Appx. I, 1991.]

17.120.020 Definitions.

As used in this chapter, the following terms shall have the meanings set forth below:

"Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), including but not limited to wireless telecommunications signals or other communication signals.

"Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

"FAA" means the Federal Aviation Administration.

"FCC" means the Federal Communications Commission.

"Height" means, when referring to a tower or other telecommunications structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

"Landowner" means the owner of the land upon which the tower is located.

"Preexisting towers" and "preexisting antennas" mean any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of the ordinance codified in this chapter, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

"Stealth facilities" means manmade trees, clock towers, bell steeples, light poles and similar camouflaging designs that camouflage or conceal the presence of antenna or towers.

"Tower" means any structure that is designed and constructed to support one or more antennas. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

"Wireless telecommunications facilities" means the site, structures, equipment and appurtenances used to transmit, receive, distribute, provide, or offer wireless telecommunications services. This includes but is not limited to antennas, poles, towers, cables, wires, conduits, ducts, pedestals, vaults, buildings, electronics and switching equipment. [Ord. 1105 § 1, 2002; Ord. 950 Appx. I, 1991.]

17.120.030 Applicability.

All new towers or antennas within the city of Junction City shall be subject to these regulations, except for the following uses, which shall only be required to comply with the applicable provisions of the underlying zoning district in which they are located and Federal Communications Commission policy:

A. Private Amateur Radio/Direct Home Satellite. Private amateur radio (HAM) antennas, their support structures, and direct-to-home satellite receiving antennas are exempt from this chapter.

B. Pre-existing towers or pre-existing antennas.

C. Towers and antennas operated by governmental entities. [Ord. 1105 § 1, 2002; Ord. 950 Appx. I, 1991.]

17.120.040 General requirements.

The following requirements apply to all wireless telecommunications facilities:

A. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use or existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot, as long as the facility meets setbacks and other requirements.

B. Not Essential Services. Wireless telecommunications facilities shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities.

C. State and Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the landowner's expense.

D. Building Codes – Safety Standards. To ensure the structural integrity of wireless telecommunications facilities the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes. A building permit may be required by the city of Junction City. If, upon inspection, the city of Junction City concludes that a tower fails to comply with such codes and standards, then upon notice being provided to the landowner, the landowner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for removal of the tower or antennas at the landowner's expense. If a pre-existing

tower suffers more than 60 percent damage of the assessed value of the tower, then these rules are in addition to the standards of the building code. Any applicable building and safety standards shall apply.

E. Allowed Tower Types. Except for towers approved under JCMC 17.120.060(C) or approved stealth facilities, all towers must be monopole type towers.

F. Height. Towers shall not exceed 150 feet. All antennas or other supporting equipment attached to towers are included in the calculation of height. Antennas that are attached to buildings may not exceed the height standards in the base zone in which they are located.

G. Setbacks. All equipment shelters shall be set back from property lines according to the required setbacks of the underlying zone. A tower shall be set back from the property line of any lot with an adjacent dwelling located on it or any residentially zoned lot a distance twice the height of the tower from finished grade, or according to the setbacks of the underlying zone, whichever is greater.

H. Separation Distances Between Towers. Separation distances between towers shall be applicable for and measured between the proposed tower and pre-existing towers within a one-mile radius of the proposed tower. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in the following table:

Separation Distances

Proposed Tower Type	Existing Tower Types	
	Monopole 75 ft. in height or greater	Monopole less than 75 ft. in height
Monopole 75 ft. in height or greater	1,500 ft.	750 ft.
Monopole less than 75 ft. in height	750 ft.	750 ft.

I. Color. Towers and antennas shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted colors that reduce visual obtrusiveness. Supporting electrical and mechanical equipment must also be a color that is identical to, or closely compatible with, the color of the supporting structure.

J. Design and Building Materials. At a tower site, the design of the building and related structures shall use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

K. Lighting. Towers shall not be artificially lighted, unless specifically required by the FAA. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding areas, must be shielded, and may not include intermittent or flashing lights (unless specifically required by the FAA).

L. Landscaping. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet in width outside the perimeter of the compound. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

M. Signs. No signs shall be allowed on an antenna or tower.

N. Security Fencing. Towers shall be enclosed by security fencing not less than six feet in height.

O. Collocation Requirements. Towers must be built in a manner that allows antennas for additional users. [Ord. 1105 § 1, 2002; Ord. 950 Appx. I, 1991.]

17.120.050 Application requirements.

In addition to any information required for applications for conditional use permits pursuant to JCMC 17.130.020, applicants for a permit for a wireless telecommunications facility governed by JCMC 17.120.060(B) or (C) shall submit the following information:

A. Signature(s) of the landowner(s) on the application form or a written statement from the landowner(s) granting authorization to proceed with land use and building permit application.

B. Documentation of lease agreements with a Federal Communications Commission (FCC) licensed provider.

C. A scaled site plan clearly indicating the location, type, and height of the proposed wireless telecommunications tower, on-site land uses and zoning, adjacent land uses and zoning, comprehensive plan designation of the site and surrounding properties, adjacent roadways, proposed means of access, setbacks from property lines, landscaping, elevation drawings of the proposed tower and antenna array, and any other structures, topography, parking, and any other information deemed necessary by the city administrator to be necessary to assess compliance with this chapter.

D. A description of the type of service offered and the consumer receiving equipment.

E. Identification of the provider and backhaul provider, if different.

F. Legal description of the parent tract and lease parcel (if applicable).

G. The setback distance between the proposed tower and the nearest residentially zoned property.

H. The separation distance from other towers described in JCMC 17.120.040(H) shall be shown on an updated site plan or map in relationship to the proposed tower. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if applicable.

I. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the city of Junction City an inventory of the applicant's existing towers, antennas, or sites approved for towers or antennas, that are within the jurisdiction of the city of Junction City and/or within one mile of the proposed tower site, including specific information about the location, height, and design of each tower. The city of Junction City may share such information with other applicants applying for administrative or conditional use approval under this chapter or other organizations seeking to locate antennas within the jurisdiction of Junction City; provided, however, that the city is not, by sharing this information, in any way representing or warranting that such sites are available or suitable for collocation of facilities.

J. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

K. A copy of the applicant's Federal Communications Commission license, a copy of a letter of determination from the Federal Aviation Administration or the Oregon Department of Transportation – Aeronautics Division as to whether or not aviation lighting would be required for the proposed facility.

L. The application shall include a certification that the completed installation will comply with all federal, state and local standards. The applicant shall submit documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC).

M. A notarized affidavit by the applicant demonstrating that collocation is not possible because of either: (1) the applicant has made a good faith effort to collocate its facilities on all existing towers in the area to be served, but has been unable to obtain the consent of the owners of such other towers; or (2) collocation is not physically possible for reasons set forth in subsections (N)(1) through (4) of this section.

N. An engineer's analysis/report of the recommended site location area for the proposed facility. If an existing structure within the area recommended by the engineer's report provides an opportunity for collocating, reasons for not collocating shall be provided and must demonstrate at least one of the following deficiencies:

1. The structure is not of sufficient height to meet engineering requirements;

2. The structure is not of sufficient structural strength to accommodate the facility;

3. Electromagnetic interference for one or both facilities will result from collocation;

4. The radio frequency coverage objective cannot adequately be met.

O. A copy of that portion of the lease agreement with the land owner, or a statement from the land owner if the applicant owns the property, that includes collocation provisions (where applicable), facility removal within 90 days of abandonment and a bond to guarantee removal. [Ord. 1105 § 1, 2002; Ord. 950 Appx. I, 1991.]

17.120.060 Procedures for approval.

Wireless communication facilities are only permitted in the areas described in subsections (A)(1) through (3) of this section.

The following procedures apply to wireless telecommunications facilities:

A. Type I Review. Any antennas that are not attached to a tower and/or collocated on an approved tower under this chapter may be approved administratively as an accessory use, provided:

1. The antenna is located in the light industrial (M1) zoning district, heavy industrial (M2) zoning district, public lands (PL) zoning district, general commercial (GC) zoning district or central commercial (C2) zoning district.

2. The antenna does not exceed the height standards of the base zone, except as approved on an existing tower under this chapter.

3. The antenna complies with all general requirements of this chapter, all applicable FCC and FAA regulations and all applicable building codes.

B. Type II Review. Type II review includes planning commission review, but does not require a public hearing. All proposals must meet the general requirements in JCMC 17.120.040. The following towers must be reviewed through a Type II procedure:

Towers that are of a stealth design and are to be located in the light industrial (M1) zone, heavy industrial (M2) zone or public lands (PL) zone. Towers may not be located in the area bounded by E 12th Avenue and E 9th Avenue and Front Street and Elm Street.

C. Type III Review – Conditional Use Permit. All other towers will be processed through a Type III process, which requires a public hearing before the planning commission. All towers allowed under the Type III process must be located in either the light industrial (M1) or heavy industrial (M2) zoning districts. Towers may not be located in the area bounded by E 12th Avenue and E 9th Avenue and Front Street and Elm Street.

1. An applicant for a conditional use permit shall submit the information described in this chapter and in JCMC 17.130.020, and a nonrefundable fee.

2. Criteria in Granting Conditional Use Permits. In addition to any standards for consideration of conditional use permit applicants pursuant to JCMC 17.130.020 and the general requirements of this chapter, the planning commission shall consider the following factors in determining whether to issue a conditional use permit:

a. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

b. Location of the tower on the lot, with particular reference to reducing or eliminating visual obtrusiveness;

c. Proximity of the wireless telecommunications facility to residential district boundaries;

d. Proposed ingress and egress;

e. Reasons why the tower cannot be designed as a stealth facility.

3. In granting a conditional use permit, the planning commission may impose conditions to the extent the planning commission concludes such conditions are necessary to minimize any adverse effect of the proposed wireless telecommunications facility on adjoining properties, which includes, but is not limited to: requiring stealth facilities, additional landscaping and screening of equipment and additional setbacks from property lines, buildings or other uses.

4. Prior to issuance of building permits for the tower, the applicant shall submit to the building official documentation from the Federal Aviation Administration, the Oregon Department of Aviation and any other local or state agency with jurisdiction that the tower has been reviewed and is not determined to be a hazard if constructed as proposed.

5. Prior to issuance of a building permit, a memorandum of lease or other document acceptable to the city has been recorded in Lane County deeds and records reflecting the removal requirements in JCMC 17.120.070. [Ord. 1105 § 1, 2002; Ord. 950 Appx. I, 1991.]

17.120.070 Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the city of Junction City notifying the owner of such abandonment. Failure to remove the tower or antenna within said 90 days shall be grounds to remove the tower or antenna at the landowner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The city requires the posting of a bond before development permit issuance to ensure removal of a wireless telecommunications facility after the facility is no longer being used. [Ord. 1105 § 1, 2002; Ord. 950 Appx. I, 1991.]

17.120.080 Enforcement.

This chapter shall be enforced under Chapter 17.150 JCMC. In addition to fines for violation, the city shall also be entitled to recover costs of enforcement, such as attorney's fees, staff time and removal of the structure. [Ord. 1105 § 1, 2002; Ord. 950 Appx. I, 1991.]

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LINCOLN CITY

17.52.270 Wireless communications facilities.

A. Purpose. The purpose of this section is to protect the health, safety, and general welfare of the community while accommodating the communication needs of residents and businesses through facilitating the provision of wireless telecommunications services to the residents and businesses of the city, minimizing adverse visual effects of towers through careful design and siting standards, avoiding potential damage to adjacent properties from tower failure through structural standards and setback requirements, providing mechanisms for the mitigation of tower proliferation through tower sharing requirements for all new tower applicants and those existing towers that are physically capable of sharing.

B. Siting Preferences. Wireless communications facilities shall be sited in accordance with the following priorities, in order of their preference:

1. Co-location by placement of antennas or other transmission and reception devices on an existing tower, building, or other structure, such as a utility pole, water tank, or similar structure.

2. Use of mini-cell or other similar alternate technology whereby transmission and reception devices are placed on existing structures or placed on new structures that are consistent in height with and situated similarly to types normally found in the surrounding area, such as telephone, electrical, or light poles.

3. Siting of a new tower in a visually subordinate manner. In this context, "visually subordinate" refers to the relative visibility of a wireless communication facility where that facility does not noticeably contrast with the surrounding landscape. Visually subordinate facilities may be partially visible, but not visually dominant in relation to their surroundings.

4. Siting of a new tower in a visually dominant location, but employing concealment technology. In this context, "concealment technology" means technology through which a wirelesscommunication facility is designed to resemble an object present in the natural environment or to resemble a building of a type typically and customarily found in the area.

5. Siting of a new tower in a visually dominant location, not employing concealment technology.

C. Standards. All commercial wireless communications facilities shall comply with the following requirements:

1. The maximum height shall be 80 feet.

2. Commercial wireless telecommunications service towers shall be of a monopole design unless the planning commission determines that an alternative design would better blend in to the surrounding environment.

3. The proposed facilities must not exceed or cause other facilities to exceed federal radio frequency emission standards or American National Standards Institute standards, whichever are stricter.

4. The proposed facilities must meet manufacturer's specifications and plans must be certified by an engineer licensed in the state of Oregon.

5. The proposed facilities must meet the requirements of the Uniform Building Code and/or the Oregon Structural Specialty Code, including but not limited to the requirements relating to seismic and wind loads, and must be engineered so that, in the event they fall, the proposed facilities will collapse only within the property lines of the lot on which they are located.

6. The proposed facilities must meet the standards contained in the American National Standards Institute "Structural Standards for Steel Antenna Tower and Steel Supporting Structures" (ANSI EIA/TIA 222 E-1996).

7. All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

8. Wireless communications facilities shall not be illuminated by artificial means and shall not display any lighting other than such lighting as is specifically required by the Federal Aviation Administration or the Oregon Department of Aviation. Flashing strobe lighting is not allowed. If flashing strobe lighting otherwise would be required by the Federal Aviation Administration or the Oregon Department of Aviation, the tower height must be reduced to a level at which flashing strobe lighting is not required.

9. Any lighting placed on a wireless communication facility pursuant to a requirement of the Federal Aviation Administration (FAA) or the Oregon Department of Aviation (ODA) may not exceed the minimum required. Prior to the issuance of a building permit, the applicant must submit documentation from the appropriate agency (i.e., the FAA or the ODA) that the lighting is the minimum required. Any required aviation lighting must be shielded to the maximum extent allowed by the Federal Aviation Administration or the Oregon Department of Aviation.

10. A commercial wireless communication facility shall be designed, structurally, electrically, and in all other respects, to accommodate antennas for at least three users, and must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

11. A finish (paint/surface) must be provided for the wireless communication facility that reduces the visibility of the facility, including the antenna arrays. In most circumstances this condition may be satisfied by painting the tower and antenna arrays with flat light haze gray paint. If the tower is unpainted it must be of a single color throughout its height. The owner must maintain the finish, painted or unpainted, so that no discoloration is allowed to occur.

12. Red and white or orange and white tower finish is not allowed. If red and white or orange and white tower finish would be required by the Federal Aviation Administration or the Oregon Department of Aviation, the tower height must be reduced to a level at which a red and white or orange and white tower finish is not required.

13. The use of any portion of a wireless communication facility for signs other than warning or equipment information signs is prohibited.

14. Wireless communications facilities, including any modifications to them, must not cause any interference with normal radio and television reception in the surrounding area nor with any public safety agency or organization (including but not limited to police, fire, ambulance, and Coast Guard) radio transmissions. The owner shall bear the costs of immediately eliminating any such interference should any occur, or must immediately shut down the antennas or other equipment or parts of the facility causing the interference.

15. The owner of the wireless communication facility may not deny a wireless provider the ability to co-locate on its wireless communication facility at a fair market rate or at another cost basis agreed to by the affected parties.

16. The wireless communication facility must be removed from the site if no facility on the tower has been in use for more than six months.

D. Application. In addition to the information required elsewhere in this section, development applications for wireless communications facilities shall include the following supplemental information:

1. A report from a qualified and licensed professional engineer which:

a. Describes the tower height and design, including a cross section and elevation;

b. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;

c. Describes the tower's structural capacity to carry the antennas of at least three wirelesscarriers, including the number and type of antennas that it can accommodate;

d. Documents what steps the applicant will take to avoid interference with normal radio and television reception in the surrounding area and with any public safety agency or organization (including but not limited to police, fire, ambulance, and Coast Guard) radio transmissions and telecommunications;

e. Includes an engineer's stamp and registration number;

f. Documents that the proposed facilities will not exceed or cause other facilities to exceed federal radio frequency emission standards or American National Standards Institute standards, whichever are stricter;

g. Includes elevations showing all facades, indicating exterior materials and color of the tower(s) on the proposed site; and

h. Includes other information necessary to evaluate the request.

2. For all commercial wireless telecommunications service towers, a letter of intent committing the tower owner and the owner's successors to allow the shared use of the tower, if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

3. Applicants proposing the siting of wireless communications facilities through means other than co-location shall demonstrate why higher priority alternatives for providing the specific, proposed wireless service are not feasible. In this context, "not feasible" means that the proposed wirelesscommunication service cannot be provided in a reasonable, practicable, and cost effective manner. Factors that may render an alternative not feasible may include:

a. Existing buildings or towers are structurally inadequate to accommodate the proposed facility, and cannot reasonably be retrofitted;

b. The alternative would cause radio frequency interference that would materially impair the functioning of existing or planned equipment at the tower or site, and such interference cannot reasonably be mitigated;

c. The alternative cannot provide the radio frequency coverage required to provide the proposed service;

d. The alternative is precluded by law, rule, regulation, contract, or other legal authority.

4. At least two photo-simulations of the proposed tower, from different points of view and distances from the proposed tower.

5. Before the issuance of a building permit, the following supplemental information shall be submitted:

a. A copy of the FAA's response to the submitted "Notice of Proposed Construction or Alteration" (FAA Form 7460-1);

b. Proof of compliance with applicable Federal Communications Commission regulations;

c. A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the Uniform Building Code and/or the Oregon Structural Specialty Code, including but not limited to the requirements relating to seismic and wind loads, and that in the event it falls the tower will collapse only within the property lines of the lot on which it is located; and

d. A report from a qualified and licensed professional engineer which demonstrates that the tower meets the standards contained in the American National Standards Institute "Structural Standards for Steel Antenna Tower and Steel Supporting Structures" (ANSI EIA/TIA 222 E-1996).

E. Notice. When mailed notice of a public hearing or an administrative action relating to a wirelesscommunication facility is required by LCMC 17.60.040, such notice shall be sent to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located within 250 feet from the exterior boundary of the subject property.

F. Administrative Approval of Co-Location Application. If an applicant wishes to co-locate by placing antennas or other transmission and reception devices on an existing tower, building, or other structure, the director may approve the co-location application, or approve it with conditions.

G. Planning Commission Action. In addition to the findings required by Chapter 17.60 LCMC, in order to grant approval, or approval with conditions, of a conditional use permit for a wirelesscommunications facility, the planning commission must find, based upon evidence provided by the applicant, that:

1. For applications proposing the siting of wireless communications facilities through means other than co-location, that higher priority alternatives for providing the specific, proposed wireless service are not feasible.

2. The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or significant aesthetic resource.

3. The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety.

4. The owner of the wireless communication facility has agreed to permit other persons/providers to attach antennas or other communications apparatus that do not interfere with the primary purpose of the facility.

5. The proposed facility/tower is not to be constructed in such a manner as to result in needless height or mass.

6. The finish of the proposed facility/tower will be of a tone or color that minimizes the tower's visual impact. (Ord. 2003-08 § 1; Ord. 84-2 § 4.340)