

ORDINANCE NO. 5067

AN ORDINANCE AMENDING CHAPTER 3.18 OF THE MCMINNVILLE CITY CODE TO ADD SECTIONS PROVIDING SUPPLEMENTAL STANDARDS FOR SMALL WIRELESS FACILITIES WITHIN THE PUBLIC RIGHT-OF-WAY AND DECLARING AN EMERGENCY

RECITALS:

The City is authorized, under existing State of Oregon ("State") and federal law, to enact appropriate regulations and restrictions relative to small wireless facilities, distributed antenna systems, and other personal wireless telecommunication facility installations, including those within the public right-of-way consistent with State and federal law; and

The City encourages wireless infrastructure investment and wishes to provide a fair and predictable process for the deployment of small wireless facilities while managing public rights-of-way in a manner that promotes the interests of the public health, safety, and welfare; and

In January 2018, the City adopted amendments to the Zoning Ordinance, adopting provisions regulating Wireless Communications Facilities, including small wireless facilities; and

The City recognizes that the Federal Communications Commission ("FCC") adopted its Declaratory Ruling and Third Report and Order ("Declaratory Ruling") on September 26, 2018, interpreting the federal law and creating new federal regulations regarding small wireless facilities; and

The City finds it necessary to be in compliance with the FCC's Declaratory Ruling and the new federal regulations; and

The FCC ruling addresses small wireless facilities within the public right-of-way, and the City finds it is necessary to adopt supplemental regulations governing small wireless facilities within the public right-of-way in order to address the FCC ruling; and

The City recognizes that the FCC's review standards require review of a complete application to co-locate a small wireless facility on an existing structure to be completed within 60 days and review of a complete application for a small wireless facility on its own stand-alone pole to be completed in 90 days, which warrant an administrative review process consistent with these timeframes; and

The City finds it is in the best public interest to adopt supplemental regulations governing small wireless facilities within the public right-of-way consistent with the FCC ruling; and

The City finds it is necessary to declare an emergency enacting these regulations in order for them to take effect before the April 15, 2019 deadline required as a result of the FCC ruling to protect the best interests of the public.

NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

Section 1. The Council adopts the amendments to Chapter 3.18 of the McMinnville City Code attached and incorporated herein as **Exhibit A**; and

Section 2. The Council hereby declares an emergency to exist. This Ordinance shall take effect immediately upon passage by the City Council.

Passed by the Council this 9th day of April 2019, by the following votes:

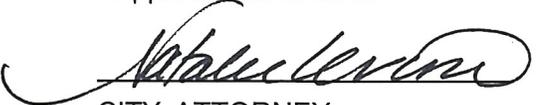
Ayes: Drabkin, Garvin, Geary, Menke, Peralta, Stassens

Nays: _____



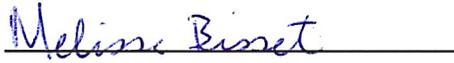
MAYOR

Approved as to form:



CITY ATTORNEY

Attest:



CITY RECORDER

CITY OF MCMINNVILLE
PLANNING DEPARTMENT
231 NE FIFTH STREET
MCMINNVILLE, OR 97128

503-434-7311

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PROPOSED AMENDMENTS TO THE MCMINNVILLE MUNICIPAL CITY CODE
Title 3: Revenue and Finance

(Sections 3.18.705-3.18.770, underlined below, are new sections).

Chapter 3.18

TELECOMMUNICATIONS INFRASTRUCTURE

Sections:

ADMINISTRATION

- 3.18.010 Definitions.
- 3.18.015 Purpose and Intent.
- 3.18.020 Jurisdiction and Management of the Public Rights of Way.
- 3.18.025 Regulatory Fees and Compensation Not a Tax.

REGISTRATION OF TELECOMMUNICATIONS CARRIERS

- 3.18.100 Purpose of Registration.
- 3.18.110 Registration Required.
- 3.18.120 Registration Fee.
- 3.18.130 Exceptions to Registration.

CONSTRUCTION STANDARDS

- 3.18.200 General.
- 3.18.205 Construction Codes.
- 3.18.210 Construction Permits.
- 3.18.215 Permit Applications.
- 3.18.220 Applicant's Verification.
- 3.18.225 Construction Schedule.
- 3.18.230 Construction Permit Fees.
- 3.18.235 Issuance of Permit.
- 3.18.240 Notice of Construction.
- 3.18.245 Compliance with Permit.
- 3.18.250 Noncomplying Work.
- 3.18.255 Completion of Construction.
- 3.18.260 As-Built Drawings.
- 3.18.265 Restoration of Public Rights of Way and City Property.
- 3.18.270 Performance and Completion Bond.

LOCATION OF TELECOMMUNICATIONS FACILITIES

- 3.18.305 Location of Facilities.
- 3.18.310 Interference with the Public Rights of Way.
- 3.18.315 Relocation or Removal of Facilities.
- 3.18.320 Removal of Unauthorized Facilities.
- 3.18.325 Coordination of Construction Activities.

TELECOMMUNICATIONS FRANCHISE

- 3.18.400 Telecommunications Franchise.
- 3.18.405 Application.
- 3.18.410 Application and Review Fee.
- 3.18.415 Determination by the City.
- 3.18.420 Rights Granted.
- 3.18.425 Term of Grant.
- 3.18.430 Franchise Territory.
- 3.18.435 Franchise Fee.
- 3.18.440 Amendment of Grant.
- 3.18.445 Renewal Applications.
- 3.18.450 Renewal Determinations.
- 3.18.455 Obligation to Cure As a Condition of Renewal.
- 3.18.460 Assignments or Transfers of System or Franchise.
- 3.18.465 Revocation or Termination of Franchise.
- 3.18.470 Notice and Duty to Cure.
- 3.18.475 Public Hearing.
- 3.18.480 Standards for Revocation or Lesser Sanctions.
- 3.18.485 Other City Costs.

GENERAL FRANCHISE TERMS

- 3.18.505 Facilities.
- 3.18.510 Damage to Grantee's Facilities.
- 3.18.515 Duty to Provide Information.
- 3.18.520 Service to the City.
- 3.18.525 Compensation for City Property.
- 3.18.530 Cable Franchise.
- 3.18.535 Leased Capacity.
- 3.18.540 Grantee Insurance.
- 3.18.545 General Indemnification.
- 3.18.550 Performance Surety.

GENERAL PROVISIONS

- 3.18.600 Governing Law.
- 3.18.605 Written Agreement.
- 3.18.610 Nonexclusive Grant.
- 3.18.615 Severability and Preemption.
- 3.18.620 Penalties.
- 3.18.625 Other Remedies.
- 3.18.630 Captions.
- 3.18.635 Compliance with Laws.
- 3.18.640 Consent.
- 3.18.645 Application to Existing Ordinance and Agreements.
- 3.18.650 Confidentiality.

SUPPLEMENTAL REQUIREMENTS FOR SMALL WIRELESS FACILITIES (SWFs) WITHIN THE PUBLIC RIGHT-OF-WAY

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| <u>3.18.705</u> | <u>Background and Purpose</u> |
| <u>3.18.710</u> | <u>Principles and Approach</u> |
| <u>3.18.715</u> | <u>Definitions</u> |
| <u>3.18.720</u> | <u>Applicability</u> |
| <u>3.18.725</u> | <u>Jurisdiction</u> |
| <u>3.18.730</u> | <u>Fees</u> |
| <u>3.18.735</u> | <u>Application, Submittal, and Permitting Process</u> |
| <u>3.18.740</u> | <u>Application Completeness Review, Processing Timelines, and Decision</u> |
| <u>3.18.745</u> | <u>Location of SWFs in Right-of-Way</u> |
| <u>3.18.750</u> | <u>Standards for SWF Installation Types</u> |
| <u>3.18.755</u> | <u>General Standards for All Installation Types</u> |
| <u>3.18.760</u> | <u>Standards for Specific Installation Types</u> |
| <u>3.18.765</u> | <u>Nonconforming Installations</u> |
| <u>3.18.770</u> | <u>Maintenance and Operations</u> |

*(All text below is new text in new sections and is presented in standard font. Therefore, **bold** or underlined text does not differentiate new text and there is no ~~strikeout text~~ to denote deleted text).*

SUPPLEMENTAL REQUIREMENTS FOR SMALL WIRELESS FACILITIES (SWFs) WITHIN THE PUBLIC RIGHT-OF-WAY

3.18.705 Background and Purpose.

- A. Wireless Communications Facilities ("WCF") play an important role in meeting the communication needs of McMinnville's citizens.
- B. These Sections provide supplemental regulations for deployment and installation of Small Wireless Facilities (SWFs) within the public right-of-way, consistent with FCC requirements, including those in the FCC ruling issued on September 26, 2018.
- C. These Sections aim to balance the proliferation of and need for WCF with the importance of keeping McMinnville a livable and attractive City, consistent with City regulations for undergrounding utilities to the greatest extent possible.
- D. 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 McMinnville citizens; 2) preserve neighborhood character and overall City-wide aesthetic quality; 3) encourage siting of WCF in locations and by means that minimize visible impact through careful site selection, design, configuration, screening, and camouflaging techniques.
- E. Reference to Small Wireless Facilities (SWF) herein is construed to mean telecommunications facilities and associated equipment that meet the definition of small wireless facilities as stated in 47 C.F.R. § 1.6002(1).

- F. If any provision of this Code directly conflicts with State or Federal law, where State or Federal law preempts local law, then that provision of this Code shall be deemed unenforceable, to the extent of the conflict, but the balance of the Code shall remain in full force and effect.
- G. Nothing contained in this Section shall be construed in any way to waive or limit the City's proprietary rights over its real and personal property, including without limitation any proprietary interest in the right-of-way. Thus, if it is determined the City has authority to exert greater rights or impose additional conditions or limitations beyond those set forth in this Section, the City reserves the absolute right to do so, as it determines appropriate or necessary.

3.18.710 Principles and Approach. Small wireless facilities (SWFs) have some characteristics that differ from some other wireless technologies that can have larger poles or towers, large arrays of antennas, and associated equipment buildings near the base, often fenced and screened with landscaping.

Deployment of small wireless facilities (SWF) and “densification” of these wireless networks within the right-of-way can lead to a greater number of facilities located in some of the most visible locations in the community, within the same physical spaces occupied by residents and visitors alike. While these smaller deployments don’t have the same types of buildings that would be infeasible in these locations, they do have antennas, cabling, and equipment enclosures.

These standards are intended to ensure the aesthetics of these installations are addressed. In addition, these standards are intended to ensure the associated equipment doesn’t interfere with the use and enjoyment of the public right-of-way for people. In pedestrian-oriented areas, equipment cabinets must not occupy and compete for portions of the sidewalk area and pedestrian furnishing zones used by people and for pedestrian amenities. Further, in areas where people stroll, dine, and window shop, aesthetic considerations and experience are a high priority. Street furnishings, lighting, and fixtures are often selected and located for intentional aesthetic effect and comfort to enhance the experience of the district.

In other areas, poles and streetlights are often located along a street within a planter strip between the curb and sidewalk, or within the sidewalk area at intersections. These planter strips are also used and crossed by driveways and utilities that provide access and services to abutting homes and businesses. There can be conflicts that require separation between trees and driveways, utility services, poles, etc. Further, equipment boxes, cabinets, and vaults can displace areas available for planting, which is what these planter strips are designed for. In denser areas, space between curb cuts may be extremely limited. These shared-use spaces should not be inundated with additional poles and equipment enclosures that further limit tree-planting areas, displace areas intended for planting living groundcover, or require excessive pruning of trees and landscaping. At intersections, sidewalk areas and intersection crossing ramps shouldn’t be obstructed with additional poles and equipment enclosures that obstruct pedestrians.

These standards are intended to ensure the usable area within the public right-of-way is maximized for the intended use for public use and enjoyment and to ensure that trees and landscaping aren’t unnecessarily displaced or limited from the places designed and intended for planting.

As a result, these standards focus on maintaining high-quality aesthetic standards for the right-of-way, reducing visual clutter, and reducing physical clutter that would unnecessarily displace areas for people, amenities for people, and landscaping from places designed for them within the right-of-way.

To the extent possible, these standards achieve objectives with the following priorities:

- A. Require co-location on existing poles that already serve an existing use, or replacement poles, which are designed by the manufacturer to accommodate the additional use of the poles for SWFs, and designed to match existing poles with unobtrusive antennas, and with internal cabling and internally integrated equipment cabinets.
- B. Avoid installations within the most visually and aesthetically sensitive pedestrian-oriented areas. When unavoidable in these areas, prioritize installation on less visible cross-streets or secondary streets.
- C. Avoid installations on pole types which would undesirably alter the desired aesthetic effect, such as an antenna mounted on top of a single "acorn" or "lantern" type streetlight. Avoid installations that would require replacement of decorative poles with a replacement pole if there are no equivalent matching replacement pole designs available from the manufacturer.
- D. When also authorized by the pole owner, authorize installations on wood utility poles with unobtrusive antennas, with equipment and cabling screened behind equipment shrouds, and with cabling routed to the ground in conduit.
- E. Separate external above-ground equipment enclosures are generally prohibited except when associated with authorized installations on wood poles where equipment may not be accommodated internally, and where a replacement pole with internal equipment accommodation is not feasible.

Above-ground equipment enclosures are the last resort if the small wireless facility can't be installed elsewhere and if the equipment enclosure can't be pole-mounted or located in an underground vault based on any separate requirements of the pole owner or power provider.

When authorized as the last resort, such enclosures shall generally be located behind the sidewalk, and not within the sidewalk area or planter strip between the curb and sidewalk. Above-ground equipment enclosures shall not be located within Pedestrian-Oriented Areas. Therefore, installations requiring separate above-ground enclosures shall not be permitted within Pedestrian-Oriented Areas. In the event this would conflict with any FCC requirement, the City may require use of stealth designs that also co-locate the cabinets with pedestrian amenities that don't occupy

additional sidewalk or planting area. (Examples are available in manufacturer catalogs and include equipment cabinets co-located with trash receptacles, etc.).

- F. Over time, the City may review these standards and other design guidelines and specifications for special districts and public facilities to determine whether new standards and technologies may warrant changes such as specification of new “smart pole” type designs to address emerging technologies for small wireless facilities and other “smart city” technologies and applications.

3.18.715 Definitions.

- A. **Pedestrian-Oriented Area.** A Pedestrian-Oriented Area includes any area planned for or currently exhibiting the following characteristics: areas generally characterized by buildings built up to the public sidewalk, where the public sidewalk is generally 8 feet or wider and often has a furnishing zone adjacent to the curb in which street trees, streetlight, and pedestrian amenities are located. Pedestrian-oriented areas may also include shared streets designed for multiple users, such as “woonerfs.” Pedestrian-oriented areas include, but are not limited to:
 - 1. Downtown between First and Fifth Streets, between Adams and Johnson
 - 2. Pedestrian-oriented streets and woonerfs within the Northeast Gateway Overlay District within the boundaries described in the ordinance, including Alpine Avenue.
- B. **Public Right-of-Way.** In the event certain poles on which SWFs are to be co-located are within a public utility easement which abuts and parallels the public right-of-way, the definition of public right-of-way includes these public utility easements.
- C. **Replacement Pole.** As used in this ordinance, this means a pole which replaces an existing pole such as a streetlight pole, on which a SWF will locate, and which is designed by the manufacturer to accommodate SWF installations, engineered for, and capable of supporting permitted antennas within authorized antenna enclosures, with capability for internal wiring and cabling, and with an integrated equipment cabinet in the pole base, which meets the design and dimensional requirements of this ordinance.
- D. **Small Wireless Facilities (SWF).** For purposes of these standards, this means telecommunication facilities and equipment that meet the definition of small wireless facilities as stated in 47 CFR (Code of federal Regulations), Subpart U, Section 1.60002(l), consistent with Section 1.1312(e)(2) of the applicable CFR that meet each of the following conditions:

1. The facilities:
 - a. are mounted on structures 50 feet in height or less in height including their antennas as defined in section 1.1320(d) of the applicable CFR; or
 - b. are mounted on 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;
2. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in section 1.1320(d)) of the applicable CFR, is no more than three cubic feet in volume;
3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
4. The facilities do not require antenna structure registration under part 17 of the applicable chapter of the CFR;
5. The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
6. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 1.1307(b) of the applicable CFR.

3.18.720 Applicability.

- A. The provisions of this Section apply to SWF within the public right-of-way. These requirements are in addition to the provisions of City Code Sections 3.18.010-3.18.650 that apply to use of right-of-way.
- B. All provisions of Chapter 17.55 of the Zoning Ordinance governing Wireless Communication Facilities shall continue to apply, except where in conflict with these provisions.

3.18.725 Jurisdiction.

- A. The requirements of this Section apply to any SWF within the public right-of-way, within the City of McMinnville City limits, and as may apply to any public right-of-way within the unincorporated Urban Growth Boundary through any Joint Management Agreement with Yamhill County in

accordance with ORS 190, whether enacted before or after the effective date of this ordinance.

- B. These standards apply to small wireless facility installations on poles within the right-of-way, regardless of pole owner. The SWF may also be subject to separate standards and permitting requirements through other entities, such as McMinnville Water and Light, Yamhill County, and/or the Oregon Department of Transportation.

3.18.730 Fees. The City may establish fees for non-recurring fees, as well as annual recurring fees for SWFs, for “make-ready” cost recovery, and/or other fees consistent with FCC regulations.

3.18.735 Application, Submittal, and Permitting Process.

- A. Applications for SWFs shall be processed through an administrative review procedure consistent with this section and the applicable processing timelines.
- B. The City shall establish submittal requirements and forms for submittal of applications for small wireless facilities within the public right-of-way.
- C. A complete application shall be submitted in accordance with the submittal requirements established by the City, together with the appropriate fees.
- D. The City shall provide a consolidated application process where the applicant may apply for a permit, batch permits consistent with the FCC ruling, and other authorizations which the FCC has determined must be processed within the timeframes described in Section 3.18.740.
- E. As part of the application, the applicant shall submit written authorization from the owner of any non-city right-of-way, such as ODOT or Yamhill County.
- F. As part of the application the applicant shall submit written authorization from any non-city pole owners to install on or replace existing poles.
- G. As part of the application, the applicant shall submit evidence of its franchise agreement or license for use of the public right-of-way, or evidence that a concurrent application for franchise agreement or license for use of the right-of-way has been submitted, if the FCC has determined it must be part of a concurrent authorization required within the timeframes described in Section 3.18.740.

3.18.740 Application Completeness Review, Processing Timeline, and Decision

- A. **Shot clock period.** The shot clock period for a siting application is the sum of:
 - 1. the number of days of the presumptively reasonable period of time for the pertinent type of application, pursuant to paragraph (B) of this section, plus
 - 2. the number of days of the tolling period, if any, pursuant to paragraph (C) of this section.

- B. **Presumptively reasonable periods of time.**
 - 1. The following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments in the categories set forth below:
 - a. Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.
 - b. Review of an application to deploy a Small Wireless Facility using a new structure: 90 days.

 - 2. **Batching.**
 - a. If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either paragraph (B)(1)(a) or paragraph (B)(1)(b) of this section, then the presumptively reasonable period of time for the application as a whole is equal to that for a single deployment within that category.
 - b. If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within paragraph (B)(1)(a) and deployments that fall within paragraph (B)(1)(b) of this section, then the presumptively reasonable period of time for the application as a whole is 90 days.
 - c. The City may not refuse to accept applications under paragraphs (B)(2)(a) and (B)(2)(b).

- C. **Tolling period.** Unless a written agreement between the applicant and City provides otherwise, the tolling period for an application is set forth as follows:
 - 1. For an initial application to deploy SWFs, if the City notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically

identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the City to render the application complete.

2. For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from:
 - a. The day after the date when the siting authority notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the siting authority's original request under Subsection (C)(1) of this section, until
 - b. The date when the applicant submits all the documents and information identified by the siting authority to render the application complete,
 - c. But only if the notice pursuant to Subsection (2)(a) is effectuated on or before the 10th day after the date when the applicant makes a supplemental submission in response to the siting authority's request under Subsection (C)(1) of this section.

D. Shot clock date. The shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified pursuant to Subsection (A) of this section and including any pre-application period; provided, that if the date calculated in this manner is a "holiday" as defined in section 1.4(e)(1) of the applicable CFR or a legal holiday within the relevant State or local jurisdiction, the shot clock date is the next business day after such date. The term "business day" means any day as defined in section 1.4(e)(2) of the applicable CFR and any day that is not a legal holiday as defined by the State or local jurisdiction.

E. Decision and Mandatory and Automatic Permit Conditions of Approval. Any SWF permit issued by operation of law shall automatically be subject to the standards of this ordinance as conditions of approval. The permit will automatically expire 10 years from the issuance date.

3.18.745 Location of SWFs in Right-of-Way.

A. Pedestrian-Oriented Areas. SWFs in the public right-of-way shall be located outside of Pedestrian-Oriented Areas when feasible. The burden of proof is on the applicant to demonstrate it is not feasible to locate these installations outside Pedestrian-Oriented Areas. The burden of proof shall

also include an analysis of why SWFs within Pedestrian-Oriented Areas can't be located in less visible locations outside the public right-of-way, such as rooftop or parking lot installations.

As addressed in the principles in Section 3.18.710(E), installations that require separate above-ground equipment enclosures shall be prohibited in these areas.

If the burden of proof is met to install a SWF within a Pedestrian-Oriented Area, the facility shall be located in the least visible location possible. Locations within the public sidewalk on primary pedestrian streets are presumed to be the most visible locations, locations on secondary pedestrian streets and cross-streets are presumed to be less visible, and installations within service corridors and alleyways are presumed to be the least visible, except where alleyways are designed or planned for pedestrian-oriented use such as outdoor dining for adjoining businesses, public art installations, etc. If formal definitions of "primary" and "secondary" pedestrian streets are not adopted elsewhere, the determination may be made based on the comparative percentage of buildings which have principal entrances onto the public sidewalk or which abut the public sidewalk or a pedestrian area that abuts a public sidewalk.

- B. Certain Co-Locations Prohibited.** Installations shall be prohibited on pole types which would undesirably alter the desired aesthetic effect, such as an antenna mounted on top of a single "acorn" or "lantern" type streetlight. The applicant shall avoid installations that would require replacement of decorative poles with a replacement pole if there are no equivalent matching replacement pole designs available from the manufacturer.

(If suitable or matching styles become available, the City may authorize designs similar to the "smart fusion pole" designs now available that incorporate antenna stacks within the pole below the luminaire and have options for different luminaire styles. At such time as that should occur, any authorized styles would be included in the list of poles or replacement poles authorized for installations for specified locations).

- C. Unimproved Right-of-Way.** SWFs shall not be located within unimproved right-of-way.

3.18.750 Standards for SWF Installation Types. All installation types shall be subject to the "General Standards for All Installation Types" in Section 3.18.755 and the applicable "Standards for Specific Installation Types" in Section 3.18.760.

3.18.755 General Standards for All Installation Types. The following standards shall apply to all new and replacement small wireless facility installations within the public right-of-way, except as specifically provided in Section 3.18.765 for existing nonconforming installations.

A. General.

1. Wireless facility installations shall not:
 - a. Obstruct, impede, or hinder the usual travel or public safety within the public right-of-way
 - b. Obstruct the legal use of the public right-of-way by other providers
 - c. Violate or conflict with any laws, including, but not limited to City of McMinnville ordinances or standards
 - d. Obstruct, impede, or hinder any operations of the City's infrastructure or systems, existing or future, including but not limited to "smart city" equipment, street light equipment, traffic signal equipment, etc.
2. Equipment shall be oriented away from nearby residential windows, doorways, and entrances.
3. Any items installed after the initial application will require an additional approval process with the City and will be required to comply with any currently adopted standards at the time of installation.
4. The Director may maintain a list of products from one or more manufacturers which have been determined to be approved for co-location or as replacement poles for SWF installations, or for new poles, when authorized.

B. Antennas.

1. **Number.** Only one antenna per pole shall be permitted.
2. **Design of Antenna Enclosure.** Except where authorized on wooden utility poles, antennas shall be contained within canister-style "cantenna" antenna enclosures, top-mounted on the pole in-line with the center of the pole. If decorative profiles are available in the style of the pole to which the cantenna is attached, that match design elements of similar poles, that style shall be preferred. For example, co-location on antique style streetlights might have a cantenna that has a variable width cylinder and is topped with a finial rather than a pure geometric cylinder. Panel-style antennas may only be authorized when co-located on wooden utility poles.

3. **Canister-Style Antennas.** A canister-style “cantenna” enclosure shall not exceed 3 cubic feet. The individual dimensions shall not exceed 30 inches in height nor 16 inches in diameter.
4. **Transition to Pole.** There shall be a smooth-tapered transition between the cantenna to the pole diameter. When mounted on decorative-style poles, if matching ornamental collars are available from the manufacturer, the transition shall use a collar designed to match the style of the pole.
5. **Panel-Style Antennas.** Panel-style antennas shall only be permitted on Category 1 installations on wooden poles. When panel-style antennas are permitted, the maximum dimensions for a panel-style antennas shall be 30” high and 12” wide; however, however, the antenna enclosure shall not exceed 3 cubic feet.
6. **Overhang.** When authorized, only on wooden poles, panel-style antennas mounted on wooden poles shall not overhang a roadway or sidewalk, or where unavoidable, shall meet minimum vertical clearance and be oriented to avoid overhanging the pedestrian zone of the sidewalk or the roadway.

C. Integrated Equipment Cabinets.

1. Except for authorized installations on wooden poles, equipment shall be located within an equipment cabinet designed and integrated within the base of the pole. The base shall be round with a 16-inch maximum diameter, except where the design of the base may be larger or tapered to match the base of other existing surrounding decorative poles as part of a consistent design treatment. When a product is available from the manufacturer for a matching base design with an integrated equipment cabinet, that style shall be used.
2. All hardware attachments shall be hidden. The equipment cabinet and/or equipment cabinet cover shall not have a flat, horizontal surface larger than 1.5 inches.
3. The meter shall be recessed into the pole base.

- D. Separate Equipment Shrouds and Enclosures.** Except as may be authorized for SWF installations on wooden poles, there shall be no exterior equipment shrouds. As specified above, integrated equipment cabinets interior to the pole or pole base shall be required for all other poles. Separate external above-ground equipment enclosures are generally prohibited except when associated with authorized installations on wood poles where equipment may not be accommodated internally and where a replacement pole with internal equipment accommodation is not feasible.

Above-ground equipment enclosures are the last resort if the small wireless facility can't be installed elsewhere and if the equipment enclosure can't be pole-mounted with adequate vertical clearance or located in an underground vault based on any separate requirements of the pole owner or power provider.

When authorized as the last resort, such external enclosures shall generally be located behind the sidewalk, and not within the sidewalk area or planter strip between the curb and sidewalk. An external enclosure shall not exceed 24 cubic feet.

Above-ground enclosures shall not be located within Pedestrian-Oriented Areas. Therefore, installations requiring separate above-ground enclosures shall not be permitted within Pedestrian-Oriented Areas. However, in the event this requirement would conflict with any FCC requirement, the City may require use of stealth designs that also co-locate the cabinets with pedestrian amenities that don't occupy additional sidewalk or planting area. Examples are available in manufacturer catalogs and include equipment cabinets co-located with trash receptacles, etc.

- E. **Lighting.** Equipment shall not have static or flashing lights that are visible when equipment enclosures are closed. This doesn't preclude co-location with streetlights.
- F. **Cabling, etc.** All conduit, wires, mounting brackets, and other hardware must be hidden behind an antenna enclosure or internal to the pole, or in an equipment shroud only as may be authorized for antennas mounted on wooden poles. There shall be no external conduit, except as may be authorized for installations on wooden poles.
- G. **Equipment Color.** Canister-style antenna enclosures shall be painted to match the pole to which it is attached. Canister or panel-style enclosures attached to wooden poles shall be colored gray (7047).
- H. **Labeling and Advertising.** All equipment manufacturer decals shall be removed from the outside of any enclosures. Except for safety and identification labeling required by law or by the utility pole owner, no signage or advertising shall be posted on the wireless facilities that are visible when the enclosures are closed.
- I. **Owner Identification.** A 4"x6" maximum plate with the Carrier's name, location, and identifying information, and emergency telephone number shall be permanently affixed to the pole. ID stickers must utilize the lowest visibility sticker as possible and use colors that are consistent or complimentary to the color of the equipment cabinet or pole to which it is affixed.
- J. **RF Warning Sticker.** All facilities shall use the lowest visible radio frequency (RF) warning sticker required by government or utility

regulations. Placement of the RF sticker must be as close as possible to the antenna and face directly away from the street.

- K. **Ventilation.** Passive ventilation (such as louvered openings and/or other passive ventilation systems, rather than fans, shall be used as the primary means of temperature control to keep equipment cool equipment, in order to prevent noise. In no case shall equipment emit noise greater than 30dBa at a distance of one meter.
- L. **Height.** In no case shall a SWF installation in the public right-of-way permitted through this process exceed the height limits in the definition of a SWF. Height is limited to match the height of predominant surrounding poles of the same style.
- M. **Poles.**
 - 1. **Pole Ownership.** Replacement poles on which SWFs are to be co-located shall be owned by the same owner of the pole which was replaced, unless otherwise required by the original pole owner and the city.
 - 2. **Co-location Required.** Co-location on existing or replacement poles shall be required. New freestanding poles shall only be authorized when the applicant can demonstrate with clear and convincing evidence that using an existing or replacement structure is not technically feasible.
 - 3. **Design.** Replacement poles, or new freestanding poles only when authorized, shall match the design and style of city-specified poles for the area. The design and style shall generally match the material, height, color, style, taper, diameter, fluting, size and design of the base, pole, and collars, etc. Where more than one style is present within an area, the City may specify which style must be matched. The City may maintain a list of products from one or more manufacturers which meet the requirements for replacement poles or freestanding SWF poles.
 - 4. **Placement of new freestanding poles, if authorized.**
 - a. Should a new freestanding pole be authorized, it shall be aligned with the centerlines of existing poles along the same street segment. Alternate locations will be considered if there is a conflict with overhead utility lines and facilities.
 - b. Should a new freestanding pole be authorized, the pole and any associated equipment shall be set back at least 75 feet from public street intersections and outside any vision clearance triangles. The location shall not obstruct motorist sightlines or pedestrian access.

- c. In residential areas, should a new freestanding pole be authorized, it shall be located in the public right-of-way in-line with the common property line between lots if that property line was extended into the public right-of-way. If the location conflicts with other standard utility locations such as paired utility laterals near a common property line, an offset of up to 10 feet may be authorized, provided it won't be directly in front of a building entrance or windows.
 - d. Should a new freestanding pole be authorized, it shall be located in accordance with any placement location specified in a streetscape plan. If not specified, it shall be located either midway between existing streetlight poles or in-line with a property line where it isn't located in front of a building entrance or windows.
- N. **Spacing.** SWF antenna installations shall maintain a minimum spacing of 250' from the other SWF installations, whether antennas are co-located on other poles or on freestanding wireless poles.

3.18.760 Standards for Specific Installation Types

- A. **Category 1.** The following installations are permitted subject to the General Standards in Section 3.18.755. For wood poles authorized to remain, the general standards allow for top-mounted canister-style antennas or side-mounted panel-style antennas, wire and cabling are authorized within conduit, and an integrated equipment cabinet in the base of the pole is not required.
 - 1. **Type 1.** Attachment to an existing wood pole for overhead power transmission.
 - 2. **Type 2a.** Attachment to existing wooden pole for a streetlight where a replacement pole is determined to be infeasible by the pole owner.
- B. **Category 2.** The following installations are permitted subject to the General Standards in Section 3.18.755. If the existing poles aren't already designed by the manufacturer for additional antenna and equipment attachments, the existing poles must be replaced with poles designed to accommodate SWFs, which allow for internal cabling and wiring, and include an integrated equipment cabinet in the base of the pole which meets the standards of Section 3.18.755. Only top-mounted canister-style antennas are permitted; side-mounted panel antennas are not permitted. As used in this ordinance, "replacement pole" means a pole meeting the requirements described above.
 - 1. **Type 2b.** Attachment to replacement pole for existing wooden streetlight served by overhead power, or replacement pole for other

existing wooden pole without overhead power which serves only as a support for other overhead wires.

2. **Type 3.** Attachment to existing streetlight pole or replacement pole served by underground power
3. **Type 4.** Attachment to pole supporting traffic control devices or combined pole that also supports other uses such as streetlights. A wooden pole supporting traffic control devices shall be replaced with a replacement pole.
4. **Type 5.** Attachment to existing decorative pole or replacement pole
5. **Type 6.** Attachment to existing freestanding SWF pole or replacement pole.

C. **Category 3.** The following installations are prohibited, except that a Type 7 installation may be authorized by the City if the applicant shows by clear and convincing evidence that co-location on a Category 2 pole type is not possible. If authorized, the pole must be designed for SWF installation with internal wiring and cabling and include an integrated equipment cabinet in the base of the pole which meets the standards of Section 3.18.755. Only top-mounted canister-style antennas are permitted, and side-mounted panel antennas are not permitted.

1. **Type 7.** Attachment to new freestanding small cell pole.
2. **Type 8.** Strand-mounted attachment.

3.18.765 Nonconforming Installations. SWFs that lawfully existed prior to the adoption of this ordinance shall be allowed to continue their use as they presently exist. Routine maintenance may be permitted on such lawful preexisting SWFs. Lawfully existing SWFs may be replaced as long as the replacement is in the exact location of the SWF being replaced and is of a construction type identical in height, width, lighting, and painting, or in greater conformance with these standards. Any other changes or modifications to a replacement SWF shall not be considered routine maintenance, shall be treated as new construction, and shall comply with the requirements of this chapter. Such replacement of SWFs shall comply with the requirements of this ordinance, except that as discussed in Subsection III of the FCC's declaratory ruling, #91, the minimum spacing or co-location requirements shall not apply to replacement of an existing SWF installation on an existing pole.

3.18.770 Maintenance and Operations. Facilities shall be maintained and operated in accordance with all applicable laws and the applicable franchise agreements or license agreement for use of the right-of-way and any separate requirements of the pole owner and power provider. This shall include all requirements governing operation, any costs associated with maintenance and replacement of poles, removal of unused facilities, limitations and requirements on trimming trees and vegetation, timely graffiti removal, etc.