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## PROPOSED AMENDMENTS TO THE MCMINNVILLE MUNICIPAL CITY CODE

New proposed language is represented by **bold underline font**, deleted language is represented by ~~strikethrough font~~.

### Chapter 17.55

#### WIRELESS COMMUNICATIONS FACILITIES

##### Sections:

- 17.55.010 Purpose.
- 17.55.020 Definitions.
- 17.55.030 Exemptions.
- 17.55.040 Permitted and conditional use locations of antennas, antenna support structures and alternative antenna support structures to be used for wireless communication service.
- 17.55.050 Development Review Standards
- 17.55.060 Co-location of antennas and antenna support structures.
- 17.55.070 Antenna support structures—removal when no longer used.
- 17.55.080 Application for permit for antennas, antenna support structures, and equipment enclosures

17.55.010 Purpose. Wireless Communications Facilities (WCF) play an important role in meeting the communication needs of the citizens of McMinnville. The purpose of this chapter is to establish appropriate locations, site development standards, and permit requirements to allow for the provision of WCF while helping McMinnville remain a livable and attractive city.

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.

As used in this chapter, reference to WCF is broadly construed to mean any facility, along with all of its ancillary equipment, used to transmit and/or receive electromagnetic waves, radio and/or television signals, including telecommunication lattice and monopole towers, and alternative supporting structures, equipment cabinets or buildings, parking and storage areas, and all other associated accessory development.

17.55.020 Definitions. For the purposes of this section, refer to Section 17.06.050 for Wireless Communications Facility related definitions. (Ord. 4952 §1, 2012).

17.55.030 Exemptions. The provisions of this chapter do not apply to:

- A. Federally licensed amateur radio stations.
- 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 the zoning designation of the site outside of the area identified in Chapter 17.59 (Downtown Design Standards and Guidelines).
- C. Cell on Wheels which are portable mobile cellular sites that provide temporary network and wireless coverage, are permitted as temporary uses in all zones for a period not to exceed sixty (60) days, except that such time period may be extended by the City during a period of emergency as declared by the City, County, or State; a typical example of Cells on Wheels would be a mobile news van used for broadcasting coverage of an event or other news.

17.55.040 Permitted and conditional use locations of antennas, antenna support structures and alternative antenna support structures to be used for wireless communications service. All non-exempt (17.55.030) WCF (antennas, antenna support structures and alternative antenna support structures) are permitted, conditionally permitted, or prohibited to be located in zones as provided in this Chapter and as listed below:

- A. Permitted Uses.
  - 1. Antennas, antenna support structures and alternative antenna support structures are permitted in the M-L (Limited Light Industrial Zone), M-1 (Light Industrial Zone), and M-2 (General Industrial Zone) zones. Antenna support structures are not permitted within the area identified in Chapter 17.59 (Downtown Design Standards and Guidelines).
  - 2. Antennas mounted to alternative antenna support structures in the O-R, C-1, C-2, and C-3 zones located outside of the area identified in Chapter 17.59 (Downtown Design Standards and Guidelines). However, such antennas shall add not more than twenty feet to the total height of such structure. Facilities associated with antennas so mounted shall be obscured from view from all streets and immediately adjacent properties by the use of screening materials designed, painted and maintained in a manner that will blend with the appearance of the building or structure.
  - 3. Antennas may be mounted to alternative antenna support structures in the R-1, R-2, R-3, R-4, A-H and F-P zones. However, such antennas shall not exceed the height of the alternative antenna support structure. Facilities associated with antennas so mounted shall be obscured from view from all streets and immediately adjacent properties by the use of screening materials designed, painted and maintained in a manner that will blend with the appearance of the building or structure.
- B. Conditional Uses. In the area defined in Chapter 17.59 (Downtown Design Standards and Guidelines), antennas proposed for mounting on alternative antenna support structures, in addition to all requirements of this Chapter, are subject to conditional use permit approval by the Planning Commission.
- C. Prohibited Uses. Construction or placement of new antenna support structures in all zones except as permitted by 17.55.040 (A)(1).

<b><u>WIRELESS FACILITIES</u></b>		
<b><u>ZONE</u></b>	<b><u>ANTENNA SUPPORT STRUCTURES</u></b>	<b><u>ANTENNAS MOUNTED TO ALTERNATIVE ANTENNA SUPPORT STRUCTURES*</u></b>
<b><u>Residential</u></b>	<b><u>Prohibited</u></b>	<b><u>Permitted - No additional height added</u></b>
-	-	-
<b><u>Commercial</u></b>	<b><u>Prohibited</u></b>	<b><u>Permitted - Less than or equal to 10 feet height added</u></b>
-	-	<b><u>Conditional Use - Within Downtown Design District</u></b>
-	-	-
<b><u>Industrial</u></b>	<b><u>Permitted outside of the Downtown Design District</u></b>	<b><u>Permitted (100-foot maximum finished height)</u></b>
-	-	-
<b><u>Agricultural Holding</u></b>	<b><u>Prohibited</u></b>	<b><u>Permitted – No additional height added</u></b>
-	-	-
<b><u>Floodplain</u></b>	<b><u>Prohibited</u></b>	<b><u>Permitted – No additional height added</u></b>

\* **Subject to the requirements of Chapter 17.55.**

**17.55.050 Development review standards.**

**All WCF shall comply with the following design and review standards, unless identified as being legally non-conforming (grandfathered) as per the requirements of Chapter 17.63 (Nonconforming Uses).**

**A. Visual Impact.**

- 1. Antennas. Façade-mounted antennas shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. As appropriate, antennas shall be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Façade-mounted antennas shall not extend more than two (2) feet out from the building face. Roof-mounted antennas shall be constructed at the minimum height possible to serve the operator’s service area and shall 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.**
- 2. Height. Freestanding wireless and broadcast communication facilities shall be exempted from the height limitations of the zone in which they are located, but shall not exceed one-hundred (100) feet unless it is demonstrated that it is necessary. Facilities shall not exceed fifty (50) feet in height in Residential zones, except where such facility is sited on an alternative tower structure. This exemption notwithstanding, the height and mass of the transmission tower shall be the minimum which is necessary for its intended use, as demonstrated in a report prepared**

- by a licensed professional engineer. A wireless or broadcast communication facility that is attached to an alternative tower structure shall not exceed the height of the alternative tower structure by more than ten (10) feet, except that for location or collocation on alternative tower structures in residential zones, no increase in height shall be allowed.
3. Visual Impact. All WCF shall be designed to minimize the visual impact to the maximum extent possible by means of placement, screening, landscaping and camouflage. All WCF shall also be designed to be compatible with existing architectural elements, building materials, and other site characteristics. All WCF shall be sited in such a manner as to cause the least detriment to the viewshed from other properties. The use of camouflage technique(s), as found acceptable to the Planning Director to conceal antennas, associated equipment and wiring, and antenna supports is required.
  4. Screening. The area around the base of antenna support structures (including any equipment enclosure) is to be fenced, with a sight-obscuring fence a minimum of six feet in height. The fenced area is to be surrounded by evergreen shrubs (or a similar type of evergreen landscaping), placed within a landscaped strip a minimum of ten feet in width. In the event that placement of a proposed antenna support structure and/or equipment enclosure is located in a unique area within a subject site that would not benefit from the addition of landscaped screening, the Planning Director may require that the applicant submit a landscape plan illustrating the addition of a proportional landscape area that will enhance the subject site either at a building perimeter, parking lot, or street frontage, adjacent to or within the subject site.
  5. Color.
    - a. A camouflage or stealth design that blends with the surrounding area shall be utilized for all wireless and broadcast communication facilities unless an alternative design is approved during the land use review process. If an alternative design is approved, all towers, antennae and associated equipment shall be painted a non-reflective, neutral color as approved through the review process. Attached communication facilities shall be painted so as to be identical to or compatible with the existing structure.
    - b. Towers more than 100 feet in height shall be painted in accordance with the Oregon State Aeronautics Division and Federal Aviation Administration rules. Applicants shall attempt to seek a waiver of OSAD and FAA marking requirements. When a waiver is granted, towers shall be painted and/or camouflaged in accordance with subsection "A", above.
    - c. Where ancillary facilities are allowed under this code to be visible, they shall be colored or surfaced so as to blend the facilities with the surrounding natural and built environment, and where mounted on the ground shall be otherwise screened from public view, or placed underground.
  6. Signage. There shall be no signs, symbols, flags, banners, or other such elements attached to or painted or inscribed upon any WCF except for warning and safety signage with a surface area of no more than three (3) square feet. Except as required by law, all signs are prohibited on WCF except for one non-illuminated sign, not to exceed two (2) square feet,

which shall be provided at the main entrance to the WCF, stating the owner's name, the wireless operator(s) if different from the owner, and address and a contact name and phone number for emergency purposes.

7. Historic Buildings and Structures. If the application involves the placement of an antenna on a building that is listed in the McMinnville register of historic structures, no such permit shall be issued without the prior approval of the McMinnville Historic Landmarks Committee.
  8. Accessory Building Size. Within the public right-of-way, no above-ground accessory buildings shall be permitted. Outside of the public right-of-way, all accessory buildings and structures permitted to contain equipment accessory to a WCF shall not exceed twelve (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 is limited to two hundred (200) square feet, unless approved through a Conditional Use Permit. If approved in a Residential zone or the Downtown Overlay District, all equipment and ancillary facilities necessary for the operation of and constructed as part of a wireless or broadcast communication facility shall be placed within an underground vault specific to the purpose. For facilities required to be approved as stealth facilities, no fencing around the wireless or broadcast communication facilities shall be allowed. Unenclosed storage of materials is prohibited. Other building facilities, including offices, vehicle storage areas or other similar uses not necessary for transmission or relay functions are prohibited, unless a separate land use application for such is submitted and approved. Such other facilities shall not be allowed in Residential zones.
  9. Utility Vaults and Equipment Pedestals. Within the public right-of-way, utility vaults and equipment pedestals associated with WCF must be underground to the maximum extent possible.
  10. Parking. No net loss in minimum required parking spaces shall occur as a result of the installation of any WCF.
  11. Sidewalks and Pathways. Cabinets and other equipment shall not impair pedestrian use of sidewalks or other pedestrian paths or bikeways on public or private land and shall be screened from view. Cabinets shall be undergrounded, to the maximum extent possible.
  12. Lighting. No antennas, or antenna support structures shall be artificially lighted except as required by the FAA or other governmental agency. WCF shall not include any beacon lights or strobe lights, unless required by the FAA or other applicable authority. If beacon lights or strobe lights are required, the Planning Director shall review the available alternatives and approve the design with the least visual impact. All other site lighting for security and maintenance purposes shall be shielded and directed downward, unless otherwise required under Federal law.
- B. Setbacks and Separation.
1. Setbacks. All WCF antenna support structures shall be set back from any other property line by a distance at least equal to the maximum height of the facility including any antennas or other appurtenances attached thereto, unless this requirement is specifically waived by the Planning Director or the Planning Commission for purposes of mitigating visual impacts or improving compatibility with other uses on the property.  
All WCF are prohibited in a required front yard, rear yard, side yard, or

- exterior side yard setback of any lot in any zone, and no portion of any antenna shall extend into such setback. For guyed towers or monopoles, all guy anchors shall be located outside of the required site setbacks.
2. Separation. No antenna support structure shall be permitted to be constructed, installed or erected within 1,000 feet of any other antenna support structure that is owned, operated, or occupied by the same wireless communications service. Exceptions to this standard may be permitted by the Planning Director if, after reviewing evidence submitted by the service provider, the Director finds that: 1) a closer spacing is required in order to provide adequate wireless communication service to the subject area; and, 2) the service provider has exhausted all reasonable means of co-locating on other antenna support structures that may be located within the proposed service area.  
Antennas mounted on rooftops or City-approved alternative support structures shall be exempt from these minimum separation requirements. However, antennas and related equipment may be required to be set back from the edge of the roof line in order to minimize their visual impact on surrounding properties and must be screened in a manner found acceptable to the reviewing authority.

**17.55.060 Co-location of antennas and antenna support structures.**

- A. In order to encourage shared use of towers, monopoles, or other facilities for the attachment of WCF, no conditional use permit shall be required for the addition of equipment, provided that:
  1. There is no change to the type of tower or pole.
  2. All co-located WCF shall be designed in such a way as to be visually compatible with the structures on which they are placed.
  3. All co-located WCF must comply with the conditions and concealment elements of the original tower, pole, or other facility upon which it is co-locating.
  4. All accessory equipment shall be located within the existing enclosure, shall not result in any exterior changes to the enclosure and, in Residential zones and the Downtown Overlay District, shall not include any additional above grade equipment structures.
  5. Collocation on an alternative tower structure in a Residential zone or the Downtown Overlay District shall require a stealth design.
  6. The equipment shall not disturb, or will mitigate any disturbed, existing landscaping elements according to that required in a landscape plan previously approved by the Landscape Review Committee. If no such plan exists, a new landscape plan for the affected area must be submitted to and reviewed by the Landscape Review Committee prior to installation of the subject facility.
  7. Placement of the equipment does not entail excavation or deployment outside of the site of the current facility where co-location is proposed.
  8. A building permit shall be required for such alterations or additions. Documentation shall be provided by an Oregon-licensed Professional Engineer verifying that changes or additions to the tower structure will not adversely affect the structural integrity of the tower.
  9. Additional Application Requirements for Co-Location.
    - a. A copy of the site plan approved for the original tower, pole, or other base station facility, to which the co-location is proposed.

- b. A site survey delineating development on-the-ground is consistent with the approved site plan.

17.55.070 Antenna support structures—removal when no longer used. Any antenna support structure that has had no antenna mounted upon it for a period of 180 successive days, or if the antenna mounted thereon are not operated for a period of 180 successive days, shall be considered abandoned, and the owner thereof shall remove such structure and any accompanying equipment enclosure within 90 days from the date of written notice from the City. During such 90 days, the owner may apply, and, for good reason, be granted an extension of time on such terms as the Planning Director shall determine. If such structure and equipment enclosure are not so removed, the City may seek and obtain a court order directing such removal and imposing a lien upon the real property upon which the structure(s) are situated in an amount equal to the cost of removal.

17.55.080 Application for permit for antennas, antenna support structures, and equipment enclosures. All applications for permits for the placement and construction of wireless facilities shall be accompanied by the following:

- A. Payment of all permit fees, plans check fees and inspection fees;
- B. Proof of ownership of the land and/or alternative antenna support structure upon which the requested antenna, enclosure, and/or structure is proposed, or copy of an appropriate easement, lease, or rental agreement;
- C. Public Meeting. Prior to submitting an application for a new wireless or broadcast communication facility, the applicant shall schedule and conduct a public meeting to inform the property owners and residents of the surrounding area of the proposal. It is the responsibility of the applicant to schedule the meeting/presentation and provide adequate notification to the residents of the affected area (the affected area being all properties within 1000 feet of the proposed site). Such meeting shall be held no less than 15 days and no more than 45 days from the date that the applicant sends notice to the surrounding property owners. The following provisions shall be applicable to the applicant's obligation to notify the residents of the area affected by the new development application:
  1. The applicant shall send mailed notice of the public meeting to all property owners within 1000 feet of the boundaries of the subject property (the subject property includes the boundary of the entire property on which the lease area for the facility lies). The property owner list shall be compiled from the Yamhill County Tax Assessor's property owner list from the most recent property tax assessment roll. The notice shall be sent a minimum of 15 days prior to the public meeting, and shall include at a minimum:
    - a. Date, time and location of the public meeting.
    - b. A brief written description of the proposal and proposed use, but with enough specificity so that the project is easily discernable.
    - c. The location of the subject property, including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessors map) which depicts the subject property.
  2. Evidence showing that the above requirements have been satisfied shall be submitted with the land use application. This shall include: copies of all required notification materials; surrounding property owners list; and, an affidavit from the property owner stating that the above listed

requirements were satisfied.

- D. Residential Siting Analysis.** If a wireless or broadcast communications facility is proposed within a Residential zone the applicant must demonstrate the need for the new facility and compliance with stealth design requirements for alternative support structure as specified in this Chapter.
- E. Geographical Survey.** The applicant shall identify the geographic service area for the proposed WCF, including a map showing all of the applicant's existing sites in the local service network associated with the gap that the proposed WCF is proposed to close. The applicant shall describe how this service area fits into and is necessary for the service provider's service network. Prior to the issuance of any building permits, applicants for WCF shall provide a copy of the corresponding FCC Construction Permit or license for the facility being built or relocated, if required. The applicant shall include a vicinity map clearly depicting where, within a one-half (1/2) mile radius, any portion of the proposed WCF could be visible, and a graphic simulation showing the appearance of the proposed WCF and all accessory and ancillary structures from two separate points within the impacted vicinity, accompanied by an assessment of potential mitigation and screening measures. Such points are to be mutually agreed upon by the Planning Director, or the Planning Director's designee, and the applicant. This Section (.02) is not applicable to applications submitted subject to the provisions of 47 U.S.C. 1455(a).
- F. Visual Impact, Technological Design Options, and Alternative Site Analysis.** The applicant shall 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 shall include photo simulations and other information as necessary to determine visual impact of the facility as seen from multiple directions. The applicant shall include a map showing where the photos were taken. The applicant shall include an analysis of alternative sites and technological design options for the WCF 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 or pole is proposed as a part of the proposed WCF, the applicant must demonstrate the need for a new tower or pole and why existing locations or design alternatives, such as the use of microcell technology, cannot be used to meet the identified service objectives. Documentation and depiction of all steps that will be taken to screen or camouflage the WCF to minimize the visual impact of the proposed facility must be submitted.
- G. Number of WCF.** The Application shall include a detailed narrative of all of the equipment and components to be included with the WCF, including, but not limited to, antennas and arrays; equipment cabinets; back-up generators; air conditioning units; towers; monopoles; lighting; fencing; wiring, housing; and screening. The applicant must provide the number of proposed WCF at each location and include renderings of what the WCF will look like when screened. The Application must contain a list of all equipment and cable systems to be installed, including the maximum and minimum dimensions of all proposed equipment.
- H. Safety Hazards.** Any and all known or expected safety hazards for any of the WCF facilities must be identified and the applicant who must demonstrate how all such hazards will be addressed and minimized to comply with all applicable safety codes.



- I. Landscaping. The Application shall provide a landscape plan, drawn to scale, that is consistent with the need for screening at the site, showing all proposed landscaping, screening and proposed irrigation (if applicable), with a discussion of how proposed landscaping, at maturity, will screen the site. Existing vegetation that is proposed to be removed must be clearly indicated and provisions for mitigation included. All landscape plans shall be reviewed by and approved by the McMinnville Landscape Review Committee prior to installation.
- J. Height. The Application shall provide an engineer's diagram, drawn to scale, showing the height of the WCF and all of its above-ground components. Applicants must provide sufficient evidence that establishes that the proposed WCF is designed to the minimum height required to meet the carrier's coverage objectives. If a WCF height will exceed the base height restrictions of the applicable zone, its installation will be predicated upon either an Administrative Variance approval by the Planning Director (17.72.110) or a Variance approval (17.72.120) by the Planning Commission.
- K. Timeframe. The Application shall describe the anticipated time frame for installation of the WCF.
- L. Noise/Acoustical Information. The Application shall 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. The applicant shall provide equipment decibel ratings as provided by the manufacturer(s) for all noise generating equipment for both maintenance cycling and continual operation modes.
- M. Parking. The Application shall provide a site plan showing the designated parking areas for maintenance vehicles and equipment for review and approval by the Planning Director.
- N. Co-Location. In the case of new antenna support structures (multi-user towers, monopoles, or similar support structures), the applicant shall submit engineering feasibility data and a letter stating the applicant's willingness to allow other carriers to co-locate on the proposed WCF.
- O. Lease. The site plan shall show the lease or easement area of the proposed WCF.
- P. Lighting and Marking. The Application shall describe any proposed lighting and marking of the WCF, including any required by the Federal Aviation Administration (FAA).
- Q. Maintenance. The applicant shall provide a description of anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and potential safety impacts of such maintenance.
- R. The Planning Director may request any other information deemed necessary to fully evaluate and review the information provided in the application.
- S. Co-Location Feasibility. A feasibility study for the co-location of any WCF as an alternative to new structures must be presented and certified by an Oregon-licensed Professional Engineer. Co-location will be required when determined to be feasible. The feasibility study shall include:
  - 1. An inventory, including the location, ownership, height, and design of existing WCF within one-half (1/2) mile of the proposed location of a new WCF. The planning director may share such information with other applicants seeking permits for WCF, but shall not, by sharing such information, in any way represent or warrant that such sites are available or suitable.

2. Documentation of the efforts that have been made to co-locate on existing or previously approved towers, monopoles, or structures. The applicant shall make a good faith effort to contact the owner(s) of all existing or approved towers, monopoles, or structures and shall provide a list of all owners contacted in the area, including the date, form, and content of such contact.
3. Documentation as to why co-location on existing or proposed towers, monopoles, or commercial structures within one thousand (1,000) feet of the proposed site is not practical or feasible. Co-location shall not be precluded simply because a reasonable fee for shared use is charged or because of reasonable costs necessary to adapt the existing and proposed uses to a shared tower. The Planning Director and/or Development Review Board may consider expert testimony to determine whether the fee and costs are reasonable when balanced against the market and the important aesthetic considerations of the community.

17.55.085 Speculation tower. No application shall be accepted or approved from an applicant to construct a tower and lease tower space to service providers when it is not itself a wireless 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.

17.55.090 Owner's Responsibility

- A. If the City of McMinnville approves a new tower, the owner of the tower improvement shall, as conditions of approval, be required to:
  1. Record all conditions of approval specified by the City with the Yamhill County Clerk/Recorder;
  2. Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;
    - a. Negotiate in good faith with any potential user for shared use of space on the tower;
    - b. The above conditions, and any others required by the City, shall run with the land and be binding on subsequent purchasers of the tower site and/or improvement; and
    - c. A person/entity who/which deems himself/herself/itself aggrieved by the failure of a tower owner to respond in a timely and comprehensive manner or negotiate in good faith for shared use of a tower approved by the City under this ordinance or any previous iteration of this ordinance, shall have a private right of action for damages for injury sustained by the party which was caused by the failure of the owner of the tower to so respond or negotiate in good faith as required by this section. In the resulting private litigation/mediation/arbitration, the prevailing party shall be entitled to have his/her/it's reasonable attorney fees paid by the nonprevailing party at the trial level and upon appeal.
- B. Maintenance. The following maintenance requirements apply to all facilities and shall be required as conditions of approval, where applicable:
  1. All landscaping shall be maintained at all times and shall be promptly replaced if not successful.
  2. If a flagpole is used for camouflaging a facility, flags must be flown and must be properly maintained at all times.

3. All wireless and broadcast communication facility sites shall be kept clean, free of litter and noxious weeds.
4. All wireless and broadcast communication facility sites shall maintain compliance with current RF emission standards of the FCC, the National Electric Safety Code, and all state and local regulations.
5. All equipment cabinets shall display a legible operator's contact number for reporting maintenance problems.

**17.055.100 Abandoned Facilities**

- A. All operators who intend to abandon or discontinue the use of any wireless or broadcast communication facility shall notify the City of such intentions no less than 60 days prior to the final day of use.
- B. Wireless or broadcast communication facilities shall be considered abandoned 90 days following the final day of use or operation.
- C. All abandoned facilities shall 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.
- D. In the event that an owner discontinues use of a wireless communication and broadcast facility for more than ninety (90) days, the City may declare the facility abandoned and require the property owner to remove it. An abandoned facility may be declared a nuisance subject to the abatement procedures of the City of McMinnville Code. Delay by the City in taking action shall not in any way waive the city's right to take action. Upon written application prior to the expiration of the ninety (90) day period, the Planning Director may grant a six-month extension for reuse of the facility. Additional extensions beyond the first six-month extension may be granted by the City subject to any conditions required to bring the project into compliance with current law(s) and make compatible with surrounding development.
- E. Any abandoned site shall be restored to its natural or former condition. Grading and landscaping in good condition may remain.
- F. The applicant shall submit a cash deposit to be held by the City as security for abatement of the facility as specified herein. The cash deposit shall be equal to 120% of the estimated cost for removal of the facility and restoration of the site. Cost estimates for the removal shall be provided by the applicant based on an independent, qualified engineer's analysis and shall be verified by the City. Upon completion of the abandonment of the facility by the applicant as specified by this section, and inspection by the City, the entirety of the cash deposit shall be returned to the applicant.

**17.055.110 Review Process and Approval Criteria.** The following procedures shall be applicable to all new wireless and broadcast communication facility applications as specified in the Section:

- A. All new wireless and/or broadcast communication facilities shall be reviewed under this chapter. Applications for new wireless and broadcast communication facilities shall be processed in accordance with the provisions of this section.
- B. Approval Criteria. The City shall approve the application for a wireless or broadcast communication facility on the basis that the proposal complies with the General Development Standards listed in this code above, and upon a determination that the following criteria are met:

1. The location is the least visible of other possible locations and technological design options that achieve approximately the same signal coverage objectives.
2. 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 (i.e. noise, glare, traffic, etc).
3. All required public facilities and services have adequate capacity as determined by the City, to serve the proposed wireless or broadcast communication facility; and
  - a. 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 shall be denied.
  - b. Notwithstanding any other provisions of this Code, the McMinnville City Council may establish fees in amounts sufficient to recover all of the City's costs in reviewing applications filed pursuant to this Chapter, including retaining independent telecommunication or other professional consultants as may be necessary to review and evaluate any evidence offered as part of an application. Such fee may be imposed during the review of an application as deemed appropriate by the City Planning Department.

#### Chapter 17.55

#### WIRELESS COMMUNICATIONS FACILITIES (as amended by Ord. 4732, June 2000)

#### Sections:

- 17.55.010 — Purpose.
- 17.55.020 — Definitions.—
- 17.55.030 — Antennas to which this chapter has no application.
- 17.55.040 — Permitted and conditional use locations of antenna, antenna support structures, and antenna arrays to be used for wireless communication service.
- 17.55.050 — Design standards.
- 17.55.060 — Co-location of antennas and antenna support structures.
- 17.55.070 — Interference with reception.
- 17.55.080 — Antenna support structures — removal when no longer used
- 17.55.090 — Application for permit for antennas, antenna arrays, antenna support structures, and equipment enclosures.
- 17.55.010 — Purpose. The purpose of this chapter is to establish appropriate locations,

~~site development standards, and permit requirements to allow for the provision of wireless communications services to the residents of the City. Such siting is intended to occur in a manner that will facilitate the location of various types of wireless communication facilities in permitted locations consistent with the residential character of the City, and consistent with land uses in commercial and industrial areas.~~

~~The prevention of the undue proliferation and associated adverse visual impacts of wireless communications facilities within the City is one of the primary objectives of this chapter. This chapter, together with the provisions of the Uniform Building Code, is also intended to assist in protecting the health, safety, and welfare of the citizens of McMinnville. (Ord. 4732, 2000)~~

~~17.55.020 — Definitions. For the purposes of this section, refer to Section 17.06.050 for Wireless Communications Facility related definitions. (Ord. 4952 §1, 2012).~~

~~17.55.030 — Antennas to which this chapter has no application. The provisions of this chapter do not apply to radio or television reception antennas, satellite or microwave parabolic antennas not used by wireless communications service providers, antennas under 70 feet in height and owned and operated by a federally-licensed amateur radio station operators, to any antenna support structure or antenna lawfully in existence within the city on the effective date of this chapter, or to the facilities of any cable television company holding a valid and current franchise, or commercial radio or television broadcasting facilities. (Ord. 4732, 2000)~~

~~17.55.040 — Permitted and conditional use locations of antenna, antenna support structures, and antenna arrays to be used for wireless communications service. Wireless communication antenna, antenna arrays, and antenna support structures are permitted, conditionally permitted, or prohibited to be located in the zones as provided in this Chapter and as listed below:~~

- ~~D. Antenna support structures are permitted in the M-L (Limited Light Industrial Zone), M-1 (Light Industrial Zone), and M-2 (General Industrial Zone) zones only.~~
- ~~E. In the R-1, R-2, R-3, and R-4 zones, with Planning Commission approval of a conditional use permit, subject to the requirements of Chapters 17.72 and 17.74, antennas and antenna arrays may be mounted to existing alternative antenna support structures. However, such antennas and antenna arrays shall not add more than twenty feet to the total height or elevation of such structure from the street grade. Facilities associated with antennas or antenna arrays so mounted shall be obscured from view from all streets and immediately adjacent properties by the use of screening materials designed, painted and maintained in a manner that will blend with the appearance of the building.~~
- ~~F. In the O-R, C-1, C-2, and C-3 zones located outside of the Historic Downtown Core (for purposes of this ordinance, defined as the area between First and Fifth Streets, and Adams and Galloway Streets), antennas and antenna arrays may be mounted to existing alternative antenna support structures. However, such antennas and antenna arrays shall add not more than twenty feet to the total height or elevation of such structure from the street grade. Facilities associated with antennas or antenna arrays so mounted shall be obscured from view from all streets and immediately adjacent properties by the use of screening materials designed, painted and maintained in a manner that will blend with the appearance of the building.~~
- ~~G. In the Historic Downtown Core, the placement of antennas and antenna arrays may be permitted subject to the requirements of Chapters 17.72 and 17.74 of the McMinnville Zoning Ordinance, and the requirements of this ordinance.~~

- H. ~~In the M-L, M-1, and M-2 zones located outside of the Historic Downtown Core, antennas and antenna arrays may be mounted to existing alternative antenna support structures.~~
- I. ~~In the A-H and F-P zones, with Planning Commission approval of a conditional use permit, subject to the requirements of Chapters 17.72 and 17.74, antennas and antenna arrays may be mounted to existing alternative antenna support structures. However, such antennas and antenna arrays shall not add more than twenty feet to the total height or elevation of such structure from the street grade. Facilities associated with antennas or antenna arrays so mounted shall be obscured from view from all streets and immediately adjacent properties by the use of screening materials designed, painted and maintained in a manner that will blend with the appearance of the building.~~
- J. ~~Wireless Facilities matrix.~~

ZONE	WIRELESS FACILITIES	
	TOWERS	ANTENNA ARRAY MOUNTS TO EXISTING STRUCTURES*
Residential	Prohibited	Less than or equal to 20 feet height added (Conditional Use)
Commercial	Prohibited	Less than or equal to 20 feet height added (Permitted)
		Within Historic Downtown (Conditional Use)
Industrial	Permitted	Permitted (without regard to height added)
		Within Historic Downtown (Conditional Use)
Agricultural Holding	Prohibited	Less than or equal to 20 feet height added (Conditional Use)
Floodplain	Prohibited	Less than or equal to 20 feet height added (Conditional Use)

\* Subject to the requirements of Chapter 17.55. (Ord. 4732, 2000)

17.55.050 — Design standards.

- B. ~~Where permitted, antenna support structures shall be constructed and installed as far away from existing buildings on adjoining land as is reasonably possible, and in no event within any required yard or set-back area or nearer than 25 feet to any publicly held land, residential structure or accessory building on adjoining land, or railroad right-of-way.~~
- C. ~~The area around the base of antenna support structures (including any equipment enclosure) is to be fenced, with a sight-obscuring fence a minimum of six feet in height. The fenced area is to be surrounded by evergreen shrubs (or a similar type of evergreen landscaping), placed within a landscaped strip a minimum of ten feet in width. In the event that placement of a proposed antenna support structure and/or equipment enclosure is located in a unique area within a subject site that would not~~

benefit from the addition of landscaped screening, the Planning Director may require that the applicant submit a landscape plan illustrating the addition of a proportional landscape area that will enhance the subject site either at a building perimeter, parking lot, or street frontage, adjacent to or within the subject site.

- ~~C. All antenna support structures, antennas, and antenna arrays, and associated facilities shall be finished in a non-reflective neutral color.~~
- ~~D. No antenna support structure shall be permitted to be constructed, installed or erected within 1,000 feet of any other antenna support structure that is owned, operated, or occupied by the same wireless communications service. Exceptions to this standard may be permitted by the Planning Director if, after reviewing evidence submitted by the service provider, he finds: 1) that a closer spacing is required in order to provide adequate wireless communication service to the subject area; and 2) the service provider has exhausted all reasonable means of co-locating on other antenna support structures that may be located within the proposed service area. An appeal of the Planning Director's decision may be made to the Planning Commission provided such appeal is filed with the Planning Department within fifteen days of the Director's decision. Appropriate fees, as set by City Council resolution, shall accompany the appeal.~~
- ~~E. The construction and installation of antenna support structures, antennas, antenna arrays, and the placement of antennas or antenna arrays on alternative antenna support structures, shall be subject to the requirements of the city's Building Code (UBC), and Electrical Code (NEC).~~
- ~~F. No antennas or antenna arrays, or antenna support structures shall be artificially lighted except as required by the Federal Aviation Administration or other governmental agency.~~
- ~~G. There shall be no signs, symbols, flags, banners, or other such devices or things attached to or painted or inscribed upon any antennas, antenna arrays, or antenna support structures.~~
- ~~H. If the application involves the placement of an antenna or an antenna array on a building that is listed in the McMinnville register of historic structures, no permit to construct, install or erect antenna support structures or equipment enclosures, or to install, mount or erect antennas or antenna arrays on existing buildings or on other alternative antenna support structures, shall be issued without the prior approval of the McMinnville Historic Landmarks Committee. (Ord. 4732, 2000)~~

~~17.55.060 — Co-location of antennas and antenna support structures.~~

- ~~B. Co-location shall be required unless demonstrated to be infeasible to the satisfaction of the Planning Director or Planning Commission. Evidence submitted to demonstrate such shall consist of the following:
 
  - ~~1. That no existing antenna support structures or alternative antenna support structures are located within the geographic area which meet the applicant's engineering requirements; or~~
  - ~~2. That existing antenna support structures and alternative antenna support structures are not of sufficient height to meet applicant's engineering requirements; or~~
  - ~~3. That existing antenna support structures and alternative antenna support structures do not have sufficient structural strength to support applicant's proposed antennas or antenna arrays and related equipment; or~~
  - ~~4. That an applicant's proposed antennas or antenna arrays would cause detrimental electromagnetic interference with nearby antennas or antenna arrays, or vice-versa; or~~
  - ~~5. That there are other limiting factors, such as inadequate space for a second equipment shelter, that render existing antenna support structures or alternative antenna support structures unsuitable.~~~~



- ~~B. All wireless communications service providers shall cooperate with other wireless communications service providers in co-locating additional antennas or antenna arrays on antenna support structures and/or alternative antenna support structures. The following co-location requirements shall apply:~~
- ~~1. All antenna support structures shall be designed so as to not preclude co-location.~~
  - ~~2. In the event co-location is represented to be infeasible, the City may retain a technical expert in the field of telecommunications engineering to verify if co-location at the site is not feasible, or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant.~~
  - ~~3. A wireless communications service provider shall exercise good faith in co-locating with other providers and sharing antenna sites, provided that such shared use does not technically impair their ability to provide wireless communications service. Such good faith shall include sharing of technical information to evaluate the feasibility of co-location. In the event that a dispute arises as to whether a provider has exercised good faith in accommodating other providers, the city may require a third party technical study at the expense of either or both of such providers.~~
  - ~~4. The City of McMinnville may deny a building or conditional use permit to the applicant for a wireless facility who has not demonstrated a good faith effort to co-locate on an existing wireless communication facility. Determination of "good faith effort" shall be the responsibility of the Planning Director. (Ord. 4732, 2000)~~

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~~17.55.070 Interference with reception. No antenna or antenna array shall be permitted to be placed in a location where it will interfere with existing transmittal or reception of radio, television, audio, video, electronic, microwave or other signals, especially as regard police and emergency services operating frequencies. (Ord. 4732, 2000)~~

~~17.55.080 Antenna support structures removal when no longer used. Any antenna support structure that has had no antenna or antenna array mounted upon it for a period of 180 successive days, or if the antenna or antenna array mounted thereon are not operated for a period of 180 successive days, shall be considered abandoned, and the owner thereof shall remove such structure and any accompanying equipment enclosure within 90 days from the date of written notice from the City. During such 90 days, the owner may apply, and, for good reason, be granted an extension of time on such terms as the Planning Director or Building Official shall determine. If such structure and equipment enclosure are not so removed, the city may seek and obtain a court order directing such removal and imposing a lien upon the real property upon which the structure(s) are situated in an amount equal to the cost of removal. (Ord. 4732, 2000)~~

~~17.55.090 Application for permit for antennas, antenna arrays, antenna support structures, and equipment enclosures. All applications for permits for the placement and construction of wireless facilities shall be accompanied by the following:~~

- ~~D. Payment of all permit fees, plans check fees and inspection fees;~~
- ~~E. Proof of ownership of the land and/or alternative antenna support structure upon which the requested antenna, antenna array, enclosure, and/or structure is proposed, or copy of an appropriate easement, lease, or rental agreement;~~
- ~~F. A map, drawing or aerial photo showing all existing and proposed antenna support structures within one mile of the McMinnville Urban Growth Boundary (UGB). Information provided shall include the number of existing antenna and antenna arrays per antenna support structure, as well as the number of arrays planned for use upon~~

~~a proposed new antenna support structure, with sufficient detail (if available) to be added to the City's GIS data system. Any wireless communications service provider may utilize existing mapping information possessed by the City in order to create an updated map.~~

- ~~G. A scaled plan and a scaled elevation view and other supporting drawings, illustrating the location and dimensions of the relevant antenna support structure, alternative antenna support structure, antenna array, antennas, equipment enclosures and any and all other major devices and attachments. (Ord. 4732, 2000)~~