

ORDINANCE NO. 5043

AN ORDINANCE AMENDING TITLE 17 OF THE MCMINNVILLE CITY CODE SPECIFIC TO CHAPTER 17.06, DEFINITIONS, AND 17.55 WIRELESS COMMUNICATIONS FACILITIES TO HELP ACHIEVE A MORE DESIRABLE COMMUNITY AESTHETIC WHILE ENSURING CODE COMPLIANCE WITH CURRENT FEDERAL COMMUNICATIONS COMMISSION (FCC) REGULATIONS.

RECITALS:

In June, 2000, the City of McMinnville adopted Ordinance No. 4732, amending Title 17 of the McMinnville City Code, including adding Chapter 17.55 to address zoning and development standards for Wireless Communications Facilities. This is the first amendment to that Chapter since its original adoption; and

Since 2000 there have been many federal laws regarding regulating wireless communications facilities; and

The City of McMinnville adopted a FY 2017-2018 Goal to Promote Sustainable Growth and Development. This ordinance helps to achieving a more desirable community aesthetic while ensuring code compliance with current Federal Communications Commission (FCC) regulations; and

The recommended text amendments were reviewed by the McMinnville Planning Commission at a work session held on July 20, 2017 and at public hearings held on August 17, October 19 and November 16, 2017, where the Commission then unanimously recommended that the Council approve the proposed amendments to Chapter 17.06 and to Chapter 17.55 of the McMinnville City Code.

The City Council considered the Planning Commission's recommended text amendments at their meeting on November 28, 2017, but scheduled a public hearing for a future date to allow for additional public testimony to be provided and considered.

The City Council held a public hearing on January 23, 2018, allowed for additional testimony, and considered additional text amendments recommended by staff to address comments and concerns provided in public testimony provided.

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

1. That Section 17.06 and 17.55 of the McMinnville City Code is amended as provided in Exhibit A. Text that is added is shown in **bold underlined** font while text that is removed is shown in ~~strikeout~~ font.; and
2. That the Council adopts the Findings of Fact, Conclusionary Findings, and Decision as documented in Exhibit B for G 4-17; and
3. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council this 23rd day of January, 2018, by the following votes:

Ayes: Garvin, Menke, Peralta, Ruden, Stassens

Nays: _____

SIGNATURE PAGE:



MAYOR

Approved as to form:

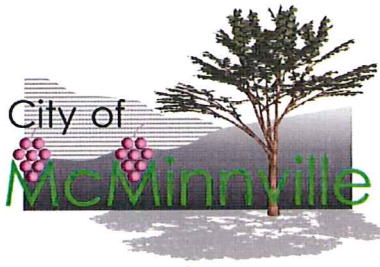
Attest:



CITY ATTORNEY



CITY RECORDER



CITY OF MCMINNVILLE
 PLANNING DEPARTMENT
 231 NE FIFTH STREET
 MCMINNVILLE, OR 97128
 503-434-7311
www.mcminnvilleoregon.gov

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 17.06 DEFINITIONS

17.06.050 ~~_____~~ Wireless Communication Facilities Related Definitions. For the purpose of Wireless Communication Facilities (Chapter 17.55), the following definitions shall apply.

Alternative Antenna Support Structures – Roofs of buildings, provided they are 30 feet or more in height above the street grade upon which such buildings front, church steeples, existing and replacement utility poles, flagpoles, street light standards, traffic light and traffic sign structures, billboards and commercial signs, and other similar man-made structures and devices that extend vertically from the ground to a sufficient height or elevation to accommodate the attachment of antennas at an altitude or elevation that is commercially desirable for wireless communications signal transmission and reception. **Antennas cannot serve as an alternative antenna support structure.**

Antenna – A specific device used to receive or capture incoming and/or to transmit outgoing radio-frequency (RF) signals, microwave signals, and/or other communications energy transmitted from, or to be received by, other antennas. Antennas regulated by Chapter 17.55 (Wireless Communications Facilities) include omni-directional (or “whip”) antennas, directional (or “panel”) antennas, parabolic (or “dish”) antennas, **small cell** and any other devices designed for the reception and/or transmission of radio-frequency (RF) signals or other communication technologies.

~~**Antenna Array – Two or more antenna as defined above.**~~

Antenna Support Structure – A structure or device **driven into the ground or mounted upon or attached to a foundation** specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennas at a height, altitude, or elevation which is above the base of such structure. Antenna support structures include, but are not limited to, the following:

- A. Lattice tower: A vertical support structure consisting of a network of crossed metal braces, forming a tower which may be three, four, or more sided.
- B. Monopole tower; a vertical support structure consisting of a single vertical metal, concrete, or wooden pole, pipe, tube or cylindrical structure, typically round or square, ~~and driven into the ground or mounted upon or attached to a foundation.~~

Co-location – Utilization of a single antenna support structure, alternative antenna support structure, or an underground conduit or duct, by more than one wireless communications service provider.

Distributed Antenna Systems (DAS) – A network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure. For purposes of this code, Distributed Antenna Systems (DAS) are regulated as Small Cells.

Equipment Enclosure – A small structure, shelter, cabinet, box or vault designed for and used to house and protect the electronic equipment necessary and/or desirable for processing wireless communications signals and data, including any provisions for air conditioning, ventilation, or auxiliary electricity generators.

Facilities – All equipment and property associated with the construction of antenna support structures, antenna arrays, and antennas, including but not limited to cables, wires, conduits, ducts, pedestals, antennas of all descriptions, electronic and mechanical equipment and devices, and buildings and similar structures.

Small Cells – A small cell facility is a WCF that includes an antenna that is no more than three (3) cubic feet in volume and its associated equipment. Also referred to as Distributed Antenna Systems (or “DAS”).

Wireless Communications Facility (WCF) – An unstaffed facility for the transmission and/or reception of RF, microwave or other signals for commercial communications purposes, typically consisting of an equipment enclosure, an antenna support structure or an alternative antenna support structure, and one or more antennas.

Wireless Communications Service – The providing or offering for rent, sale, lease, or in exchange for other consideration, of the transmittal and reception of voice, data, image, graphic, and other information by the use of current or future wireless communications.

Chapter 17.55

WIRELESS COMMUNICATIONS FACILITIES

(as amended by Ord. 5043, November 2017, Ord. 4732, June 2000)

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 Application for permit for antennas, antenna support structures, and equipment enclosures.**
- 17.55.080 Speculation tower**
- 17.55.090 Owner’s responsibility**
- 17.55.100 Abandoned Facilities**
- 17.55.110 Review Process and Approval Criteria**

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 wireless communications service 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 antenna support structures, equipment enclosures, parking and storage areas, an all other associated facilities.

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. Public SCADA (supervisory control and data acquisition) and similar systems.
- D. 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.
- E. Modifications to Certain Existing Facilities that Qualify as “Eligible Facilities Requests” Under Federal Law. Any “Eligible Facilities Request” that does not “substantially change” the physical dimensions of a WCF, as those terms are used and defined under 47 U.S.C. 1455(a) and implemented by 47 CFR Section 1.40001. Applicants shall submit applications consistent with Section 17.72.020 demonstrating that the proposed modification qualifies as an “eligible facilities request” under applicable federal law, and compliance with all applicable building and structural codes. Filing fees shall be paid by applicants pursuant to Section 17.72.030. All such requests shall be reviewed by the City pursuant to 17.72.100

17.55.040 Permitted and conditional use locations of antennas, small cells, DAS, 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, alternative antenna support structures, small cells and DAS) 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 (inclusive of small cells), 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 (inclusive of small cells) 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). Unless a conditional use permit is obtained under 17.55.040 (B), such antennas and small cells shall add not more than ten (10) feet to the total height of such structure. Except for small cells installed in the public right-of-way, associated facilities 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. Such screening materials shall be reviewed and approved by the Planning Director. Small cells installed in the public right-of-way are subject to 17.55.050 (A)(1).**
- 3. Antennas (inclusive of small cells) may be mounted to alternative antenna support structures in the R-1, R-2, R-3 and R-4 zones. Unless a conditional use permit is obtained under 17.55.040 (B), such antennas and small cells shall not exceed the height of the alternative antenna support structure. Except for small cells installed in the public right-of-way, associated facilities 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. Such screening materials shall be reviewed and approved by the Planning Director. Small cells installed in the public right-of-way are subject to 17.55.050 (A)(1).**

B. Conditional Uses. In all zones other than industrial zones, antenna(s) may be mounted to existing alternative antenna support structures limited to an additional 20-feet in total height added subject to conditional use approval by the Planning Commission. Except for small cells installed in the public right-of-way, such 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 existing building or structure. Small cells installed in the public right-of-way are subject to 17.55.050 (A)(1). For properties located within the area identified 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) and in the matrix in 17.55.040 (D).

D. Wireless Communications Facilities Matrix:

<u>WIRELESS FACILITIES</u>		
<u>ZONE</u>	<u>ANTENNA SUPPORT STRUCTURES</u>	<u>ANTENNAS (INCLUSIVE OF SMALL CELLS) MOUNTED TO ALTERNATIVE ANTENNA SUPPORT STRUCTURES*</u>
<u>Residential</u>	<u>Prohibited</u>	<u>Permitted - No additional height added</u>
-	-	<u>Conditional Use – Less than or equal to 20 feet height added</u>
<u>Commercial</u>	<u>Prohibited</u>	<u>Permitted - Less than or equal to 10 feet height added</u>
-	-	<u>Conditional Use - Within Downtown Design District</u>
-	-	<u>Conditional Use – Less than or equal to 20 feet height added</u>
<u>Industrial</u>	<u>Permitted outside of the Downtown Design District</u>	<u>Permitted (100-foot maximum finished height)</u>
-	-	-
<u>Agricultural Holding</u>	<u>Prohibited</u>	<u>Conditional – Less than or equal to 20 feet height added</u>
-	-	-
<u>Floodplain</u>	<u>Prohibited</u>	<u>Conditional – Less than or equal to 20 feet height added</u>
-	-	-

* **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 (inclusive of small cells) shall be architecturally integrated into the building/structural improvement 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.**
 - a. Small Cells on existing or replacement utility poles, street light standards, signal poles, etc. shall also conform to the following standards.**

- 1) The antennas and/or replacement utility pole do not project more than 24 inches above the existing utility pole support structure.
 - a. The Planning Director may allow for additional height, up to no more than ten (10) feet above the existing utility pole support structure, if the additional height is required to meet separation requirements from electrical lines. The applicant must also show that there are no alternative sites available that would not require more than an additional 24 inches of height through the alternative site analysis required in 17.55.070(G).
 - 2) No more than a total of two antennas are located on a single pole.
 - 3) Any ground-mounted equipment cabinet is concealed from public view by burying or screening by means other than walls or fences.
 - 4) Any pole-mounted equipment or equipment cabinet is painted or finished to match and mounted as close to the pole as is feasible, unless it is incorporated into some other stealth or architectural feature.
2. Height. Freestanding antenna support structures and alternative antenna support structures shall be exempted from the height limitations of the zone in which they are located, but shall not exceed one-hundred (100) feet in Industrial zones unless it is demonstrated that additional height is necessary. Antennas (inclusive of small cells) shall not exceed fifty (50) feet in height in residential zones. This exemption notwithstanding, the height and mass of the antenna support structure shall be the minimum which is necessary for its intended use, as demonstrated in a report prepared by a radio frequency engineer or a licensed civil engineer. A WCF that is attached to an alternative antenna support structure shall not exceed the height indicated in the matrix in 17.55.040 (D).
 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 minimize the visual impact 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. Except in the public right-of-way, 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, antennas 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. Antenna support structures more than 100 feet in height shall be painted in accordance with the Oregon Department of Aviation (ODA) and Federal Aviation Administration (FAA) rules.
 - 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. Except when included as part of a camouflage or stealth design, 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 National Register of Historic Places or the McMinnville Historic Resources Inventory, 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 Design District, all equipment and ancillary facilities necessary for the operation of and constructed as part of a WCF shall be placed within an existing structure, incorporated into the WCF's design, or placed within an underground vault specific to the purpose. If it is infeasible to locate the facilities within an existing structure or incorporate them into the WCF's design, and it can be sufficiently demonstrated to the Planning Director that undergrounding a vault would be impractical and/or infeasible (due to high water table, shallow bedrock, etc.) the Planning Director may waive this requirement in place of stealthing and/or screening sufficient to buffer the equipment. 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, unless they are incorporated into the design of the WCF as otherwise allowed by this chapter.
 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.
 12. Lighting. No antennas, or antenna support structures shall be artificially lighted except as required by the FAA or other State or Federal governmental agency. 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. Except when located in the public right-of-way, 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. For co-locations not exempt under 17.55.030 (E), 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 co-location and 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 Design District, shall not include any additional above grade equipment structures.
5. Co-location on an alternative support structure in a Residential zone or the Downtown Design 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 detailed Site Plan as part of a set of drawings stamped by a Registered Architect or Professional Engineer delineating development on-the-ground is consistent with the approved site plan.

17.55.070 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, rental agreement, or other owner authorization;
- C. Public Meeting. Except when the applicant proposes small cells in the public right-of-way, prior to submitting an application for a new antenna support structure (as defined in Chapter 17.06), the applicant shall schedule and conduct a neighborhood meeting to inform the property owners and residents of the surrounding area of the proposal. The neighborhood meeting shall be held in accordance with the requirements for neighborhood meetings in Section 17.72.095 (B) – (G) of the McMinnville Zoning Ordinance. In place of the notification distance described in 17.72.095 (D)(1), the notification distance to be used for new antenna support structures shall be 1,000 feet of the boundaries of the subject property.
- D. Residential Siting Analysis. If a WCF 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 authorization or license for the facility being built or relocated, if required. This Section is not applicable to applications submitted subject to the provisions of 47 U.S.C. 1455(a) as implemented by 47 CFR Part 1.40001(a) noted in Section 17.55.030(E) above.
- F. Visual Impact Analysis. The applicant shall provide a visual impact analysis for all components of the facility. The visual impact analysis shall include photo simulations, the maximum silhouette of the facility, color and finish palette, proposed screening, and other information as necessary to determine visual impact of the facility as seen from multiple directions. 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. The photo simulations must show 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. The applicant shall include the locations of the two points on the vicinity map required above.
- G. Design Options and Alternative Site Analysis. The applicant shall include an analysis of alternative sites and 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 alternatives 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.
- H. Number of WCF. The Application shall include a detailed narrative of all of the proposed 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.
- I. 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.
- J. Landscaping. When applicable, 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.
- K. 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.
- L. Timeframe. The Application shall describe the anticipated time frame for installation of the WCF.
- M. 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.
- N. 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.
- O. 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.
- P. Lease. The site plan shall show the lease or easement area of the proposed WCF.
- Q. Lighting and Marking. The Application shall describe any proposed lighting and marking of the WCF, including any required by the Oregon Department of Aviation (ODA) or Federal Aviation Administration (FAA).
- R. 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.
- S. The Planning Director may request any other information deemed necessary to fully evaluate and review the information provided in the application.
- T. Co-Location Feasibility. A feasibility study for the co-location of any WCF as an alternative to new antenna support structures must be presented and certified by a radio-frequency engineer or a licensed civil 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 Planning Commission 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.

17.55.080 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
- 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 as a stealth method 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 owners 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. 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.
- D. In the event that an owner discontinues use of a wireless communication and broadcast facility for more than ninety (90) days, has not been granted an extension of time by the Planning Director, and has not removed the facility, 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. 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. Delay by the City in taking action shall not in any way waive the city's right to take action.
- 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 bond or cash deposit to be held by the City as security for abatement of the facility as specified herein. The bond or 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, any bond will be released and the entirety of any 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 WCF applications as specified in the Section:

- A. All new WCF shall be reviewed under this chapter. Applications for new wireless and broadcast communication facilities WCF shall be processed in accordance with the provisions of this section.
- B. Approval Criteria. The City shall approve the application for a WCF 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 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 detrimental impact, if any, upon neighboring properties; The suitability of the site for the type and intensity of the proposed facility; and
- c. 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:

- E. 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.

- F. ~~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.~~
- G. ~~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.~~
- H. ~~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.~~
- I. ~~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.~~
- J. ~~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.~~
- K. ~~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)~~

-

~~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)~~



**CITY OF MCMINNVILLE
PLANNING DEPARTMENT
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DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO CHAPTER 17.55 (WIRELESS COMMUNICATIONS FACILITIES) OF THE McMINNVILLE ZONING ORDINANCE (ORDINANCE 3380).

DOCKET: G 4-17

REQUEST: The City of McMinnville is proposing to amend Chapter 17.06 (Definitions) and Chapter 17.55 (Wireless Communications Ordinance) of the McMinnville City Code to update zoning and development standards related to wireless telecommunications facilities to achieving a more desirable community aesthetic while ensuring code compliance with current Federal Communications Commission (FCC) regulations.

LOCATION: N/A

ZONING: N/A

APPLICANT: City of McMinnville

STAFF: Ron Pomeroy, Principal Planner and Chuck Darnell, Associate Planner

DATE DEEMED COMPLETE: N/A

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: August 17, 2017, October 19, 2017 and November 16, 2017. Meetings held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

DECISION MAKING BODY: McMinnville City Council

DATE & TIME: November 28, 2017 and January 23, 2018. Meetings held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

COMMENTS: This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas; and the Oregon Department of Land Conservation and Development. No comments in opposition have been received.

Application Summary:

The City of McMinnville is proposing a zoning text amendment to Chapter 17.06 (Definitions) and Chapter 17.55 (Wireless Communications Facilities) of the McMinnville Zoning Ordinance. The proposed zoning text amendment is related to achieving a more desirable community aesthetic while ensuring code compliance with current Federal Communications Commission (FCC) regulations.

CONDITIONS OF APPROVAL

None.

ATTACHMENTS

- Attachment 1: Memo - Mike Bisset, Community Development Director, dated August 11, 2017, received August 11, 2017 (on file with the Planning Department)
- Attachment 2: Letter - Patrick Evans, Crown Castle, dated August 16, 2017, received August 16, 2017 (on file with the Planning Department)
- Attachment 3: Email – Patrick Evans, Crown Castle, dated October 30, 2017, received October 30, 2017 (on file with the Planning Department)
- Attachment 4: Letter – Meridee Pabst, on behalf of Verizon Wireless, dated November 28, 2017, received November 28, 2017 (on file with the Planning Department)
- Attachment 5: Suggested Revisions to Ordinance 5043 – Meridee Pabst, on behalf of Verizon Wireless, received via email on January 5, 2018, (on file with the Planning Department)

COMMENTS

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Wastewater Services, Parks Department, McMinnville Public Works, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas; and the Oregon Department of Land Conservation and Development. The only public agency comment received was from the Community Development Director and is attached to this Decision Document as Attachment 1.

Additional comments were provided on August 16, 2017 and October 30, 2017 by Patrick Evans (Attachments 2 and 3, respectively). Additional comments were also provided on November 28, 2017 and January 5, 2018 by Meridee Pabst (Attachments 4 and 5, respectively).

FINDINGS OF FACT

- A. McMinnville's first Wireless Communications Facilities ordinance was adopted in June, 2000, as Chapter 17.55 of the McMinnville Zoning Ordinance.
- B. The City of McMinnville is proposing to amend Chapter 17.06 (Definitions) and Chapter 17.55 (Wireless Communications Ordinance) of the McMinnville Zoning Ordinance to update provisions related to wireless telecommunications facilities to achieving a more desirable community aesthetic while ensuring code compliance with current Federal Communications Commission (FCC) regulations.

- C. In concert with legal counsel, staff has drafted the following proposed amendments to McMinnville Zoning Ordinance (Ordinance 3380) specific to Section 17.55 (Wireless Communications Facilities) for consideration by the McMinnville Planning Commission and the McMinnville City Council.
- D. This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Wastewater Services, Parks Department, McMinnville Public Works, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas; and the Oregon Department of Land Conservation and Development. No comments in opposition have been received.
- E. Public notification of the public hearing held by the Planning Commission was published in the August 8, 2017 edition of the News Register. No comments in opposition were provided by the public prior to the public hearing.

CONCLUSIONARY FINDINGS

The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

Economy of McMinnville

GOAL IV 1 TO ENCOURAGE THE CONTINUED GROWTH AND DIVERSIFICATION OF McMINNVILLE’S ECONOMY IN ORDER TO ENHANCE THE GENERAL WELL-BEING OF THE COMMUNITY AND PROVIDE EMPLOYMENT OPPORTUNITIES FOR ITS CITIZENS.

Commercial Development

GOAL IV 2 TO ENCOURAGE THE CONTINUED GROWTH OF McMINNVILLE AS THE COMMERCIAL CENTER OF YAMHILL COUNTY IN ORDER TO PROVIDE EMPLOYMENT OPPORTUNITIES, GOODS, AND SERVICES FOR THE CITY AND COUNTY RESIDENTS.

Industrial Development

GOAL IV 6 TO INSURE INDUSTRIAL DEVELOPMENT THAT MAXIMUZES EFFICIENCY OF LAND USES, THAT IS APPROPRIATELY LOCATED IN RELATION TO SURROUNDING LNAD USES, AND THAT MEETS NECESSARY ENVIRONMENTAL STANDARDS.

General Policies:

48.00 The City of McMinnville shall encourage the development of new industries and expansion of existing industries that provide jobs for the local (McMinnville and Yamhill County) labor pools.

Economic Development

132.34.00 Supportive of the mobility needs of business and industry, the McMinnville transportation system shall consist of the infrastructure necessary for the safe and efficient movement of goods, services, and people throughout the McMinnville planning area, and between other centers within Yamhill County and the Willamette Valley. [..]

Finding: Goals IV 1, IV 2 and IV 6, and Policies 48.00 and 132.34.00 are satisfied by this proposal in that the proposed modifications would support the continued opportunity for the provision of wireless communications facilities in McMinnville. While requiring wireless communications facilities to physically blend in more cohesively with our local urban environment, this proposal will also lend support to job creation and retention, and aid in enhancing business and industry communications options. While not actual employment or manufacturing centers, wireless communications facilities will continue to provide for the digital transfer of information which is directly supportive of and enabling to the commercial and industrial sectors.

Community Facilities and Services

GOAL VII 1 TO PROVIDE NECESSARY PUBLIC AND PRIVATE FACILITIES AND UTILITIES AT LEVELS COMMENSURATE WITH URBAN DEVELOPMENT, EXTENDED IN A PHASED MANNER, AND PLANNED AND PROVIDED IN ADVANCE OF OR CONCURRENT WITH DEVELOPMENT [..]

Police and Fire Protection

153.00 The City of McMinnville shall continue coordination between the planning and fire departments in evaluating major land use decisions.

155.00 The ability of existing police and fire facilities and services to meet the needs of new service areas and populations shall be a criterion used in evaluating annexations, subdivision proposals, and other major land use decisions.

Finding: Policies 153.00, and 155.00 are satisfied by this proposal in that in that the proposed modifications would continue to support the efficient operation of a wireless communications network that would, in some part, enable the rapid movement of fire, medical, and police vehicles throughout McMinnville's urban area. These amendments were provided to the McMinnville Police and Fire Departments for review and comment and no concerns or objections were provided.

GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.

Policies:

188.00 The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

Finding: Goal X 1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed

Staff Report and Decision Document prior to the holding of advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

F. The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) are applicable to the request:

General Provisions:

17.03.020 Purpose. The purpose of this ordinance is to encourage appropriate and orderly physical development in the City through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, and adequate community facilities; to provide assurance of opportunities for effective utilization of the land resource; and to promote in other ways public health, safety, convenience, and general welfare.

Finding: Section 17.03.020 is satisfied by the request for the reasons enumerated in Conclusionary Finding for Approval No. 1.

RP:sjs