To: Washington County Board of Commissioners

From: Andy Back, Manager, Planning and Development Services

Subject: PROPOSED LAND USE ORDINANCE NO. 826 - An Ordinance Amending the Community Development Code Relating to Telecommunication Facilities Standards

ADDENDUM STAFF REPORT

For the September 19, 2017 Board of Commissioners Hearing
(The public hearing will begin no sooner than 10:00 a.m.)

I. STAFF RECOMMENDATION

Conduct the public hearing for Ordinance No. 826. At the conclusion of the hearing, deliberate and provide direction. This addendum report provides three options for Board consideration.

II. OVERVIEW

The September 12 staff report for the Board of Commissioners (Board) hearing on September 19 provides an overview of the ordinance, background information, an analysis of the proposed changes, a discussion of public testimony and Planning Commission (PC) deliberations, and recommendations for potential changes to the ordinance.

The purpose of this addendum staff report is to provide the Board additional information on the issue of telecommunication facilities in the public-right-of-way, which was a key issue raised by the Planning Commission.

The Planning Commission (PC) conducted public hearings for Ordinance No. 826 on August 16 and September 6, 2017. At the conclusion of the hearings, the PC voted 8 - 0 to recommend the Board defer action on Ordinance No. 826 to spring 2018 to allow additional time for staff to work with the PC and industry representatives to address potential impacts to future development by allowing new towers within the right-of-way.

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III. ANALYSIS

Telecommunication Facilities in the public right-of-way
In the PC’s August 16 and September 6 public hearings for this ordinance, the overarching issue was allowing additional telecommunication facilities in the public right-of-way and the potential adverse impacts to future development if these approved facilities required relocation. The PC’s specific concerns were related to both the cost and timing of relocation.

The Federal Communications Commission’s (FCC) website describes the Telecommunications Act of 1996 as the “…first major overhaul of telecommunications law in almost 62 years. The goal of this new law is to let anyone enter any communications business -- to let any communications business compete in any market against any other.” The Telecommunications Act allows state and local agencies to regulate the placement, construction, and modification of personal wireless service facilities but with limitations, for instance, state and local agencies are not allowed to “…prohibit or have the effect of prohibiting the provision of personal wireless services.”

Industry experts have indicated the direction of current and emerging technology is to install multiple smaller antennas throughout the county, placed within a closer distance than what is required with larger cell (macro) towers. Their desire is to locate these antennas within the public right-of-way to create a network to meet the capacity demands for mobile devices. Locating in the right-of-way has benefits for the industry and community, but has its own set of issues.

The Community Development Code (CDC) currently does not require a land use review for the addition of antennas on existing facilities, allowing carriers to place antennas on existing utility poles with just a right-of-way permit. New facilities in the right-of-way cannot currently be approved, since CDC Section 430-109 requires setbacks from property lines that can’t be met within the right-of-way. To address this current and likely increasing future demand for more facilities, particularly in the right-of-way, staff proposed a new CDC Section 430-109.5 to establish standards for these facilities. These standards were developed to limit impacts of these new facilities on the surrounding area while not prohibiting them (consistent with the goals of the Telecommunications Act).

State Regulation of Utilities
State statute, quoted below, provides guidance to the County on utilities in the right-of-way. The statute requires the County to allow utilities in the right-of-way free of charge. However, the County can determine where these utilities are to be located and also require that they be relocated if needed.

ORS 758.010: Authority to construct lines and facilities; requirements and conditions.
(1) Except within cities, any person has a right and privilege to construct, maintain and operate its water, gas, electric or communication service lines, fixtures and other facilities along the public roads in this state, as defined in ORS 368.001 or across rivers or over any lands belonging to state government, as defined in ORS 174.111, free of charge, and over lands of private individuals, as provided in ORS 772.210. Such lines, fixtures and facilities shall not be constructed so as to obstruct any public road or navigable stream.
(2) A county governing body and the Department of Transportation have authority to designate the location upon roads under their respective jurisdiction, outside of cities, where lines, fixtures and facilities described in this section may be located, and subject to ORS 758.025 may order the location of any such line, fixture or facility to be changed when such governing body or department deems it expedient. Any line, fixture or facility erected or remaining in a different location upon such road than that designated in any order of the governing body or department is a public nuisance and may be abated accordingly.

Cities are exempt from this statute, allowing them to establish franchise agreements with the service providers that often include fees and provisions for relocation. The County is not able to establish franchise agreements.

Cost to Relocate Facilities in the Public Right-of-Way
There are three primary reasons relocation of a facility in the public right-of-way would be required: (1) as part of a County roadway project, (2) as part of roadway improvements associated with a development, or (3) if the facility results in a roadway safety issue. For County projects and roadway safety issues, the service provider is responsible for the cost of relocation. For private projects, the cost of this relocation, coordination, and timing is the responsibility of the developer. As part of an approved land use application, the County may include conditions requiring roadway improvements including necessary utility relocation. It is the responsibility of the developer to meet these conditions which requires the developer to coordinate with the service provider.

In the Bull Mountain Meadows LLC v Frontier Communications Northwest, Inc. case, the Court of Appeals sided with the Public Utility Commission’s Order permitting Frontier to charge Bull Mountain Meadows the cost of relocating poles even if the requirement to relocate was part of the County’s conditions of approval on the development. Under the facts presented in this case, the Court of Appeals concluded the conditioned improvements were not considered County projects, therefore the developer is responsible for the relocation costs.

Further, if the cost of relocating a facility is high, this could create a potential proportionality issue when adding these relocation costs to other required transportation improvements. Based on the size of the proposed development, this could result in limiting the complete right-of-way improvements dictated in our Transportation System Plan (i.e. sidewalks, bike paths, planter strips, etc.).

Process for Relocating Facilities in the Public Right-of-Way
The relocation process is complicated by how many utilities are found on the pole being relocated, and the need to coordinate with how these service providers handle relocation requests. The responsibility to move these poles lies with the service provider and not with the County or the developer. Therefore, the issue of timing depends on how responsive the service provider is. A PGE representative has provided the following typical timeline:
- 2-3 months PGE Design Process
- 2 weeks to coordinate an agreement w/ a developer
- 2 weeks to relocate PGE pole
- 2 weeks to have carrier move their equipment

The representative indicated these timelines are estimates only, and that other factors such as backlog of relocation requests, site conditions, or responsiveness of other carriers can significantly impact the timing of the relocation. County staff’s experience is that the process often takes longer.

The timing to relocate a telecommunication tower is unknown since the current County regulations only permit these facilities on existing utility poles such as those of PGE.

IV. OPTIONS
Based on the issues raised by the Planning Commission, Board discussion at the September 12 work session, and further information provided in this addendum staff report, staff has identified three options for Board consideration on how to proceed with Ordinance No. 826, as follows:

**Option 1**
Accept the PC’s recommendation and defer action on Ordinance No. 826 until spring 2018.

**Analysis:** The PC recommended additional time for staff to work with the PC and industry representatives to address potential impacts to future development by allowing new facilities within the right-of-way. While this would allow for further review of this specific issue and provide additional time for staff to collaborate with other jurisdictions working on this issue, it would also defer all other changes proposed in the ordinance. The majority of the changes in Ordinance No. 826 are proposed to streamline the regulations and to address changes to federal law, and are not related to the issue of facilities in the right-of-way.

**Option 2**
Order engrossment of the ordinance to reflect the changes described in the September 12 staff report. In addition, as part of the engrossment, remove Section 430-109.5 (New Telecommunication Facilities in the Public Right-of-Way).

**Analysis:** This option could include directing staff to further review the right-of-way issue and collaborate with the PC and industry representatives, before returning to the Board in the future with recommendations on how to address this issue. The Board could consider further work on this issue as part of the 2018 Long Range Planning work program. A new ordinance could be filed in the 2018 ordinance season if deemed appropriate. This option would allow the right-of-way issue to be removed and the ordinance to proceed with the other proposed changes.

Other jurisdictions are also addressing the subject of telecommunication facilities in the right-of-way. By removing this section from the ordinance, this will provide additional time for staff to collaborate with other jurisdictions on this issue.
**Option 3**
Order engrossment of the ordinance to reflect the changes described in the September 12 staff report. This would include a series of proposed changes resulting from the comments provided by the Planning Commission and public testimony, shown in Attachment G of the September 12 staff report.

**Analysis:** This option would include adoption of all proposed changes, including a new section 430-109.5 (New Telecommunication Facilities in the Public Right-of-Way) that would provide for additional facilities in the right-of-way. This option would likely result in additional telecommunication facilities being built in the right-of-way and the potential for additional costs and delay for developers if relocation is necessary.

**Staff Recommendation**
Based on discussions at both the Planning Commission and Board work session it is apparent the issue of allowing new telecommunication facilities in the right-of-way is complicated and multi-faceted. Changes to the CDC, as originally proposed, could result in the construction of additional telecommunication facilities in the right-of-way, which could create potential impacts on future development should they need to be relocated. Since the County can’t charge utilities for locating in the right-of-way, the number of new facilities could be significant. These potential impacts and how they are addressed warrants further review.

The primary purpose of this ordinance, however, was to update the telecommunication regulations to be more consistent with federal regulations and to update the CDC to provide clarity on the process and standards. Staff believes it is important to move forward with the other changes proposed in Ordinance No. 826 while separating out the right-of-way issue.

**Staff recommends the Board proceed with Option 2.**
To:         Washington County Board of Commissioners

From:       Andy Back, Manager
            Planning and Development Services

Subject: PROPOSED LAND USE ORDINANCE NO. 826 - An Ordinance Amending the
          Community Development Code Relating to Telecommunication Facilities
          Standards

STAFF REPORT

For the September 19, 2017 Board of Commissioners Hearing
(The public hearing will begin no sooner than 10:00 a.m.)

I. STAFF RECOMMENDATION

Conduct the public hearing for Ordinance No. 826. At the conclusion of the hearing, deliberate
and provide direction.

II. PLANNING COMMISSION RECOMMENDATION

The Planning Commission (PC) conducted two public hearings for Ordinance No. 826 on August
16 and September 6, 2017. The PC voted 8 - 0 to recommend the Board defer action on
Ordinance No. 826 to the spring 2018 to allow additional time for staff to work with the PC and
industry representatives to address potential impacts to future development by allowing new
towers within the right-of-way.

III. OVERVIEW

Ordinance No. 826 proposes updates to the Community Development Code (CDC) regarding
telecommunication facilities to implement federal regulations that streamline the processing of
certain telecommunication facilities. The ordinance also addresses requests from staff and prior
applicants to update telecommunication facilities regulations to make them more clear and user-
friendly. At its April 4, 2017 meeting, the Board of Commissioners (Board) adopted the 2017
Long Range Planning Work Program, authorizing staff to file an ordinance to address these issues.
This staff report provides an overview of the history of telecommunication facility regulations in the County, changes to federal law, and a description of the County’s current regulations. In the Analysis Section it reviews stakeholder involvement, details the proposed CDC changes, and discusses public testimony, PC deliberations, and staff’s response to the PC’s deliberations. Finally, the report provides proposed amendments to the filed ordinance.

IV. BACKGROUND

Telecommunication Facilities
Telecommunication facilities, also known as cellular towers, wireless facilities or communication facilities, are found throughout the county. They are located on existing structures and buildings and as independent structures. Telecommunication facilities include all equipment that support this function including, but not limited to, antennas, towers, fencing, landscaping, and equipment cabinets.

The purpose of these facilities is to transmit and receive various kinds of signals to provide wireless communication to the entire community. According to the industry, the need for wireless connectivity will continue to increase based on advances in technology such as smart phone applications, wireless meter readings for utility companies, and the future use of self-driving cars. The industry indicates that demand for this technology will exceed the capacity of current telecommunication facilities and that more antennas will be needed.

While local jurisdictions are able to regulate land use aspects of telecommunication facilities, federal regulations place limits on their authority. For example, the FCC is the regulatory agency that addresses communication (radio or broadcast) frequencies for government (excluding federal), commercial, private internal business, and personal use. Federal statutes also prevent local agencies from addressing environmental effects of radio frequency (RF) emissions as long as the facility complies with federal regulations. The CDC currently regulates the location, size, design and site characteristics of telecommunication facilities.

History of Telecommunication Facility Regulations in Washington County
Radio and television transmitters were a conditional use in the County’s code in 1959. In 1983, Ordinance No. 279 adopted the CDC and established Special Use Section 430-109 Radio, Television and other Transmitter or Related Towers. This ordinance adopted special standards for communication facilities, including rules for new towers. A number of changes have been made to this section since 1983 (Ordinance Nos. 402, 560, and 591). The last update to Section 430-109 occurred in 2004 as part of Ordinance No. 623, which included the following changes:

- adding more exemptions to Section 430-109;
- updating the CDC to be more compliant with the Federal Telecommunications Act (FTA) adopted in 1996; and
- encouraging stealth and concealment designs for antennas and towers.
Spectrum Act

In 2012, the U.S. Congress passed the Spectrum Act, also known as Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012. “The Spectrum Act was generally intended to “advance wireless broadband service” for public safety and commercial purposes…” The purpose of the Spectrum Act was to simplify and expedite the local land use review process for the modification of existing telecommunication facilities or expansion of facilities on existing structures that did not “substantially change” the physical characteristics of an existing facility. To meet the purpose of the Act, local agencies must approve applications for these types of facilities and must modify review processes to:

- Reduce the amount of supporting documentation required for submittal with an application; and
- Limit review time to 60 days, including the completeness review process.

The FCC approved rules to interpret the Spectrum Act in October 2014, known as the FCC Order. To comply with the new federal regulations, the County modified its review procedures for certain co-location applications, however, this new procedure and the review requirements have not been codified in the CDC.

Overview of Existing Regulations

Under the existing CDC regulations, telecommunications facilities are regulated as a special use, subject to the Special Use requirements found in Section 430-109, Receiving and Transmitting Antennas, Communication and Broadcast Towers. Definitions relating to telecommunication facilities are located in Section 106, Definitions. Article III, Land Use Districts, specifies where different types of telecommunication facilities are allowed and under which type of review procedure.

Special Use Section 430-109 categorizes the various telecommunication facilities into four main facility types ranked by level of impact to the area. The four facility types range from lesser to greater perceived impacts, and are as follows:

- Facility 1: Co-location [the addition of antennas and/or their supporting equipment to existing telecommunication facilities or structures]
- Facility 2: Concealment [use of stealth technology to hide the tower/antenna/supporting equipment by designing it to resemble natural or man-made features commonly found in an area]
- Facility 3: Screening of new towers [use of the surrounding vegetation or buildings allow the facility to blend with the surrounding environment]
- Facility 4: New towers with no screening [no mitigation]

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Special Use Section 430-109 includes subsections on:
.1 - Exemptions - a list of uses for which the standards and requirements in this section do not apply
.2 - Requirements for expansions and alterations of existing facilities, including nonconforming uses
.3 - Co-location of antennas, including standards for co-locating on existing towers, structures, buildings, and their associated submittal requirements
.4 - New concealment towers. These types of towers are generally encouraged if a new tower is needed

Section 430-109.5 identifies the four facility types (1 through 4). The purpose of these regulations is to reduce impacts of these facilities to the surrounding area. The facility type with the least impact is co-location of antennas on existing towers, and the facility with the most impact is new towers with no mitigation measures. The type of facility in many cases determines the type of land use review process needed. For example, co-location and concealment towers (Facility 1 and 2) are reviewed through a Type I procedure in all land use districts. In most land use districts, Facility 3 and 4 projects require the more extensive Type II or III review process.

Section 430-109 also includes the following subsections:
.6 - Prohibited uses related to telecommunication facilities;
.7 - Submittal requirements for telecommunication facilities;
.8 - General design standards, including installation requirements for antennas, painting requirements for towers and antennas, and design elements for ground-mounted equipment shelters;
.9 - Site standards, including setback, access, or noise requirements;
.10 - Additional documentation requirements that specifically require other agency coordination;
.11 - Special requirements associated with facilities located on EFU and AF-20 lands; and
.12 - Abandonment.

Ordinance Notification
Ordinance No. 826 and an accompanying summary were mailed July 21, 2017, to community participation organizations (CPOs) and interested parties. A display advertisement regarding the proposed ordinance was published July 28, 2017, in The Oregonian newspaper. Individual Notice 2017-06 describing proposed Ordinance No. 826 was mailed July 21, 2017, to 327 people on the General Notification List. A copy of this notice was also mailed to the Planning Commission at that time.
V.  ANALYSIS

The purpose of Ordinance No. 826 is to amend sections of the CDC related to telecommunication facilities to comply with updates to federal law, and streamline County regulations by removing unclear, outdated and subjective language.

Stakeholder Involvement
Over the years, the telecommunication industry and staff planners have requested review of and changes to the wireless facilities regulations to reflect current practices and to streamline processes. Since the County was updating the Code to implement federal requirements, there was an opportunity to coordinate with various stakeholders to identify other changes to existing regulations that could improve their performance and make them easier to understand and implement. The following are some key comments from both internal and external stakeholders:

- Some provisions of the CDC are inconsistent with the Spectrum Act (Section 6409).
- Submittal requirements are excessive and staff is unsure what to do with some of the information. Consider reducing the submittal requirements for all facility types.
- Definitions are confusing and difficult to locate within the CDC.
- Special Use Section 430-109 is unclear and not well organized.
- Categories of facilities (Facility 1 to 4) are difficult to understand and can be confused with the Type I through III land use review procedures.
- Wireless facility standards include subjective language, outdated telecommunication facility standards and terms, and should be reviewed and updated.
- Standards between macro cellular towers/antennas (traditional cellular facilities) and small cell or Distributed Antenna Systems (DAS)\(^2\) should be differentiated.
- Agencies such as Washington County Consolidated Communication Agency (WCCCA) have additional federal regulations and restrictions compared to private companies; therefore regulation of non-commercial communication facilities, such as emergency services, should be reviewed.

A draft of proposed CDC language was provided to a variety of stakeholders for comments. Representatives from Verizon, AT&T, and WCCCA submitted comments prior to the first PC hearing. Attachment A contains a summary of stakeholder comments and staff responses.

Changes to the CDC
To address comments that Section 430-109 was difficult to understand and follow, staff developed a new format that reorganizes and clarifies many of the provisions within this section. Attachment B provides a table cross-referencing the location of the current sections with where these sections are located in the new format.

\(^2\) DAS are networks of multiple antennas installed in the right-of-way on existing utility poles and structures or on existing buildings in public/private spaces.
The proposed changes to Section 430-109 include the creation of two new sections, *Purpose and Intent* and *New Telecommunication Facilities in the Public Right-of-Way*. The changes also include restructuring Section 430-109, moving specific definitions from Section 106 to 430-109, updating sections such as general design and site standards and simplifying the titles of each subsection.

The title of Section 430-109 is also simplified, from *Receiving and Transmitting Antennas, Communication and Broadcast Towers* to *Telecommunication Facilities*.

Following are key modifications to CDC sections proposed in this ordinance, with the rationale for the proposed changes. Additional changes are discussed in more detail in Attachment C to this report.

1. **Article III Land Use Districts**
   As part of the reorganization of Section 430-109, the current references to Facility 1 through 4 are replaced with more descriptive titles for telecommunication facility types covered in the CDC. As a result, references to the facility types allowed in each district needed to be updated to reflect the new titles. This required changes to text in all of the land use districts in Article III of the CDC.

2. **Special Use Section 430-109.1 Intent and Purpose**
   This new section provides context for the telecommunication facilities regulations and specifies the types of uses to be regulated through land use review.

   As noted, part of the proposed reorganization of Section 430-109, references to Facilities 1 through 4 are removed from Section 430-109.5 and replaced with the following four facility types:

   - Telecommunication facilities in the right-of-way
   - Co-location of antennas
   - Expansion of existing telecommunication facilities
   - New telecommunication facilities (including those either using or not using stealth design)

3. **Special Use Section 430-109.4 Prohibited Uses**
   Changes to this section include adding language to clarify the continued prohibition of speculation towers and the current County policy prohibiting the use of County-owned assets (e.g. signals, street lights, and street furniture) for co-location on existing facilities. This language, reflecting current County policy, is also found in Section 201-2.

4. **Special Use Section 430-109.5 New Telecommunication Facilities in the Public Right-of-Way**
   This new section allows telecommunication facilities in the public right-of-way, subject to specific standards. CDC Section 201-2.30 exempts antennas on existing utility poles from permit requirements; however, the exemption does not address new poles used solely for wireless antennas. Under current regulations, new telecommunication towers would not be
permitted in the public right-of-way since they could not meet certain standards, such as setbacks. Allowing new telecommunication facilities in the public right-of-way was a key issue raised by many stakeholders.

Current capacity issues for continuous wireless coverage may be addressed by allowing new facilities in the right-of-way. With the need for additional carrying capacity for wireless communication based on current and new technology trends, more antennas will likely be needed to keep up with this demand. Adding this CDC Section could result in more telecommunication facilities in the right-of-way, though the intent is to minimize impacts to the community through application of proposed standards.

The public expects that the road right-of-way will include utility facilities, however, the number of facilities could increase as a result of this new code section. This could potentially create visual clutter with the multiple antennas found on telecommunication facilities. Proposed standards include limitation on the height and diameter of the facilities, and on the location and type of antennas. Section 430-109.5 also creates thresholds that trigger public involvement or a higher level of review based on the location of the facility and the tower height requested.

The PC’s primary concerns are related to the application of this new section. Their concerns are discussed beginning on Page 12 of this report.

5. Special Use Section 430-109.6 Co-location Requiring Type I Review
Co-location is the addition of antennas and/or their supporting equipment to an existing telecommunication facility or structure. Since the standards required for co-location for both existing towers and existing structures were similar, the proposed changes consolidate the standards for these two facility types.

Thresholds for a Type I review were updated in this section to be consistent with the thresholds established by the Spectrum Act for co-location. The updated thresholds include expansion of a site area that is less than 25 percent of the original area approved. Since all antennas are to meet the same standards, a separate section on whip antennas is proposed to be deleted.

6. Special Use Section 430-109.8 New Telecommunication Facilities
The current CDC identifies three types of new towers: stealth, screened, and non-screened. To simplify this section, staff proposes consolidation into two tower types: stealth (designs that hide a tower by having it resemble natural or man-made features commonly found in an area) and non-stealth. The table below identifies how the current facility types and their standards are addressed in the proposed ordinance.
<table>
<thead>
<tr>
<th>Current Code Section</th>
<th>Proposed Code Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facility Type 2</td>
<td>Telecommunication Facility with Towers using Stealth Design (Section 430-109.8 A)</td>
</tr>
<tr>
<td>(Section 430-109.4)</td>
<td></td>
</tr>
<tr>
<td>Facility Type 3 and Type 4</td>
<td>Telecommunication Facility with Towers not using Stealth Design (Section 430-109.8 B)</td>
</tr>
<tr>
<td>(Section 430-109.9 G)</td>
<td></td>
</tr>
</tbody>
</table>

The proposed changes consolidate Facility 3 (Screening of new towers) and Facility 4 (New towers with no screening) into one tower type, since they have the same procedure type and are required to meet the same standards. Facility Type 2 (Concealment) will remain as a separate tower type. The process types for these facilities remain the same.

7. **Special Use Section 430-109.9 General Design Standards for Telecommunication Facilities**

Design standards regulate elements of the telecommunication facility such as installation requirements for antennas, illumination of the facility, painting requirements for towers and antennas, and design elements for ground-mounted equipment shelters. The proposed regulations will consolidate, update and relocate these standards. Standards specific to co-location were moved to proposed Section 430-109.6 with other co-location requirements.

8. **Special Use Section 430-109.10 Site Standards for Telecommunication Facilities**

Site standards address where and how elements of a telecommunication facility are to be designed and located through setback, access, location, noise, and sign requirements. The standards are proposed to be updated to remove references to Facility 2 and remove a number of standards not considered to be necessary, such as:

- Section 430-109.9 C.(2) - Preservation of on-site native vegetation. This standard is not required in other Special Use sections, therefore staff proposes it be removed.
- Section 430-109.9 D. - Radio Frequency (RF) Emissions. This standard is addressed when the applicant obtains FCC approval. As stated earlier, federal statutes prevent local agencies from addressing environmental effects of RF emissions as long as the facility complies with federal regulations. Therefore, County review of RF emissions is not allowed.
- Section 430-109.9 H.(1) - Additional items to be submitted prior to building permit. These standards are proposed to be removed since they are not reviewed by a planner at the time of the land use approval, and many are addressed by issuance of the building permit.

The proposed changes include exempting Essential Public Communication Services Facilities from certain site standards such as fence design and the 1,000-foot location restriction due to the nature of the service they provide and the additional federal regulations with which they must comply.

The proposed Setback Provisions table (Table B) referenced in this section and located at the end of Section 430-109, is proposed to be modified to clarify how the setback standards are implemented based on the proposed use and whether the facility is located in a residential or non-residential district. The illustrations referenced in this table are also updated to provide
clearer visual examples. Substantive changes are not proposed to the setbacks and illustrations.

9. **Special Use Section 430-109.11 Submittal Requirements for Telecommunication Facilities not otherwise exempt under Sections 430-109.3 and 201-2**

Many of the stakeholders commented that the County’s submittal requirements are excessive and at times difficult to meet. The Spectrum Act requires jurisdictions to streamline the materials needed for certain co-location applications. Staff’s analysis expanded to evaluate the submittal requirements for all telecommunication facility requests and found that many of the materials were not pertinent to the land use review. Based on the level of review, submittal requirements for telecommunication facilities are considered to be excessive by both applicants and staff.

Proposed Section 430-109.11 A consolidates submittal requirements for all facility types into one location. For all applications, scaled site plans and elevations will be required. For new telecommunication facilities, staff proposes that language be added requiring applicants to provide information about the location of the new facility, information on potential co-location on other sites, and confirmation that the new facility may include co-location. This will provide staff with adequate information to make findings, but simplifies the submittal requirements by eliminating the need for detailed engineering reports. Staff proposes two new requirements (430-109.11 B (1) and (2)) requiring a report summarizing the feasibility that a facility can provide co-location, to replace the following submittal requirements that are not considered pertinent to the land use review:

- Section 430-109.7 C. An Alternative Sites Analysis
- Section 430-109.7 D. A Tower Sharing Plan
- Section 430-109.7 E. A District Siting Analysis
- Section 430-109.7 F.(1) Certified documentation from a structural engineer licensed in Oregon that the tower is structurally sound and complies with all applicable building and structural codes...
- Section 430-109.7 F.(2) Evidence that it is feasible to comply with applicable DEQ noise standards if the installation contains heating, cooling, electrical generating or other equipment likely to produce noise…
- Section 430-109.7 G. A copy of a signed contractual agreement, excluding financial information, between the tower provider and a telecommunication service provider to provide wireless service on the proposed tower

**Planning Commission Deliberations and Recommendation**

The PC held public hearings August 16 and September 6 to consider this ordinance. Discussions were robust and covered a range of topics and issues raised both by stakeholders as well as PC members. Written and/or oral comments were received from Verizon, AT&T, and Washington County Consolidated Communication Agency (WCCCA). Written comments are included in Attachment A to this report.
One of the issues discussed in the August 16 PC hearing, and the primary issue at the September 6 hearing, concerned the implications of allowing new telecommunication facilities in the right-of-way through proposed Section 430-109.5. Comments were specifically regarding conflicts between the facility location and future roadway improvements associated with a development. The concerns included:

- The cost of relocating a telecommunication facility in the right-of-way that conflicts with roadway improvements associated with development of a property, and who bears this cost (utility or developer);
- The timing to get a facility relocated since it must be moved by the service provider;
- Providing developers adequate information on the cost to relocate these facilities during the entitlement process; and
- If not a requirement in the CDC, should policies be established with the right-of-way permit prior to allowing more facilities in the right-of-way?

The PC also wanted staff to consider adding requirements for a Spectrum Analysis (radio frequency) to preemptively address potential interference between antenna users on these poles.

The Planning Commission voted 8 - 0 to recommend the Board defer action on Ordinance No. 826 until spring 2018 to allow staff additional time to work with the PC and industry representatives. The PC requested that staff specifically address the potential impacts to future development by allowing new towers within the right-of-way and to provide additional information on whether the County can require a Spectrum Analysis for new facilities in the right-of-way. The PC deliberations are included as Attachment D.

**Staff Response**

Staff notes that the cost, responsibility, and timing of facility relocation are not within the purview of a land use review, but rather that of a right-of-way permit. However, staff recognizes the Planning Commission’s concern that by allowing additional facilities in the right-of-way through this ordinance, the County could be creating more opportunities for conflict and the need to move facilities in the future.

Staff provided information to the PC for their deliberations, including the following:

**A. Who pays to relocate a utility facility?**

For County projects, the utility providers bear the cost for relocating a facility. For non-County projects, the cost of relocating a facility is the responsibility of the developer. This issue was addressed recently by the Oregon Court of Appeals, where the court affirmed that utilities are permitted to charge developers the cost of relocating utility poles (*Bull Mountain Meadows, LLC v Frontier Communications Northwest, Inc.*). Attachment E contains an article summarizing this case titled, Private Developer Not an Agent of County and Not Exempt from Paying Utility Relocation Costs. Since telecommunication facilities are a permitted utility in the right-of-way, staff believes this ruling would apply. Further, CDC
Section 201-2.30 excludes from development review certain telecommunication facilities placed in the right-of-way on an existing utility pole, meaning there is no land use review and only a right-of-way permit is required.

B. **Timing of facility relocation?**

Facility relocation is completed by the service provider and timing of the relocation is dependent on how quickly the service provider is willing and able to complete the relocation. This is not within the control of the County, similar to other utilities (e.g., Verizon, NW Natural or PGE). For other utilities, the County requires the developer to coordinate with the service providers and would treat telecommunication providers similarly.

C. **Relocation costs?**

To date, staff has not been able to determine costs for facility relocation.

Staff continues to research these issues, and will provide additional information to the Board prior to the September 19 hearing.

Regarding the PC’s request to add requirements for a Spectrum Analysis (radio frequency) to preemptively address potential interference between antenna users on these poles, staff believes this may not be within the purview of the County. The FCC is the regulatory agency that administers communication (radio or broadcast) frequencies for government (excluding federal), commercial, private internal business, and personal use. A 2010 ruling from the US Court of Appeals 2nd Circuit (New York SMSA Limited Partnership v Town of Clarkstown) affirmed that local regulations that relate to interference with radio frequency are preempted by federal communications law. Therefore staff does not recommend the addition of such requirements.

**Planning Commission and Stakeholder Input**

In the staff report for the September 6 hearing, staff provided additional information regarding a number of questions raised at the August 16 hearing. This included recommended amendments to the proposed ordinance language to address these questions. Each item was discussed briefly by the PC, however, the PC did not provide guidance on each issue because of their overarching concern with certain issues related to the relocation of facilities within the right-of-way.

Following is a discussion of some of the issues raised by industry representatives and discussed by the PC, including staff’s response.

1. **Size of pole-mounted cabinets**

   Representatives from Verizon and AT&T requested an increase in the allowed size for pole-mounted cabinets. They requested an increase from the current 12 cubic feet (cf) to anywhere from 17 cf to 28 cf. Larger cabinets, they noted, were needed to accommodate equipment such as radios, fiber optic connectors, power supply, cooling systems (if needed), and to provide appropriate placement and spacing. At least one of the representatives conceded that 17 cf was adequate to accommodate current needs, and that the needs of future technologies was not yet known. These representatives also requested the ability to place more than one cabinet on a pole as long as they cumulatively did not exceed the allowable size.
**Staff Response**
Current County standards allow for a 12 cf cabinet. The original standard was developed in 2000 based on industry input and allowed a maximum cabinet size of 20 cf. In 2004, this standard was changed to a maximum cabinet size of 12 cf, though it is not clear from County records why it was changed.

Some utility providers require the supporting equipment to be consolidated into a cabinet while others allow it to be mounted directly on the pole. Some providers have established the size of the cabinets they allow. For instance, Eugene Water and Electric Board (EWEB) allows a maximum size of 15 cf (3’x 2.5’ x 2’) while other providers do not have a size limitation (Portland General Electric).

While a larger size would allow the providers additional flexibility, staff believes it is important that the visual impacts of these cabinets be considered, especially as more telecommunication facilities will be located within the public right-of-way. Jurisdictions like the city of Happy Valley allow 17 cf equipment cabinets, as referenced by one of the industry representatives at the August 16 hearing.

The figure in Attachment F illustrates different sizes of cabinets and their potential visual impacts. A larger cabinet of a reasonable size could balance the needs of the service providers with the need to minimize visual impacts at a pedestrian scale. Allowing up to three cabinets, as long as the cumulative size does not exceed the maximum size, would not likely result in greater visual impacts than a single cabinet of the same overall size.

**Staff Recommendation**
Staff recommends that the maximum size of pole mounted cabinets in Section 201-2.30 be set at 17 cf, similar to the city of Happy Valley. This would allow a larger size, but limit the visual impact of these cabinets. To clarify this standard, and to be consistent with both existing and new facilities in the right-of-way, staff recommends that this standard also be added to Section 430-109.5. Staff also recommends allowing up to three cabinets as long as the cumulative size is no greater than 17 cf. Specific recommended language is included in Attachment G.

2. **Consistency of language with the Spectrum Act**
Representatives from Verizon and AT&T requested that Section 430-109.3 C. directly incorporate language from the FCC Order implementing the Spectrum Act, rather than paraphrasing or restating the language, to ensure the federal requirements are met. At their first hearing, the PC questioned whether the federal language was necessary to make the process easier for the utilities, or more consistent with how other jurisdictions address the Spectrum Act.

**Staff Response**
Staff reviewed regulations of other jurisdictions in Oregon and found that some cities and counties incorporate the exact FCC language while others opt to use their own language or a...
hybrid of the two. Staff believes the FCC language is too technical and inconsistent with the format of the CDC and that language used by the FCC could be confusing for users of the CDC. While industry experts are familiar with the federal regulations, staff believes others not versed in the FCC language might find a hybrid approach more useful.

Staff coordinated with industry representatives to develop language that addressed their concerns while maintaining the proposed format.

Staff Recommendation
Staff recommends modifications to Section 430-109.3 as shown in Attachment G.

3. Changes to the proposed definitions in Section 430.109.2
At its first hearing, the PC requested staff to consider revisions to or addition of several definitions requested by industry representatives, including adding terms from the FCC Order implementing the Spectrum Act.

Staff Response
Staff does not believe that all terms found in the FCC Order implementing the Spectrum Act are needed in the CDC. While the County ordinance has addressed the requirements of the Spectrum Act, they have been incorporated into the CDC’s format and style for consistency. Some terms provided in the FCC Order such as: base station, co-location, existing, site, substantial change, and transmission equipment are not being proposed in the CDC. The definitions of these terms are very specific, technical, and in some cases do not apply to all types of telecommunication facilities in Section 430-109. Based on the changes to Section 430-109.3 recommended in section 2 above, staff believes the definitions for the terms “eligible facilities request” and “eligible support structure” are needed.

Staff Recommendation
Staff recommends the addition of a definition for “eligible facilities request” and “eligible support structure,” and modification to the definition of “microcell,” in Section 430-109.2, as shown in Attachment G.

4. Consistency with Design standards
Representatives from WCCCA identified a conflict between the antenna design standard identified in the Section 430.109.9, General Design Standards for Telecommunication Facilities, and 430.109.8 B, Telecommunication Facilities with Towers not using Stealth Design.

Staff Response
Staff concurs that modification of the antenna standard is warranted for consistency.

Staff Recommendation
Staff recommends amendments to Section 430-109.9 to provide consistency with Section 430.109.8 B, as shown in Attachment G.
Summary of Proposed Changes

Ordinance No. 826 proposes to amend CDC sections to streamline the review process and submittal requirements for telecommunication facilities to include restructuring Section 430-109 for clarity and compliance with federal requirements. The following are main provisions proposed to be changed:

- Relocate terms and definitions specifically related to telecommunication facilities from Section 106 Definitions to Section 430-109 Telecommunication Facilities.
- In CDC Article III Land Use Districts, update uses related to telecommunications in all land use districts to include the types of telecommunication facilities identified in Section 430-109 for consistency.
- Add a new exemption in Section 430-109.3 to include co-location requests that comply with the federal Spectrum Act.
- General restructure of Section 430-109 to include renaming the section title to Telecommunication Facilities, adding a new Intent and Purpose section, and renaming references to Facility Types 1 through 4.
- Update prohibited uses to include co-location of antennas on County-owned assets.
- Create a process and standards section for telecommunication facilities in the public right-of-way.
- Update review procedures and standards for co-location, expansion of telecommunication facilities, and new telecommunication facilities to be more consistent with the Spectrum Act and to make the review level compatible to the impacts of the proposed development.
- Update General Design and Site Standards for telecommunication facilities including the setback provision table and associated illustrations for clarity.
- Update submittal requirements for telecommunication facilities so that only pertinent documents are required.
- Update temporary telecommunication facilities in Section 430-135 to include a new temporary use that is currently located in the exemption section of Section 430-109.

Proposed engrossments (shown in Attachment G)

1. Set the maximum cabinet size to 17 cubic feet, and allow this to be accomplished with up to three cabinets (Section 201-2.30 and Section 430-109.5).
2. Modify Section 430-109.3 Exemptions as shown in Attachment G to be more consistent with FCC language.
3. Modify several definitions in Section 430-109.2 Telecommunication Facility Definitions to be more consistent with FCC language.
4. Modify the antenna design standard in Section 430.109.9 C for consistency between the general design standards and the design standards for new towers not using stealth design (Section 430.198.8 B).
List of Attachments

The following attachments identified in this staff report are provided:

Attachment A: Public testimony, including summary of comments, staff response, and comments submitted.
Attachment B: Cross-reference table on the format changes in Section 430-109
Attachment C: Summary of Proposed Changes within Filed Ordinance No. 826
Attachment D: PC Deliberations for August 16 and September 6, 2017 hearings
Attachment E: Local Focus Article: Private Developer Not an Agent of County and Not Exempt from Paying Utility Relocation Costs
Attachment F: Cabinet Size Comparison
Attachment G: Proposed Amendments to Ordinance No. 826
Public testimony, including summary of comments, staff response, and comments submitted
Comments Submitted before August 16 PC Hearing
Summary of Stakeholder Comments with Staff Response

A draft of proposed language changes was provided to stakeholders for comments. Representatives from Verizon, AT&T, and Washington County Consolidated Communications Agency (WCCCA) provided comments. The following is a summary of these comments and staff response:

1. **Consider changing the size standard for equipment cabinets in Section 201-3 from 12 cubic feet to 21.** Verizon’s and AT&T’s request would exempt review of these larger cabinets. Due to the increased size of the cabinets and the potential impacts to the surrounding area with these cabinets mounted on the pole, staff does not recommend this change at this time.

2. **Consider changing the term microcell to small cell.** Microcell is defined in the County CDC, however Verizon notes the term small cell is a more common term used by the industry. They also asked that the County consider removing repeater and telecom hotel as definitions since they state that they are not used in the code. Staff does not recommend changes to this section. Repeaters are referenced in the definition for microcell and telecom hotels are identified as a prohibited use in the Transit Oriented district.

3. **Consider using FCC Terminology.** Verizon and AT&T requests that the language in Section 430-109.3.C should be more consistent with the FCC terminology for example; references to the FCC’s term “substantial change” should be included. Staff finds the proposed changes in Ordinance No. 826 are consistent with the requirements of the Spectrum Act, though the proposed language is not taken directly from the Spectrum Act where it may add more confusion to this section. Therefore staff does not recommend this proposed change.

4. **Consider removing language prohibiting antennas on County assets.** Verizon and AT&T noted that removing this language in Sections 201-2 and 430-109.4 would provide the County the opportunity in the future to allow antennas on County assets. Staff does not recommend this change, since this language was added to clarify that the current County policy does not permit outside use of County assets.

5. **Consider allowing taller towers in other rights-of-way.** Verizon noted that for Arterials and Collectors within pedestrian/bicycle districts and Neighborhood Route/Local Streets, towers between 30 to 50 feet should be permitted through a Type II process, since facilities may be needed in these areas that require undergrounding and no utility poles are available. AT&T request taller towers in all street classification through an administrative review. The proposed code change allows for new towers in these types of public right-of-way; however with the pedestrian nature of these areas, staff recommends that tower height be limited to 30 feet to mitigate visual impacts to these higher use pedestrian areas. Staff does not recommend changes to this section.
6. **Consider adding Essential Public Communication Services facility in Exclusion.** WCCCA requested an exclusion from the requirements of the Section for facilities that met the dimensional and development standards in all land use districts except EFU and AF-20. In these two districts, WCCCA requests that these types of facilities would be reviewed through a Type II process. Staff finds aesthetic impacts are still associated with any non-stealth tower, which warrants additional review and noticing to the surrounding area. Additional analysis would be needed to analyze this request, therefore staff does not recommend this proposed change at this time.

7. **Consider top of tower to be facility height not top of antenna.** WCCCA’s request is to measure the maximum height of the structure from the top of the tower and not the top of the antenna. Since there are visual impacts associated with antennas, staff recommends that the maximum height remain the top of the antenna.
August 7, 2017

To: Department of Transportation and Development
Planning and Development Services
Long Range Planning Section
155 N 1st Ave, #350-13
Hillsboro, OR 97124

ATTN: Sambo Kirkman

Dear Sambo,

Thanks for providing WCCCA the opportunity to meet and discuss the County’s upcoming land use code revision. And thanks for the follow up to allow additional proposed changes with respect to our Essential Public Communication Services Facilities.

Attached are 11 pages from your code change work up document stating the code changes the Agency feels are necessary to site our facilities within the County.

Please contact me, or if desired, Ron Polluconi or Ken Seymour, with any questions or if you require more detail or changes.

Allen R (Skip) Greene
Permitting Agent for WCCCA
6233 SW Orchid Dr
Portland, OR 97219
503-866-5111
skip.greene@comcast.net
Reduction of off-street required minimum automobile parking spaces in existing development for replacement bicycle parking is subject to Section 413-11. Replacement bicycle parking spaces must meet the standards of Sections 429-7, 429-8 and 429-9.

New Exclusion: 201-2.34

Installation of an Essential Public Communication Services facility in the following zones:

a. All urban residential zones in Section 302 through 309 subject to the dimensional and development standards in those sections as well as applicable standards in chapter 430-109.

b. All rural residential zones in Section 350 subject to the dimensional and development standards in those sections as well as applicable standards in chapter 430-109.

c. All commercial zones in Section 311 through 314 and section 352 subject to the dimensional and development standards in those sections as well as applicable standards in chapter 430-109.

d. All industrial zones in Section 320 through 330 and section 354 subject to the dimensional and development standards in those sections.

e. All Ag/Forest zones in Section 344 through 348 subject to the dimensional and development standards in those sections.

Note that the EFU and AF-20 zones an EPCSF would be a Type II process subject to the dimensional and development standards in those code sections but not subject to the standards in chapter 430-109, just subject to ORS 215.275.
330-4.54 New Telecommunication Facilities with Communication Towers up to two hundred (200) feet in height, not otherwise allowed through a Type I Procedure - Section 430-109.

330-4.65 Construction of a local street not in conjunction with a development application or within existing right-of-way.

330-4.76 Uses Accessory and Incidental to an Allowed Use, not otherwise permitted by Section 330-3.2:

***

330-4.87 Day Care Facility - 430-53.2 l.

330-4.98 Tree removal in areas identified in the applicable Community Plan as Significant Natural Resources, subject to Section 407-3.

330-4.109 Indoor Marijuana Production - Section 430-80.

330-5 Uses Which May be Permitted Through a Type III Procedure

***

330-5.17 New Telecommunication Facilities with Communication towers greater than two hundred (200) feet in height - Section 430-109.

330-5.18 Broadcast Towers - Section 430-109.

330-5.1819 Religious Institution - Section 430-116.

17. SECTION 340 - EXCLUSIVE FARM USE DISTRICT (EFU)

340-3 Uses Permitted Through a Type I Procedure

***

340-3.5 Co-located antennas, excluding those antennas regulated by Section 430-109.11 or otherwise exempt pursuant to Sections 430-109.31 and 201-2 - Section 430-109.3.

***

340-4 Uses Permitted Through a Type II Procedure

The uses listed in Sections 340-4.1 and 340-4.2 are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5. Unless the use is specifically exempted, the Review Authority shall make specific findings with respect to the standards in Section 340-4.3.

340-4.1 Permitted Uses which are exempt from Section 340-4.3:

***

K. New Telecommunication Facilities with Broadcast and Communication-towers less than two hundred (200) feet in height that are utility facilities necessary for public service - Section 430-109.44.

abedef Proposed additions
abedef Proposed deletions

L. EPCSF’s less than 200’ in height that are utility facilities necessary for public service must comply with ORS 215.275 but are exempt from section 430-109.
M. EPCSF's less than 200' in height that are utility facilities necessary for public service must comply with ORS 215.275 but are exempt from Section 430-109.
M. EPCSF's greater than 200' in height that are utility facilities necessary for public service must comply with ORS 215.275 but are exempt from section 430-109.

344-5 Uses Which May be Permitted Through a Type III Procedure

**

344-5.2 Uses which may be allowed subject to Section 344-5.3:

**

L. New Telecommunication Facilities with Broadcast and Communication Towers greater than two hundred (200) feet in height - Section 430-109.

20. SECTION 346 - AGRICULTURE AND FOREST DISTRICT (AF-10)

346-2 Uses Permitted Through a Type I Procedure

**

346-2.10 Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.31 and 201-2 - Section 430-109.3:

346-2.11 New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.31 and 201-2 - Section 430-109.4:

**

346-3 Uses Permitted Through a Type II Procedure

**

346-3.5 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

**

346-4 Uses Which May be Permitted Through a Type III Procedure

**

346-4.1 Uses which may be allowed:

**
Terms and definitions that apply throughout the Community Development Code are found in Section 106. Following are definitions for the terms found in Section 201-2.30 and Section 430-109:

**Antenna.** A device for transmitting or receiving radio frequency (RF) signals or electromagnetic radiation, such as digital and analog signals, radio frequencies, broadcast signals, such as television and radio signals, and other communication signals. Antennas are typically mounted on a supporting tower, pole or mast, building or other approved structure. Types of antennas include directional antennas such as panel antennas, microwave dishes, and omni-direction antennas such as whip antennas. Antennas do not include domestic satellite dishes. Additionally, some antennas operate as both transmitting and receiving devices.

**Broadcast Tower.** A tower, pole, or mast whose primary purpose is to elevate an antenna above the surrounding terrain or structures for the transmission of radio or television signals. The actual broadcast tower itself may also function as the antenna, (e.g., for AM broadcast radio) if part of the apparatus is necessary to produce a clear signal or message within the licensee’s operating range, as allowed by the Federal Communications Commission. Broadcast towers are often sited within a non-staffed broadcast facility for the transmission of radio or television signals.

**Co-location.** The installation of one or more antennas and/or improvements to accessory equipment facilities, on an existing tower, structure, or building for transmitting and/or receiving radio frequency signals for communications purposes.

**Concealment.** When design elements are used to minimize the visual appearance of telecommunication facilities, also known as stealth design.

**Equipment Shelter.** An enclosed structure or cabinet usually placed at or near the base of a communication tower where electrical and other equipment necessary for the operation of the facility are housed. Cables connect the shelters to the antenna(s).

**Essential Public Communication Service.** Emergency communication network for emergency response by public agencies including fire and rescue, medical, law enforcement and other public agencies, including but not limited to water and sanitary and storm sewer providers.

**Essential Public Communication Service Facility.** All equipment including antennas for the transmission and reception of radio frequency signals (wireless telecommunication, wireless Internet, radio/television broadcast, and other related wireless communications) for essential public communication services. These facilities also include associated towers, equipment shelters, accessory support equipment (generators, fuel sources, HVAC), landscaping, fencing, and parking areas located on the site for the network.

**Federal Communications Commission (FCC).** An independent government agency established by the Communications Act of 1934 and charged with regulating interstate and international communications by radio, television, wire, satellite and cable.

**Flush Mounted Antenna.** Antenna or antenna array attached directly to the face of a tower or building.

**Microcell.** A low-power facility used to provide increased capacity to wireless telecommunications demand areas or provide infill coverage in areas of weak reception, including a separate transmitting and receiving station serving the facility. (See also “Repeater”)

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Some proposed additions and deletions are marked with `abcdef`.
(6) Excavation or deployment is not required outside the current telecommunication facility site;

(7) Design complies with the concealment elements, if approved with the existing facility; and

(8) Design complies with the conditions of approval associated with the existing facility, unless non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that complies with the requirements in subsection 1 through 7 above.

D. The following telecommunication facilities that are regulated by the Federal Communications Commission (FCC) pursuant to the Code of Federal Regulations:

(1) Industrial, scientific, and medical equipment;

(2) Military and government radar antennas and associated communication and broadcast towers used for aviation services; and

(3) Amateur (ham) and citizen band transmitting and receiving antennas and associated communication and broadcast towers.

E. A telecommunication facility as a temporary use - Section 430-135.1 H.;

F. Temporary telecommunication facilities used solely for emergency communications by essential public communication service providers in the event of a natural disaster, emergency preparedness or for public health or safety purposes;

G. Antennas to provide enhanced 911 (i.e., E911) network coverage when required by the FCC, subject to the following:

(1) E911 antennas shall not increase existing facility height and shall be painted or otherwise constructed of materials with the same or similar color as the tower; and

(2) Accessory equipment and related equipment are either located completely within the existing structure (e.g., tower, building or other structure), or are located within an existing fenced site. In the case of a tower that includes stealth design, E911 antennas shall also incorporate stealth design.

Existing 911 antennas may remain for a period not to exceed six (6) months in order to accommodate the transfer of service from the existing 911 antennas to the E911 antennas.

H. EPCSF’s in the IND, INST, SID, TO:EMP, TO:BUS, EFC, EFU, AF-20, R-COM, R-IND, AF-5, AF-10 & RR-5 zones. 430-109.4 Prohibited Uses

The following uses are prohibited in all land use districts:

A. Installation of towers without antennas based on speculation of future antenna installation, also known as speculation ("spec") towers;

B. The attachment of any antennas or associated equipment to trees; and

C. Installation of antennas on County-owned street furniture. Street furniture includes but is not limited to street lights, utility poles, and traffic signals.
flush-mounted contradicts 430-109.8.B(1)

430-109.9 General Design Standards for Telecommunication Facilities

A. New towers not using stealth design shall be painted or otherwise treated in a manner that blends in with the surrounding area in order to minimize visual impact, unless state or federal regulations require different colors. The exterior color of the tower shall also be non-reflective in nature and make the tower as visually unobtrusive as possible. If there are stands of trees or other site-obscuring vegetation on site or in the immediate area, the tower shall be painted or finished to blend with the landscape.

B. New towers shall be illuminated only when required by the ODA, FAA or other state or federal agency;

C. Antennas on towers not using stealth design shall be made of a non-reflective material, flush-mounted, and painted to match the tower or structure. In case of co-locating, the antennas shall match the design of the approved facility;

D. Cabling and wiring shall be hidden from public view through installation internal to the tower or painted to match the color of the tower;

E. When ground-mounted equipment shelters extend above site-obscuring fencing, the shelters shall be constructed of materials and/or finished with earth-tone colors that are non-reflective in nature and no taller than twelve (12) feet high;

F. Accessory equipment shall be screened or otherwise hidden from public view; and

G. Documentation shall be submitted indicating the telecommunication facility can feasibly comply with the requirements of the FAA, the Oregon Department of Aviation, the FCC and any other applicable state or federal regulation.

430-109.10 Site Standards for Telecommunication Facilities

A. Setbacks (See 430-109.10 Table B and Illustrations at end of Section 430-109).

(1) New telecommunication facilities shall comply with the setback provisions of the individual land use districts, unless greater setbacks are required by Table B;

(2) New ground-mounted equipment shelters shall comply with the setback provisions of the individual land use districts, except as set forth below:

Underground vaults containing equipment cabinets and other associated equipment supportive of wireless telecommunication facilities may be located in a required setback, except as otherwise restricted by the Uniform Building Code (UBC), the Uniform Fire Code (UFC) or subsection C. below.

(3) Notwithstanding the requirements set forth in (1) and (2) above, the Review Authority may reduce the required setbacks through a Type III adjustment process, provided...
Recommend top of tower be considered tower height, not top of antenna, when omnidirectional antennas proposed
Recommend top of tower be considered tower height, not top of antenna, when omnidirectional antennas proposed.
Recommend top of tower be considered tower height, not top of antenna, when omnidirectional antennas proposed
Recommend top of tower be considered tower height, not top of antenna, when omnidirectional antennas proposed

***

abcdef Proposed additions
abedef Proposed deletions
August 7, 2017

Via email
Chair Vial
Commissioners Petrillo, Beaty, Mills, Lockwood, Enloe, Wellner, Urstadt, and Bartholemy
Washington County Planning Commission
Planning and Development Services
155 N First Avenue, Suite: 350
Hillsboro, OR 97124-3072,

Dear Commissioners:

Thank you for the opportunity to provide input on behalf of Verizon on Washington County’s wireless code update. Verizon generally supports the direction the County is taking and provides a few targeted suggested changes. My colleague, Meridee Pabst, worked with me on the code comments and Verizon’s suggested revisions and comments are marked with her name.

The attached redline contains suggested edits and comments on the following sections:

201-2 Exclusions from Permit Requirement

· Clarifying language added that single utility poles are exempt.
· Requesting that the FCC standard of 21 cubic feet be applied to equipment for small cells in the ROW.

430-109.2 Telecommunication Facility Definitions

· Replace “microcell” with “small cell”.
· Eliminate definitions for repeaters and telecom hotel, as they are not used elsewhere in the code.
430-109.3 Exemptions

Eligible Facilities Requests

· Suggest use of FCC language.

430-109.4 Prohibited Uses

· County owned street furniture, including poles, light standards and traffic standards cannot be used for small cells. Verizon suggests that the County consider making these assets available for small cell attachments pursuant to a master lease agreement.

430-109.5 New Telecommunication Facilities in the Public Right-of-Way

· Added language to clarify that utility poles are addressed.

Section 430-109.5 - Table A: Procedure Type for New Telecommunication Towers in the Right-of-Way

· Suggest that new poles in the ROW between 30 and 50 feet be permitted with a Type II review in Arterials and Collectors within pedestrian/bicycle districts and residential districts, rather than an outright prohibition.

· Suggest that new poles in the ROW between 30 and 50 feet be permitted with a Type II review in Arterials and Collectors within pedestrian/bicycle districts and residential districts, rather than an outright prohibition.

Thank you for the opportunity to participate in this code update. We appreciate the work that staff has done and look forward to continued collaboration on a code that reflects community values and offers an efficient and workable process for the wireless industry to deliver the reliable, high quality service that your citizens and businesses expect have come to expect.
Please let me know if we can provide additional assistance.

Sincerely,

Kim Allen
Wireless Policy Group, LLC
Representatives for Verizon Wireless

cc

Sambo Kirkman, Associate Planner
106-174.23 **Tower** (e.g., broadcast and communication) types include:

A. **Guyed tower**. A tower that is permanently connected to the ground by cables (guy wires).

B. **Lattice tower**. A self-supporting multiple-leg tower comprised of an open framework of either structural steel or diagonal cables or a combination thereof.

C. **Monopole**. A self-supporting, single, upright pole and requiring no guy wires or diagonal cables to stabilize the structure. Monopoles are typically constructed of wood or steel.

106-174.24 **Transmitting Antenna**. A device that emits and may receive non-ionizing electromagnetic energy.

106-174.25 **Uses Accessory to an Antenna**. A use that is customarily incidental to a receiving or transmitting antenna and is generally situated on the same property as the antenna, such as an equipment shelter.

106-174.26 **Visually Subordinate**. The relative visibility of a broadcast or communication tower where the tower does not noticeably contrast with the surrounding built or natural landscape. Visibly subordinate towers may be partially visible, but not visually dominate in relation to their immediate surroundings.

2. **SECTION 201 – DEVELOPMENT PERMIT**

201-2 Exclusions from Permit Requirement

201-2.30 Installation of compact pole-mounted receiving and transmitting antennas on electric and other utility poles in the public road right-of-way, excluding street lights on power poles and traffic signal lights, where the subject support pole is part of an existing above ground electric transmission, distribution, communication or signal line, and where "pole" is defined as a utility pole, monopole, double pole or lattice utility structure, subject to the following:

A. Within the public road right-of-way, existing poles may be replaced with new poles in order to support the new antenna, provided the new pole is not more than twenty (20) fifteen (15) feet higher than the pole to be replaced;

B. **No** more than one (1) associated equipment cabinets totalling no more than not to exceed twelve (12) twenty (21) cubic feet may be mounted on the pole. The cabinets shall be painted with or constructed of material with a non-reflective neutral color that matches or is similar to that of the pole. All associated ground-mounted equipment shelters located in the right-of-way are subject to the applicable standards of ODOT or Washington County to occupy or perform operations upon the affected roadway;

C. Installation of receiving and transmitting antennas on County-owned street furniture is prohibited. Street furniture includes, but is not limited to, street lights, utility poles, and traffic signals;

DC. Antennas, excluding whip antennas, shall extend no more than ten (10) feet above the pole it is mounted on. Antennas, excluding whip antennas, shall be

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Comment [MP1]: Adding to include single pole distribution and/or transmission poles

Comment [MP2]: Verizon suggests that the County consider making these assets available for small cell attachments pursuant to a master lease agreement. Deleting this subsection will allow the County to choose to do so later without a change to the zoning code.
Terms and definitions that apply throughout the Community Development Code are found in Section 106. Following are definitions for the terms found in Section 201-2.30 and Section 430-109:

**Antenna.** A device for transmitting or receiving radio frequency (RF) signals or electromagnetic radiation, such as digital and analog signals, radio frequencies, broadcast signals, such as television and radio signals, and other communication signals. Antennas are typically mounted on a supporting tower, pole or mast, building or other approved structure. Types of antennas include directional antennas such as panel antennas, microwave dishes, and omni-direction antennas such as whip antennas. Antennas do not include domestic satellite dishes. Additionally, some antennas operate as both transmitting and receiving devices.

**Broadcast Tower.** A tower, pole, or mast whose primary purpose is to elevate an antenna above the surrounding terrain or structures for the transmission of radio or television signals. The actual broadcast tower itself may also function as the antenna, (e.g., for AM broadcast radio) if part of the apparatus is necessary to produce a clear signal or message within the licensee’s operating range, as allowed by the Federal Communications Commission. Broadcast towers are often sited within a non-staffed broadcast facility for the transmission of radio or television signals.

**Co-location.** The installation of one or more antennas and/or improvements to accessory equipment facilities, on an existing tower, structure, or building for transmitting and/or receiving radio frequency signals for communications purposes.

**Concealment.** When design elements are used to minimize the visual appearance of telecommunication facilities; also known as stealth design.

**Equipment Shelter.** An enclosed structure or cabinet usually placed at or near the base of a communication tower where electrical and other equipment necessary for the operation of the facility are housed. Cables connect the shelters to the antenna(s).

**Essential Public Communication Service.** Emergency communication network for emergency response by public agencies including fire and rescue, medical, law enforcement and other public agencies, including but not limited to water and sanitary and storm sewer providers.

**Essential Public Communication Service Facility.** All equipment including antennas for the transmission and reception of radio frequency signals (wireless telecommunication, wireless Internet, radio/television broadcast, and other related wireless communications) for essential public communication services. These facilities also include associated towers, equipment shelters, accessory support equipment (generators, fuel sources, HVAC), landscaping, fencing, and parking areas located on the site for the network.

**Federal Communications Commission (FCC).** An independent government agency established by the Communications Act of 1934 and charged with regulating interstate and international communications by radio, television, wire, satellite and cable.

**Flush Mounted Antenna.** Antenna or antenna array attached directly to the face of a tower or building.

**Microcell/Small Cell.** A low-power facility used to provide increased capacity to wireless telecommunications demand areas or provide inifl coverage in areas of weak reception, including a separate transmitting and receiving station serving the facility. (See also "Repeater")

Comment [MP3]: Small cell is the more common industry term for these facilities. Verizon proposes adding it to the 201-2 exemption. (Microcell is not used in this draft.)
Non-Residential Land Use Districts. FD-20, FD-10, NC, OC, CBD, GC, IND, INST, SID, TO:RC, TO:EMP, TO:BUS, EFU, EFC, AF-20, R-COM, R-IND, NCC NB, NCMU NB, INST NB and MAE.

Radio Frequency Emission. Electromagnetic radiation that is of low photon energy unable to cause ionization and is generated by a transmitting antenna.

Repeater. A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas unable to receive adequate coverage directly from the base or primary station.

Replacement Tower. A new telecommunication tower capable of supporting co-located antennas that is intended to replace an existing tower that is incapable of supporting co-located antennas.

Residential Land Use District. R-5, R-6, R-9, R-15, R-24, R-25+, R-6 NB, R-9 NB, R-15 NB, R-24 NB, R-25+ NB, TO:R9-12, TO:R12-18, TO:R18-24, TO:R24-40, TO:R40-80, TO:R80-120, AF-5, AF-10 and RR-5.

Speculation or "Spec" Tower. A tower for the purpose of providing location mounts for future antennas without a binding contractual commitment by a service provider to locate an antenna upon the tower at time of the original application submittal.

Stealth Design. The design of new antennas or towers in a manner that camouflages, conceals, or disguises the facilities so that they are visually compatible with the surroundings as described in Section 430-109.8 A. Examples include an indigenous evergreen tree, flag pole, light post, pole sign, clock or bell tower, steeple, or silo.

Telecom Hotel. A building or structure designed to warehouse telecommunications equipment, including utility hookups and connections to fiber-optic networks.

Telecommunication Facility. All equipment, including: antennas for the transmitting and/or receiving of radio frequency signals or electromagnetic radiation (e.g., wireless telecommunication service and wireless Internet/"Wi-Fi"), broadcast signals (e.g., radio and television), and other communication signals; broadcast or telecommunication tower or existing structures used to support antennas; accessory equipment and accessory improvements such as landscaping, fencing and parking areas, located on the site.

Telecommunication Facility Site. A whole or a portion of a parcel, which is owned or leased by one or more broadcast or wireless telecommunications provider where a broadcast or telecommunication tower and its supporting equipment are located. The site also includes the equipment shelter and required site improvements, including landscaping, but does not include site access. When located on a portion of a parcel, these areas are usually fenced off from the remainder of the parcel.

Telecommunication Tower. Any structure built for the sole or primary purpose of elevating any FCC-licensed or authorized antenna above the surrounding terrain, or structures for the transmission and/or receiving of radio frequency (RF) signals or electromagnetic radiation to provide wireless telecommunication service, including wireless Internet service. This includes structures that are constructed for wireless communication services (e.g., broadcast and communication). Tower types include:

Guyed tower. A tower that is permanently connected to the ground by cables (guy wires).

abcdef Proposed additions
abcdef Proposed deletions
Lattice tower. A self-supporting multiple-leg tower comprised of an open framework of either structural steel or diagonal cables or a combination thereof.

Monopole tower. A self-supporting, single, upright pole requiring no guy wires or diagonal cables to stabilize the structure.

430-109.3 Exemptions

The standards of this Section apply to all wireless telecommunication facilities except as otherwise provided herein. The following are exempt from the standards in this Section:

A. Telecommunication facilities that are exempt from a development permit under Section 201-2;

B. Reconstruction or replacement of telecommunication facilities lawfully established after November 26, 1992, the effective date of Ordinance No. 402, provided that it:
   (1) Does not increase the height or base diameter of the existing tower or structure as originally approved or constructed;
   (2) Does not expand the existing fenced equipment area around the tower or structure;
   (3) Does not reduce existing landscape buffers unless replaced with vegetation with similar characteristics, plant densities and maturity;
   (4) Does not use colors or lights that make the tower or antenna more visually obtrusive, unless required by either the Oregon Department of Aviation (ODA) or the Federal Aviation Administration (FAA);
   (5) Uses antennas and transmitters that are similar in nature to the antennas and transmitters they are replacing; and
   (6) Does not increase the number of antennas or transmitters.

Reconstruction or replacement of telecommunication facilities, excluding transmitter and antenna replacements pursuant to Section 430-109.3 B., approved before November 26, 1992 is subject to the provisions of Section 440, Nonconforming Uses, and applicable provisions of 430-109 as required by Section 440.

C. Eligible Facility Requests/Co-location on lawfully established telecommunication facilities provided that:
   (1) The height increase is no more than twenty (20) feet or (ten) 10 percent of the existing tower height, whichever is greater. Antennas cannot protrude interfere with the use of into the right-of-way;
   (2) No expansion to the existing fenced equipment enclosure is required;
   (23) Antennas do not protrude from the edge of an existing tower more than 20 feet or the width of the tower structure at the base of the tower, whichever is greater;
   (34) Antennas on other lawfully established structures do not increase the height of the structure by more than ten (10) feet or ten (10) percent of the existing height, whichever is greater, or protrude from the bodyedge of the structure by more than six (6) feet;

abcdef Proposed additions
abcdef Proposed deletions
The telecommunication facility requires installation of less than four (4) new equipment cabinets on the site;

Excavation or deployment is not required outside the current telecommunication facility site;

Design complies with the does not defeat existing concealment elements, if approved with the existing facility; and

Design complies with the conditions of approval associated with the existing facility, unless non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that complies with the requirements in subsection 1 through 7 above.

The following telecommunication facilities that are regulated by the Federal Communications Commission (FCC) pursuant to the Code of Federal Regulations:

1. Industrial, scientific, and medical equipment;
2. Military and government radar antennas and associated communication and broadcast towers used for aviation services; and
3. Amateur (ham) and citizen band transmitting and receiving antennas and associated communication and broadcast towers.

A telecommunication facility as a temporary use - Section 430-135.1 H.;

Temporary telecommunication facilities used solely for emergency communications by essential public communication service providers in the event of a natural disaster, emergency preparedness or for public health or safety purposes;

Antennas to provide enhanced 911 (i.e., E911) network coverage when required by the FCC, subject to the following:

1. E911 antennas shall not increase existing facility height and shall be painted or otherwise constructed of materials with the same or similar color as the tower; and
2. Accessory equipment and related equipment are either located completely within the existing structure (e.g., tower, building or other structure), or are located within an existing fenced site. In the case of a tower that includes stealth design, E911 antennas shall also incorporate stealth design.

Existing 911 antennas may remain for a period not to exceed six (6) months in order to accommodate the transfer of service from the existing 911 antennas to the E911 antennas.

The following uses are prohibited in all land use districts:

A. Installation of towers without antennas based on speculation of future antenna installation, also known as speculation (“spec”) towers;
B. The attachment of any antennas or associated equipment to trees; and
C. Installation of antennas on County-owned street furniture. Street furniture includes but is not limited to street lights, utility poles, and traffic signals.

abcd Proposed additions
abcd Proposed deletions

Comment [MP8]: For consistency with FCC rule.
Comment [MP9]: Verizon suggests that the County consider making these assets available for small cell attachments pursuant to a master lease agreement. Deleting this subsection will allow the County to choose to do so later without a change to the zoning code.
430-109.5 New Telecommunication Facilities in the Public Right-of-Way

New Telecommunication facilities in the public right-of-way that are not exempt from a development permit under Section 201-2 shall meet the following requirements:

A. The tower or utility pole shall not exceed a maximum diameter of twenty-four (24) inches, except where additional diameter is required to conceal antennas, cables, and/or equipment within the structure.

C. The tower or utility pole, including any antennas, shall not exceed the maximum height permitted for a tower as shown in Table A below.

D. Antennas shall be placed internal to the tower or utility pole or flush mounted or otherwise installed using stealth design.

E. Equipment cabinets may be mounted to the tower or utility pole or placed in or near the right-of-way.

F. For non-wood towers and poles, supporting cables and equipment connecting to the equipment cabinets or attached to a tower shall be placed underground or internal to the tower or tower pole.

G. The telecommunication facility shall meet the County’s vision clearance standards.

H. A right-of-way permit shall be obtained.

I. Unless otherwise identified, telecommunication facilities in the right-of-way shall be subject to standards in Section 430.109.9 (General Design Standards), but shall not be subject to Section 430-109.10 (Site Standards).

J. The procedure type for new telecommunication towers and poles within the right-of-way shall be based on the roadway type and height of the tower as shown in Table A below:

Section 430-109.5 - Table A:

| Procedure Type for New Telecommunication Towers and Poles in the Right-of-Way |
|-------------------------------------------------------------|-------------------|--------------------------|
| Arterial/Collector | Arterials and Collectors within pedestrian/bicycle districts | Neighborhood Route/Local Street |
| New tower to 30 feet height | Type I | Type II | Type II |
| New tower more than 30 feet to 50 feet height | Type II | Prohibited Type II | Prohibited Type II |
| New tower more than 50 feet to 100 feet height | Type III | Prohibited | Prohibited |

430-109.6 Co-location Requiring Type I Review
Comments Submitted before September 6 PC Hearing
Good morning Sambo:

To follow up on the Planning Commission meeting last week, we provide the following comments regarding changes needed for consistency with Section 6409, as well as some clarification of this subsection (430-109.3.C).

As you know, AT&T strongly supports Washington County’s adoption of the FCC criteria for substantial change verbatim. Each time language is changed, the likelihood of later issues with interpretation increases. Therefore, if Washington County does choose to adopt modified criteria, we suggest that it also incorporate the FCC rule by reference and state that the FCC language and definitions will control with regard to future interpretations.

We specifically suggest the following:

- Using “Eligible Facilities Requests” in this section. You could insert it after your section header for collocations.
- Deleting “antennas cannot protrude into the right-of-way.” This is not part of the substantial change test, and it is misplaced in the subsection addressing tower heights outside of the right-of-way.
- Clarifying the differences between height and width for towers outside of the right-of-way vs. towers within the right-of-way and base stations.
- Deleting subsection (2), which addresses expansion of fencing. This is not part of the substantial change test, and the issues of site expansion are controlled by the federal definition of “site” and the prohibition on excavation or deployment outside of the current site.
- Revising the cabinet restriction to “no more than four.”
- Revising the standard for concealment to “does not defeat…”. We understand your intent in changing this language was to make the criterion as objective as possible, but new concealment will not necessarily “comply with” old conditions of approval, which may, for example, be specific to only one location on a building. The FCC rule allows the placement of antennas on other locations on the building so long as concealment is not “defeated.” This allows extensions of screening and other design solutions.
- Inserting reference to 47 CFR Sec. 1.40001 for relevant definitions and to control interpretations.

We appreciate your work on this important topic. Please let me know if you have any questions.

Best regards,

Ken Lyons
Senior Vice President – Jurisdiction Relations

Wireless Policy Group LLC
(206) 227-0020 mobile
(425) 483-1070 fax
ken.lyons@wirelesspolicy.com
Hi Sambo,

Further with regard to consistency with the FCC rule, attached is a redline of this subsection, prepared on behalf of Verizon.

In addition to the FCC criteria we have already discussed, this redline shows changes to language that is a local term of art, defined by the Washington County Code (like “telecom facility site”), and replaces it with the federal terms (like “site”).

Please let me know if you would like to discuss these suggested changes.

Thank you!

Meridee Pabst
Wireless Policy Group LLC
113 Cherry St. #75604
Seattle, WA 98124-2205
meridee.pabst@wirelesspolicy.com
425-628-2660 Direct
360-567-5574 Wireless
430-109.3 Exemptions

The standards of this Section apply to all wireless telecommunication facilities except as otherwise provided herein. The following are exempt from the standards in this Section:

A. Telecommunication facilities that are exempt from a development permit under Section 201-2;

B. Reconstruction or replacement of telecommunication facilities lawfully established after November 26, 1992, the effective date of Ordinance No. 402, provided that it:

   1. Does not increase the height or base diameter of the existing tower or structure as originally approved or constructed;
   2. Does not expand the existing fenced equipment area around the tower or structure;
   3. Does not reduce existing landscape buffers unless replaced with vegetation with similar characteristics, plant densities and maturity;
   4. Does not use colors or lights that make the tower or antenna more visually obtrusive, unless required by either the Oregon Department of Aviation (ODA) or the Federal Aviation Administration (FAA);
   5. Uses antennas and transmitters that are similar in nature to the antennas and transmitters they are replacing; and
   6. Does not increase the number of antennas or transmitters.

Reconstruction or replacement of telecommunication facilities, excluding transmitter and antenna replacements pursuant to Section 430-109.3 B., approved before November 26, 1992 is subject to the provisions of Section 440, Nonconforming Uses, and applicable provisions of 430-109 as required by Section 440.

C. Co-location on lawfully established telecommunication facilities (Eligible Facility Requests made under 47 CFR §1.40001), provided that:

   1. For towers outside of the public right-of-way:
      a. The height increase is no more than twenty (20) feet or (ten) 10 percent of the existing tower height, whichever is greater. Antennas cannot protrude into the right-of-way; and
   2. No expansion to the existing fenced equipment enclosure is required;
      b. Antennas and appurtenances do not protrude from the edge of an existing tower by more than 20 feet or the width of the tower structure at the base of the tower at the level of appurtenance, whichever is greater;
   24. For other existing support structures, including towers within the public right-of-way:
      a. Antennas on other lawfully-established structures do not increase the height of the structure by more than ten (10) percent of the existing height, whichever is greater; and
      b. Antennas and appurtenances do not protrude from the body of the structure by more than six (6) feet.
(35) The telecommunication facility co-location requires installation of no more than four (4) new equipment cabinets on the site.

(46) Excavation or deployment is not required outside the current telecommunication facility site.

(57) Design does not defeat concealment elements, if approved with the existing facility; and

(68) Design complies with the conditions of approval associated with the existing facility, unless non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation or deployment that complies with the requirements in subsection 1 through 47 above.

This subsection C shall be interpreted with reference to 47 CFR §1.40001 and the definitions therein. The provisions of 47 CFR §1.40001 shall control in the event of any conflict with this subsection C.

D. The following telecommunication facilities that are regulated by the Federal Communications Commission (FCC) pursuant to the Code of Federal Regulations:

(1) Industrial, scientific, and medical equipment;

(2) Military and government radar antennas and associated communication and broadcast towers used for aviation services; and

(3) Amateur (ham) and citizen band transmitting and receiving antennas and associated communication and broadcast towers.

E. A telecommunication facility as a temporary use - Section 430-135.1 H.;

F. Temporary telecommunication facilities used solely for emergency communications by essential public communication service providers in the event of a natural disaster, emergency preparedness or for public health or safety purposes;

G. Antennas to provide enhanced 911 (i.e., E911) network coverage when required by the FCC, subject to the following:

(1) E911 antennas shall not increase existing facility height and shall be painted or otherwise constructed of materials with the same or similar color as the tower; and

(2) Accessory equipment and related equipment are either located completely within the existing structure (e.g., tower, building or other structure), or are located within an existing fenced site. In the case of a tower that includes stealth design, E911 antennas shall also incorporate stealth design.

Existing 911 antennas may remain for a period not to exceed six (6) months in order to accommodate the transfer of service from the existing 911 antennas to the E911 antennas.
## Cross-Reference Table on the Format Changes in Section 430-109

<table>
<thead>
<tr>
<th>Proposed Section 430-109 Format</th>
<th>Current Section 430-109 Format</th>
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<tbody>
<tr>
<td>430-109.1 Intent and Purpose</td>
<td><strong>New Section</strong></td>
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<tr>
<td>430-109.2 Telecommunication Facility Definitions</td>
<td>Definitions are in 106-174 except co-location and concealment located in 430-109.5.</td>
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<tr>
<td>430-109.3 Exemptions</td>
<td>430-109.1 The following are exempt from the standards provided in this Section:</td>
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<tr>
<td>430-109.4 Prohibited Uses</td>
<td>430-109.6 The following are prohibited in all land use districts:</td>
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<tr>
<td>430-109.5 New Telecommunication Facilities in the Public Right-of-Way</td>
<td><strong>New Section</strong></td>
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<tr>
<td>430-109.6 Co-location Requiring Type 1 Review</td>
<td>430-109.3 Antennas may be co-located (i.e., Facility 1) in all land use districts…</td>
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<tr>
<td>430-109.7 Expansion of Existing Telecommunication Facilities</td>
<td>430-109.2 Expansion or Alteration of Existing Telecommunication Facilities:</td>
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</table>
| 430-109.8 New Telecommunication Facilities | • 430-109.4 Communication Towers (i.e., Facility 2) may be located in all land use districts…  
• 430-109.5 Facility Siting Requirements for Procedure Type II and III Applications… |
| 430-109.9 General Design Standards for Telecommunication Facilities | • 430-109.8 General Design Standards for…:  
• 430-109.10 Agency Coordination Documentation |
| 430-109.10 Site Standards for Telecommunication Facilities | 430-109.9 Site-Specific Standards… |
| 430-109.11 Submittal Requirements for Telecommunication Facilities not otherwise exempt under Sections 430-109.3 and 201-2 | • 430-109.7 Submittal Requirements for Telecommunication Facilities not otherwise exempt …  
• 430-109.11 Application Requirements for Telecommunication Facilities less than two hundred (200) feet proposed on lands designated EFU and AF-20: |
| 430-109.12 Abandonment           | 430-109.12 Abandonment          |
Summary of Proposed Changes within Filed Ordinance No. 826

Following is an explanation of additional changes proposed in Ordinance 826 not specifically addressed in the staff report.

A. Section 106 Definitions
Terms and definitions relating to telecommunication facilities are currently located in both Sections 106 and 430-109. As part of the reorganization of these regulations, terms and definitions related specifically to telecommunication facilities are consolidated and moved to Section 430-109. Language is added to Section 106 indicating that terms and definitions related to specific uses may be located in their own sections of the Code.

Terms that are used in other sections of the CDC, such as Oregon Department of Aviation and Federal Aviation Administration, were not relocated and remain in Section 106.

B. Section 201-2 Exclusion from Permit Requirement
Currently, installations of certain pole mounted antennas on utility poles in the public road right-of-way are excluded from the requirement to obtain a permit. Under this exclusion in Section 201-2.30, new language is added to clarify that installation of telecommunication facility equipment is prohibited on any county-owned assets (e.g. county signals, street lights, street furniture, etc).

Amendment of this section includes increasing the height of the replacement utility pole from 15 feet to 20 feet to ensure adequate clearance between the antennas and utilities found on these poles.

C. Special Use Section 430-109 Title
The current title, Receiving and Transmitting Antennas, Communication and Broadcast Towers, does not encompass the full range of regulations in this section. For example, the standards on supporting equipment associated with antennas and towers. Staff proposes changing the section title to Telecommunication Facilities consistent with the generic term used by other jurisdictions (e.g., Hillsboro and Cornelius) that applies not only to the tower and antennas, but also includes associated equipment.

D. Special Use Section 430-109.2 Definitions
As discussed earlier, the proposed reorganization of the telecommunication facilities regulations includes moving and updating telecommunication facilities terms and definitions from Section 106 to Section 430-109.2. Updates include adding new terms such as:

- Concealment
- Essential public communication service
- Essential public communication facility
- Flush mounted antenna

The update also includes deleting outdated and unused terms such as:

- Base station
- Radio frequency engineer
- Top hat antenna array
- Use accessory to an antenna
- Visually subordinate

E. **Special Use Section 430-109.3 Exemptions**

Types of telecommunication facilities or their components that are exempt from the standards in Section 430-109 were moved from Section 430-109.1 to Section 430-109.3. The current exemption section contains 10 different exemptions. To streamline this list, staff proposes to consolidate exemption for replacement of existing antennas and transmitters (formerly subsection 430-109.1.B) and reconstruction or replacement of telecommunication facilities (formerly subsection 430-109.1.C) since these two sections have similar requirements. Also proposed is the removal of outdated or unnecessary uses such as radio transceivers and radio frequency machines. Temporary communication uses are being moved into the Temporary Use section in 430-135, consistent with other temporary uses.

Added to this exemption section is co-location of lawfully established telecommunication facilities (Section 430-109.3.C). This exempts certain co-locations from meeting the requirements in Section 430-109. These co-locations are similar to the type of facilities identified in the Spectrum Act. By including these types of co-location in the exemption, the CDC is meeting the intent of the Spectrum Act to streamline the review and submittal process for these facilities.

F. **Special Use Section 430-109.7 Expansion of Existing Telecommunication Facilities**

This section updates and relocates the standards from the former Section 430-109.2 and adds four requirements (Section 430-109.7 B. through E) found in other sections of Section 430-109. These standards require expansions to meet applicable requirements established with their original approval and/or meet general design and site standards.

G. **Special Use Section 430-109.12 Abandonment**

The Abandonment Section will remain as Section 430-109.12. The proposed amendment to this section is the removal of 430-109.12.C, a requirement that annual documentation be provided by service providers that the facility is still in operation. This is not currently done in practice, is not enforced and would be difficult to implement and maintain with the number of facilities located countywide.
Proposed Ordinance No. 826 - An Ordinance Amending the Community Development Code (CDC) Relating to Telecommunication Facilities Standards


Staff present: Andy Back, Theresa Cherniak, Erin Wardell, Dyami Valentine, Sambo Kirkman, Reza Farhoodi, John Floyd and Susan Aguilar, Long Range Planning (LRP); Jacquilyn Saito-Moore, County Counsel.

Summary

a. Ordinance No. 826 – Cell Towers
Sambo Kirkman, Associate Planner from the Community Planning group of LRP provided a PowerPoint presentation regarding Ordinance No. 826 – Cell Towers. Ordinance amendments include updates to comply with federal regulations and requests received from the industry and staff to streamline unclear and outdated regulations.

Staff Recommendation
• Staff recommended engrossment of Ordinance No. 826 to the Board of Commissioners (Board) to include proposed amendments identified in the staff report.
• Board hearing on Sept. 19, 2017.

Written Testimony received in Ordinance No. 826
• Handout from Verizon distributed at PC meeting.

Verbal Testimony received in Ordinance No. 826
• Noah Grodzin, Verizon – 5430 NE 122nd, Portland – Mr. Grodzin stated that Verizon supported ordinance with regards to code changes and exclusions. He provided general small cell facility information. He stated that Verizon has a Smart Cities department.
• Meridee Pabst, Verizon – 2728 N L St, Washougal, WA – Ms. Pabst discussed three issues. The first issue was regarding attachments to utility poles in the right-of-way (ROW). Ms.
Pabst suggested Washington County (County) not prohibit small antennas on County owned properties in case the County is willing to allow them in the future. The second suggestion was for the County to adopt FCC (Federal Communications Commission) criteria for what constitutes a substantial change. The third issue was regarding clarifying language in section 430–109.5.

- Rich Roche, AT&T – 819 SW Oak St, #600, Portland – AT&T has worked with the County for years as an applicant for wireless facility proposals. The industry is searching for methods to meet increasing demand. Mr. Roche indicated that AT&T supports the adoption of the ordinance, but suggested that the FCC rules be included in the ordinance to prevent inconsistencies. AT&T is also advocating for large equipment cabinets up to 28 cubic feet.

Discussion
- Discussion regarding various types of cell towers and requested to see information on why larger cabinet sizes are needed.
- Question regarding why FCC rules were not directly applied in ordinance regarding modifying facilities.
- Suggested a ROW representative attend next PC meeting.
- Question regarding number of complaints received.
- The PC requested additional information on the following topics:
  - Consistency of language with the Spectrum Act.
  - Changes to the proposed definitions.
  - Noise and lighting requirements.
  - Relocation of facilities in the ROW.
  - Equipment cabinet sizing and placement.
  - Frequency of citizen complaints.

Final Vote
Commissioner Mills moved to continue discussion of Ordinance No. 826 to the next scheduled PC meeting. Commissioner Enloe seconded motion. **Vote: 6 – 0. Motion passed.**

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<td>Bartholemy</td>
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End of deliberations.
Proposed Ordinance No. 826 - An Ordinance Amending the Community Development Code (CDC) Relating to Telecommunication Facilities Standards


Staff present: Andy Back, Theresa Cherniak, Erin Wardell, Michelle Miller, Dyami Valentine, Anne Kelly, Sambo Kirkman, John Floyd, Reza Farhoodi, Angela Brown, Joel Cvetko, and Traci Shirley, Long Range Planning (LRP); Jacquilyn Saito-Moore, County Counsel.

Summary

a. Ordinance No. 826

Sambo Kirkman, associate planner from the Community Planning group of LRP provided a PowerPoint presentation regarding Ordinance No. 826 – Cell Towers. Staff shared an overview of the August 16, 2017 PC meeting and PC’s requests for information, including questions about noise and lighting requirements, facilities in the right-of-way, size of pole-mounted cabinets, language consistency with the Spectrum Act and potential changes to the proposed definitions. Ordinance No. 826 amendments include updates to comply with federal regulations and requests received from the industry and staff to streamline unclear and outdated regulations.

Staff Recommendation

Conduct the public hearing for Ordinance No. 826. At the conclusion of the hearing, recommend engrossment of the ordinance to the Board of Commissioners to incorporate the proposed amendments shown in Attachment A to the staff report.

Verbal Testimony received in Ordinance No. 826

- Noah Grodzin, Verizon – 5430 NE 122nd, Portland – Mr. Grodzin stated that Verizon supports the ordinance and staff’s comments and positions.
- Meridee Pabst, Verizon – 2728 N L St, Washougal, WA – Ms. Pabst stated that Verizon supports the ordinance and wanted to talk about two issues. The first issue was regarding Table A, on page 37 of the initial draft ordinance which enumerates the review process for new poles and towers in the right-of-way. Verizon suggested the County allow new towers between 30 and 50 feet on Arterials and Collectors within pedestrian/bike districts, subject to a Type III review. This would allow the applicant the opportunity to demonstrate that the proposed design is compatible with the streetscape. The second issue discussed, Verizon asked that the County be flexible and allow antennas on County owned street furniture (including street lights). Ms. Pabst also noted that a recent court case d that spectrum interference is within the sole purview of the FCC.
• Rich Roche - Director of External Affairs for the State of Oregon, AT&T – 819 SW Oak St, #600, Portland – Mr. Roche indicated that AT&T appreciated staff’s recommendation to allow 17 cubic feet of equipment cabinet on existing poles. AT&T asked that the PC eliminate the overall cap of two equipment cabinets. The second concern was for the PC to allow co-locations on County owned assets in the public right-of-way. Therefore preventing any barriers for future zoning decisions.

Discussion
• Questions regarding relocation costs and timelines for moving wireless facilities located in public right-of-way when necessitated by private development.
• Question regarding ownership of poles.
• The PC had a number of questions and requested more information regarding:
  o Wireless facility relocation process, including who pays and how much it costs.
  o Spectrum Interference Analysis, and whether the County can require this as part of an application.
  o The right-of-way permit process.

Final Vote
Commissioner Wellner moved to recommend to the Board that action on Ordinance No. 826 be deferred to spring to allow staff to continue working on questions raised by the PC and industry. Commissioner Enloe seconded motion. **Vote: 8 – 0. Motion passed.**

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End of deliberations.
Private Developer Not an Agent of County and Not Exempt from Paying Utility Relocation Costs

By Heather Martin

Cities regularly require that certain public improvements occur for private developments either through their codes or through conditions of approval for development applications. Merely requiring the improvements is not enough though to create an agency relationship between a city and a developer.

This concept was supported by a recent Oregon Court of Appeals decision. The court upheld an Oregon Public Utility Commission (PUC) order permitting Frontier Communications Northwest, Inc. (Frontier) to charge private developer Bull Mountain Meadows, LLC (Bull Mountain) $23,872 for the cost of Frontier’s relocation of utility poles to allow Bull Mountain to make street improvements along an adjacent public road.

Background

Bull Mountain submitted a development application to Washington County for a 14-lot single family residential subdivision on SW Bull Mountain Road. This road is designated as a “collector street” in the county’s transportation system plan, but it had not yet been widened to be a "collector street.” As a result, the county required as a condition of approval that Bull Mountain improve one-half of the adjacent segment of the road to "collector street" standards, which included dedicating additional right-of-way and adding curb and gutters, storm drainage, sidewalk, planter strip and continuous roadway illumination. To meet those conditions of approval, Bull Mountain requested that Frontier move existing poles, cables and in-ground fiber-optic facilities.

Frontier followed its approved rate schedule/tariff, which specified that the entire cost of relocation is the responsibility of the party requesting the relocation except in the case of a “public body.” Subsequently, when Frontier demanded advance payment to relocate the utility poles, Bull Mountain indicated it would not pay because it was acting as an agent for the county and was thus a "public body" not subject to the $23,872 charge.

The Decision: Bull Mountain Meadows, LLC v. Frontier Communications Northwest, Inc. and Public Utility Commission of Oregon

Bull Mountain filed a complaint with the PUC alleging that Frontier’s charge was:

- A violation of its tariff, because Bull Mountain was an agent of a public body and thus not subject to the charge;
- A violation of Oregon law as a prohibited “unjust and unreasonable exaction”; and
- A “taking” under state and federal law.

The PUC disagreed.

Relying on Vaughn v. First Transit, Inc., the PUC identified two requirements for the existence of an agency relationship: a manifestation by the principal that the agent may act on their behalf, with their consent, and the agent must be subject to the principal’s control. The PUC found that Bull Mountain presented no evidence that the county intended for Bull Mountain to act on its behalf or with its consent when it
widens the street, or that Bull Mountain was under the county's control when it widens the street.

The court upheld the PUC order because there was substantial evidence supporting the PUC's determination. In effect, Bull Mountain failed to establish the county manifested to Bull Mountain that Bull Mountain was acting on behalf of the county when widening the road. The court rejected the additional assignments of error raised by Bull Mountain with respect to the exaction and takings arguments without written discussion.

Here, the court held there was no express evidence such as a contract between Bull Mountain and the county to show Bull Mountain was acting as the county's agent. Bull Mountain also argued that the county impliedly consented because of a letter it had sent to Frontier regarding another subdivision in the county, which stated that when a utility is located in a county right of way, a utility is required to relocate its facilities at the utility's expense and that "when constructing public improvements, the developers are doing them under our direction which is covered by" state law. The court sent no such letter to Frontier concerning the Bull Mountain development. The court indicated that while the letter might be evidence that the county agrees Frontier should move the poles without charge, it is not evidence that the county was manifesting consent that Bull Mountain act on its behalf.

Further, there was no evidence of mutual consent because there is no evidence that the county would make use of the improvements it had required because there was no evidence that the county was implementing the "collector street" designation.

The Impact to Cities

The court's decision clarifies that developers are not acting as agents of a city when complying with a city's conditions of approval through the construction of required public improvements. However, it is unclear if a development agreement, for example, or a similar type of contract would create an agency relationship. The court indicated having a written contract could be evidence of an express consent to an agency relationship, but did not elaborate on what type of language would qualify.

Heather Martin is an associate with Beery Elsner & Hammond LLP.
Comparision of Cabinet Sizes
2. **SECTION 201 – DEVELOPMENT PERMIT**

201-2 Exclusions from Permit Requirement

201-2.30 Installation of compact pole-mounted receiving and transmitting antennas on electric and other utility poles in the public road right-of-way where the subject support pole is part of an existing above ground electric transmission, distribution, communication or signal line, and where "pole" is defined as a monopole, double pole or lattice utility structure, subject to the following:

B. No more than two (2) one (1) associated equipment cabinets not to exceed a total of seventeen (17) twelve (12) cubic feet may be mounted on the pole. The cabinet shall be painted with or constructed of material with a non-reflective neutral color that matches or is similar to that of the pole. All associated ground-mounted equipment shelters located in the right-of-way are subject to the applicable standards of ODOT or Washington County to occupy or perform operations upon the affected roadway; and

29. **SECTION 430 - SPECIAL USE STANDARDS**

430-109 Telecommunication Facilities

The standards of this Section apply to all telecommunication facilities except as otherwise provided in Sections 201-2 and 430-109.3.

430-109.2 Telecommunication Facility Definitions

Terms and definitions that apply throughout the Community Development Code are found in Section 106. Following are definitions for the terms found in Section 201-2.30 and Section 430-109:

**Eligible Facilities Request.** Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving co-location of new transmission equipment or replacement of transmission equipment.

**Eligible Support Structure.** Any tower or base station, as defined in this Section, lawfully established at the time the Eligible Facility Request.

**Microcell** (Also known as small cell). A low-power facility used to provide increased capacity to wireless telecommunication demand areas or provide infill coverage in areas of weak reception, including a separate transmitting and receiving station serving the facility (See also "Repeater").
430-109.3 Exemptions

The standards of this Section apply to all wireless telecommunication facilities except as otherwise provided herein. The following are exempt from the standards in this Section:

C. Co-location on lawfully established telecommunication facilities (Eligible Facility Requests) provided that:

(1) For towers outside of the public right-of-way:
   a. The height increase is no more than twenty (20) feet or (ten) 10 percent of the existing tower height, whichever is greater; Antennas cannot protrude into the right-of-way; and
   b. Antennas and appurtenances do not protrude from the edge of an existing tower by more than twenty (20) feet or the width of the tower structure at the base of the tower the level of appurtenance, whichever is greater; and

(2) No expansion to the existing fenced equipment enclosure is required;

   c. If an appurtenance protrudes into the right-of-way, a right-of-way permit shall be obtained;

(2) For other existing support structures (including towers within the public right-of-way):
   a. Antennas on other lawfully established structures do not increase the height of the structure by The height increase is no more than ten (10) feet or ten (10) percent of the existing height, whichever is greater; and
   b. Antennas and appurtenances do not protrude from the body edge of the structure by more than six (6) feet.

(3) The telecommunication facility co-location requires installation of less no more than four (4) new equipment cabinets on the site;

(4) Excavation or deployment is not required outside the current telecommunication facility site;

(5) Design complies with the does not defeat concealment elements, if approved with the existing facility; and

(6) Design complies with the conditions of approval associated with the existing facility, unless non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation or deployment that complies with the requirements in subsection 1 through 47 above.

***
430-109.5 New Telecommunication Facilities in the Public Right-of-Way

***

BC. The tower, including any antennas, shall not exceed the maximum height permitted for a tower as shown in Table A below.

CD. Antennas shall be placed internal to the tower or flush mounted or otherwise installed using stealth design.

D. No more than two (2) associated equipment cabinets not to exceed a total of seventeen (17) cubic feet may be mounted on the tower. The cabinet shall be painted with or constructed of material with a non-reflective neutral color that matches or is similar to that of the pole. All associated ground-mounted equipment shelters located in the right-of-way are subject to the applicable standards of ODOT or Washington County.

***

430-109.9 General Design Standards for Telecommunication Facilities

***

C. Antennas on towers not using stealth design shall be made of a non-reflective material, flush-mounted, and painted to match the tower or structure. The antennas shall be flush-mounted, or mounted on davit arms extending a maximum of five (5) feet from the tower. In case of co-locating, the antennas shall match the design of the approved facility;

***
Individual Notice No. 2017-06

At your request, Long Range Planning is providing you with Individual Notice No. 2017-06 which describes proposed Land Use Ordinance No. 826.

Ordinance Purpose and Summary

Ordinance No. 826 proposes to update the Community Development Code (CDC) relating to telecommunication facilities to include the following: streamline the review process and submittal requirements for telecommunication facilities, restructure this special use section to be clearer and more user friendly, and update the CDC to comply with federal requirements for telecommunication facilities.

Who is Affected

Those operating or living near a new or modified telecommunication facility may be affected.

What Land is Affected

All lands in urban and rural unincorporated Washington County.

Key Provisions

- Relocate terms and definitions specifically related to telecommunication facilities from Section 106 (Definitions) to Section 430-109 (Telecommunication Facilities).
- In CDC Article III (Land Use Districts), update uses related to telecommunications in all land use districts to include the types of telecommunication facilities identified in Section 430-109 for consistency.
- Create a new exemption section to include co-location requests that comply with the federal Spectrum Act.
- General restructure of Section 430-109 to include renaming the section title to Telecommunication Facilities, adding a new Intent and Purpose section, and renaming references to Telecommunication Facility Types 1 through 4.
- Update prohibited uses to include co-location of antennas on County-owned assets.
- Create a process and standards section for telecommunication facilities in the public right-of-way.
- Update review procedures and standards for co-location, expansion of telecommunication facilities, and new telecommunication facilities.
- Update General Design and Site Standards for telecommunication facilities including the setback provision table and associated illustrations.
- Update submittal requirements for telecommunication facilities.
- Update temporary telecommunication facilities in Section 430-135 to include a new temporary use.
Initial Public Hearings
Time and Place
Planning Commission
6:30 p.m.
August 16, 2017
Board of Commissioners
10:00 a.m.
September 19, 2017

Hearings are in the Hillsboro Civic Center Shirley Huffman Auditorium, 150 E. Main St., Hillsboro, Oregon.

At its September 19, 2017 public hearing, the Board of Commissioners (Board) may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If adopted September 19, 2017, the ordinance would become effective November 24, 2017.

- Section 106 - Definitions
- Section 201 - Development Permit
- Section 302 - R-5 District (Residential 5 Units per Acre)
- Section 303 - R-6 District (Residential 6 Units per Acre)
- Section 304 - R-9 District (Residential 9 Units per Acre)
- Section 305 - R-15 District (Residential 15 Units per Acre)
- Section 306 - R-24 District (Residential 24 Units per Acre)
- Section 307 - R-25+ District (Residential 25 Units or More per Acre)
- Section 308 - Future Development 20-Acre District (FD-20)
- Section 309 - Future Development 10-Acre District (FD-10)
- Section 311 - Neighborhood Commercial District (NC)
- Section 312 - Office Commercial District (OC)
- Section 313 - Community Business District (CBD)
- Section 314 - General Commercial District (GC)
- Section 320 - Industrial District (IND)
- Section 330 - Institutional District (INST)
- Section 342 - Exclusive Forest and Conservation District (EFC)
- Section 344 - Agriculture and Forest District (AF-20)
- Section 346 - Agriculture and Forest District (AF-10)
- Section 348 - Agriculture and Forest District (AF-5)
- Section 350 - Rural Residential Five Acre Minimum District (RR-5)
- Section 352 - Rural Commercial District (R-COM)
- Section 354 - Rural Industrial District (R-IND)
- Section 356 - Land Extensive Industrial District (MAE)
- Section 357 - Transit Oriented Districts
- Section 377 - Special Industrial Overlay District (SID)
- Section 390 - North Bethany Subarea Overlay District
- Section 430 - Special Use Standards
How to Submit Comments

- Submit oral or written testimony to the Planning Commission and/or the Board at one of the public hearings.
- Written testimony, including email, may be sent to the Planning Commission or Board in advance of the public hearings in care of Long Range Planning.
- Include the author's name and address with any public testimony.

Washington County, Department of Land Use & Transportation
Planning and Development Services, Long Range Planning
155 N. First Ave., Suite 350, MS14, Hillsboro, OR 97124-3072
Telephone: 503-846-3519   Fax: 503-846-4412
Email: lutplan@co.washington.or.us

Staff Contact

Sambo Kirkman, Associate Planner
Telephone: 503-846-3593
Email: sambo_kirkman@co.washington.or.us

Proposed ordinance is available at the following locations:

- Department of Land Use & Transportation at the address listed above
- www.co.washington.or.us/landuseordinances
- Cedar Mill Community Library and Tigard Public Library
- Community Participation Organizations (CPOs); Call 503-846-6288 for a directory of CPOs
July 21, 2017

To: Community Participation Organizations, Cities, Service Districts, Interested Parties

From: Andy Back, Manager
Planning and Development Services

Subject: PROPOSED LAND USE ORDINANCE NO. 826

The Washington County Planning Commission and Board of Commissioners (Board) will soon consider proposed Ordinance No. 826. Listed below is a description of the ordinance, hearing dates, and other relevant information. If you have any questions about the ordinance, or if you would like additional information, please contact Long Range Planning at 503-846-3519. This ordinance is available on the Washington County website at:

www.co.washington.or.us/landuseordinances

Ordinance Purpose and Summary

Ordinance No. 826 proposes to update the Community Development Code (CDC) relating to telecommunication facilities to include the following: streamline the review process and submittal requirements for telecommunication facilities, restructure this special use section to be clearer and more user friendly, and update the CDC to comply with federal requirements for telecommunication facilities.

Who is Affected
Those operating or living near a new or modified telecommunication facility may be affected.

What Land is Affected
All lands in urban and rural unincorporated Washington County.

Initial Meeting and Public Hearings

Planning Commission
6:30 p.m.
August 16, 2017

Board of Commissioners
10:00 a.m.
September 19, 2017

Hearings are in the Hillsboro Civic Center Shirley Huffman Auditorium, 150 E. Main St., Hillsboro, Oregon.

At its September 19, 2017 public hearing, the Board may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If adopted September 19, it would become effective November 24, 2017.

Department of Land Use & Transportation
Planning and Development Services • Long Range Planning
155 N. First Ave., Suite 350, MS14, Hillsboro, OR 97124-3072
phone: 503-846-3519 • fax: 503-846-4412
www.co.washington.or.us/lut • lutplan@co.washington.or.us
Key Provisions

- Relocate terms and definitions specifically related to telecommunication facilities from Section 106 (Definitions) to Section 430-109 (Telecommunication Facilities).
- In CDC Article III (Land Use Districts), update uses related to telecommunications in all land use districts to include the types of telecommunication facilities identified in Section 430-109 for consistency.
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- General restructure of Section 430-109 to include renaming the section title to Telecommunication Facilities, adding a new Intent and Purpose section, and renaming references to Telecommunication Facility Types 1 through 4.
- Update prohibited uses to include co-location of antennas on County-owned assets.
- Create a process and standards section for telecommunication facilities in the public right-of-way.
- Update review procedures and standards for co-location, expansion of telecommunication facilities, and new telecommunication facilities.
- Update General Design and Site Standards for telecommunication facilities including the setback provision table and associated illustrations.
- Update submittal requirements for telecommunication facilities.
- Update temporary telecommunication facilities in Section 430-135 to include a new temporary use.

Community Development Code Standards Amended

- Section 106 – Definitions
- Section 201 – Development Permit
- Section 302 – R-5 District (Residential 5 Units per Acre)
- Section 303 – R-6 District (Residential 6 Units per Acre)
- Section 304 – R-9 District (Residential 9 Units per Acre)
- Section 305 – R-15 District (Residential 15 Units per Acre)
- Section 306 – R-24 District (Residential 24 Units per Acre)
- Section 307 – R-25+ District (Residential 25 Units or More per Acre)
- Section 308 – Future Development 20-Acre District (FD-20)
- Section 309 – Future Development 10-Acre District (FD-10)
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- Section 312 – Office Commercial District (OC)
- Section 313 – Community Business District (CBD)
- Section 314 – General Commercial District (GC)
- Section 320 – Industrial District (IND)
- Section 330 – Institutional District (INST)
- Section 340 – Exclusive Farm Use (EFU)
- Section 342 – Exclusive Forest and Conservation District (EFC)
- Section 344 – Agriculture and Forest District (AF-20)
- Section 346 – Agriculture and Forest District (AF-10)
- Section 348 – Agriculture and Forest District (AF-5)
- Section 350 – Rural Residential Five Acre Minimum District (RR-5)
- Section 352 – Rural Commercial District (R-COM)
- Section 354 – Rural Industrial District (R-IND)
- Section 356 – Land Extensive Industrial District (MAE)
- Section 375 – Transit Oriented Districts
- Section 377 – Special Industrial Overlay District (SID)
- Section 390 – North Bethany Subarea Overlay District
- Section 430 – Special Use Standards
How to Submit Comments

- Submit oral or written testimony to the Planning Commission and/or the Board at one of the public hearings.
- Written testimony, including email, may be sent to the Planning Commission or Board in advance of the public hearings in care of Long Range Planning.
- Include the author's name and address with any public testimony.

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Email: lutplan@co.washington.or.us

Staff Contact

Sambo Kirkman, Associate Planner
Telephone: 503-846-3593
Email: sambo_kirkman@co.washington.or.us

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- www.co.washington.or.us/landuseordinances
- Cedar Mill Community Library and Tigard Public Library
- Community Participation Organizations (CPOs); Call 503-846-6288 for a directory of CPOs
BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

ORDINANCE 826

An Ordinance Amending the Community Development Code Relating to Telecommunication Facilities Standards

The Board of County Commissioners of Washington County, Oregon ("Board") ordains as follows:

SECTION 1


B. As part of its ongoing planning efforts Washington County staff has identified the need for updates to the Community Development Code, an element of the Comprehensive Plan, specifically those related to telecommunication facilities. The proposed changes update...
the Community Development Code to comply with federal regulations, and streamline the
review process and submittal requirements for telecommunication facilities. The Board
recognizes that such changes are necessary from time to time for the benefit and welfare of
the residents of Washington County, Oregon.

C. Under the provisions of Washington County Charter Chapter X, the
Department of Land Use and Transportation has carried out its responsibilities, including
preparation of notices, and the County Planning Commission has conducted one or more
public hearings on the proposed amendments and has submitted its recommendations to the
Board. The Board finds that this Ordinance is based on that recommendation and any
modifications made by the Board, as a result of the public hearings process.

D. The Board finds and takes public notice that it is in receipt of all matters and
information necessary to consider this Ordinance in an adequate manner and finds that this
Ordinance complies with the Statewide Planning Goals, the standards for legislative plan
adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington
County Charter, the Washington County Community Development Code, and the Washington
County Comprehensive Plan.

SECTION 2

The following exhibit, attached hereto and incorporated herein by reference, is adopted
as an amendment to the designated document as follows:

A. Exhibit 1 (67 pages), amends the following sections of the Community
Development Code:

1. Section 106 – Definitions;
2. Section 201 – Development Permit;
3. Section 302 – R-5 District (Residential 5 Units per Acre);
4. Section 303 – R-6 District (Residential 6 Units per Acre);
5. Section 304 – R-9 District (Residential 9 Units per Acre);
6. Section 305 – R-15 District (Residential 15 Units per Acre);
7. Section 306 – R-24 District (Residential 24 Units per Acre);
8. Section 307 – R-25+ District (Residential 25 Units or More per Acre);
9. Section 308 – Future Development 20-Acre District (FD-20);
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21. Section 348 – Agriculture and Forest District (AF-5);
22. Section 350 – Rural Residential Five Acre Minimum District (RR-5);
23. Section 352 – Rural Commercial District (R-COM);
24. Section 354 – Rural Industrial District (R-IND);

25. Section 356 – Land Extensive Industrial District (MAE);

26. Section 375 – Transit Oriented Districts;

27. Section 377 – Special Industrial Overlay District (SID);

28. Section 390 – North Bethany Subarea Overlay District; and

29. Section 430 – Special Use Standards.

SECTION 3

All other Comprehensive Plan provisions that have been adopted by prior ordinance, which are not expressly amended or repealed herein, shall remain in full force and effect.

SECTION 4

All applications received prior to the effective date shall be processed in accordance with ORS 215.427.

SECTION 5

If any portion of this Ordinance, including the exhibit, shall for any reason be held invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

SECTION 6

The Office of County Counsel and Department of Land Use and Transportation are authorized to prepare planning documents to reflect the changes adopted under Section 2 of this Ordinance, including deleting and adding textual material and maps, renumbering pages or sections, and making any technical changes not affecting the substance of these amendments as necessary to conform to the Washington County Comprehensive Plan format.
SECTION 7

This Ordinance shall take effect on November 24, 2017.

ENACTED this _____ day of ________________, 2017, being the ______ reading
and ________ public hearing before the Board of County Commissioners of Washington
County, Oregon.

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

____________________________
CHAIRMAN

____________________________
RECORDING SECRETARY

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VOTE: Aye: ___________________ Nay: ___________________

Recording Secretary: ___________________ Date:  ________________
Sections of the COMMUNITY DEVELOPMENT CODE are amended to reflect the following:

1. **SECTION 106 - DEFINITIONS**

106-1 The definitions contained in this Code are used as follows:

106-1.1 Words used in present tense include the future tense, and the singular includes the plural, unless the context clearly indicates the contrary.

106-1.2 The term "shall" is always mandatory and the word "may" is permissive.

106-1.3 Any word or term not herein defined shall be used as defined by "Webster's Third New International Dictionary," copyright 1993, located in the Washington County Department of Land Use & Transportation Law Library.

106-1.4 Where words or terms are defined by ORS or OAR and are applicable to this Code, those definitions shall apply as defined herein. Where words or terms are further defined by OAR Chapter 660, Division 33 Agricultural Land, and are different from ORS, those definitions shall apply as defined in the OAR.

106-1.5 Terms and definitions related to specific uses may be located within their own sections.

***

106-10.9 **Oregon Department of Aviation (ODA).** The state agency responsible for developing aviation as an integral part of Oregon's transportation network; creating and implementing strategies to protect and improve Oregon's aviation system; encouraging aviation-related economic development; supporting aviation safety and education; and increasing commercial air service and general aviation in Oregon. The Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.

106-10.10 **Federal Aviation Administration (FAA).** A division of the United States Department of Transportation primarily responsible for the advancement, safety, and regulation of civil aviation. The Federal Aviation Administration.

***

106-174 **Terms Relating to Receiving and Transmitting Antennas, Communication and Broadcast-Towers**

106-174.1 **Antenna.** A device for transmitting or receiving radio frequency (RF) signals or electromagnetic radiation, such as digital and analog signals, radio frequencies, broadcast signals, such as television and radio signals, and other communication signals. Antennas are typically mounted on a supporting tower, pole or mast, building or other suitable structure. Types of antennas include directional antennas, such as panel antennas, microwave dishes, and omni-direction antennas, such as whip antennas, but not domestic satellite dishes. Additionally, some antennas operate as both transmitting and receiving devices.

106-174.2 **Base (or Primary Station)**. The primary sending and receiving site in a wireless service provider's telecommunication network and generally consisting of one or more antennas mounted on a communication tower.

abcdef Proposed additions
abcdef Proposed deletions
106-174.3 Broadcast Tower. A tower, pole, or mast whose primary purpose is to elevate an antenna above the surrounding terrain or structures for the transmission of radio or television signals. The actual broadcast tower itself may also function as the antenna, (i.e., for AM broadcast radio) if part of the apparatus is necessary to produce a clear signal or message within the licensee's operating range, as allowed by the Federal Communications Commission. Broadcast towers are often sited within a non-staffed broadcast facility for the transmission of radio or television signals.

106-174.4 Communication Tower. A tower, pole, or mast whose primary purpose is to elevate an antenna above the surrounding terrain or structures for the transmission and/or receiving of radio frequency (RF) signals or electromagnetic radiation to provide wireless telecommunication services, including wireless Internet service. Communication towers are often sited within a non-staffed wireless telecommunication facility for the transmission of radio frequency (RF) signals. Said facility usually consists of an equipment shelter, cabinet or other enclosed structure housing electronic equipment, a communication tower, and antennas, including repeaters and microcells, or other transmission and reception devices used to provide cellular, specialized mobile radio and personal communication services (PCS) services.

106-174.5 Equipment Shelter. An enclosed structure or cabinet usually placed at or near the base of the communication tower within which are housed electrical and other equipment necessary for the operation of the facility. Cables connect the shelters to the antenna(s).

106-174.6 Federal Aviation Administration (FAA). The FAA, a division of the United States Department of Transportation, was established by the Federal Aviation Act of 1958, and is primarily responsible for the advancement, safety and regulation of civil aviation.

106-174.7 Federal Communications Commission (FCC). The FCC is an independent government agency that was established by the Communications Act of 1934 and is charged with regulating interstate and international communications by radio, television, wire, satellite and cable.

106-174.8 Microcell. A low-power facility used to provide increased capacity to wireless telecommunications demand areas or provide infill coverage in areas of weak reception, including a separate transmitting and receiving station serving the facility. (See also "Repeater")

106-174.9 Non-Residential Districts. FD-20, FD-10, NC, OC, CBD, GC, IND, INST, SLD, TO:RC, TO:EMP, TO:BUS, EFU, EFC, AF-20, R-COM, R-IND, NCC NB, NC MU NB, INST NB and MAE Land Use Districts.

106-174.10 Oregon Department of Aviation (ODA). The state agency that is responsible for developing aviation as an integral part of Oregon’s transportation network, creating and implementing strategies to protect and improve Oregon’s aviation system; encouraging aviation-related economic development; supporting aviation safety and education; and increasing commercial air service and general aviation in Oregon.

106-174.11 Radio Frequency Emission. Electromagnetic radiation that is of low photon energy unable to cause ionization and is generated by a transmitting antenna.
106-174.12 **Radio Frequency Engineer.** An engineer specializing in electrical or microwave engineering, licensed in the state of Oregon, with a degree in engineering, and experience to perform and certify radio frequency radiation measurements.

106-174.13 **Receiving Antenna.** A device that only receives non-ionizing electromagnetic energy and does not emit radio-frequency energy.

106-174.14 **Repeater.** A small receiver/relay transmitter and antenna of relatively low-power output designed to provide service to areas which are not able to receive adequate coverage directly from the base or primary station.

106-174.15 **Replacement Tower.** A new communication or broadcast tower capable of supporting co-located antennas that is intended to replace an existing tower that is not capable of supporting co-located antennas. A replacement tower has the same height and base diameter, and same site improvements as the existing tower.

106-174.16 **Residential District.** R-5, R-6, R-9, R-15, R-24, R-25, R-6 NB, R-9 NB, R-15 NB, R-24 NB, R-25 NB, TO: R9-12, TO: R12-18, TO: R18-24, TO: R24-40, TO: R40-80, TO: R80-120, AF-6, AF-10 and RR-5 Land Use Districts.

106-174.17 **Site.** A parcel or portion of which is owned or leased by one or more broadcast or wireless telecommunications providers and upon which a broadcast or communication tower and required site improvements, including landscaping, are located. With the exception of site access, these sites are usually fenced off from the remainder of the parcel.

106-174.18 **Speculation or "Spec" Tower.** A tower for the purpose of providing location mounts for future antennas without a binding contractual commitment by a service provider to locate an antenna upon the tower at time of the original application submittal.

106-174.19 **Stealth Design.** The design of new antennas or towers in a manner that camouflages, conceals, or disguises the facilities as described in Sections 430-109.3 and 430-109.6. The direct results of applying "stealth" technology are broadcast and communication towers designed in an aesthetically pleasing and acceptable manner typically. "Stealth" facilities are generally not easily discernible or easily noticeable.

106-174.20 **Telecommunication Facility.** All equipment, including antennas for the transmitting and/or receiving of radio frequency signals or electromagnetic radiation (i.e., wireless telecommunication service and wireless Internet/Wi-Fi), broadcast signals (i.e., radio and television), and other communication signals, tower, accessory equipment, and improvements, such as landscaping, fencing and parking areas, located on the site.

106-174.21 **Telecom Hotel.** A building or structure designed to warehouse telecommunications equipment, including utility hookups and connections to fiber-optic networks. Telecom hotels generally require thousands to hundreds of thousands of square feet, but relatively few employees.

106-174.22 **Top-Hat Antenna Array.** A horizontal or enclosed framework of metal supports attached to a communication tower, or other building or structure, that is generally triangular or square in shape on which antennas are mounted. This type of antenna array is used to facilitate the transmission or reception of an omni-directional or 360-degree signal.
106-174.23 Tower. (e.g., broadcast and communication) Types include:

A. Guyed Tower. A tower that is permanently connected to the ground by cables (guy wires).

B. Lattice Tower. A self-supporting multiple-leg tower comprised of an open framework of either structural steel or diagonal cables or a combination thereof.

C. Monopole. A self-supporting, single, upright pole and requiring no guy wires or diagonal cables to stabilize the structure. Monopoles are typically constructed of wood or steel.

106-174.24 Transmitting Antenna. A device that emits and may receive non-ionizing electromagnetic energy.

106-174.25 Uses Accessory to an Antenna. A use that is customarily incidental to a receiving or transmitting antenna and is generally situated on the same property as the antenna, such as an equipment shelter.

106-174.26 Visually Subordinate. The relative visibility of a broadcast or communication tower where the tower does not noticeably contrast with the surrounding built or natural landscape. Visibly subordinate towers are partially visible, but not visually dominate in relation to other immediate surroundings.

2. SECTION 201 – DEVELOPMENT PERMIT

201-2 Exclusions from Permit Requirement

201-2.30 Installation of compact pole-mounted receiving and transmitting antennas on electric and other utility poles in the public road right-of-way, excluding street lights on power poles and traffic signal lights, where the subject support pole is part of an existing above ground electric transmission, distribution, communication or signal line, and where "pole" is defined as a monopole, double pole or lattice utility structure, subject to the following:

A. Within the public road right-of-way, existing poles may be replaced with new poles in order to support the new antenna, provided the new pole is not more than twenty (20) fifteen (15) feet higher than pole to be replaced;

B. No more than one (1) associated equipment cabinet not to exceed twelve (12) cubic feet may be mounted on the pole. The cabinet shall be painted with or constructed of material with a non-reflective neutral color that matches or is similar to that of the pole. All associated ground-mounted equipment shelters located in the right-of-way are subject to the applicable standards of ODOT or Washington County to occupy or perform operations upon the affected roadway;

C. Installation of receiving and transmitting antennas on County-owned street furniture is prohibited. Street furniture includes but is not limited to street lights, utility poles, and traffic signals;

D. Antennas, excluding whip antennas, shall extend no more than ten (10) feet above the pole it is mounted on. Antennas, excluding whip antennas, shall be
either flush-mounted or located within a cylindrical enclosure on top of the pole (including omni-directional antennas) in order to minimize visual impacts. Antennas shall be painted with a non-reflective neutral color that matches or is similar to that of the pole;

ED. All cabling shall be painted with non-reflective neutral colors that match or are similar to that of the pole. If cabling is contained in protective conduit then the conduit shall be of the same or similar color as the pole; and

FE. Service providers shall provide to the Review Authority upon completion of the installation, copies of all plans and elevation schematics for purposes of maintaining an accurate inventory of these exempt facilities. Service providers are encouraged, though not required, to include in future submittal materials pursuant to this Section, the same information for exempt facilities they maintain that were installed since October 5, 2000, the effective date of Ordinance No. 560;

GF. All applicable county, state and federal right-of-way and/or building permits; and

HG. Except as exempt under Sections 201-2.30 or 201-2.31, Receiving and Transmitting Antennas, Communication and Broadcast Towers and associated equipment are subject to review under CDC Section 430-109. Additional exemptions are listed under CDC Section 430-109.34.

3. SECTION 302 – R-5 DISTRICT (RESIDENTIAL 5 UNITS PER ACRE)

302-2 Uses Permitted Through a Type I Procedure

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302-2.11 Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.3;

302-2.12 Facility 2 communication towers. New Telecommunication Facilities with Towers using Stealth Design to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.4;

***

302-3 Uses Permitted Through a Type II Procedure

***

302-3.8 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

***

302-4 Uses Which May Be Permitted Through a Type III Procedure

***

abedef Proposed additions

abedef Proposed deletions
302-4.12 New Telecommunication Facilities with Towers not using Stealth Design, Facility 3 and 4 communication towers, to a maximum height of one hundred (100) feet - Section 430-109.

302-4.13 Broadcast Towers a maximum height of one hundred (100) feet - Section 430-109.

302-4.1345 School - Section 430-121.

302-4.1416 Special Recreation Use - Section 430-131.

302-4.1547 Storage Area for Recreation Vehicles - Section 430-133.

302-4.1648 Religious Institution - Section 430-116.

4. SECTION 303 - R-6 DISTRICT (RESIDENTIAL 6 UNITS PER ACRE)

303-2 Uses Permitted Through a Type I Procedure

***

303-2.11 Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.3.

303-2.12 New Telecommunication Facilities with Towers using Stealth Design Facility 2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.4.

***

303-3 Uses Permitted Through a Type II Procedure

***

303-3.13 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

***

303-4 Uses Which May Be Permitted Through a Type III Procedure

***

303-4.12 New Telecommunication Facilities with Towers not using Stealth Design, Facility 3 and 4 communication towers, to a maximum height of one hundred (100) feet - Section 430-109.

303-4.13 Broadcast Towers a maximum height of one hundred (100) feet - Section 430-109.

303-4.1344 School - Section 430-121.

303-4.1445 Special Recreation Use - Section 430-131.

303-4.1546 Storage Area for Recreation Vehicles - Section 430-133.

303-4.1647 Religious Institution - Section 430-116.

5. SECTION 304 - R-9 DISTRICT (RESIDENTIAL 9 UNITS PER ACRE)

304-2 Uses Permitted Through a Type I Procedure

***

304-2.12 Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.3.

abcdef Proposed additions
abcdef Proposed deletions
304-2.13 New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.4.

304-3 Uses Permitted Through a Type II Procedure

304-3.12 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

304-4 Uses Which May Be Permitted Through a Type III Procedure

304-4.12 New Telecommunication Facilities with Towers not using Stealth Design Facility-3 and 4 communication towers to a maximum height of one hundred (100) feet - Section 430-109.

304-4.13 Broadcast Towers a maximum height of one hundred (100) feet - Section 430-109.

304-4.1344 School - Section 430-121.

304-4.1445 Special Recreation Use - Section 430-131.

304-4.1546 Religious Institution - Section 430-116.

6. SECTION 305 - R-15 DISTRICT (RESIDENTIAL 15 UNITS PER ACRE)

305-2 Uses Permitted Through a Type I Procedure

305-2.12 Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.3.

305-2.13 New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.4.

305-3 Uses Permitted Through a Type II Procedure

305-3.13 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

305-4 Uses Which May Be Permitted Through a Type III Procedure

305-4.8 New Telecommunication Facilities with Towers not using Stealth Design Facility-3 and 4 communication towers to a maximum height of one hundred (100) feet - Section 430-109.

305-4.9 Broadcast Towers a maximum height of one hundred (100) feet - Section 430-109.

305-4.940 Special Recreation Use - Section 430-131.
7. SECTION 306 - R-24 DISTRICT (RESIDENTIAL 24 UNITS PER ACRE)

306-2 Uses Permitted Through a Type I Procedure

***
306-2.12 Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.3.

306-2.13 New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.4.

306-3 Uses Permitted Through a Type II Procedure

***
306-3.11 Expansion of Existing Telecommunication Facilities, co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

***
306-4 Uses Which May Be Permitted Through a Type III Procedure

***
306-4.7 New Telecommunication Facilities with Towers not using Stealth Design Facility-3 and 4 communication towers to a maximum height of one hundred (100) feet - Section 430-109.

306-4.8 Broadcast Towers a maximum height of one hundred (100) feet - Section 430-109.

306-4.89 Special Recreation Use - Section 430-131.


8. SECTION 307 - R-25+ DISTRICT (RESIDENTIAL 25 UNITS OR MORE PER ACRE)

307-2 Uses Permitted Through Type I Procedure

***
307-2.11 Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.31 and 201-2 - Section 430-109.3.

307-2.12 New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.

307-3 Uses Permitted Through a Type II Procedure

***
307-3.11 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.
307-4 Uses Which May Be Permitted Through a Type III Procedure

307-4.9 New Telecommunication Facilities with Towers not using Stealth Design, Facility 3 and 4 communication towers to a maximum height of one hundred (100) feet - Section 430-109.

307-4.10 Broadcast Towers a maximum height of one hundred (100) feet - Section 430-109.

307-4.1044 Special Recreation Use - Section 430-131.

307-4.1142 Transit Center - Section 430-137.

9. SECTION 308 - FUTURE DEVELOPMENT 20-ACRE DISTRICT (FD-20)

308-2 Uses Permitted Through a Type I Procedure:

308-2.10 Co-located antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109-3; see also Section 308-7.1.

308-2.11 New Telecommunication Facilities with Towers using Stealth Design Facility 2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.4; see also Section 308-7.1.

308-3 Uses Permitted Through a Type II Procedure

308-3.5 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109; see also Section 308-7.1.

308-4 Uses Which May Be Permitted Through a Type III Procedure

308-4.9 New Telecommunication Facilities with Towers not using Stealth Design, Facility 3 and 4 communication towers to a maximum height of one hundred (100) feet - Section 430-109; see also Section 308-7.1.

308-4.10 Broadcast Towers a maximum height of one hundred (100) feet - Section 430-109; this use is prohibited in the North Bethany Subarea Plan.

308-4.1044 School - Section 430-121, except as prohibited in Areas of Special Concern 7 and 9 in Policy 41 of the Comprehensive Framework Plan for the Urban Area, and Areas of Special Concern 6, 7 and 8 in the East Hillsboro Community Plan; see also Section 308-7.1.

308-4.1142 Religious Institution - Section 430-116 except as prohibited in Areas of Special Concern 7 and 9 in Policy 41 of the Comprehensive Framework Plan for the Urban Area.
Area, and Areas of Special Concern 6, 7 and 8 in the East Hillsboro Community Plan; see also Section 308-7.1.

10. SECTION 309 - FUTURE DEVELOPMENT 10-ACRE DISTRICT (FD-10)

309-2 Uses Permitted Through a Type I Procedure

***

309-2.10 Co-located of antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.3.

309-2.11 New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.4.

309-3 Uses Permitted Through a Type II Procedure

***

309-3.5 Expansion of Existing Telecommunication Facilities, including Co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

***

309-4 Uses Which May Be Permitted Through a Type III Procedure

***

309-4.9 New Telecommunication Facilities with Towers not using Stealth Design Facility-3 and 4 communication towers to a maximum height of one hundred (100) feet - Section 430-109.

309-4.10 Broadcast Towers a maximum height of one hundred (100) feet - Section 430-109.

309-4.10 Religious Institution - Section 430-116.

11. SECTION 311 - NEIGHBORHOOD COMMERCIAL DISTRICT (NC)

311-2 Uses Permitted Through a Type I Procedure

***

311-2.7 New Telecommunication Facilities with Towers not using Stealth Design Facility-3 and 4 communication towers that:

A. Do not exceed a maximum height of sixty-five (65) feet; and

B. Are located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this subsection, lots or parcels that are separated from the proposed site by an existing or dedicated public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109.

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311-2.8 Co-located of antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.3.
311-2.9 New Telecommunication Facilities with Towers using Stealth Design, Facility 2 communication towers excluding those towers exempt pursuant to Sections 430-109.34 and 201-2, that:

A. Do not exceed a maximum height of sixty-five (65) feet; and

B. Are located on a lot or parcel of which more than fifty (50) percent of the perimeter abuts a residential district. Notwithstanding, New Telecommunication Facilities with Towers using Stealth Design Facility 2 communication towers may be located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this subsection, lots or parcels that are separated from the proposed site by an existing or dedicated public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109.4.

***

311-3 Uses Permitted Through a Type II Procedure

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311-3.17 New Telecommunication Facilities with Communication Towers greater than sixty-five (65) feet and up to two hundred (200) feet in height - Section 430-109.

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311-3.25 Expansion of Existing Telecommunication Facilities, including Cco-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

***

311-4 Uses Which May Be Permitted Through a Type III Procedure

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311-4.5 New Telecommunication Facilities with Communication Towers greater than two hundred (200) feet in height - Section 430-109.

311-4.6 Broadcast Towers - Section 430-109.

311-4.6.7 Religious Institution - Section 430-116.

12. SECTION 312 - OFFICE COMMERCIAL DISTRICT (OC)

312-2 Uses Permitted Under a Type I Procedure

***

312-2.6 New Telecommunication Facilities with Towers not using Stealth Design Facility 3 and 4 communication towers that:

A. Do not exceed a maximum height of seventy-five (75) feet; and

B. Are located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this subsection, lots or parcels that are separated from the proposed site by an existing or dedicated public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109.
312-2.7 **Co-located of antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.3.**

312-2.8 **New Telecommunication Facilities with Towers using Stealth Design, Facility-2**

*communication towers* excluding those towers exempt pursuant to Sections 430-109.34 and 201-2, that:

A. Do not exceed a maximum height of seventy-five (75) feet; and

B. Are located on a lot or parcel of which more than fifty (50) percent of the perimeter abuts a residential district. Notwithstanding, New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers may be located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this subsection, lots or parcels that are separated from the proposed site by an existing or dedicated public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109.4.

***

312-3 **Uses Permitted Through a Type II Procedure**

***

312-3.23 **New Telecommunication Facilities with Communication Towers greater than seventy-five (75) feet and up to two hundred (200) feet in height - Section 430-109.**

***

312-3.27 **Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.**

***

312-4 **Uses Which May Be Permitted Through a Type III Procedure**

***

312-4.5 **New Telecommunication Facilities with Communication towers greater than two hundred (200) feet in height - Section 430-109.**

312-4.6 **Broadcast Towers - Section 430-109.**

13. **SECTION 313 - COMMUNITY BUSINESS DISTRICT (CBD)**

313-2 **Uses Permitted Through a Type I Procedure**

***

313-2.6 **New Telecommunication Facilities with Towers not using Stealth Design Facility-3 and 4-communication towers** that:

A. Do not exceed a maximum height of seventy-five (75) feet; and

B. Are located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this subsection, lots or parcels that are separated from the proposed site by an existing or dedicated public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109.
313-2.7 Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.3-

313-2.8 New Telecommunication Facilities with Towers using Stealth Design Facility-2
communication towers excluding those towers exempt pursuant to Sections 430-109.34 and 201-2, that:
A. Do not exceed a maximum height of seventy-five (75) feet; and
B. Are located on a lot or parcel of which more than fifty (50) percent of the perimeter abuts a residential district. Notwithstanding, New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers may be located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this subsection, lots or parcels that are separated from the proposed site by an existing or dedicated public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109.4.

***

313-3 Uses Permitted Through a Type II Procedure

***

313-3.34 New Telecommunication Facilities with Communication towers greater than seventy-five (75) feet and up to two hundred (200) feet in height - Section 430-109.

***

313-3.39 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

***

313-4 Uses Which May be Permitted Through a Type III Procedure

***

313-4.4 New Telecommunication Facilities with Communication Towers greater than two hundred (200) feet in height - Section 430-109.

313-4.5 Broadcast Towers - Section 430-109.

313-4.56 Uses Accessory and Incidental to a Residential Development Provided for the Service and Convenience of the Residents:

***

14. SECTION 314 - GENERAL COMMERCIAL DISTRICT (GC)

314-2 Uses Permitted Through a Type I Procedure

***

314-2.6 New Telecommunication Facilities with Towers not using Stealth Design Facility-3 and 4-communication towers that:
A. Do not exceed a maximum height of sixty-five (65) feet; and
B. Are located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this subsection, lots or parcels that are separated from the proposed site by an existing or dedicated public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109.4.

proposed additions

proposed deletions
public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site Section 430-109.

314-2.7 Co-location of antennas, excluding antennas exempt pursuant to Sections 430-109.3c and 201-2 - Section 430-109.3c.

314-2.8 New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers excluding those towers exempt pursuant to Sections 430-109.3c and 201-2, that:

A. Do not exceed a maximum height of sixty-five (65) feet; and

B. Are located on a lot or parcel of which more than fifty (50) percent of the perimeter abuts a residential district. Notwithstanding, New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers may be located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this subsection, lots or parcels that are separated from the proposed site by an existing or dedicated public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109.4.

***

314-3 Uses Permitted Through a Type II Procedure

***

314-3.39 New Telecommunication Facilities with Towers greater than sixty-five (65) feet and up to two hundred (200) feet in height - Section 430-109.

***

314-3.44 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3c and 201-2 - Section 430-109.

***

314-4 Uses Which May Be Permitted Through a Type III Procedure

***

314-4.6 New Telecommunication Facilities with Communication towers greater than two hundred (200) feet in height - Section 430-109.

314-4.7 Broadcast Towers - Section 430-109.

15. SECTION 320 - INDUSTRIAL DISTRICT (IND)

320-2 Uses Permitted Through a Type I Procedure

***

320-2.6 New Telecommunication Facilities with Towers not using Stealth Design Facility-3 and 4-communication towers that:

A. Do not exceed a maximum height of sixty-five (65) feet; and

B. Are located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this Subsection, lots or parcels that are separated from the proposed site by an existing or dedicated
public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109.

320-2.7 Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.3.

320-2.8 New Telecommunication Facilities with Towers using Stealth Design Facility 2 Communication Towers, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2, that:

A. Do not exceed a maximum height of sixty-five (65) feet; and

B. Are located on a lot or parcel of which more than fifty (50) percent of the perimeter abuts a residential district. Notwithstanding, New Telecommunication Facilities with Towers using Stealth Design Facility 2 communication towers may be located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this Subsection, lots or parcels that are separated from the proposed site by an existing or dedicated public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109.4.

***

320-3 Uses Permitted Through a Type II Procedure

***

320-3.17 New Telecommunication Facilities with Communication towers up to two hundred (200) feet in height, not otherwise allowed through a Type I Procedure - Section 430-109.

320-3.18 Tree removal in areas identified in the applicable Community Plan as Significant Natural Resources, subject to Section 407-3.

320-3.19 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

***

320-4 Uses Which May be Permitted Through a Type III Procedure

***

320-4.6 New Telecommunication Facilities with Communication towers greater than two hundred (200) feet in height - Section 430-109.

320-4.7 Broadcast Towers - Section 430-109.

320-4.78 Auto wrecking yards - Section 430-15.

***

320-6 Dimensional Requirements

***

C. Height:

(1) The maximum height for structures shall be sixty-five (65) feet, except as modified by other Sections of this Code.
(2) Normal building appurtenances and projections such as spires, belfries, cupolas, chimneys, ventilators, elevator housings or other structures placed on or extending above roof level may exceed the sixty-five (65) foot building height limit to a maximum height of eighty (80) feet.

(3) The height of telecommunication facilities receiving and transmitting antennas and communication towers is regulated by the Permitted Use sections of this land use district, Sections 201, 430-1, 430-109 and other applicable provisions of this Code.

16. SECTION 330 - INSTITUTIONAL DISTRICT (INST)

330-3 Uses Permitted Through a Type I Procedure

***

330-3.7 New Telecommunication Facilities with Towers not using Stealth Design, Facility 3 and 4 communication towers that:

A. Do not exceed a maximum height of seventy-five (75) feet; and

B. Are located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this Subsection, lots or parcels that are separated from the proposed site by an existing or dedicated public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site- Section 430-109.

330-3.8 Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.3.

330-3.9 New Telecommunication Facilities with Towers using Stealth Design, Facility 2 Communication Towers, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2, that:

A. Do not exceed a maximum height of seventy-five (75) feet; and

B. Are located on a lot or parcel of which more than fifty (50) percent of the perimeter abuts a residential district. Notwithstanding, New Telecommunication Facilities with Towers using Stealth Design Facility 2 communication towers may be located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this Subsection, lots or parcels that are separated from the proposed site by an existing or dedicated public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site- Section 430-109.4.

***

330-4 Uses Permitted Through a Type II Procedure

***

330-4.4 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.
330-4.54 New Telecommunication Facilities with Communication Towers up to two hundred (200) feet in height, not otherwise allowed through a Type I Procedure - Section 430-109.

330-4.65 Construction of a local street not in conjunction with a development application or within existing right-of-way.

330-4.76 Uses Accessory and Incidental to an Allowed Use, not otherwise permitted by Section 330-3.2:

***

330-4.87 Day Care Facility - 430-53.2 I.

330-4.98 Tree removal in areas identified in the applicable Community Plan as Significant Natural Resources, subject to Section 407-3.

330-4.109 Indoor Marijuana Production - Section 430-80.

330-5 Uses Which May be Permitted Through a Type III Procedure

***

330-5.17 New Telecommunication Facilities with Communication towers greater than two hundred (200) feet in height - Section 430-109.

330-5.18 Broadcast Towers - Section 430-109.

330-5.182 Religious Institution - Section 430-116.

17. SECTION 340 - EXCLUSIVE FARM USE DISTRICT (EFU)

340-3 Uses Permitted Through a Type I Procedure

***

340-3.5 Co-location of antennas, excluding those antennas regulated by Section 430-109.1 or otherwise exempt pursuant to Sections 430-109.31 and 201-2 - Section 430-109.3.

***

340-4 Uses Permitted Through a Type II Procedure

The uses listed in Sections 340-4.1 and 340-4.2 are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5. Unless the use is specifically exempted, the Review Authority shall make specific findings with respect to the standards in Section 340-4.3.

340-4.1 Permitted Uses which are exempt from Section 340-4.3:

***

K. New Telecommunication Facilities with Broadcast-and-Communication-towers less than two hundred (200) feet in height that are utility facilities necessary for public service - Section 430-109.44.

abcdef Proposed additions
abcdef Proposed deletions
L. Expansion of Existing Telecommunication Facilities, including Co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201 - Section 430-109.4d.

***

R. Utility facilities necessary for public service, including wetland waste treatment systems. Utility facilities necessary for public service do not include:

(1) Commercial facilities for the purpose of generating power for public use by sale;

(2) Transmissions towers over two hundred (200) feet in height;

(3) Telecommunication Facilities Receiving and transmitting antennas, broadcast and communication towers listed under J- and K. and L. above and under Section 340-5.2 L-M. below;

***

340-5 Uses Which May be Permitted Through a Type III Procedure

340-5.1 Uses which may be allowed, but are not subject to Section 340-5.3:

***

L. New Telecommunication Facilities with Broadcast and Communication towers greater than two hundred (200) feet in height - Section 430-109.

***

18. SECTION 342 - EXCLUSIVE FOREST AND CONSERVATION DISTRICT (EFC)

342-2 Uses Permitted through a Type I Procedure

***

342-2.9 Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.3 and 201-2, provided that all new accessory equipment shelters meet the Type I fire structure siting and fire safety standards in Section 428-3. For required standards, see Section 430-109.3.

342-2.10 New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.3 and 201-2, provided that the towers and all new accessory equipment shelters meet the Type I fire structure siting and fire safety standards in Section 428-3 - For required standards, see Section 430-109.4.

***

342-3 Uses Permitted Through a Type II Procedure

***

342-3.2 Permitted Uses which are subject to Section 342-3.3:

***

M. New Telecommunication Facilities with Towers Microwave facilities, Broadcast and Communication Towers, excluding communication towers allowed under

abcdef Proposed additions
abcdef Proposed deletions
Section 342-2.10, and transmission towers up to two hundred (200) feet in height - Section 430-109.

***

V. Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

342-4 Uses Which May be Permitted Through a Type III Procedure

***

342-4.1 Uses which may be allowed:

***

J. New Telecommunication Facilities with Microwave facilities, Broadcast and Communication-Towers and transmission towers greater than two hundred (200) feet in height - Section 430-109.

***

342-5 Creation of Lots or Parcels by a Land Division Through a Type II Procedure

***

342-5.2 Creation of a parcel less than eighty (80) acres - only uses listed in the following sections may be permitted - See Section 610-1.1 C for required standards.

***

C. New Telecommunication Facilities with Towers Communication-facilities & transmission-towers - Sections 342-3.2 M. and 342-4.1 J.;

19. SECTION 344 - AGRICULTURE AND FOREST DISTRICT (AF-20)

344-3 Uses Permitted Through a Type I Procedure

***

344-3.5 Co-location of antennas, excluding those antennas regulated by Section 430-109.41 or otherwise exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.3.

***

344-4 Uses Permitted Through a Type II Procedure

***

344-4.1 Permitted Uses which are exempt from Section 344-4.3:

***

K. New Telecommunication Facilities with towers Broadcast and Communication towers less than two hundred (200) feet in height that are utility facilities necessary for public service - Section 430-109.44.

L. Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to
Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.11.

R. Utility facilities necessary for public service, including wetland waste treatment systems. Utility facilities necessary for public service do not include:

(1) Commercial facilities for the purpose of generating power for public use by sale;

(2) Transmissions towers over two hundred (200) feet in height;

(3) New Telecommunication Facilities Receiving and transmitting antennas, broadcast and communication towers listed under J. and K. and L. above and under Section 344-5.2 LM. below;

344-5 Uses Which May be Permitted Through a Type III Procedure

344-5.2 Uses which may be allowed subject to Section 344-5.3:


20. SECTION 346 - AGRICULTURE AND FOREST DISTRICT (AF-10)

346-2 Uses Permitted Through a Type I Procedure

346-2.10 Co-locationed of-antennas, excluding those antennas exempt pursuant to Sections 430-109.31 and 201-2 - Section 430-109.3:

346-2.11 New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication-towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.31 and 201-2 - Section 430-109.4:

346-3 Uses Permitted Through a Type II Procedure

346-3.5 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

346-4 Uses Which May be Permitted Through a Type III Procedure

346-4.1 Uses which may be allowed:

abcdef Proposed additions
abcdef Proposed deletions
U. New Telecommunication Facilities with Towers not using Stealth Design, Facility 3 and 4 communication towers, to a maximum height of one hundred (100) feet - Section 430-109.

***

X. Broadcast Towers to a maximum height of one hundred (100) feet - Section 430-109.

XY. Religious Institution - Section 430-116.

21. SECTION 348 - AGRICULTURE AND FOREST DISTRICT (AF-5)

348-2 Uses Permitted Through a Type I Procedure

***

348-2.10 Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.35.

348-2.11 New Telecommunication Facilities with Towers using Stealth Design, Facility 2 communication towers, to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.45.

***

348-3 Uses Permitted Through a Type II Procedure

***

348-3.5 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

***

348-4 Uses Which May be Permitted Through a Type III Procedure

***

348-4.1 Uses which may be allowed:

***

T. New Telecommunication Facilities with Towers not using Stealth Design, Facility 3 and 4 communication towers, to a maximum height of one hundred (100) feet - Section 430-109.

U. Home Occupation - Section 430-63.3.

V. Broadcast Towers, a maximum height of one hundred (100) feet - Section 430-409.

VW. Religious Institution - Section 430-116.

22. SECTION 350 - RURAL RESIDENTIAL FIVE ACRE MINIMUM DISTRICT (RR-5)

350-2 Uses Permitted Through a Type I Procedure

***
350-2.9 Co-located antennas, excluding those antennas exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.3.

350-2.10 New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

350-3 Uses Permitted Through a Type II Procedure

350-3.5 Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

350-4 Uses Which May Be Permitted Through a Type III Procedure

350-4.1 Uses which may be allowed:

J. New Telecommunication Facilities with Towers not using Stealth Design Facility-3 and 4 communication towers to a maximum height of one hundred (100) feet - Section 430-109.

P. Broadcast Towers a maximum height of one hundred (100) feet - Section 430-109.

PQ. Religious Institution - Section 430-116.

23. SECTION 352 - RURAL COMMERCIAL DISTRICT (R-COM)

352-2 Uses Permitted Through a Type I Procedure

352-2.5 New Telecommunication Facilities with Towers not using Stealth Design Facility-3 and 4 communication towers Telecommunication tower with no stealth design that:

352-2.6 Co-located antennas, excluding those antennas exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.3.

352-2.7 New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers excluding those towers exempt pursuant to Sections 430-109.3 and 201-2, that:

A. Do not exceed a maximum height of seventy-five (75) feet; and

B. Are located on a lot or parcel of which more than fifty (50) percent of the perimeter abuts a residential district. Notwithstanding, New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers may be located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this subsection, lots or parcels that are separated from the proposed site by an existing or dedicated

abcdef Proposed additions
abcdef Proposed deletions
public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109.4.

***

352-3 Uses Which May Be Permitted Through a Type II Procedure

***

352-3.1 Permitted Uses:

***

Z. New Telecommunication Facilities with Communication Towers greater than seventy-five (75) feet and up to two hundred (200) feet in height - Section 430-109.

***

BB. Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

***

352-4 Uses Which May Be Permitted Through a Type III Procedure

***

352-4.1 Uses which may be allowed:

***

B. New Telecommunication Facilities with Communications Towers greater than two hundred (200) feet in height - Section 430-109.

C. Broadcast Towers - Section 430-109.

24. SECTION 354 - RURAL INDUSTRIAL DISTRICT (R-IND)

354-2 Uses Permitted Through a Type I Procedure

***

354-2.4 New Telecommunication Facilities with Towers not using Stealth Design Facility-3 and 4 communication towers Telecommunication tower with no stealth design that:

***

354-2.5 Co-located of antennas, excluding those antennas exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.3.

354-2.6 New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication-towers, excluding those towers exempt pursuant to Sections 430-109.3 and 201-2, that:

A. Do not exceed a maximum height of seventy-five (75) feet; and

B. Are located on a lot or parcel of which more than fifty (50) percent of the perimeter abuts a residential district. Notwithstanding, New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication-towers may be located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this subsection, lots or parcels that are separated from the proposed site by an existing or dedicated
public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109.4.

***

354-3 Uses Permitted Through a Type II Procedure

***

354-3.1 Permitted Uses:

***

H. New Telecommunication Facilities with Communication Towers greater than seventy-five (75) feet and up to two hundred (200) feet in height - Section 430-109.

***

T. Expansion of Existing Telecommunication Facilities, including Co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

***

354-4 Uses Which May be Permitted Through a Type III Procedure

***

354-4.1 Uses which may be allowed:

***

F. New Telecommunication Facilities with Communication Towers greater than two hundred (200) feet in height - Section 430-109.

G. Broadcast Towers - Section 430-109.

25. SECTION 356 - LAND EXTENSIVE INDUSTRIAL DISTRICT (MAE)

356-2 Uses Permitted Through a Type I Procedure

***

356-2.6 New Telecommunication Facilities with Towers not using Stealth Design Facility-3 and 4 communication towers that:

***

356-2.7 Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.3.

356-2.8 New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers excluding those towers exempt pursuant to Sections 430-109.3 and 201-2, that:

A. Do not exceed a maximum height of sixty-five (65) feet; and

B. Are located on a lot or parcel of which more than fifty (50) percent of the perimeter abuts a residential district. Notwithstanding, New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers may be located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this subsection, lots or
parcels that are separated from the proposed site by an existing or dedicated public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109.4.

356-3 Uses Permitted Through a Type II Procedure

J. New Telecommunication Facilities with Communication Towers greater than sixty-five (65) feet and up to two hundred (200) feet in height, Section 430-109.

U. Expansion of Existing Telecommunication Facilities, including Co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

356-4 Uses Which May be Permitted Through a Type III Procedure

356-4.7 New Telecommunication Facilities with Communication Towers greater than two hundred (200) feet in height - Section 430-109.

356-4.8 Broadcast Towers - Section 430-109.

26. SECTION 375 - TRANSIT ORIENTED DISTRICTS

375-5 Prohibited Uses

375-5.3 New Telecommunication Facilities with Towers not using Stealth Design Facility 3 and 4 communication towers.

375-5.4 New Broadcast Towers.

375-5.45 Telecom Hotels.

375-5.56 Outdoor Marijuana Production - Section 430-80.
Table A. Permitted and Prohibited Uses in Transit Oriented Districts

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<td>Expansion of Existing Telecommunication Facilities, including co-located antennas not otherwise allowed through a Type 1 procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 (26)</td>
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<td>II</td>
</tr>
</tbody>
</table>

*abedef* Proposed additions

*abedef* Proposed deletions
27. **SECTION 377 - SPECIAL INDUSTRIAL OVERLAY DISTRICT (SID)**

377-5 Uses Permitted

***

377-5.1 Uses Permitted Through a Type I Procedure:

***

F. New Telecommunication Facilities with Towers not using Stealth Design Facility 3 and 4 communication towers that:

***

G. Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2.304 - Section 430-109.3.

H. New Telecommunication Facilities with Towers using Stealth Design Facility 2 communication towers excluding those towers exempt pursuant to Sections 430-109.34 and 201-2, that:

1. Do not exceed a maximum height of sixty-five (65) feet; and
2. Are located on a lot or parcel of which more than fifty (50) percent of the perimeter abuts a residential district. Notwithstanding, New Telecommunication Facilities with Towers using Stealth Design Facility 2 communication towers may be located on a lot or parcel of which less than fifty (50) percent of the perimeter abuts a residential district. For the purpose of this subsection, lots or parcels that are separated from the proposed site by an existing or dedicated public or private street or right-of-way shall be considered as abutting the perimeter of the proposed site - Section 430-109-4.

377-5.2 Uses Permitted Through a Type II Procedure:

***

E. New Telecommunication Facilities with Communication Towers greater than sixty-five (65) feet and up to two hundred (200) feet in height - Section 430-109.

***

G. Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.
377-5.4 Uses Which May be Permitted Through a Type III Procedure.

G. New Telecommunication Facilities with Communication Towers greater than two hundred feet in height - Section 430-109.
H. Broadcast Towers - Section 430-109.

28. SECTION 390 - NORTH BETHANY SUBAREA OVERLAY DISTRICT

390-8 R-6 North Bethany District (R-6 NB)

390-8.2 Uses Permitted Through a Type I Procedure

C. Co-located antennas, excluding those antennas exempt pursuant to Sections 430-109.3 and 201-2, located on existing legally established communication towers - Section 430-109.3.

G. New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.4.

390-8.3 Uses Permitted Through a Type II Procedure

I. Expansion of Existing Telecommunication Facilities, including Co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

390-9 R-9 North Bethany District (R-9 NB)

390-9.2 Uses Permitted Through a Type I Procedure

C. Co-located antennas, excluding those antennas exempt pursuant to Sections 430-109.3 and 201-2, located on existing legally established communication towers - Section 430-109.3.

G. New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.4.
390-9.3 Uses Permitted Through a Type II Procedure

***

C. **Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.**

***

390-10 **R-15 North Bethany District (R-15 NB)**

***

390-10.2 Uses Permitted Through a Type I Procedure

***

C. **Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.31 and 201-2, located on existing legally established communication towers - Section 430-109.3.**

***

F. **New Telecommunication Facilities with Towers using Stealth Design Facility 2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.4.**

***

390-10.3 Uses Permitted Through a Type II Procedure

***

C. **Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.**

***

390-11 **R-24 North Bethany District (R-24 NB)**

***

390-11.2 Uses Permitted Through a Type I Procedure

***

C. **Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.31 and 201-2, located on existing legally established communication towers - Section 430-109.3.**

***

F. **New Telecommunication Facilities with Towers using Stealth Design Facility 2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.4.**

***

390-11.3 Uses Permitted Through a Type II Procedure

***

abcdef Proposed additions
abcdef Proposed deletions
B. **Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2.**

***

390-12 **R-25+ North Bethany District (R-25+ NB)**

***

390-12.2 **Uses Permitted Through a Type I Procedure**

***

C. **Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2, located on existing legally established communication towers - Section 430-109.3.**

***

E. **New Telecommunication Facilities with Towers using Stealth Design Facility 2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2 - Section 430-109.4.**

***

390-12.3 **Uses Permitted Through a Type II Procedure**

***

B. **Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2.**

***

390-13 **Neighborhood Corner Commercial District (NCC NB)**

***

390-13.2 **Uses Permitted Through a Type I Procedure**

***

D. **Co-location of antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2, located on existing legally established communication towers - Section 430-190.3.**

E. **New Telecommunication Facilities with Towers using Stealth Design Facility 2 communication towers excluding those towers exempt pursuant to Sections 430-109.34 and 201-2 that do not exceed a maximum height of one hundred (100) feet - Section 430-109.4.**

***

390-13.3 **Uses Permitted Through a Type II Procedure**

***

A. **Expansion of Existing Telecommunication Facilities, including co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2.**

abcdef Proposed additions
abcdef Proposed deletions
B. Commercial School - Section 390-16.3.

C. New Telecommunication Facilities with Communication Towers greater than one hundred (100) feet - Section 430-109.

***

390-14 Neighborhood Commercial Mixed Use District (NCMU NB)

***

390-14.2 Uses Permitted Through a Type I Procedure

***

C. Co-located antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2, located on existing legally established communication towers - Section 430-109.3.

D. New Telecommunication Facilities with Towers using Stealth Design Facility-2 communication towers, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2; that do not exceed a maximum height of one hundred (100) feet.

***

390-14.3 Uses Permitted Through a Type II Procedure

***

B. Expansion of Existing Telecommunication Facilities, including Co-located antennas, not otherwise allowed through a Type I Procedure pursuant to Section 430-109.6 or exempt pursuant to Sections 430-109.3 and 201-2 - Section 430-109.

C. Commercial School, such as vocational, music, dance, martial arts, when developed as part of a mixed-use development - Section 390-16.3.

D. New Telecommunication Facilities with Communication Towers greater than one hundred (100) feet in height - Section 430-109.

***

390-15 Institutional North Bethany District (INST NB)

***

390-15.2 Uses Permitted Through a Type I Procedure

***

C. Co-located antennas, excluding those antennas exempt pursuant to Sections 430-109.34 and 201-2, located on existing legally established communication towers - Section 430-109.

D. New Telecommunication Facilities with Communication Towers, excluding those towers exempt pursuant to Sections 430-109.34 and 201-2 that do not exceed a maximum height of one hundred (100) feet.

***

390-15.3 Uses Permitted Through a Type II Procedure

***
A. New Telecommunication Facilities with Communication-towers greater than one hundred (100) feet in height - Section 430-109.

***

390-16 Special Use Standards

***

390-16.14 Public Utilities - North Bethany

***

H. Exemptions from the Requirements of Section 390-16.14:

***

(4) Public utility facilities in the form of Telecommunication Facilities receiving and transmitting antennas and communication-towers. These uses are subject to the applicable provisions of Section 430-109, except as exempt under CDC Sections 201-2.30 or 430-109.34.

29. SECTION 430 - SPECIAL USE STANDARDS

430-109 Telecommunication Facilities Receiving and Transmitting Antennas; Communication and Broadcast Towers

The standards of this Section apply to all telecommunication facilities except as otherwise provided in Sections 201-2 and 430-109.3.

430-109.1 Intent and Purpose

This Section is intended to promote and protect the public health, safety and welfare; preserve the aesthetic character of the community; and reasonably regulate the development and operation of telecommunication facilities within the county to the extent permitted under state and federal law.

These regulations seek to ensure that telecommunication facilities are designed and located to minimize the number of towers and mitigate visual impacts while providing necessary communication services to the county.

This Section addresses four (4) different types of telecommunication facilities:

A. Telecommunication facilities in the right-of-way
B. Co-location of antennas
C. Expansion of existing telecommunication facilities
D. New Telecommunication Facilities:
   (1) With towers using Stealth Design; or
   (2) With towers not using Stealth Design.

430-109.2 Telecommunication Facility Definitions

abcdef Proposed additions
abcdef Proposed deletions
Terms and definitions that apply throughout the Community Development Code are found in Section 106. Following are definitions for the terms found in Section 201-2.30 and Section 430-109:

**Antenna.** A device for transmitting or receiving radio frequency (RF) signals or electromagnetic radiation, such as digital and analog signals, radio frequencies, broadcast signals, such as television and radio signals, and other communication signals. Antennas are typically mounted on a supporting tower, pole or mast, building or other approved structure. Types of antennas include directional antennas such as panel antennas, microwave dishes, and omni-direction antennas such as whip antennas. Antennas do not include domestic satellite dishes. Additionally, some antennas operate as both transmitting and receiving devices.

**Broadcast Tower.** A tower, pole, or mast whose primary purpose is to elevate an antenna above the surrounding terrain or structures for the transmission of radio or television signals. The actual broadcast tower itself may also function as the antenna, (e.g., for AM broadcast radio) if part of the apparatus is necessary to produce a clear signal or message within the licensee's operating range, as allowed by the Federal Communications Commission. Broadcast towers are often sited within a non-staffed broadcast facility for the transmission of radio or television signals.

**Co-location.** The installation of one or more antennas and/or improvements to accessory equipment facilities, on an existing tower, structure, or building for transmitting and/or receiving radio frequency signals for communications purposes.

**Concealment.** When design elements are used to minimize the visual appearance of telecommunication facilities, also known as stealth design.

**Equipment Shelter.** An enclosed structure or cabinet usually placed at or near the base of a communication tower where electrical and other equipment necessary for the operation of the facility are housed. Cables connect the shelters to the antenna(s).

**Essential Public Communication Service.** Emergency communication network for emergency response by public agencies including fire and rescue, medical, law enforcement and other public agencies, including but not limited to water and sanitary and storm sewer providers.

**Essential Public Communication Service Facility.** All equipment including antennas for the transmission and reception of radio frequency signals (wireless telecommunication, wireless Internet, radio/television broadcast, and other related wireless communications) for essential public communication services. These facilities also include associated towers, equipment shelters, accessory support equipment (generators, fuel sources, HVAC), landscaping, fencing, and parking areas located on the site for the network.

**Federal Communications Commission (FCC).** An independent government agency established by the Communications Act of 1934 and charged with regulating interstate and international communications by radio, television, wire, satellite and cable.

**Flush Mounted Antenna.** Antenna or antenna array attached directly to the face of a tower or building.

**Microcell.** A low-power facility used to provide increased capacity to wireless telecommunications demand areas or provide infill coverage in areas of weak reception, including a separate transmitting and receiving station serving the facility. (See also ‘Repeater’).
Non-Residential Land Use Districts. FD-20, FD-10, NC, OC, CBD, GC, IND, INST, SID, TO:RC, TO:EMP, TO:BUS, EFU, EFC, AF-20, R-COM, R-IND, NCC NB, NCMU NB, INST NB and MAE.

Radio Frequency Emission. Electromagnetic radiation that is of low photon energy unable to cause ionization and is generated by a transmitting antenna.

Repeater. A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas unable to receive adequate coverage directly from the base or primary station.

Replacement Tower. A new telecommunication tower capable of supporting co-located antennas that is intended to replace an existing tower that is incapable of supporting co-located antennas.

Residential Land Use District. R-5, R-6, R-9, R-15, R-24, R-25+, R-6 NB, R-9 NB, R-15 NB, R-24 NB, R-25+ NB, TO:R9-12, TO:R12-18, TO:R18-24, TO:R24-40, TO:R40-80, TO:R80-120, AF-5, AF-10 and RR-5.

Speculation or "Spec" Tower. A tower for the purpose of providing location mounts for future antennas without a binding contractual commitment by a service provider to locate an antenna upon the tower at time of the original application submittal.

Stealth Design. The design of new antennas or towers in a manner that camouflages, conceals, or disguises the facilities so that they are visually compatible with the surroundings as described in Section 430-109.8 A. Examples include an indigenous evergreen tree, flag pole, light post, pole sign, clock or bell tower, steeple, or silo.

Telecom Hotel. A building or structure designed to warehouse telecommunications equipment, including utility hookups and connections to fiber-optic networks.

Telecommunication Facility. All equipment, including: antennas for the transmitting and/or receiving of radio frequency signals or electromagnetic radiation (e.g., wireless telecommunication service and wireless Internet/WI-FI), broadcast signals (e.g., radio and television), and other communication signals; broadcast or telecommunication tower or existing structures used to support antennas; accessory equipment and accessory improvements such as landscaping, fencing and parking areas, located on the site.

Telecommunication Facility Site. A whole or a portion of a parcel, which is owned or leased by one or more broadcast or wireless telecommunications provider where a broadcast or communication tower and its supporting equipment are located. The site also includes the equipment shelter and required site improvements, including landscaping, but does not include site access. When located on a portion of a parcel, these areas are usually fenced off from the remainder of the parcel.

Telecommunication Tower: Any structure built for the sole or primary purpose of elevating any FCC-licensed or authorized antenna above the surrounding terrain, or structures for the transmission and/or receiving of radio frequency (RF) signals or electromagnetic radiation to provide wireless telecommunication service, including wireless Internet service. This includes structures that are constructed for wireless communication services (e.g., broadcast and communication). Tower types include:

Guyed tower. A tower that is permanently connected to the ground by cables (guy wires).
Lattice tower. A self-supporting multiple-leg tower comprised of an open framework of either structural steel or diagonal cables or a combination thereof.

Monopole tower. A self-supporting, single, upright pole requiring no guy wires or diagonal cables to stabilize the structure.

430-109.3 Exemptions
The standards of this Section apply to all wireless telecommunication facilities except as otherwise provided herein. The following are exempt from the standards in this Section:

A. Telecommunication facilities that are exempt from a development permit under Section 201-2;

B. Reconstruction or replacement of telecommunication facilities lawfully established after November 26, 1992, the effective date of Ordinance No. 402, provided that it:

1. Does not increase the height or base diameter of the existing tower or structure as originally approved or constructed;

2. Does not expand the existing fenced equipment area around the tower or structure;

3. Does not reduce existing landscape buffers unless replaced with vegetation with similar characteristics, plant densities and maturity;

4. Does not use colors or lights that make the tower or antenna more visually obtrusive, unless required by either the Oregon Department of Aviation (ODA) or the Federal Aviation Administration (FAA);

5. Uses antennas and transmitters that are similar in nature to the antennas and transmitters they are replacing, and

6. Does not increase the number of antennas or transmitters.

Reconstruction or replacement of telecommunication facilities, excluding transmitter and antenna replacements pursuant to Section 430-109.3 B. approved before November 26, 1992 is subject to the provisions of Section 440, Nonconforming Uses, and applicable provisions of 430-109 as required by Section 440.

C. Co-location on lawfully established telecommunication facilities provided that:

1. The height increase is no more than twenty (20) feet or (ten) 10 percent of the existing tower height, whichever is greater. Antennas cannot protrude into the right-of-way;

2. No expansion to the existing fenced equipment enclosure is required;

3. Antennas do not protrude from the edge of an existing tower more than 20 feet or the width of the tower structure at the base of the tower, whichever is greater;

4. Antennas on other lawfully established structures do not increase the height of the structure by more than ten (10) feet or ten (10) percent of the existing height, whichever is greater, or protrude from the body of the structure by more than six (6) feet;

5. The telecommunication facility requires installation of less than four (4) new equipment cabinets on the site;
(6) Excavation or deployment is not required outside the current telecommunication facility site;

(7) Design complies with the concealment elements, if approved with the existing facility; and

(8) Design complies with the conditions of approval associated with the existing facility, unless non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that complies with the requirements in subsection 1 through 7 above.

D. The following telecommunication facilities that are regulated by the Federal Communications Commission (FCC) pursuant to the Code of Federal Regulations:

(1) Industrial, scientific, and medical equipment;

(2) Military and government radar antennas and associated communication and broadcast towers used for aviation services; and

(3) Amateur (ham) and citizen band transmitting and receiving antennas and associated communication and broadcast towers.

E. A telecommunication facility as a temporary use - Section 430-135.1 H.;

F. Temporary telecommunication facilities used solely for emergency communications by essential public communication service providers in the event of a natural disaster, emergency preparedness or for public health or safety purposes;

G. Antennas to provide enhanced 911 (i.e., E911) network coverage when required by the FCC, subject to the following:

(1) E911 antennas shall not increase existing facility height and shall be painted or otherwise constructed of materials with the same or similar color as the tower; and

(2) Accessory equipment and related equipment are either located completely within the existing structure (e.g., tower, building or other structure), or are located within an existing fenced site. In the case of a tower that includes stealth design, E911 antennas shall also incorporate stealth design.

Existing 911 antennas may remain for a period not to exceed six (6) months in order to accommodate the transfer of service from the existing 911 antennas to the E911 antennas.

430-109.4 Prohibited Uses
The following uses are prohibited in all land use districts:

A. Installation of towers without antennas based on speculation of future antenna installation, also known as speculation ("spec") towers;

B. The attachment of any antennas or associated equipment to trees; and

C. Installation of antennas on County-owned street furniture. Street furniture includes but is not limited to street lights, utility poles, and traffic signals.
430-109.5 New Telecommunication Facilities in the Public Right-of-Way

New Telecommunication facilities in the public right-of-way that are not exempt from a development permit under Section 201-2 shall meet the following requirements:

A. The tower shall not exceed a maximum diameter of twenty-four (24) inches.

C. The tower, including any antennas, shall not exceed the maximum height permitted for a tower as shown in Table A below.

D. Antennas shall be placed internal to the tower or flush mounted or otherwise installed using stealth design.

E. Supporting cables and equipment connecting to the equipment cabinets or attached to a tower shall be placed underground or internal to the tower.

F. The telecommunication facility shall meet the County’s vision clearance standards.

G. A right-of-way permit shall be obtained.

H. Unless otherwise identified, telecommunication facilities in the right-of-way shall be subject to standards in Section 430.109.9 (General Design Standards), but shall not be subject to Section 430-109.10 (Site Standards).

I. The procedure type for new telecommunication towers within the right-of-way shall be based on the roadway type and height of the tower as shown in Table A below:

Section 430-109.5 - Table A:

<table>
<thead>
<tr>
<th>Procedure Type for New Telecommunication Towers in the Right-of-Way</th>
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</thead>
<tbody>
<tr>
<td></td>
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<tr>
<td>New tower to 30 feet height</td>
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<tr>
<td>New tower more than 30 feet to 50 feet height</td>
</tr>
<tr>
<td>New tower more than 50 feet to 100 feet height</td>
</tr>
</tbody>
</table>

430-109.6 Co-location Requiring Type I Review

Co-locations that do not qualify for an Exemption pursuant to Section 430-109.3.C shall be processed through a Type I procedure provided that the following requirements are met:

A. Antennas attached to a lawfully established tower or structure (e.g., water tanks or electric transmission towers) shall meet the following requirements:

   (1) Antennas do not increase existing facility height by more than twenty (20) feet or 10 (ten) percent of the height of the tower or existing structure, whichever is greater.

abcdef Proposed additions
abedef Proposed deletions
(2) The expansion of site for new accessory equipment is less than twenty-five (25) percent of existing the area.


B. Antennas on top of or attached to the side or roof edge of existing buildings shall meet the following requirements:

(1) Antennas located on top of a building are to be screened from public view by being placed behind a parapet or other architectural feature or being incorporated into an architectural feature of the building, such as a dormer, chimney, clock, or bell tower.

(2) Antennas located in a residential district do not extend more than twenty (20) feet above the building.

(3) Antennas located in a non-residential district do not extend more than thirty (30) feet above the building.

(4) Antennas attached to the side or roof edge of a building in a residential district include stealth design incorporating the type and/or color of the building materials of the wall or roof on which the antennas are proposed to be attached.

(5) Antennas attached to the side or roof edge of a building in a non-residential district are painted to match the exterior building surface and are flush-mounted.

(6) New accessory equipment is located either completely within the footprint of the existing structure or located within or on top of the building. Equipment located on top of a building is screened from public view or incorporated into an architectural feature of the building.

430-109.7 Expansion of Existing Telecommunication Facilities

Expansion of a lawfully established telecommunication facility, including co-location not otherwise allowed pursuant to Sections 201-2, 430-109.3 and 430-109.6, shall be processed through a Type II procedure and subject to the following:

A. Telecommunication facilities and related site improvements lawfully in existence after November 26, 1992 are considered conforming uses. However, because these uses may not be designed in accordance with the current development standards (e.g., setbacks, landscaping, screening and fencing, etc.) future expansions, excluding replacement of antennas and transmitters pursuant to Section 430-109.3.B, shall be subject to the development standards in effect at that time, including this Section, to the extent reasonably practicable.

Where the applicant can show that the existing tower design or site configuration is not reasonably practicable to apply a current development standard, a new development action may be requested. The applicant shall provide an alternative development proposal that equally or better meets the purpose of the particular development standard. When the outcome of the proposed expansion results in a use subject to Type III review in another Section, review shall occur through the Type III procedure; otherwise requests subject to this section shall be reviewed through the Type II procedure.

B. Enclosures shall be screened or otherwise be hidden from public view.
C. Comply with the standards in Sections 430-109.9 and 430-109.10.

D. Comply with concealment elements, if approved on a lawfully established facility.

E. Comply with the conditions of approval associated with the lawfully established facility.

F. Telecommunication facilities and related site improvements that were lawfully in existence prior to November 26, 1992 are considered nonconforming uses and shall be subject to the provisions of this section as well as the provisions of Section 440. Nonconforming Uses and Structures. However, existing antennas and transmitters replaced pursuant to Section 430-109.3, or co-location consistent with 430-109.6 are not subject to the provisions of this section or Section 440.

430-109.8 New Telecommunication Facilities

A. Telecommunication Facilities with Towers using Stealth Design

Telecommunication facilities with towers using stealth design may be permitted in all land use districts, excluding those towers exempt pursuant to Sections 430-109.3 and 201-2, through a Type I Procedure subject to the following requirements:

1. The tower is designed to resemble an object, other than a wireless telecommunication facility, in appearance, physical dimensions, proportion and scale. The object shall be one that exists or would commonly exist on-site or in the surrounding area based on the site’s land use designation and natural features.

2. The tower design results in a tower that takes into account the site context and surrounding environment, camouflages or hides the antennas from public view.

3. The tower shall function in a manner consistent with its design, unless doing so would interfere with the operation of the antennas. For example, a flagpole-designed tower shall be able to function as a flagpole, and accessory attachments, such as flags, are sized in proportion to the tower.

4. Roof and ground-mounted accessory equipment (i.e., equipment shelters) shall be completely screened or hidden from public view. Examples of acceptable methods include placement within the interior of the building or structure, behind a roof parapet, or landscaping and a site-obscuring fence, within architectural elements such as a clock or bell tower, or concealed (e.g., placed within a shell made of material resembling a boulder). Alternatively, placement of equipment shelters in underground vaults is encouraged as an acceptable means of concealment; and

5. New individual antennas attached to a stealth tower shall be consistent with the stealth design of the tower.

B. Telecommunication Facilities with Towers not using Stealth Design

Telecommunication facilities with towers not using stealth design may be located in land use districts specified in Article III subject to the following requirements:

1. New individual antennas attached to a tower, shall be concealed, flush-mounted, or mounted on davit arms extending a maximum of five (5) feet from the tower;

2. In residential districts, where permitted, analysis is required to show that the tower and antennas meet the following requirements:

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abcdef Proposed deletions
(a) The structures and accessory uses shall be arranged to minimize visual and noise impacts on adjacent developments and surrounding land uses; and

(b) The structures and uses shall be located and designed in a manner that preserves scenic views or vistas identified in the applicable community plan and viewable from adjacent properties or public thoroughfares, by considering setbacks, building height, bulk and landscaping.

430-109.9 General Design Standards for Telecommunication Facilities

A. New towers not using stealth design shall be painted or otherwise treated in a manner that blends in with the surrounding area in order to minimize visual impact, unless state or federal regulations require different colors. The exterior color of the tower shall also be non-reflective in nature and make the tower as visually unobtrusive as possible. If there are stands of trees or other site-obscuring vegetation on site or in the immediate area, the tower shall be painted or finished to blend with the landscape;

B. New towers shall be illuminated only when required by the ODA, FAA or other state or federal agency;

C. Antennas on towers not using stealth design shall be made of a non-reflective material, flush-mounted, and painted to match the tower or structure. In case of co-locating, the antennas shall match the design of the approved facility;

D. Cabling and wiring shall be hidden from public view through installation internal to the tower or painted to match the color of the tower;

E. When ground-mounted equipment shelters extend above site-obscuring fencing, the shelters shall be constructed of materials and/or finished with earth-tone colors that are non-reflective in nature and no taller than twelve (12) feet high;

F. Accessory equipment shall be screened or otherwise hidden from public view; and

G. Documentation shall be submitted indicating the telecommunication facility can feasibly comply with the requirements of the FAA, the Oregon Department of Aviation, the FCC and any other applicable state or federal regulation.

430-109.10 Site Standards for Telecommunication Facilities

A. Setbacks (See 430-109.10 Table B and Illustrations at end of Section 430-109).

1. New telecommunication facilities shall comply with the setback provisions of the individual land use districts, unless greater setbacks are required by Table B;

2. New ground-mounted equipment shelters shall comply with the setback provisions of the individual land use districts, except as set forth below:

   Underground vaults containing equipment cabinets and other associated equipment supportive of wireless telecommunication facilities may be located in a required setback, except as otherwise restricted by the Uniform Building Code (UBC), the Uniform Fire Code (UFC) or subsection C. below.

3. Notwithstanding the requirements set forth in (1) and (2) above, the Review Authority may reduce the required setbacks through a Type III adjustment process, provided
that the applicant can demonstrate to the Hearings Officer that the proposed site
development plan will reduce the impacts on surrounding land uses. The Hearings
Officer may approve an adjustment to the setbacks based on findings that:

(a) The applicant has submitted an alternate siting and/or stealth tower design and
development plan which utilizes existing on-site vegetation (e.g., trees) and/or
buildings, topography or other site-specific factors or constraints to more
effectively screen the tower and accessory equipment; and

(b) Impacts to surrounding properties are less with the alternate setback as
compared to the setbacks required by Table B, and can be mitigated for the
benefit of the surrounding property owners by an adjustment to the setbacks.

B. Access

(1) In residential districts, when a site fronts a local street and a collector or a local
street and an arterial, site access shall be from the collector or arterial subject to
all applicable County standards. Access may be taken from the local street when
access to a Collector or Arterial does not meet the applicable standards.

(2) In non-residential districts, site access may be from a local street, a collector or
arterial, subject to all applicable county standards.

(3) Access to the site shall be oriented away from existing dwellings.

C. Landscaping, Screening and Fencing

(1) Landscaping, screening and buffering, including fencing, shall be provided as
required by Sections 407 and 411 to screen the site from public view except when
the equipment shelter is hidden from public view, such as when located within an
existing building, designed to resemble a natural object, such as a boulder, or when
it does not exhibit any visible exterior characteristics, such as cables, of an
equipment shelter. However, in no case shall the screening and buffering within or
adjacent to a residential district be less than what is required by Section 411-6.3.
Tree and shrub species shall be selected that will attain a minimum height of twelve
(12) feet at maturity.

(2) Fencing shall be a minimum six (6) foot tall, site-obscuring (e.g., solid wood fence,
chain link fence with slat inserts, or other solid material fencing) and installed in
accordance with Sections 418 and 419. Barbed or razor wire is not permitted unless
required by federal regulations for Essential Public Communication Services
Facilities; and

(3) In lieu of the standards in (1) and (2) above, the Review Authority may approve an
alternate detailed landscape, screening and fencing plan through a Type II or III
procedure. The plan shall be designed to screen and buffer towers and accessory
uses when the plan accomplishes the same degree of screening achieved in (1) and
(2) above, except when less screening is required to provide adequate visibility for
security purposes or for continued operation of existing agricultural or forest uses.

D. Clustering

In an urban residential district, a new telecommunication tower cannot be located within
one thousand (1000) feet of any existing telecommunication towers, except those exempt
pursuant to Sections 430-109.3 and 201-2. This restriction does not apply to the siting of
new antennas on existing towers or for Essential Public Communication Services Facilities. The one thousand (1000) foot radius shall be measured from the center of the footprints of the towers, not from property lines or guy wire anchors.

E. Signs

Notwithstanding the provisions of Section 300 and 414, all telecommunication facilities shall be identified with a sign not exceeding four (4) square feet. The sign shall list the owner or operator’s name and emergency telephone number and shall be posted in a location visible to the general public. Other signs may be located on the site as allowed by the underlying land use district.

430-109.11 Submittal Requirements for Telecommunication Facilities not otherwise exempt under Sections 430-109.3 and 201-2:

A. All applications for telecommunication facilities, except as otherwise noted, shall include the following:

(1) An accurate, scaled site plan and on-site analysis, consistent with Section 404-1, showing the location of the tower(s), guy anchors (if any), equipment shelter(s) and other uses accessory to the telecommunication facility; and

(2) An accurate, scaled elevation drawing(s) showing the tower design, dimensions, materials and color of the tower and antennas, including the mounting type(s) and locations of all proposed antennas, and other uses accessory to the telecommunication facility.

B. Applications for new telecommunication facilities shall also include:

(1) A report demonstrating the need for the new facility, justifying the location of the proposed facility and that the proposed antenna(s) cannot be co-located on an existing or approved tower, building or other suitable structure within the identified search area; and

(2) Information confirming the facility is designed to accommodate co-location.

(3) Essential Public Communication Services Facilities shall be exempt from accommodating co-location.

C. For telecommunication facilities with towers up to two hundred (200) feet tall in the EFU and AF-20 districts, the applicant shall demonstrate that the facility is necessary for public service pursuant to ORS 215.213 (1)(c) and OAR 660-033-0130 (16). Applications shall include a report consistent with ORS 215.275.

430-109.11 Abandonment

A. All antennas and towers shall be considered abandoned when no licensed service provider has operated from the facility site for a period of one year. Within ninety (90) days of abandonment, the property owner shall remove all facilities from the site and restore the site to its previous condition. In the event the communication or broadcast facilities are not removed within this time period, Washington County may remove the facilities and restore the site and assess the cost for such actions against the last service provider using the facilities, the owner of the facilities and the property owner.
B. If any abandoned facilities have not been removed from a site, no new communication or broadcast facility in unincorporated Washington County shall be approved for that site.

Section 430-109.10 - Table B: Setback Provisions

<table>
<thead>
<tr>
<th>PERMITTED USE</th>
<th>SETBACK PROVISION</th>
<th>ILLUSTRATION</th>
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<tbody>
<tr>
<td><strong>RESIDENTIAL DISTRICTS:</strong></td>
<td></td>
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<tr>
<td>(a) Antennas located on previously approved towers</td>
<td>Not applicable</td>
<td></td>
</tr>
<tr>
<td>(b) Towers and antennas located on existing structures or buildings</td>
<td>S</td>
<td>Fig. 1</td>
</tr>
<tr>
<td>(c) Free-standing towers and antennas to maximum height of 100 feet.</td>
<td>R</td>
<td>Fig. 2</td>
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</tbody>
</table>

| **NON-RESIDENTIAL DISTRICTS:**                     |                   |              |
| (a) Antennas located on previously approved towers | Not applicable    |              |
| (b) Towers and antennas located on existing structures or buildings | S                 | Fig. 1       |
| (c) Free-standing towers and antennas to maximum height of underlying district for buildings | D                 | Fig. 3       |
| (d) Free-standing towers and antennas              | NR                | Fig. 4       |

S - Structure-Mounted: The base of the antenna and/or its supporting tower shall maintain setbacks at least equal to the height of the antenna and its supporting tower. Dish or panel antennas shall be located at least fifty (50) feet above grade and meet the minimum yard requirements of the underlying district (Figure 1).

R - Residential District: Provide setbacks for the tower/antenna at least equal to the height of the tower/antenna above grade, between the base of the tower and the property line. Provide setbacks of at least fifty (50) feet between any guy anchors and the property line. Provide a setback of at least twenty-five (25) feet between any accessory structures (except fences) and the property line (Figure 2).

D - District Height: Provide setbacks as required by the underlying land use district. However, in no case shall the setbacks be less than one hundred (100) percent of the height of the tower above grade, between the base of the tower and the boundary of any residential district existing at the time the application is submitted (Figure 3).

NR - Non-Residential District: Provide setbacks for the antenna/tower equal to thirty (30) percent of the height of the tower above grade between the base of the tower and the property line. In no case shall the setback be less than one hundred (100) percent of the height of the tower above grade, between the base of the tower and the boundary of any residential district existing at the time the application is submitted. Provide setbacks for guy anchors and accessory uses (except fences) in accordance with the provisions of the underlying land use district (Figure 4).

Notwithstanding the provisions of NR above, within the FD-10, FD-20, EFU, AF-20 and EFC Land Use Districts, the setbacks shall also not be less than one hundred (100) percent of the height of the tower above grade between the base of the tower and any dwelling unit in these districts existing at the time the application is submitted.

*abcdef Proposed additions*
*abcdef Proposed deletions*
430-109-9
SETBACK ILLUSTRATIONS

Figure 1
Structure Mounted

Figure 2
Freestanding Tower and Antenna to Maximum Height of 100' in Residential Districts
Figure 2, Cont'd.
Freestanding Tower and Antenna to Maximum Height of 100' in Residential Districts

![Diagram of Freestanding Tower and Antenna](image-url)
Figure 3
Freestanding Tower and Antenna to Maximum Height of District or Building
Figure 4
Freestanding Tower and Antenna to 200' Height in Non-Residential District

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abcdef Proposed additions
abedef Proposed deletions
430-135 Temporary Use

A temporary use is one of an impermanent nature, or one used for a limited time.

430-135.1 Type I:

A. Temporary uses or structures incidental to construction work may be allowed through a Type I procedure, provided such uses or structures are removed within thirty (30) days of completion or abandonment of the construction work.

***

H. Temporary Telecommunication Facilities

(1) A telecommunication facility for non-emergency communications operating for not more than thirty (30) days within a six (6) month period commencing when transmission or receiving begins. The antenna(s) and associated structures must be removed within thirty (30) days after they are no longer used.

The emergency use of a telecommunication facility shall not exceed a period of one (1) year commencing when transmission or receiving begins. The antenna(s) and associated structures must be removed within thirty (30) days after they are no longer used.

(2) Temporary communication uses, including, but not limited to, wireless telecommunications, mobile services and other types of broadcast towers used solely for emergency communications by non-emergency service providers (i.e., private, for-profit wireless service providers) in the event of a loss of service or communications due to an act of God, natural disaster, or other occurrence that necessitates the re-establishment of services for the public benefit, subject to the following:

(a) Notification of the placement of the temporary tower is provided to the Director within two (2) days of placement; and

(b) The emergency use of the broadcast or communication tower shall not exceed a period of one (1) year commencing when transmission or receiving begins. The tower and associated structures must be removed within 30 days after they are no longer in use, unless land use approval is obtained through the appropriate procedure to allow their continued use in accordance with all applicable requirements.

Original text within 430-109 is being struck. Original drawings have been re-drawn for clarity.

Receiving and Transmitting Antennas, Communication and Broadcast Towers

The standards of this Section apply to all telecommunication facilities except as otherwise provided herein.

430-109.1 The following are exempt from the standards provided in this Section:

A. Telecommunication facilities that are otherwise exempt from a development permit under Section 201-2;

B. Replacement of existing antennas and transmitters on lawfully-established telecommunication facilities, provided:
(1) They are mounted using similar techniques as that of the antennas and transmitters they are replacing in order to minimize visual impact, or in the case of replacing antennas and transmitters on a Facility 2 tower, replacement antennas and transmitters shall also be designed as Facility 2;

(2) They are made of non-reflective material and painted to match the telecommunication facility or existing antennas and transmitters, whichever results in the replacement antennas and transmitters being less visible, or are placed in the tower;

(3) Replacement does not result in an increase in the number of antennas or transmitters (e.g., like antennas or transmitters may be replaced with like antennas or transmitters). Notwithstanding, existing antennas and transmitters may remain for a period not to exceed six (6) months in order to accommodate the transfer of service from the existing antennas or transmitters to the replacement antennas or transmitters; and

(4) Replacement antennas or transmitters do not exceed the size (e.g., area or length) of existing antennas or transmitters by more than twenty (20) percent.

C. Reconstruction or replacement of telecommunication facilities, excluding the replacement of transmitters, antennas, approved after November 26, 1992, the effective date of Ordinance 402, subject to the following:

(1) Does not increase the height or base diameter of the existing tower or structure as originally approved or constructed;

(2) Does not reduce existing landscape buffers unless replaced with vegetation with similar characteristics, plant densities and maturity; and

(3) Does not use colors or lights that make the tower or antenna more visually obtrusive, unless required by either the Oregon Department of Aviation (ODA) or the Federal Aviation Administration (FAA).

Reconstruction or replacement of telecommunication facilities, excluding transmitter and antenna replacements pursuant to Section 430-109.1-B, approved before November 26, 1992 is subject to the provisions of Section 440, Nonconforming Uses, and applicable provisions of 430-109 as required by Section 440;

D. The following telecommunication facilities that are regulated by the Federal Communications Commission (FCC) pursuant to the Code of Federal Regulations as may be amended:

(1) Industrial, scientific, and medical equipment;

(2) Military and government radar antennas and associated communication and broadcast towers used for aviation services; and

(3) Amateur (ham) and citizen band transmitting and receiving antennas and associated communication and broadcast towers.

E. A telecommunication facility as a temporary use—Section 430-136.1 H.
F. Radio transceivers normally hand-held or installed in a vehicle, such as an automobile, truck, trailer, watercraft, or aircraft, including cellular phone or mobile broadcast studio;

G. A radio frequency machine which is designated and marketed as a consumer product, such as microwave ovens and radio control toys; or is in storage, shipment, or on display for sale, provided such machines are not operated except for demonstration purposes;

H. Temporary telecommunication facilities used solely for emergency communications by public officials in the event of a natural disaster, emergency preparedness or public health or safety purposes;

I. Two-way transmitting antennas used on a temporary basis by "911" emergency services, including fire and rescue, medical, and law enforcement, as well as essential public utility providers, including but not limited to water and sanitary and storm sewer providers;

J. Temporary communication uses, including, but not limited to, wireless telecommunications, mobile services and other types of broadcast towers used solely for emergency communications by non-emergency service providers (i.e., private, for-profit wireless service providers) in the event of loss of service or communications due to an act of God, natural disaster, or other occurrence that necessitates the re-establishment of services for the public benefit are subject to the following:

1. Notification of the temporary tower is provided to the Director within two (2) days of placement; and

2. The emergency use of the broadcast or communication tower shall not exceed a period of one (1) year commencing when transmissions or receiving begins. The tower and associated structures must be removed within 30 days after they are no longer used, unless land-use approval is obtained through the appropriate procedure to allow their continued use in accordance with all applicable requirements.

K. Antennas to provide enhanced 911 (i.e., E911) network coverage when required by the FCC, subject to the following:

1. E911 antennas shall be flush-mounted or installed using davit arms a maximum of five (5) feet from the tower and painted or otherwise constructed of materials with the same or similar color as the tower,

2. Accessory equipment and related equipment are either located completely within the existing structure (i.e., tower, building or other structure) or are located within an existing fenced site. In the case of a tower designed as a Facility 2, E911 antennas shall also be designed as a Facility 2.

Notwithstanding, existing 911 antennas may remain for a period not to exceed six (6) months in order to accommodate the transfer of service from the existing 911 antennas to the E911 antennas.
430-109.2 Expansion or Alteration of Existing Telecommunication Facilities:

A. Telecommunication facilities and related site improvements that were lawfully in existence after November 26, 1992 are considered to be conforming uses. However, because these uses may not be designed in accordance with the current development standards (i.e., setbacks, landscaping, screening and fencing, etc.) future expansions or alterations, excluding replacement of antennas and transmitters pursuant to Section 430-109.1 B., shall be subject to the development standards in effect at that time, including this Section, to the extent reasonably practicable. Where the tower design or site configuration makes it not reasonably practicable to apply a particular development standard or the applicant provides and alternative development proposal which equally or better meets the purpose of a particular development standard, the Review Authority shall waive the application of that standard.

B. Telecommunication facilities and related site improvements that were lawfully in existence prior to November 26, 1992 are considered to be nonconforming uses and shall be subject to the provisions of this chapter as well as the provisions of Section 440, Nonconforming Uses and Structures. However, existing antennas and transmitters replaced pursuant to Section 430-109.1 B. are not subject to the provisions of this chapter or Section 440.

430-109.3 Antennas may be co-located (i.e., Facility 1) in all land use districts, excluding those antennas regulated by Section 430-109.11 or otherwise exempt pursuant to Sections 430-109.1 and 201-2, through the Procedure Type I provided:

A. Antennas attached to previously approved existing towers shall be:

(1) Flush-mounted or mounted using similar techniques that minimize visual impact, or in the case of co-locating on a Facility 2 tower, co-located antennas shall also be designed as Facility 2;

(2) Made-of non-reflective material and painted to match the tower or existing antennas, whichever results in the new antennas being less visible; and

(3) No higher than fifteen (15) feet above the existing tower.

B. Antennas attached to previously approved existing structures other than towers (i.e., water tanks or electric transmission towers) shall be:

(1) Flush-mounted to the greatest extent practicable or otherwise mounted in ways that minimizes visual impacts;

(2) Made-of non-reflective material and painted to match the tower or existing antennas, whichever results in the new antennas being less visible; and

(3) No higher than fifteen (15) feet above the existing structure.

Notwithstanding, an existing electric transmission pole may be replaced with a new electric transmission pole in order to support the co-location of antennas, provided that the replacement pole is painted to match adjacent poles in the system and is not more than fifteen (15) feet taller than the pole to be replaced.

C. Antennas, excluding whip antennas, on top of or attached to the side or roof edge of existing buildings shall be:
(1) When located on top of a building in all land use districts: Screened from public view by placing them behind a parapet or other architectural feature designed to resemble an architectural feature of the building, such as dormers, chimneys, or a clock or bell tower; and
   
   (a) When located in a residential district: Extend no more than ten (10) feet above the building, and
   
   (b) When located in a non-residential district: Extend no more than thirty (30) feet above the building.

(2) When attached to the side or roof edge of a building in a residential district: Camouflaged (i.e., Facility 2) by incorporating into the antenna design the type and color of the building materials of the wall or roof on which the antennas are proposed to be attached.

(3) When attached to the side or roof edge of a building in a non-residential district: At minimum, painted the same color as the exterior building and flush-mounted. Otherwise antennas shall be camouflaged by incorporating into their design the type and color of the building materials of the wall or roof edge on which the antennas are proposed to be attached.

D. Whip antennas located on top of an existing building shall be:

   (1) Made of non-reflective material;
   
   (2) Not higher than fifteen (15) feet above the existing structure; and
   
   (3) Limited to applications involving five (5) or fewer whip antennas.

E. External cabling and wiring shall be painted to match the tower, structure or building.

F. New accessory equipment shall be screened or otherwise hidden from public view and:

   (1) When serving antennas pursuant to A. above: Located completely within the existing site.
   
   (2) When serving antennas pursuant to B. above: Located completely within the footprint of the structure to the greatest extent practicable.
   
   (3) When serving antennas pursuant to C. and D. above: Located within or on top of the building.


430-109.4 Communication Towers (i.e., Facility 2) may be located in all land use districts, excluding those towers regulated by Section 430-109.11 or otherwise exempt pursuant to Sections 430-109.1 and 201-2, through the Procedure Type I provided.
A. The tower is designed to resemble an object, other than a wireless telecommunication facility, in appearance, physical dimensions, proportion and scale. The object shall be one that exists or would commonly exist on site or in the surrounding area based on the site’s land use designation and natural features. Examples include an indigenous evergreen tree, flag pole, light post, pole sign, clock or bell tower, steeple, cross/religious symbol, or site.

B. The tower design results in a tower that is not easily recognized as a structure designed to support antennas and in a manner appropriate to the site’s context and surrounding environment, camouflages or hides the antennas from public view.

C. The tower functions to the extent practicable in a manner consistent with its design, unless doing so would interfere with the operation of the antennas. For example, a flagpole-designed tower shall be able to fly a flag.

D. Accessory attachments, such as flags, are sized in proportion to the tower.

E. Roof and ground-mounted accessory equipment (i.e., equipment shelters) are completely screened or hidden from public view. Examples of acceptable methods include placing them within the interior of the building or structure, behind a roof parapet or landscaping and a sight-obscuring fence, within architectural elements such as a clock or bell tower, or concealed (i.e., placed within a shell made of material resembling a boulder). Alternatively, placement of equipment shelters in underground vaults is encouraged as an acceptable means of hiding them from public view.

F. Cabling and wiring are hidden from public view.


430-109.5 Facility-Siting Requirements for Procedure Type II and III Applications, excluding telecommunication facilities regulated by Section 430-109.11 or otherwise exempt pursuant to Sections 430-109.1 or 201-2:

Telecommunication facilities shall be designed and located so as to minimize their visual impacts and minimize the number of new towers. New antennas and towers shall be sited using the hierarchy described below. The order of ranking by Facility, from highest to lowest, shall be 1, 2, 3, 4. When a lower ranked facility is proposed (e.g., 4), the applicant shall submit documentation which demonstrates that the higher ranked facilities are not technologically feasible, available, or reasonably practicable.

A. Facility-1: Co-location - Co-location means the placement of two or more antenna systems and accessory equipment facilities by one or more FCC license holders (service providers) on an existing structure such as a tower or the placement of one or more antenna systems and accessory equipment facilities on a structure such as a building, water tank, utility pole or electric transmission tower.

B. Facility-2: Concealment - Concealment means to:
(1) Hide an antenna in or on a structure to minimize its appearance, such as placing an antenna behind a building parapet or hiding an antenna and/or tower through the use of innovative technology referred to as "stealth". Stealth technology includes designing the tower and antennas to resemble a natural or man-made object that is or would be commonly found on the site or in the surrounding area based upon the site’s land-use designation. Examples of such facilities can include an indigenous evergreen tree, rock feature, building architectural feature (i.e., a clock or bell tower), and a flag or light pole.

(2) Hide rooftop-mounted and ground-mounted accessory equipment (i.e., equipment shelters) from public view to the extent practicable. Examples of acceptable methods include placing them within the interior of the building or structure, behind a sight-obscuring fence and landscaping or roof parapet, or within some other architectural element such as a clock or bell tower. Alternatively, placement of equipment shelters in underground vaults is encouraged as an acceptable means of hiding them from public view.

(3) Hide cabling and wiring from public view to the greatest extent practicable.

C. Facility 3: Screening of New Towers. Screening means to use existing evergreen vegetation, topography, and/or buildings to substantially screen the proposed tower from view and cause the facility to be visually subordinate to the surrounding area. Screened facilities may be partially visible, but not visually dominant in relation to their surroundings. The height of the existing trees, buildings, or topography that is used as screening shall be at least seventy (70) percent of the height of the tower.

D. Facility 4: New towers with no screening (i.e., Facility 3) or concealment (i.e., Facility 2).

430-109.6 The following are prohibited in all land-use districts:

A. Speculation ("spec") towers; and

B. The attachment of any antennas or associated equipment to trees.

430-109.7 Submittal Requirements for Telecommunication Facilities not otherwise exempt under Sections 430-109.1 and 201-2:

All applications for telecommunication facilities, except as otherwise noted, shall include the following:

A. An accurate, scaled site plan and on-site analysis (Section 404-1) showing the location of the tower(s), guy anchors (if any), equipment shelter(s), and other uses accessory to the telecommunication facility;

B. An accurate, scaled elevation drawing(s) showing the tower design; dimensions, materials and color of the tower and antennas; including the mounting type(s) and locations of all proposed antennas, and other uses accessory to the telecommunication facility;
C. An Alternative Sites Analysis (Facilities 2 through 4 and those regulated under Section 430-109.11 only) demonstrating that the proposed antenna(s) cannot be co-located on an existing or approved tower, building or other suitable structure within the identified search ring.

For the purpose of this analysis:

(1) Antenna(s) can be accommodated on an existing or approved tower, building or other suitable structure unless:

(a) Existing or approved towers, buildings or other suitable structures do not have the structural or leasable capacity to support additional antennas;

(b) Existing or approved towers, buildings or other suitable structures are not appropriately located or tall enough for the antenna(s) to effectively provide the proposed service; or

(c) Addition of the proposed antenna(s) to an existing or approved tower, building or other suitable structure would cause radio frequency emissions at that location in excess of the levels allowed by the FCC.

(2) Use of an existing or approved tower, building or suitable structure is not precluded simply because a reasonable lease fee is charged for use of the tower or structure or because of reasonable costs necessary to adapt the proposed antenna(s) to said tower, building or structure.

(3) The analysis shall include a map showing the locations of all existing towers, buildings or other suitable structures included in the search ring and a written analysis as to their capability and availability to support additional antennas in response to items (1) and (2) above.

D. A Tower Sharing Plan (Facilities 2 through 4 and those regulated under Section 430-109.11 only)

(1) All new towers and replacement towers shall provide for the future co-location of antenna systems by other service providers as follows:

(a) Towers under one hundred (100) feet in height shall provide for a minimum of two antenna systems (the proposed service provider and a future co-location site) in a manner that will accommodate the additional antenna system without the need to increase the height or base diameter of the tower.

(b) Towers greater than one hundred (100) feet in height shall provide for a minimum of three antenna systems (the proposed service provider and two future co-location sites) in a manner that will accommodate the additional antenna system(s) without the need to increase the height or base diameter of the tower.

(2) A tower subject to this subsection may be approved only subject to a condition that the applicant negotiate in a timely manner and in good faith for shared use of the tower by third parties. The applicant shall allow shared use of the tower if the third party agrees in writing to pay a reasonable pro rata
charge for sharing, including all charges necessary to modify the tower to accommodate shared use. An applicant will not be required to permit shared use of any unused tower capacity that the applicant demonstrates is needed for the applicant’s future system expansion or modification plans as set forth in an approved business plan. This condition shall run with the land and be binding on subsequent purchasers of the tower or site. Failure to comply with this condition shall be grounds for revocation of the permit for the tower and removal of the tower in accordance with Section 430-109.12.

(3) Tower Sharing Plans shall contain certified documentation from a structural engineer licensed in Oregon that the tower has been designed to safely accommodate the proposed antennas in addition to future co-located antennas required pursuant to (1)(a) and (b) above. Tower Sharing Plans shall also show the mounting locations for future co-located antennas required by this section.

E. A District Siting Analysis (Residential Districts only) demonstrating that the tower or antenna(s), excluding co-located antennas (i.e., Facility 1 applications), cannot be sited in a non-residential district.

For the purpose of this analysis:

(1) The proposed tower or antenna(s) can be sited in a non-residential district unless:

(a) Existing non-residential sites would not accommodate the proposed antenna(s) or tower associated with the antenna(s) considering the site area needed for the tower, topography and other physical characteristics of possible alternative sites, and the communication or transmission services to be provided by the proposed antenna(s);

(b) The tower or antenna(s) would pose a hazard to aircraft; and

(c) The proposed antenna(s) cannot function effectively given the communication or transmission services to be provided and the user group or areas it is intended to serve.

(2) Clustering

(a) New telecommunication facilities may not be sited in a residential district within one thousand (1000) feet of any existing telecommunication facilities, except those exempt pursuant to Sections 430-109.1 and 201-2. This restriction does not apply to the siting of new antennas on existing towers.

(b) If a new telecommunication facility is proposed to be sited in a residential district, the applicant shall submit evidence that there are no existing telecommunication facilities, except those exempt pursuant to Sections 430-109.1 and 201-2, located within one thousand (1000) feet of the proposed facility. The one thousand (1000) foot radius shall be measured from the center of the footprints of any existing and the proposed towers and/or antennas, not from property lines or guy wire anchors.
F. An engineering report that addresses the requirements in B., C., D., and E., above and contains the following information:

(1) Certified documentation from a structural engineer licensed in Oregon that the tower is structurally sound and complies with all applicable building and structural codes and that it is feasible to safely site the tower as well as all accessory equipment on the site as shown on the site plan. Notwithstanding, tower design specifications and other related structural information, including the foundation design and failure characteristics of the tower, are not required to be submitted with the land use application, unless they are needed to demonstrate the feasibility of siting the proposed telecommunication facility on the site. Otherwise they shall be submitted prior to issuance of the Building Permit pursuant to Section 430-109.9.

(2) Evidence that it is feasible to comply with applicable DEQ noise standards if the installation contains heating, cooling, electrical generating or other equipment likely to produce noise.

G. When applicable, a copy of a signed contractual agreement, excluding financial information, between the tower provider and a telecommunications service provider to provide wireless service on the proposed tower.

430-109.8 General Design Standards for Procedure Type II and III Antennas, Towers and Equipment Shelters:

A. New individual antennas attached to a tower, excluding those employing concealment technology (i.e., Facility 2), shall be flush-mounted, mounted on davit arms extending a maximum of five (5) feet out from the tower, or mounted using other similar techniques that minimize visual impact.

B. New antennas, excluding whip antennas, mounted on top of buildings in all land use districts shall be designed as a Facility 2 and extend no more than ten (10) feet above buildings in residential districts and no more than thirty (30) feet above buildings in non-residential districts.

C. New antennas mounted to the side or roof edge of an existing building or structure in a residential district shall be designed as a Facility 2.

D. New antennas mounted to the side or roof edge of an existing building or structure in a non-residential district shall at a minimum be the same color as the exterior of the building or structure and be flush-mounted.

E. New antennas mounted to existing structures (i.e., water reservoir tanks or electric transmission towers) that are not buildings or previously approved towers shall be flush-mounted to the greatest extent practicable or otherwise mounted in ways that minimize visual impacts, extend no more than fifteen (15) feet above the structure, and be the same color as the structure.

F. New whip antennas shall be made of non-reflective material and no higher than fifteen (15) feet above the tower, building or structure.

G. New towers, except those approved as a Facility 2, shall be painted or otherwise treated in a manner that blends in with the surrounding area in order to minimize visual impact, unless state or federal regulations require different colors.
The exterior color of the tower shall also be non-reflective in nature and make the tower as visually unobtrusive as possible. If there are stands of trees or other sight-obscuring vegetation on site or in the immediate area, the tower shall be painted or finished to blend with the landscape;

H. New towers shall be illuminated only when required by the ODA, FAA or other state or federal agency; and

I. Ground-mounted equipment shelters shall be constructed of materials and/or painted with earth-tone colors that are non-reflective in nature. They shall also be no taller than twelve (12) feet high.

430-109.9 Site-Specific Standards for Procedure Type II and III Antennas, Towers, and Equipment Shelters:

A. Setbacks

(1) New telecommunication facilities shall comply with the setback provisions of the individual land-use districts, unless greater setbacks are required by Table A, except as set forth below:

Antennas that are co-located on an existing building in accordance with Section 430-109.3-C.

(2) New ground-mounted equipment shelters shall comply with the setback provisions of the individual land-use districts, except as set forth below:

Underground vaults containing equipment cabinets and other associated equipment supportive of wireless telecommunication or broadcast facilities may be located in a required setback, except as otherwise restricted by the UBC, the Uniform Fire Code (UFC) or subsection C. below.

(3) Notwithstanding the requirements set forth in (1) and (2) above, the Review Authority may reduce the required setbacks through a Procedure Type III adjustment process, provided that the applicant can demonstrate to the Hearing Officer that the proposed site development plan will reduce the impacts on surrounding land uses. The Hearing Officer may approve an adjustment to the setbacks based on findings that:

(a) The applicant has submitted an alternate siting and/or tower design (e.g., Facility 2) and development plan which utilizes existing on-site vegetation (e.g., trees) and/or buildings, topography or other site-specific factors or constraints to more effectively screen the tower and accessory equipment; and

(b) Impacts to surrounding properties are less with the alternate setback as compared to the setbacks required by Table A and can be mitigated for the benefit of the surrounding property owners by an adjustment to the setbacks.

B. Access

(1) In residential districts, when a site fronts a local street and a collector or a local and an arterial, site access shall be from the collector or arterial subject to all applicable county standards. Access may be taken from the local street...
when access to a collector or arterial does not meet the applicable standards.

(2) In non-residential districts, site access may be from a local street, a collector or arterial, subject to all applicable county standards.

(3) Access to the site shall be oriented away from existing dwellings.

C.-Landscaping, Screening and Fencing

(1) Landscaping, screening and buffering, including fencing, shall be provided as required by Sections 407 and 411 to screen the site from public view. Notwithstanding, landscaping, screening and buffering is not required for Facility 2-uses when the equipment shelter is hidden from public view, such as when located within an existing building, designed to resemble a natural object, such as a boulder, or when it does not exhibit any visible exterior characteristics, such as cables, of an equipment shelter. However, in no case shall the screening and buffering within or adjacent to a residential district be less than what is required by Section 411-6.3. Tree and shrub species shall be selected which will attain a minimum height of twelve (12) feet;

(2) Native on-site vegetation shall be preserved to the greatest practical extent. The landscape plan shall show all existing significant vegetation to be removed (as described in Section 407-4.2.B.) and vegetation to be replanted to replace that vegetation which will be removed;

(3) All fencing shall be of the same height as the building, solid-wood, chain-link fence, or other solid material fencing and installed in accordance with Sections 418 and 419. Barbed or razor wire is not permitted; and

(4) In lieu of the standards in (1) through (3) above, the approval authority may approve an alternate detailed landscape, screening and fencing plan through a Type II or III procedure. The plan shall be designed to screen and buffer towers and accessory uses when the plan accomplishes the same degree of screening achieved in (1) through (3) above, except when less screening is required to provide adequate visibility for security purposes and for continued operation of existing bona-fide agricultural or forest uses, including but not limited to produce farms, nurseries, and tree farms.

D.-Radio-Frequency Emissions

(1) All applications shall contain a certified statement from a licensed, qualified professional engineer experienced in radio frequencies that the proposed facility will comply with all FCC standards for radio frequency emissions or television signal transmissions.

E.-Signs

Notwithstanding the provisions of Section 414, all antennas and towers, which are not located at the user's place of business or operation, shall be identified with a sign not exceeding four (4) square feet. The sign shall list the owner or operator's name and emergency telephone number and shall be posted in a
conspicuous place visible to the general public. Other signs may be located on the site as allowed by the underlying land-use district.

F. Noise

If the installation contains heating, cooling, emergency power or other potentially noise-producing equipment, the service provider shall submit documentation prepared by qualified personnel documenting that the operation complies with applicable Department of Environmental Quality (DEQ) noise standards. Such evidence shall be submitted within ninety (90) days of completion and operation.

G. Additional Standards for Procedure Type II and III Telecommunication Facilities, excluding those regulated under Section 430-109.11:

(1) Arrange structures and accessory uses to minimize visual and noise impacts on adjacent developments and surrounding land uses;

(2) Locate and design structures and uses to preserve, to the greatest extent possible, scenic views or vistas identified in the applicable community plan and viewable from adjacent properties or public thoroughfares, by considering setbacks, building height, bulk and landscaping;

(3) Placement of more than one tower on a non-residential lot shall be permitted, provided all applicable regulations are met. Structures may be located as close to each other as technically feasible, provided failure characteristics of the towers on the site will minimize the potential for multiple failures in the event one fails; and

(4) New towers shall be no taller than necessary to provide adequate communications for immediate and future planned use, except as otherwise limited by the provisions in this section or in the individual land-use districts.

H. The following shall submitted to the Director prior to issuance of a Building Permit, except as otherwise noted:

(1) Proof of liability insurance coverage for the proposed telecommunication facility. Liability insurance shall be maintained until the tower or antenna is dismantled. Failure to maintain insurance coverage shall constitute a violation of this Code.

(2) A copy of the recorded restrictive covenant by the property owner setting forth the requirements of Section 430-109.12. The covenant shall specifically include the following language: "In the event the antenna(s) and/or tower are not removed and the site restored within the time period specified in Section 430-109.12, Washington County may remove the facilities and restore the site pursuant to Section 430-109.12. Washington County’s costs to remove the facilities and restore the site shall be a lien on the property of the owner." The copy shall be provided to the Director prior to issuance of the building permit (Procedure Type I applications) and prior to issuance of final land-use approval (Procedure Type II and III applications). The restrictive covenant shall not be modified or released without the written signature of the Director.
(3) Certification from a structural engineer licensed in Oregon that the tower is structurally sound and complies with all applicable building and structural codes and that it is feasible to safely site the tower and accessory equipment on the site as shown on the final approved site plan.

(4) Tower design specifications and other related structural information, including the foundation design and failure characteristics of the tower, unless they were submitted with the initial land use application.

(5) Ice-hazard mitigation measures to be employed (e.g., increased setbacks or de-icing equipment) or evidence documenting why mitigation measures are not needed.

430-109.10 Agency Coordination Documentation

The applicant shall provide the following information prior to issuance of a building permit for a Procedure Type I telecommunication facility application and prior to issuance of final land use approval for Procedure Type II and III telecommunication facility applications:

A. FAA notification that the antenna or tower has been found not to be a hazard to air navigation pursuant to Section 77.19 of Part 77 of the Federal Aviation Regulations, unless the proposed antenna or tower is exempt from notification pursuant to Section 77.19 of Part 77.

B. ODA notification that the antenna or tower has been found not to be a hazard to air navigation pursuant to OAR 738-070-0090, unless the proposed antenna or tower is exempt from notification pursuant to OAR 738-070-0060.

C. A copy of the operating license issued to the service provider for the proposed antenna or tower. In the event that the FCC does not issue an individual operating license for the proposed use and location, a copy of the service provider’s current geographic area license shall be provided.

430-109.11 Application Requirements for Telecommunication Facilities less than two hundred (200) feet proposed on lands designated EFU and AF-20:

A. The applicant shall demonstrate that the facility is necessary for public service pursuant to ORS 215.213 (1)(d) and OAR 660-033-0130 (16). Applications shall include a report containing an alternative analysis consistent with ORS 215.275. Report shall be accepted by the Director as complete prior to the submission of the application. The Director may require an outside peer review of the applicant’s ORS 215.275 and Section 430-109.7 F. reports by an engineer selected by the Director to assist staff determine the report’s completeness. The applicant shall be responsible for the cost of this review; and

B. In addition to the requirements set forth in state law, these telecommunication facilities are subject to Sections 430-109.2; 430-109.6; 430-109.7, excluding E.; 430-109.8; 430-109.9, excluding G.; 430-109.10; and 430-109.12.

430-109.12 Abandonment

A. All antennas and towers shall be considered abandoned when there has not been a licensed service provider operating from the site facility for a period of one
year. Within ninety (90) days of abandonment, the service provider shall remove all facilities from the site and restore the site to its previous condition. In the event the communication or broadcast facilities are not removed within this time period, Washington County may remove the facilities and restore the site and assess the cost for such actions against the last service provider using the facilities, the owner of the facilities and the property owner.

B. If any abandoned facilities have not been removed from a site, no new communication or broadcast facility in unincorporated Washington County shall be approved for the service provider or property owner.

C. The service provider shall annually provide the Director with written documentation verifying that the antenna(s) continue to operate in accordance with the requirements of Section 430-109, all conditions of approval and all applicable state and federal regulations.
Figure 1.

Figure 2.

Figure 2, Cont.

abcdef Proposed additions
abcdef Proposed deletions
Figure 3.
TYPE I
(E.G., Neighborhood Commercial District)

Figure 4.

TYPE II
(E.G., Neighborhood Commercial District)
### PLANVIEW
(E.G., 100' LATTICE TOWER)

#### TABLE A – SETBACK PROVISIONS

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</tr>
<tr>
<td><strong>Type I Uses:</strong></td>
<td><strong>(a). Free-standing towers and antennas to maximum height of underlying district</strong></td>
<td>I-NR</td>
</tr>
<tr>
<td><strong>Type II Uses:</strong></td>
<td><strong>(b). Towers and antennas located on existing structures or buildings</strong></td>
<td>II-R/II-NR</td>
</tr>
<tr>
<td><strong>(c). Antennas located on previously approved towers</strong></td>
<td>Not applicable</td>
<td></td>
</tr>
<tr>
<td><strong>(d). Free-standing towers and antennas up to 200 feet in height</strong></td>
<td>III-NR</td>
<td>Fig: 4</td>
</tr>
<tr>
<td><strong>(e). Towers and antennas on parcels with 50% or more of perimeter abutting residential districts</strong></td>
<td>III-NR</td>
<td>Fig: 4</td>
</tr>
</tbody>
</table>

*Proposed additions*

*Proposed deletions*
The base of the antenna and/or its supporting tower shall maintain setbacks at least equal to the height of the antenna and its supporting tower. Dish or panel antennas shall be located at least fifty (50) feet above grade and meet the minimum yard requirements of the underlying district (Figure 1).

III-R:
Provide setbacks for the tower/antenna at least equal to the height of the tower/antenna above grade between the base of the tower and the outer boundary of the site. Provide setbacks of at least fifty (50) feet between any guy anchors and the outer boundary of the site. Provide a setback of at least twenty-five (25) feet between any accessory structures (except fences) and the outer boundary of the site (Figure 2).

I-NR:
Provide setbacks as required by the underlying land use district. However, in no case shall the setbacks be less than one hundred (100) percent of the height of the tower above grade between the base of the tower and the boundary of any residential district existing at the time the application is submitted (Figure 3).

III-NR:
Provide setbacks for the antenna/tower equal to thirty (30) percent of the height of the tower above grade between the base of the tower and the outer boundary of the site. In no case shall the setback be less than one hundred (100) percent of the height of the tower above grade between the base of the tower and the boundary of any residential district existing at the time the application is submitted. Provide setbacks for guy anchors and accessory uses (except fences) in accordance with the provisions of the underlying land use district (Figure 4).

Notwithstanding the provisions of III-NR above, within the EFU, AF-20 and EFC Land Use Districts, the setbacks shall also not be less than one hundred (100) percent of the height of the tower above grade between the base of the tower and any dwelling unit in these districts.