



**Columbia County Planning Commission**  
114 South 2<sup>nd</sup> Street, Dayton, WA 99328  
Regular Meeting Agenda  
Monday, March 8, 2020 at 5:30 PM

**Zoom link:**

<https://us02web.zoom.us/j/82900579353?pwd=WUQ2b0c2Yy9CUFFNUL3hqeGVNM2lXQT09>

**Phone access:** 1 253 215 8782

**Meeting ID:** 829 0057 9353

**Passcode:** 203786

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- 1) Call to Order
- 2) Roll Call and Establish Quorum
- 3) Approval of Meeting Minutes
  - a. February 8, 2021
- 4) Public Hearing
  - a. None.
- 5) Old Business
  - a. Sawn Lumber Update
  - b. Wireless Communications Facilities: Discussion/Q&A with Kellie Rivera  
from American Tower
- 6) New Business
  - a. None.
- 7) Commissioners Reports
- 8) Planning Manager Report
  - a. Department Update
- 9) Comments from the public and items not present on the agenda.
- 10) Adjournment
  - a. Next regular meeting: Monday, April 12, 2021 at 5:30 p.m.



**Columbia County Planning Commission**  
114 South 2<sup>nd</sup> Street, Dayton, Washington 99328  
Meeting Minutes  
Monday, February 8, 2021 @ 5:30 PM  
Zoom Meeting

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- 1) Call to Order
  - a. Chair Jason Towery called to order the regular meeting of the Columbia County Planning Commission at 5:30 p.m. via the Zoom meeting platform due to COVID 19 restrictions.
- 2) Roll Call and Establish Quorum
  - a. Commission members: Jason Towery, Chuck Reeves, Peter Paolino and Bill Carter were present. Jay Ball was absent and excused but logged in at 5:49 p.m.  
Commissioner: Ryan Rundell  
Staff: Dena Martin, Planner; Clint Atteberry, Building Official  
Public: Steve Radebaugh, Stan Hoyeki
- 3) Approval of Meeting Minutes
  - a. January 11, 2021
    - i. *Reeves motioned to approve the meeting minutes; Carter seconded. None opposed, motion carried.*
- 4) Public Hearing
  - a. Present Sawn Lumber ORD2020-02
    - i. Building Official Clint Atteberry presented ORD2020-02 “Sawn Lumber” which adds a new Chapter to the Columbia County Code.
      - The Ordinance allows for the use of locally milled lumber to be used in residential building when such lumber meets specific American Softwood Lumber Standards and Western Wood Products and National Design Standards requirements.
      - The ordinance also allows for the lumber to be deemed acceptable for construction by a qualified third party. If not

a certified lumber inspector, the Columbia County Commissioners will review and approve the qualifications of the lumber inspector.

- All documentation of the lumber’s history and inspection will be attached to the title of the property for the structure’s lifespan.
  - Final adoption of the ordinance will be contingent on Washington State Building Code Council approval following adoption by the Board of Columbia County Commissioners (BOCC).
- ii. Columbia County residents Steve Radebaugh and Stan Hoyeki had no comments but were in attendance to support the ordinance and answer any questions from the Commission or public.
  - iii. Reeves asked what level of expertise would be required for the BOCC, to deem an inspector qualified. Atteberry responded that the individual would interview before the BOCC which would review their qualifications to determine whether or not they were qualified.
  - iv. Carter clarified that the lumber must be milled in Columbia County.
  - v. Paolino shared that House Bill 1153 became law in 2016 and allows for a qualified building official to waive certain lumber grading and stamping requirements if a specific set of criteria are met.
- b. Martin presented ORD2021-01, amending Chapter 15.05 “Building Codes,” adopting current Washington State Codes.
- i. The chapter was amended to remove references to specific code editions, instead adopting codes “as currently adopted or hereafter amended by the State of Washington. This change will mean a new County ordinance will not need to be passed each time the State updates building codes.

- c. With no comments from the public, Towery closed the public hearing at 5:51 p.m.
- d. *Reeves motioned to recommend that ORD2021-02 “Sawn Lumber” and ORD2021-01 “Codes Adopted” be recommended to the BOCC for approval; Carter seconded. None opposed, motion passed.*

5) Old Business

- a. Reeves and Ball provided reviewed the Common Roots Housing Land Trust webinar/presentation they had attended.
  - i. Reeves explained that the Trust would accept land donations to build on in order to provide affordable housing. He said the homes are subject to the same siting and permitting requirements as any other home and the Trust has no input on the regulatory aspect.
  - ii. Ball said the program was a “good effort” but felt that the fact that the Trust owned the land forever, as opposed to the homeowner, was a program downfall. He shared a link of the recorded presentation with the group and recommended that everyone watch it.
- b. Ball will watch the Open Public Meetings Act Training video, which will bring all Commission members into OPMA training compliance.
- c. Martin presented a PowerPoint presentation on Wireless Communication Facilities, reviewing the types of facilities, placements in the County, previous legislation, and futures concerns and considerations in developing a new code chapter.

6) New Business

- a. Election of Officers
  - i. *Following discussion, Reeves nominated Carter as Vice Chair; Paolino seconded. None opposed motion passed.*
  - ii. *Per the bylaws Vice-Chair Reeves assumes the position of Chair.*

7) Commissioner Reports

- a. Ball will send Martin a link to the Common Roots Housing presentation to be distributed to the Commission.

8) Planning Manager Report

- a. Martin and Atteberry provided an update on department activities and upcoming projects.

9) Comments from the public and items not present on the agenda.

- a. None.

10) Adjournment

- a. *Reeves motioned to adjourn; Ball seconded. Towery adjourned the regular meeting of the Columbia County Planning Commission at 6:28 p.m.*
- b. Next regular meeting: Monday, March 8, 2021 at 5:30 p.m.

March 8, 2021

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Chuck Reeves, Chair

Date

Attest:

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Dena Martin, Planning Manager

Date

## CHAPTER 18.86 - WIRELESS COMMUNICATIONS FACILITIES

### 18.86.010 - Purpose.

The purpose of this chapter is to provide placement, design and screening criteria for all wireless communication facilities (WCFs) in the county in order to protect the public health, safety, general welfare, and quality of life in the county while preserving the rights of wireless communication providers.

### 18.86.020 - Exemptions.

In the event an emergency or disaster is declared for the area, the director may exempt WCFs from the requirements of this chapter during the duration of such emergency or disaster.

### Consider separate requirements for large and small cell facilities

### 18.86.030 - Location of wireless communication facilities.

- A. It is the policy of the county to locate WCFs in the county according to the following order of preference (highest to lowest preference):
  1. Attached on existing structure such as buildings (not residential structures), communication towers, and utility facilities. Preference is to the fascia of buildings or mechanical penthouses.
  2. Co-location (on one support structure) with other WCFs.
  3. In agricultural zones as permitted in the use matrix.
  4. In residential zones as permitted in the use matrix.
- B. WCFs shall be located where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening. These are typically located in open spaces with no screening -- I assume, intentionally.
- C. WCFs shall not be located within one mile (measured from tower structure to tower structure) of any other WCF except when located on an existing building, structure or wireless facility (that is, without support structures). For the purposes of this section, all distances shall be measured in a straight line without regard to intervening structures, from the nearest point of the proposed wireless communication support structure to the nearest point of another wireless communication support structure. Needs discussion. This has been an area of contention.
- D. WCFs located in a right-of-way shall meet the requirements of the abutting or closest zone (as measured from the support structure or the attached facility).

### 18.86.040 - Design standards.

- A. Signs or advertising devices other than certification, warning, or other legally required seals or signs shall not be placed on or attached to WCFs.
- B. Accessory equipment shall meet the following standards:
  1. All accessory equipment associated with the operation of the WCF shall be located within a building, enclosure, or underground vault that complies with the development standards of the zoning district in which the accessory equipment is located.
  2. Accessory equipment enclosures shall be visually compatible with the surrounding buildings (such as, same construction material as primary building(s), same color, etc.) and include screening of the structure from view, and shall be subject to approval by the regional planning director.
  3. Accessory equipment enclosures shall be limited to the housing of radio, electronic and related power equipment, and shall not be used for any other purpose, including storage.

- C. All WCFs shall employ concealment technology in their design, construction, and maintenance in order to reduce the WCFs aesthetic impacts to the maximum extent possible. Such concealment technology shall include, at a minimum, the following: Is this wanted/necessary? It is not the current practice.
  - 1. All antenna support structures and antennas shall be painted a non-reflective color, subject to approval by the regional planning director, which blends into the nearby surroundings of the WCF to minimize the visual impact of the support structure or antennas.
  - 2. To the maximum extent reasonably practical, WCFs shall be designed to resemble an object other than a WCF that is already present in the local environment, such as a tree, a street light, utility pole or traffic signal. It may include the use of colors or materials to blend into the building materials from which a structure is constructed. Examples of concealment technology include, but are not limited to, the use of innovative site design techniques, existing or new vegetation and landscaping, paint and other surface treatments, alternative antenna configuration and/or selection, utilization of antenna support structures designed to resemble features in the natural environment, i.e., trees, and any other practice which screens the WCF from observation from roadways, residences, and other properties or otherwise has the effect of reducing the aesthetic impacts associated with the WCF.
- D. All screening for attached WCFs shall be compatible with the existing architecture, color, texture, and or materials of the building and when located on roofs shall avoid the "porcupine effect" through camouflage or other technique acceptable to the regional planning director. Same as C
- E. Foundations and structures upon which antenna are to be mounted shall be designed to accommodate at least two carriers' antenna. What does that mean in practical/building terms?
- F. Fencing, if permitted or required, shall conform to the following:
  - 1. No fence shall exceed the height permitted for the respective zone in which the facility is to be located. The fencing surrounding the WCF may be of a chain link material.
- G. Lighting for the WCF may be used for security reasons only and shall be shielded to prevent off site glare. All exterior lighting shall be subject to approval by the regional planning director. In no case except when specifically required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC) or other state or federal agency will the WCF support structure be lighted.

18.86.050 - Height standards.

- A. The height of the WCF support structure is inclusive of any attachments.
- B. The maximum height of any WCF shall be one hundred fifty feet. For any height greater than the maximum, a variance shall be required through hearing with the hearing examiner. Recent towers have been 199' and 195'. Higher towers may mean more colocation opportunities. What is industry need? Consider higher height limits outside military flight path zones?

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18.86.060 - Height related to existing utility poles.

- A. In the case of existing utility poles, light standards, etc., if the utility pole is unable to support the attachment (as verified by a structural engineer or other qualified professional) the existing utility pole may be replaced. In no case shall the height of the replacement utility pole be greater than one hundred five percent of the original height. The diameter of the new utility pole shall not exceed one hundred ten percent of the original utility pole diameter.

18.86.070 - Noise.

- A. Noise from stand by power generators shall have mufflers and or other attenuation devices to avoid becoming a nuisance to adjacent residences. Is this standard? Should it be a requirement in A-1 zones far from residences?

18.86.080 - Co-location.

- A. All applicants shall cooperate in good faith with existing WCF operators in co-locating additional antennas on support structures and/or on existing buildings provide the existing operator has received a permit for such use at said site from the county.
- B. All applicants shall exercise good faith in cooperating in co-locating with other providers and sharing the permitted site, provided such proposed shared use does not prevent or unreasonably interfere with the existing use (i.e., significant interference in broadcast or reception capabilities as opposed to competitive conflict or financial burden). Such good faith cooperation shall include sharing technical information necessary to evaluate the feasibility of co-location. In the event a dispute arises as to whether a provider has exercised good faith in accommodating other users, the county may require a third party technical study at the expense of either or both the applicant and the existing operator as to the feasibility of co-locating. Failure to comply with the co-location requirements of this chapter may result in the denial of a permit request or revocation of an existing permit.

18.86.090 - Discontinuation of use.

- A. Lawfully erected WCFs that are no longer being used shall be removed promptly from the premises, no later than six months after the discontinuation of use, except as otherwise provided by law. A WCF is considered abandoned if it ceases to provide wireless communication services that are substantially consistent with the application and/or purposes for which the WCF was constructed for six or more months (occasional use shall not affect the six-month period). Such removal shall be in accordance with property health and safety requirements and all ordinances, rules and regulations of the county. The wireless communication provider shall send to the county a copy of the discontinuation notice required by the FCC at the time the notice is sent to the regulatory agency.
- B. All facilities determined to be abandoned and not removed within the required six-month period from the date of notice shall be in violation of this chapter and operators of the facility and the owners of the property shall be **subject to penalties for violations under the enforcement provisions of the zoning code**. The county may remove all abandoned facilities following the six-month removal period at the operators' expense. Facilities removed by the county shall be stored for no less than thirty days and thereafter be disposed of by public auction, if deemed to be of value by the county, or otherwise as permitted by law.

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18.86.100 - Permit submittal requirement.

- A. In addition to the information required by any other part of the county code, the following items shall be required for any application for land use, development or construction permit for a WCF:
  - 1. A statement providing the reasons for the location, design and height of the proposed tower or antennas.
  - 2. The contact name managing the facility. This will include the telephone number(s) and mailing address.
  - 3. A map showing any existing, and/or approved WCFs within the vicinity (approx. 2 miles) of the proposed new facilities site (not required of co-located facility).
  - 4. A current overall system plan for the county, showing facilities presently constructed or approved and propagation maps showing the before and after coverage with the new facility (not required of co-located facility).
  - 5. Evidence satisfactory to the regional planning director demonstrating that co-location is unfeasible on existing buildings and existing tower facility sites for reasons of structural support capabilities, safety, available space, or failing to meet service coverage area needs.
  - 6. **If visible from offsite**, a site/landscaping plan showing the specific placement of existing structures, trees, and other significant site features; and indicating type and location of plant

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materials proposed to be used to screen WCF components and the proposed color(s) for the communication facility.

7. A statement that:
  - a. The applicant agrees to allow for the co-location of additional WCF equipment by other providers on the applicant's structure. Sounds positive, but are there potential downfalls that we are unaware of?
  - b. That the applicant agrees to remove the facility within six months after the use of the site is discontinued.
8. Plans showing how connections to utilities will occur, the ownership of those utilities, and any proposed rights of way cuts or easements (not required for co-location facilities).
9. Documents demonstrating that any necessary easements or property rights have been obtained. At minimum the following should be provided:
  - a. Site plan indicating ownership adjacent to the subject site including full name, parcel number(s) and all parcel lines to a typical architectural or engineering scale.
  - b. The site plan shall include the access easement to a public right-of-way.



# **MODEL WIRELESS TELECOMMUNICATIONS FACILITY SITING ORDINANCE**

**PCIA--THE WIRELESS INFRASTRUCTURE ASSOCIATION**

2012

## **About PCIA**

PCIA – The Wireless Infrastructure Association is the principal organization representing the companies that build, design, own and manage telecommunications facilities throughout the world. Its over 220 members include carriers, infrastructure providers, and professional services firms.

For more information, please go to [www.pcia.com](http://www.pcia.com).

## MODEL WIRELESS TELECOMMUNICATIONS ORDINANCE

### I. Purpose and Legislative Intent.

The purpose of this Wireless Telecommunications Ordinance is to ensure that residents, public safety operations and businesses in [Jurisdiction] have reliable access to wireless telecommunications networks and state of the art communications services while also ensuring that this objective is achieved in a fashion that preserves the intrinsic aesthetic character of the community and is accomplished according to [Jurisdiction's] zoning, planning, and design standards. The Telecommunications Act of 1996 preserved, with certain limitations, local government land use and zoning authority concerning the placement, construction, and modification of wireless telecommunications facilities.

To accomplish the above stated objectives and to ensure that the placement, construction or modification of wireless telecommunications facilities complies with all applicable Federal laws and is consistent with [the Jurisdiction's] land use policies, [the Jurisdiction] is adopts this single, comprehensive, wireless telecommunications ordinance. No provisions of this Ordinance shall apply to the siting of Distributed Antenna Systems (DAS) or wireless facilities located within and intended to provide wireless coverage within a structure.

This Ordinance establishes parameters for the siting of Wireless Telecommunications Facilities. By enacting this Ordinance it is [the Jurisdiction's] intent to:

- (1) Ensure [Jurisdiction] has sufficient wireless infrastructure to support its public safety communications throughout [Jurisdiction];<sup>1</sup>
- (2) Ensure access to reliable wireless communications services throughout all areas of [the Jurisdiction];<sup>2</sup>
- (3) Encourage the use of Existing Structures for the collocation of Telecommunications Facilities;<sup>3</sup>
- (4) Encourage the location of Support Structures, to the extent possible, in areas where any potential adverse impacts on the community will be minimized;

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<sup>1</sup> Many public safety operations utilize commercial networks; this trend will continue to grow as commercial providers further deploy wireless broadband systems.

<sup>2</sup> This is important because wireless users depend on their mobile devices everywhere – in their homes and offices, and while on travel.

<sup>3</sup> A core policy goal here is to encourage co-location of wireless facilities on existing structures.

- (5) Facilitate the responsible deployment of Telecommunications Facilities in residential areas to ensure comprehensive wireless services across [Jurisdiction];
- (6) Minimize the potential adverse effects associated with the construction of Monopoles and Towers through the implementation of reasonable design, landscaping, and construction practices;
- (7) Ensure public health, safety, welfare, and convenience.
- (8) To help jurisdictions amend their ordinances in light of federal legislative changes to zoning authority under the 1996 Telecommunications Act.

## **II. Definitions.**

For the purposes of this Ordinance, the following definitions apply:

**Abandon** – Occurs when an owner of a Support Structure intends to permanently and completely cease all business activity associated therewith.

**Accessory Equipment** -- Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

**Administrative Approval** -- Zoning approval that the [Zoning Administrator] or designee is authorized to grant after Administrative Review.

**Administrative Review** -- Non-discretionary evaluation of an application by the [Zoning Administrator] or designee. This process is not subject to a public hearing. The procedures for Administrative Review are established in Section IV E of this Ordinance.

**Antenna** -- Any structure or device used to collect or radiate electromagnetic waves for the provision of services including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

**Carrier on Wheels or Cell on Wheels (“COW”)** -- A portable self-contained Telecommunications Facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.

Collocation<sup>4</sup> -- The act of siting Telecommunications Facilities on an Existing Structure without the need to construct a new support structure and without a Substantial Increase in the size of a Existing Structure.

Concealed Telecommunications Facility<sup>5</sup> -- Any Telecommunications Facility that is integrated as an architectural feature of an Existing Structure or any new Support Structure designed so that the purpose of the Facility or Support Structure for providing wireless services is not readily apparent to a casual observer.

Existing Structure – Previously erected Support Structure or any other structure, including but not limited to, buildings and water tanks, to which Telecommunications Facilities can be attached.

Major Modifications -- Improvements to existing Telecommunications Facilities or Support Structures that result in a Substantial Increase to the Existing Structure. Collocation of new Telecommunications Facilities to an existing Support Structure without Replacement of the structure shall not constitute a Major Modification.

Minor Modifications -- Improvements to Existing Structures that result in some material change to the Facility or Support Structure but of a level, quality or intensity that is less than a Substantial Increase. Minor Modifications include the Replacement of the structure.

Monopole --A single, freestanding pole-type structure supporting one or more Antenna. For purposes of this Ordinance, a Monopole is not a Tower.

Ordinary Maintenance -- Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a Support Structure's foundation or of the Support Structure itself. Ordinary Maintenance includes replacing Antennas of a similar size, weight, shape and color and Accessory Equipment within an existing Telecommunications Facility and relocating the Antennas of approved Telecommunications Facilities to different height levels on an existing Monopole or Tower upon which they are currently located.<sup>6</sup> Ordinary Maintenance does not include Minor and Major Modifications.

Replacement -- Constructing a new Support Structure of proportions and of equal height or such other height that would not constitute a Substantial Increase to a pre-existing Support Structure in order to support a Telecommunications Facility or to accommodate Collocation and removing the pre-existing Support Structure.

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<sup>4</sup> This definition is consistent with the FCC's Declaratory Ruling on Wireless Infrastructure Siting.

<sup>5</sup> The decision to employ Concealed technology involves a variety of engineering, structural and financial factors, and should be made by the network operators.

<sup>6</sup> The description of antenna swaps as "ordinary maintenance" is important because carriers regularly upgrade antennas as part of periodic network improvements.

Substantial Increase:<sup>7</sup> Occurs when:

(1) [t]he mounting of the proposed antenna on an Existing Structure would increase the existing height of the Existing Structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or

(2) [t]he mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

(3) [t]he mounting of the proposed antenna would involve adding an appurtenance to the body of the Existing Structure that would protrude from the edge of the Existing Structure more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or

(4) [t]he mounting of the proposed antenna would involve excavation outside the current Existing Structure site, defined as the current boundaries of the leased or owned property surrounding the Existing Structure and any access or utility easements currently related to the site.

Support Structure(s) – A structure designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers, and other freestanding self-supporting structures.

Telecommunications Facility(ies) -- Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A Telecommunication Facility can consist of one or more Antennas and Accessory Equipment or one base station.

Tower -- A lattice-type structure, guyed or freestanding, that supports one or more Antennas.

### **III. Approvals Required for Telecommunications Facilities and Support Structures.**

#### **(A) Administrative Review**

(i) Collocations and Minor Modifications shall be permitted in any zoning district after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance.<sup>8</sup>

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<sup>7</sup> This definition is taken from the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas.

<sup>8</sup> Pursuant section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (H.R. 3630), state and local governments must approve an eligible facilities request for the modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. The Act was signed into law on February 22, 2012. The Act defines “eligible facilities request” as any request for modification of an existing wireless tower or base station that involves: (1) Collocation of new transmission equipment; (2) Removal of transmission equipment; or (3) Replacement of transmission equipment. *See also* Jeffery Steinberg, Deputy Chief, Spectrum & Competition Pol’y Division, Wireless Telecommunications Bureau, Fed. Comm’n’s Comm’n, FCC

(ii) New Support Structures that are less than sixty (60)<sup>9</sup> feet in height shall be permitted in any zoning district except residential after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance.

(iii) Concealed Telecommunications Facilities that are less than sixty (60) feet in height shall be permitted in any residential district after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance.

(iv) Concealed Telecommunications Facilities up to 150 feet shall be permitted in any zoning district other than residential after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance except as noted above.

(v) New Support Structures up to one hundred ninety-nine (199) feet in height shall be permitted in any Industrial District after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance.

(vi) Monopoles or Replacement poles located in utility easements or rights-of-way shall be permitted in any zoning district after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance.

(vii) The use of COWs shall be permitted in any zoning district after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance if the use is not otherwise exempt. If the use of the COW is either not in response to a declaration or emergency, or will last in excess of one hundred-twenty (120) days, Administrative Review and Administrative Approval shall also be required.

(B) Special Permit.<sup>10</sup> Telecommunications Facilities and Support Structures not permitted by Administrative Approval shall be permitted in any district upon the granting of a Special Permit from the [Zoning Board] in accordance with the standards set forth in this Ordinance.

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Presentation: The Legal Framework at the FCC Workshop: Promoting Mobile Broadband in your Community by Collocating Wireless Antennas on Communications Towers and other Structures (May 1, 2012) (available at <http://www.fcc.gov/events/collocation-workshop>).

<sup>9</sup> Sixty feet is a suggested height but actual height requirements may vary based upon local topography.

<sup>10</sup> This process refers to whatever quasi-judicial process the Jurisdiction already has in place. Such processes are also known as “special use” and “conditional use” among other names. Jurisdictions should conform this section to their existing language.

- (C) Exempt. Ordinary Maintenance of existing Telecommunications Facilities and Support Structures, as defined herein, shall be exempt from zoning and permitting requirements. In addition, the following facilities are not subject to the provisions of this Ordinance: (1) antennas used by residential households solely for broadcast radio and television reception; (2) satellite antennas used solely for residential or household purposes; (3) COWs placed for a period of not more than one hundred twenty (120) days at any location within [the Jurisdiction] after a declaration of an emergency or a disaster; and (4) television and AM/FM radio broadcast towers and associated facilities.

**IV. Telecommunications Facilities and Support Structures Permitted by Administrative Approval.**

(A) Telecommunications Facilities Located on Existing Structures

- (1) Telecommunications Facilities are permitted in all zoning districts when located on any Existing Structure subject to Administrative Approval in accordance with the requirements of this Part.
- (2) Antennas and Accessory Equipment may exceed the maximum building height limitations within a zoning district, provided they do not constitute a Substantial Increase.
- (3) Minor Modifications are permitted in all zoning districts subject to Administrative Approval in accordance with the requirements of this Part.

(B) New Support Structures

- (1) New Support Structure less than sixty (60) feet in height shall be permitted in all zoning districts except residential districts in accordance with the requirements of this Part.
- (2) Concealed Telecommunications Facilities that are less than sixty (60) feet in height shall be permitted in any residential district after Administrative Review and Administrative Approval provided that it meets the applicable Concealed Telecommunications Facility standards in accordance with this Ordinance
- (3) New Support Structures up to one hundred ninety-nine (199) feet in height shall be permitted in all Industrial Districts in accordance with the requirements of this Part. The height of any proposed support structure shall not exceed the minimum height necessary to meet the coverage or capacity objectives of the Facility. The setback of the structure shall be governed by the setback requirements of the underlying zoning district.



- (4) A Monopole or Replacement pole that will support utility lines as well as a Telecommunications Facility shall be permitted within utility easements or rights-of-way, in accordance with requirements of this Part.<sup>11</sup>
- (a) The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.
  - (b) The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height.
  - (c) The height of the Monopole or replacement pole may not exceed by more than thirty (30) feet the height of existing utility support structures.
  - (d) Monopoles and the Accessory Equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.
  - (e) Single carrier Monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by Subsection (c) above.
  - (f) Poles that use the structure of a utility tower for support are permitted under this Part. Such poles may extend up to twenty (20) feet above the height of the utility tower.
- (5) Monopoles or Replacement poles located on public property or within public rights-of-way that will support public facilities or equipment in addition to Telecommunications Facilities shall be permitted in accordance with requirements of this Part. Examples include, but are not limited to, municipal communication facilities, athletic field lights, traffic lights, street lights, and other types of utility poles in the public right-of-way.

(C) Concealed Telecommunications Facilities

- (1) Concealed Telecommunications Facilities shall be permitted in all zoning districts after Administrative Review and Administrative Approval in accordance with the requirements below. Concealed facilities in residential areas must not exceed sixty (60) feet and comply with the requirements below in order to qualify for Administrative Review.
- (a) Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.

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<sup>11</sup> This section allows for efficient use of public rights-of-way for the provision of wireless services.

- (b) Existing Structures utilized to support the Antennas must be allowed within the underlying zone district. Such structures may include, but are not limited to, flagpoles, bell towers, clock towers, crosses, monuments, smoke stacks, parapets, and steeples.
  - (c) Setbacks for Concealed Facilities that utilize a new structure shall be governed by the setback requirements of the underlying zoning district.
- (D) COW Facilities and Minor Modifications
  - (1) The use of COWs shall be permitted in any zoning district after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance if the use of the COW is either not in response to a declaration or emergency by the Governor or will last in excess of one hundred-twenty (120) days.
- (E) General Standards, Design Requirements, and Miscellaneous Provisions
  - (1) Unless otherwise specified herein, all Telecommunications Facilities and Support Structures permitted by Administrative Approval are subject to the applicable general standards and design requirements of Section VI and the provisions of Section VII.
- (F) Administrative Review Process
  - (1) All Administrative Review<sup>12</sup> applications must contain the following:
    - (a) Administrative Review application form signed by applicant.
    - (b) Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms.
    - (c) Site plans detailing proposed improvements which complies with [Jurisdiction's existing site plan requirements].<sup>13</sup> Drawings must depict improvements related to the requirements listed in this Part, including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements.
    - (d) In the case of a new Support Structure:

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<sup>12</sup> The name of this process should be conformed to the jurisdiction's existing name for a similar process.

<sup>13</sup> The jurisdiction should include a cross reference to its existing site plan requirements.

- (i) Statement documenting why collocation cannot meet the applicant's requirements. Such statement may include justifications, including why collocation is either not reasonably available or technologically feasible as necessary to document the reasons why collocation is not a viable option;<sup>14</sup> and
  - (ii) The applicant shall provide a list of all the existing structures considered as alternatives to the proposed location. The applicant shall provide a written explanation why the alternatives considered were either unavailable, or technologically or reasonably infeasible.
  - (iii) Applications for new Support Structures with proposed Telecommunications Facilities shall be considered together as one application requiring only a single application fee.
- (e) Administrative Review application fee as listed in [Jurisdiction's published fee schedule].<sup>15</sup>
- (2) Procedure<sup>16</sup>
- (a) Within thirty (30) days of the receipt of an application for Administrative Review, the [Zoning Administrator] shall either: (1) inform the Applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete. If the Zoning Administrator informs the Applicant of an incomplete application within thirty (30) days, the overall timeframe for review is suspended until such time that the Applicant provides the requested information.
  - (b) An applicant that receives notice of an incomplete application may submit additional documentation to complete the application. An applicant's unreasonable failure to complete the application within sixty (60) business days after receipt of written notice shall constitute a withdrawal of the application without prejudice.<sup>17</sup> An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.

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<sup>14</sup> This evidentiary requirement allows local jurisdictions an opportunity to review an application's alternatives, and requires providers to prove that collocation is not viable in a specific circumstance.

<sup>15</sup> The jurisdiction should include a cross reference to its published fee schedule.

<sup>16</sup> The FCC has issued a Declaratory Ruling establishing the timeframes for a jurisdiction to act on an application to site wireless infrastructure. The procedure here is reflective of that Ruling, however Jurisdiction can substitute its current procedure so long as it complies with the FCC's decision.

<sup>17</sup> Jurisdictions should conform this time requirement to meet their existing code for information submission.

(c) The [Zoning Administrator] must issue a written decision granting or denying the request within ninety (90) days of the submission of the initial application unless:

- (i) [Zoning Administrator] notified applicant that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the ninety (90) day total review time is suspended until the Applicant provides the missing information; or
- (ii) Extension of time is agreed to by the Applicant.

Failure to issue a written decision within ninety (90) days shall constitute an approval of the application.

(d) Should the [Zoning Administrator] deny the application, the [Zoning Administrator] shall provide written justification for the denial. The denial must be based on substantial evidence of inconsistencies between the application and this Ordinance.

(f) Applicant may appeal any decision of the [Zoning Administrator] approving, approving with conditions, or denying an application or deeming an application incomplete, within thirty (30) days to [the Local Appeals Board] in accordance with this Ordinance.<sup>18</sup>

**V. Telecommunications Facilities and Support Structures Permitted by Special Permit.**

(A) Any Telecommunications Facility or Support Structures Not Meeting the Requirements of Section IV Shall Be Permitted by Special Permit in all Zoning Districts Subject to:

- (1) The submission requirements of Section V (B) below; and
- (2) The applicable standards of Sections VI and VII below; and
- (3) The requirements of the special permit general conditions at Code Section \_\_\_\_\_. [Insert cross reference to Jurisdiction code section that establishes general conditions applicable to Special Permits.]<sup>19</sup>

(B) Submission Requirements for Special Permit Applications

- (1) All Special Permit applications for Telecommunications Facility and Support Structures must contain the following:

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<sup>18</sup> The jurisdiction should substitute its standard process for appeal.

<sup>19</sup> This allows for Special Permit/Conditional Permit review of proposed facilities that do not meet the “preferred” standards of Section IV.

- (a) Special Permit application form signed by applicant.
- (b) Copy of lease or letter of authorization from the property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms
- (c) Written description and scaled drawings of the proposed Support Structure, including structure height, ground and structure design, and proposed materials.
- (d) Number of proposed Antennas and their height above ground level, including the proposed placement of Antennas on the Support Structure.
- (e) When locating within a residential area, a written technical and operational analysis of why a Monopole or similar structure at a height of less than one hundred (100) feet cannot be used.<sup>20</sup>
- (f) Line-of-sight diagram or photo simulation,<sup>21</sup> showing the proposed Support Structure set against the skyline and viewed from at least four (4) directions within the surrounding areas.
- (g) A statement justifying why Collocation is not feasible. Such statement shall include:
  - (i) Such technical information and other justifications as are necessary to document the reasons why collocation is not a viable option; and
  - (ii) A list of the existing structures considered as possible alternatives to the proposed location and a written explanation why the alternatives considered were either unavailable or technologically infeasible.
- (h) A statement that the proposed Support Structure will be made available for Collocation to other service providers at commercially reasonable rates.
- (i) Notification of surrounding property owners as required by [insert Jurisdiction's relevant existing code provisions]
- (j) Special Permit application fee as listed in [Jurisdiction's published fee schedule].<sup>22</sup>

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<sup>20</sup> If you are proposing a monopole under 100' in a residential area no additional submission is required.

<sup>21</sup> Photo simulations provide the community with valuable visual data showing the effect of the proposed new structure on the visual landscape.

<sup>22</sup> The jurisdiction should include a cross reference to its published fee schedule.

(C) Procedure<sup>23</sup>

- (1) Within thirty (30) days of the receipt of an application for Administrative Review, the [Zoning Administrator] shall either: (1) inform the Applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete and meet with the applicant. If the Zoning Administrator informs the Applicant of an incomplete application within thirty (30) days, the overall timeframe for review is suspended until such time that the Applicant provides the requested information.
- (2) If an application is deemed incomplete, an Applicant may submit additional materials to complete the application. An applicant's unreasonable failure to complete the application within sixty (60) business days after receipt of written notice shall constitute a withdrawal of the application without prejudice.<sup>24</sup> An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.
- (3) A complete application for a Special Permit shall be scheduled for a hearing date as required by [insert Jurisdiction's relevant existing code provisions].
- (4) Applications for new Support Structures with proposed Telecommunications Facilities shall be considered as one application requiring only a single application fee.
- (5) The posting of the property and public notification of the application shall be accomplished in the same manner required for any Special Permit application under this Ordinance.
- (6) The [Zoning Administrator] must issue a written decision granting or denying the request within one hundred-fifty (150) days of the submission of the initial application unless:
  - (i) [Zoning Administrator] notified applicant that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the one hundred-fifty (150) day total review time is suspended until the Applicant provides the missing information; or
  - (ii) Extension of time is agreed to by the Applicant.

Failure to issue a written decision within one hundred-fifty (150) days shall constitute an approval of the application.

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<sup>23</sup> Same as IV(E)(2) above.

<sup>24</sup> Jurisdictions should conform this time requirement to meet their existing code for information submission.

## **VI. General Standards and Design Requirements.**

### **(A) Design**

- (1) Support Structures shall be subject to the following:
  - (a) Shall be designed to accommodate a minimum number of collocations based upon their height:<sup>25</sup>
    - (i) Support structures sixty (60) to one hundred (100) feet shall support at least two (2) telecommunications providers;
    - (ii) Support structures from one hundred (100) to one hundred-fifty feet (150) shall support at least three (3) telecommunications providers;
    - (iii) Support structures greater than one hundred-fifty (150) feet in height shall support at least four (4) telecommunications carriers.
  - (b) The compound area surrounding the Monopole must be of sufficient size to accommodate Accessory Equipment for the appropriate number of telecommunications providers in accordance with Section VI(A)(1)(a).
- (2) Concealed Telecommunications Facilities shall be designed to accommodate the Collocation of other Antennas whenever economically and technically feasible.
- (3) Upon request of the Applicant, the [Zoning Board or Zoning Administrator] may waive the requirement that new Support Structures accommodate the collocation of other service providers if it finds that collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer Antennas will promote community compatibility.

### **(B) Setbacks**

- (1) **Property Lines.** Unless otherwise stated herein, Support Structures shall be set back from all property lines a distance equal to their height measured from the base of the structure to its highest point.
- (2) **Residential Dwellings.** Unless otherwise stated herein, Monopoles, Towers and other Support Structures shall be set back from all off-site residential dwellings a distance equal to the height of the structure. There

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<sup>25</sup> This provision will limit the proliferation of new structures by providing for future co-location opportunities.

shall be no setback requirement from dwellings located on the same parcel as the proposed structure. Existing or Replacement structures shall not be subject to a setback requirement.

- (3) Unless otherwise stated herein, all Accessory Equipment shall be set back from all property lines in accordance with the minimum setback requirements in the underlying zoning district. Accessory Equipment associated with an existing or Replacement utility pole shall not be subject to a setback requirement.
- (4) The [Zoning Board or Zoning Administrator] shall have the authority to vary any required setback upon the request of the applicant if:
  - (a) Applicant provides a letter stamped by a certified structural engineer documenting that the proposed structure's fall zone is less than the actual height of the structure.
  - (b) The Telecommunications Facility or Support Structure is consistent with the purposes and intent of this Ordinance.

(C) Height

- (1) In non-residential districts, Support Structures shall be designed to be the minimum height needed to meet the service objectives of the applicant.
- (2) In residential districts, Support Structures shall not exceed a height equal to one hundred ninety-nine (199) feet from the base of the structure to the top of the highest point, including appurtenances. Any proposed Support Structure shall be designed to be the minimum height needed to meet the service objectives of the applicant.
- (3) In all districts, the [Zoning Board] shall have the authority to vary the height restrictions listed in this section upon the request of the applicant and a satisfactory showing of need for a greater height. With its waiver request the Applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the [Zoning Board].

(D) Aesthetics

- (1) Lighting and Marking. Telecommunications Facilities or Support Structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
- (2) Signage. Signs located at the Telecommunications Facility shall be limited to ownership and contact information, FCC antenna registration



number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.

- (3) Landscaping. In all districts, the [Zoning Board or Zoning Administrator] shall have the authority to impose reasonable landscaping requirements surrounding the Accessory Equipment. Required landscaping shall be consistent with surrounding vegetation and shall be maintained by the facility owner. The [Zoning Board or Zoning Administrator] may choose to not require landscaping for sites that are not visible from the public right-of-way or adjacent property or in instances where in the judgment of the [Zoning Board or Zoning Administrator], landscaping is not appropriate or necessary.
- (E) Accessory Equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the Telecommunication Facility or Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.

The Accessory Equipment must conform to the setback standards of the applicable zone. In the situation of stacked equipment buildings, additional screening/landscaping measures may be required by the [Zoning Board or Zoning Administrator].

## **VII. Miscellaneous Provisions.**

- (A) Fencing
  - (1) Ground mounted Accessory Equipment and Support Structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the [Zoning Board] or [Zoning Administrator].
  - (2) The [Zoning Board or Zoning Administrator] may waive the requirement of Subsection (1) above if it is deemed that a fence is not appropriate or needed at the proposed location.
- (B) Abandonment and Removal. If a Support Structure is Abandoned, and it remains Abandoned for a period in excess of twelve (12) consecutive months, the [Jurisdiction] may require that such Support Structure be removed only after first providing written notice to the owner of the Support Structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the Support Structure within thirty (30) days of receipt of said written notice. In the event the owner of the Support Structure fails to reclaim the Support Structure within the thirty (30) day period, the owner of the Support Structure shall be required to remove the same within six (6) months thereafter. The [Jurisdiction] shall ensure and enforce removal by means of its existing regulatory authority.

- (C) Multiple Uses on a Single Parcel or Lot. Telecommunications Facilities and Support Structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

**VIII. Telecommunications Facilities and Support Structures in Existence on the Date of Adoption of this Ordinance.**

- (A) Telecommunications Facilities and Support Structures that were legally permitted on or before the date this Ordinance was enacted shall be considered a permitted and lawful use.<sup>26</sup>
- (B) The provisions of this Part are limited to those structures that do not meet the height or setback requirements set forth in these regulations.
- (C) Non-conforming Support Structures
  - (1) Non-conforming Support Structure. Ordinary Maintenance may be performed on a Non-conforming Support Structure or Telecommunications Facility.
  - (2) Collocation and/or Minor Modifications of Telecommunications Facilities on an existing non-conforming Support Structure shall not be construed as an expansion, enlargement or increase in intensity of a non-conforming structure and/or use and shall be permitted through the Administrative Approval process defined in Section IV.
  - (3) Major Modifications may be made to non-conforming Support Structures utilizing the regulatory approval process defined in Section V.

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<sup>26</sup> This provides for the continued operation of existing facilities, which is necessary for maintenance of today's wireless networks, and which will serve as platforms for future network improvements.