

## Chapter 3.6 – Radio Frequency Transmission Facilities

### Sections:

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**3.6.100 Purpose.** The provisions of this section are intended to ensure that radio frequency transmission facilities are located, installed, maintained and removed in a manner that:

- A. Minimizes the number of transmission towers throughout the community;
- B. Encourages the collocation of radio frequency transmission facilities;
- C. Encourages the use of existing buildings, light or utility poles or water towers as opposed to construction of new radio frequency transmission towers;
- D. Recognizes the need of radio frequency transmission providers to build out their systems over time; and
- E. Ensures that all radio frequency transmission facilities, including towers, antennas, and ancillary facilities are located and designed to minimize the visual impact on the immediate surroundings and throughout the community, and minimize public inconvenience and disruption. Nothing in this section shall apply to amateur radio antennas, or facilities used exclusively for the transmission of television and radio signals.

### **3.6.200 Siting Requirements and Procedures**

- A. **Siting Restricted.** No radio frequency transmission facility, as defined in this land use code, may be constructed, modified to increase its height, installed or otherwise located within the city except as provided in this section. Depending on the type and location of the radio frequency transmission facility, the radio frequency transmission facility shall be either permitted via a Type I procedure, subject to site review procedures, or require a conditional use permit.
  1. Permitted Uses. A land use permit is required for a radio frequency transmission facility, which, pursuant to subsections B through D of this section, is a permitted use. Such a radio frequency transmission facility shall require only a development review using a Type I procedure in accordance with the land use review procedures in Section 4.2.300.
  2. Site Design Review. A radio frequency transmission facility which, pursuant to subsections B through D of this section, is subject to site design review shall be processed in accordance with the Type II site design review procedures in Chapter 4.2. The criteria contained in this section, as well as the criteria contained in Section 4.2.400, shall govern approval or denial of the site

review application. In the event of a conflict in criteria, the criteria contained in this section shall govern. No development permit shall be issued prior to completion of the site review process, including any local appeal.

3. Conditional Use Permit. A radio frequency transmission facility which, pursuant to subsections C or D of this section, requires a conditional use permit shall be processed in accordance with the conditional use permit procedures in Chapter 4.4, except that the variance provisions shall not apply. The criteria contained in Section 4.4.400 and Sections 3.6.300 and 3.6.400 of this section shall govern approval or denial of the conditional use permit application. In the event of a conflict in criteria, the criteria contained in Sections 3.6.300 and 3.6.400 of this section shall govern. No development permit shall be issued prior to completion of the conditional use permit process, including any local appeal.

#### **B. Collocation of Additional Antennas on Existing Transmission Tower**

1. Permitted Use. Collocation of an additional antenna on an existing transmission tower shall be permitted via a Type I procedure if property is zoned C-G, I or LI, or if the transmission tower is in any other zone and the city specifically approved, as part of a prior land use process authorizing the transmission tower, collocation of additional antennas.
2. Site Design Review. Collocation of an additional antenna on an existing transmission tower shall be subject to site design review approval if property is zoned R-HD, R-MD, R-LD, or C-C and approval for collocation was not granted through a prior land use process.

#### **C. Collocation of Antennas on Existing Buildings, Light or Utility Poles, and Water Towers.** In addition to collocation on a transmission tower, an antenna may be collocated on existing buildings, light or utility poles, and water towers.

1. Permitted Use. Such collocation on a building, light or utility pole, or water tower, shall be permitted via a Type I procedure provided that the antennas and ancillary facilities comply with the standards contained in this Chapter, the color of the antennas blends in with the existing structure and surroundings, and one of the following is met:
  - a. The property is zoned C-G, I or LI, and the antennas do not exceed the height limitation of the zone; or
  - b. The property is zoned R-HD, R-MD, R-LD, or C-C, and the antennas extend no more than 18 feet above, and project no more than 2 feet horizontally away from the existing structure.
2. Site Design Review. Such collocation on a building, light or utility pole, or water tower shall be subject to site design review approval provided that the antennas and ancillary facilities comply with the standards contained in this Chapter, the color of the antennas blend in with the existing structure and surroundings, and:
  - a. The property is zoned R-HD, R-MD, R-LD, or C-C, and the antennas extend more than 18 feet above, or project more than 2 feet horizontally away from the existing structure.

3. Conditional Use Permit. In all cases other than those listed in items (1) and (2) above, such collocation shall require a conditional use permit. No exceptions to the standards contained in this Chapter shall be permitted except as authorized by Section 3.6.600. In no event shall a conditional use permit authorize a tower or antennas to exceed the height limitation for a zone except as provided for in this section.

**D. Construction of Transmission Tower.** Construction of a transmission tower, or a modification of an existing transmission tower to increase its height, shall be allowed as follows:

1. Permitted Use.
  - a. Such construction or modification shall be permitted via a Type I procedure in the I zone.
  - b. Modification to increase the height of an existing transmission tower shall be considered a permitted use in all other zones if the city approved an increase in tower height, as part of a prior land use process authorizing the transmission tower. The increase in height allowed under this paragraph shall be limited to the specific height authorized in the prior land use process.
2. Site Design Review. Such construction shall require site design review approval in the LI zone.
3. Conditional Use Permit. Such construction shall require a conditional use permit in the C-G and C-C zones.
4. Prohibited Zones and Locations. No new transmission tower shall be permitted in any zones not included in items (1) through (3) above, including the R-HD, R-MD, and R-LD zones.

### 3.6.300 Application Requirements

**A. Collocation of Antennas.** In addition to standard required application material, an applicant for collocation of antennas shall submit the following information; additional application material is required, as specified in subsection C below, for applications requiring a site design review or conditional use process.

1. A description of the location, design and height of the proposed antennas, including detailed dimensions and proposed materials.
2. Photo simulations of the proposed antennas.
3. Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC) particularly with respect to any habitable areas within the structure on which the antennas are co-locating on or in structures directly across from or adjacent to the antennas.
4. A statement documenting that placement of the antenna is designed to allow future collocation of additional antennas if technologically possible.
5. Documentation that the ancillary facilities will not produce sound levels in excess of those

standards specified in Section 3.6.400.F, or designs showing how the sound is to be effectively muffled and reduced pursuant to those standards.

6. Plans showing the connection to utilities/right-of-way cuts required, ownership of utilities and easements required.
7. Documents demonstrating that necessary easements have been obtained.
8. Plans showing how vehicle access will be provided.
9. Signature of the property owner(s) on the application form or a statement from the property owner(s) granting authorization to proceed with development permit and land use processes.
10. If ancillary facilities will be located on the ground, a landscape plan drawn to scale showing proposed and existing landscaping, including type, spacing, size and irrigation methods.
11. Documents demonstrating that the FAA has reviewed and approved the proposal, and the Oregon Department of Aviation has reviewed the proposal. Alternatively, when a site design review or conditional use process is required, submit a statement documenting that notice of the proposal has been submitted to the FAA and Oregon Department of Aviation. The site design review or conditional use process may proceed and approval may be granted for the proposal as submitted, subject to FAA approval. If FAA approval requires any changes to the proposal as initially approved, then that initial approval shall be void. A new application will need to be submitted, reviewed and approved through an additional site design review or conditional use process. No development permit application shall be submitted without documents demonstrating FAA review and approval and Oregon Department of Aviation review.

**B. Construction of Transmission Tower.** In addition to standard required application material, an applicant for a transmission tower shall submit the following information; additional application material is required, as specified in subsection C below, for applications requiring a site design review or conditional use process:

1. A description of the location, design and height of the proposed tower, including detailed dimensions and proposed materials.
2. Photo simulations of the proposed tower.
3. The general capacity of the tower in terms of the number and type of antennas it is designed to accommodate.
4. Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC).
5. A signed agreement, as supplied by the city, stating that the applicant will allow collocation with other users, provided all safety, structural, and technological requirements are met. This agreement shall also state that any future owners or operators will allow collocation on the tower.
6. Documentation that the ancillary facilities will not produce sound levels in excess of those standards specified in Section 3.6.400.F, or designs showing how the sound is to be effectively muffled and reduced pursuant to those standards.
7. A landscape plan drawn to scale showing proposed and existing landscaping, including type, spacing, size and irrigation methods.
8. Plans showing the connection to utilities/right-of-way cuts required, ownership of utilities and easements required.

9. Documents demonstrating that necessary easements have been obtained;
10. Plans showing how vehicle access will be provided;
11. Signature of the property owner(s) on the application form or a statement from the property owner(s) granting authorization to proceed with development permit and land use processes;
12. Documents demonstrating that the FAA has reviewed and approved the proposal and Oregon Department of Aviation has reviewed the proposal. Alternatively, when a site design review or conditional use process is required, submit a statement documenting that notice of the proposal has been submitted to the FAA and Oregon Department of Aviation. The site design review or conditional use process may proceed and approval may be granted for the proposal as submitted, subject to FAA approval. If FAA approval requires any changes to the proposal as initially approved, then that initial approval shall be void. A new application will need to be submitted, reviewed and approved through an additional site review or conditional use process. No development permit application shall be submitted without documents demonstrating FAA review and approval and Oregon Department of Aviation review.

**C. Site Design Review and Conditional Use Permit Applications.** In addition to the application requirements specified in subsection B above, applications for site design review or conditional use permits also shall include the following information:

1. A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed tower, antennas, and ancillary facilities from at least 5 points within a 3-mile radius. Such points shall be chosen by the provider with review and approval by the planning director to ensure that various potential views are represented.
2. Documentation that alternative sites within a radius of at least  $\pm 1$  mile ( $\pm 5,280$  feet) have been considered and have been determined to be technologically unfeasible or unavailable. For site design reviews, alternative sites zoned I or LI must be considered. For conditional use permits, alternative sites zoned I, LI, C-G or C-C must be considered.
3. Evidence demonstrating collocation is impractical on existing tall buildings, light or utility poles, water towers, existing transmission towers, and existing tower facility sites for reasons of structural support capabilities, safety, available space, or failing to meet service coverage area needs.
4. A current overall system plan for the city, showing facilities presently constructed or approved and future expansion plans.
5. A statement providing the reasons for the location, design and height of the proposed tower or antennas.

**3.6.400 Standards for Transmission Towers and Antennas.** Installation, construction or modification of all transmission towers and antennas shall comply with the following standards, unless a variance is obtained pursuant to the provisions of Section 3.6.600:

**A. Separation Between Transmission Towers.** No transmission tower may be constructed within 2000 feet of any pre-existing transmission tower. Tower separation shall be measured by following a straight line from the portion of the base of the proposed tower, which is closest to the base of any

pre-existing tower. For purposes of this paragraph, a tower shall include any transmission tower for which the city has issued a development permit, or for which an application has been filed and not denied. Transmission towers constructed or approved prior to August 27, 2015, may be modified to accommodate additional providers consistent with provisions for collocation in this section.

- B. Height Limitation:** Transmission tower heights are subject to structural height standard in the zone. Approval may be obtained for taller structures through a Conditional Use Permit application. No transmission tower shall exceed the maximum heights provided below. In no case shall a variance be granted from the limitations of items (1) and (2) below.
1. If located within an I or LI zone, the maximum height of a transmission tower, including antennas, is 200 feet.
  2. If located within a C-G or C-C zone, the maximum height of a transmission tower, including antennas, is 100 feet.
  3. If located within an R-HD, R-MD, or R-LD zone, the maximum height of a transmission tower, including antennas, is 75 feet, unless a variance is granted pursuant to the provisions of Section 3.6.600. In no event shall a variance be granted to construct such a tower in excess of 100 feet.
- C. Collocation.** New transmission towers shall be designed to accommodate collocation of additional providers:
1. New transmission towers of a height of 80 feet or more shall be designed to accommodate collocation of a minimum of 2 additional providers either as proposed or through future modification to the tower.
  2. New transmission towers of a height of at least 60 feet and no more than 80 feet shall be designed to accommodate collocation of a minimum of 1 additional provider either as proposed or through future modification to the tower.
- D. Setback.** The following setbacks from adjacent property lines and adjacent streets shall be required unless a variance is granted pursuant to the provisions of Section 3.6.600:
1. If located within an I zone, no setback from adjacent property lines shall be required beyond that required by this land use code.
  2. If located within a LI, C-G or C-C zone, the transmission tower shall be set back from adjacent property lines a minimum number of feet that is equal to the height of the transmission tower.
- E. Buffering.** In all zones, existing vegetation shall be preserved to the maximum-extent possible. In the I and LI zones, no buffering is required beyond that required by this land use code. In all other zones, landscaping shall be placed completely around the transmission tower and ancillary facilities located at ground level except as required to access the facility. Such landscaping shall consist of evergreen vegetation with a minimum planted height of 6 feet placed densely so as to form a screen. Landscaping shall be compatible with other nearby landscaping and shall be kept healthy and well maintained.

- F. Noise Reduction.** In R-HD, R-MD, and R-LD, and in all other zones when the adjacent property is zoned for residential use or occupied by a dwelling, hospital, school, library, or nursing home, noise generating equipment shall be sound-buffered by means of baffling, barriers, or other suitable means to reduce sound level measured at the property line to 45dBa.
- G. Status of Location.** No permit may be issued for the location of a new radio frequency transmission facility within an R-HD, R-MD, or R-LD zone unless the lot on which it is to be placed is developed with a non-residential use at the time the permit application is submitted. This restriction does not apply within other zones.
- H. Lighting.** No lighting shall be permitted on transmission towers except that required by the Federal Aviation Administration. No high intensity white lights may be located on transmission towers in an R-HD, R-MD, or R-LD zone.
- I. Color.** The transmission tower and attached antennas shall be unpainted galvanized steel or painted neutral colors or such shades as are appropriate and compatible with the surrounding environment, as approved by the city.
- J. Viewshed.** The transmission tower shall be located down slope from the top of a ridgeline so that when viewed from any point along the base of the hill, the tower does not interrupt the profile of the ridgeline. Visual impacts to prominent views of the Elkhorn Mountains and Eagle Cap Mountains shall be minimized to the greatest extent possible. Approval for location of a transmission tower in a prominent view of these Mountains shall be given only if location of the transmission tower on an alternative site is not possible as documented by application materials submitted by the applicant, and the transmission tower is limited in height to the minimum height necessary to provide the approximate coverage the tower is intended to provide.
- K. Display.** No signs, striping, graphics or other attention getting devices are permitted on the transmission tower or ancillary facilities except for warning and safety signage with a surface area of no more than 3 ft<sup>2</sup>. Such signage shall be affixed to a fence or ancillary facility and the number of signs is limited to no more than two (2).
- L. Camouflage.** All new transmission towers must be designed to visually and operationally blend into the surrounding area in a manner consistent with existing development on adjacent properties. The facility must also be appropriate for the specific site. In other words, it should not “stand out” from its surrounding environment.
- M. Compliance with Photo Simulations.** As a condition of approval, and prior to final inspection of the facility, the applicant must submit evidence, such as photographs, to the satisfaction of the City sufficient to prove that the facility is in substantial conformance with photo simulations provided with the application. Non-conformance requires modification to compliance within 90 days or the structure must be removed.

**3.6.500 Standards for Ancillary Facilities.** All ancillary facilities shall comply with the standards of Sections 3.6.400.E and 3.6.400.F. In addition, all ancillary facilities within an R-HD, R-MD, or R-LD zone must be located underground to the maximum extent technology allows, unless a variance is obtained pursuant to the provisions of Section 3.6.600. This restriction does not apply within other zones.

**3.6.600 Variance**

- A. Any variance to the requirements of this section shall be granted only pursuant to the following provisions. The criteria for granting a variance shall be limited to this section, and shall not include the standard variance criteria of Chapter 5.1.
- B. The city may grant a variance from the provisions of Section 3.6.400.A of this section providing the applicant demonstrates that:
  - 1. It is technologically impossible to locate the proposed tower on available sites more than 2,000 feet from a pre-existing transmission tower and still provide the approximate coverage the tower is intended to provide;
  - 2. The pre-existing transmission tower that is within 2,000 feet of the proposed tower cannot be modified to accommodate another provider; and
  - 3. There are no available buildings, light or utility poles, or water towers on which antennas may be located and still provide the approximate coverage the tower is intended to provide.
- C. The city may grant a variance to the setback and undergrounding requirements of Sections 3.6.400.D or 3.6.500 upon finding that stealth design, proposed landscaping, configuration of the site, or the presence of mature trees obviates the need for compliance.
- D. The city may grant a variance to the 75-foot height limitation in the R-HD, R-MD, or R-LD zone to a maximum of 100 feet providing the applicant demonstrates that modifying a transmission tower taller than 75 feet will not affect the Viewshed regulations of Section 3.6.400.J.
- E. If the proposed transmission tower or ancillary facility requires site design review or a conditional use permit, the request for variance shall be considered as part of the site design review or conditional use permit process. If the proposed transmission tower or ancillary facility can be permitted via a Type I procedure, the request for a variance shall be processed in accordance with the Type II application procedures in Section 4.1.300.

**3.6.700 Removal of Facilities**

- A. All transmission towers and antennas shall be removed by the person who constructed the facility, by the person who operates the facility, or by the property owner, within 6 months of the time that the facilities have ceased being used to transmit, receive or relay voice and data signals to or from wireless communication devices. The city manager may grant a 6-month extension where a written

request has been filed, within the initial 6-month period, to reuse the tower or antennas.

- B. If a transmission tower is located within an R-HD, R-MD, or R-LD zone, the provisions of subsection A also shall apply to the tower substructure and all above ground ancillary facilities.
- C. The city may require the posting of an open-ended bond before development permit issuance to insure removal of the transmission tower, substructure or antennas after the facility no longer is being used.

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