TELECOMMUNICATIONS FACILITIES
(CITY FILE# TA 20-01)
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FINAL FINDINGS

City of Canby

TELECOMMUNICATIONS FACILITIES TEXT AMENDMENT
STAFF REPORT
TA 20-01

APPLICANT: City of Canby
APPLICATION TYPE: Text Amendment (Type IV)
CITY FILE NUMBER: TA 20-01

I. OVERVIEW:

City Planning Staff are requesting consideration of a legislative text amendment to bolster, streamline, clarify, and update numerous sections of the Canby *Land Development and Planning Ordinance* Title 16 Canby Municipal Code (CMC). The text amendment proposal is an effort to modernize the telecommunications code in the City of Canby and to properly position the City to manage new telecommunications technology that is proliferating rapidly throughout the United States and Oregon.

Federal preemption over regulation limits the City's ability to place restrictions on telecommunications deployment. However, this code as proposed, will balance the need to place reasonable parameters on telecommunications facilities in Canby with what Federal law prescribes. The code itself has been reorganized so that it can be located in an easily identifiable section – Chapter 16.55 Telecommunications Facilities. Planning staff used a variety of sources to craft the text amendments including the League of Oregon Cities, National Association of Towns and Counties, Oregon City, and Lane County.

The modernization of this code will allow City staff to utilize a framework of objective requirements to evaluate new telecommunications deployment and to provide a more easily understood application process for telecommunications companies seeking to place equipment in the City. This expands the current code from just macro telecommunications to include small cell deployment.

The purpose of this staff report is to summarize the text amendments and to provide findings of fact related to the text amendment process.

II. PROPOSED TEXT AMMENDMENT SUMMARY:

Table 1 on the following page describes the section of Title 16 subject to change and a summary of those changes. The exact language of the amendments are included as attachments under section V of this staff report. The bulk of the proposed amendments are found in the new Section 16.55 –

Telecommunications Facilities whereas the remainder of the changes are intended to make Title 16 as a whole consistent with the changes.

TABLE 1 – SUMMARY OF PROPOSED TEXT AMMENDMENTS

16.04 – DEFINITIONS
Removed and updated definitions. Added new definitions consistent with Federal law and more accurately describe current wireless telecommunications technology.
16.08 – GENERAL PROVISIONS
Completely removed the nested telecommunications standards from the general provisions chapter.
16.22 – C-1 DOWNTOWN COMMERCIAL ZONE
Updated this chapter to be consistent with the new Chapter 16.55 and to direct the user to that section for specific telecommunications standards in this zone.
16.24 – C-R RESIDENTIAL COMMERCIAL ZONE
Updated this chapter to be consistent with the new Chapter 16.55 and to direct the user to that section for specific telecommunications standards in this zone.
16.28 – C-2 HIGHWAY COMMERCIAL ZONE
Updated this chapter to be consistent with the new Chapter 16.55 and to direct the user to that section for specific telecommunications standards in this zone.
16.30 – C-M COMMERCIAL/MANUFACTURING
Updated this chapter to be consistent with the new Chapter 16.55 and to direct the user to that section for specific telecommunications standards in this zone.
16.34 – M-2 HEAVY INDUSTRIAL
Updated this chapter to be consistent with the new Chapter 16.55 and to direct the user to that section for specific telecommunications standards in this zone.
16.32 – M-1 LIGHT INDUSTRIAL
Updated this chapter to be consistent with the new Chapter 16.55 and to direct the user to that section for specific telecommunications standards in this zone.
16.55 – TELECOMMUNICATIONS FACILITIES
New chapter added to Title 16. Modernizes existing language for macro telecommunications facilities and bolsters application requirements for all telecommunications facilities. Includes new language for micro telecommunications facilities in the rights-of-way and on private real property. This language is the synergistic results of model code, along with Planning Commission and City Council suggestions.

III. APPLICABLE REGULATIONS AND CODE PROVISIONS

The applicable regulations in the Canby Municipal Code for the text amendment process are described below with responses by Staff regarding Facts and Findings.

Division VIII – General Standards

16.88.170 Amendments to text of title

In judging whether or not this title should be amended or changed, the Planning Commission and City Council shall consider:

A. **Authorization to Initiate Amendments.** An amendment to the text of this tile may be initiated by City Council, by the Planning Commission or by the application of a property owner or his authorized agent. The Planning Commission shall, within forty days, after closing the hearing, recommend to the City Council, approval, disapproval, or modification of the proposed amendment.

Facts and Findings: This amendment is initiated by Planning Staff on direction from City Attorney and the Planning Director.

B. **Application and Fee.** Application procedures shall be as described in Chapter 16.89.

Facts and Findings: This proposal in an internal City process; all application procedures are followed as applicable.

C. **Public Hearing on an Amendment.** Before taking final action on a proposed amendment, the Planning Commission shall hold a public hearing on the amendment following the requirements for advertising and conduct of hearings prescribed in Division VIII.

Facts and Findings: The public hearing on November 9, 2020 follows all applicable noticing requirements per Canby Municipal Code and Oregon Revised Statute. The public hearing shall be conducted according to the standards prescribed in Division VIII.

D. **Standards and Criteria.** In judging whether or not this title should be amended or changed, the Planning Commission and City Council shall consider:

1. The Comprehensive Plan of the City, and the plans of the County, State, and local districts, in order to preserve functions and local aspects of land conservation and development;

Facts and Findings: The Comprehensive Plan of the City remains largely unaffected with this proposal. The text amendment is generally supported by the Comprehensive Plan's Public Facilities and Services Element - Goal 6: "To assure the provision of a full range of public facilities and services to meet the needs of the residents and property owners of Canby".

The amendments as proposed are consistent with the County and State regulations in that the amendments were created with guidance from organizations like the League of Oregon Cities. Many jurisdictions throughout Oregon are engaging in similar amendments to their respective ordinances to properly adjust for the dynamic changes in the telecommunications industry. This amendment preserves the functions and local control of land conservation and development within the City of Canby.

2. A public need for change;

Facts and Findings: The need for this amendment is largely driven by the need to adapt to the telecommunications industry so that the City can have reasonable time, place and manner

regulations in place for telecommunications facility deployment. Without these amendments, the City of Canby and thus the public will be at the whim of any telecommunications provider deploying facilities with no formal review process established by the City.

3. Whether the proposed change will serve the public need better than any other change which might be expected to be made;

Facts and Findings: This amendment is the best course of action at the present time. The amendments as proposed allow for the City to regulate the deployment of telecommunications facilities in the City more effectively than previously established. These changes are in balance with Federal laws and regulations. No code changes at this juncture would result in a lost opportunity for the City of Canby to regulate telecommunications in a fair and objective manner inside its jurisdictional boundaries.

4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;

Facts and Findings: The proposed amendments provide a framework based on largely agreed upon standards for the telecommunications industry and Federal law. As part of this amendment, requirements are stated for documenting that telecommunications deployments are consistent with Non-Ionizing Electromagnetic Radiation (NIER) standards. Without this text amendment, the City would not have the opportunity to verify that this documentation has been prepared.

5. Statewide Planning Goals.

Facts and Findings: The following Statewide Planning Goals apply to this application:

Goal 1: Citizen Involvement.

The Planning Commission will make a recommendation to the City Council on this application in a public hearing which was noticed in the Canby Herald. Additionally, this amendment has been discussed in 5 separate work sessions with the City Council and Planning Commission. Each public meeting or work session has had time set aside for the public to provide comments related to the proposed telecommunications amendments.

Goal 11: Public Facilities and Services.

Although this goal is not directly applicable to the changes, the text amendments, such as changes to the methods and location of the deployment of telecommunications facilities will allow for a more efficient and effective regulation framework for public facilities in the City of Canby.

IV. RECOMMENDATION

Based on the findings and conclusions presented in this report, and without benefit of a public hearing, staff recommends that the Planning Commission advance a recommendation of approval on to the City Council the changes outlined in TA 20-01.

V. ATTACHMENTS:

A. Proposed Text Amendments

B. Previous Work Session Packets

Chapter 16.55

Telecommunications Facilities

Sections:

16.55.010 Purpose.

A. The purpose of this chapter is to:

1. Manage the deployment of wireless telecommunications facilities and ancillary equipment consistent with Federal law and regulations.

2. Place reasonable and appropriate time, place, and manner restrictions on telecommunications deployment consistent with Federal law and regulations.

3. Encourage the placement of telecommunications facilities in appropriate locations for both the provider and the City.

4. Provide City of Canby residents and businesses with a wide range of telecommunications and wireless options.

5. Provide for the safe construction, location, erection and maintenance of telecommunications equipment.

6. Encourage collocation of telecommunications equipment wherever possible.

7. Establish a simple and efficient regulatory process.

8. Develop a consistent and well-understood application process for telecommunications providers and for City staff.

9. Reduce the visual impact of certain wireless telecommunications systems facilities by encouraging collocation.

10. Implement the applicable provisions of the Federal Telecommunications Act of 1996.

11. Implement Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), commonly referred to as the Spectrum Act.

12. Implement FCC Order 18-133, effective August 15, 2019.

16.55.015 Definitions.

A. Abandoned Telecommunications Equipment. Defined as a facility and/or equipment that has been in disuse continuously for 365 days and no longer has a known owner or FCC licensee.

B. Antenna. Defined in 47 C.F.R. § 1.6002(b). Defined as an apparatus designed for the purpose of emitting radio frequencies (RF) to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15

C. Antenna (Ancillary) Equipment. Defined in 47 Code of Federal Regulations (C.F.R) § 1.6002(c). This term includes equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

D. Applicant. Defined as any person who represents and submits an application on behalf of a wireless provider.

E. Application – Telecommunications. A written request submitted by an applicant (1) for permission to collocate wireless facilities; or (2) to approve the installation, modification or replacement of a structure on which to install a wireless facility in the rights-of-way or on private property where required. (3) The application consists of a form provided by the City with accompanying materials provided by the applicant.

F. City. Defined as the City of Canby, Oregon. (Ord. 740 section 10.1.20(B)[part], 1984)

G. City Engineer. The Oregon-registered Professional Engineer designated to review development within the City.

H. City-Owned Infrastructure. Means infrastructure within the City limits and Urban Growth Boundary. Specifically, real property and public rights-of-way or public easements, including but not limited to street lights, traffic devices and signals, towers, structures, buildings, and utilities that are owned, operated and/or maintained by the City.

I. Collocation. Defined in 47 C.F.R. § 1.6002(g). Term describes: (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. "Collocate" has a corresponding meaning.

J. Day. A calendar day. For purposes of land use application timelines determined by ORS 227.178(1) and FCC "shot clock" regulations for decisions related to telecommunications, a terminal day that falls on a holiday or weekend shall be deemed to be the next immediate business day.

K. Designee. A City staff person authorized by the City Engineer or Planning Director to process telecommunications facility permits.

L. Licensee. A telecommunication utility registered with the City pursuant to the Telecommunications Section of the Development Code 16.55.

M. Macro Cell Wireless Facility. A telecommunications facility that meets any of 1 through 3 below.

1. Facilities mounted on structures greater than 50 feet including the antennas.

2. Facilities mounted on structures that are more than 10 percent taller than any other adjacent structures.

3. Facilities that extend the height of existing structure(s) on which the antennas are located by more than 50 feet or more than 10 percent, whichever is greater.

4. The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47g Code of Federal Regulations (CFR) § 1.1307(b).

N. Micro Cell Wireless Facility. A facility that meets each of the following conditions per 47 C.F.R § 1.6002(l), which may be amended or superseded:

1. Facilities mounted on structures 50 feet or less in height including the antennas.

2. Facilities mounted on structures no more than 10 percent taller than other adjacent structures.

3. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;

4. All other wireless equipment associated with the structure, including wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

5. The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

O. NESC. The current up to date version of the National Electric Safety Code (NESC) as approved by the Institute of Electric and Electronics Engineers (IEEE).

P. Planning Director. The City staff person who oversees the Planning Department and reviews or appoints staff to review land use applications for telecommunications facilities.

Q. Public Rights-of-Way. Defined as the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements, and all other public ways or areas, including the subsurface under and air space over these areas, excluding parks, parklands and other City property that is not generally open to the public for the purposes of travel. This definition only applies to the extent of the City's right, title and interest to grant a license to occupy and use such areas for utility facilities.

R. Strand Mounted Equipment. Defined as telecommunications antennas that are mounted on cable, conduit, wire or other similar materials strung between two or more poles or structures.

16.55.020 Applicability

A. The Telecommunications Facilities Chapter applies to the following:

1. Proposed new telecommunications facilities, collocations, antennas, equipment, poles, towers, and ancillary facilities typically associated with telecommunications equipment.

2. Replacement poles, towers, collocations and antennas and equipment.

3. Modifications to existing or proposed telecommunications facilities, collocations, antennas, equipment, poles and ancillary facilities typically associated with telecommunications equipment.

16.55.025 Administration.

A. Permit Required. All telecommunications equipment deployed, collocated, placed, replaced, installed and erected after the effective date of this chapter, other than telecommunications equipment that is exempt from permit requirements per 16.55.50 shall require a permit. Applications shall be made on forms provided by the Planning Director with attached required information stated in the application form and in the Permit Requirements Section 16.55.30.

B. Fee. A fee as established by resolution of the City Council shall be paid to the City of Canby upon the filing of an application. Such fees shall not be refundable.

C. Construction and Maintenance. All telecommunications equipment and ancillaries, including: poles, cabinets, and power supplies (whether above or underground), shall meet all applicable requirements of building, structural, mechanical and electrical codes.

1. All telecommunications equipment shall be kept in good repair and maintained in a safe, neat, and clean condition. Telecommunications equipment shall be designed and deployed to reduce the impact of its visual appearance.

2. No telecommunications equipment shall be erected or maintained in such a manner that any portion of its surface will interfere with the free use of—or any access to—any fire escape, exit or standpipe.

3. No telecommunications equipment shall be deployed in a location that creates an immediate danger to the safety and welfare of the public by blocking vision for either pedestrians or motorists at public and/or private roadways, intersections, driveways, paths, sidewalks or railroad crossings.

D. Appeal. Appeals are limited to procedures set forth in Chapter 16.89 for land use decisions pursuant to requirements in Chapter 16.89. Appeals of building permit decisions are decided by the Clackamas County Building Official.

E. Permit Expiration. Every permit issued by the Clackamas County Building Official under the provisions of this chapter shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one-half of the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and

specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year.

F. Permit Suspension or Revocation. The Planning Director and City Engineer or their duly authorized representative may, in writing, suspend or revoke a permit issued under provisions of this chapter whenever the permit is issued on the basis of incorrect information supplied, or in violation of applicable ordinance or regulation or any of the provisions of this chapter.

G. Variance / Deviation from Standards. The procedures which allow variations from the strict application of the regulations of this Title, by reason of exceptional circumstances and other specified conditions, are set forth in 16.55(H) and when applicable Chapter 16.53.

H. Conditional Use Telecommunications Equipment and Design Review. Telecommunications equipment that is proposed and does not meet the Type I Review Process shall be processed under a Design Review Type II or III process at the discretion of the City Engineer or Planning Director. A Conditional Use Permit for certain major installations of macro telecommunications equipment shall be required.

I. Timelines 'Shot Clock' for Processing Telecommunications Equipment. Pursuant to the Telecommunications Act of 1996, provisions of the Middle-Class Tax Relief and Job Creation Act of 2012 (Commonly Referred to as the Spectrum Act) and; FCC 18-133 (Small Cell Order), applications to permit telecommunications shall be consistent with 47 CFR Section 1.6003 – Reasonable Periods of Time to Act of Siting Applications.

1. Review Periods for Individual Applications

a. Micro Telecommunications Facility Minor Installation Permit – Collocations on existing infrastructure. Applications shall comply with regulation and documentation/permissions as set forth by Federal, State, and City standards. The review period for applications shall be 60 days upon receipt of a materially complete application. These applications will be reviewed through a Type I Site / Design Review process.

b. Micro Telecommunications Facility Major Installation Permit – Deployment and construction of proposed new infrastructure. Applications for compliant sizes, locations, and aesthetics with necessary supportive documentation permissions as set forth by Federal, State, and City standards. The review period for these applications shall be 90 days upon receipt of a materially complete application. These applications will be reviewed through a Type I Site/Design Review process.

c. Macro Telecommunications Minor Installation Permit – Collocations on existing infrastructure. Applications shall comply with regulation and documentations/permissions as set forth by Federal, State, and City standards.

The review period for applications shall be 90 days upon receipt of a materially complete application. These applications will be reviewed through a Type I Site / Design Review process.

d. Macro Telecommunications Tower/Structure Major Installation Permit – Deployment and construction of a macro telecommunications tower and associated equipment. Applications shall comply with regulation and documentation/permissions as set forth by Federal, State and City standards. The review period for applications shall be 150 days upon receipt of a materially complete application. These applications will be reviewed through a Type II or III Site / Design Review and under certain proposals with a Conditional Use Permit process.

2. Incomplete Applications

a. For an initial application to deploy Micro Wireless Facilities, if the Planning Director/City Engineer or designee notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the City to render the application complete.

b. For an initial application to Deploy a new Macro Telecommunications Tower/Structure or major installation permit, incomplete applications shall treated the same as described in ORS 227.178.

3. Complete Applications

c. Applications shall be deemed complete when the Planning Director and/or City Engineer or designee(s) have determined that the applicant has supplied sufficient information as required by Section 16.55.30 and that the application materials are accurate, true, and addresses the criteria of this division and all other applicable sections of Canby Municipal Code.

16.55.030 Telecommunications Equipment Permit Applications

A. Telecommunications facilities within the public rights-of-way are reviewed by the City Engineer and/or Planning Director, or their authorized designee(s), in accordance with the process described below:

1. *Micro Telecommunications Facility Minor Installation Permit – installations on existing third-party infrastructure*. Applications shall comply with regulation and documentations/permissions as set forth by Federal, State, and City standards. Applications shall clearly denote the below outlined requirements.

2. *Micro Telecommunications Facility Major Installation Permit – installations on existing City-owned infrastructure or proposed new infrastructure.* Applications for compliant sizes, locations, and aesthetics with necessary supportive documentation permissions as set forth by Federal, State, and City standards.

B. Telecommunications facilities within private and public property that are outside the public rights-of-way are reviewed by the Planning Director, or authorized designee(s), in accordance with the process described below:

1. *Macro Telecommunications Minor Installation Permit – installations on existing third-party infrastructure and certain new deployments.* Applications shall comply with regulation and documentations/permissions as set forth by Federal, State, and City standards. Applications shall clearly denote the below outlined requirements.

2. *Macro Telecommunications Major Installation Permit – installations on existing third party infrastructure or proposed new infrastructure.* Applications for compliant sizes, locations, and aesthetics with necessary supportive documentation permissions as set forth by Federal, State, and City standards.

C. General Application Requirements

All telecommunications equipment permit applications shall include the following items:

1. Aerial vicinity map indicating the location of the existing and/or proposed wireless support tower/structure to which the telecommunications facility will be attached. The vicinity map shall also indicate all known telecommunications facilities within a 1000 foot radius centered on the proposed deployment area.

2. Aerial vicinity map detailing the propagation area for the proposed telecommunication equipment as well as existing propagations of facilities owned or leased by the applicant.

3. Street view images, rendering or photographs showing the existing and proposed conditions of the project site. The images shall demonstrate how equipment will be visually screened, shrouded, concealed or blended with the surroundings.

4. A scaled site plan, prepared by a professional engineer or surveyor licensed in the State of Oregon showing at a minimum:

a. Proposed tower, pole or structure to which the small cell equipment will be attached; including: lease area (if applicable).

b. Location of supporting ancillary equipment, including: power supply, cooling equipment, cable, etc.

c. Street names and addresses.

d. Right-of-way lines, property lines, proposed utilities (above and below grade), curb, sidewalks, driveways, streets, paths, structures, street lights, traffic signals. All conflicts with existing structure shall be indicated on the plan with a description on how the anticipated conflict will be remediated.

e. If equipment is placed below grade, the nearest location to access the equipment placed below grade.

5. Structural analysis, prepared and stamped by a professional engineer licensed in the State of Oregon. The analysis shall include evaluation of the existing and/or proposed wireless support structure and demonstrate how the foundation is structurally adequate to safely support the proposed telecommunications facilities. The analysis shall also demonstrate consistency with NESC for structural stability to determine whether the structure can carry the proposed telecommunications facility and comply with applicable NESC and structural safety code.

6. Engineered details of proposed telecommunications facilities, including elevations/profiles, plans and sections, clearly indicating the following:

a. Height, width, depth, and volume (in cubic feet) of all proposed antenna and exposed elements and/or proposed antenna enclosures.

b. Height, width, depth, and volume (in cubic feet) of proposed wireless equipment associated with the facility including electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services as applicable.

c. Method of installation/connection.

d. Color specifications for proposed wireless support structures and associated exposed equipment, cabinets, and concealment elements.

e. Electrical plans and wiring diagrams.

f. Footing and foundation drawings and structural analysis, sealed and signed by a professional engineer licensed in the State of Oregon.

7. Permission to use utility pole or alternative antenna structure: The operator of a wireless telecommunication facility shall submit to the City a copy of the written approval from the owner of an existing utility pole, monopole, or an alternative antenna structure, to mount the wireless telecommunication facility on that specific pole, tower, or structure, prior to issuance of the City permit. This permission shall be provided in a form that clearly indicates authorized permission, such as a provided:

Lease or franchise agreement, memorandum of understanding, signed authorization form or other format deemed acceptable to the City Engineer / Planning Director or their designee.

8. Manufacturer's specification sheets for proposed telecommunications facility equipment, including wireless support structures, equipment cabinets, shrouds or concealment devices, antennas, meters, radios, switches, telecommunications demarcation boxes, and grounding equipment.

9. Certification by an Oregon-registered professional engineer that the new or modified telecommunication facility complies with the non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC).

10. A signed statement of the equipment owner's removal responsibilities should the equipment no longer be used and abandoned. The statement shall indicate that after 365 days of continuous non-use, the equipment is subject to removal by the City of Canby or the utility provider.

11. Documentation showing that the applicant has an FCC license for the geographic region and for the service proposed by the collocation if applicable.

12. A secured bond providing for the required tower or pole removal cost and replacement and repair of lease or deployment area to pre-deployment condition.

13. A statement with accompanying diagrams and plans that describes visual shrouding and concealment design techniques for antennas and ancillary equipment.

14. Other information requested in the application form provided by the City Engineer/Planning Director and their designee(s), such as but not limited to, peer review of the proposed telecommunications facility system design by an independent, Oregon-registered engineering firm. During the review and approval process, the Director may request additional information including but not limited to, balloon tests, photo simulations, and other measures of visual impact.

16.55.035 Micro Telecommunications Additional Permit Requirements

A. In addition to the General Permit Requirements stated in 16.55.030 above, the applicant shall provide a detailed narrative with accompanying objective information describing how the proposed collocation meets the definition of Small Wireless Facilities established with FCC 18-133, listed below.

1. The micro telecommunications facilities:

a. Are mounted on structures 50 feet or less in height including their antennas as defined in CFR § 1.1320(d)ii; or

b. Are mounted on structures no more than 10 percent taller than other adjacent structures; or

c. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

d. Contain antenna(s) associated with the deployment, excluding associated antenna equipment (as defined in the definition of ‘‘antenna’’ in § 1.1320(d)), which are no more than three (3) cubic feet in volume.

e. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.

f. Do not require antenna structure registration.

g. Do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in § 1.1307(b).

16.55.40 Macro Telecommunications Additional Permit Requirements

A. In addition to the General Permit Requirements stated in 16.55.030 above, the applicant shall provide the following applicable information:

1. A copy of the lease agreement (or lease memo) with the property owner in which the macro telecommunications facility is proposed.

2. A letter from the owner of the telecommunications facility acknowledging that if the facility is abandoned or in continual disuse for more than 1 year that it must be removed. The owner shall submit a bond for the approximate cost to remove the structure for review prior to development permit approval.

3. A map of the City showing the approximate geographic limits of the cell coverage area to be generated by the facility. This map shall include the same information for all other facilities owned or operated by the applicant within the City and any existing detached telecommunications facilities of another provider within 1,000 feet of the proposed site.

4. Anticipated capacity of the telecommunications facility (including number and types of antennas which can be accommodated).

5. The method(s) of stealth design (where applicable).

6. The radio frequency range in megahertz and the wattage output of the equipment.

7. A description of the type of service offered (voice, data, video, etc.) and the consumer-receiving equipment.

8. Identification of the provider and backhaul provider, if different.

9. A facilities maintenance regimen.

10. The zoning and comprehensive plan designation of the proposed site.

11. The FAA determination for the proposed tower.

12. The distance from the nearest telecommunications facility.

13. Major Permit Applications Additional Requirements:

a. Items in section (E) above.

b. Alternatives for locating/relocating support structures within 250 feet of the proposed site.

c. Photo simulations of the proposed telecommunications facility from the four cardinal compass points and/or abutting right-of-way, whichever provides the most accurate representation of the proposed facility from a variety of vantage points.

d. An engineer's statement demonstrating the reasons why the telecommunications facility must be located at the proposed site (service demands, topography, dropped coverage, etc.).

e. An engineer's statement demonstrating the reasons why the telecommunications facility must be constructed at the proposed height.

f. Documentation of good faith efforts made to locate or design the proposed telecommunications facility to qualify for a less rigorous approval process (building permit and/or building permit and site and design review approval).

16.55.045 Micro Telecommunications Facility Siting and Design Standards

A. The purpose of this section is provide review procedures and acceptable time, place, and manner constraints on the installation, placement and deployment of micro cell wireless telecommunications facilities within the public-rights-of-way in the City of Canby.

B. General Requirements.

1. Antenna(s).

a. Antenna(s) shall be the smallest possible to achieve the coverage objective.

b. All antennae shall be shrouded or sun-shielded when technically feasible. All shrouds and equipment shall be painted to match the existing pole or new pole as applicable. Paint shall be maintained regularly and shrouds replaced or repainted if necessary to maintain visual concealment.

c. The total volume of multiple antennas on one structure shall not exceed fifteen (15) cubic feet, unless additional antenna volume is requested and approved pursuant to Section I.

d. Antennas and antenna equipment shall not be illuminated, except as required by municipal, Federal or State authority, provided this shall not preclude deployment on a new or replacement street light.

2. Replacement and/or New poles.

a. Replacement poles and all antenna equipment shall comply with the Americans with Disabilities Act (ADA), City construction and sidewalk clearance standards and City, State and Federal laws and regulations in order to provide a clear and safe passage within, through and across the right-of-way. Further, the location of any replacement pole, new pole, and/or antenna equipment must comply with applicable traffic requirements, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect public health, safety or welfare.

b. Replacement or relocation of telecommunications infrastructure that is triggered by other development such as public or private infrastructure improvements shall be conducted at cost to the telecommunications provider.

c. Replacement or relocation of telecommunications infrastructure that is triggered by other development such as required public or private infrastructure improvements shall be conducted within 30 days from the start of the improvements.

d. Replacement poles shall be located as near as feasible to the existing pole. The abandoned pole must be removed within 90 days. The prior pole location must be returned to the same condition at grade prior to its installation.

e. Replacement pole(s) shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

3. Ancillary equipment such as cooling equipment, cabinets, shelters, switches, wiring, cabling, power sources, or similar equipment shall be required to be placed underground wherever feasible. If not technically feasible, this equipment shall be concealed, shrouded, blended or otherwise have its visual impact reduced to the greatest extent feasible.

4. Ground-mounted equipment in the right-of-way is strongly discouraged. The applicant must demonstrate that pole-mounted equipment is not technically feasible, or that the electric utility requires placement of equipment on the ground (such as an electric meter). If ground mounted equipment is necessary, then the applicant shall conceal the equipment from the public in a cabinet, in street furniture or with landscaping.

5. No advertising, branding or other signage is allowed unless approved by the City Engineer or the City Engineer's designee as a concealment technique or as follows:

    a. Safety signage as required by applicable laws, regulations, and standards.

    b. Identifying information and 24-hour emergency telephone number (such as the telephone number for the operator's network operations center) on wireless equipment in an area that is visible.

6. Small wireless facilities may not displace any existing street tree or landscape features unless:

    a. Such displaced street tree or landscaping is replaced with native and/or drought-resistant trees, plants or other landscape features approved by the City. The replaced trees and/or landscaping shall be maintained for a minimum of 2 years from initial planting. Any trees that do not survive shall be replanted subject to the same 2 year survivor standards OR;

    b. The applicant submits and adheres to a landscape maintenance plan or agrees to pay an appropriate in-lieu fee for the maintenance costs.

7. In residential areas with an average 24-hour noise level (Ldn) at or below 70 decibels (dB), noise generated by telecommunications equipment shall not cause the Ldn exceed 60dB or to increase by 5.0 dB or more, even if the resulting Ldn would remain below 70 dB. In residential areas with an Ldn above 70 dB, noise generated by telecommunications equipment shall not cause the average to increase by 3.0 decibels (dB) or more.

    a. If noise testing is necessitated due to complaints or observation by City staff, the owner of the facility shall conduct 3rd party testing and provide the results within 30 days of the complaint. Any costs associated with the testing are the burden of the telecommunications facility owner.

C. General Restrictions. Small wireless facilities are not permitted on the following:

1. Decorative street lighting.

2. Street furniture, artwork or monuments.

3. Flag poles.

4. Structures with historic significance to the City of Canby; including all national, State or other registered structures.

D. Microcell Facilities Attached to Wooden Poles, Non-Wooden Poles and Structures with Overhead Lines. Small wireless facilities located on wooden utility poles, non-wooden utility poles and structures with overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section I:

1. Proposed antenna and related equipment shall meet:

a. The City's design standards for small wireless facilities.

b. The pole owner's requirements.

c. National Electric Safety Code (NESC) and National Electric Code (NEC) standards.

2. The pole at the proposed location may be replaced with a taller pole or extended for the purpose of accommodating a small wireless facility; provided that the replacement or extended pole, together with any small wireless facility, does not exceed 50 feet in height or 10 percent taller than adjacent poles, whichever is greater. The replacement or extended pole height may be increased if required by the pole owner, and such height increase is the minimum necessary to provide sufficient separation and/or clearance from electrical and wireline facilities. Such replacement poles may either match the approximate color and materials of the replaced pole or shall be the standard new pole used by the pole owner in the City.

3. Ancillary equipment such as cooling equipment, cabinets, shelters, switches, wiring, cabling, power sources, or similar equipment shall be required to be placed underground wherever feasible. If not technically feasible, this equipment shall be concealed, shrouded, blended or otherwise have its visual impact reduced to the greatest extent feasible.

4. To the extent technically feasible, antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall match the approximate material and design of the surface of the pole or existing equipment on which they are attached, or adjacent poles located within the contiguous right-of-way. Near matches may be permitted by the City when options are limited by technical feasibility considerations, such as when high-frequency antennas cannot be placed within an opaque shroud but could be wrapped with a tinted film.

5. Antennas which are mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

6. No antenna shall extend horizontally more than 20 inches past the outermost mounting point (where the mounting hardware connects to the antenna), unless additional antenna space is requested and approved pursuant to Section I.

7. Antenna equipment, including but not limited to radios, cables, associated shrouding, disconnect boxes, meters, microwaves and conduit, which is mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

8. Antenna equipment for small wireless facilities must be attached to the pole, unless otherwise required by the pole owner or permitted to be ground-mounted pursuant to subsection (C)(1) above. The equipment must be placed in an enclosure reasonably related in size to the intended purpose of the facility.

9. All cables and wiring shall be covered by conduits and cabinets to the extent that it is technically feasible, if allowed by pole owner. The number of conduits shall be minimized to the extent technically feasible.

E. Microcell Wireless Facilities Attached to Non-Wooden Light Poles, Non-Wooden Utility Poles and Structures without Overhead Utility Lines. Small wireless facilities attached to existing or replacement non-wooden light poles, non-wooden utility poles and structures without overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section I.

1. External Equipment such as enclosures must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible and must be reasonably related in size to the intended purpose of the facility and reasonable expansion for future frequencies and/or technologies, not to exceed the volumetric requirements described in Section B. If the equipment enclosure(s) is mounted on the exterior of the pole, the applicant is encouraged

to place the equipment enclosure(s) behind any decorations, banners or signs that may be on the pole. Conduit and fiber must be fully concealed within the pole.

2. Ancillary equipment such as cooling equipment, cabinets, shelters, switches, wiring, cabling, power sources, or similar equipment shall be required to be placed underground wherever feasible. If not technically feasible, this equipment shall be concealed, shrouded, blended or otherwise have its visual impact reduced to the greatest extent feasible.

3. Concealed Equipment. All equipment (excluding disconnect switches), conduit and fiber must be fully concealed within the pole. The antennas must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible.

4. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

5. The height of any replacement pole may not extend more than 10 feet above the height of the existing pole, unless such further height increase is required in writing by the pole owner.

F. New Poles. Small wireless facilities may be attached to new poles that are not replacement poles under sections D or E, installed by the wireless provider, subject to the following criteria:

1. Antennas, antenna equipment and associated equipment enclosures (excluding disconnect switches), conduit and fiber shall be fully concealed within the structure. If such concealment is not technically feasible, or is incompatible with the pole design, then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the structure or mounted as close to the pole as feasible, and must be reasonably related in size to the intended purpose of the facility, not to exceed the volumetric requirements in Section (B)(6) above.

2. Ancillary equipment such as cooling equipment, cabinets, shelters, switches, wiring, cabling, power sources, or similar equipment shall be required to be placed underground wherever feasible. If not technically feasible, this equipment shall be concealed, shrouded, blended or otherwise have its visual impact reduced to the greatest extent feasible.

3. To the extent technically feasible, all new poles and pole-mounted antennas and equipment shall substantially conform to the material and design of adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

4. New poles shall be no more than forty (40) feet in height unless additional height is requested and approved pursuant to Section I.

5. The City requires whenever feasible that wireless providers install small wireless facilities on existing or replacement poles instead of installing new poles, unless the wireless provider can document that installation on an existing or replacement pole is not technically feasible or otherwise not possible (due to a lack of owner authorization, safety considerations, or other reasons acceptable to the City Engineer or Planning Director or their designee).

G. Undergrounding Requirements. Ancillary equipment shall be deployed underground whenever feasible.

1. Microcell wireless ancillary equipment deployed within the rights-of-way shall be located in underground vaults whenever technically feasible.

2. Antennas and other equipment that cannot be sited underground shall comply with all other applicable standards of this chapter.

H. Strand Mounted Equipment. Strand mounted small wireless facilities are permitted, subject to the following criteria:

1. Each strand mounted antenna shall not exceed 3 cubic feet in volume, unless a deviation is requested and approved pursuant to Section I.

2. Only 2 strand mounted antennas are permitted between any two existing poles.

3. Strand mounted devices shall be placed as close as possible to the nearest pole and in no event more than five feet from the pole unless a greater distance is required by the pole owner.

4. No strand mounted device will be located in or above the portion of the roadway open to vehicular traffic.

5. Strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than original strand) to meet the technological needs of the facility.

I. Deviation from Design Standards.

1. An applicant may obtain a deviation from these design standards if compliance with the standard:

a. Is not technically feasible.

b. Impedes the effective operation of the small wireless facility.

c. Significantly impairs a desired network performance objective.

d. Conflicts with pole owner requirements.

e. Materially inhibits or limits the provision of wireless service.

2. When requests for deviation are sought under subsections (I)(1)(a)-(e), the request must be narrowly tailored to minimize deviation from the requirements of these design standards, and the City Engineer/Planning Director or designee must find the applicant's proposed design provides similar aesthetic value when compared to strict compliance with these standards.

3. The City Engineer/Planning Director or designee may also allow for a deviation from these standards when it finds the applicant's proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these standards.

4. The small wireless facility design approved under Section I must meet the conditions of 47 C.F.R. Sec. 1.6002(l).

5. The City Engineer/Planning Director or designee will review and may approve a request for deviation to the minimum extent required to address the applicant's needs or facilitate a superior design.

16.55.050 Macro Telecommunications Facilities Siting and Design Standards

A. The siting and review process for Macro telecommunications facilities is based on the type of facility (lattice, monopole, attached, stealth design or collocation) and its proposed location in a Preferred Site (M-1 or M-2 zoning districts), Acceptable Site (C-2 or C-M zoning districts), or Conditionally Suitable Site (C-R, C-C or C-1 zoning districts).

1. Standards for siting telecommunications facilities shall be as follows:

a. Site plan review permits for macro telecommunications facilities that meet the Minor Permit (Type 1 – Site Plan Review) requirements.

b. Site and Design Review standards and criteria (section 16.49.040) shall apply to all telecommunications facilities described as a (Major Permit Type II/III Site and Design Review)

c. Site and Design Review standards and criteria (section 16.49.040 and Conditional Use Permit standards and criteria (section 16.50.010) shall apply to all telecommunications facilities described as a (Major Permit Type II/III Site and Design Review and Conditional Use Permit)

B. General Standards Applicable to Macro Telecommunications Facilities:

1. All macro telecommunications facilities shall observe minimum lot size, lot coverage, building height and building setback requirements of the underlying zoning district unless specifically exempted or otherwise regulated by this section. Underground facilities may encroach upon required yards or may be placed in appropriate easements.

2. All detached macro telecommunications facilities shall be landscaped at the base of the towers/poles, and completely around the equipment shelters. The landscaping shall conform to the ODOT standards for plant size and spacing.

3. Lighting for all telecommunications facilities shall be as required by the FAA or recommended by ODOT Aeronautics Division. All other lighting must be deflected away from adjoining property.

4. All detached macro telecommunications facilities shall be screened from the public right-of-way and abutting property by a security fence or wall at least 6 feet in height consisting of chain link fencing with vinyl slats, solid wood fencing, concrete masonry unit block, or brick.

5. Attached macro telecommunications facilities shall be painted to match the color of the mechanical screen wall or building to which it is attached.

6. Equipment shelters, buildings and cabinets housing telecommunications ancillary equipment shall be concealed, camouflaged or placed underground.

7. Any telecommunications facility sited on or designed with any of the following attributes shall first receive FCC approval, as specified in FCC Rules 1.1301 - 1.1319, as a condition of City approval prior to construction; Wilderness Area; Wildlife Preserve; Endangered Species; Historical Site; Indian Religious Site; Flood Plain; Wetlands; High Intensity White lights in residential neighborhoods; Excessive radio frequency radiation exposure.

C. Minor Permit (Type I – Site Plan Review):

1. An attached macro telecommunications facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on any previously approved telecommunications pole, tower or structure, where the height of the attached facility is no more than 10 feet higher than the existing structure.

2. A detached macro telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and less than 150 feet in height, including antennas.

3. A detached, stealth design macro telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 60 feet high.

D. Major Permit (Type II/III – Site and Design Review):

1. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.

2. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and under 100 feet in height, including antennas.

3. A detached telecommunications facility (lattice tower), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and under 150 feet in height, including antennas.

4. A detached, stealth design telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on an Acceptable Site, set back from all

property lines a distance equal to or greater than the height of the tower, and less than 100 feet high, including antennas.

5. An attached telecommunications facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site or Acceptable Site, where the height of the attached telecommunications facility is more than 10 feet higher than the existing structure.

6. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.

7. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and under 100 feet in height, including antennas.

8. A detached telecommunications facility (lattice tower), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and under 150 feet in height, including antennas.

9. A detached, stealth design telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 100 feet high, including antennas.

E. Major Permit (Type II/III – Site and Design Review and Conditional Use Permit)

1. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 100 feet in height, including antennas.

2. A detached telecommunications facility (lattice tower), including equipment shelters, buildings and cabinets housing telecommunications land line

switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.

3. A detached, stealth design telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, including, unless it is demonstrated that locating the proposed facility within the required setback area will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts, and equal to or over 100 feet high, with a maximum height of 130 feet.

4. An attached telecommunications facility (on an existing structure that is not a telecommunications pole or tower on a Conditionally Suitable Site, including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, where the height of the attached telecommunications facility is no more than 10 feet higher than the existing structure.

16.55.055 Exemptions

A. Private amateur radio (HAM) antennas, their support structures, and direct to home satellite receiving antennas are exempt from this section (16.08.120), but shall otherwise comply with the applicable provisions of the underlying zoning district in which they are located to the extent that such provisions comply with Federal Communications Commission policy. (Ord. 981 section 19, 1997)

16.55.100 Severability

A. Invalidity of a section of this ordinance shall not affect the validity and application of the remaining sections or parts of sections of this ordinance or prohibit the regulation of telecommunications facilities within rights-of-way, public and private real property.

TITLE 16

PLANNING AND ZONING

~~October 2019~~November 2020

Chapters:

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Division IV. Land Division Regulations

Division V. Planned Unit Development and Condominium Regulations

Division VI. Annexations

Division VII. Street Alignments

Division VIII. General Standards and Procedures

Division X. Historic Preservation

Division XI. Park, Open Space and Recreation Land

Division XII. Riparian Preservation

Division XIII. Wetland Preservation

16.140 General Provisions

Chapter 16 was updated by the City of Canby City Council on 9/4/2019 with Ord. 1514, 9/17/14 with Ord.1398, 2/20/2013 with Ord. 1369, 7/16/08 with Ord. 1286, 9/3/08 with Ord. 1294 and 10/1/08 with Ord. 1296, 10/21/15 with Ord. 14.11/XX/2020,with Ord. 1539.

Chapter 16.04

DEFINITIONS

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16.04.360 Lot line, street.
16.04.370 Lot, through.
16.04.380 Lot width.
16.04.383 Low impact development.
16.04.385 Lowest floor.
16.04.390 Manufactured home.
16.04.400 Manufactured (mobile) home park.
16.04.410 Manufactured (mobile) home subdivision.
16.04.420 Modular home.
16.04.425 Monopole.
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16.04.600 Subdivide land.
16.04.610 Subdivision.
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~~16.04.676 Wireless telecommunications systems (WTS).~~
16.04.680 Yard.
16.04.690 Yard, interior.
16.04.700 Yard, rear.
16.04.710 Yard, street.
16.04.715 Zero-lot line development.

16.04.010 Grammatical interpretation.
As used in this title, the masculine includes the feminine and the neuter, and the singular includes the plural with no preference or prejudice intended or implied. (Ord. 740 section 10.1.20 (A), 1984)

16.04.020 Generally.
Unless the context requires otherwise, the words and phrases set out in this chapter shall mean as follows. (Ord. 740 section 10.1 .20(B)[part], 1984)

16.04.030 Abutting-adjoining-adjacent.
Abutting, adjoining or adjacent means physically touching, having at least one common point or lots separated only by a public street, public right-of-way, or railroad right-of-way. (Ord. 890 section 3, 1993; Ord. 740 section 10.1.20(B)[part], 1984)

16.04.035 Acceptable site.
For purposes of siting macro wireless telecommunications systems facilities, any land planned and zoned Highway commercial or Commercial-Manufacturing. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

16.04.036 Access.
Access means a way or means of approach to provide pedestrian, bicycle, or motor vehicle entrance or exit to a property. (Ord. 1043 section 3, 2000).

16.04.037 Access classification.
Access classification means a ranking system for roadways used to determine the appropriate degree of access management. Factors considered include functional classification, the appropriate local government's adopted plan for the roadway, subdivision of abutting properties, and existing level of access control. (Ord. 1043 section 3, 2000)

16.04.038 Access connection.
Access connection means any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system. (Ord. 1043 section 3, 2000)

16.04.039 Access management.
Access management means the process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity, and speed. (Ord. 1043 section 3, 2000)

16.04.040 Accessory Dwelling.
Accessory dwelling is an interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling. (Ord. 1514, 2019)

16.04043 Accessory structure or use.
Accessory structure or use means a detached structure or use not intended for human habitation, incidental and subordinate to the main use of the property and which is located on the same lot with the main use such as, but not limited to, garage, carport, tool shed, private greenhouse or utility building. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.045 Accessway.
Accessway means a walkway that provides pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians. (Ord. 1043 section 3, 2000)

16.04.050 Agriculture.
Agriculture means the tilling of the soil, the raising of crops, silviculture and horticulture. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.060 Alley.
Alley means a narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting another street. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.061 Antenna.
Antenna. Defined in 47 C.F.R. § 1.6002(b). The term includes an apparatus designed for the purpose of emitting radio frequencies (RF) to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15. (Ord. 1539, 2020)

~~The specific device used to capture an incoming and/or transmit an outgoing radio frequency signal. This definition shall include omni-directional (whip) antennas; directional (panel) antennas; parabolic (microwave dish) antennas; and ancillary antennas (i.e., GPS). All other transmitting or receiving equipment not specifically described herein shall be regulated in conformity with the type of antenna described herein which most closely resembles such equipment. (Ord. 981 section 17, 1997)~~

16.04.063 Application.
Application for a land use permit (site and design review, conditional use permit, annexation, zone change, subdivision, etc.) means a package of information that includes:

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A. The application form filled out and signed by the owner;

B. Site plan and/or narrative describing the proposal;

C. List of property owners on mailing labels (1" x 2 5/8"); and

D. The application fee. (Ord. 981 section 1, 1997)

16.04.064 Attached ~~WTS~~ telecommunications facility.
An existing pole, tower or other structure capable of accommodating a WTS facility antenna, whether originally intended for such use or not. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

16.04.065 Backhaul network.
The land lines that connect a ~~WTS~~ telecommunications provider's radio signals to one or more cellular telephone switching offices and/or local or long distance providers, or the public switched telephone network. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

16.04.066 Bed and Breakfast.
Bed and Breakfast means any single-family residential dwelling having rooms for rent to travelers or transients for a charge or fee paid, for rental or use for a period of less than thirty (30) days. Additionally, such establishment serving only one meal per day prior to the noon hour. (Ord. 890 section 4, 1993; renumbered due to Ord. 981 amendments)

16.04.068 Bicycle facilities.
Bicycle facilities is a general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways. (Ord. 1043 section 3, 2000)

16.04.070 Billboard.
Billboard means a sign which has a surface space upon which advertising may be posted, painted, or affixed, and which is generally, although not necessarily, designed for the rental or lease of such sign space for advertising not relating to the use of the property upon which the sign exists. (Ord. 740 section 10.1.20 (B)[part], 1984)

16.04.080 Boarding, lodging or rooming house.
Boardinghouse, lodging house or rooming-house means a building where lodging with or without meals is provided for compensation for at least four, but not more than ten guests. Board and care, foster care and similar accommodations are considered boardinghouses for the purposes of this title. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.090 Building.
Building means a structure built for the shelter or enclosure of persons, animals, chattels or property of any kind. (Ord. 740 section 10.1 .20(B)[part), 1984)

16.04.100 Building line.
Building line means a line on a plat indicating the limit beyond which buildings or structures may not be erected. (Ord. 740 section 10.1.20 (B)[part], 1984)

16.04.105 Cell Coverage Area.
A geographic area where a single radio transmission sending/receiving station (per provider) and the equipment necessary to connect these radio calls to land lines or other cells are located. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

16.04.110 Central business district (CBD).
Central business district (CBD) means the downtown area of Canby, defined generally by zoning or designation on the Land Use Map of the Comprehensive Plan for downtown commercial development. (Ord. 740 section 10.1.20 (B)[part), 1984)

16.04.120 City.
City means the City of Canby, Oregon. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.125 City Planner.
City Planner means the person appointed by the city administrator as supervisor of the day-to-day operations of Canby's city planning functions, or another staff person he or she designates for a particular function. Also referred to as "Planning Director." (Ord. 890 section 5, 1993; Ord. 1080, 2001)

16.04.127 Collocation.
Collocation. Defined in 47 C.F.R. § 1.6002(g). Term describes: (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. "Collocate" has a corresponding meaning. ~~The~~A collocation includes supporting ancillary equipment that is required to operate the collocated antennas. (Ord. 1539, 2020)

~~Two or more WTS providers utilizing a structure or site specifically designed and/or approved for such multiple use, and including equipment shelters. (Ord. 981 section 17, 1997)~~

16.04.128 Commercial Recreation Uses.
Commercial recreation uses means uses intended to provide for gymnastics, tennis, racquetball and other sport-related centers that require oversized indoor space and facilities. (Ord. 960, section 1, 12/18/96)

16.04.130 Commission.
Commission means the Planning Commission of the city. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.135 Conditionally suitable site.
For purposes of siting wireless macro telecommunications systems facilities, any land planned and zoned Residential / Commercial ~~, Convenience Commercial,~~ or Downtown Commercial. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

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16.04.137 Corner clearance.
Corner clearance means the distance from an intersection of a public or private road to the nearest access connection, measured from the closest edge of the pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way. (Ord. 1043 section 3, 2000)

16.04.140 Council.
Council means the City Council of Canby, Oregon. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.145 Cross access.
Cross access means a service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system. (Ord. 1043 section 3, 2000)

16.04.150 Curb line.
Curb line means a line along the edge of the curb nearest the street lot line, not necessarily the right-of-way line. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.155 Day care facility.
Day care facility means any facility that provides day care to children, including a day nursery, nursery school group, home of a family day care provider, or similar unit operating under any name, but not including any:

A. Facility providing care that is primarily educational, unless provided to a preschool child for more than four hours a day.

B. Facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion.

C. Facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.

D. Facility operated by a school district, political subdivision of this state, or a governmental agency.

E. Residential facility licensed under ORS 443.400 to 443.455.

F. Babysitters. (Ord. 890 section 6, 1993)

16.04.158 Detached telecommunications~~WTS~~ facility.
A pole, tower or other structure designed and intended to support ~~WTS~~ telecommunications ~~facility antennas~~antennas and other equipment. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

16.04.160 Development plan.
Development plan means any plan adopted by the Planning Commission for the guidance of growth and improvement of the city, including modifications or refinements which may be made from time to time. (Ord. 740 section 10.1.20(B)[part, 1984)

16.04.170 Dwelling, duplex-dwelling, two-family.
Duplex dwelling or two-family dwelling means a building containing two dwelling units located on the same lot or parcel. (Ord. 740 section 10.1.20(B)[part], 1984; Ord 1514, 2019)

16.04.180 Dwelling, multi-family.
Multi-family dwelling means a building containing three or more dwelling units located on the same lot or parcel. (Ord. 740 section 10.1.20(B) [part], 1984; Ord. 1514, 2019)

16.04.190 Dwelling, single-family.
Single-family dwelling means a detached building containing one dwelling unit. Manufactured homes shall not be considered to be single-family dwellings for the purposes of this chapter unless found to meet all city building, mechanical, electrical and other construction codes applicable to conventional units built on the site. (Ord. 740 section 10.1.20 (B)([part], 1984; Ord. 1514, 2019)

16.04.195 Dwelling, Townhouse (Common Wall).
Means single-family attached common wall dwellings with each dwelling unit located on a separate lot. There shall be no more than six attached townhouse dwelling units in a row, and the combined single-family units shall not exceed 120 feet in length. (Ord. 1514, 2019)

16.04.200 Dwelling unit.
Dwelling unit means one or more rooms designed for occupancy by one family and not having more than one cooking facility. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.210 Easement.
Easement means a grant of the right to use an area of land for specific purposes. (Ord. 740 section 10.1 20(B)[part], 1984)

16.04.212 Eco-roof
Eco-roof means a vegetated roof constructed for water quality and quantity control. Eco-roofs are vegetated roof covers with growing media and plants taking the place of bare membrane, gravel ballast, shingles or tiles. The number of layers and the layer placement vary from system to system and roof type, but all eco-roofs include a single to multi-ply waterproofing layer, drainage, growing media and the plants, covering at least 50% of the roof deck surface. (Ord. 1338, 2010)

16.04.215 Equipment shelters.
For purposes of siting wireless telecommunications systems facilities, the buildings, structures, cabinets or vaults used to house and protect the equipment necessary to

connect/relay radio signals from cell site to cell site and to land line systems. Associated equipment such as air conditioning or emergency generators shall be included in this definition of equipment shelters. (Ord. 981 section 17, 1997)

16.04.218 Façade.
Façade means an exterior face of a building. (Ord 1296, 2008)

16.04.220 Family.
Family means an individual or two or more individuals related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit in which meals or lodging may also be provided for not more than two additional individuals excluding servants; or a group of not more than five individuals, excluding servants, who need not be related by blood, marriage, adoption or legal guardianship living together in a dwelling unit. Five or fewer handicapped persons, along with those individuals charged with caring for such persons and sharing a common dwelling unit, shall be considered to be a family for purposes of this title. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.221 Floor area ratio.
Floor area ratio means a method of calculating structural massing on a lot. Floor Area Ratio is expressed as a ratio of x divided by y, where x is equal to the sum of the gross floor area of all stories above grade plane, as measured to the outside surface of exterior walls, and y is equal to the lot area net of any publicly dedicated right-of-way or land. Detached accessory structures and detached or attached parking structures above grade plane are not included in the gross floor area calculation. (Ord 1296, 2008)

16.04.222 Foster Home,
"Foster home" means any home maintained by a person who has under the care of the person in the home any child under the age of 21 years unattended by the child's parent or guardian, for the purpose of providing the child with care, food and lodging, but does not include items listed in ORS 418.625 a-f.(Ord. 1514, 2019)

16.04.223 Frontage road.
Frontage road means a public or private drive which generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the arterial street (see also service roads). (Ord. 1043 section 3,
2000)

16.04.225 FCC.
The Federal Communications Commission; the federal agency that regulates interstate and international communications by radio, television, wire, satellite and cable. (Ord. 981 section 17, 1997)

16.04.228 Grade plane.
Grade plane means the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building. (Ord 1296, 2008)

16.04.230 Height of building.
Height of building means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitch or hip roof. (Ord. 740 section 10.1.20(B) [part], 1984; Ord. 1514, 2019)

16.04.240 Home occupation.
Home occupation means a lawful activity commonly carried on within a dwelling by members of the family occupying the dwelling with not more than one non-resident employee being engaged, provided that:

A. The residential character of the building is maintained;

B. The activity occupies less than one-quarter of the ground floor area of the building;

C. The activity is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the rights of neighboring residents to enjoy the peaceful occupancy of their homes. Business visitors to the premises shall not exceed eight (8) per day and delivery trucks shall not exceed one (1) per day;

D. The occupation shall not be carried on in an accessory building of the residence where the building is larger than six hundred (600) square feet;

E. No signs are permitted, except for a single unilluminated nameplate not to exceed two (2) square feet in area;

F. All home occupations require a city business license. (Ord. 890 section 7, 1993; Ord. 830 section 1, 1989; Ord. 740 section 10.1.20(B) [part], 1984)

16.04.250 Hotel.
Hotel means a building in which lodging is provided for more than ten guests for compensation and in which no provision is made for cooking in the rooms. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.253 Impervious surface
Impervious surface means a surface area that creates a barrier to or hinders the entry of water into the soil in comparison with natural conditions prior to development, thus causing water to run off the surface in greater quantities or at an increased rate of flow.

Impervious surfaces include, but are not limited to, buildings, paved parking areas and driveways, roads, sidewalks, patios, packed earth, and oiled surfaces. Open, uncovered retention/detention facilities, green roofs, and permeable surfacing materials shall not be considered impervious surfaces. Roof surfaces are also considered 'pervious' when 100% of the annual average roof runoff is captured and reused on-site for irrigation or approved interior uses. (Ord. 1338, 2010)

16.04.255 Infill homes.
Infill homes mean existing and new single family dwellings, manufactured homes, two-family dwellings, duplexes and triplexes on lots that are located in an R-1 or R-1.5 zoning district, and that have existing homes on two adjacent sides. Each adjacent home must be within 25 feet of the common lot line with the infill homes and have pre-existed for at least 5 years (dated from the existing homes final building permit approval). (Ord. 1107, 2002; Ord 1237, 2007; Ord 1323, 2010)

16.04.257 Infiltration
Infiltration means the process or rate at which water percolates from the land surface into the ground. Infiltration is also a general category of best management practices (BMP) designed to collect runoff and allow it to flow through the ground for pollutant removal. (Ord. 1338, 2010)

16.04.260 Intersection.
Intersection means the place where two streets meet or cross. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.265 Joint access (or shared access).
Joint access (or shared access) means a driveway connecting two or more contiguous sites to the public street system. (Ord. 1043 section 3, 2000)

16.04.270 Kennel.
Kennel means a place where four or more dogs more than four months of age are kept on one lot or contiguous lots under one ownership. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.275 Lattice tower.
For purposes of siting wireless telecommunications systems facilities, a ~~WTS~~ telecommunications support structure which consists of metal crossed strips or bars and which supports antennas and related equipment for one or more ~~WTS~~ telecommunications provider. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

16.04.280 Loading space.
Loading space means an off-street space for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials and which space has access to a street. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.290 Lot.
Lot means a single parcel or tract of land for which a legal description has been filed in the office of the county recorder or the boundaries of which are shown on a recorded subdivision plat. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.300 Lot area.
Lot area means the total horizontal area within the boundary lines of a lot, excluding the access strip servicing a flag lot. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.310 Lot, corner.
Corner lot means a lot abutting two intersecting streets other than an alley, provided that the streets do not intersect at an angle greater than one hundred thirty-five degrees. (Ord. 740 section 10.1.20 (B) [part], 1984)

16.04.315 Lot depth.
Lot depth means the average distance from the front lot line to the rear lot line. (Ord. 1043 section 3, 2000)

16.04.318 Lot, flag.
A flag lot is a lot that does not meet minimum frontage requirements and where access to the public road is by a narrow, private right-of-way. (Ord. 1043 section 3, 2000)

16.04.320 Lot front.
Lot front means the street lot line on a corner lot which the principal use or structure is facing. If no such use or structure exists, it means the street side having the shorter length. If the sides are of approximately equal length, the City Planner may designate the lot front. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.321 Lot frontage.
Lot frontage means that portion of a lot extending along a street right-of-way line. (Ord. 1043 section 3, 2000)

16.04.330 Lot, interior.
Interior lot means a lot other than a corner lot. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.340 Lot line.
Lot line means the property line bounding a lot. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.350 Lot line, interior.
Lot line, interior means all lot lines which separate one parcel from another, other than street lot lines. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.360 Lot line, street.
Street lot line means a lot line that separates the lot from a street other than an alley. The street lot line is not generally the same as the curb line. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.370 Lot, through.
Through lot means a lot having frontage on two parallel or approximately parallel streets other than alleys. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.380 Lot width.
Lot width means the average width of a lot when measured at the front and rear setback lines for a principal use. (Ord. 740 section 10.1.20(B) [part), 1984)

16.04.383 Low impact development
Low impact development (LID) means a stormwater management and land development strategy applied at the parcel, multiple parcel and/or subdivision level that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale controls to more closely mimic predevelopment hydrologic functions. LID tools are designed to reduce environmental impacts of development, such as increased storm water runoff due to impervious areas, poor water quality and inconsistent water quantity in streams and rivers. LID techniques control storm water runoff volume and reduce pollutant loadings to receiving waters. Not all sites are suitable for LID. Considerations such as soil permeability, depth of water table and slope should be considered, in addition to other factors. LID techniques may not completely replace the need for conventional stormwater controls. (Ord 1338, 2010)

16.04.385 Lowest floor.
Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this title found in Chapter 16.40 (Hazard Overlay Zone). (Ord. 804 section 2(A), 1987)

16.04.390 Manufactured home (Mobile Home)
"Manufactured home" means a structure constructed for movement on public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. This definition includes manufactured dwelling, manufactured home, mobile home, and residential trailer as those terms are defined in ORS 446.003. A manufactured home shall be certified to meet the 1976 HUD Standards, as amended. The definition does not include recreational vehicles, travel trailers, park trailers or structures or vehicles which have a state of Oregon or U.S. Government label designating them as a recreational vehicle. It also does not include

buildings or structures subject to the Structural Specialty Code adopted pursuant to ORS 455.100 through 455.450. (Ord 1514, 2019)

16.04.400 Manufactured (Mobile) home park.
Manufactured **(**Mobile**)** home park means a tax lot or lots where two or more manufactured homes are used for human occupancy and where the space is available for rent or lease. (Ord. 740 section 10.1.20(B) [part], 1984; Ord. 1514, 2019)

16.04.410 Manufactured (Mobile) home subdivision.
Manufactured (Mobile) home subdivision means a subdivision of property where individual lots are available for the placement of manufactured homes. (Ord. 740 section 10.1.20(B) [part], 1984; Ord. 1514, 2019)

16.04.420 Modular home.
Modular home means a residential structure constructed of one or more prefabricated parts which meet all city building, plumbing, mechanical, electrical and other construction codes applicable to conventional units which might be built on the site. (Ord. 740 section 10.1.20 (B) [part], 1984)

16.04.425 Monopole.
For purposes of siting wireless telecommunications systems facilities, a WTS support structure which consists of a single tapered steel pole and which supports antennas and related equipment for one or more WTS provider. (Ord. 981 section 17, 1997)

16.04.430 Motel.
Motel means a building or group of buildings on the same lot containing guest units with separate and individual entrances and consisting of individual sleeping
quarters, detached or in connected rows, with or without cooking facilities, for rental. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.433 Nail Salons.
Establishments primarily engaged in providing nail care services, such as manicures, pedicures, and nail extensions. (Ord. 1514, 2019)

16.04.435 Neighborhood activity center.
Neighborhood activity center means an attractor or destination for residents of surrounding residential areas. Includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops, and employment areas. (Ord. 1043 section 3, 2000)

16.04.438 Nonconforming access features.
Nonconforming access features means features of the property access that existed prior to the date of ordinance adoption and do not conform with the requirements of this ordinance. (Ord. 1043 section 3, 2000)

16.04.440 Nonconforming structure, lot or use.
Nonconforming structure, lot or use means a structure, lot or use which lawfully existed prior to the adoption of zoning requirements for the zone in which it is located and with which it does not comply. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.445 Nursing home
Means any institution or facility defined as a long term care facility for licensing purposes under state statute or the rules of the Department of Human Services, including a long term care facility operated as part of a dual facility. "Dual facility" means a facility that operates both a hospital and a long term care facility on the same campus. (ORS 678.710) (Ord. 1514, 2019)

16.04.450 Parent parcel.
Parent parcel means a lot or parcel of land from which other parcels or lots are divided. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.460 Parking space.
Parking space means a rectangle in the dimensions as set forth in Division III of this title together with maneuvering and access space required for a conventional automobile to park within the rectangle. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.470 Partition.
Partition means to divide an area or tract of land into two or three parcels within the calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. Partitioned land does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size. (Ord. 1514, 2019)

16.04.480 Pedestrian way.
Pedestrian way means a right-of-way for pedestrian traffic. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.490 Person.
Person means an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof. (Ord. 740 section 10.1.20 (B) [part], 1984)

16.04.500 Planning Commission.
Planning Commission means the Planning Commission of the City of Canby, Oregon. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.510 Plat.
Plat means the map or drawing on which the subdivider's plan of subdivision is presented and which he submits for approval and intends in final form to record. Plat includes preliminary, tentative and final plats. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.512 Porches, covered.
Covered porches must not be enclosed by walls that are more than 42 inches in height, for 50 percent or more of their perimeter. (Ord. 1107, 2002)

16.04.514 Preapplication conference.
Preapplication conference means a meeting of the representatives of the city departments and other affected agencies, as determined by the City, to review and provide initial input on land use applications or other proposals. (Ord. 1237, 2007)

16.04.515 Preferred site.
For purposes of siting wireless telecommunications systems facilities, any land planned and zoned Light Industrial or Heavy Industrial. (Ord. 981 section 17, 1997)

16.04.516 Public facility, major.
A major public facility is any public service improvement or structure, other than transportation projects, developed by or for a public agency that is not defined as a minor public facility. Transportation projects are covered by Section 16.08.130. (Ord. 1237, 2007)

16.04.517 Public facility, minor.
A minor public facility includes the following public service improvements or structures developed by or for a public agency:

A. Minor utility structures, except substations, but including poles, lines, pipes, telecommunications facilities or other such facilities.

B. Sewer, storm drainage, or water system structures except treatment plants or reservoirs, but including pump stations, manholes, valves, hydrants or other portions of the collection, treatment and distribution systems located within public property or public easements.

C. Street improvements within existing developments including sidewalks, curbs, gutters, catch basins, paving, signs and traffic control devices and street lights.

D. Transit improvements, such as shelters or pedestrian and bicycle safety improvements, located within public right of way or public easements or on public property.

E. School improvements which will not increase the capacity of the school nor create significant additional traffic or other impacts on the surrounding neighborhood.

F. Park improvements which will not create significant additional motor or foot traffic impact on the surrounding neighborhood. (Ord. 1237, 2007)

16.04.519 Reasonably direct.
A reasonably direct route does not deviate unnecessarily from a straight line or is a route that does not involve a significant amount of out-of-direction travel for likely users. (Ord. 1043 section 3, 2000; Ord. 1237, 2007)

16.04.520 Recommendation.
Recommendation includes any staff report or report from the Planning Commission to the City Council. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.525 Residential facility
Means a residential care, residential training or residential treatment facility, as those terms are defined in ORS 443.400, that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility. (ORS 197.660)(1)) Under ORS 197.667(4), the city may require an applicant proposing to site a residential facility to supply the city with a copy of the entire application and supporting documentation for state licensing of the facility except for information that is exempt from public disclosure. (Ord. 1514, 2019)

16.04.527 Residential home
Means a residential treatment or training home, as defined in ORS 443.400, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home. (ORS 197.660(2)) (Ord. 1514, 2019)

16.04.530 Right-of-way.
Right-of-way means the area between the boundary lines of a street or other easement. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.540 Roadway.
Roadway means the portion or portions of a street right-of-way developed for vehicular traffic. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.545 Safe and convenient bicycle and pedestrian routes.
Safe and convenient bicycle and pedestrian routes:

A. Are reasonably free from hazards; and

B. Provide a reasonably direct route of travel between destinations, considering that the optimum travel distance is one-half mile for pedestrians and three miles for bicyclists. (Ord. 1043 section 3, 2000)

16.04.547 Self Storage Unit/Ministorage Warehouse (NAICS 531130)
Establishments primarily engaged in renting or leasing space for self-storage. These establishments provide secure space (i.e., rooms, compartments, lockers, containers, or outdoor space) where clients can store and retrieve their goods.

16.04.550 Setback.
Setback means a distance which a structure is required to be set back from a lot line. Where specified in this title, some setbacks are measured from curbs or projected curb lines rather than lot lines. Decks 30 inches or less above grade are exempt from setback standards. (Ord. 830 section 2, 1989; Ord. 740 section 10.1.20(B) [part], 1984; Ord. 955 section 1, 1996; Ord. 1514, 2019)

16.04.560 Sidewalk.
Sidewalk means a pedestrian walkway with permanent surfacing to city standards. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.565 Stealth design.
Stealth design is a variety of techniques used to disguise or mitigate the visual presence of ~~WTS~~ telecommunications support structures, antennas, and other equipment., ~~I~~including, but not limited to: screening by mature trees (75 percent or more of the pole beneath the tree canopy), mimicking common features of the urban landscape (light poles, church steeples, trees, etc.), painting antennas to match the color of supporting building walls, or roof mounting behind parapets. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

16.04.567 Story above grade plane.
Story above grade plane means any story having its finished floor surface entirely above grade plane, except that a basement shall be considered as a story above grade plane where the finished surface of the floor above the basement is either (1) more than 6 feet above grade plane, or (2) more than 12 feet above the finished ground level at any point. (Ord 1296, 2008)

16.04.570 Street.
Street means the entire width between the right-of-way line of every way which provides for public use for the purpose of vehicular and pedestrian traffic, and the placement of utilities and including the terms road, highway, lane, place, avenue, alley, or other similar designations.

A. Alley means a narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

B. Arterial means a street of considerable continuity which is primarily a traffic artery for intercommunication between large areas.

C. Collector means a street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas used to

some extent for through traffic and to some extent for access to abutting properties.

D. Neighborhood connector means a street supplementary to the collector street system providing local access to adjacent properties as well as movement into or out of a neighborhood or between neighborhoods.

E. Cul-de-sac (dead-end street) means a short street having one end open to traffic and being terminated by a vehicle turnaround.

F. Half-street means a portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

G. Marginal access or frontage street means a minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

H. Minor street means a street intended exclusively for access to abutting properties. (Ord. 740 section 10.1.20(B) [part], 1984; Ord. 1043 section 3, 2000)

I. Green street means a street that has been designed to integrate a system of stormwater management within its right of way. Green streets are intended to reduce the amount of runoff that is piped directly to the city stormwater system and/or streams and rivers. Green streets make the best use of the street tree canopy and natural filtration and drainage systems for stormwater interception and provide temperature mitigation and air quality improvements. (Ord. 1338, 2010)

16.04.580 Structural alteration.
Structural alteration means any change in the supporting members of a structure, including the supporting parts of foundations, bearing walls or partitions, columns, beams, girders, or the roof. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.590 Structure.
Structure means that which is built or constructed. Structure means an edifice or building of any kind or any piece of work artificially built up or composed of parts joined in some manner and which requires a location on the ground. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.595 Stub-out (or stub street).
Stub-out (or stub street) means a portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future. (Ord. 1043 section 3, 2000)

16.04.600 Subdivide land.

Subdivide land means to divide a parcel of land into four or more lots in a given calendar year for the purpose of transfer of ownership or building development, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.610 Subdivision.
Subdivision means either an act of subdividing land or tract of land subdivided as defined in this chapter. (Ord. 740 section 10.1.20(B) [part), 1984)

16.04.615 Traffic Impact Analysis.
Traffic Impact Analysis A comprehensive traffic analysis of a development proposal which includes trip generation, analysis of access/egress, accident analysis, intersection analysis, and traffic flow analysis. (Ord. 1019 section 22, 1999)

16.04.620 Trailer coach.
Trailer coach means a trailer or motor home not certified as meeting the HUD 1976 standards or as may be amended for design and construction of a mobile home. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.630 Trailer park.
Trailer park means a tax lot or lots where space is rented or leased for the location of two or more trailer coaches, or some combination of mobile homes and trailer coaches for human habitation. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.635 Trip generation study.
Trip Generation Study means an analysis of the number of vehicle trips generated by a development proposal. Trip generation for commercial/industrial/residential/ institutional projects are estimated through the Institute of Transportation Engineers manual. The results of the trip generation study will determine the need for a Traffic Impact Analysis. If the trip generation study determines the use will generate more than 100 vehicle trips per day, the City Traffic Engineer may require a Traffic Impact Analysis. (Ord. 1019 section 23, 1999)

16.04.640 Urban Growth Boundary (UGB)
Urban Growth Boundary (UGB) means the area specifically delineated in the city's comprehensive plan as being already urbanized or available for urban development. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.650 Urbanizable.
Urbanizable is the term applied to property which is within the city's Urban Growth Boundary and which is planned for eventual urban development. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.660 Use.
Use means the purpose for which land or a structure is designed, arranged, or for which it is occupied or maintained. (Ord. 740 section 10.1.20 (B) [part], 1984)

16.04.666 Vicinity.
Vicinity means nearby; within the same neighborhood. It should be noted that in applying the criteria of this chapter, the term vicinity will be applied to a larger area when warranted by a large project or a project which is expected to have an impact on a large area. (Ord. 805 section 1, 1987)

16.04.670 Vision clearance area.
Vision clearance area means the triangle area at the intersection of two streets, a driveway and a street, or a street and a railroad, two sides of which are measured from the corner intersection of the existing or proposed curb lines to a distance specified in this title. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the curb lines at intersections have rounded corners, the curb lines will be extended in a straight line to their points of intersection. No plantings, structures, or temporary or permanent obstructions shall be located within a vision clearance area, extending from two and one-half to ten feet above the curb or street elevation. Except, however, that one tree trunk not greater than eighteen inches in diameter shall be permitted within a vision clearance area. (Ord. 830 section 3, 1989; Ord. 740 section 10.1.20(B) [part], 1984)

16.04.672 Walkway.
Walkway means a hard-surfaced area intended and suitable for pedestrians, including sidewalks and the surfaced portions of accessways. (Ord. 1043 section 3, 2000)

16.04.~~672~~675 Wireless telecommunications facilities.
~~The~~ Wireless Telecommunications Facilities means the site, structures, equipment and appurtenances used to transmit, receive, distribute, provide or offer wireless telecommunications services. This includes, but is not limited to antennas, poles, towers, cables, wires, conduits, ducts, pedestals, vaults, buildings, electronics and switching equipment. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

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16.04.676 Wireless Telecommunications
Wireless Telecommunications means the system that uses radio frequency, infrared, microwave or other types of electromagnetic or acoustic waves to transmit data, voice and information. (Ord. 1539, 2020)

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~~**16.04.676 Wireless telecommunications systems (WTS).**~~
~~The sending and receiving of radio frequency transmissions and the connection and/or relaying of these signals to land lines and other sending and receiving stations (cell sites), and including cellular radiotelephone, personal communications services, enhanced/specialized mobile radio, and commercial paging services. (Ord. 981 section 17, 1997)~~

16.04.680 Yard.
Yard means an open space on a lot which is unobstructed from a point two and one-half feet above the general ground level of the graded lot upward, except as otherwise provided in this title. (Ord. 740 section 10.1.20(B) [part), 1984)

16.04.690 Yard, interior.
Interior yard means a yard lying between the nearest point of a building and measured horizontally to an interior lot line. (Ord. 1296; 2008; Ord. 740 section 10.1.20(B) [part], 1984)

16.04.700 Yard, rear.
Rear yard means a yard lying to the rear of the principal building on the lot and generally opposite the lot front. (Ord. 740 section 10.1.20 (B) [part], 1984)

16.04.710 Yard, street.
Street yard means a yard lying between the nearest point of a building and the street and measured horizontally to the street lot line. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.715 Zero-lot line development.
Zero-lot line development means detached dwellings required to have a side yard setback on only one side. (Ord. 1111 section 4, 2003)

DIVISION III. – ZONING

Chapter 16.08

GENERAL PROVISIONS

Sections:

16.08.010 Compliance with title.

No building, structure, or land shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered contrary to the provisions of this title. No lot area, yard, or required off-street parking or loading area existing on or after the effective date of the ordinance codified in this title shall be reduced in area, dimension, or size below the minimums required by this title, nor shall any lot area, yard, or required off-street parking or loading area that is required by this title for one use be used to satisfy the lot area, yard, off-street parking or loading area requirement for any other use, except as may be provided in this title. (Ord. 740 section 10.3.05(A), 1984)

16.08.020 Zoning map.

A. The location and boundaries of the zones designated in this division are established as shown on the map entitled “Zoning Map of the City of Canby” dated with the effective date of the ordinance codified in this title and signed by the Mayor and the city recorder and hereafter referred to as the zoning map.

B. The signed copy of the zoning map shall be maintained on file in the office of the city recorder and is made a part of this title. (Ord. 740 section 10.3.05(B), 1984)

16.08.030 Zone boundaries.

Unless otherwise specified, zone boundaries are lot lines or the centerline of streets, railroad rights-of-way, or such lines extended. Where a zone boundary divides a lot into two or more zones, the entire lot shall be considered to be in the zone containing the greater lot area, provided the boundary adjustment is a distance of less than twenty feet. (Ord. 740 section 10.3.05(C), (1984)

16.08.040 Zoning of annexed areas.

Zoning of newly annexed areas shall be considered by the Planning Commission in its review and by the Council in conducting its public hearing for the annexation. (Ord. 740 section 10.3.05(D), 1984)(Ord. 1294, 2008)

16.08.050 Prohibited parking.

In addition to the provisions of the motor vehicle laws of Oregon regulating parking, no person shall park any vehicle, except an automobile, motorcycle, van or pickup truck rated no larger than one ton, on any public street or alley within any residential zone, except for an emergency or for the purpose of loading or unloading. (Ord. 740 section 10.3.05(E), 1984)

16.08.060

(Ord. 740 section 10.3.05(F), 1984; renumbered as 16.64.040(I)(6) by Ord. 1043 section 3, 2000)

16.08.070 Illegally created lots.

In no case shall a lot which has been created in violation of state statute or city ordinance be considered as a lot of record for development purposes, until such violation has been legally remedied. (Ord. 740 section 10.3.05(G), 1984)

16.08.080 Area and yard reductions.

A. When there are existing dwellings on the lots situated immediately to each side of a given lot and each of those neighboring lots has less than the required street yard depth, the street yard of the subject property may be reduced to the average street yard of those two abutting lots.

B. When there is an existing dwelling situated on a lot immediately to either side of a given lot which fronts on the same street, and such existing dwelling has a street yard which is less than half of that required in the zone, the street yard of the subject property may be reduced to a depth which is halfway between that normally required in the zone and that of the existing dwelling on the neighboring lot.

C. If, on the effective date of the ordinance codified in this title, a lot or the aggregate of contiguous lots held in a single ownership has less than the required area or width, the lot or lots may be occupied by a permitted use subject to the other requirements of the zone; provided that if the deficiency is one of area, residential uses shall be limited to single-family dwellings; and further provided that if the deficiency is one of width, each required interior yard may be reduced by one foot

for each four feet of deficient width. In no case, however, shall such reduction result in an interior yard of less than five feet.

D. Where two or more contiguous substandard recorded lots are in common ownership and are of such size to constitute at least one conforming zoning lot, such lots or portions thereof shall be so joined, developed, and used for the purpose of forming an effective and conforming lot or lots. Such contiguous substandard lots in common ownership shall be considered as being maintained in common ownership after the effective date of the ordinance codified in this title for zoning purposes. (Ord. 740 section 10.3.05(H), 1984; Ord. 1237, 2007)

16.08.090 Sidewalks required.

A. In all commercially zoned areas, the construction of sidewalks and curbs (with appropriate ramps for the handicapped on each corner lot) shall be required as a condition of the issuance of a building permit for new construction or substantial remodeling, where such work is estimated to exceed a valuation of twenty thousand dollars, as determined by the building code. Where multiple permits are issued for construction on the same site, this requirement shall be imposed when the total valuation exceeds twenty thousand dollars in any calendar year.

B. The Planning Commission may impose appropriate sidewalk and curbing requirements as a condition of approving any discretionary application it reviews. (Ord. 740 section 10.3.05(I), 1984)

16.08.100 Height allowances.

The following types of structures or structural posts are not subject to the building height limitations: chimneys, cupolas, tanks, church spires, belfries, derricks, fire and hose towers, flagpoles, water tanks, elevators, windmills, utility poles and other similar projections. The height of wireless telecommunications systems facilities shall be in accordance with section 16.08.120. (Ord. 740 section 10.3.05(J), 1984; Ord. 981 section 18, 1997)

16.08.110 Fences.

A. Fences not more than three and one-half feet in height may be constructed within the street setbacks of any R-1, R-1.5, R-2 or C-1 zone. Fences not more than six feet in height may be constructed in any interior yard, rear yard, or street yard along an alley; provided, however, that in no case shall a fence be constructed in violation of the requirements of a vision clearance area.

B. On corner lots, the 3.5-foot height limit will apply within the required setback along both street-facing yards.

C. No more than one row of fencing is allowed within a required street yard setback.

D. The Planning Commission may require sight-blocking or noise mitigating fences for any development it reviews.

E. Fences of up to eight feet in height are permitted for any development in C-2, C-M, M-1 or M-2, or Planned Unit Development zones.

F. No fence/wall shall be constructed throughout a subdivision, planned unit development or be part of a project that is/was subject to site and design review approval where the effect or purpose is to wall said project off from the rest of the community unless reviewed and approved by the Planning Commission. (Ord. 890 section 8, 1993; Ord. 740 section 10.3.05(K), 1984; Ord. 955 section 2, 1996; Ord. 981 section 43, 1997)

G. In all zones, private fences along a public pedestrian/bicycle pathway shall comply with the following in order to provide security and visibility for pathway users while maintaining privacy for the residence.

1. Fencing installed as part of a new subdivision shall comply with either (a) or (b) below.

2. Fencing installed by a property owner on an individual lot shall comply with either (a), (b), or (c) below.

a. Solid fencing shall be no greater than four (4) feet in height; or

b. Fencing shall be constructed with black open wire material, wooden slats, or some other material that allows visual access between he pathway and adjacent uses; or

c. Solid fencing shall be set back at least three (3) feet from the property line that abuts the pathway.

H. Use of hazardous materials.

Fences and walls shall not be constructed of or contain any material which will do bodily harm, such as electric or barbed wire, razor wire, broken glass, spikes, or any other hazardous or dangerous material, except as follows:

a. Barbed wire or electrified fences enclosing livestock are permitted in any zone permitting farm use. Electrified fences shall be posted or flagged at not less than 25-foot intervals with clearly visible warnings of the hazard when adjacent to developed areas.

b. In commercial and industrial zones barbed wire is permitted attached to the top of a fence that is at least six foot in height above grade; provided, that barbed wire shall not extend over a street, sidewalk, alley or roadway. The attached barbed wire shall be placed at least six inches above the top of the fence. (Ord. 890 section 8, 1993; Ord. 740 section 10.3.05(K), 1984; Ord. 955 section 2, 1996; Ord. 981 section 43, 1997; Ord. 1338, 2010; Ord. 1514, 2019)

16.08.115 Arbors

A. Arbors that are constructed of proper design (height and setbacks) and in accordance with, the design standards of the particular zone where it is located are allowed with the following limitations:

1. Arbors shall be stand-alone structures and shall not be attached to a fence.

2. The arbor shall not exceed eight feet in height and shall maintain a five foot setback from the property line.

3. If the vegetation becomes too full or too high, the owner is financially responsible to rectify the situation, and to maintain the vegetation, and arbor;

4. The primary purpose of the arbor is to support and sustain foliage/vegetation, provide shade, recreational space, and ascetic amenity. (Ord. 1514, 2019)

~~**16.08.120 Siting and review process for Wireless Telecommunications Systems Facilities.**~~

~~**A.** The purpose of this section is to provide standards and review process for wireless telecommunications systems facilities locating within the City of Canby. This purpose shall be realized by implementing new provisions of the Canby Land Development and Planning Ordinance that will:~~

~~**1.** Regulate the placement, appearance and number of wireless telecommunications systems facilities;~~

~~**2.** Ensure that the citizens of Canby will have access to a variety of wireless telecommunications systems and providers;~~

~~**3.** Reduce the visual impact of certain wireless telecommunications systems facilities by encouraging collocation;~~

~~**4.** Establish a graduated system of review that will expedite facilities placement in preferred locations; and~~

~~**5.** Implement the applicable provision of the Federal Telecommunications Act of 1996.~~

~~**B.** The siting and review process for WTS facilities is based on the type of facility (lattice, monopole, attached, stealth design or collocation) and its proposed location in a Preferred Site (M-1 or M-2 zoning districts), Acceptable Site (C-2 or C-M zoning districts), or Conditionally Suitable Site (C-R, C-C or C-1 zoning districts).~~

~~**C.** The development review process for wireless telecommunications systems (WTS) facilities shall be as follows:~~

~~**1.** Building and Electrical Permits only:~~

a. An attached WTS facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site or Acceptable Site, where the height of the attached WTS facility is no more than 10 feet higher than the existing structure.

b. A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and less than 150 feet in height, including antennas.

c. A detached, stealth design WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 60 feet high.

2. Building and Electrical Permits, and Site and Design Review (16.49):

a. An attached WTS facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site or Acceptable Site, where the height of the attached WTS facility is more than 10 feet higher than the existing structure.

b. A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.

c. A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and under 100 feet in height, including antennas.

d. A detached WTS facility (lattice tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and under 150 feet in height, including antennas.

e. A detached, stealth design WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 100 feet high, including antennas.

3. Building and Electrical Permits, Site and Design Review (16.49), and Conditional Use Permit (16.50):

   a. A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 100 feet in height, including antennas.

   b. A detached WTS facility (lattice tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.

   c. A detached, stealth design WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, including, unless it is demonstrated that locating the proposed facility within the required setback area will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts, and equal to or over 100 feet high, with a maximum height of 130 feet.

   d. An attached WTS facility (existing structure, including collocation on cell tower) on a Conditionally Suitable Site, including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, where the height of the attached WTS facility is no more than 10 feet higher than the existing structure.

D. Standards for siting WTS facilities shall be as follows:

   1. Site and Design Review standards and criteria (section 16.49.040) shall apply to all WTS facilities requiring Site and Design approval.

   2. Conditional Use Permit standards and criteria (section 16.50.010) shall apply to all WTS facilities requiring Conditional Use Permit approval.

   3. All WTS facilities shall observe minimum lot size, lot coverage, building height and building setback requirements of the underlying zoning district unless specifically exempted or otherwise regulated by this section. Underground facilities may encroach upon required yards or may be placed in appropriate easements.

   4. All detached WTS facilities shall be landscaped at the base of the towers/poles, and completely around the equipment shelters. The landscaping shall conform to the ODOT standards for plant size and spacing.

5. Lighting for all WTS facilities shall be as required by the FAA or recommended by ODOT Aeronautics Division. All other lighting must be deflected away from adjoining property.

6. All detached WTS facilities shall be screened from the public right-of-way and abutting property by a security fence or wall at least 6 feet in height consisting of chain link fencing with vinyl slats, solid wood fencing, concrete masonry unit block, or brick.

7. Attached WTS facilities shall be painted to match the color of the mechanical screen wall or building to which it is attached.

8. Equipment shelters, buildings and cabinets housing radio electronics equipment shall be concealed, camouflaged or placed underground.

9. Any WTS facility sited on or designed with any of the following attributes shall first receive FCC approval, as specified in FCC Rules 1.1301 – 1.1319, as a condition of city approval prior to construction; Wilderness Area; Wildlife Preserve; Endangered Species; Historical Site; Indian Religious Site; Flood Plain; Wetlands; High Intensity White lights in residential neighborhoods; Excessive radio frequency radiation exposure.

E. Application requirements for WTS facilities shall be as follows:

1. WTS providers whose proposals conforms with the provisions of subsection (C)(1) of this section (16.08.120) shall submit the following information with the application for permits:

a. A copy of that portion of the lease agreement (or lease memo) with the property owner, facility removal within 90 days of the abandonment and a bond to guarantee removal shall be submitted for review prior to development permit approval.

b. A map of the city showing the approximate geographic limits of the cell to be created by the facility. This map shall include the same information for all other facilities owned or operated by the applicant within the city, or extending within the city from a distant location, and any existing detached WTS facilities of another provider within 1,000 feet of the proposed site.

c. A plot plan showing:

i. The lease area;

ii. Antenna structure;

iii. Height above grade and setback from property lines;

~~**iv.** Equipment shelters and setback from property lines;~~

~~**v.** Access;~~

~~**vi.** Connection point with land line system; and~~

~~**vii.** All landscape areas associated with the WTS facility.~~

~~**d.** Anticipated capacity of the WTS facility (including number and types of antennas which can be accommodated).~~

~~**e.** The method(s) of stealth design (where applicable).~~

~~**f.** An engineer's statement that the radio frequency emissions at grade, or at the nearest habitable space when attached to an existing structure comply with FCC rules for such emissions; the cumulative radio frequency emissions if collocated.~~

~~**g.** The radio frequency range in megahertz and the wattage output of the equipment.~~

~~**h.** A description of the type of service offered (voice, data, video, etc.) and the consumer receiving equipment.~~

~~**i.** Identification of the provider and backhaul provider, if different.~~

~~**j.** A facilities maintenance regimen.~~

~~**k.** The zoning and comprehensive plan designation of the proposed site.~~

~~**l.** The FAA determination.~~

~~**m.** The distance from the nearest WTS facility.~~

~~**2.** WTS providers whose proposals conforms with the provisions of subsection (C)(2) and (C)(3) of this section (16.08.120) shall submit, in addition to the requirements of 16.49.035 and/or 16.50.020 of the Land Development and Planning Ordinance, the following additional information:~~

~~**a.** Items in section (E) above.~~

~~**b.** Alternatives for locating/relocating support structures within 250 feet of the proposed site.~~

~~**c.** Photo simulations of the proposed WTS facility from the four cardinal compass points and/or abutting right-of-way, whichever provides the most accurate representation of the proposed facility from a variety of vantage points.~~

~~**d.** An engineer's statement demonstrating the reasons why the WTS facility must be located at the proposed site (service demands, topography, dropped coverage, etc.).~~

~~**e.** An engineer's statement demonstrating the reasons why the WTS facility must be constructed at the proposed height.~~

~~**f.** Verification of good faith efforts made to locate or design the proposed WTS facility to qualify for a less rigorous approval process (building permit and/or building permit and site and design review approval).~~

~~**F.** Private amateur radio (HAM) antennas, their support structures, and direct to home satellite receiving antennas are exempt from this section (16.08.120), but shall otherwise comply with the applicable provisions of the underlying zoning district in which they are located to the extent that such provisions comply with Federal Communications Commission policy. (Ord. 981 section 19, 1997)~~

16.08.130 Standard transportation improvements.

A. Pursuant to the Transportation Planning Rule, projects that are specifically identified in the Canby Transportation System Plan, for which the City has made all the required land use and goal compliance findings, are permitted outright and subject only to the standards established by the Transportation System Plan. This section pertains to additional transportation projects that may not be identified in the Canby Transportation System Plan, and whether the use is permitted outright or permitted subject to the issuance of a conditional use permit.

1. Except where otherwise specifically regulated by this ordinance, the following improvements are permitted outright:

a. Normal operation, maintenance, repair, and preservation of existing transportation facilities.

b. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.

c. Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.

d. Landscaping as part of a transportation facility.

e. Emergency measures necessary for safety and the protection of property.

f. Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan, except for those that are located in exclusive farm use or forest zones.

g. Construction of a local street or road as part of subdivision or land partition approved consistent with this Ordinance.

2. Except where otherwise specifically regulated by this ordinance, the following improvements are permitted as a conditional use:

a. Construction, reconstruction, or widening, and other projects authorized by the Transportation System Plan but not included in the list of projects in the Transportation System Plan. These projects shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State projects that require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:

i. The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.

ii. The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.

iii. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.

iv. The project includes provision for bicycle and pedestrian circulation as consistent with the Comprehensive Plan and other requirements of this ordinance.

b. If review under this section indicates that the use or activity is not clearly authorized by the Transportation System Plan or this ordinance, a plan amendment shall be undertaken prior to or in conjunction with the conditional use permit review. (Ord. 1043 Section 3, 2000)

16.08.140 Temporary vendor.

Any person who exhibits goods or services for sale or for offer in a temporary manner on private property, from a vehicle, trailer, tent, canopy, shipping container, or other temporary structure, or from one's person or displayed on the ground or off the ground, shall first obtain permit approval in compliance with the following standards, and shall operate in compliance with this section and with all other applicable sections of the Canby Municipal Code.

A. Exemptions. The following temporary activities do not require a Temporary Vendor permit, and are exempt from the standards in this section:

1. Any person engaged in the mere delivery of any goods or services to a site, which were purchased from a regular place of business inside or outside the city;

2. Any person engaged in delivery, exhibition, sale or offering of food on a site for a period of time not to exceed 2 hours during any 24 hour period;

3. Any contractor who is engaged in constructing, maintaining, or repairing a structure, utility, equipment, or landscaping on a site; or

4. Any person conducting a garage sale per Section 5.04.020.

B. Permit process.

1. A request for a Temporary Vendor permit shall be processed as a Type I decision pursuant to the procedures set forth in Chapter 16.89. A Temporary Vendor permit applicant shall demonstrate that the proposed activity meets all fire and life safety codes, and is in compliance with this section and with all other applicable sections of the Canby Municipal Code.

2. An application for a Temporary Vendor permit shall include a site plan drawn to scale, which includes all existing lot lines, setbacks, structures, landscaped areas, paved areas, and parking and loading spaces; and illustrates the proposed location and layout of all the Temporary Vendor's structures, equipment, furnishings, signage, and inventory.

3. The Temporary Vendor activity (e.g., retail, restaurant, etc) shall be an outright permitted use in the zoning district in which it is located; Or if the use is conditionally permitted in the zoning district, a Conditional Use Permit approval shall be required prior to issuance of a Temporary Vendor permit.

4. A "Site and Design Review" permit is not required for a permitted Temporary Vendor.

5. Any signage displayed by the Temporary Vendor must be in compliance with Chapter 16.42 sign standards, and all required Sign permits must be obtained.

6. A Temporary Vendor must obtain a City of Canby business license.

C. Duration. A Temporary Vendor permit may be granted for a site for up to 90 consecutive calendar days, and then may be renewed twice upon request for an additional 90 days, provided that the temporary vendor activity has been conducted in compliance with all applicable codes, and no public safety incidents have occurred on the site related to the temporary vendor activity. In no case shall a site be permitted to host Temporary Vendor activity for more than 270 days in any 12 month period.

D. A Temporary Vendor shall be located on a paved surface with adequate vehicular and pedestrian ingress and egress, in compliance with Section 16.10.070. Inventory and equipment shall not be displayed or stored in any landscaped areas.

E. A Temporary Vendor shall comply with all required development standards, such as height limitations, setbacks, vision clearance areas, and applicable conditions of any previous land use decisions for the site.

F. Equipment such as trash cans, fuel tanks, or generators shall be screened such that it is not visible from any abutting public right-of-way.

G. A Temporary Vendor shall not displace any vehicle parking spaces that are required to meet the minimum off-street parking requirements of another use on site or on a nearby site. A Temporary Vendor shall not encroach into required loading space areas, driveways, or vehicle maneuvering areas.

H. A Temporary Vendor that displaces one or more vehicle parking spaces is prohibited for any site that:

1. Is non-conforming in terms of meeting minimum required vehicle parking or loading space requirements; or

2. Has been granted a vehicle parking exception, and currently has less than the required minimum number of off-street vehicle parking spaces.

I. The property owner and the temporary vendor permit holder shall be jointly and separately responsible for any violation of this section or other applicable sections of the Canby Municipal Code. Any such violation may result in the immediate revocation or non-renewal of a temporary vendor permit, and may result in the denial of any future temporary vendor permit for the site upon which the violation occurred. (Ord 1315, 2009; Ord. 1520, 2019)

16.08.150 Traffic Impact Study (TIS).

A. Purpose. The purpose of this section of the code is to implement Section 660-012-0045(2)(b) of the State Transportation Planning Rule, which requires the city to adopt a process to apply conditions to development proposals in order to minimize adverse impacts to and protect transportation facilities. This section establishes the standards to determine when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities: what information must be included in a Traffic Impact Study; and who is qualified to prepare the Study.

B. Initial scoping. During the pre-application conference, the city will review existing transportation data to determine whether a proposed development will have impacts on the transportation system. It is the responsibility of the applicant to provide enough detailed information for the city to make a determination. If the city

cannot properly evaluate a proposed development's impacts without a more detailed study, a transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts. If a TIS is required, the city will provide the applicant with a "scoping checklist" to be used when preparing the TIS.

C. Determination. Based on information provided by the applicant about the proposed development, the city will determine when a TIS is required and will consider the following when making that determination.

1. Changes in land use designation, zoning designation, or development standard.

2. Changes in use or intensity of use.

3. Projected increase in trip generation.

4. Potential impacts to residential areas and local streets.

5. Potential impacts to priority pedestrian and bicycle routes, including, but not limited to school routes and multimodal street improvements identified in the TSP.

6. Potential impacts to intersection level of service (LOS).

D. TIS General Provisions

1. All transportation impact studies, including neighborhood through-trip and access studies, shall be prepared and certified by a registered Traffic or Civil Engineer in the State of Oregon.

2. Prior to TIS scope preparation and review, the applicant shall pay to the city the fees and deposits associated with TIS scope preparation and review in accordance with the adopted fee schedule. The city's costs associated with TIS scope preparation and review will be charged against the respective deposits. Additional funds may be required if actual costs exceed deposit amounts. Any unused deposit funds will be refunded to the applicant upon final billing.

3. For preparation of the TIS, the applicant may choose one of the following:

a. The applicant may hire a registered Oregon Traffic or Civil Engineer to prepare the TIS for submittal to the city. The city Traffic Engineer will then review the TIS and the applicant will be required to pay to the city any fees associated with the TIS review; or

b. The applicant may request that the city Traffic Engineer prepare the TIS. The applicant will pay to the city any fees associated with preparation of the TIS by the city Traffic Engineer.

4. The TIS shall be submitted with a concurrent land use application and associated with application materials. The city will not accept a land use application for process if it does not include the required TIS.

5. The city may require a TIS review conference with the applicant to discuss the information provided in the TIS once it is complete. This conference would be in addition to any required pre-application conference. If such a conference is required, the city will not accept the land use application for processing until the conference has taken place. The applicant shall pay the TIS review conference fee at the time of conference scheduling, in accordance with the adopted fee schedule.
6. A TIS determination is not a land use action and may not be appealed.

E. TIS Scope. The city shall determine the study area, study intersections, trip rates, traffic distribution, and required content of the TIS based on information provided by the applicant about the proposed development.

1. The study area will generally comprise an area within a ½-mile radius of the development site. If the city determines that development impacts may extend more than ½ mile from the development site, a larger study area may be required. Required study intersections will generally include (in addition to the primary access points) collector/collector and above intersections with an anticipated peak hour traffic increase of five-percent from the proposed project.

2. If notice to ODOT or other agency is required pursuant to noticing requirements in Chapter 16.89, the city will coordinate with those agencies to provide a comprehensive TIS scope. ODOT may also require a TIS directly to support an OR 99E approach permit application.

F. TIS Content. A project-specific TIS checklist will be provided to the applicant by the city once the city has determined the TIS scope. A TIS shall include all of the following elements, unless waived by the city.

1. Introduction and Summary. This section shall include existing and projected trip generation including vehicular trips and mitigation of approved development not built to date; existing level and proposed level of service standard for city and county streets and volume to capacity for state roads; project build year and average growth in traffic between traffic count year and build year; summary of transportation operations; traffic queuing and delays at study area intersections; and proposed mitigation(s).

2. Existing Conditions. This section shall include a study area description, including information about existing study intersection level of service.

3. Impacts. This section should include the proposed site plan, evaluation of the proposed site plan, and a project-related trip analysis. A figure showing the assumed future year roadway network (number and type of lanes at each intersection) also shall be provided. For subdivision and other developments,

the future analysis shall be for the year of proposed site build-out. For proposed comprehensive plan and/or zoning map amendments, the future analysis year shall be 20 years from the date of the City's adopted TSP, or 15 years, whichever is greater.

4. Mitigation. This section shall include proposed site and area-wide specific mitigation measures. Mitigation measures shall be roughly proportional to potential impacts. See Subsection K below for rough proportionality determination.

5. Appendix. This section shall include traffic counts, capacity calculations, warrant analysis, and any other information necessary to convey a complete understanding of the technical adequacy of the TIS.

G. TIS Methodology. The City will include the required TIS methodology with the TIS scope.

H. Neighborhood Through-Trip Study. Any development projected to add more than 30 through-vehicles in a peak hour or 300 through-vehicle per day to an adjacent residential local street or neighborhood route will be require assessment and mitigation of residential street impacts. Through-trips are defined as those to and from a proposed development that have neither an origin nor a destination in the neighborhood. The through-trip study may be required as a component of the TIS or may be a stand-alone study, depending on the level of study required in the scoping checklist. The through-trip study shall include all of the following:

1. Existing number of through-trips per day on adjacent residential local streets or neighborhood routes.

2. Projected number of through-trips per day on adjacent residential local streets or neighborhood routes that will be added by the proposed development.

3. Traffic management strategies to mitigate for the impacts of projected through-trip consistent.

If a residential street is significantly impacted, mitigation shall be required. Thresholds used to determine if residential streets are significantly impacted are:

1. Local residential street volumes should not increase above 1,200 average daily trips

2. Local residential street speeds should not exceed 28 miles per hour (85th percentile speed).

I. Mitigation. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area. Mitigation measures may be suggested by the applicant or recommended by ODOT or Clackamas County in

circumstances where a state or county facility will be impacted by a proposed development. The city shall determine if the proposed mitigation measures are adequate and feasible. ODOT must be consulted to determine if improvements proposed for OR 99E comply with ODOT standards and are supported by ODOT. The following measures may be used to meet mitigation requirements:

1. On-and off-site improvements beyond required standard frontage improvements.
2. Development of a transportation demand management program.
3. Payment of a fee in lieu of construction, if construction is not feasible.
4. Correction of off-site transportation deficiencies within the study area that are substantially exacerbated by development impacts.
5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

J. Conditions of Approval. The city may deny, approve, or approve with appropriate conditions a development proposal in order to minimize impacts and protect transportation facilities.

1. Where the existing transportation system will be impacted by the proposed development, dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways may be required to ensure that the transportation system is adequate to handle the additional burden caused by the proposed use.

2. Where the existing transportation system is shown to be burdened by the proposed use, improvements such as paving, curbing, installation or contribution to traffic signals, traffic channelization, construction of sidewalks, bikeways, accessways, paths, or street that serve the proposed use may be required.

3. The city may require the development to grant a cross-over access easement(s) to adjacent parcel(s) to address access spacing standards on arterials and collector roadways or site-specific safety concerns. Construction of shared access may be required at the time of development if feasible, given existing adjacent land use. The access easement must be established by deed.

K. Rough Proportionality Determination. Improvements to mitigate impacts identified in the TIS shall be provided in rough proportion to the transportation impacts of the proposed development.

1. The TIS shall include information regarding how the proportional share of improvements was calculated, using the ratio of development trips to growth trips and the anticipated cost of the full Canby Transportation System Plan. The calculation is provided below:

Proportionate Share Contribution = [Net New Trips/(Planning Period Trips-Existing Trips)] X Estimated Construction Cost.

a. Net new trips means the estimated number of new trips that will be created by the proposed development within the study area.

b. Planning period trips means the estimated number of total trips within the study area within the planning period identified in the TSP.

c. Existing trips means the estimated number of existing trips within the study area at the time of TIS preparation.

d. Estimated construction cost means the estimated total cost of construction of identified improvements in the TSP. (Ord 1340, 2011)

16.08.160 Safety and Functionality Standards.

The City will not issue any development permits unless the proposed development complies with the city's basic transportation safety and functionality standards, the purpose of which is to ensure that development does not occur in areas where the surrounding public facilities are inadequate. Upon submission of a development permit application, an applicant shall demonstrate that the development property has or will have the following:

A. Adequate street drainage, as determined by the city.

B. Safe access and clear vision at intersections, as determined by the city.

C. Adequate public utilities, as determined by the city.

D. Access onto a public street with the minimum paved widths as stated in Subsection E below.

E. Adequate frontage improvements as follows:

1. For local streets and neighborhood connectors, a minimum paved width of 16 feet along the site's frontage.

2. For collector and arterial streets, a minimum paved width of 20 feet along the site's frontage.

3. For all streets, a minimum horizontal right-of-way clearance of 20 feet along the site's frontage.

F. Compliance with mobility standards identified in the TSP. If a mobility deficiency already exists, the development shall not create further deficiencies. (Ord 1340, 2011)

Chapter 16.22

C-1 DOWNTOWN COMMERCIAL ZONE

Sections:

16.22.010 Uses permitted outright.

Uses permitted outright in the C-1 zone shall be as follows:

A. Residential. Residential uses shall be permitted only when part of a mixed use development (residential with commercial, office, or public/institutional use). Both vertical mixed use (housing above the ground floor) and horizontal mixed use (housing on the ground floor) developments are allowed, as follows:

1. Ground floor dwelling units that are incidental (less than 25% of the ground floor gross area) attached to any use allowed in a C-1 zone, and have access from a side or back entrance, or an entrance that is incidental to the commercial main ground floor use.

2. Residential units occupying the second and/or third story of any structure in the C-1 zone, provided the primary ground floor use is listed in 16.22.010.

3. Limitation on street-level housing. No more than fifty (50) percent of a single street frontage may be occupied by residential uses. This standard is intended to reserve storefront space for commercial uses and public/institutional uses; it does not limit residential uses above the street level on upper stories, or behind street-level storefronts. For parcels with street access at more than one level (e.g., sloping sites with two street frontages), the limitation on residential building space shall apply to all street frontages.

a. Density. There is no minimum or maximum residential density standard. Density shall be controlled by the applicable lot coverage and building height standards.

b. Parking, garages, and driveways. All off-street vehicle parking intended for residential use, including surface lots and garages, shall be oriented to alleys, placed underground, placed in structures above the ground floor, or located in parking areas behind or to the side of the building; except that side yards facing a street (i.e., corner yards) shall not be used for surface

parking. All garage entrances facing a street (e.g., underground or structured parking) shall be recessed behind the front building elevation by a minimum of four (4) feet. On corner lots, garage entrances shall be oriented to a side street when access cannot be provided from an alley.

c. Creation of alleys. When a residential subdivision (e.g., four or more townhome lots) is proposed, a public alley shall be created for the purpose of vehicle access. Alleys are not required when existing development patterns or topography make construction of an alley impracticable. As part of a subdivision, the City may require dedication of right-of-way or easements, and construction of pathways between townhome lots (e.g., between building breaks) to provide pedestrian connections through a development site.

4. Existing dwelling units which are not incidental and attached to a use allowed in the C-1 zone may be altered, expanded (or rebuilt within one year of a fire or other act of nature) provided that any such additions or rebuilding comply with the development standards for dwelling units in the R-2 zone;

B. Retail store or shop, except those listed as permitted or conditional uses in the C-2 zone;

C. Amusement enterprise, including pool hall, bowling alley, dance hall, skating rink or theater, when enclosed in a building;

D. Bakery, for retail sale primarily on premises; Establishments primarily engaged in the retail sale of bakery products. The products may be purchased from others or made on the premises. Provided the manufacturing does not exceed 7000 square feet of floor space. SIC 5461

E. Barber or beauty shop, nail salon;

F. Bank or other financial institution;

G. Bed and Breakfast, in an existing residence;

H. Bicycle sales, service, or repair;

I. Blueprinting, Photostatting, printing or other reproduction process;

J. Bus depot;

K. Business college;

L. Catering establishment;

M. Church or places of worship;

N. Club or lodge hall;

O. Day care facility;

P. Laundry or cleaning establishment;

Q. Frozen food lockers;

R. Hardware store, not including lumber or other large building materials requiring on-site outside or warehouse storage;

S. Hotel and apartment hotel;

T. Laboratory for experimental, photo or electronic testing research;

U. Locksmith or gunsmith;

V. Magazine or newspaper distribution agency;

W. Mortuary (including those used for pets);

X. Office, business or professional;

Y. Pawn shop;

Z. Public Transit Center;

AA. Restaurant, without drive-in service;

BB. Scientific or professional instrument sales or repair;

CC. Sales, rental or repair of small recreational, radio, television, business or household equipment;

DD. Studio, including music, art, dancing, photography or health;

EE. Taxidermy shop;

FF. Telephone or telegraph exchange;

GG. Theater, except drive-in;

HH. Auto parts store and incidental shop facilities;

II. Upholstery shop;

JJ. Watch and clock repair;

KK. Similar commercial uses as determined by the Planning Commission;

LL. Public building or land use such as fire station, city hall, park, playground, library or museum.

MM. Minor public facility.

NN. Drinking Places (alcoholic Beverages) Establishments primarily engaged in the retail sale of alcoholic drinks, such as beer, ale, wine, and liquor, for consumption on the premises. The sale of food frequently accounts for a substantial portion of the receipts of these establishments. SIC 5813

OO. Brew Pub: General Manufacturing of products included in SIC 2082: Malt Beverages, provided the manufacturing does not exceed 7,000 square feet of total floor area per development site, and retail sales of the products manufactured is provided on-site, and the sale of food frequently accounts for a substantial portion of the receipts of the establishment.

PP. Confectionary Store: Establishments primarily engaged in manufacturing confectionery for direct sale on the premises to household consumers provided the manufacturing does not exceed 7000 square feet of floor space. SIC 5441 (Ord. 890 section 24, 1993; Ord. 805 section 2, 1987; Ord. 802 section 6, 1987; Ord. 740 section 10.3.24(A), 1984; Ord. 955 section 8, 1996; Ord. 981 section 21, 1997; Ord. 1076, 2001; Ord 1237, 2007; Ord. 1514, 2019)

~~PP.~~**QQ.** Collocations: Pursuant to the standards and requirements of Chapter 16.55. (Ord. 1539, 2020)

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16.22.020 Conditional uses.

Conditional uses in the C-1 zone shall be as follows:

A. A use listed as conditional in the R-1 zone, except as modified in Section 16.22.010, above;

B. Parking lot or parking structures;

C. ~~Attached WTS facilities (see 16.08.120).~~Certain wireless telecommunications facilities, pursuant to the standards and requirements of Chapter 16.55. (Ord. 890 section 25, 1993; Ord. 740 section 10.3.24(B), 1984; Ord. 981 section 22, 1997; Ord. 1076, 2001; Ord 1237, 2007; Ord. 1514, 2019, Ord. 1539, 2020)

16.22.030 Development standards.

The following subsections indicate the required development standards of the C-1 zone:

A. Minimum lot area: none;

B. Minimum width and frontage: none;

C. Minimum yard requirements:

1. Street yard: none, except ten feet where adjoining a residential zone.

2. Interior yard: none.

3. Rear yard: none

D. Maximum building height:

1. Freestanding signs: thirty feet;

2. All other structures: forty-five feet.

E. Maximum lot coverage: no limit;

F. Other regulations:

1. Vision clearance distances shall be ten feet from an alley and fifteen feet from any other street.

2. Sidewalks a minimum of eleven (11) feet in width shall be required in commercial locations unless existing building locations or street width necessitate a more narrow design.

3. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet (not including awnings); mechanical units, used for the heating/cooling of residential units, are exempt from interior and/or rear yard setback requirements.

4. New commercial buildings, particularly retail shopping and offices, shall be oriented to the street, near or at the setback line. A main entrance shall be oriented to the street.

5. Off-street motor vehicle parking for new commercial developments shall be located at the side or behind the building(s). (Ord 740 section 10.3.24(C), 1984; Ord. 981 section 48, 1997; Ord. 1043 section 3, 2000; Ord. 1076, 2001; Ord 1237, 2007; Ord. 1514, 2019)

16.22.40 Design Review Matrix.

A. For design review applications located in the C-1 zone the following matrix shall apply. This matrix replaces the general matrix contained in Chapter 16.49 for such applications.

B. A design review application in the C-1 zone shall be considered to be compatible if a minimum of 65 percent of the total possible points (not including bonuses) are accumulated for the whole development, and if the applicant has received a minimum of one point in each applicable category. (Ord. 1076, 2001; Ord. 1080, 2001)

TABLE 16.22.040

CRITERIA	POSSIBLE SCORES		
Building Location and Orientation			
Building located at front of property line: Parking in front = 0; 50% of building front at property line = 1; 100% of building front at property line = 2.	0	1	2
Building oriented to street: No = 0; Yes = 2.	0		2
Entrances			
Major retail entrance on street: No = 0; Yes = 2	0		2
Corner building entrances on corner lots: No = 0; Yes =1	0	1	
Entrance inset (not more than 3 feet behind front glass line except at corner entries): No = 0; Yes = 2.	0		2
Windows			
Regularly spaced and similar-shaped windows – around 70% of storefront area is glass (includes doors). (No mirrored glass): <50% = 0; 50% to 70% = 1; >70% = 2.	0	1	2
Second story windows (where applicable): No = 0; Yes = 2.	0		2
Architectural Details			
Blade sign or painted wall sign (no internally illuminated box signs): No = 0; Yes = 2	0		2
Brick, stucco, and horizontal lap or ship lap painted wood siding; concrete wood or wood siding = 0; concrete masonry, stucco, or similar material = 1; brick or similar appearance = 2.	0	1	2
Colors from recommended color palettes (on file with the City of Canby), or as otherwise approved: No = 0; Yes = 2.	0		2
Cornice treatments to emphasize building tops at parapet-type buildings: flat roofs behind parapets acceptable, otherwise visible roofs should be pitched: no treatment = 0; pitched roof = 1; parapet roof = 2.	0	1	2
All walls have doors, widows, or display windows (no blank walls). Murals, art niches, benches, or light sconces at blank walls where windows are not feasible: no treatment = 0; mural or other treatment = 1; windows or display windows = 2.	0	1	2
Awnings and rain protection of durable canvas, vinyl, glass or acrylic. No awning slope over 45 degrees, with flat or semi-flat awnings along First Avenue and at buildings with windows above entries. Awnings are discontinuous, with lengths generally under 30 linear feet for longer buildings: no awnings = 0; awnings meet criteria = 2.	0		2
Parking			
Off-street parking (if required) located behind or to side of building: No = 0; side = 1; behind = 2	0	1	2
Bonus Points			
Provide usable pedestrian space such as plaza, outdoor seating, or extra-wide pathway/sidewalk near one or more building entrances: No = 0; Yes = 1.	0	1	
Planters and window boxes: No = 0; Yes = 1.	0	1	
Public art (e.g., fountain, sculpture, etc.): No = 0; Yes = 1.	0	1	
Second story residential or office: No = 0; Yes = 1	0	1	

Chapter 16.24

C-R RESIDENTIAL/COMMERCIAL ZONE

Sections:

16.24.010 Uses permitted outright.

Uses permitted outright in the C-R zone shall be as follows:

A. Uses permitted outright in the R-1.5 zone, conforming to the development standards of the R-1.5 zone;

B. Parking lots or parking structures;

C. Bakery, for retail sale primarily on premises; Establishments primarily engaged in the retail sale of bakery products. The products may be purchased from others or made on the premises. Provided the manufacturing does not exceed 7000 square feet of floor space. SIC 5461

D. Barber or beauty shop;

E. Bicycle service and repair shop with all business and storage conducted within an enclosed building;

F. Church or places of worship;

G. Ceramic, arts, crafts, or hobby shop, provided that adequate parking exists for any classes given;

H. Day care center serving fifteen or fewer children or adults;

I. Locksmith shop;

J. Magazine or newspaper distribution agency;

K. Sales, rental or repair of small recreational, radio, television, business or household equipment;

L. Studio, including music, art, dance, photography or health;

M. Upholstery shop;

N. Watch or clock repair;

O. Business or professional offices;

P. Rooming or boarding houses;

Q. Shoe repair;

R. Dwelling units attached to any use allowed in the C-R zone.

S. Brew Pub: General Manufacturing of products included in SIC 2082: Malt Beverages, provided the manufacturing does not exceed 7,000 square feet of total floor area per development site, and retail sales of the products manufactured is provided on-site, and the sale of food frequently accounts for a substantial portion of the receipts of the establishment.

T. Confectionary Store: Establishments primarily engaged in manufacturing confectionery for direct sale on the premises to household consumers provided the manufacturing does not exceed 7000 square feet of floor space. SIC 5441 (Ord. 890 section 26, 1993; Ord. 740 section 10.3.25(A), 1984; Ord. 1514, 2019)

~~T.~~U. Collocations: Pursuant to the standards and requirements of Chapter 16.55. (Ord. 1539, 2020)

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16.24.020 Conditional uses.

Conditional uses in the C-R zone shall be as follows:

A. Uses listed as conditional in R-1 or R-1.5 zones, and not listed as permitted in section 16.24.010; residential development shall conform to the development standards of the R-2 zone.

B. Uses listed as permitted outright in R-2 zones, and not listed as permitted in section 16.24.010. Such uses shall conform to the development standards of the R-2 zone.

C. Motels or hotels.

D. ~~Attached WTS facilities (see 16.08.120).~~Certain ~~T~~telecommunications facilities, pursuant to the standards and requirements of Chapter 16.55. (Ord. 1539, 2020)

E. Food services, excluding auto-oriented uses.

F. Self-Storage/Mini-Storage Warehouse Units. As defined in 16.04.547. (Ord. 890

section 27, 1993; Ord. 740 section 10.3.25(B), 1984; Ord. 981 section 23, 1997; Ord. 1080, 2001; Ord 1237, 2007; Ord. 1514, 2019)

16.24.030 Development standards.

The following subsections indicate the required development standards of the C-R zone:

A. Minimum lot area: seven thousand square feet, except for residential development. The minimum lot area for residential development shall be according to 16.18.030(A) for residential uses permitted outright, and shall be according to 16.20.030(A) for residential uses permitted conditionally;

B. Minimum width and frontage: sixty feet except that the Planning Commission may approve lots having less frontage, subject to special conditions to assure adequate access;

C. Minimum yard requirements:

1. Street yard: twenty feet;

2. Interior yard: none, except ten feet where adjoining a residential zone. May be reduced to three feet for detached accessory structure not exceeding one story and erected sixty feet or more from all streets other than an alley;

3. Rear yard: none, except ten feet where adjoining a residential zone. May be reduced to three feet for detached accessory structure not exceeding one story and erected sixty feet or more from all streets other than an alley.

D. Maximum building height:

1. Freestanding signs: thirty feet;

2. All other structures: forty-five feet**.**

E. Maximum lot coverage: sixty percent;

F. Other regulations:

1. Vision clearance distances shall be fifteen feet from any alley and thirty feet from any other street or railroad.

2. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet. (Ord. 830, 1989; Ord. 740 section 10.3.25(C), 1984; Ord. 955 section 9, 1996; Ord 1237, 2007; Ord. 1514, 2019)

Chapter 16.28

C-2 HIGHWAY COMMERCIAL ZONE

Sections:

16.28.010 Uses permitted outright.

Uses permitted outright in the C-2 zone are as follows:

A. A use permitted outright in a C-1 zone;

B. Miniature golf courses;

C. Automobile, motorcycle, boat or truck sales, service, repair, rental, storage or parking;

D. Theaters;

E. Restaurant, including drive-in;

F. Kennel;

G. Lumber yard;

H. Machinery, farm equipment or implement sales, service or rental;

I. Hotel or motel;

J. Service station;

K. Tire shop, including incidental tire recapping;

L. Veterinarian's office or animal hospital;

M. Fuel oil distribution, retail, provided all fuel oil storage is underground;

N. Nursery and greenhouse;

O. Feed and seed store;

P. Department store:

Q. Similar commercial uses as determined by the Planning Commission.

R. ~~Attached WTS facilities~~Collocations: ~~(see 16.08.120)~~ Pursuant to the standards and requirements of Chapter 16.55~~.~~. (Ord. 1539, 2020)

S. Detached ~~WTS facilities~~macro-telecommunications facility (monopole), less than 100 feet in height ~~(see 16.08.120).~~pursuant to the standards and requirements of Chapter 16.55. (Ord. 1539, 2020)

T. Self-Storage/Mini-Storage Warehouse Units. As defined in 16.04.547. (Ord. 890 section 28, 1993; Ord. 830 section 6, 1989; Ord. 740 section 10.3.28(A), 1984; Ord. 981 section 25, 1997; Ord. 1237, 2007; Ord. 1514, 2019)

16.28.020 Conditional uses.

Conditional uses in the C-2 zone shall be as follows:

A. A use permitted outright in an M-1 zone;

B. A use listed as conditional in a C-1 zone and not listed in section 16.28.010.

~~**C.** Detached WTS~~Macro telecommunications facilities (monopole), equal to or over 100 feet in height ~~(see 16.08.120).~~ pursuant to the standards and requirements of Chapter 16.55. (Ord. 890 section 29, 1993; Ord. 740 section 10.3.28(B), 1984; Ord. 981 section 26, 1997, Ord. 1539, 2020)

16.28.030 Development standards.

The following subsections indicate the required development standards of the C-2 zone:

A. Minimum lot area: none;

B. Minimum width and frontage: none;

C. Minimum yard requirements:

1. Street yard: twenty feet where abutting Highway 99-E and S. Ivy Street. Gas station canopies shall be exempted from the twenty foot setback requirements. Remaining property none, except ten feet where abutting a residential zone. Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no curb exists, the setback shall be measured from the property line. Other than signs which are nonconforming structures and street banners which have been approved per

the requirements of the Uniform Sign Code, no signs will be allowed to be located within or to project over a street right-of-way;

2. Interior yard: none, except ten feet where abutting a residential zone.

3. Rear yard: none, except ten feet where abutting a residential zone.

D. Maximum building height:

1. Freestanding signs: thirty feet;

2. All other structures: forty-five feet**.**

E. Maximum lot coverage: sixty percent;

F. Other regulations:

1. Vision clearance distances shall be fifteen feet from any alley or driveway and thirty feet from any other street or railroad;

2. Except in cases where existing building locations or street width necessitate a more narrow design, sidewalks eight feet in width shall be required;

a. In those locations where angle parking is permitted abutting the curb, and

b. For property frontage along Highway 99-E.

3. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet. (Ord. 830 section 7, 8, 1989; Ord. 802 section 7 [part], 1987; Ord. 740 section 10.3.28(C), 1984; Ord. 981 section 49, 1997; Ord. 1237, 2007; Ord. 1514, 2019)

Chapter 16.30

C-M HEAVY COMMERCIAL MANUFACTURING ZONE

Sections:

16.30.010 Uses permitted outright.

Uses permitted outright in the C-M zone shall be as follows:

A. A use permitted outright in a C-2 zone, other than dwelling units;

B. Contractor's equipment yard;

C. Dwelling for watchman or caretaker working on premises;

D. Fuel distribution, wholesale;

E. Laundry or Laundromat, with or without dry cleaning operation;

F. Motor or rail freight terminal;

G. Railroad tracks and related facilities;

H. Stone cutting and sales;

I. Tire retreading, recapping and sales;

J. Transfer or storage;

K. Utility storage or service yard;

L. Similar heavy commercial, storage, or light manufacturing uses as determined by the Planning Commission.

M. Collocations pursuant to the standards and requirements of Chapter 16.55

~~**M.** Attached WTS facilities (see 16.08.120)~~.((Ord. 1539, 2020))

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N. Detached ~~WTS facilities~~telecommunications facilities (monopole), less than 100 feet in height, pursuant to the standards and requirements of Chapter 16.55. (Ord. 1539, 2020)

O. Self-Storage/Mini-Storage Warehouse Units. As defined in 16.04.547. (See 16.08.120). (Ord. 890 section 30, 1993; Ord. 740 section 10.3.29(A), 1984; Ord. 981 section 27, 1997; Ord. 1237, 2007; Ord. 1514, 2019)

16.30.020 Conditional uses.

Conditional uses in the C-M zone shall be as follows:

A. A use permitted outright in an M-1 zone and not listed in section 16.30.010 or below;

B. A use permitted conditionally in a C-1 or C-2 zone, other than dwelling units, and not listed in section 16.30.010 or below;

C. Other light industrial uses as determined by the Planning Commission;

D. Detached ~~WTS~~ telecommunications facilities (monopole), equal to or over 100 feet in height pursuant to the standards and requirements of Chapter 16.55; ~~(see 16.08.120);~~ (Ord. 740 section 10.3.29(B), 1984; Ord. 981 section 28 & 29, 1997; Ord. 1237, 2007, Ord. 1539, 2020)

16.30.030 Development standards.

The following subsections indicate the required development standards of the C-M zone:

A. Minimum lot area: none.

B. Minimum width and frontage: none.

C. Minimum yard requirements:

1. Street yard: twenty feet where abutting Highway 99E and S. Ivy Street. Gas station canopies shall be exempted from the twenty foot setback requirements. Properties not fronting on Highway 99E or S. Ivy Street shall maintain a 10 foot street yard setback. Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no curb exists, the setback shall be measured from the property line. Other than signs which are nonconforming structures and street banners which have been approved per the requirements of the Uniform Sign Code, no signs will be allowed to be located within, or to project over, a street right-of-way.

2. Interior yard: none, except ten feet where abutting a residential zone.

3. Rear yard: none, except ten feet where abutting a residential zone.

D. Maximum building height:

1. Freestanding signs: thirty feet;

2. All other structures: forty-five feet**.**

E. Maximum lot coverage: sixty percent.

F. Other regulations:

1. Vision clearance distances shall be fifteen feet from any alley or driveway and thirty feet from any other street or railroad.

2. Except in cases where existing building locations or street width necessitate a more narrow design, sidewalks eight feet in width shall be required:

a. In those locations where angle parking is permitted abutting the curb, and

b. For property frontage along Highway 99-E.

3. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet.

4. Outside storage areas abutting a residential zone shall be screened from view by a site-blocking fence, landscaping, or berm and shall be of such material and design as will not detract from adjacent residences. (Ord 830 section 9, 10, 1989; Ord. 802 section 7 [part], 1987; Ord. 740 section 10.3.29(C), 1984; Ord. 981 section 50, 1997; Ord. 1237, 2007; Ord. 1514. 2019)

Chapter 16.32

M-1 LIGHT INDUSTRIAL ZONE

Sections:

16.32.010 Uses permitted outright.

Uses permitted outright in the M-1 zone shall be as follows:

A. Manufacturing, fabricating, processing, compounding, assembling or packaging of products made from previously prepared materials such as cloth, plastic, paper, metal, wood (but not including sawmills or lumber mills), the operation of which will not result in

1. The dissemination of dusts, gas, smoke, fumes, odors, atmospheric pollutants or noise which exceed Oregon Department of Environmental Quality standards

2. Danger by reason of fire, explosion or other physical hazard;

3. Unusual traffic hazards;

B. Automobile body shop, or heavy repair shop;

C. Contractor's equipment or storage yard;

D. Dwelling for watchman or caretaker working on the property;

E. Food processing plant;

F. Fuel distribution, wholesale or retail;

G. Ice or cold storage plant;

H. Laundry or dry-cleaning plant;

I. Lumber yard;

J. Machinery, farm equipment or implement sales, service or rent;

K. Motor or rail freight terminal;

L. Railroad tracks and related facilities;

M. Restaurant, when related and incidental to primary industrial uses of the area;

N. Service station, when related and incidental to primary industrial uses of the area;

O. Stone, marble, or granite cutting;

P. Tire retreading or recapping;

Q. Transfer and storage company;

R. Utility storage or service yard;

S. Veterinarian's office or animal hospital;

T. Warehouse;

U. Wholesale distribution, including warehousing and storage;

V. Wireless or cellular communications facility/tower;

W. Other light industrial uses as determined by the Planning Commission;

X. Business or professional office, when related and incidental to primary industrial uses of the area;

Y. Public building or uses such as fire station, or park or playground.

Z. Microcell telecommunications facilities pursuant to the standards and requirements of Chapter 16.55. (Ord. 1539, 2020)

AA. Collocations pursuant to the standards and requirements of Chapter 16.55
~~**AA.** Attached WTS facilities (see 16.08.120).~~ (Ord. 1539, 2020)

Commented [RP1]: There are some extra double spaces, but I realize the existing code has a lot of that…

BB. Detached ~~WTS facilities~~telecommunications facilities (monopole or lattice tower), under 150 feet in height and at least 660 feet from the nearest land zoned or planned for residential use or Highway 99E pursuant to the standards and requirements of Chapter 16.55.~~(see 16.08.120).~~ (Ord. 1539, 2020)

CC. Detached telecommunications ~~WTS~~ facilities (monopole), under 100 feet in height and less than 660 feet from the nearest land zoned or planned for residential use or Highway 99E pursuant to the standards and requirements of Chapter 16.55.~~(see 16.08.120).~~ (Ord. 1539, 2020)

DD. Detached ~~WTS~~ telecommunications facilities (monopole), equal to or over 150 feet in height and at least 660 feet from the nearest land zoned or planned for residential use or Highway 99E pursuant to the standards and requirements of Chapter 16.55.~~(see 16.08.120).~~ (Ord. 1539, 2020)

EE. Minor public facility.

FF. Brewery: General manufacturing of products included in SIC 208: Beverages. (Ord. 890 section 31, 1993; Ord. 749 section 1(A), 1984, Ord. 740 section 10.3.31(A), 1984; Ord. 995 section 10 & 11, 1996; Ord. 981 section 30 & 31, 1997; Ord. 1019 section 10, 1999; Ord. 1237, 2007; Ord. 1514, 2019)

16.32.020 Conditional uses.

Conditional uses in the M-1 zone shall be as follows:

A. Commercial recreation uses;

B. Motels, hotels and similar accommodations;

C. Other heavy commercial or light industrial uses as determined by the Planning Commission;

D. Waste and/or recycling transfer operations.

E. Detached ~~WTS~~ telecommunications facilities (monopole), equal to or over 100 feet in height and less than 660 feet from the nearest land zoned or planned for residential use or Highway 99E ~~(see 16.08.120).~~pursuant to the standards and requirements of Chapter 16.55. (Ord. 1539, 2020)

F. Detached ~~WTS~~ telecommunications facilities (lattice tower), equal to or over 150 feet in height and at least 660 feet from the nearest land zoned or planned for residential use or Highway 99E ~~(see 16.08.120).~~pursuant to the standard and requirements of Chapter 16.55. (Ord. 1539, 2020)

G. Major public facility, except as modified by Section 16.32.010. (Ord. 960, section 2, 12/18/96; Ord. 890, section 32, 1993; Ord. 740 section 10.3.31(B), 1984; Ord. 981 section 32, 1997; Ord. 1237, 2007)

16.32.030 Development standards.

The following subsections indicate the required development standards of the M-1 zone:

A. Minimum lot area: five thousand square feet;

B. Minimum width and frontage: fifty feet;

C. Minimum yard requirements:

1. Street yard: twenty feet where abutting Highway 99E and S. Ivy Street. Gas station canopies shall be exempted from the twenty foot setback requirements. Properties not fronting on Highway 99E or S. Ivy Street shall maintain a 10 foot

street yard setback. Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no curb exists, the setback shall be measured from the property line. Other than signs which are nonconforming structures and street banners which have been approved per the requirements of the Uniform Sign Code, no signs will be allowed to be located within, or to project over, a street right-of-way.

2. Interior yard: none, except ten feet where abutting a residential zone.

3. Rear yard: none, except ten feet where abutting a residential zone.

D. Maximum building height:

1. Freestanding signs: thirty feet;

2. All other structures: forty-five feet**.**

E. Maximum lot coverage: no limit.

F. Other regulations:

1. Vision clearance distances shall be fifteen feet from any alley or driveway and thirty feet from any other street or railroad.

2. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet.

3. Prior to issuance of a building permit, wireless/cellular towers require written certification of approval/compliance from the Federal Communications Commission, Federal Aviation Administration and the Oregon Department of Transportation (Department of Aeronautics).

4. Outside storage areas abutting a residential zone shall be screened from view by a site-blocking fence, landscaping, or berm and shall be of such material and design as will not detract from adjacent residences. (Ord. 890 section 33, 1993; Ord. 830 section 11, 12, 1989; Ord. 740 section 10.3.31(C), 1984; Ord. 955 section 12, 1996; Ord. 981 section 51, 1997; Ord. 1237, 2007; Ord. 1514, 2019)

Chapter 16.34

M-2 HEAVY INDUSTRIAL ZONE

Sections:

16.34.010 Uses permitted outright.

Uses permitted outright in the M-2 zone shall be as follows:

A. A use permitted outright in an M-1 zone. (Ord. 740 section 10.3.33(A), 1984)

16.34.020 Conditional uses.

Conditional uses in the M-2 zone shall be as follows:

A. Aggregate removal operations;

B. All other uses when evaluated on the standards and criteria specified in Chapter 16.50 and the point system set out in Table 16.34.020 for evaluating heavy industrial development proposals.

C. Detached telecommunications ~~WTS~~ facilities (monopole), equal to or over 100 feet in height and less than 660 feet from the nearest land zoned or planned for residential use or Highway 99E pursuant to the standards and requirements of Chapter 16.55. ~~(see 16.08.120).~~ (Ord. 1539, 2020)

D. Detached ~~WTS~~ telecommunications facilities (lattice tower), equal to or over 150 feet in height and at least 660 feet from the nearest land zoned or planned for residential use or Highway 99E ~~(see 16.08.120~~pursuant to the standards and requirements of Chapter 16.55.~~)~~. (Ord. 740 section 10.3.33(B), 1984; Ord. 981 section 33, 1997,Ord. 1539, 2020)

16.34.030 Development standards.

The following subsections indicate the required development standards of the M-2 zone:

A. Minimum lot area: five thousand square feet;

B. Minimum width and frontage: fifty feet.

C. Minimum yard requirements:

1. Street yard: ten feet, twenty feet where abutting a residential zone;

2. Interior yard: none, except twenty feet where abutting a residential zone.

3. Rear yard: none, except twenty feet where abutting a residential zone.

D. Maximum building height:
1. Freestanding signs: thirty feet;
2. All other structures: forty-five feet.

E. Maximum lot coverage: no limit.

F. Other regulations:

1. Vision clearance distances shall be fifteen feet from any alley or driveway and thirty feet from any other street or railroad;
2. Outside storage areas abutting a residential zone shall be screened from view by a site-blocking fence, landscaping, or berm and shall be of such material and design as will not detract from adjacent residences. (Ord. 1514, 2019)

M-2 Conditional Use Review Matrix
Table 16.34.020

Explanation: When considering conditional use applications for the M-2 Zone, each of the following characteristics will be evaluated by the Planning Commission and assigned a certain number of points (positive and negative). A net point total of "0" will be considered to be the prerequisite for approval of an M-2 conditional use. In entering its findings of fact for its decision, the Commission shall indicate its findings regarding the following:

CRITERIA	POINTS
Traffic impacts, particularly heavy truck traffic and its impact on non-industrial areas and streets	-10 – 0
Noise impacts, especially loud and high-pitched noise and noise expected to occur at night	-10 – 0
Air pollution, including odors as well as measurable pollutants	-10 – 0
Water pollution, including impacts on groundwater and surface water as well as any unusual or hazardous discharges to the city sewage treatment facility	-10 – 0
Water consumption, especially where city water is utilized rather than a private source	-10 – 0
Electrical consumption	-10 – 0
Other adverse impacts, which may include factors not listed above or may be used to add more negative point to any of the items already listed, where extreme adverse impacts are expected	-40 – 0
Tax benefits to the community, particularly for property taxes beyond the costs of providing public services	0 - +20
Total number of persons to be employed	0 - +10
Number of local persons who can expect to be employed, based upon percentages of skilled, semi-skilled and unskilled positions	0 - +10
Reliance on locally produced resources and locally processed materials	0 - +10

Export characteristics and residual benefits to other local industries	0 -+10
Other community benefits, including particularly advantageous design characteristics, etc. May also be used to add more positive points to each of the factors listed above where extremely beneficial impacts are expected	0 - +40
Low Impact Design and sustainability Features	0 - +20

City of Canby

Planning Commission

Work Session Notice

Tuesday September 28, 2020
7:00 pm
Virtual Meeting

The Planning Commission will be meeting in a Virtual Work Session to discuss the 5G Micro Cell Technology Text Amendment. The public is welcome to view the work session online, although no public comments will be taken. A public hearing will be held in the near future at a properly noticed date. State law requires local governments to notify DLCD at least 35-days prior to holding the first evidentiary hearing. For information regarding this meeting, please contact the Planning Department at 503-266-0685.

A copy of this Work Session Notice can be found on the City's web page at www.canbyoregon.gov.

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TELECOMMUNICATIONS FACILITIES
CODE LANGUAGE &TEXT AMENDMENTS
(CITY FILE# TA 20-01)
(PLANNING COMMISSION WORK SESSION 9-28-20)

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MEMORANDUM

DATE: September 17, 2020 for September 28, 2020 Planning Commission Work Session

TO: Planning Commission

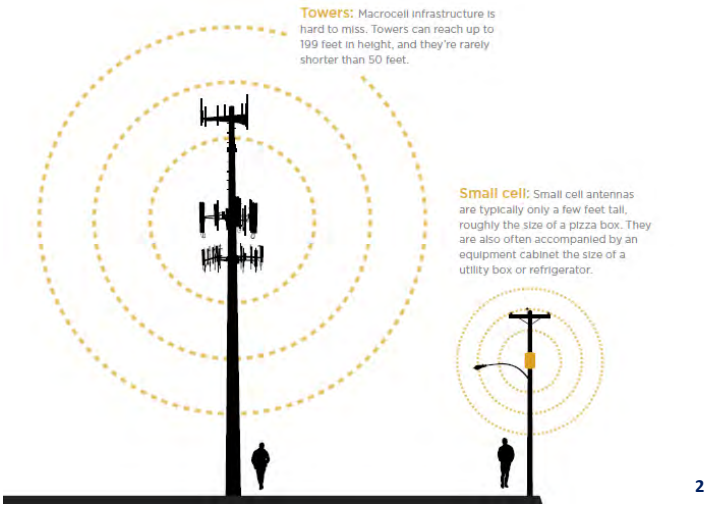
FROM: Erik Forsell, Associate Planner

RE: Adoption of Code Language and Text Amendments for Telecommunications Facilities

Small Cell Telecommunications

Wireless data usage and prevalence are increasingly common and continue to advance and accelerate in complexity. As part of the increased use and demand, the next generation of wireless technology known as microcells will be deployed throughout cities across Oregon and the United States. According to the Pew Research Center, 96 percent of Americans have a cell phone and 81 percent of those Americans were using a smartphone in 2019.[1] The percentage of Americans using a smartphone has grown by 27 percentage points from 55 percent to 82 percent from 2012 to 2019—this illustrates the explosive growth in the industry and why new telecommunications equipment is rapidly expanding.

Figure 1 – Macro and Micro Cell Telecommunications Facilities



[2]

[1] Per Research Center. *Internet & Technology.* https://www.pewresearch.org/internet/fact-sheet/mobile/. *2019*
[2] National League of Cities. Municipal Action Guide - *Small Cell Wireless Technology in Cities. 2018*

One of the methods telecommunications providers are using to accommodate the increasing demand for cell phone and smart phone usage is the deployment of additional large macro telecommunications towers that many people associate with cell phone usage. A newer method to accommodate this increase in demand is the deployment of smaller and more numerous microcell telecommunications facilities. The small cell deployment is the focus of this memorandum, work session and the proposed text amendments to the City of Canby's development code.

Federal Rules and Regulations on Telecommunications

The deployment of wireless telecommunications infrastructure and facilities are governed by federal, state and local laws. Federal regulations have traditionally provided significant deference to the local jurisdiction over telecommunications regulations. However, over time, the ability for a jurisdiction like the City of Canby to create and enforce time, place and manner standards for the deployment and siting of telecommunications equipment has been reduced.

The shift in Federal preemption over local jurisdictions has been primarily guided by three federal laws and a Federal Communications Commission (FCC) Order:

- Communications Act of 1934;
- Telecommunications Act of 1996;
- A provisions of the Middle-Class Tax Relief and Job Creation Act of 2012 (Commonly Referred to as the Spectrum Act) and;
- FCC 18-133 (Small Cell Order)

The above bills and order have slowly reduced the ability of the local jurisdiction to deny, delay, reduce, limit, restrict, prohibit, condition or otherwise disallow the deployment of telecommunications facilities within a local jurisdiction. The reality is that barring significant high level court decisions reversing the aforementioned laws and regulations, the City of Canby is faced with a situation in which there is limited opportunity to regulate the development of new telecommunications facilities, including microcell or fifth generation cell technology.

The City of Canby is essentially barred from denying or requiring such conditions that would effectively prohibit telecommunications facilities applications. However, staff believes it still important to set forth a reasonable process and set of standards for new telecommunications facilities that meets the intent of the federal regulations but also provides the City with an ability to manage the development of telecommunication infrastructure. Additionally, the process should be manageable for City staff to navigate and review especially given the time constraints and other requirements of the federal regulations.

Background on Telecommunications Act of 1934

This act applies to the rulemaking activities specific to small cell facilities. Section 253 of the 1934 Act requires that local governments receive 'fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis'. This relates to the collection of franchise fees, or other fees implemented and collected by the City of Canby for utilizing City Right-of-Way or other space for deployment of small cell wireless facilities.

Background on Telecommunications Act of 1996

This act makes it unlawful for a local government to prohibit or have the effect of prohibiting the 'provision of personal wireless service'. It also prevents a local jurisdiction from 'unreasonably discriminating among providers of functionally equivalent services. One of the most important aspects

of this act is that it requires local governments 'act on any authorization to place, construct, or modify personal wireless service facilities within a reasonable amount of time'.

The FCC determined a reasonable amount of time to grant or deny siting requests as **150 days for new facilities and 90 days for collocations (note that these standards applied to traditional cell towers and ancillary equipment).** This time limitation is commonly referred to as the 'shot clock'. Fortuitously, in Oregon land use planning we have state laws and rules that have similar standards. Timeline requirements for land use actions are something the planning department at the City of Canby is familiar with and operates under for most development review land use proposals.

Background on Section 6409(a) – Spectrum Act

On February 22, 2012, the Middle Class Tax Relief and Job Creation Act of 2012 became law. Although this legislation was primarily implemented to extend payroll tax exemptions, the omnibus act contained many other unrelated provisions. Section 6409(a) of the act, also known as the Spectrum Act, was intended to advance wireless broadband service for public safety and commercial purposes and to provide for the creation of a broadband communications network for first responders. Since 2012, the Spectrum Act has arguably applied to all State and local governments. However, until recently, there was little precedent interpreting the act and the ambiguity of the statute's language resulted in differing interpretations by industry and local governments. On October 21, 2014, the Federal Communications Commission (FCC) unanimously approved rules (FC14-153) interpreting Section 6409(a). Pertinent elements of FCC order came into effect on April 8, 2015. Along with Section 704 of the Telecommunications Act of 1996 (Public Law 104–104), The Spectrum Act can be viewed as part of the ongoing effort by the wireless industry to achieve federal preemption over local telecommunications zoning regulations.

The Spectrum Act also contains provisions that limit local control over collocated wireless facilities to ensure the swift deployment of wireless technologies. Section 6409(a) of the Act provided that 'a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.' The FCC created regulations in support of this law, specifying that these collocation requests must be approved within 60 days of application, and that this definition includes distributed antenna system (DAS) and small cell facilities. If a city finds that it received an incomplete application, it has a limited period of time in which to pause, or "toll," the shot clock by notifying applicants in writing of the missing information and relevant local requirements.

The effect of the Spectrum Act is that it reduces timelines even further for **collocations to 60 days and that in effect, a local government must approve and cannot deny eligible facilities requesting modifications or collocations to existing base stations.**

Background on FCC Telecommunications *Small Cell Order*

On January 31, 2017, Federal Communications Commission ("FCC") Chairman Ajit Pai established a Broadband Deployment Advisory Committee ("BDAC"), which he tasked with making recommendations to the FCC on ways to accelerate the deployment of broadband by reducing or removing regulatory barriers to infrastructure investment. On September 27, 2018, the FCC released a Declaratory Ruling and Third Report and Order (FCC 18-133, referred throughout the document as "Small Cell Order" or "FCC Order") that significantly limits local authority over small wireless infrastructure deployment and fees for use of the rights-of-way (ROW). The FCC Order took effect January 14, 2019.

Requirements related to land use and zoning ordinances such as time, place, and manner were further limited to local jurisdictions by this order. Rules regarding aesthetics came into effect on April 15, 2019. Under the FCC Order **aesthetic or design standards must be**:

- Reasonable;
- No more burdensome than those applied to other types of infrastructure deployments;
- Objective; and
- Published in advance.

The FCC Order also defines the size limitations for small wireless facilities (allowing antennas of up to 3 cubic feet each, with additional equipment not to exceed 28 cubic feet), and specifies that such facilities may not result in human exposure to radiofrequency radiation in excess of applicable standards in the FCC's rules (federal law preempts local regulation of RF emissions). Small wireless facilities are sometimes referred to as *small cells or micro cells*.

The key takeaway from this order is that local jurisdictions are not lawfully allowed to prevent small cell installation within their boundaries and cannot regulate the deployment of the equipment in a manner that effectively prohibits their placement. It is important that the City of Canby create guidelines that are objective, reasonable and in place before micro cell providers request to install their equipment within the jurisdictional bounds of the City.

47 C.F.R. – Section 1.6003 Reasonable Periods of Time to Act on Siting Applications 'Shot-Clock'

The **shot clock** is the colloquial term for amount of time in which the City of Canby has to make a decision regarding an application to install telecommunications facilities. Federal regulations have required that the review for telecommunications applications preempts state and local regulations such as ORS 227.178. This places extra burden on City staff to ensure that the application is reviewed, deemed complete and approved according to guidelines and design standards that are proposed as part of the text amendments discussed in this work session. As such, the Code of Federal Regulations (CFR) generally require that:

- Review of an application to collocate a small wireless facility using an existing structure be processed in 60 days.

- Review of an application to collocate wireless equipment other than a *small wireless facility* using an existing structure be processed in 90 days.

- Review of an application to deploy a *small wireless facility* using a new structure be processed in 90 days.

- Review of an application to deploy wireless infrastructure other than a *small wireless facility* be processed in 150 days.

Policy Implications for City of Canby

There are a number of policy implications that federal rules along with the increased demand for telecommunications capabilities and coverage present for the city. To summarize, the following list described the impacts on Canby's ability to regulate the implementation and deployment of small cell wireless facilities within the City's rights-of-way as well as within private property located within City jurisdiction.

- Constrained shot clocks for taking action on an application.

- Environmental and health effects cannot be reviewed beyond requesting an Oregon licensed and registered professional engineer providing stamped documents stating that the Non-Ionizing Electromagnetic Radiation (NIER) radiation produced by the deployment of facilities and their collocations is within acceptable FCC limits.

- Franchise fees and other fee limitations.

- Coordination requirements between planning, public works, city engineer and other rights-of-way franchisees and users.

- Conflicts between rights-of-way users.

- Denying applications based on aesthetics or other reasons not permissible by the FCC is not an option.

Proposed Telecommunications Policy and Regulation Changes for City of Canby

The purpose of the proposed changes is to provide general parameters and design guidelines for telecommunication facility placement within City of Canby Right-of-Way (ROW) and private property. The primary objective of these guidelines is to provide the telecommunication providers and their ancillaries with a better sense of what the City and other ROW facility users will accept as reasonable development in the Right-of-Way. Ultimately, planning staff intends to establish standards that are reasonable and objective but also ensure that the City has an opportunity to evaluate new facility deployment to ensure it meets reasonable time, place and manner standards.

Right-of-Way is not zoned. It does not fall under the zoning ordinance development code that would be applicable for private property outside of the ROW. It is prudent for the City to place reasonable time, place and manner restrictions on the deployment of microcell telecommunications equipment within City owned facilities but also on private property.

A summary of the proposed changes is described in the bulleted list below:

- Remove and edit telecommunications code language from Chapter 16.08 General Provisions.

- Create a new code section Chapter 16.55 Telecommunications and incorporate new and existing language.

- Remove and edit definitions related to telecommunications in Chapter 16.04 Definitions and place in newly created Chapter 16.55 Telecommunications.

- Create guidelines and standards for reviewing telecommunications facilities in the public-rights-of-way so that they are consistent with federal regulations but allow Canby to evaluate small cell deployment against the standards as crafted.

Attachments:

1. Proposed draft language for Chapter 16.55 Telecommunications Facilities
2. Oregon City public works design guidelines language for microcell deployment in Right-of-Way.
3. League of Oregon Cities microcell model code.

Chapter 16.55

Telecommunications Facilities

Sections:

16.55.010 Purpose.

A. The purpose this chapter is to:

1. Manage the deployment of wireless telecommunications facilities and ancillary equipment consistent with Federal law and regulations.

2. Place reasonable and appropriate time, place and manner restrictions on telecommunications deployment consistent with federal law and regulations.

3. Encourage the placement of telecommunications facilities in appropriate locations for both the provider and the City.

4. Provide City of Canby residents and businesses with a wide range of telecommunications and wireless options.

5. Provide for the safe construction, location, erection and maintenance of telecommunications equipment.

6. Encourage collocation of telecommunications equipment wherever possible.

7. Contribute to a simple and efficient regulatory process.

8. Develop a consistent and well understood application process for telecommunications providers and for city staff.

16.55.015 Definitions.

A. Abandoned Telecommunications Equipment. Defined as a facility and / or equipment that has been in disuse continuously for 365 days and no longer has a known owner or FCC licensee.

B. Antenna. Defined in 47 C.F.R. § 1.6002(b). The term includes an apparatus designed for the purpose of emitting radio frequencies (RF) to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15

C. Antenna (Ancillary) Equipment. Defined in 47 C.F.R. § 1.6002(c). The term includes equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

D. Applicant. Defined as any person who represents and submits an application on behalf of a wireless provider.

E. Application – Telecommunications. A written request submitted by an applicant (1) for permission to collocate wireless facilities; or (2) to approve the installation, modification or replacement of a structure on which to collocate a small wireless facility in the rights-of-way or on private property where required. The application consists of a form provided by the City with accompanying materials provided by the applicant.

F. City. Defined as the City of Canby, Oregon. (Ord. 740 section 10.1.20(B)[part], 1984)

G. City Engineer. The Oregon registered Professional Engineer designated to review development within the city.

H. City-Owned Infrastructure. Means infrastructure within the city limits and urban growth boundary, public rights-of-way or public easements, including but not limited to street lights, traffic devices and signals, towers, structures, buildings, and utilities that are owned, operated and/or maintained by the City.

I. Collocation. Defined in 47 C.F.R. § 1.6002(g). Term describes: (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. “Collocate” has a corresponding meaning.

J. Day. A calendar day. For purposes of land use application timelines determined by ORS 227.178(1) and FCC “shot clock” regulations for decisions related to

telecommunications, a terminal day that falls on a holiday or weekend shall be deemed to be the next immediate business day.

K. Licensee. A telecommunication utility registered with the City and the Telecommunications Section of the Development Code 16.55.

L. Macro Cell Wireless Facility. A telecommunications facility that meets each of the following conditions:

1. Facilities mounted on structures greater than 50 feet including the antennas.

2. Facilities mounted on structures that are more than 10 percent taller than any other adjacent structures.

3. Facilities that extend in height existing structure(s) on which the antennas are located by more than 50 feet or more than 10 percent whichever is greater.

4. The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

M. Micro Cell Wireless Facility. A facility that meets each of the following conditions per 47 C.F.R § 1.6002(l), as may be amended or superseded:

1. Facilities mounted on structures 50 feet or less in height including the antennas.

2. Facilities mounted on structures no more than 10 percent taller than other adjacent structures.

3. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;

4. All other wireless equipment associated with the structure, including wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

5. The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

N. Public Rights-of-Way. Defined as the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements, and all other public ways or areas, including the subsurface under and air space over these areas, excluding parks, parklands and other City property that is not generally open to the

public for the purposes of travel. The definition only applies to the extent of the City's right, title and interest to grant a license to occupy and use such areas for utility facilities.

16.55.020 Applicability

A. The Telecommunications Chapter applies to the following:

1. Proposed new telecommunications facilities, collocations, antennas, equipment, poles, towers, and ancillary facilities typically associated with telecommunications equipment.

2. Replacement poles, towers, collocations and antennas and equipment.

3. Modifications to existing or proposed telecommunications facilities, collocations, antennas, equipment, poles and ancillary facilities typically associated with telecommunications equipment.

16.55.025 Administration.

A. Permit Required. All telecommunications equipment deployed, collocated, placed, replaced, installed and erected after the effective date of this chapter, other than telecommunications equipment that is exempt from permit requirements per 16.55.50 shall require a permit. Applications shall be made on forms provided by the Planning Director with attached required information stated in the application form.

B. Fee. A fee as established by resolution of the City Council shall be paid to the City of Canby upon the filing of an application. Such fees shall not be refundable.

C. Construction and Maintenance. All telecommunications equipment and ancillaries, including: poles, cabinets, power supplies whether above or underground shall meet all applicable requirements of building, structural, mechanical and electrical codes.

1. All telecommunications equipment shall be kept in good repair and maintained in a safe, neat, clean condition. Telecommunications equipment shall be designed and deployed to reduce the impact of visual appearance.

2. No telecommunications equipment shall be erected or maintained in such a manner that any portion of its surface will interfere with the free use of, or any access to any fire escape, exit or standpipe.

3. No telecommunications equipment shall be deployed in a location that creates an immediate danger to the safety and welfare of the public by blocking vision for either pedestrians or motorists, at public and/or private roadways, intersections, driveways, paths, sidewalks or railroad crossings.

D. Appeal. Appeals are limited to procedures set forth in Chapter 16.89 for land use decisions pursuant to requirements in Chapter 16.89. Appeals of building permit decisions are decided by the Clackamas County Building Official.

E. Permit Expiration. Every permit issued by the Clackamas County Building Official under the provisions of this chapter shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one-half of the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year.

F. Permit Suspension or Revocation. The Planning Director and City Engineer or duly authorized representative may, in writing, suspend or revoke a permit issued under provisions of this chapter whenever the permit is issued on the basis of incorrect information supplied, or in violation of applicable ordinance or regulation or any of the provisions of this chapter.

G. Variance / Deviation from Standards. The procedures which allow variations from the strict application of the regulations of this Title, by reason of exceptional circumstances and other specified conditions, are set forth in 16.55(H) and when applicable Chapter 16.53.

H. Conditional Use Telecommunications Equipment and Design Review. Telecommunications equipment that is proposed and does not meet the Type I Review Process shall be processed under a Design Review Type II or III process at the discretion of the City Engineer or Planning Director. A Conditional Use Permit for certain major installations of macro telecommunications equipment shall be required.

I. Timelines 'Shot Clock' for Processing Telecommunications Equipment. Pursuant to the Telecommunications Act of 1996, provisions of the Middle-Class Tax Relief and Job Creation Act of 2012 (Commonly Referred to as the Spectrum Act) and; FCC 18-133 (Small Cell Order), applications to permit telecommunications shall be consistent with 47 CFR Section 1.6003 – Reasonable Periods of Time to Act of Siting Applications.

A. Review Periods for Individual Applications

1. **Micro Telecommunications Facility Minor Installation Permit** – Collocations on existing infrastructure. Applications shall comply with regulation and documentations/permissions as set forth by federal, state, and city standards. The review period for applications will be 60 days following

reception of a materially complete application. These applications will be reviewed through a Type I Site / Design Review process.

2. **Micro Telecommunications Facility Major Installation Permit** – Deployment and construction of proposed new infrastructure. Applications for compliant sizes, locations, and aesthetics with necessary supportive documentation permissions as set forth by Federal, State, and City standards. The review period for these applications will be 90 days following reception of a materially complete application. These applications will be reviewed through a Type I Site / Design Review process.

3. **Macro Telecommunications Minor Installation Permit –** Collocations on existing infrastructure. Applications shall comply with regulation and documentations/permissions as set forth by federal, state, and city standards. The review period for applications will be 90 days following reception of a materially complete application. These applications will be reviewed through a Type I Site / Design Review process.

4. **Macro Telecommunications Tower / Structure Major Installation Permit –** Deployment and construction of a macro telecommunications tower and associated equipment. Applications shall comply with regulation and documentation/permissions as set forth by federal, state and city standards. The review period for applications shall be 150 days following reception of a materially complete application. These applications will be reviewed through a Type II or III Site / Design Review and under certain proposals with a Conditional Use Permit process.

B. Incomplete Applications.

1. For an initial application to deploy Small Wireless Facilities, if the Planning Director / City Engineer or designee notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the siting authority to render the application complete.

2. For an initial application to Deploy a Macro Telecommunications Tower / Structure incomplete applications shall treated the same as described in ORS 227.178.

C. Complete Applications

1. Applications shall be deemed complete when the Planning Director and/or City Engineer or designee(s) have determined that the applicant has supplied sufficient information as required by Section 16.55.30 and that the application materials are accurate, true and addresses the criteria of this division and all other applicable sections of Canby Municipal Code.

16.55.30 Telecommunications Equipment Permit Applications

A. Telecommunications facilities within the Public rights-of-way are reviewed by the City Engineer and/or Planning Director, or authorized designee(s), in accordance with the process described below:

1. Micro Telecommunications Facility Minor Installation Permit – installations on existing third-party infrastructure. Applications shall comply with regulation and documentations/permissions as set forth by federal, state, and city standards. Applications shall clearly denote the below outlined requirements.

2. Micro Telecommunications Facility Major Installation Permit – installations on existing City-owned infrastructure or proposed new infrastructure. Applications for compliant sizes, locations, and aesthetics with necessary supportive documentation permissions as set forth by Federal, State, and City standards.

B. Telecommunications facilities within private and public property that are outside the public rights-of-way are reviewed by the Planning Director, or authorized designee(s), in accordance with the process described below:

1. Macro Telecommunications Minor Installation Permit – installations on existing third-party infrastructure and certain new deployments. Applications shall comply with regulation and documentations/permissions as set forth by federal, state, and city standards. Applications shall clearly denote the below outlined requirements.

2. Macro Telecommunications Major Installation Permit – installations on existing third party infrastructure or proposed new infrastructure. Applications for compliant sizes, locations, and aesthetics with necessary supportive documentation permissions as set forth by Federal, State, and City standards.

C. Application Requirements

1. Aerial vicinity map indicating the location of the existing and/or proposed wireless support tower/structure to which the telecommunications facility will be attached. The vicinity map shall also indicate all known telecommunications facilities within a 1000 foot radius centered on the proposed deployment area.

2. Street view images, rendering or photographs showing the existing and proposed conditions of the project site.

3. A scaled site plan, prepared by a professional engineer or surveyor licensed in the State of Oregon indicating at a minimum:

    a. Proposed tower, pole or structure to which the small cell equipment will be attached; including: lease area (if applicable).

    b. Location of supporting ancillary equipment, including: power supply, cooling equipment, cable, etc.

    c. Street names and addresses.

    d. Right-of-way lines, property lines, proposed utilities (above and below grade), curb, sidewalks, driveways, streets, paths, structures, street lights, traffic signals. All conflicts with existing structure shall be indicated on the plan with a description on how the anticipated conflict will be remediated;

    e. If equipment is placed below grade, the nearest location to access the equipment placed below grade.

4. Structural analysis, prepared and stamped by a professional engineer licensed in the State of Oregon, shall include evaluation of the existing and/or proposed wireless support structure and foundation structurally adequate to safely support the proposed telecommunications facilities and comply with NESC for structural stability to determine whether the structure can carry the proposed telecommunications facility and comply with applicable NESC and structural safety code.

5. Engineered details of proposed telecommunications facilities, including elevations/profiles, plans and sections, clearly indicating the following:

    a. Height, width, depth, and volume (in cubic feet) of all proposed antenna and exposed elements and/or proposed antenna enclosures.

b. Height, width, depth, and volume (in cubic feet) of proposed wireless equipment associated with the facility Including electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services as applicable.

c. Method of installation/connection.

d. Color specifications for proposed wireless support structures and associated exposed equipment, cabinets, and concealment elements.

e. Electrical plans and wiring diagrams.

f. Footing and foundation drawings and structural analysis, sealed and signed by a professional engineer licensed in the State of Oregon.

6. Permission to use utility pole or alternative antenna structure: The operator of a wireless telecommunication facility shall submit to the City a copy of the written approval from the owner of an existing utility pole, monopole, or an alternative antenna structure, to mount the wireless telecommunication facility on that specific pole, tower, or structure, prior to issuance of the City permit. This permission can be provide in a form that clearly indicates authorized permission, such as a:

a. Lease or franchise agreement, memorandum of understanding, signed authorization form or other format deemed acceptable to the City Engineer / Planning Director or designee.

7. Manufacturer's specification sheets for proposed telecommunications facility equipment, including wireless support structures, equipment cabinets, shrouds or concealment devices, antennas, meters, radios, switches, telecommunications demarcation boxes, and grounding equipment.

8. Certification by an Oregon-registered professional engineer that the telecommunication facility, as amended by the proposed collocation, complies with the non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC).

9. A signed statement of the equipment and owner's removal responsibilities should the equipment no longer be used or operated. The statement shall indicate that after 365 days of continuous non-use that the equipment is subject to removal by the City of Canby or utility provider.

10. Documentation showing that the applicant has an FCC license for the geographic region and for the service proposed by the collocation.

11. A secured bond providing for the required tower or pole removal cost and replacement and repair of lease or deployment area to pre-deployment condition.

12. A statement with accompanying diagrams and plans that describes visual shrouding design techniques for antennas and ancillary equipment.

13. Other information requested in the application form provided by the City Engineer / Planning Director and their designee(s), such as but not limited to, peer review by an independent engineering firm of the proposed telecommunications facility system design. During the review and approval process, the Director may request additional information including but not limited to, balloon tests, photo simulations, and other measures of visual impact.

14. For micro telecommunications facilities, provide a detailed narrative describing how the proposed collocation meets the definition of Small Wireless Facilities established with FCC 18-133, listed below.

a. The facilities:

i. Are mounted on structures 50 feet or less in height including their antennas as defined in § 1.1320(d)ii; or

ii. Are mounted on structures no more than 10 percent taller than other adjacent structures; or

iii. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

b. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of ‘‘antenna’’ in § 1.1320(d)), is no more than three (3) cubic feet in volume.

c. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.

d. The facilities do not require antenna structure registration.

e. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in § 1.1307(b).

16.55.035 Micro Telecommunications Facility Design Standards

A. The purpose of this section is provide review procedures and acceptable time, place, and manner constraints on the installation, placement and deployment of micro cell wireless telecommunications facilities within the public-rights-of-way in the City of Canby.

B. General Requirements.

1. Ground-mounted equipment in the right-of-way is discouraged, unless the applicant can demonstrate that pole-mounted equipment is not technically feasible, or the electric utility requires placement of equipment on the ground (such as an electric meter). If ground mounted equipment is necessary, then the applicant shall conceal the equipment from the public in a cabinet, in street furniture or with landscaping.

2. Replacement poles, new poles and all antenna equipment shall comply with the Americans with Disabilities Act ("ADA"), city construction and sidewalk clearance standards and city, state and federal laws and regulations in order to provide a clear and safe passage within, through and across the right-of-way. Further, the location of any replacement pole, new pole, and/or antenna equipment must comply with applicable traffic requirements, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect public health, safety or welfare.

3. Replacement poles shall be located as near as feasible to the existing pole. The abandoned pole must be removed within 90 days.

4. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section H.

5. No advertising, branding or other signage is allowed unless approved by the City Engineer or the City Engineer's designee(s) as a concealment technique or as follows:

a. Safety signage as required by applicable laws, regulations, and standards.

b. Identifying information and 24-hour emergency telephone number (such as the telephone number for the operator's network operations center) on wireless equipment in an area that is visible.

6. The total volume of multiple antennas on one structure shall not exceed fifteen (15) cubic feet, unless additional antenna volume is requested and approved pursuant to Section H.

7. Antennas and antenna equipment shall not be illuminated, except as required by municipal, federal or state authority, provided this shall not preclude deployment on a new or replacement street light.

8. Small wireless facilities may not displace any existing street tree or landscape features unless:

a. Such displaced street tree or landscaping is replaced with native and/or drought-resistant trees, plants or other landscape features approved by the City.

i. The replaced trees shall be maintained for a minimum of 2 years from initial planting. Any trees that do not survive shall be replanted subject to the same 2 year survivor standards.

b. The applicant submits and adheres to a landscape maintenance plan or agrees to pay an appropriate in-lieu fee for the maintenance costs.

C. Microcell Facilities Attached to Wooden Poles, Non-Wooden Poles and Structures with Overhead Lines. Small wireless facilities located on wooden utility poles, non-wooden utility poles and structures with overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section H:

1. Proposed antenna and related equipment shall meet:

a. The City's design standards for small wireless facilities.

b. The pole owner requirements.

c. National Electric Safety Code (NESC) and National Electric Code (NEC) standards.

2. The pole at the proposed location may be replaced with a taller pole or extended for the purpose of accommodating a small wireless facility; provided that the replacement or extended pole, together with any small wireless facility, does not exceed 50 feet in height or 10 percent taller than adjacent poles, whichever is greater. The replacement or extended pole height may be increased if required by the pole owner, and such height increase is the minimum necessary to provide sufficient separation and/or clearance from electrical and wireline facilities. Such replacement poles may either match the approximate color and materials of the replaced pole or shall be the standard new pole used by the pole owner in the city.

3. To the extent technically feasible, antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall match the approximate material and design of the surface of the pole or existing equipment on which they are attached, or adjacent poles located within the contiguous right-of-way. Near matches may be permitted by the City when options are limited by technical feasibility considerations, such as when high-frequency antennas cannot be placed within an opaque shroud but could be wrapped with a tinted film.

4. Antennas which are mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

5. No antenna shall extend horizontally more than 20 inches past the outermost mounting point (where the mounting hardware connects to the antenna), unless additional antenna space is requested and approved pursuant to Section H.

6. Antenna equipment, including but not limited to radios, cables, associated shrouding, disconnect boxes, meters, microwaves and conduit, which is mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

7. Antenna equipment for small wireless facilities must be attached to the pole, unless otherwise required by the pole owner or permitted to be ground-mounted pursuant to subsection (C)(1) above. The equipment must be placed in an enclosure reasonably related in size to the intended purpose of the facility.

8. All cables and wiring shall be covered by conduits and cabinets to the extent that it is technically feasible, if allowed by pole owner. The number of conduits shall be minimized to the extent technically feasible.

D. Small Wireless Facilities Attached to Non-Wooden Light Poles, Non-Wooden Utility Poles and Structures without Overhead Utility Lines. Small wireless facilities attached to

existing or replacement non-wooden light poles, non-wooden utility poles and structures without overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section H.

1. External Equipment. The antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible and must be reasonably related in size to the intended purpose of the facility and reasonable expansion for future frequencies and/or technologies, not to exceed the volumetric requirements described in Section A. If the equipment enclosure(s) is mounted on the exterior of the pole, the applicant is encouraged to place the equipment enclosure(s) behind any decorations, banners or signs that may be on the pole. Conduit and fiber must be fully concealed within the pole.

2. Concealed Equipment. All equipment (excluding disconnect switches), conduit and fiber must be fully concealed within the pole. The antennas must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible.

3. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section H.

4. The height of any replacement pole may not extend more than 10 feet above the height of the existing pole, unless such further height increase is required in writing by the pole owner.

E. New Poles. Small wireless facilities may be attached to new poles that are not replacement poles under sections C or D, installed by the wireless provider, subject to the following criteria:

1. Antennas, antenna equipment and associated equipment enclosures (excluding disconnect switches), conduit and fiber shall be fully concealed within the structure. If such concealment is not technically feasible, or is incompatible with the pole design, then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the structure or mounted as close to the pole as feasible, and must be reasonably related in size to the intended purpose of the facility, not to exceed the volumetric requirements in Section (B)(6) above.

2. To the extent technically feasible, all new poles and pole-mounted antennas and equipment shall substantially conform to the material and design of adjacent

poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section H.

3. New poles shall be no more than forty (40) feet in height unless additional height is requested and approved pursuant to Section H.

4. The city requires whenever feasible that wireless providers install small wireless facilities on existing or replacement poles instead of installing new poles, unless the wireless provider can document that installation on an existing or replacement pole is not technically feasible or otherwise not possible (due to a lack of owner authorization, safety considerations, or other reasons acceptable to the City Engineer or Planning Director or the designee).

F. Undergrounding Requirements. [ACCORDING TO THE FCC ORDER, UNDERGROUNDING REQUIREMENTS ARE SUBJECT TO THE SAME CRITERIA AS OTHER AESTHETIC STANDARDS.

SOME COMPONENTS OF SMALL WIRELESS FACILITTIES WILL OFTEN NOT WORK UNDERGROUND. THEREFORE, CITIES UNDERGROUNDING REQUIREMENTS OR UNDERGROUND DISTRICTS MAY CREATE AN EFFECTIVE PROHIBITION. CITIES ARE ENCOURAGED TO REVIEW CURRENT UNDERGROUNDING REQUIREMENTS AND WORK WITH THEIR ATTORNEYS/ROW SPECIALISTS TO MAKE SURE THOSE REQUIREMENTS ARE NOT IN CONFLICT WITH THE FCC ORDER.]

G. Strand Mounted Equipment. Strand mounted small wireless facilities are permitted, subject to the following criteria:

1. Each strand mounted antenna shall not exceed 3 cubic feet in volume, unless a deviation is requested and approved pursuant to Section H.

2. Only 2 strand mounted antennas are permitted between any two existing poles.

3. Strand mounted devices shall be placed as close as possible to the nearest pole and in no event more than five feet from the pole unless a greater distance is required by the pole owner.

4. No strand mounted device will be located in or above the portion of the roadway open to vehicular traffic.

5. Strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than original strand) to meet the technological needs of the facility.

H. Deviation from Design Standards.

1. An applicant may obtain a deviation from these design standards if compliance with the standard:

a. Is not technically feasible.

b. Impedes the effective operation of the small wireless facility.

c. Significantly impairs a desired network performance objective.

d. Conflicts with pole owner requirements.

e. Materially inhibits or limits the provision of wireless service.

[NOTE: SINCE DEVIATIONS FROM THE DESIGN STANDARDS MAY LEAD TO QUESTIONS FOR WHY ONE PROVIDER WAS ALLOWED AN EXCEPTION AND ANOTHER WAS NOT, IT IS ADVISED THAT CANBY DOCUMENT REASONS FOR DEVIATIONS.]

2. When requests for deviation are sought under subsections (H)(1)(a)-(e), the request must be narrowly tailored to minimize deviation from the requirements of these design standards, and the City Engineer / Planning Director or designee must find the applicant's proposed design provides similar aesthetic value when compared to strict compliance with these standards.

3. The City Engineer / Planning Director or designee may also allow for a deviation from these standards when it finds the applicant's proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these standards.

4. The small wireless facility design approved under this Section H must meet the conditions of 47 C.F.R. Sec. 1.6002(l).

5. The City Engineer / Planning Director or designee will review and may approve a request for deviation to the minimum extent required to address the applicant's needs or facilitate a superior design.

[NOTE: THE CITY OF CANBY MAY RECOMMEND A PRE-MEETING WITH PROVIDERS IF A DEVIATION FROM STANDARDS IS BEING CONSIDERED. HOWEVER, PRE- MEETINGS MUST BE OPTIONAL. MANDATORY PRE-MEETINGS,

WHETHER WITH STAFF, MEMBERS OF THE COMMUNITY OR NEIGHBORHOOD ASSOCIATIONS, WILL TRIGGER THE SHOT CLOCK TO START.]

16.55.40 Macro Telecommunications Facilities Design Standards

A. The purpose of this section is provide review procedures and acceptable time, place, and manner constraints on the installation, placement and deployment of macro wireless telecommunications facilities within public and private property in the City of Canby. The section is intended to:

1. Regulate the placement, appearance and number of macro wireless telecommunications systems facilities.

2. Ensure that the ~~citizens of Canby~~public will have access to a variety of wireless telecommunications systems and providers.

3. Reduce the visual impact of certain wireless telecommunications systems facilities by encouraging collocation;

4. Establish a graduated system of review that will expedite facilities placement in preferred locations;

5. Implement the applicable provision of the Federal Telecommunications Act of 1996;

6. Implement Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), commonly referred to as the *Spectrum Act and;*

7. Implement FCC Order 18-133, effective August 15, 2019.

B. The siting and review process for **Macro** telecommunications facilities is based on the type of facility (lattice, monopole, attached, stealth design or collocation) and its proposed location in a Preferred Site (M-1 or M-2 zoning districts), Acceptable Site (C-2 or C-M zoning districts), or Conditionally Suitable Site (C-R, C-C or C-1 zoning districts).

C. Macro Telecommunications Permit Applications.

1. Minor Permit (Type I – Site Plan Review):

a. An attached macro telecommunications facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on a Preferred

Site or Acceptable Site, where the height of the attached facility is no more than 10 feet higher than the existing structure.

b. A detached macro telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and less than 150 feet in height, including antennas.

c. A detached, stealth design macro telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 60 feet high.

d. An attached telecommunications facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on a Preferred Site or Acceptable Site, where the height of the attached telecommunications facility is more than 10 feet higher than the existing structure.

2. Major Permit (Type II/III – Site and Design Review):

a. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.

b. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and under 100 feet in height, including antennas.

c. A detached telecommunications facility (lattice tower), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and under 150 feet in height, including antennas.

d. A detached, stealth design telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing land line

switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 100 feet high, including antennas.

e. An attached telecommunications facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site or Acceptable Site, where the height of the attached telecommunications facility is more than 10 feet higher than the existing structure.

f. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.

g. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and under 100 feet in height, including antennas.

h. A detached telecommunications facility (lattice tower), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and under 150 feet in height, including antennas.

i. A detached, stealth design telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 100 feet high, including antennas.

1. Major Permit (Type II/III – Site and Design Review and Conditional Use Permit)

a. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 100 feet in height, including antennas.

b. A detached telecommunications facility (lattice tower), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.

c. A detached, stealth design telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, including, unless it is demonstrated that locating the proposed facility within the required setback area will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts, and equal to or over 100 feet high, with a maximum height of 130 feet.

d. An attached telecommunications facility (existing structure, including collocation on cell tower) on a Conditionally Suitable Site, including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, where the height of the attached telecommunications facility is no more than 10 feet higher than the existing structure.

D. Standards for siting telecommunications facilities shall be as follows:

1. Site and Design Review standards and criteria (section 16.49.040) shall apply to all telecommunications facilities requiring Site and Design approval.

2. Conditional Use Permit standards and criteria (section 16.50.010) shall apply to all telecommunications facilities requiring Conditional Use Permit approval.

3. All telecommunications facilities shall observe minimum lot size, lot coverage, building height and building setback requirements of the underlying zoning district unless specifically exempted or otherwise regulated by this section. Underground facilities may encroach upon required yards or may be placed in appropriate easements.

4. All detached telecommunications facilities shall be landscaped at the base of the towers/poles, and completely around the equipment shelters. The landscaping shall conform to the ODOT standards for plant size and spacing.

5. Lighting for all telecommunications facilities shall be as required by the FAA or recommended by ODOT Aeronautics Division. All other lighting must be deflected away from adjoining property.

6. All detached telecommunications facilities shall be screened from the public right-of-way and abutting property by a security fence or wall at least 6 feet in height consisting of chain link fencing with vinyl slats, solid wood fencing, concrete masonry unit block, or brick.

7. Attached telecommunications facilities shall be painted to match the color of the mechanical screen wall or building to which it is attached.

8. Equipment shelters, buildings and cabinets housing telecommunications ancillary equipment shall be concealed, camouflaged or placed underground.

9. Any telecommunications facility sited on or designed with any of the following attributes shall first receive FCC approval, as specified in FCC Rules 1.1301 - 1.1319, as a condition of city approval prior to construction; Wilderness Area; Wildlife Preserve; Endangered Species; Historical Site; Indian Religious Site; Flood Plain; Wetlands; High Intensity White lights in residential neighborhoods; Excessive radio frequency radiation exposure.

E. Macro Telecommunications Application Requirements.

1. Minor Permit Applications shall be completed on a form provided by the Planning Director and with the following information:

   a. A copy of that portion of the lease agreement (or lease memo) with the property owner, facility removal within 90 days of the abandonment and a bond to guarantee removal shall be submitted for review prior to development permit approval.

   b. A map of the city showing the approximate geographic limits of the cell to be created by the facility. This map shall include the same information for all other facilities owned or operated by the applicant within the city, or extending within the city from a distant location, and any existing detached WTS facilities of another provider within 1,000 feet of the proposed site.

   c. An engineer scaled site-plan showing:

i. The lease area;

ii. Antenna structure;

iii. Height above grade and setback from property lines;

iv. Equipment shelters and setback from property lines;

v. Access;

vi. Connection point with land line system; and

vii. All landscape areas associated with the telecommunications facility.

d. Anticipated capacity of the telecommunications facility (including number and types of antennas which can be accommodated).

e. The method(s) of stealth design (where applicable).

f. An engineer's statement that the radio frequency emissions at grade, or at the nearest habitable space when attached to an existing structure comply with FCC rules for such emissions; the cumulative radio frequency emissions if collocated.

g. The radio frequency range in megahertz and the wattage output of the equipment.

h. A description of the type of service offered (voice, data, video, etc.) and the consumer receiving equipment.

i. Identification of the provider and backhaul provider, if different.

j. A facilities maintenance regimen.

k. The zoning and comprehensive plan designation of the proposed site.

l. The FAA determination.

m. The distance from the nearest telecommunications facility.

2. Major Permit Applications Additional Requirements:

a. Items in section (E) above.

b. Alternatives for locating/relocating support structures within 250 feet of the proposed site.

c. Photo simulations of the proposed telecommunications facility from the four cardinal compass points and/or abutting right-of-way, whichever provides the most accurate representation of the proposed facility from a variety of vantage points.

d. An engineer's statement demonstrating the reasons why the telecommunications facility must be located at the proposed site (service demands, topography, dropped coverage, etc.).

e. An engineer's statement demonstrating the reasons why the telecommunications facility must be constructed at the proposed height.

f. Verification of good faith efforts made to locate or design the proposed telecommunications facility to qualify for a less rigorous approval process (building permit and/or building permit and site and design review approval).

16.55.045 Exemptions

A. Private amateur radio (HAM) antennas, their support structures, and direct to home satellite receiving antennas are exempt from this section (16.08.120), but shall otherwise comply with the applicable provisions of the underlying zoning district in which they are located to the extent that such provisions comply with Federal Communications Commission policy. (Ord. 981 section 19, 1997)

16.55.100 Severability

A. Invalidity of a section of this ordinance shall not affect the validity and application of the remaining sections or parts of sections of this ordinance or prohibit the regulation of telecommunications facilities within rights-of-way, public and private real property.

City of Oregon City Public Notice
Proposed Resolution Adoption

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PROPOSED: Adopt New Resolutions, Amend Rights-of-Way Usage Fees, and Adopt Design and Construction Standards Specific to Small Cell in the Rights-of-Way

This is to notify you that the City of Oregon City will be discussing proposals for the adoption of Resolutions to amend current Rights-of-Way Usage Fees and adoption of new design and construction standard guidelines for Small Cell in the rights-of-way. City Commission adoption of Resolutions19-02, 19-03, and 19-05 will establish fees and standards regarding Small Cell deployment and management.

Public Works Department will present Resolutions 19-02, 19-03, and 19-05 to City Commission for consideration the adoption at their meeting on February 20, 2019, at City Hall, 625 Center Street, Oregon City, at 7 pm unless otherwise noticed. Any interested party may testify at the meeting or submit written comments at or prior to the meeting while the record is open. All meeting materials are available at *www.orcity.org* seven days prior to the public meeting. These documents may be revised during the review process until final adoption by the City Commission. For additional information, call the Oregon City Public Works Right-of-Way and Construction Manager, Dante Posadas, at 503.974.5521.

Clarification for licensing and term definitions should be directed to Oregon City Municipal Code (OCMC) Chapters 13.24 and 13.34 found here: https://www.orcity.org/RightOfWay and/or https://library.municode.com/or/oregon_city/codes/code_of_ordinances.

For your information, **"Small Cell Facility"** is equipment used to enhance cellular data capacity within the public ROW; comprised of an antenna no larger than 3 cubic feet and equipment no larger than 28 cubic feet; attached to infrastructure within the public ROW.

Resolution 19-03 to Establish Management and Deployment Standards for Small Cell within the City of Oregon City Rights-of-Way

RECOMMENDED ACTION (Motion):
Adopt Resolution 19-03 Small Cell Design and Construction Standards Guidelines for the Public Rights-of-Way.

Background

The topic of Small Cell management and deployment within Oregon City Rights-of-Way (ROW) was introduced during the September 19, 2018, City Commission meeting. At that time, staff was given the direction to pursue standards and fees for reasonable management of Small Cell facilities within City ROW.

Under the direction of the City Commission, City staff invested time into understanding industry needs, federal regulations, and Oregon City historical data compiled regarding utility use of City rights-of-way. City staff found the following information.

Industry projects a 50% increase in deployment of Small Cell facilities between 2018-2020. An estimation of 40% of telecommunication providers will have 100-350 Small Cells per square mile by 2020. The use of data processing and wireless communication devices has skyrocketed. Industry projects a $275 billion investment in the deployment of 5G network capabilities.

The telecommunication industry is a changing/advancing utility and has become a vital part of building prosperous communities. The demand for data processing capacity has led industry to seek solutions in Small Cell deployments along Oregon City's ROW. Pursuant to the changing demands of the telecommunication industry, the Federal Communication Commission published new rulings on January 14, 2019, regarding the management and deployment of Small Cell Facilities within City ROW. FCC regulations limit the City's local authority and require fees that allow for reasonable reimbursement but not over assessment of fees.

In consideration, City staff has reviewed the five years of history the City has with franchisees, licensees, and users of the Public Rights-of-Way. Staff reviewed compliance with established City Code, and State and Federal regulations. Staff have also been working with other Oregon Agencies including Oregon Association of Telecommunication Officers and Advisors, local agencies and other industry experts to develop standards that reflect Oregon City's local needs while respecting the direction of other adopted national, state, and local regulation.

The purpose of these recommended standards is to ensure that Small Cell wireless communication facilities within the public rights-of-way are designed and constructed in a manner that protects and preserves the physical capacity and aesthetic value of

the public rights-of-way. These guidelines shall provide requirements and permitting processes that allow for reasonable access to the public rights-of-way for Small Cell w facilities consistent with applicable federal, state, and applicable City ordinances. Finally, the standards guidelines seek to facilitate and streamline the rollout of Small Cell infrastructure while at the same time safeguard the public rights-of-way and prevent undue hazards to property, the environment, public health, welfare, and safety.

The attached Small Cell Design and Construction Standard Guidelines for Public Rights-of-Way (Exhibit A) outlines Oregon City's standards for this quickly developing industry.

Staff recommend the adoption of these standards in compliance with both State and Federal regulations and for a reasonable management and deployment of Small Cells in Oregon City Public Rights-of-Way.

BUDGET IMPACT:
Amount: N/A

RESOLUTION NO. 19-03

A RESOLUTION TO ESTABLISH SMALL CELL MANAGEMENT AND DEPLOYMENT STANDARDS FOR ATTACHMENTS WITHIN THE CITY OF OREGON CITY RIGHTS-OF-WAY

WHEREAS, the City of Oregon City has statutory and constitutional authority to manage its Rights-of-Way ("ROW") in accordance with Oregon Revised Statutes 221.510 Municipal Regulation of Telecommunication Carriers, and

WHEREAS, on November 6, 2013, the City enacted Ordinance No. 13-1014 which established Chapter 13.34 of the Oregon City Municipal Code, Utility Facilities in Public Rights-of-Way, and exercised the City's authority to manage and to secure compensation to the City and its residents for utility use of the ROW ("Ordinance"), and

WHEREAS, on January 14, 2019, the regulatory rulings of the Federal Communication Commission became effective regarding the City's authority to regulate Small Cell facilities in the ROW; providing guidance on certain state and local non-fee requirements including aesthetic and underground requirements. FCC concludes aesthetics are not pre-emptive if (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) published in advance.

NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:

Section 1: Pursuant to ORS 221.510 and the Federal Communication Commission regulatory rulings, the City of Oregon City adopts Small Cell Design and Construction Standard Guidelines for the Public Rights-of-Way. These standards establish reasonable, nonburdensome, and published standards for the deployment and management of Small Cells within the Public Rights-of-Way.

Section 2: The resolution shall be in effect upon adoption by City Commission.

Approved and adopted at a regular meeting of the City Commission held on the 20th day of February 2019.

Dan Holiday, Mayor

Attested to this 20th day of February 2019:

Kattie Riggs, City Recorder

Approved as to legal sufficiency:

City Attorney

City of Oregon City

Small Cell Design and Construction Standard Guidelines for Public Rights-of-Way

Intent and Purpose

The purpose of these standards is to ensure that Small Cell wireless communication facilities within the public rights-of-way are designed and constructed in a manner that protects and preserves the physical capacity and aesthetic value of the public rights-of-way intended use. These guidelines shall provide requirements and permitting processes that allow for reasonable access to the public rights-of-way for Small Cell wireless communications facilities consistent with applicable federal, state, and applicable City ordinances. Oregon City seeks to facilitate and streamline the rollout of Small Cell infrastructure while at the same time safeguard the public rights-of-way and prevent undue hazards to property, the environment, public health, welfare, and safety.

These Standards and Guidelines are for Small Cell deployment in City Rights-of-Way. Oregon City Municipal Code 17.80 – Communication Facilities – outlines the deployment and land use considerations required for communication facilities other than Small Cells within Oregon City ROW. In the future, City staff will initiate amendments to OCMC 17.80.030 to exclude Small Cell Facilities meeting the Design standards established in the Small Cell Design and Construction Standard Guidelines for Public Rights-of-Way. OCMC 17.80.030 shall regulate Small Cell facilities deployed within private property.

Definitions

For purposes of these standards, the following definitions shall control:

"Alternative antenna structure" (monopole) means an existing pole or new proposed structure within the public rights-of-way that can be used to support an antenna and is not a City facility or third-party wood utility pole.

"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

"Applicant" means any person or entity submitting an application to install Small Cell wireless telecommunication facilities or structures to support the facilities within a public rights-of-way.

"City" means the City of Oregon City, an Oregon municipal corporation, or individuals authorized and designated to act on behalf of the City.

"City Commission" means the elected governing body of the City of Oregon City, Oregon.

"City-owned infrastructure" means infrastructure in the public rights-of-way within the boundaries of the City public rights-of-way and/or public easement, including but not limited to street lights, traffic signals, towers, structures, buildings, and utilities that are owned, operated, and/or maintained by the City.

"Federal Communications Commission (FCC)" means the federal administrative agency, or its lawful successor, authorized to regulate and oversee telecommunication carriers, services, and providers on a national level.

"Landscape screening" means plantings, shrubbery, bushes or other foliage intended to screen the base of a wireless telecommunication facility from public view.

"Licensee" means a telecommunication utility registered with the City pursuant to Oregon City Municipal Code Chapter 13.24 Telecommunication Facilities and Chapter 13.34 Utility Facilities in Public Rights-of-Way.
"Macro-Site telecommunication" means a telecommunication facility designed to support multiple cell sites. Macro-Sites include an array of antennas, transmission equipment, and multiple coax and hybrid cable connections. Oregon City Municipal Code 17.80 Communication Facilities governs the deployment of Macro-Sites.
"Public Rights-of-Way" means and includes the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements, and all other public ways or areas, including the subsurface under and air space over these areas, excluding parks, parkland, municipal elevator or other City property that is not generally open to the public for travel. This definition applies only to the extent of the City's right, title, interest and authority to grant a license to occupy and use such areas for utility facilities.
"Small Cell wireless telecommunication antenna" means an antenna that is part of a private wireless telecommunications facility.
"Small Cell wireless telecommunication equipment" means equipment, exclusive of an antenna, that is part of a private wireless telecommunications facility.
"Small Cell wireless telecommunication facility" means a Small Cell wireless telecommunications facility consisting of an antenna and related equipment, either installed individually or as part of a network, to provide coverage or enhance capacity in a limited defined area. Generally, it is a single-service provider installation.
"Third party utility pole" means an upright pole designed and used to support electric cables, telephone cables, telecommunication cables, cable service cables, and other utility facilities and/or which is used to provide lighting, traffic control, signage, or a similar function. Third party utility poles specifically constitute Non-City owned infrastructure within the Public Rights-of-Way.
"Usable Space" means all the space on a pole except the portion below ground level, the twenty feet of safety clearance space above ground level, and the safety clearance space between communications and power circuits; there is a rebuttable presumption that six feet of a pole is buried below ground level.

General
Oregon Revised Statutes 221.510 (Municipal Regulation of Telecommunication Carriers) authorizes municipalities to:

(a) Determine by contract, or prescribe by ordinance or otherwise, the terms and conditions, including payment of privilege tax to the extent authorized by ORS 221.515 and other charges and fees, upon which any telecommunications carrier may be permitted to occupy the streets, highways, or other public property within such municipality and exclude or eject any telecommunications carrier therefrom.
(b) Require any telecommunications carrier, by ordinance or otherwise, to make such modifications, additions, and extensions to its physical equipment, facilities or plant, or service within such municipality as shall be reasonable or necessary in the interest of the public, and designate the location and nature of all additions and extensions, the time within which they must be completed, and all conditions under which they must be constructed.
(c) Provide for a penalty for noncompliance with the provisions of any charter provision, ordinance, or resolution adopted by the municipality in furtherance of the powers specified in this subsection.

The City established a Rights-of-way Ordinance 13-1014 in 2013 establishing registration, permitting, usage fees, and general management of the Public Rights-of-Way. Pertinent to the ordinance, Oregon City Municipal Code Chapter 13.24 Telecommunication Facilities and 13.34 Utility Facilities in the Public Rights-of-Way govern all telecommunication provider access to public rights-of-way, and Oregon City Municipal Code 17.80 Communication Facilities governs the deployment of Communication Facilities outside the City rights-of-way. The Small Cell Design and Construction Standard Guidelines are supplemental standards and processes regarding the installation of Small Cell wireless telecommunication equipment within the public rights-of-way. Provisions pertaining to Small Cell installations, in City rights-of-way not expressly stated within these standards, will default to Oregon City Municipal Code 13.24 and 13.34.

Permit Process
Small Cell facilities within the Public Rights-of-Way are reviewed by the City Engineer, or authorized designee, in accordance with the process below:

- **Small Cell Facility Minor Installation Permit** – installations on existing third-party infrastructure-applications shall comply with regulation and documentations/permissions as set forth by federal, state, and City standards. Applications shall clearly denote the below outlined requirements. The review period for applications will be 60 days following reception of completed application.

- **Small Cell Facility Major Installation Permit** – installations on existing City-owned infrastructure or proposed new infrastructure – applications for compliant sizes, locations, and aesthetics with necessary supportive documentation permissions as set forth by Federal, State, and City standards. The review period for applications will be 90 days following reception of completed application.

Application Requirements
Complete Licensee applications for both Small Cell Facility Minor and Small Cell Facility Major Installations shall include the following materials:

1. Aerial vicinity map showing the location of the existing and/or proposed wireless support structure to which the Small Cell facility will be attached.

2. Street view image or photographs showing existing and proposed site conditions including all proposed Small Cell facility infrastructure.

3. Scaled engineered plans or drawings, prepared by a professional engineer licensed in the State of Oregon, showing at a minimum:
   a. The height of a wireless support: Small Cell Facilities height as defined by the FCC
      i. The overall height of the wireless support structure and Small Cell facility, including shrouding and concealment.
      ii. Existing wireless support structure: the increase in height due to the collocated antenna, including shrouding and concealment, height at which all Small Cell wireless telecommunication facility equipment is placed, clearance requirements to other attached utilities denoting each clearance regulated by OJUA and NESC.
   b. The height from the base of the wireless support structure to the lowest point proposed Small Cell facility equipment to be installed on the structure.

c. The distance from the outer edge of the wireless support structure parallel to the outer edge of all equipment associated with the Small Cell facility to be installed on the structure.

4. Structural analysis, prepared and stamped by a professional engineer licensed in the State of Oregon, shall include evaluation of the existing and/or proposed wireless support structure and foundation structurally adequate to safely support the proposed Small Cell wireless facilities and comply with NESC for structural stability to determine whether the structure can carry the proposed Small Cell wireless facility and comply with applicable NESC and structural safety code.

5. Engineered plans shall show the right-of-way lines, property lines, proposed utilities (above and below grade), and existing curbs, driveways, sidewalks, streets, paths, buildings, and structures. Any conflicts with existing infrastructure shall be noted, along with a description of how the conflicts will be resolved.

6. Engineered details of proposed Small Cell facilities, including elevations/profiles, plans and sections, clearly indicating the following:
   a. Height, width, depth, and volume (in cubic feet) of all proposed antenna and exposed elements and/or proposed antenna enclosures.
   b. Height, width, depth, and volume (in cubic feet) of proposed wireless equipment associated with the facility Including electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services as applicable.
   c. Method of installation/connection.
   d. Color specifications for proposed wireless support structures and associated exposed equipment, cabinets, and concealment elements.
   e. Electrical plans and wiring diagrams.
   f. Footing and foundation drawings and structural analysis, sealed and signed by a professional engineer licensed in the State of Oregon.

7. Permission to use utility pole or alternative antenna structure: The operator of a Small Cell wireless telecommunication facility shall submit to the City a copy of the written approval from the owner of an existing utility pole, monopole, or an alternative antenna structure, to mount the Small Cell wireless telecommunication facility on that specific pole, tower, or structure, prior to issuance of the City permit.

8. Manufacturer's specification sheets for proposed Small Cell facility equipment, including wireless support structures, equipment cabinets, shrouds or concealment devices, antennas, meters, radios, switches, telecommunications demarcation boxes, and grounding equipment.

9. For removal of wireless support structures or ground-mounted equipment, an engineered drawing that shows the item(s) being removed and the details of restoration to be completed. Restoration shall be completed in accordance with the applicable City of Oregon City Municipal Code and shall restore the site to pre-construction conditions.

10. Letter stating the Applicant has performed an analysis to verify that the Small Cell facility will not cause any interference with City public safety radios, traffic signal light system, or other communications equipment. It shall be the responsibility of the Operator to evaluate the

11. A letter from an Oregon Registered Engineer that the telecommunications facility complies with the non-ionizing electromagnetic radiation (NIER) emissions standards set forth by the Federal Communications Commission (FCC).

12. A signed statement from the facility owner of the telecommunications equipment indicating awareness of removal responsibilities of (XXX).

compatibility between the existing City infrastructure and the Operator's proposed infrastructure.

13. Documentation demonstrating that the applicant has an FCC license for the geographic area and for the service proposed by the microcell installation.

Control Devices.

Applications shall include all materials as listed. Additionally, the City may require significant analysis of the impacts and/or replacement of Small Cell Major installations. The City reserves the right to deny, when in the public's best interest, the installation of Small Cell facilities attached to City infrastructure. Macro-Sites are not allowed within the City Public Rights-of-Way. The review period for Small Cell Facility Major installation applications will be 90 days following reception of completed application.

Standards

Licensees or other such entities shall obtain applicable City permit(s) and comply with applicable Oregon City Municipal Code.

1. *Number limitation:*
   a. maximum of one Small Cell wireless facility shall be attached to an alternative antenna structure.
   b. maximum of one Small Cell wireless antenna shall be installed as part of one Small Cell wireless facility.

2. *Separation and clearance requirements.* A Small Cell wireless telecommunications antenna shall be separated from:
   a. An existing residential structure by a minimum horizontal distance of the total above-ground height of the pole or structure that the antenna is attached to, and
   b. Small Cell wireless telecommunication antenna installed and maintained by the same licensee shall be a minimum of 300 horizontal feet apart.

3. *Locations*: The City reserves the right to deny, when in the public's best interest, the deployment of Small Cell wireless telecommunication facilities within the public rights-of-way. Providers shall provide engineered coverage maps showing coverage laps in areas where location priorities, set below, are bypassed. Small Cell installations triggering the bypass of the below priorities will be considered Small Cell Major Installations, and Licensees will be required to provide additional information justifying the need of facilities at proposed locations.

   Licensees shall install facilities according to priority sets below:
   a. Street Classification
      1. Expressway
      2. Major Arterial
      3. Minor Arterial
      4. Collector
      5. Local

   b. Support Structure
      1. Third Party Utility Pole
      2. Third Party Street Light

3. City-Owned Infrastructure

c. Prohibited locations
   1. Municipal Elevator
   2. City owned decorative street lighting
   3. City Scenic Views
   4. Street Frontage along Historical Points
   5. Signage support structures

If licensee requests to bypass Street Classification or Support Structure priorities, the City will take consideration of existing infrastructure and locations and will review requests and applications in compliance with Standards and FCC regulations. Small Cell Facility Major Installation review criteria shall apply.

4. *Attachment limitations:*
   a. ***Small Cell wireless telecommunication antenna –*** attached to a support structure within the public rights-of-way shall have a maximum surface area of 3 cubic feet.

   b. ***Small Cell wireless telecommunication facilities –*** total combined volume of all above-ground equipment comprising a Small Cell wireless telecommunication facility, exclusive of the antenna, shall be a maximum of 28 cubic feet.

   c. ***Small Cell Wireless telecommunication equipment –*** shall locate the base of the facilities at a height in compliance with National Electric Safety Code, Americans with Disabilities Act, and Oregon City Municipal Code. Equipment shall be placed in the usable space and shall not inhibit the use of the Right-of-Way by City residents in any way.

   d. ***Height –*** The highest point of the antenna shall extend no more than seven feet above the highest point of the utility pole, alternative antenna support structure, tower or City-owned infrastructure. A replacement or new utility pole, alternative support structure, third party utility pole, or City-owned infrastructure shall be no more than ten percent higher than an existing adjacent pole or a maximum of the zoning designated height allowance, in height above the ground surface, whichever height is the lesser of the two.

   e. ***Color –*** A Small Cell wireless telecommunication facility, including all related equipment and appurtenances, shall be a color that matches the pole, blends with the surroundings of the pole, structure tower, or infrastructure on which it is mounted, and uses non-reflective materials.

   f. **Wiring** – All connections and wiring shall be shrouded.

   g. Providers shall not attach or mount any Small Cell Wireless telecommunication equipment onto aerial cable spans.

   h. All Small Cell wireless telecommunication equipment shall be located to avoid any physical or visual obstruction to pedestrian or vehicle traffic, or in any manner create safety hazards to pedestrians, bicyclist, or motorists.

5. *Electrical Service*: Service providers shall be responsible for electrical service coordination to wireless facility. Providers shall not receive power via metered service used to supply power to any street light or other City-owned infrastructure. All electrical service equipment shall match the attaching structure. Electric meters and disconnects shall be located per NESC and NEC code. Providers shall not install generators in the public rights-of-way. All Communication Facilities installed on private property will require review per Oregon City Municipal Standards 17.80 Communication Facilities.

Many jurisdic require a bulk power purcha limit the amou equipment or pole. No mete a bulk purhca

6. *Signage*: Small Cell wireless telecommunication equipment shall not have any signage other than required federal law identification markings.

7. *Noise Reduction*: Noise-generating equipment shall be baffled to reduce sound level measured at the property line to the following levels, except during short durations for testing and operations of generators in emergency situations:
   a. For any property where no adjacent parcel is zoned residential, the sound level at the property line shall not be greater than fifty dB;
   b. For all other cases, the sound level shall not be greater than forty dB when measured at the nearest residential parcel's property line.

8. Lighting: All lights shall be shrouded.

9. *Screening*: Shall be natural landscaping material subject to the approval of the City and shall comply with all codes, standards and regulations of the City. Provider shall shroud all wiring, connections, and Small Cell wireless telecommunication equipment.

10. *Abandonment and removal:* A Small Cell wireless telecommunication facility located within the corporate limits of the City that is not operated for a continuous period of 12 months, shall be considered abandoned and the owner of the facility, at the owner's sole expense, shall be responsible for the removal of the facility, including its antenna and equipment, within 30 days of receipt of written notice from the City notifying the owner of such facility abandonment. Such notice shall be sent by certified or registered mail, return-receipt-requested, by the City to such owner at the last known address of such owner.

11. Placement: No facilities shall be located on sidewalk, bike lane, or street pavement. Facilities shall not inhibit the transportation or access of Oregon City residents to any City-owned Rights-of -Way. Facilities shall be mounted to support structures.

12. Small Cell wireless telecommunication equipment and facilities shall comply with National Electric Safety Code, Americans with Disability Act, Oregon City Small Cell Design and Construction Guidelines for Public Rights-of-Way.

Small Cell Wireless/5G
An Oregon City Perspective

Presented by Dante Posadas

ROW and Construction Services

September 19, 2018

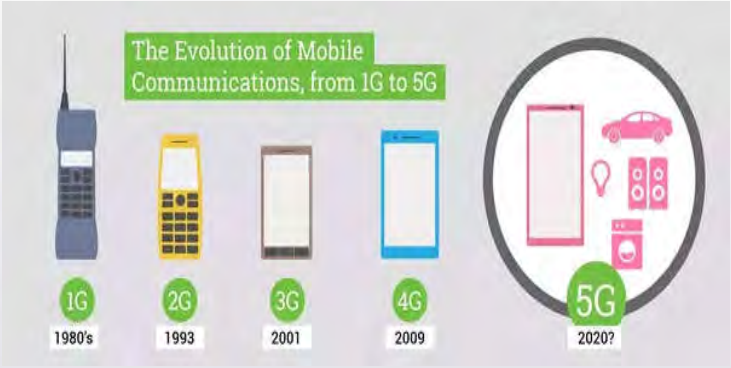
1

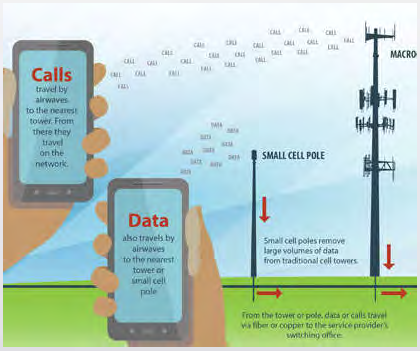
Major Points

- Telecommunication Industry Changes (5G)
- Wireless Networks – Small Cell and Macro Sites
- Governing Bodies and Legislation
- Impacts on Oregon City
- Planned Action

2

5G Capabilities and Needs





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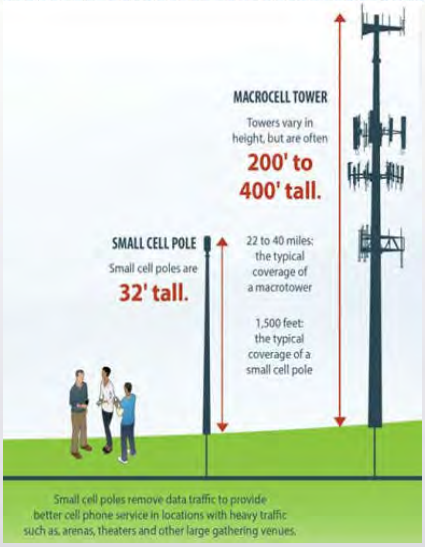
Macro Cells vs. Small Cell



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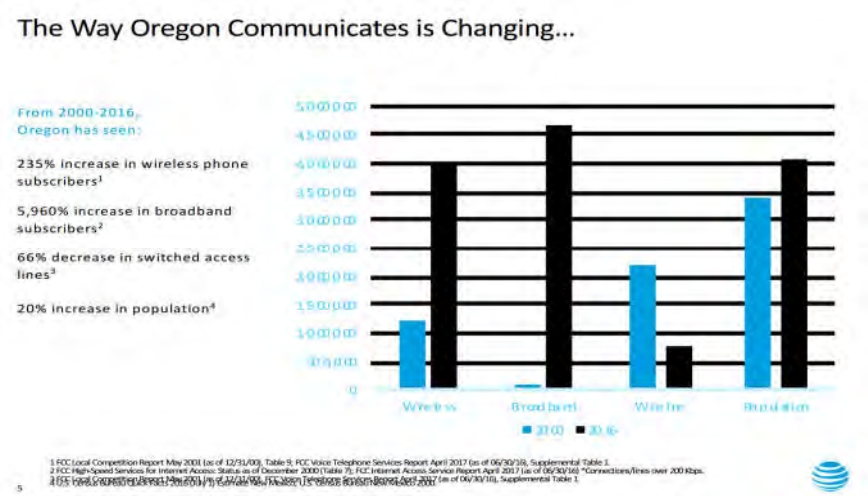
Wireless Network Growth



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Wireless Networks in Oregon City

Current ROW users

- AT&T
- Verizon
- Comcast
- CenturyLink

Current Private Property Macro site users

- AT&T
- Verizon
- Sprint
- T-Mobile
- Cricket Wireless

6

Small Cell Legislation

United States Congress

- June 28, 2018--S.3157-Streamline Small Cell Deployment Act

Federal Communications Commission

- January 31, 2017- Broadband Deployment Advisory Committee
- September 5, 2018- Accelerating Wireless Broadband deployment

National Conference of State Legislatures

- 20 States have enacted legislation

National Governors Association

- July 27, 2018--https://www.nga.org/letters-nga/streamline-small-cell-deployment/

National League of Cities

- Model code August 2018

National Association of Telecommunication Officers and Advisors

7

Oregon City Code

Oregon City Municipal Code 13.24 - Telecommunication Facilities

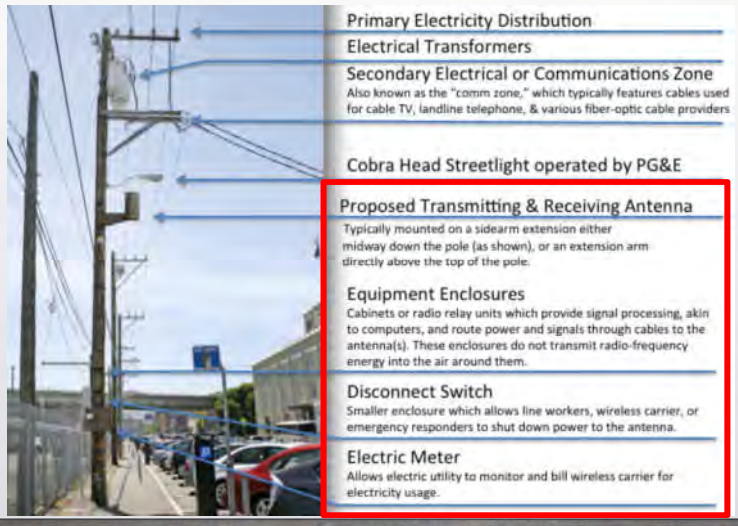
- Permit and manage access to City's ROW
- Fair and reasonable compensation
- Public safety, health and welfare
- Encourage competitive and advancing utility services
- Comply with Oregon City Code, State, and Federal Law

Oregon City Municipal Code 17.80 - Communication Facilities

- Promote maximum utilization and colocation
- Minimal impacts on community, views, and historical areas
- Existing infrastructure use
- Encourage location in non-residential areas

8

Small Cell Installations



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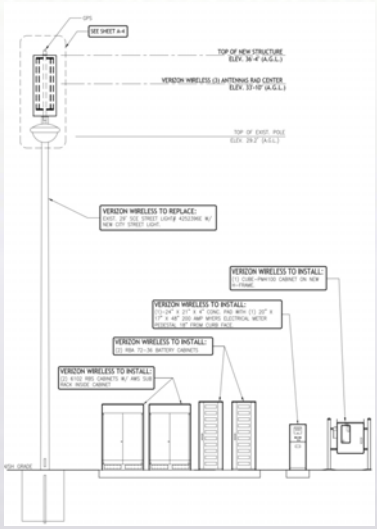
Standards

- Location
- Zoning
- Street classifications
- Infrastructure
- Permissions
- Permits
- Removal



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Typical Installations

Portland, Oregon

Antenna Canister

Monopole Shrouded

11

Usage Fees

Oregon City Current
Communications
5% gross revenue
Attachment Fee $5,000

Other Agency Fees

San Jose, California
$2,600 - $17,750 annual; 3% annual escalation

Eugene, Oregon
$600 quarterly; 5 yr. term; 3% annual escalation

Portland General Electric – Attachment Fee

Oregon City Considerations for Future Fees
Communications 5% Gross Revenue

Attachment Fee
- Municipality Comparison
- Antenna & Ground Equipment Size
- Capacity Output
- Radio Frequency Propagation Maps
- Residential Zone Classification
- Review & Processing Permit Fee

12

Oregon City – Next Steps 6-12 months

- Implement Reasonable, Fair Management of the ROW
- Establish Small Cell Code
- Establish Small Cell Standards within ROW
- Establish Usage Fee Resolution Consistent with Neighboring Oregon Municipalities

13

Questions?

14

References

- Slide 1: graphic credit http://siouxfalls.business/data-service-slow-big-crowds-sdn-fixing/
- Slide 2: graphic credit: https://www.quora.com/Where-I-can-start-to-learn-about-2G-3G-4G-and-5G
- Slide 2: graphic credit: https://www.rcrwireless.com/20171212/network-infrastructure/report-finds-major-increase-in-small-cell-deployments-tag17
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- Slide 5:Verizon wireless standards: are the intellectual property of Verizon Wireless and are used here in an informational use.
- Slide 5: graphic credit: https://medium.com/@omarmasry/part-2-example-photos-of-the-good-the-bad-and-the-downright-ugly-ea483f83fe7
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15

Resolution 19-02 Amending the Rights-of-Way Fee Schedule to include fee provisions for Small Cell Facilities installed in the Public Rights of Way and within the City of Oregon City

RECOMMENDED ACTION (Motion):
Amend Resolution 13-26 and Resolution 14-10 governing Rights-of-Way (ROW) usage fees and establish Resolution 19-02 ROW Usage Fees Schedule including fees for Small Cell facility Rights of Way usage.

Background

Small Cell management and deployment within Oregon City Public Rights-of-Way (ROW) was introduced during the September 19, 2018, City Commission meeting. At that time, staff provided an update to the establishment of standards and fees for reasonable management of Small Cell facilities within Oregon City ROW.

Under the direction of the City Commission, City staff invested time into understanding industry needs, federal regulations, and Oregon City historical data compiled regarding utility use of City rights-of-way. City staff found the following information.

Industry projects a 50% increase in deployment of Small Cell facilities between 2018-2020. An estimation of 40% of telecommunication providers will have 100-350 small cells per square mile by 2020. The use of data processing and wireless communication devices has skyrocketed. Industry projects a $275 billion investment in the nation's 5G network capabilities.

The telecommunication industry, a changing/advancing utility, has become a vital part of building prosperous communities. The demand for data processing capacity has led industry to seek solutions in Small Cell deployments along Oregon City's ROW. Pursuant to the changing demands of the telecommunication industry, the Federal Communication Commission published new rulings on January 14, 2019, setting guidelines for municipality public rights-of-way usage fees.

Oregon City staff has reviewed the industry needs and the federal regulations in a reasonable look at the impact of the utility industries within Oregon City ROW. Staff has reviewed the revenue, permitting, expenses, and resources allocated to the rights-of-way management and facility deployment over a five-year period.

Resolution 19-02 includes a new Usage Fee Schedule that retains the various utility service usage fees as previously established and establishes the Small Cell Facility usage fees as proposed in this recommended action. The Small Cell usage fee is $1,850 per year per attachment. Staff evaluated and determined the usage fee to be a reasonable approximation of impacts on City resources and the needs of the growing, changing industries within Oregon City Public Rights-of-Way.

The attached Rights-of-Way Usage Fee Schedule (Exhibit A) outlines the changes in the usage fees for Small Cell deployments in City Public Rights-of-Way. In addition to the annual Small Cell ROW attachment fee, Resolution 19-05, also being presented for consideration by the City Commission, includes one-time construction permit fees to cover the cost of deployment of Small Cell installations. Oregon City staff recommends the adoption of Resolution 19-02 in compliance with both State and Federal regulations for Small Cell uses within the public rights of way.

BUDGET IMPACT:
Amount: Varies annually depending on industry deployment of Small Cell in Oregon City; General Fund and Engineering Fund.

RESOLUTION NO. 19-02

AMEND THE RIGHTS-OF-WAY USAGE FEE RATES WITHIN THE CITY OF OREGON CITY

WHEREAS, the City of Oregon City has statutory and constitutional authority to manage its Rights-of-Way ("ROW") in accordance with Oregon Revised Statutes 221.510 Municipal Regulation of Telecommunication Carriers, and

WHEREAS, on November 6, 2013, the City enacted Ordinance No. 13-1014 which established Chapter 13.34 of the Oregon City Municipal Code, Utility Facilities in Public Rights-of-Way, and exercised the City's authority to secure compensation to the City and its residents for utility use of the ROW ("Ordinance"), and

WHEREAS, on November 20, 2013, the City adopted Resolution No. 13-26, which set ROW registration, licensing, and usage fees for various utility use of the City's ROW including usage rates for electric utilities, natural gas utilities, communication utilities, cable utilities, water utilities, sanitary utilities, storm utilities and attachments; and

WHEREAS, on November 19, 2014, the City adopted Resolution No. 14-30, amending Resolution 13-26 Rights of Way usage rates for electric and natural gas utilities; and

WHEREAS, on January 14, 2019, the regulatory rulings of the Federal Communication Commission became effective regarding the City's authority to regulate Small Cell facilities in the ROW. These rulings established state and local government authority to adopt usage fees and aesthetic requirements for Small Cell deployment and management as a reasonable approximation of the cost for processing applications and managing deployments in the right-of-way; and

WHEREAS, City staff seeks to clarify the ROW Usage Fee by consolidating Resolution No.13-26 and Resolution No. 14-30; affirming established ROW usage fee rates per utility service sector; and reducing attachment fees reflecting Federal Communication Commission ruling of reasonable approximation of deployment and management of Small Cell attachments.

NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:

Replace usage fee rates identified in Resolution No. 13-26 and Resolution No. 14-30 as follows:

Section 1. The City Commission of Oregon City authorizes the Rights of Way Usage Fee Schedule as attached pursuant to OCMC 13.34 and OCMC 13.24;

Section 2. Rights of Way usage minimum fees shall increase annually at 3% from minimum fees established and increased since January 1, 2015. Rights of Way annual attachment fees proposed in Resolution 19-02 shall increase 3% annually on January 1, 2020.

Section 3. This Resolution shall be in full force and effect upon its adoption by the Commission.

Approved and adopted at a regular meeting of the City Commission held on the 20th day of February 2019.

Dan Holiday, Mayor

Attested to this 20th day of February 2019:

Kattie Riggs, City Recorder

Approved as to legal sufficiency:

City Attorney

City of Oregon City

Public Works

Rights of Way
Usage Fee
Schedule

February 20, 2019

Registration		
Utility Service	**Rate**	**Fee Description**
License	5 year Term	$50
Registration	Annual	$50

Annual Usage Fee		
Utility Service	**Rate**	**Fee Description**
Electric	Annual	5% of Gross Revenue
Natural Gas	Annual	5% of Gross Revenue
Communications	Annual	5% of Gross Revenue
Cable	Annual	5% of Gross Revenue
Water	Annual	6% of Gross Revenue
Sanitary Sewer	Annual	6% of Gross Revenue
Storm Sewer	Annual	6% of Gross Revenue

Attachment Fee		
Utility Service	**Rate**	**Fee Description**
Small Cell Facility Minor **Small Cell Facility Major (installations)**	Annual/Per facility	$1,850
Attachment (non-small cell attachments)	Annual/Per facility	$5,000

Minimum Annual Licensee Fees	
Linear Feet of Utility Facilities in Public	**Minimum Annual Fee**
Up to 5,000	$5,796.37
5,001 to 10,000	$8,694.56
10,001 to 20,000	$11,592.74
More than 20,000	$17,389.11

*For any Utility Operator that does not earn gross revenue within the City: $2.75 per foot of Utility Facilities in the Right of Way (as these terms are defined in OCMC Chapter 13.34.050).

“Gross revenue” means any and all revenue, of any kind, nature or form, without deduction for expense, less net uncollectible, derived from the operation of utility facilities in the City, subject to all applicable limitations in federal or state law.

Utility Providers shall comply with OCMC Chapter 13.34 Utility Facilities Within Public Rights of Way and Chapter 13.24 Telecommunication Facilities.

RESOLUTION NO. 13-26

A RESOLUTION TO ESTABLISH THE RIGHT OF WAY USAGE FEE RATES AND APPLICATION FEES FOR PUBLIC UTILITIES OPERATING WITHIN THE CITY OF OREGON CITY RIGHTS OF WAY

OREGON CITY MAKES THE FOLLOWING FINDINGS:

WHEREAS, the City of Oregon City has statutory and Constitutional authority to manage its Right of Way ("ROW"), and

WHEREAS, on November 6, 2013, the City enacted Ordinance No. 13-1014 which establishes Chapter 13.34 of the Oregon City Municipal Code, Utility Facilities in Public Rights Of Way, and exercises the City's authority to secure compensation to the City and its residents for utility use of the ROW ("Ordinance"), and

WHEREAS, the Ordinance establishes certain application fees to cover the City's costs related to such applications; and

WHEREAS, the City finds that it is in the public interest to establish the rates and fees set forth below.

NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:

Section 1. The Registration Fee established in OCMC 13.34.060.D shall be $50.00:

Section 2. The License Application Fee established in OCMC 13.34.070.C shall be $50.00.

Section 3. The rates of the Right of Way Usage Fee established in OCMC 13.34.130.A shall be as follows, to the extent permitted under applicable law:

Annual Fee Rate:

UTILITY SERVICE	ROW USAGE FEE RATE
Electric	3.5% of gross revenue
Natural Gas	3.0% of gross revenue
Communications	5% of gross revenue; For any Utility Operator that does not earn gross revenue within the City: $2.75 per foot of Utility Facilities in the Right of Way (as these terms are defined OCMC 13.34.050)
Cable	5% of gross revenue
Water	6% of gross revenue
Sanitary Sewer	6% of gross revenue
Storm Sewer	6% of gross revenue

"Gross revenue" means any and all revenue, of any kind, nature or form, without deduction for expense, less net uncollectibles, derived from the operation of utility facilities in the City, subject to all applicable limitations in federal or state law.

Minimum Annual Fee:

A utility operator shall pay the Minimum Annual Fee set forth below, based on the total linear feet of Utility Facilities in the Right of Way (as these terms are defined OCMC 13.34.050), instead of the Annual Fee Rate set forth above if the Minimum Annual Fee is greater than the fee calculated using the Annual Fee Rate.

TOTAL LINEAR FEET OF UTILITY FACILITIES IN RIGHT OF WAY	MINIMUM ANNUAL FEE
Up to 5,000	$5,000.00
5,001 to 10,000	$7,500.00
10,001 to 20,000	$10,000.00
More than 20,000	$15,000.00

The Minimum Annual Fee set forth above shall increase 3% annually on January 1st of each year beginning January 1, 2015.

Section 4. The rate of the Attachment Fee established in OCMC 13.34.130.B shall be $5,000 per attachment. The attachment fee shall increase 3% annually on January 1st of each year beginning January 1, 2015.

Section 5. This Resolution shall be in full force and effect upon its adoption by the Commission.

Approved and adopted at a regular meeting of the City Commission held on the 20th day of November 2013.

DOUG NEELEY, Mayor

Attested to this 20th day of November 2013.

Nancy Ide, City Recorder

Approved as to legal sufficiency:

City Attorney

RESOLUTION NO. 14-30

A RESOLUTION TO AMEND THE RIGHT OF WAY USAGE FEE RATES FOR CERTAIN PUBLIC UTILITIES OPERATING WITHIN THE CITY OF OREGON CITY RIGHTS OF WAY

OREGON CITY MAKES THE FOLLOWING FINDINGS:

WHEREAS, the City of Oregon City has statutory and constitutional authority to manage its Right of Way ("ROW"), and

WHEREAS, on November 6, 2013, the City enacted Ordinance No. 13-1014 which establishes Chapter 13.34 of the Oregon City Municipal Code, Utility Facilities in Public Rights Of Way, and exercises the City's authority to secure compensation to the City and its residents for utility use of the ROW ("Ordinance"), and

WHEREAS, on November 20, 2013, the City adopted Resolution No. 13-26, which set ROW usage fees for various utilities use of the City's ROW, including rates for electric utilities and natural gas utilities; and

WHEREAS, the City wishes to change the ROW of usage fees for certain utilities, in particular, electric utilities and natural gas utilities.

NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:

Section 1. The ROW usage fee rate for electric utilities shall rise from 3.5% of gross revenue to 5.0 percent of gross revenue.
Section 2. The ROW usage fee rate for natural gas utilities shall rise from 3.0% of gross revenue to 5.0 percent of gross revenue.
Section 3. The ROW usage fee rates for all utilities other than the utilities identified in Sections 1 and 2 of this resolution shall remain the same as previously established in Oregon City Resolution No. 13-26. This resolution makes no other changes to any other portion of Resolution No. 13-26.
Section 4. The rates of the Right of Way Usage Fee, as amended by this resolution shall be as follows:

Annual Fee Rate:

UTILITY SERVICE	ROW USAGE FEE RATE
Electric	5% of gross revenue
Natural Gas	5% of gross revenue
Communications	5% of gross revenue; For any Utility Operator that does not earn gross revenue within the City: $2.75 per foot of Utility Facilities in the Right of Way (as these terms are defined OCMC 13.34.050)
Cable	5% of gross revenue
Water	6% of gross revenue
Sanitary Sewer	6% of gross revenue
Storm Sewer	6% of gross revenue

"Gross revenue" means any and all revenue, of any kind, nature or form, without deduction for expense, less net uncollectibles, derived from the operation of utility facilities in the City, subject to all applicable limitations in federal or state law.

Section 5. The revised ROW usage fee rate for electric utilities and natural gas utilities shall take effect 90 days from the adoption of this resolution.

Approved and adopted at a regular meeting of the City Commission held on the 19th day of November 2014.

DOUG NEELEY, Mayor

Attested to this 19th day of November 2014:

Nancy Ide, City Recorder

Approved as to legal sufficiency:

City Attorney

Resolution No. 19-05 Modifying Public Works Engineering Fees Schedule and Amending Resolution No. 18-16

RECOMMENDED ACTION (Motion):
Adopt Public Works Engineering Fees Schedule with additional new fees and amending Resolution No. 18-16

BACKGROUND:
The City adopted Resolution No. 18-16 establishing a schedule of permit fees for Public Works Engineering which included all engineering fees previously adopted by resolutions, and established a consistent method to adjust these fees on an annual basis to account for inflation. The previously adopted Resolution No. 18-16 and other resolutions established fees that are necessary to defray the Public Works Engineering Division's actual operational costs.

Staff recommends to modify the Public Works Engineering Fees schedule, Exhibit A, which includes all engineering fees previously adopted by resolutions; proposes additional fees as described in Exhibit B; and continues to include an adjustment provision to adjust these fees on an annual basis to account for inflation.

Staff recommends adopting this resolution to recover, to the extent practicable, the actual cost of providing Public Works Engineering Services to facilitate the issuing of permits for construction of various public and private infrastructure, including the private Small Cell Facility infrastructure, per the City of Oregon City standards.

With adoption of Exhibit A, the Public Works Engineering Fees schedule shall become effective February 20, 2019.

BUDGET IMPACT:
Amount: N/A
FY(s): N/A
Funding Source: N/A

A RESOLUTION MODIFYING THE PUBLIC WORKS ENGINEERING FEES SCHEDULE AND AMENDING RESOLUTION NO. 18-16

WHEREAS, the City of Oregon City adopted Resolution No. 18-16 establishing a schedule of permit fees for Public Works Engineering which included all engineering fees previously adopted by resolutions, and established a consistent method to adjust these fees on an annual basis to account for inflation; and

WHEREAS, the City of Oregon City has adopted Resolution No. 18-16 and other resolutions establishing fees that are necessary to defray the Public Works Engineering Division's actual operational costs; and

WHEREAS, the City of Oregon City desires to modify the Public Works Engineering Fees schedule, Exhibit A, which includes all engineering fees previously adopted by resolutions; proposes additional fees as described in Exhibit B, Fee Explanation; and continues to include an annual adjustment to adjust these fees to account for inflation; and

WHEREAS, the City of Oregon City, City Commission resolves that the City should recover to the extent practicable, the actual cost of providing Public Works Engineering Services to facilitate the issuing of permits for construction of various public and private infrastructure per the City of Oregon City standards.

NOW, THEREFORE, THE CITY OF OREGON CITY RESOLVES AS FOLLOWS:

Section 1. The City hereby adopts Exhibit A, Public Works Engineering Fees schedule, to become effective February 20, 2019, with the additional new fees as described in Exhibit B, Fee Explanation.

Section 2. The Public Works Engineering Fees Schedule, Exhibit A, shall continue to be adjusted annually to account for inflation on January 1st. The adjustment to account for inflation shall be based on changes in the CPI-W for the Pacific Division of the West Region.

Approved and adopted at a regular meeting of the City Commission held on the 20th day of February 2019.

DAN HOLLADAY, Mayor

Attested to this 20th day of February, 2019:

Kattie Riggs, City Recorder

Approved as to legal sufficiency:

City Attorney

Attachments: Exhibit A - Public Works Engineering Fees Schedule; Exhibit B - Description of Additional Fees

City of Oregon City
Public Works

Engineering Fee Schedule

Proposed Effective ~~**January 1, 2019**~~ **February 20, 2019**

Fee/Engineering Service/Permit Type	Fee Description	Rate	Fee
Erosion & Sediment Control SFR Permit (Application, Plan Review, Inspection)	Regular	Flat	$262
	Reduced w/ Certification	Flat	$201
Erosion & Sediment Control Non-SFR Permit (Application, Plan Review, Inspection)	Regular (1 acre or less)	Flat	$695
	Reduced w/ Certification (1 acre or less)	Flat	$385
	PLUS, each additional acre or fraction therof	Per Unit	$123
Engineering Services for Building Permits	Engineering Site Plan Review for Building Permit	Flat	$82
	Inspection for Public Sidewalk and Driveway Approach for single family subdivision lot Building Permit	Flat	$162
Public Utility Service Permit	Application for Public Water Service Line, Sanitary Sewer or Stormwater Service Laterals	Flat	$52
	Plan Review	Flat	$111
	Utility Inspection	Flat	$162
	Pavement Cut & Restoration Inspection	Flat	$27
	Utility Permit Sidewalk Repair Inspection	Flat	$27
	Utility Permit Driveway Approach Repair Inspection	Flat	$27
	Utility Re-Inspection	Flat	$82
	Sanitary Sewer Service Lateral Launch Video Inspection by City per Customer request	Flat	$228
	Sanitary Sewer Service Tap Video Inspection at Public Main Line Connection	Flat	$228
Public Street Driveway Approach Permit	Application	Flat	$52
	Plan Review	Flat	$111
	Inspection	Flat	$162
	Re-Inspection	Flat	$82
Public Street Sidewalk Permit	Application and Plan Review	Flat	$52
	Inspection	Flat	$111
	Re-Inspection	Flat	$82
Public Street Sidewalk Group Permit	Application (one contractor for multiple sidewalk panel replacements along one block of street frontage, block length shall be a maximum length of 500 feet)	Flat	$52
	Plan Review	Flat	$111
	Inspection	Flat	$162
	Re-Inspection	Flat	$82

Fee/Engineering Service/Permit Type	Fee Description	Rate	Fee
Grading Permit (Filling, Grading, Excavating, including temporary material stockpile)	Application, Plan Review and Site Monitoring (*Engineer's Final Cost Estimate when applicable)	Flat Fee Plus Percentage	$284 plus 2.5% of cost estimate*
Public Improvements Development Engineering Services (Street, Water, Sanitary Sewer, Stormwater)	5% of Engineer's Final Cost Estimate (2.5% Technical Plan Review Fee for First through Third Technical Plan Reviews plus 2.5% Inspection Fee)	Percentage	5% of cost estimate
	Additional Technical Plan Review Fee for every plan review beyond the third Technical Plan Review. 0.5% added to 2.5% Technical Plan Review Fee for each additional Plan Review after the Third Plan Review	Percentage	0.5% of cost estimate
Geotechnical Review	For Waiver Review Process	Flat	$642
	City Peer Review of Geotechnical Documents (Reports, Plans, Other)	Actual Cost	Actual Peer Review cost
Stormwater Management Peer Review	City Peer Review of Engineered Method to Calculate Size of Stormwater Management Facilities	Actual Cost	Actual Peer Review cost
Temporary Obstruction in ROW Permit	Application and Plan Review	Flat	$27
	Inspection	Flat	$27
Long Term Obstruction in ROW with Revocable ROW Permit	Application	Flat	$52
	Plan Review	Flat	$111
	City Resolution and Document Process	Flat	$217
	Revocable ROW Permit	Flat	$162
City Resolution and Document Processing	City Resolution and Document Processing	Flat	$217
Document Processing and Recording Fee	Record one document at one time	Flat	$296
	record each additional document at same time with first document	Flat	$168
Plat Review	Partition	Flat	$560
	Subdivision	Flat	$784
	Planned Development	Flat	$2,034
Vacation of Public Rights-of-Way or Public Easements	Public Right-of-Way	Flat	$1,081
	Public Easement	Flat	$638
Special Event ROW Permit	Application and Review	Flat	$162
	ROW Inspection for use of ROW during Special Event	Flat	$162
Renewable ROW Permit (outdoor seating, monitoring wells, other)	Application, Review and Inspection	Flat	$162
ROW Permit General - Minor - work outside of travel ways and no vehicular traffic control	Application, Review and Inspection	Flat	$162
ROW Permit General - Moderate work within travel ways and not requiring Technical Plan Review	Application and Plan Review	Flat	$162
	Inspection	Flat	$162

Fee/Engineering Service/Permit Type	Fee Description	Rate	Fee
ROW Permit General - Major - work in ROW requiring Technical Plan Review	Application, Technical Plan Review and ROW Inspection is Flat Fee plus 2.5% of Engineer's Final Cost Estimate	Flat Fee Plus Percentage	$284 plus 2.5% of cost estimate
Small Cell Facility - Minor Installation (on Existing Third Party Utility Structure)	Application, Review and Inspection	Flat	$750
Small Cell Facility - Major Installation (on City Utility Structure or Proposed New Structure) (requires Technical Plan Review)	Application, Technical Plan Review and Inspection - Flat Fee plus actual cost over Flat Fee plus 15% Administrative Fee	Flat Fee Plus Actual Cost over Flat Fee Plus Administrative Cost Percentage	$750 plus actual cost over Flat Fee Plus Administrative Fee
ROW Licensee Major Installation - Fiber, Cable, Natural Gas, Electric, Telecommunications (does not include Small Cell Facility) requires Technical Plan Review	5% of Engineer's Final Cost Estimate (2.5% Technical Plan Review Fee for First through Third Technical Plan Reviews plus 2.5% Inspection Fee)	Percentage	5% of cost estimate
	Additional Technical Plan Review Fee for every plan review beyond the third Technical Plan Review. 0.5% added to 2.5% Technical Plan Review Fee for each additional Plan Review after the Third Plan Review	Percentage	0.5% of cost estimate
Film Permit	ROW Inspection for use of ROW during filming	Flat	$162
	Usage fee for using City facilities' sanitary sewer during filming	Flat	$35
	Usage fee for using City facilities' water during filming	Flat	$35

Exhibit B:
Fee Explanation for Public Works Engineering Fees, Resolution 19-05

The following provides brief explanation of proposed changes to the Public Works Engineering Fees.

Currently, the Public Works Engineering Development Services Group provides plan review services for Building Permits and Engineering Construction Services Group provides inspection services for public sidewalk and driveway approach for single family subdivision Building Permits.

- For Building Permits requiring the following Engineering plan review and/or inspection, then these fees apply:
  - $82 for Engineering Site Plan Review Fee for Building Permit
  - $162 for Inspection Fee for Public Sidewalk and Driveway Approach for single family subdivision lot Building Permit

Currently, the Public Works Operations Sanitary Sewer Group provides a sanitary sewer service lateral launch video inspection service to a customer requesting this service to be provided for their sanitary sewer service lateral.

- For Public Utility Service Permits that a customer requests the services from the City for a lateral launch video inspection, then this fee would apply:
  - $228 video inspection fee for Sanitary Sewer Service Lateral Launch Video Inspection by City per Customer request

Clarifications were made for the Public Improvements Development Engineering Services with adding some clarification language to the existing fee description (shown on Exhibit A in red text).

Currently there are Special Event Permits issued for events that require Public Works Engineering Construction Services to make Right-of-Way (ROW) inspections because the special event is using the ROW.

- For Special Event Permits that include use of the ROW that requires a ROW inspection, then this fee would apply:
  - $162 for ROW Inspection for use of ROW during Special Event

Currently, the Public Works Engineering Development Services and Construction Services Groups provide plan review and inspection services for ROW encroachments and/or work in the ROW that is not for construction of public infrastructure or permitted private infrastructure, and therefore is permitted as “General ROW” work that is identified as minor, moderate, or major depending on the proposed work in the ROW, the level of impact to the ROW, and the level of plan review and inspection services needed for the “General ROW” permit.

- For proposed projects in the ROW that are categorized as “General,” then a determination is made for whether the permit is minor, moderate, or major as follows and will have the following fees applied as follows:

- ROW Permit General – Minor: work outside of travel ways and no vehicular traffic control; Flat Fee of $162 for Application, Review, and Inspection
- ROW Permit General – Moderate: work within travel ways and not requiring Technical Plan Review; Flat Fee of $162 for Application and Plan Review and Flat Fee of $162 for Inspection
- ROW Permit General – Major: work in ROW requiring Technical Plan Review; Application, Technical Plan Review and ROW Inspection is Flat Fee of $284 plus 2.5% of Engineer's Final Cost Estimate for work in ROW

Currently, the Public Works Engineering Development Services and Construction Services Groups propose to provide plan review and inspection services for construction of private Small Cell Facilities in the ROW. "Small Cell Facility" work is identified as minor or major depending on the proposed "Small Cell Facility" work in the ROW, and the level of plan review and inspection services needed for the "Small Cell Facility" permit.

- For proposed "Small Cell Facility" projects in the ROW, the following determines whether the permit is minor or major and the applicable fees applied:
  - For Small Cell Facility - Minor Installation (on Existing Third Party Utility Structure): Flat Fee of $750 applies for Application, Plan Review and Inspection
  - For Small Cell Facility - Major Installation (on City Utility Structure or Proposed New Structure) (requires Technical Plan Review): Fee for Application, Technical Plan Review and Inspection includes the Flat Fee of $750 plus actual cost over Flat Fee of $750 plus 15% Administrative Fee

Currently, the Public Works Engineering Development Services and Construction Services Groups provide plan review and inspection services for construction of private ROW Licensee infrastructure in the ROW. "Private ROW Licensee infrastructure" work is identified as minor with currently no fee for a "minor" permit, or as major work in the ROW which requires a higher level of Technical Plan Review and inspection services for construction of the "Private ROW Licensee infrastructure."

- For major "Private ROW Licensee infrastructure" projects for Fiber, Cable, Natural Gas, Electric, Telecommunications (does not include Small Cell Facility) that are in the ROW and require a high level of technical plan review and inspection services the following fees apply:
  - 5% of Engineer's Final Cost Estimate (2.5% Technical Plan Review Fee for First through Third Technical Plan Reviews plus 2.5% Inspection Fee)
  - Additional Technical Plan Review Fee for every plan review beyond the third Technical Plan Review. 0.5% added to 2.5% Technical Plan Review Fee for each additional Plan Review after the Third Plan Review

Currently, the Public Works Engineering Development Services and Construction Services Groups provide plan review and inspection services for Film Permits when the ROW and/or City facilities' sanitary sewer and/or water are used during filming.

- For Film Permits when there is usage of the ROW, City facilities' sanitary sewer and/or water, then the following fees shall apply:
  - Flat fee of $162 for ROW Inspection for use of ROW during filming
  - Flat fee of $35 for Usage fee for using City facilities' sanitary sewer during filming
  - Flat fee of $35 for Usage fee for using City facilities' water during filming

These fees shall be adjusted annually for inflation on January 1 as stated in the resolution and rounded to the nearest dollar.

MODEL

League of Oregon Cities

Small Wireless Facilities Model Design Guidelines

JUNE 2020

This model was produced in coordination with:

T-Mobile AT&T verizon

DISCLAIMER

Any model document provided by the League of Oregon Cities (LOC) is intended to be used as a starting point in an individual city's development of its own documents. Each city is unique, and any adopted document or policy should be individually tailored to meet a city's unique needs. Furthermore, this model is not intended to be a substitute for legal advice. Cities should consult with their city attorney before adopting any small wireless facility policies to ensure that they comply with all aspects of federal, state, and local law.

Table of Contents

Foreword

Background

On January 31, 2017, Federal Communications Commission ("FCC") Chairman Ajit Pai established a Broadband Deployment Advisory Committee ("BDAC"), which he tasked with making recommendations to the FCC on ways to accelerate the deployment of broadband by reducing or removing regulatory barriers to infrastructure investment. On September 27, 2018, the FCC released a Declaratory Ruling and Third Report and Order (FCC 18-133, referred throughout the document as "Small Cell Order" or "FCC Order") that significantly limits local authority over small wireless infrastructure deployment and fees for use of the rights-of-way (ROW). The FCC Order took effect January 14, 2019. However, the requirements regarding aesthetics did not take effect until April 15, 2019. Under the FCC Order aesthetic or design standards must be: (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; (3) objective; and (4) published in advance. The FCC Order also defines the size limitations for small wireless facilities (allowing antennas of up to 3 cubic feet each, with additional equipment not to exceed 28 cubic feet), and specifies that such facilities may not result in human exposure to radiofrequency radiation in excess of applicable standards in the FCC's rules (federal law preempts local regulation of RF emissions). "Small wireless facilities" are sometimes also called "small cells."

LOC Model Small Wireless Facilities Design Standard

In coordination with many cities,[1] representatives from Verizon, AT&T, T-Mobile, and the LOC met from January 2019 to May 2020 to discuss and craft a model code and model design standards relating to small wireless facilities while there is pending litigation[2] on the FCC Order. The model code and model design standards are intended to be paired together.

There is no single design standard that will work for every jurisdiction. As such, the LOC's model design standard is intended as a roadmap to assist local governments in adopting their own design standard. While example language is included in some sections, the LOC does not intend to suggest these examples could work for every jurisdiction. In some instances, the local government may need to issue a deviation to the design standards when it would be technically infeasible for the applicant to comply. The deviation process is provided in Section I of these model standards and is intended to occur within the "shot clock"[3] – the time frame in which the state or local government should act on a request for authorization to place, construct, or modify personal wireless service facilities, as defined by the FCC. However, to the extent that the local government cannot reasonably act on the application within the shot clock, the parties are encouraged to seek a tolling agreement to allow the applicant to vet reasonable design alternatives and the local government to complete its review. Local governments cannot require a tolling agreement as a condition of a deviation.

[1] See "Acknowledgments" section for full list of participants.
[2] In October 2018, the LOC in coordination with other municipalities and municipal leagues filed suit against the FCC in the United States Court of Appeals for the Ninth Circuit.
[3] See Appendix A

The LOC also recognizes there are many ways to structure a design standard. The appropriate structure will vary by jurisdiction. For purposes of this model, the LOC opted to approach designs by type of pole and deployment. The model is intended to provide a general framework and thus is drafted as an outline of provisions jurisdictions may want to include in their final design standard. In many cases example language is provided to help illustrate the issues to be addressed. However, the intent is to allow each jurisdiction to draft the substantive provisions that best reflect local needs and interests. The LOC recommends that jurisdictions that own poles or other structures in the rights-of-way establish a clear design standard. The circumstances of each municipality may, and likely will, require modifications to the framework and/or example language of this model design standard.

Additional Considerations

The LOC model design standards only applies to small wireless facilities. Municipalities should review their existing ordinances, standards and policies to determine if this framework is appropriate. Municipalities may want to consider whether it would be preferable to adopt a utility-neutral standard covering all utilities and communications providers, which would provide one set of "rules" for the design of the public rights-of-way. Differences in policy choices and existing standards, among other things, may impact the decision in how to proceed. It is recommended that cities consult their attorney, ROW specialists, engineers, master plans, comprehensive plans, goals and/or wireless providers before final adoption of standards. Cities may choose to adopt design standards administratively or in code.

Understanding the Organization of the Model Design Standards

As stated above, the model is best described as an outline or roadmap to assist municipalities in drafting the appropriate standards for their community. The model includes example language to illustrate the intent of the section. The example language, or a variation thereof, may be appropriate for final adoption in some jurisdictions.

Finally, there may be additional notes or issues for consideration within the subsections of the model, which are [bracketed] and in ALL CAPS. Again, these notes are is intended as guidance for municipal drafters, not for adoption in a final ordinance.

Small Wireless Facility Design Standards

[GIVEN THAT THE TECHNICAL NEEDS FOR EACH OPERATOR MAY VARY, JURISDICTIONS ARE ENCOURAGED TO ADOPT DESIGN STANDARDS BY CITY COUNCIL RESOLUTION AND/OR ADMINISTRATIVELY BY THE CITY MANAGER OR OTHER OFFICIAL. THIS WAY, CITIES WOULD BE ABLE TO REACT QUICKLY AND AMEND THE STANDARDS IN RESPONSE TO CHANGES IN LAW AND TECHNOLOGY. CITIES SHOULD NOTE THAT THIS NIMBLER APPROACH IS POSSIBLE ONLY IF THE REGULATIONS FOR SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ARE LOCATED OUTSIDE OF THE LAND DEVELOPMENT CODE.]

A. Definitions

"**Antenna**" means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended or superseded. The term includes an apparatus designed for the purpose of emitting radio frequencies (RF) to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15.

"**Antenna Equipment**" means the same as defined 47 C.F.R. § 1.6002(c), as may be amended or superseded, which defines the term to mean equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

"**Antenna Facility**" means the same as defined in 47 C.F.R. § 1.6002(d), as may be amended or superseded, which defines the term to mean an antenna and associated antenna equipment.

"**Applicable codes**" means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or state or local amendments to those codes that are of general application and consistent with state and federal law.

"**Applicant**" means any person who submits an application as or on behalf of a wireless provider.

"**Application**" means requests submitted by an applicant (i) for permission to collocate small wireless facilities; or (ii) to approve the installation, modification or replacement of a structure on which to collocate a small wireless facility in the rights-of-way, where required.

"**Collocate**" means the same as defined in 47 C.F.R. § 1.6002(g), as may be amended or superseded, which defines that term to mean (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. "Collocation" has a corresponding meaning.

"**Day**" means calendar day. For purposes of the FCC shot clock, a terminal day that falls on a holiday or weekend shall be deemed to be the next immediate business day.

"**Historic District**" means a group of buildings, properties, or sites that are either: (1) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register in accordance with Section VI.D.1a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C; or, (2) a locally designated historic district as of the effective date of this [Chapter/Section] or in a locally designated historic district existing when an application is submitted. [NOTE: THIS IS NOT MEANT TO RETROACTIVELY AFFECT SWFs ALREADY IN PLACE WHEN A NEW DISTRICT IS CREATED].

"**Person**" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

"**Pole**" means a type of structure in the rights-of-way that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities; provided, such term does not include a tower, building or electric transmission structures.

"**Rights-of-Way**" or "**ROW**" means [INSERT A CONSISTENT DEFINITION ACROSS OTHER CODES. Example: "Right-of-way," "rights-of-way," "public right-of-way," or "ROW" means and includes, but is not limited to, the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements and all other public ways or areas, including the subsurface under and air space over these areas, but does not include parks, parkland, or other City property not generally open to the public for travel.]

"**Small wireless facility**" means a facility that meets each of the following conditions per 47 C.F.R § 1.6002(*l*), as may be amended or superseded:

1. The proposed facilities meet one of the following height parameters:
    a. are mounted on structures 50 feet or less in height including their antennas as defined in 47 C.F.R. Section 1.1320(d), or
    b. are mounted on structures no more than 10 percent taller than other adjacent structures, or
    c. do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

2. Each antenna or antenna enclosure shall not exceed three cubic feet in volume.

3. The total volume of installed equipment external to the pole (including, but not limited to cabinets, vaults, boxes) shall not exceed twenty-eight (28) cubic feet. This maximum applies to all equipment installed at the time of original application and includes any equipment to be installed at a future date. Antennas and antenna

enclosures are excluded. If equipment exceeds this maximum, the installation will be redefined as a Macro site installation and all the associated standards and rates for Macro installations will be applied.

4. The facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in the FCC's Rules and Regulations [47 C.F.R. section 1.1307(b)].

"**Structure**" means the same as provided in 47 C.F.R. § 1.6002(m), as may be superseded or amended, which defines the term as a pole, tower, base station, or structure, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of service).

[IF THE CITY HAS SPECIFIC CODES OR ORDINANCES WITH DEFINITIONS RELATING TO SWF, CONSIDER INCLUDING DEFINITIONS OR A CROSS REFERENCE HERE.]

B. General Requirements.

1. [NOTE: SECTION (B)(1) IS OPTIONAL. CITIES SHOULD CONSIDER A PREFERENCE THAT IS IN LINE WITH GOALS AND CURRENT STANDARDS ON WHETHER THE CITY PREFERS GROUND-MOUNTED EQUIPMENT OR NOT.] Ground-mounted equipment in the right-of-way is discouraged, unless the applicant can demonstrate that pole-mounted equipment is not technically feasible, or the electric utility requires placement of equipment on the ground (such as an electric meter). If ground-mounted equipment is necessary, then the applicant shall conceal the equipment in a cabinet, in street furniture or with landscaping. [THE TERM "TECHNICALLY FEASIBLE" IS USED BY THE FCC TO DESCRIBE WHEN AESTHETIC STANDARDS MAY BE FOUND TO BE REASONABLE AND DO NOT MATERIALLY INHIBIT THE WIRELESS SERVICE PROVIDER'S ABILITY TO PROVIDE SERVICE.]

2. Replacement poles, new poles and all antenna equipment shall comply with the Americans with Disabilities Act ("ADA"), city construction and sidewalk clearance standards and city, state and federal laws and regulations in order to provide a clear and safe passage within, through and across the right-of-way. Further, the location of any replacement pole, new pole, and/or antenna equipment must comply with applicable traffic requirements, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect public health, safety or welfare. [NOTE: ADA REQUIREMENTS, WALKING SPACE, BOLT PATTERNS AND OTHER GENERALLY APPLICABLE CONSTRUCTION STANDARDS ALL NEED TO BE CONSIDERED. THESE CAN BE LIMITING DESIGN FACTORS.]

3. Replacement poles shall be located as near as feasible to the existing pole. The abandoned pole must be removed within_____days. [NOTE: KEEP CONSISTENT

WITH OTHER CODES OR REQUIREMENTS ABOUT TIMEFRAMES TO REMOVE EQUIPMENT.]

4. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

5. No advertising, branding or other signage is allowed unless approved by the [City designee] as a concealment technique or as follows:

    a. Safety signage as required by applicable laws, regulations, and standards; and,

    b. Identifying information and 24-hour emergency telephone number (such as the telephone number for the operator's network operations center) on wireless equipment in an area that is visible.

    [NOTE: IDENTIFYING SIGNAGE IS USUALLY REQUIRED TO BE PLACED ON THE POLE AND READABLE FROM THE GROUND AS A MINIMUM. A CITY MAY ADD ADDITIONAL REQUIREMENTS FOR PLACEMENT. STANDARDS FOR SIGNAGE ARE ADVISORY AND MAY BE SUBJECT TO OVERSIGHT BY MULTIPLE FEDERAL AGENCIES. ALTHOUGH THE FCC'S REGULATIONS ULTIMATELY CONTROL, THE FCC'S REGULATIONS ARE GENERAL AND CAN BE UNCLEAR. AS A BEST PRACTICE, CITIES MAY WISH TO CONSULT THE MORE DETAILED RECOMMENDATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION.]

6. The total volume of multiple antennas on one structure shall not exceed fifteen (15) cubic feet, unless additional antenna volume is requested and approved pursuant to Section I.

7. Antennas and antenna equipment shall not be illuminated except as required by municipal, federal or state authority, provided this shall not preclude deployment on a new or replacement street light.

8. Small wireless facilities may not displace any existing street tree or landscape features unless: (a) such displaced street tree or landscaping is replaced with native and/or drought-resistant trees, plants or other landscape features approved by the City, and (b) the applicant submits and adheres to a landscape maintenance plan or agrees to pay an appropriate in-lieu fee for the maintenance costs.

C. Small Wireless Facilities Attached to Wooden Poles and Non-Wooden Poles with Overhead Lines. Small wireless facilities located on wooden utility poles and non-wooden utility poles with overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section I:

[IN OREGON, PGE AND PACIFIC CORP ARE THE MOST COMMON UTILITY POLE OWNERS. BOTH HAVE THEIR OWN DESIGN STANDARDS. CITIES SHOULD

WORK WITH POLE OWNERS TO FIND WHAT WORKS BEST FOR THEIR COMMUNITIES AND COMPARE DESIGN STANDARDS.]

1. Proposed antenna and related equipment shall meet:

    a. The City's design standards for small wireless facilities;
    b. The pole owner requirements; and
    c. National Electric Safety Code ("NESC") and National Electric Code ("NEC") standards.

2. The pole at the proposed location may be replaced with a taller pole or extended for the purpose of accommodating a small wireless facility; provided that the replacement or extended pole, together with any small wireless facility, does not exceed 50 feet in height or 10 percent taller than adjacent poles, whichever is greater. The replacement or extended pole height may be increased if required by the pole owner, and such height increase is the minimum necessary to provide sufficient separation and/or clearance from electrical and wireline facilities. Such replacement poles may either match the approximate color and materials of the replaced pole or shall be the standard new pole used by the pole owner in the city.

3. To the extent technically feasible, antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall match the approximate material and design of the surface of the pole or existing equipment on which they are attached, or adjacent poles located within the contiguous right-of-way. Near matches may be permitted by the City when options are limited by technical feasibility considerations, such as when high-frequency antennas cannot be placed within an opaque shroud but could be wrapped with a tinted film.

4. Antennas which are mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

5. No antenna shall extend horizontally more than 20 inches past the outermost mounting point (where the mounting hardware connects to the antenna), unless additional antenna space is requested and approved pursuant to Section I. [NOTE: THE 20 INCH STANDARD HERE IS NOT INTENDED TO DICTATE THE SIZE OF THE ANTENNA. RATHER, TO DICTATE THE DISTANCE BETWEEN THE ANTENNA/ANTENNA EQUIPMENT AND THE POLE ITSELF.]

6. Antenna equipment, including but not limited to radios, cables, associated shrouding, disconnect boxes, meters, microwaves and conduit, which is mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

7. Antenna equipment for small wireless facilities must be attached to the pole, unless otherwise required by the pole owner or permitted to be ground-mounted [pursuant to subsection (B)(1) above]. The equipment must be placed in an enclosure reasonably related in size to the intended purpose of the facility. [IF APPLICABLE, THE APPLICANT IS ENCOURAGED TO PLACE THE EQUIPMENT ENCLOSURE(S)

BEHIND ANY DECORATIONS, BANNERS OR SIGNS THAT MAY BE ON THE POLE. IN APPROPRIATE CIRCUMSTANCES, CITIES MAY ALSO WISH TO CONSIDER ALLOWING ENCLOSURES THAT INCLUDE REASONABLE SPACE FOR FUTURE ADDITIONAL EQUIPMENT.]

8. All cables and wiring shall be covered by conduits and cabinets to the extent that it is technically feasible, if allowed by pole owner. The number of conduits shall be minimized to the extent technically feasible.

D. Small Wireless Facilities Attached to Non-Wooden Light Poles and Non-Wooden Utility Poles without Overhead Utility Lines. Small wireless facilities attached to existing or replacement non-wooden light poles and non-wooden utility poles without overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section I:

[NOTE: JURISDICTION MAY PREFER A OR B OR BOTH. ALSO, NOTE THAT THE MOST COMMON TYPES OF THESE POLES ARE DUAL USE POLES. DUAL USE POLES USUALLY REQUIRE SEPARATION INSIDE THE POLE TO KEEP THE UTILITY EQUIPMENT SEPARATE FROM NEW OR ADDED EQUIPMENT FROM SMALL WIRELESS FACILITIES. HOWEVER, THERE MAY BE STANDALONE SMALL WIRELESS FACILITIES POLES THAT MAY USE OPTION A OR B OR BOTH.]

a. **External Equipment**. The antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible and must be reasonably related in size to the intended purpose of the facility and reasonable expansion for future frequencies and/or technologies, not to exceed the volumetric requirements described in Section A. If the equipment enclosure(s) is mounted on the exterior of the pole, the applicant is encouraged to place the equipment enclosure(s) behind any decorations, banners or signs that may be on the pole. Conduit and fiber must be fully concealed within the pole.

b. **Concealed Equipment**. All equipment (excluding disconnect switches), conduit and fiber must be fully concealed within the pole. The antennas must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible. [NOTE: AT THIS TIME, MILLIMETER WAVE ANTENNAS CANNOT BE COVERED OR SHROUDED, THEREFORE THEY MUST BE MOUNTED TO THE OUTSIDE OF THE POLE. POLES MAY HAVE TO BE SIGNIFICANTLY BIGGER IN DIAMETER IF EQUIPMENT IS CONCEALED IN OPTION B (ACCORDING TO POLE MANUFACTURES APPROX. 16-20 INCHES). OPTION A MAY REQUIRE A REPLACEMENT POLE. THE DIAMETER OF THE POLE SHOULD BE SIMILAR TO THE ORIGINAL.]

2. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

3. The height of any replacement pole may not extend more than 10 feet above the height of the existing pole, unless such further height increase is required in writing by the pole owner.

E. New Poles. Small wireless facilities may be attached to new poles that are not replacement poles under sections C or D, installed by the wireless provider, subject to the following criteria:

[NOTE: CITIES SHOULD CHECK WITH OTHER CODES TO MAKE SURE THIS SECTION DOES NOT CONFLICT WITH PRACTICES OF NO NEW POLES OR POLE NEUTRAL PRACTICES, AND REVISE SUCH CODES AS APPROPRIATE.]

1. Antennas, antenna equipment and associated equipment enclosures (excluding disconnect switches), conduit and fiber shall be fully concealed within the structure. If such concealment is not technically feasible, or is incompatible with the pole design, then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the structure or mounted as close to the pole as feasible, and must be reasonably related in size to the intended purpose of the facility, not to exceed the volumetric requirements in Section (A)(3). [IN APPROPRIATE CIRCUMSTANCES, CITIES MAY ALSO WISH TO CONSIDER ALLOWING ENCLOSURES THAT INCLUDE REASONABLE SPACE FOR FUTURE ADDITIONAL EQUIPMENT.**]**

2. To the extent technically feasible, all new poles and pole-mounted antennas and equipment shall substantially conform to the material and design of adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

3. New poles shall be no more than forty (40) feet in height unless additional height is requested and approved pursuant to Section I. [NOTE: THE FCC DEFINITION CONSIDERS A FACILITY A SMALL WIRELESS FACILITY IF IT IS 50 FT. OR UNDER. SMALL CELL TECHNOLOGY WORKS BEST WHEN DEPLOYED BETWEEN 35-45 FT. AND OTHER THAN DEPLOYMENTS ON UTILITY POLES, MOST WIRELESS PROVIDERS DO NOT NEED 50 FT TO DEPLOY. THEREFORE, IT MAY BE POSSIBLE TO HAVE NEW POLES THAT ARE NOT 50 FT.]

4. The city prefers that wireless providers install small wireless facilities on existing or replacement poles instead of installing new poles, unless the wireless provider can document that installation on an existing or replacement pole is not technically feasible or otherwise not possible (due to a lack of owner authorization, safety considerations, or other reasons acceptable to the [City designee]).

[NOTE: CITIES MAY CONSIDER THE SPACING BETWEEN POLES/DEPLOYMENTS. IT IS RECOMMENDED THAT CITIES CONSIDER DISTANCES BETWEEN NEW POLES BY AN INDIVIDUAL PROVIDER RATHER THAN ALL SWF DEPOLOYMENTS. SPACING MAY VARY BECAUSE OF BUILDINGS, TOPOGRAPHY, SIZE OF INSTALLATION, ETC. THEREFORE, IT IS RECOMMENDED THAT CITIES WORK WITH PROVIDERS TO SEE WHAT IS FEASIBLE.THE FCC PROVIDES THAT MINIMUM SPACING REQUIREMENTS CANNOT PREVENT A PROVIDER FROM REPLACING ITS PREEXISTING FACILITIES OR COLLOCATING NEW EQUIPMENT ON A STRUCTURE ALREADY IN USE. ULTIMATELY, MINIMUM SPACING REQUIREMENTS WILL BE EVALUATED UNDER THE FCC'S TEST FOR AESTHETIC REGULATIONS – THAT THE REQUIREMENTS MUST BE (1) REASONABLE; (2) NO MORE BURDENSOME THAN THOSE APPLIED TO OTHER INFRASTRUCTURE DEPLOYMENTS; (3) OBJECTIVE, AND (4) PUBLISHED IN ADVANCE.]

F. Undergrounding Requirements. [ACCORDING TO THE FCC ORDER, UNDERGROUNDING REQUIREMENTS ARE SUBJECT TO THE SAME CRITERIA AS OTHER AESTHETIC STANDARDS.

SOME COMPONENTS OF SMALL WIRELESS FACILITTIES WILL OFTEN NOT WORK UNDERGROUND. THEREFORE, CITIES UNDERGROUNDING REQUIREMENTS OR UNDERGROUND DISTRICTS MAY CREATE AN EFFECTIVE PROHIBITION. CITIES ARE ENCOURAGED TO REVIEW CURRENT UNDERGROUNDING REQUIREMENTS AND WORK WITH THEIR ATTORNEYS/ROW SPECIALISTS TO MAKE SURE THOSE REQUIREMENTS ARE NOT IN CONFLICT WITH THE FCC ORDER.]

G. Historic District Requirements.
Small wireless facilities or poles to support collocation of small wireless facilities located in Historic Districts shall be designed to have a similar appearance, including material and design elements, if technically feasible, of other poles in the rights-of-way within 500 feet of the proposed installation. Any such design or concealment measures may not be considered part of the small wireless facility for purpose of the size restrictions in the definition of small wireless facility.

H. Strand Mounted Equipment. Strand mounted small wireless facilities arepermitted, subject to the following criteria:

1. Each strand mounted antenna shall not exceed 3 cubic feet in volume, unless a deviation is requested and approved pursuant to Section I.

2. Only 2 strand mounted antennas are permitted between any two existing poles.

3. Strand mounted devices shall be placed as close as possible to the nearest pole and in no event more than five feet from the pole unless a greater distance is required by the pole owner.

4. No strand mounted device will be located in or above the portion of the roadway open to vehicular traffic.

5. Strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than original strand) to meet the technological needs of the facility.

I. Deviation from Design Standards.

1. An applicant may obtain a deviation from these design standards if compliance with the standard: (a) is not technically feasible; (b) impedes the effective operation of the small wireless facility; (c) impairs a desired network performance objective; (d) conflicts with pole owner requirements; or (e) otherwise materially inhibits or limits the provision of wireless service. [NOTE: SINCE DEVIATIONS FROM THE DESIGN STANDARDS MAY LEAD TO QUESTIONS FOR WHY ONE PROVIDER WAS ALLOWED AN EXCEPTION AND ANOTHER WAS NOT, IT IS ADVISED THAT CITIES DOCUMENT REASONS FOR DEVIATIONS.]

2. When requests for deviation are sought under subsections (I)(1)(a)-(e), the request must be narrowly tailored to minimize deviation from the requirements of these design standards, and the [City designee] must find the applicant's proposed design provides similar aesthetic value when compared to strict compliance with these standards.

3. [City designee] may also allow for a deviation from these standards when it finds the applicant's proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these standards.

4. The small wireless facility design approved under this Section I must meet the conditions of 47 C.F.R. Sec. 1.6002(*l*).

5. [City designee] will review and may approve a request for deviation to the minimum extent required to address the applicant's needs or facilitate a superior design. [NOTE: CITIES MAY RECOMMEND A PRE-MEETING WITH PROVIDERS IF A DEVIATION FROM STANDARDS IS BEING CONSIDERED. HOWEVER, PRE-MEETINGS **MUST BE OPTIONAL.** MANDATORY PRE-MEETINGS, WHETHER WITH STAFF, MEMBERS OF THE COMMUNITY OR NEIGHBORHOOD ASSOCIATIONS, WILL TRIGGER THE SHOT CLOCK TO START.]

Acknowledgements

Alan Bar, Verizon

Alan Galloway, Davis Wright Tremaine

Andrew Bartlett, City of Hillsboro

Cindy Manheim, AT&T

Colleen DeShazer, Verizon

Dave Waffle, City of Beaverton

George Granger, AT&T

Jennifer Backhaus, City of Milwaukie

Jennifer Li, City of Portland

Ken Lyons, Wireless Policy Group (AT&T)

Kim Allen, Wireless Policy Group (Verizon)

Madison Thesing, City of Lake Oswego

Meridee Pabst, Wireless Policy Group (AT&T)

Michael Johnston, Telecom Law Firm

Pam Vaughan, City of Corvallis

Reba Crocker, ROW Consultants LLC (formerly with the cities of Milwaukie and Gladstone)

Rich Roche, Formerly with AT&T

Robert “Tripp” May III, Telecom Law Firm

Ryan Zink, City of Salem

Sambo Kirkman, City of Beaverton

Scott McClure, Formerly with the City of Monmouth

Steve Coon, Verizon

Tegan Enloe, City of Tigard

Tim Halinski, T-Mobile

Appendix A – Shot Clock Information

Shot clock provisions that apply to small wireless facilities are codified in 47 C.F.R. Section 1.6003, which is provided below.

§1.6003 Reasonable periods of time to act on siting applications.

(a) *Timely action required.* A siting authority that fails to act on a siting application on or before the shot clock date for the application, as defined in paragraph (e) of this section, is presumed not to have acted within a reasonable period of time.

(b) *Shot clock period.* The shot clock period for a siting application is the sum of—

(1) The number of days of the presumptively reasonable period of time for the pertinent type of application, pursuant to paragraph (c) of this section; plus

(2) The number of days of the tolling period, if any, pursuant to paragraph (d) of this section.

(c) *Presumptively reasonable periods of time*—(1) *Review periods for individual applications.* The following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments in the categories set forth in paragraphs (c)(1)(i) through (iv) of this section:

(i) Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.

(ii) Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.

(iii) Review of an application to deploy a Small Wireless Facility using a new structure: 90 days.

(iv) Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.

(2) *Batching.* (i) If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either paragraph (c)(1)(i) or (iii) of this section, then the presumptively reasonable period of time for the application as a whole is equal to that for a single deployment within that category.

(ii) If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within paragraph (c)(1)(i) of this section and deployments that fall within paragraph (c)(1)(iii) of this section, then the presumptively reasonable period of time for the application as a whole is 90 days.

(iii) Siting authorities may not refuse to accept applications under paragraphs (c)(2)(i) and (ii) of this section.

(d) *Tolling period.* Unless a written agreement between the applicant and the siting authority provides otherwise, the tolling period for an application (if any) is as set forth in paragraphs (d)(1) through (3) of this section.

(1) For an initial application to deploy Small Wireless Facilities, if the siting authority notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the

obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the siting authority to render the application complete.

(2) For all other initial applications, the tolling period shall be the number of days from—

(i) The day after the date when the siting authority notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation; until

(ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;

(iii) But only if the notice pursuant to paragraph (d)(2)(i) of this section is effectuated on or before the 30th day after the date when the application was submitted; or

(3) For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from—

(i) The day after the date when the siting authority notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the siting authority's original request under paragraph (d)(1) or (2) of this section; until

(ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;

(iii) But only if the notice pursuant to paragraph (d)(3)(i) of this section is effectuated on or before the 10th day after the date when the applicant makes a supplemental submission in response to the siting authority's request under paragraph (d)(1) or (2) of this section.

(e) *Shot clock date.* The shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified pursuant to paragraph (b) of this section and including any pre-application period asserted by the siting authority; *provided,* that if the date calculated in this manner is a "holiday" as defined in §1.4(e)(1) or a legal holiday within the relevant State or local jurisdiction, the shot clock date is the next business day after such date. The term "business day" means any day as defined in §1.4(e)(2) and any day that is not a legal holiday as defined by the State or local jurisdiction

Appendix B – Code of Federal Regulations (C.F.R.) Cited Throughout Document

47 C.F.R. Section 1.1307

§1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

Link to an amendment published at 85 FR 18142, Apr. 1, 2020.

Link to a correction of the above amendment published at 85 FR 33578, June 2, 2020.

(a) Commission actions with respect to the following types of facilities may significantly affect the environment and thus require the preparation of EAs by the applicant (see §§1.1308 and 1.1311) and may require further Commission environmental processing (*see* §§1.1314, 1.1315 and 1.1317):

(1) Facilities that are to be located in an officially designated wilderness area.

(2) Facilities that are to be located in an officially designated wildlife preserve.

(3) Facilities that: (i) May affect listed threatened or endangered species or designated critical habitats; or (ii) are likely to jeopardize the continued existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats, as determined by the Secretary of the Interior pursuant to the Endangered Species Act of 1973.

NOTE: The list of endangered and threatened species is contained in 50 CFR 17.11, 17.22, 222.23(a) and 227.4. The list of designated critical habitats is contained in 50 CFR 17.95, 17.96 and part 226. To ascertain the status of proposed species and habitats, inquiries may be directed to the Regional Director of the Fish and Wildlife Service, Department of the Interior.

(4) Facilities that may affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places (*see* 54 U.S.C. 300308; 36 CFR parts 60 and 800), and that are subject to review pursuant to section 1.1320 and have been determined through that review process to have adverse effects on identified historic properties.

(5) Facilities that may affect Indian religious sites.

(6) Facilities to be located in floodplains, if the facilities will not be placed at least one foot above the base flood elevation of the floodplain.

(7) Facilities whose construction will involve significant change in surface features (e.g., wetland fill, deforestation or water diversion). (In the case of wetlands on Federal property, *see* Executive Order 11990.)

(8) Antenna towers and/or supporting structures that are to be equipped with high intensity white lights which are to be located in residential neighborhoods, as defined by the applicable zoning law.

(b) In addition to the actions listed in paragraph (a) of this section, Commission actions granting construction permits, licenses to transmit or renewals thereof, equipment authorizations or modifications in existing facilities, require the preparation of an Environmental Assessment (EA) if the particular facility, operation or transmitter would cause human exposure to levels of radiofrequency radiation in excess of the limits in §§1.1310 and 2.1093 of this chapter. Applications to the Commission for construction permits, licenses to transmit or renewals thereof, equipment authorizations or modifications in existing facilities must

contain a statement confirming compliance with the limits unless the facility, operation, or transmitter is categorically excluded, as discussed below. Technical information showing the basis for this statement must be submitted to the Commission upon request. Such compliance statements may be omitted from license applications for transceivers subject to the certification requirement in §25.129 of this chapter.

(1) The appropriate exposure limits in §§1.1310 and 2.1093 of this chapter are generally applicable to all facilities, operations and transmitters regulated by the Commission. However, a determination of compliance with the exposure limits in §1.1310 or §2.1093 of this chapter (routine environmental evaluation), and preparation of an EA if the limits are exceeded, is necessary only for facilities, operations and transmitters that fall into the categories listed in table 1, or those specified in paragraph (b)(2) of this section. All other facilities, operations and transmitters are categorically excluded from making such studies or preparing an EA, except as indicated in paragraphs (c) and (d) of this section. For purposes of table 1, *building-mounted antennas* means antennas mounted in or on a building structure that is occupied as a workplace or residence. The term *power* in column 2 of table 1 refers to total operating power of the transmitting operation in question in terms of effective radiated power (ERP), equivalent isotropically radiated power (EIRP), or peak envelope power (PEP), as defined in §2.1 of this chapter. For the case of the Cellular Radiotelephone Service, subpart H of part 22 of this chapter; the Personal Communications Service, part 24 of this chapter and the Specialized Mobile Radio Service, part 90 of this chapter, the phrase *total power of all channels* in column 2 of table 1 means the sum of the ERP or EIRP of all co-located simultaneously operating transmitters owned and operated by a single licensee. When applying the criteria of table 1, radiation in all directions should be considered. For the case of transmitting facilities using sectorized transmitting antennas, applicants and licensees should apply the criteria to all transmitting channels in a given sector, noting that for a highly directional antenna there is relatively little contribution to ERP or EIRP summation for other directions.

TABLE 1—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION

Service (title 47 CFR rule part)	Evaluation required if:
Experimental Radio Services (part 5)	Power >100 W ERP (164 W EIRP).
Commercial Mobile Radio Services (part 20)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1000 W ERP (1640 W EIRP). Building-mounted antennas: power >1000 W ERP (1640 W EIRP).
	Consumer Signal Booster equipment grantees under the Commercial Mobile Radio Services provisions in part 20 are required to attach a label to Fixed Consumer Booster antennas that:
	(1) Provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transmitting antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.
Paging and Radiotelephone Service (subpart E of part 22)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: power >1000 W ERP (1640 W EIRP).
Cellular Radiotelephone Service (subpart H of part 22)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >1000 W ERP (1640 W EIRP).

	Building-mounted antennas: total power of all channels >1000 W ERP (1640 W EIRP).
Personal Communications Services (part 24)	(1) Narrowband PCS (subpart D):
	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: total power of all channels >1000 W ERP (1640 W EIRP).
	(2) Broadband PCS (subpart E):
	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >2000 W ERP (3280 W EIRP).
	Building-mounted antennas: total power of all channels >2000 W ERP (3280 W EIRP).
Satellite Communications Services (part 25)	All included.
	In addition, for NGSO subscriber equipment, licensees are required to attach a label to subscriber transceiver antennas that:
	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310 of this chapter.
Miscellaneous Wireless Communications Services (part 27 except subpart M)	(1) For the 1390-1392 MHz, 1392-1395 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz bands:
	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >2000 W ERP (3280 W EIRP).
	Building-mounted antennas: total power of all channels >2000 W ERP (3280 W EIRP).
	(2) For the 698-746 MHz, 746-764 MHz, 776-794 MHz, 2305-2320 MHz, and 2345-2360 MHz bands:
	Total power of all channels >1000 W ERP (1640 W EIRP).
Broadband Radio Service and Educational Broadband Service (subpart M of part 27)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.
	Building-mounted antennas: power >1640 W EIRP.
	BRS and EBS licensees are required to attach a label to subscriber transceiver or transverter antennas that:

	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.
Upper Microwave Flexible Use Service (part 30)	Non-building-mounted antennas: Height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.
	Antennas are mounted on buildings.
Radio Broadcast Services (part 73)	All included.
Auxiliary and Special Broadcast and Other Program Distributional Services (part 74)	Subparts G and L: Power >100 W ERP.
Stations in the Maritime Services (part 80)	Ship earth stations only.
Private Land Mobile Radio Services Paging Operations (subpart P of part 90)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: power >1000 W ERP (1640 W EIRP).
Private Land Mobile Radio Services Specialized Mobile Radio (subpart S of part 90)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: Total power of all channels >1000 W ERP (1640 W EIRP).
76-81 GHz Radar Service (part 95)	All included.
Amateur Radio Service (part 97)	Transmitter output power >levels specified in §97.13(c)(1) of this chapter.
Local Multipoint Distribution Service (subpart L of part 101) and 24 GHz (subpart G of part 101)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.
	Building-mounted antennas: power >1640 W EIRP.
	LMDS and 24 GHz Service licensees are required to attach a label to subscriber transceiver antennas that:
	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.
70/80/90 GHz Bands (subpart Q of part 101)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.

	Building-mounted antennas: power >1640 W EIRP.
	Licensees are required to attach a label to transceiver antennas that:
	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.

(2)(i) Mobile and portable transmitting devices that operate in the Commercial Mobile Radio Services pursuant to part 20 of this chapter; the Cellular Radiotelephone Service pursuant to part 22 of this chapter; the Personal Communications Services (PCS) pursuant to part 24 of this chapter; the Satellite Communications Services pursuant to part 25 of this chapter; the Miscellaneous Wireless Communications Services pursuant to part 27 of this chapter; the Upper Microwave Flexible User Service pursuant to part 30 of this chapter; the Maritime Services (ship earth stations only) pursuant to part 80 of this chapter; the Specialized Mobile Radio Service, the 4.9 GHz Band Service, and the 3650 MHz Wireless Broadband Service pursuant to part 90 of this chapter; the Wireless Medical Telemetry Service (WMTS), the Medical Device Radiocommunication Service (MedRadio), and the 76-81 GHz Band Radar Service pursuant to part 95 of this chapter; and the Citizens Broadband Radio Service pursuant to part 96 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§2.1091 and 2.1093 of this chapter.

(ii) Unlicensed PCS, unlicensed NII, and millimeter-wave devices are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§15.255(g), 15.257(g), 15.319(i), and 15.407(f) of this chapter.

(iii) Portable transmitting equipment for use in the Wireless Medical Telemetry Service (WMTS) is subject to routine environmental evaluation as specified in §§2.1093 and 95.2385 of this chapter.

(iv) Equipment authorized for use in the Medical Device Radiocommunication Service (MedRadio) as a medical implant device or body-worn transmitter (as defined in subpart I of part 95 of this chapter) is subject to routine environmental evaluation for RF exposure prior to equipment authorization, as specified in §§2.1093 and 95.2585 of this chapter by finite difference time domain (FDTD) computational modeling or laboratory measurement techniques. Where a showing is based on computational modeling, the Commission retains the discretion to request that supporting documentation and/or specific absorption rate (SAR) measurement data be submitted.

(v) All other mobile, portable, and unlicensed transmitting devices are categorically excluded from routine environmental evaluation for RF exposure under §§2.1091, 2.1093 of this chapter except as specified in paragraphs (c) and (d) of this section.

(3) In general, when the guidelines specified in §1.1310 are exceeded in an accessible area due to the emissions from multiple fixed transmitters, actions necessary to bring the area into compliance are the shared responsibility of all licensees whose transmitters produce, at the area in question, power density levels that exceed 5% of the power density exposure limit applicable to their particular transmitter or field strength levels that, when squared, exceed 5% of the square of the electric or magnetic field strength limit applicable to their particular transmitter. Owners of transmitter sites are expected to allow applicants and licensees to take reasonable steps to comply with the requirements contained in §1.1307(b) and, where feasible, should encourage co-location of transmitters and common solutions for controlling access to areas where the RF exposure limits contained in §1.1310 might be exceeded.

(i) Applicants for proposed (not otherwise excluded) transmitters, facilities or modifications that would cause non-compliance with the limits specified in §1.1310 at an accessible area previously in compliance must submit an EA if emissions from the applicant's transmitter or facility would result, at the area in question, in a power density that exceeds 5% of the power density exposure limit applicable to that transmitter or facility or in a field strength that, when squared, exceeds 5% of the square of the electric or magnetic field strength limit applicable to that transmitter or facility.

(ii) Renewal applicants whose (not otherwise excluded) transmitters or facilities contribute to the field strength or power density at an accessible area not in compliance with the limits specified in §1.1310 must submit an EA if emissions from the applicant's transmitter or facility results, at the area in question, in a power density that exceeds 5% of the power density exposure limit applicable to that transmitter or facility or in a field strength that, when squared, exceeds 5% of the square of the electric or magnetic field strength limit applicable to that transmitter of facility.

(c) If an interested person alleges that a particular action, otherwise categorically excluded, will have a significant environmental effect, the person shall submit to the Bureau responsible for processing that action a written petition setting forth in detail the reasons justifying or circumstances necessitating environmental consideration in the decision-making process. (*See* §1.1313). The Bureau shall review the petition and consider the environmental concerns that have been raised. If the Bureau determines that the action may have a significant environmental impact, the Bureau will require the applicant to prepare an EA (*see* §§1.1308 and 1.1311), which will serve as the basis for the determination to proceed with or terminate environmental processing.

(d) If the Bureau responsible for processing a particular action, otherwise categorically excluded, determines that the proposal may have a significant environmental impact, the Bureau, on its own motion, shall require the applicant to submit an EA. The Bureau will review and consider the EA as in paragraph (c) of this section.

NOTE TO PARAGRAPH (d): Pending a final determination as to what, if any, permanent measures should be adopted specifically for the protection of migratory birds, the Bureau shall require an Environmental Assessment for an otherwise categorically excluded action involving a new or existing antenna structure, for which an antenna structure registration application (FCC Form 854) is required under part 17 of this chapter, if the proposed antenna structure will be over 450 feet in height above ground level (AGL) and involves either:

1. Construction of a new antenna structure;

2. Modification or replacement of an existing antenna structure involving a substantial increase in size as defined in paragraph I(C)(1)(3) of Appendix B to part 1 of this chapter; or

3. Addition of lighting or adoption of a less preferred lighting style as defined in §17.4(c)(1)(iii) of this chapter. The Bureau shall consider whether to require an EA for other antenna structures subject to §17.4(c) of this chapter in accordance with §17.4(c)(8) of this chapter. An Environmental Assessment required pursuant to this note will be subject to the same procedures that apply to any Environmental Assessment required for a proposed tower or modification of an existing tower for which an antenna structure registration application (FCC Form 854) is required, as set forth in §17.4(c) of this chapter.

(e) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the regulations contained in this chapter concerning the environmental effects of such emissions. For purposes of this paragraph:

(1) The term *personal wireless service* means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(2) The term *personal wireless service facilities* means facilities for the provision of personal wireless services;

(3) The term *unlicensed wireless services* means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services; and

(4) The term *direct-to-home satellite services* means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite.

[51 FR 15000, Apr. 22, 1986]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §1.1307, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov.*

EFFECTIVE DATE NOTE: At 85 FR 18142, Apr. 1, 2020, §1.1307 was amended by revising paragraph (b). At 85 FR 33578, June 2, 2020, this revision was delayed indefinitely.

47 C.F.R. Section 1.1320

§1.1320 Review of Commission undertakings that may affect historic properties.

(a) *Review of Commission undertakings.* Any Commission undertaking that has the potential to cause effects on historic properties, unless excluded from review pursuant to paragraph (b) of this section, shall be subject to review under section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. 306108, by applying—

(1) The procedures set forth in regulations of the Advisory Council on Historic Preservation, 36 CFR800.3-800.13, or

(2) If applicable, a program alternative established pursuant to 36 CFR 800.14, including but not limited to the following:

(i) The Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, as amended, Appendix B of this part.

(ii) The Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings, Appendix C of this part.

(iii) The Program Comment to Tailor the Federal Communications Commission's Section 106 Review for Undertakings Involving the Construction of Positive Train Control Wayside Poles and Infrastructure, 79 FR 30861 (May 29, 2014).

(b) *Exclusions.* The following categories of undertakings are excluded from review under this section:

(1) *Projects reviewed by other agencies.* Undertakings for which an agency other than the Commission is the lead Federal agency pursuant to 36 CFR 800.2(a)(2).

(2) *Projects subject to program alternatives.* Undertakings excluded from review under a program alternative established pursuant to 36 CFR 800.14, including those listed in paragraph (a)(2) of this section.

(3) *Replacement utility poles.* Construction of a replacement for an existing structure where all the following criteria are satisfied:

(i) The original structure—

(A) Is a pole that can hold utility, communications, or related transmission lines;

(B) Was not originally erected for the sole or primary purpose of supporting antennas that operate pursuant to the Commission's spectrum license or authorization; and

(C) Is not itself a historic property.

(ii) The replacement pole—

(A) Is located no more than 10 feet away from the original pole, based on the distance between the centerpoint of the replacement pole and the centerpoint of the original pole; *provided* that construction of the replacement pole in place of the original pole entails no new ground disturbance (either laterally or in depth) outside previously disturbed areas, including disturbance associated with temporary support of utility, communications, or related transmission lines. For purposes of this paragraph, "ground disturbance" means any activity that moves, compacts, alters, displaces, or penetrates the ground surface of previously undisturbed soils;

(B) Has a height that does not exceed the height of the original pole by more than 5 feet or 10 percent of the height of the original pole, whichever is greater; and

(C) Has an appearance consistent with the quality and appearance of the original pole.

(4) *Collocations on buildings and other non-tower structures.* The mounting of antennas (including associated equipment such as wiring, cabling, cabinets, or backup power) on buildings or other non-tower structures where the deployment meets the following conditions:

(i) There is an existing antenna on the building or structure;

(ii) One of the following criteria is met:

(A) *Non-Visible Antennas.* The new antenna is not visible from any adjacent streets or surrounding public spaces and is added in the same vicinity as a pre-existing antenna;

(B) *Visible Replacement Antennas.* The new antenna is visible from adjacent streets or surrounding public spaces, provided that

(1) It is a replacement for a pre-existing antenna,

(2) The new antenna will be located in the same vicinity as the pre-existing antenna,

(3) The new antenna will be visible only from adjacent streets and surrounding public spaces that also afford views of the pre-existing antenna,

(4) The new antenna is not more than 3 feet larger in height or width (including all protuberances) than the pre-existing antenna, and

(5) No new equipment cabinets are visible from the adjacent streets or surrounding public spaces; or

(C) *Other Visible Antennas.* The new antenna is visible from adjacent streets or surrounding public spaces, provided that

(1) It is located in the same vicinity as a pre-existing antenna,

(2) The new antenna will be visible only from adjacent streets and surrounding public spaces that also afford views of the pre-existing antenna,

(3) The pre-existing antenna was not deployed pursuant to the exclusion in this paragraph,

(4) The new antenna is not more than three feet larger in height or width (including all protuberances) than the pre-existing antenna, and

(5) No new equipment cabinets are visible from the adjacent streets or surrounding public spaces;

(iii) The new antenna complies with all zoning conditions and historic preservation conditions applicable to existing antennas in the same vicinity that directly mitigate or prevent effects, such as camouflage or concealment requirements;

(iv) The deployment of the new antenna involves no new ground disturbance; and

(v) The deployment would otherwise require the preparation of an Environmental Assessment under 1.1304(a)(4) solely because of the age of the structure.

NOTE 1 TO PARAGRAPH (b)(4): A non-visible new antenna is in the "same vicinity" as a pre-existing antenna if it will be collocated on the same rooftop, façade or other surface. A visible new antenna is in the "same vicinity" as a pre-existing antenna if it is on the same rooftop, façade, or other surface and the centerpoint of the new antenna is within ten feet of the centerpoint of the pre-existing antenna. A deployment causes no new ground disturbance when the depth and width of previous disturbance exceeds the proposed construction depth and width by at least two feet.

(c) *Responsibilities of applicants.* Applicants seeking Commission authorization for construction or modification of towers, collocation of antennas, or other undertakings shall take the steps mandated by, and comply with the requirements set forth in, Appendix C of this part, sections III-X, or any other applicable program alternative.

(d) *Definitions.* For purposes of this section, the following definitions apply:

Antenna means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the transmission of writing, signs, signals, data, images, pictures, and sounds of all kinds, including the transmitting device and any on-site equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with that antenna and added to a tower, structure, or building as part of the original installation of the antenna. For most services, an antenna will be mounted on or in, and is distinct from, a supporting structure such as a tower, structure or building. However, in the case of AM broadcast stations, the entire tower or group of towers constitutes the antenna for that station. For purposes of this section, the term antenna does not include unintentional radiators, mobile stations, or devices authorized under part 15 of this title.

Applicant means a Commission licensee, permittee, or registration holder, or an applicant or prospective applicant for a wireless or broadcast license, authorization or antenna structure registration, and the duly authorized agents, employees, and contractors of any such person or entity.

Collocation means the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.

Tower means any structure built for the sole or primary purpose of supporting Commission-licensed or authorized antennas, including the on-site fencing, equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with that tower but not installed as part of an antenna as defined herein.

Undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of the Commission, including those requiring a Commission permit, license or approval. Maintenance and servicing of towers, antennas, and associated equipment are not deemed to be undertakings subject to review under this section.

[82 FR 58758, Dec. 14, 2017]

47 C.F.R. Section 1.6002

§1.6002 Definitions.

Terms not specifically defined in this section or elsewhere in this subpart have the meanings defined in this part and the Communications Act of 1934, 47 U.S.C. 151 *et seq.* Terms used in this subpart have the following meanings:

(a) *Action* or *to act* on a siting application means a siting authority's grant of a siting application or issuance of a written decision denying a siting application.

(b) *Antenna,* consistent with §1.1320(d), means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under part 15 of this chapter.

(c) *Antenna equipment,* consistent with §1.1320(d), means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

(d) *Antenna facility* means an antenna and associated antenna equipment.

(e) *Applicant* means a person or entity that submits a siting application and the agents, employees, and contractors of such person or entity.

(f) *Authorization* means any approval that a siting authority must issue under applicable law prior to the deployment of personal wireless service facilities, including, but not limited to, zoning approval and building permit.

(g) *Collocation,* consistent with §1.1320(d) and the Nationwide Programmatic Agreement (NPA) for the Collocation of Wireless Antennas, appendix B of this part, section I.B, means—

(1) Mounting or installing an antenna facility on a pre-existing structure; and/or

(2) Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

(3) The definition of "collocation" in §1.6100(b)(2) applies to the term as used in thatsection.

(h) *Deployment* means placement, construction, or modification of a personal wireless service facility.

(i) *Facility* or *personal wireless service facility* means an antenna facility or a structure that is used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

(j) *Siting application* or *application* means a written submission to a siting authority requesting authorization for the deployment of a personal wireless service facility at a specified location.

(k) *Siting authority* means a State government, local government, or instrumentality of a State government or local government, including any official or organizational unit thereof, whose authorization is necessary prior to the deployment of personal wireless service facilities.

(l) *Small wireless facilities* are facilities that meet each of the following conditions:

(1) The facilities—

(i) Are mounted on structures 50 feet or less in height including their antennas as defined in §1.1320(d); or

(ii) Are mounted on structures no more than 10 percent taller than other adjacent structures; or

(iii) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in §1.1320(d)), is no more than three cubic feet in volume;

(3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

(4) The facilities do not require antenna structure registration under part 17 of this chapter;

(5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in §1.1307(b).

(m) *Structure* means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

[83 FR 51884, Oct. 15, 2018, as amended at 84 FR 59567, Nov. 5, 2019]

MODEL

League of Oregon Cities

Small Wireless Facilities Model Design Guidelines

JUNE 2020

This model was produced in coordination with:

T-Mobile AT&T verizon

DISCLAIMER

Any model document provided by the League of Oregon Cities (LOC) is intended to be used as a starting point in an individual city's development of its own documents. Each city is unique, and any adopted document or policy should be individually tailored to meet a city's unique needs. Furthermore, this model is not intended to be a substitute for legal advice. Cities should consult with their city attorney before adopting any small wireless facility policies to ensure that they comply with all aspects of federal, state, and local law.

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Foreword

Background

On January 31, 2017, Federal Communications Commission ("FCC") Chairman Ajit Pai established a Broadband Deployment Advisory Committee ("BDAC"), which he tasked with making recommendations to the FCC on ways to accelerate the deployment of broadband by reducing or removing regulatory barriers to infrastructure investment. On September 27, 2018, the FCC released a Declaratory Ruling and Third Report and Order (FCC 18-133, referred throughout the document as "Small Cell Order" or "FCC Order") that significantly limits local authority over small wireless infrastructure deployment and fees for use of the rights-of-way (ROW). The FCC Order took effect January 14, 2019. However, the requirements regarding aesthetics did not take effect until April 15, 2019. Under the FCC Order aesthetic or design standards must be: (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; (3) objective; and (4) published in advance. The FCC Order also defines the size limitations for small wireless facilities (allowing antennas of up to 3 cubic feet each, with additional equipment not to exceed 28 cubic feet), and specifies that such facilities may not result in human exposure to radiofrequency radiation in excess of applicable standards in the FCC's rules (federal law preempts local regulation of RF emissions). "Small wireless facilities" are sometimes also called "small cells."

LOC Model Small Wireless Facilities Design Standard

In coordination with many cities,[1] representatives from Verizon, AT&T, T-Mobile, and the LOC met from January 2019 to May 2020 to discuss and craft a model code and model design standards relating to small wireless facilities while there is pending litigation[2] on the FCC Order. The model code and model design standards are intended to be paired together.

There is no single design standard that will work for every jurisdiction. As such, the LOC's model design standard is intended as a roadmap to assist local governments in adopting their own design standard. While example language is included in some sections, the LOC does not intend to suggest these examples could work for every jurisdiction. In some instances, the local government may need to issue a deviation to the design standards when it would be technically infeasible for the applicant to comply. The deviation process is provided in Section I of these model standards and is intended to occur within the "shot clock"[3] – the time frame in which the state or local government should act on a request for authorization to place, construct, or modify personal wireless service facilities, as defined by the FCC. However, to the extent that the local government cannot reasonably act on the application within the shot clock, the parties are encouraged to seek a tolling agreement to allow the applicant to vet reasonable design alternatives and the local government to complete its review. Local governments cannot require a tolling agreement as a condition of a deviation.

[1] See "Acknowledgments" section for full list of participants.
[2] In October 2018, the LOC in coordination with other municipalities and municipal leagues filed suit against the FCC in the United States Court of Appeals for the Ninth Circuit.
[3] See Appendix A

The LOC also recognizes there are many ways to structure a design standard. The appropriate structure will vary by jurisdiction. For purposes of this model, the LOC opted to approach designs by type of pole and deployment. The model is intended to provide a general framework and thus is drafted as an outline of provisions jurisdictions may want to include in their final design standard. In many cases example language is provided to help illustrate the issues to be addressed. However, the intent is to allow each jurisdiction to draft the substantive provisions that best reflect local needs and interests. The LOC recommends that jurisdictions that own poles or other structures in the rights-of-way establish a clear design standard. The circumstances of each municipality may, and likely will, require modifications to the framework and/or example language of this model design standard.

Additional Considerations

The LOC model design standards only applies to small wireless facilities. Municipalities should review their existing ordinances, standards and policies to determine if this framework is appropriate. Municipalities may want to consider whether it would be preferable to adopt a utility-neutral standard covering all utilities and communications providers, which would provide one set of "rules" for the design of the public rights-of-way. Differences in policy choices and existing standards, among other things, may impact the decision in how to proceed. It is recommended that cities consult their attorney, ROW specialists, engineers, master plans, comprehensive plans, goals and/or wireless providers before final adoption of standards. Cities may choose to adopt design standards administratively or in code.

Understanding the Organization of the Model Design Standards

As stated above, the model is best described as an outline or roadmap to assist municipalities in drafting the appropriate standards for their community. The model includes example language to illustrate the intent of the section. The example language, or a variation thereof, may be appropriate for final adoption in some jurisdictions.

Finally, there may be additional notes or issues for consideration within the subsections of the model, which are [bracketed] and in ALL CAPS. Again, these notes are is intended as guidance for municipal drafters, not for adoption in a final ordinance.

Small Wireless Facility Design Standards

[GIVEN THAT THE TECHNICAL NEEDS FOR EACH OPERATOR MAY VARY, JURISDICTIONS ARE ENCOURAGED TO ADOPT DESIGN STANDARDS BY CITY COUNCIL RESOLUTION AND/OR ADMINISTRATIVELY BY THE CITY MANAGER OR OTHER OFFICIAL. THIS WAY, CITIES WOULD BE ABLE TO REACT QUICKLY AND AMEND THE STANDARDS IN RESPONSE TO CHANGES IN LAW AND TECHNOLOGY. CITIES SHOULD NOTE THAT THIS NIMBLER APPROACH IS POSSIBLE ONLY IF THE REGULATIONS FOR SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ARE LOCATED OUTSIDE OF THE LAND DEVELOPMENT CODE.]

A. Definitions

"**Antenna**" means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended or superseded. The term includes an apparatus designed for the purpose of emitting radio frequencies (RF) to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15.

"**Antenna Equipment**" means the same as defined 47 C.F.R. § 1.6002(c), as may be amended or superseded, which defines the term to mean equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

"**Antenna Facility**" means the same as defined in 47 C.F.R. § 1.6002(d), as may be amended or superseded, which defines the term to mean an antenna and associated antenna equipment.

"**Applicable codes**" means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or state or local amendments to those codes that are of general application and consistent with state and federal law.

"**Applicant**" means any person who submits an application as or on behalf of a wireless provider.

"**Application**" means requests submitted by an applicant (i) for permission to collocate small wireless facilities; or (ii) to approve the installation, modification or replacement of a structure on which to collocate a small wireless facility in the rights-of-way, where required.

"**Collocate**" means the same as defined in 47 C.F.R. § 1.6002(g), as may be amended or superseded, which defines that term to mean (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. "Collocation" has a corresponding meaning.

"**Day**" means calendar day. For purposes of the FCC shot clock, a terminal day that falls on a holiday or weekend shall be deemed to be the next immediate business day.

"**Historic District**" means a group of buildings, properties, or sites that are either: (1) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register in accordance with Section VI.D.1a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C; or, (2) a locally designated historic district as of the effective date of this [Chapter/Section] or in a locally designated historic district existing when an application is submitted. [NOTE: THIS IS NOT MEANT TO RETROACTIVELY AFFECT SWFs ALREADY IN PLACE WHEN A NEW DISTRICT IS CREATED].

"**Person**" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

"**Pole**" means a type of structure in the rights-of-way that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities; provided, such term does not include a tower, building or electric transmission structures.

"**Rights-of-Way**" or "**ROW**" means [INSERT A CONSISTENT DEFINITION ACROSS OTHER CODES. Example: "Right-of-way," "rights-of-way," "public right-of-way," or "ROW" means and includes, but is not limited to, the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements and all other public ways or areas, including the subsurface under and air space over these areas, but does not include parks, parkland, or other City property not generally open to the public for travel.]

"**Small wireless facility**" means a facility that meets each of the following conditions per 47 C.F.R § 1.6002(*l*), as may be amended or superseded:

1. The proposed facilities meet one of the following height parameters:
    a. are mounted on structures 50 feet or less in height including their antennas as defined in 47 C.F.R. Section 1.1320(d), or
    b. are mounted on structures no more than 10 percent taller than other adjacent structures, or
    c. do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

2. Each antenna or antenna enclosure shall not exceed three cubic feet in volume.

3. The total volume of installed equipment external to the pole (including, but not limited to cabinets, vaults, boxes) shall not exceed twenty-eight (28) cubic feet. This maximum applies to all equipment installed at the time of original application and includes any equipment to be installed at a future date. Antennas and antenna

enclosures are excluded. If equipment exceeds this maximum, the installation will be redefined as a Macro site installation and all the associated standards and rates for Macro installations will be applied.

4. The facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in the FCC's Rules and Regulations [47 C.F.R. section 1.1307(b)].

"**Structure**" means the same as provided in 47 C.F.R. § 1.6002(m), as may be superseded or amended, which defines the term as a pole, tower, base station, or structure, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of service).

[IF THE CITY HAS SPECIFIC CODES OR ORDINANCES WITH DEFINITIONS RELATING TO SWF, CONSIDER INCLUDING DEFINITIONS OR A CROSS REFERENCE HERE.]

B. General Requirements.

1. [NOTE: SECTION (B)(1) IS OPTIONAL. CITIES SHOULD CONSIDER A PREFERENCE THAT IS IN LINE WITH GOALS AND CURRENT STANDARDS ON WHETHER THE CITY PREFERS GROUND-MOUNTED EQUIPMENT OR NOT.] Ground-mounted equipment in the right-of-way is discouraged, unless the applicant can demonstrate that pole-mounted equipment is not technically feasible, or the electric utility requires placement of equipment on the ground (such as an electric meter). If ground-mounted equipment is necessary, then the applicant shall conceal the equipment in a cabinet, in street furniture or with landscaping. [THE TERM "TECHNICALLY FEASIBLE" IS USED BY THE FCC TO DESCRIBE WHEN AESTHETIC STANDARDS MAY BE FOUND TO BE REASONABLE AND DO NOT MATERIALLY INHIBIT THE WIRELESS SERVICE PROVIDER'S ABILITY TO PROVIDE SERVICE.]

2. Replacement poles, new poles and all antenna equipment shall comply with the Americans with Disabilities Act ("ADA"), city construction and sidewalk clearance standards and city, state and federal laws and regulations in order to provide a clear and safe passage within, through and across the right-of-way. Further, the location of any replacement pole, new pole, and/or antenna equipment must comply with applicable traffic requirements, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect public health, safety or welfare. [NOTE: ADA REQUIREMENTS, WALKING SPACE, BOLT PATTERNS AND OTHER GENERALLY APPLICABLE CONSTRUCTION STANDARDS ALL NEED TO BE CONSIDERED. THESE CAN BE LIMITING DESIGN FACTORS.]

3. Replacement poles shall be located as near as feasible to the existing pole. The abandoned pole must be removed within_____days. [NOTE: KEEP CONSISTENT

WITH OTHER CODES OR REQUIREMENTS ABOUT TIMEFRAMES TO REMOVE EQUIPMENT.]

4. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

5. No advertising, branding or other signage is allowed unless approved by the [City designee] as a concealment technique or as follows:

    a. Safety signage as required by applicable laws, regulations, and standards; and,

    b. Identifying information and 24-hour emergency telephone number (such as the telephone number for the operator's network operations center) on wireless equipment in an area that is visible.

    [NOTE: IDENTIFYING SIGNAGE IS USUALLY REQUIRED TO BE PLACED ON THE POLE AND READABLE FROM THE GROUND AS A MINIMUM. A CITY MAY ADD ADDITIONAL REQUIREMENTS FOR PLACEMENT. STANDARDS FOR SIGNAGE ARE ADVISORY AND MAY BE SUBJECT TO OVERSIGHT BY MULTIPLE FEDERAL AGENCIES. ALTHOUGH THE FCC'S REGULATIONS ULTIMATELY CONTROL, THE FCC'S REGULATIONS ARE GENERAL AND CAN BE UNCLEAR. AS A BEST PRACTICE, CITIES MAY WISH TO CONSULT THE MORE DETAILED RECOMMENDATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION.]

6. The total volume of multiple antennas on one structure shall not exceed fifteen (15) cubic feet, unless additional antenna volume is requested and approved pursuant to Section I.

7. Antennas and antenna equipment shall not be illuminated except as required by municipal, federal or state authority, provided this shall not preclude deployment on a new or replacement street light.

8. Small wireless facilities may not displace any existing street tree or landscape features unless: (a) such displaced street tree or landscaping is replaced with native and/or drought-resistant trees, plants or other landscape features approved by the City, and (b) the applicant submits and adheres to a landscape maintenance plan or agrees to pay an appropriate in-lieu fee for the maintenance costs.

C. Small Wireless Facilities Attached to Wooden Poles and Non-Wooden Poles with Overhead Lines. Small wireless facilities located on wooden utility poles and non-wooden utility poles with overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section I:

[IN OREGON, PGE AND PACIFIC CORP ARE THE MOST COMMON UTILITY POLE OWNERS. BOTH HAVE THEIR OWN DESIGN STANDARDS. CITIES SHOULD

WORK WITH POLE OWNERS TO FIND WHAT WORKS BEST FOR THEIR COMMUNITIES AND COMPARE DESIGN STANDARDS.]

1. Proposed antenna and related equipment shall meet:

    a. The City's design standards for small wireless facilities;
    b. The pole owner requirements; and
    c. National Electric Safety Code ("NESC") and National Electric Code ("NEC") standards.

2. The pole at the proposed location may be replaced with a taller pole or extended for the purpose of accommodating a small wireless facility; provided that the replacement or extended pole, together with any small wireless facility, does not exceed 50 feet in height or 10 percent taller than adjacent poles, whichever is greater. The replacement or extended pole height may be increased if required by the pole owner, and such height increase is the minimum necessary to provide sufficient separation and/or clearance from electrical and wireline facilities. Such replacement poles may either match the approximate color and materials of the replaced pole or shall be the standard new pole used by the pole owner in the city.

3. To the extent technically feasible, antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall match the approximate material and design of the surface of the pole or existing equipment on which they are attached, or adjacent poles located within the contiguous right-of-way. Near matches may be permitted by the City when options are limited by technical feasibility considerations, such as when high-frequency antennas cannot be placed within an opaque shroud but could be wrapped with a tinted film.

4. Antennas which are mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

5. No antenna shall extend horizontally more than 20 inches past the outermost mounting point (where the mounting hardware connects to the antenna), unless additional antenna space is requested and approved pursuant to Section I. [NOTE: THE 20 INCH STANDARD HERE IS NOT INTENDED TO DICTATE THE SIZE OF THE ANTENNA. RATHER, TO DICTATE THE DISTANCE BETWEEN THE ANTENNA/ANTENNA EQUIPMENT AND THE POLE ITSELF.]

6. Antenna equipment, including but not limited to radios, cables, associated shrouding, disconnect boxes, meters, microwaves and conduit, which is mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

7. Antenna equipment for small wireless facilities must be attached to the pole, unless otherwise required by the pole owner or permitted to be ground-mounted [pursuant to subsection (B)(1) above]. The equipment must be placed in an enclosure reasonably related in size to the intended purpose of the facility. [IF APPLICABLE, THE APPLICANT IS ENCOURAGED TO PLACE THE EQUIPMENT ENCLOSURE(S)

BEHIND ANY DECORATIONS, BANNERS OR SIGNS THAT MAY BE ON THE POLE. IN APPROPRIATE CIRCUMSTANCES, CITIES MAY ALSO WISH TO CONSIDER ALLOWING ENCLOSURES THAT INCLUDE REASONABLE SPACE FOR FUTURE ADDITIONAL EQUIPMENT.]

8. All cables and wiring shall be covered by conduits and cabinets to the extent that it is technically feasible, if allowed by pole owner. The number of conduits shall be minimized to the extent technically feasible.

D. Small Wireless Facilities Attached to Non-Wooden Light Poles and Non-Wooden Utility Poles without Overhead Utility Lines. Small wireless facilities attached to existing or replacement non-wooden light poles and non-wooden utility poles without overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section I:

[NOTE: JURISDICTION MAY PREFER A OR B OR BOTH. ALSO, NOTE THAT THE MOST COMMON TYPES OF THESE POLES ARE DUAL USE POLES. DUAL USE POLES USUALLY REQUIRE SEPARATION INSIDE THE POLE TO KEEP THE UTILITY EQUIPMENT SEPARATE FROM NEW OR ADDED EQUIPMENT FROM SMALL WIRELESS FACILITIES. HOWEVER, THERE MAY BE STANDALONE SMALL WIRELESS FACILITIES POLES THAT MAY USE OPTION A OR B OR BOTH.]

a. **External Equipment**. The antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible and must be reasonably related in size to the intended purpose of the facility and reasonable expansion for future frequencies and/or technologies, not to exceed the volumetric requirements described in Section A. If the equipment enclosure(s) is mounted on the exterior of the pole, the applicant is encouraged to place the equipment enclosure(s) behind any decorations, banners or signs that may be on the pole. Conduit and fiber must be fully concealed within the pole.

b. **Concealed Equipment**. All equipment (excluding disconnect switches), conduit and fiber must be fully concealed within the pole. The antennas must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible. [NOTE: AT THIS TIME, MILLIMETER WAVE ANTENNAS CANNOT BE COVERED OR SHROUDED, THEREFORE THEY MUST BE MOUNTED TO THE OUTSIDE OF THE POLE. POLES MAY HAVE TO BE SIGNIFICANTLY BIGGER IN DIAMETER IF EQUIPMENT IS CONCEALED IN OPTION B (ACCORDING TO POLE MANUFACTURES APPROX. 16-20 INCHES). OPTION A MAY REQUIRE A REPLACEMENT POLE. THE DIAMETER OF THE POLE SHOULD BE SIMILAR TO THE ORIGINAL.]

2. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

3. The height of any replacement pole may not extend more than 10 feet above the height of the existing pole, unless such further height increase is required in writing by the pole owner.

E. New Poles. Small wireless facilities may be attached to new poles that are not replacement poles under sections C or D, installed by the wireless provider, subject to the following criteria:

[NOTE: CITIES SHOULD CHECK WITH OTHER CODES TO MAKE SURE THIS SECTION DOES NOT CONFLICT WITH PRACTICES OF NO NEW POLES OR POLE NEUTRAL PRACTICES, AND REVISE SUCH CODES AS APPROPRIATE.]

1. Antennas, antenna equipment and associated equipment enclosures (excluding disconnect switches), conduit and fiber shall be fully concealed within the structure. If such concealment is not technically feasible, or is incompatible with the pole design, then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the structure or mounted as close to the pole as feasible, and must be reasonably related in size to the intended purpose of the facility, not to exceed the volumetric requirements in Section (A)(3). [IN APPROPRIATE CIRCUMSTANCES, CITIES MAY ALSO WISH TO CONSIDER ALLOWING ENCLOSURES THAT INCLUDE REASONABLE SPACE FOR FUTURE ADDITIONAL EQUIPMENT.**]**

2. To the extent technically feasible, all new poles and pole-mounted antennas and equipment shall substantially conform to the material and design of adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

3. New poles shall be no more than forty (40) feet in height unless additional height is requested and approved pursuant to Section I. [NOTE: THE FCC DEFINITION CONSIDERS A FACILITY A SMALL WIRELESS FACILITY IF IT IS 50 FT. OR UNDER. SMALL CELL TECHNOLOGY WORKS BEST WHEN DEPLOYED BETWEEN 35-45 FT. AND OTHER THAN DEPLOYMENTS ON UTILITY POLES, MOST WIRELESS PROVIDERS DO NOT NEED 50 FT TO DEPLOY. THEREFORE, IT MAY BE POSSIBLE TO HAVE NEW POLES THAT ARE NOT 50 FT.]

4. The city prefers that wireless providers install small wireless facilities on existing or replacement poles instead of installing new poles, unless the wireless provider can document that installation on an existing or replacement pole is not technically feasible or otherwise not possible (due to a lack of owner authorization, safety considerations, or other reasons acceptable to the [City designee]).

[NOTE: CITIES MAY CONSIDER THE SPACING BETWEEN POLES/DEPLOYMENTS. IT IS RECOMMENDED THAT CITIES CONSIDER DISTANCES BETWEEN NEW POLES BY AN INDIVIDUAL PROVIDER RATHER THAN ALL SWF DEPOLOYMENTS. SPACING MAY VARY BECAUSE OF BUILDINGS, TOPOGRAPHY, SIZE OF INSTALLATION, ETC. THEREFORE, IT IS RECOMMENDED THAT CITIES WORK WITH PROVIDERS TO SEE WHAT IS FEASIBLE.THE FCC PROVIDES THAT MINIMUM SPACING REQUIREMENTS CANNOT PREVENT A PROVIDER FROM REPLACING ITS PREEXISTING FACILITIES OR COLLOCATING NEW EQUIPMENT ON A STRUCTURE ALREADY IN USE. ULTIMATELY, MINIMUM SPACING REQUIREMENTS WILL BE EVALUATED UNDER THE FCC'S TEST FOR AESTHETIC REGULATIONS – THAT THE REQUIREMENTS MUST BE (1) REASONABLE; (2) NO MORE BURDENSOME THAN THOSE APPLIED TO OTHER INFRASTRUCTURE DEPLOYMENTS; (3) OBJECTIVE, AND (4) PUBLISHED IN ADVANCE.]

F. Undergrounding Requirements. [ACCORDING TO THE FCC ORDER, UNDERGROUNDING REQUIREMENTS ARE SUBJECT TO THE SAME CRITERIA AS OTHER AESTHETIC STANDARDS.

SOME COMPONENTS OF SMALL WIRELESS FACILITTIES WILL OFTEN NOT WORK UNDERGROUND. THEREFORE, CITIES UNDERGROUNDING REQUIREMENTS OR UNDERGROUND DISTRICTS MAY CREATE AN EFFECTIVE PROHIBITION. CITIES ARE ENCOURAGED TO REVIEW CURRENT UNDERGROUNDING REQUIREMENTS AND WORK WITH THEIR ATTORNEYS/ROW SPECIALISTS TO MAKE SURE THOSE REQUIREMENTS ARE NOT IN CONFLICT WITH THE FCC ORDER.]

G. Historic District Requirements.
Small wireless facilities or poles to support collocation of small wireless facilities located in Historic Districts shall be designed to have a similar appearance, including material and design elements, if technically feasible, of other poles in the rights-of-way within 500 feet of the proposed installation. Any such design or concealment measures may not be considered part of the small wireless facility for purpose of the size restrictions in the definition of small wireless facility.

H. Strand Mounted Equipment. Strand mounted small wireless facilities arepermitted, subject to the following criteria:

1. Each strand mounted antenna shall not exceed 3 cubic feet in volume, unless a deviation is requested and approved pursuant to Section I.

2. Only 2 strand mounted antennas are permitted between any two existing poles.

3. Strand mounted devices shall be placed as close as possible to the nearest pole and in no event more than five feet from the pole unless a greater distance is required by the pole owner.

4. No strand mounted device will be located in or above the portion of the roadway open to vehicular traffic.

5. Strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than original strand) to meet the technological needs of the facility.

I. Deviation from Design Standards.

1. An applicant may obtain a deviation from these design standards if compliance with the standard: (a) is not technically feasible; (b) impedes the effective operation of the small wireless facility; (c) impairs a desired network performance objective; (d) conflicts with pole owner requirements; or (e) otherwise materially inhibits or limits the provision of wireless service. [NOTE: SINCE DEVIATIONS FROM THE DESIGN STANDARDS MAY LEAD TO QUESTIONS FOR WHY ONE PROVIDER WAS ALLOWED AN EXCEPTION AND ANOTHER WAS NOT, IT IS ADVISED THAT CITIES DOCUMENT REASONS FOR DEVIATIONS.]

2. When requests for deviation are sought under subsections (I)(1)(a)-(e), the request must be narrowly tailored to minimize deviation from the requirements of these design standards, and the [City designee] must find the applicant's proposed design provides similar aesthetic value when compared to strict compliance with these standards.

3. [City designee] may also allow for a deviation from these standards when it finds the applicant's proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these standards.

4. The small wireless facility design approved under this Section I must meet the conditions of 47 C.F.R. Sec. 1.6002(*l*).

5. [City designee] will review and may approve a request for deviation to the minimum extent required to address the applicant's needs or facilitate a superior design. [NOTE: CITIES MAY RECOMMEND A PRE-MEETING WITH PROVIDERS IF A DEVIATION FROM STANDARDS IS BEING CONSIDERED. HOWEVER, PRE-MEETINGS **MUST BE OPTIONAL.** MANDATORY PRE-MEETINGS, WHETHER WITH STAFF, MEMBERS OF THE COMMUNITY OR NEIGHBORHOOD ASSOCIATIONS, WILL TRIGGER THE SHOT CLOCK TO START.]

Acknowledgements

Alan Bar, Verizon

Alan Galloway, Davis Wright Tremaine

Andrew Bartlett, City of Hillsboro

Cindy Manheim, AT&T

Colleen DeShazer, Verizon

Dave Waffle, City of Beaverton

George Granger, AT&T

Jennifer Backhaus, City of Milwaukie

Jennifer Li, City of Portland

Ken Lyons, Wireless Policy Group (AT&T)

Kim Allen, Wireless Policy Group (Verizon)

Madison Thesing, City of Lake Oswego

Meridee Pabst, Wireless Policy Group (AT&T)

Michael Johnston, Telecom Law Firm

Pam Vaughan, City of Corvallis

Reba Crocker, ROW Consultants LLC (formerly with the cities of Milwaukie and Gladstone)

Rich Roche, Formerly with AT&T

Robert “Tripp” May III, Telecom Law Firm

Ryan Zink, City of Salem

Sambo Kirkman, City of Beaverton

Scott McClure, Formerly with the City of Monmouth

Steve Coon, Verizon

Tegan Enloe, City of Tigard

Tim Halinski, T-Mobile

Appendix A – Shot Clock Information

Shot clock provisions that apply to small wireless facilities are codified in 47 C.F.R. Section 1.6003, which is provided below.

§1.6003 Reasonable periods of time to act on siting applications.

(a) *Timely action required.* A siting authority that fails to act on a siting application on or before the shot clock date for the application, as defined in paragraph (e) of this section, is presumed not to have acted within a reasonable period of time.

(b) *Shot clock period.* The shot clock period for a siting application is the sum of—

(1) The number of days of the presumptively reasonable period of time for the pertinent type of application, pursuant to paragraph (c) of this section; plus

(2) The number of days of the tolling period, if any, pursuant to paragraph (d) of this section.

(c) *Presumptively reasonable periods of time*—(1) *Review periods for individual applications.* The following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments in the categories set forth in paragraphs (c)(1)(i) through (iv) of this section:

(i) Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.

(ii) Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.

(iii) Review of an application to deploy a Small Wireless Facility using a new structure: 90 days.

(iv) Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.

(2) *Batching.* (i) If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either paragraph (c)(1)(i) or (iii) of this section, then the presumptively reasonable period of time for the application as a whole is equal to that for a single deployment within that category.

(ii) If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within paragraph (c)(1)(i) of this section and deployments that fall within paragraph (c)(1)(iii) of this section, then the presumptively reasonable period of time for the application as a whole is 90 days.

(iii) Siting authorities may not refuse to accept applications under paragraphs (c)(2)(i) and (ii) of this section.

(d) *Tolling period.* Unless a written agreement between the applicant and the siting authority provides otherwise, the tolling period for an application (if any) is as set forth in paragraphs (d)(1) through (3) of this section.

(1) For an initial application to deploy Small Wireless Facilities, if the siting authority notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the

obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the siting authority to render the application complete.

(2) For all other initial applications, the tolling period shall be the number of days from—

(i) The day after the date when the siting authority notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation; until

(ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;

(iii) But only if the notice pursuant to paragraph (d)(2)(i) of this section is effectuated on or before the 30th day after the date when the application was submitted; or

(3) For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from—

(i) The day after the date when the siting authority notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the siting authority's original request under paragraph (d)(1) or (2) of this section; until

(ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;

(iii) But only if the notice pursuant to paragraph (d)(3)(i) of this section is effectuated on or before the 10th day after the date when the applicant makes a supplemental submission in response to the siting authority's request under paragraph (d)(1) or (2) of this section.

(e) *Shot clock date.* The shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified pursuant to paragraph (b) of this section and including any pre-application period asserted by the siting authority; *provided,* that if the date calculated in this manner is a "holiday" as defined in §1.4(e)(1) or a legal holiday within the relevant State or local jurisdiction, the shot clock date is the next business day after such date. The term "business day" means any day as defined in §1.4(e)(2) and any day that is not a legal holiday as defined by the State or local jurisdiction

Appendix B – Code of Federal Regulations (C.F.R.) Cited Throughout Document

47 C.F.R. Section 1.1307

§1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

Link to an amendment published at 85 FR 18142, Apr. 1, 2020.

Link to a correction of the above amendment published at 85 FR 33578, June 2, 2020.

(a) Commission actions with respect to the following types of facilities may significantly affect the environment and thus require the preparation of EAs by the applicant (see §§1.1308 and 1.1311) and may require further Commission environmental processing (*see* §§1.1314, 1.1315 and 1.1317):

(1) Facilities that are to be located in an officially designated wilderness area.

(2) Facilities that are to be located in an officially designated wildlife preserve.

(3) Facilities that: (i) May affect listed threatened or endangered species or designated critical habitats; or (ii) are likely to jeopardize the continued existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats, as determined by the Secretary of the Interior pursuant to the Endangered Species Act of 1973.

NOTE: The list of endangered and threatened species is contained in 50 CFR 17.11, 17.22, 222.23(a) and 227.4. The list of designated critical habitats is contained in 50 CFR 17.95, 17.96 and part 226. To ascertain the status of proposed species and habitats, inquiries may be directed to the Regional Director of the Fish and Wildlife Service, Department of the Interior.

(4) Facilities that may affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places (*see* 54 U.S.C. 300308; 36 CFR parts 60 and 800), and that are subject to review pursuant to section 1.1320 and have been determined through that review process to have adverse effects on identified historic properties.

(5) Facilities that may affect Indian religious sites.

(6) Facilities to be located in floodplains, if the facilities will not be placed at least one foot above the base flood elevation of the floodplain.

(7) Facilities whose construction will involve significant change in surface features (e.g., wetland fill, deforestation or water diversion). (In the case of wetlands on Federal property, *see* Executive Order 11990.)

(8) Antenna towers and/or supporting structures that are to be equipped with high intensity white lights which are to be located in residential neighborhoods, as defined by the applicable zoning law.

(b) In addition to the actions listed in paragraph (a) of this section, Commission actions granting construction permits, licenses to transmit or renewals thereof, equipment authorizations or modifications in existing facilities, require the preparation of an Environmental Assessment (EA) if the particular facility, operation or transmitter would cause human exposure to levels of radiofrequency radiation in excess of the limits in §§1.1310 and 2.1093 of this chapter. Applications to the Commission for construction permits, licenses to transmit or renewals thereof, equipment authorizations or modifications in existing facilities must

contain a statement confirming compliance with the limits unless the facility, operation, or transmitter is categorically excluded, as discussed below. Technical information showing the basis for this statement must be submitted to the Commission upon request. Such compliance statements may be omitted from license applications for transceivers subject to the certification requirement in §25.129 of this chapter.

(1) The appropriate exposure limits in §§1.1310 and 2.1093 of this chapter are generally applicable to all facilities, operations and transmitters regulated by the Commission. However, a determination of compliance with the exposure limits in §1.1310 or §2.1093 of this chapter (routine environmental evaluation), and preparation of an EA if the limits are exceeded, is necessary only for facilities, operations and transmitters that fall into the categories listed in table 1, or those specified in paragraph (b)(2) of this section. All other facilities, operations and transmitters are categorically excluded from making such studies or preparing an EA, except as indicated in paragraphs (c) and (d) of this section. For purposes of table 1, *building-mounted antennas* means antennas mounted in or on a building structure that is occupied as a workplace or residence. The term *power* in column 2 of table 1 refers to total operating power of the transmitting operation in question in terms of effective radiated power (ERP), equivalent isotropically radiated power (EIRP), or peak envelope power (PEP), as defined in §2.1 of this chapter. For the case of the Cellular Radiotelephone Service, subpart H of part 22 of this chapter; the Personal Communications Service, part 24 of this chapter and the Specialized Mobile Radio Service, part 90 of this chapter, the phrase *total power of all channels* in column 2 of table 1 means the sum of the ERP or EIRP of all co-located simultaneously operating transmitters owned and operated by a single licensee. When applying the criteria of table 1, radiation in all directions should be considered. For the case of transmitting facilities using sectorized transmitting antennas, applicants and licensees should apply the criteria to all transmitting channels in a given sector, noting that for a highly directional antenna there is relatively little contribution to ERP or EIRP summation for other directions.

TABLE 1—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION

Service (title 47 CFR rule part)	Evaluation required if:
Experimental Radio Services (part 5)	Power >100 W ERP (164 W EIRP).
Commercial Mobile Radio Services (part 20)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1000 W ERP (1640 W EIRP). Building-mounted antennas: power >1000 W ERP (1640 W EIRP).
	Consumer Signal Booster equipment grantees under the Commercial Mobile Radio Services provisions in part 20 are required to attach a label to Fixed Consumer Booster antennas that:
	(1) Provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transmitting antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.
Paging and Radiotelephone Service (subpart E of part 22)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: power >1000 W ERP (1640 W EIRP).
Cellular Radiotelephone Service (subpart H of part 22)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >1000 W ERP (1640 W EIRP).

	Building-mounted antennas: total power of all channels >1000 W ERP (1640 W EIRP).
Personal Communications Services (part 24)	(1) Narrowband PCS (subpart D):
	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: total power of all channels >1000 W ERP (1640 W EIRP).
	(2) Broadband PCS (subpart E):
	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >2000 W ERP (3280 W EIRP).
	Building-mounted antennas: total power of all channels >2000 W ERP (3280 W EIRP).
Satellite Communications Services (part 25)	All included.
	In addition, for NGSO subscriber equipment, licensees are required to attach a label to subscriber transceiver antennas that:
	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310 of this chapter.
Miscellaneous Wireless Communications Services (part 27 except subpart M)	(1) For the 1390-1392 MHz, 1392-1395 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz bands:
	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >2000 W ERP (3280 W EIRP).
	Building-mounted antennas: total power of all channels >2000 W ERP (3280 W EIRP).
	(2) For the 698-746 MHz, 746-764 MHz, 776-794 MHz, 2305-2320 MHz, and 2345-2360 MHz bands:
	Total power of all channels >1000 W ERP (1640 W EIRP).
Broadband Radio Service and Educational Broadband Service (subpart M of part 27)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.
	Building-mounted antennas: power >1640 W EIRP.
	BRS and EBS licensees are required to attach a label to subscriber transceiver or transverter antennas that:

	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.
Upper Microwave Flexible Use Service (part 30)	Non-building-mounted antennas: Height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.
	Antennas are mounted on buildings.
Radio Broadcast Services (part 73)	All included.
Auxiliary and Special Broadcast and Other Program Distributional Services (part 74)	Subparts G and L: Power >100 W ERP.
Stations in the Maritime Services (part 80)	Ship earth stations only.
Private Land Mobile Radio Services Paging Operations (subpart P of part 90)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: power >1000 W ERP (1640 W EIRP).
Private Land Mobile Radio Services Specialized Mobile Radio (subpart S of part 90)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: Total power of all channels >1000 W ERP (1640 W EIRP).
76-81 GHz Radar Service (part 95)	All included.
Amateur Radio Service (part 97)	Transmitter output power >levels specified in §97.13(c)(1) of this chapter.
Local Multipoint Distribution Service (subpart L of part 101) and 24 GHz (subpart G of part 101)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.
	Building-mounted antennas: power >1640 W EIRP.
	LMDS and 24 GHz Service licensees are required to attach a label to subscriber transceiver antennas that:
	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.
70/80/90 GHz Bands (subpart Q of part 101)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.

	Building-mounted antennas: power >1640 W EIRP.
	Licensees are required to attach a label to transceiver antennas that:
	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.

(2)(i) Mobile and portable transmitting devices that operate in the Commercial Mobile Radio Services pursuant to part 20 of this chapter; the Cellular Radiotelephone Service pursuant to part 22 of this chapter; the Personal Communications Services (PCS) pursuant to part 24 of this chapter; the Satellite Communications Services pursuant to part 25 of this chapter; the Miscellaneous Wireless Communications Services pursuant to part 27 of this chapter; the Upper Microwave Flexible User Service pursuant to part 30 of this chapter; the Maritime Services (ship earth stations only) pursuant to part 80 of this chapter; the Specialized Mobile Radio Service, the 4.9 GHz Band Service, and the 3650 MHz Wireless Broadband Service pursuant to part 90 of this chapter; the Wireless Medical Telemetry Service (WMTS), the Medical Device Radiocommunication Service (MedRadio), and the 76-81 GHz Band Radar Service pursuant to part 95 of this chapter; and the Citizens Broadband Radio Service pursuant to part 96 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§2.1091 and 2.1093 of this chapter.

(ii) Unlicensed PCS, unlicensed NII, and millimeter-wave devices are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§15.255(g), 15.257(g), 15.319(i), and 15.407(f) of this chapter.

(iii) Portable transmitting equipment for use in the Wireless Medical Telemetry Service (WMTS) is subject to routine environmental evaluation as specified in §§2.1093 and 95.2385 of this chapter.

(iv) Equipment authorized for use in the Medical Device Radiocommunication Service (MedRadio) as a medical implant device or body-worn transmitter (as defined in subpart I of part 95 of this chapter) is subject to routine environmental evaluation for RF exposure prior to equipment authorization, as specified in §§2.1093 and 95.2585 of this chapter by finite difference time domain (FDTD) computational modeling or laboratory measurement techniques. Where a showing is based on computational modeling, the Commission retains the discretion to request that supporting documentation and/or specific absorption rate (SAR) measurement data be submitted.

(v) All other mobile, portable, and unlicensed transmitting devices are categorically excluded from routine environmental evaluation for RF exposure under §§2.1091, 2.1093 of this chapter except as specified in paragraphs (c) and (d) of this section.

(3) In general, when the guidelines specified in §1.1310 are exceeded in an accessible area due to the emissions from multiple fixed transmitters, actions necessary to bring the area into compliance are the shared responsibility of all licensees whose transmitters produce, at the area in question, power density levels that exceed 5% of the power density exposure limit applicable to their particular transmitter or field strength levels that, when squared, exceed 5% of the square of the electric or magnetic field strength limit applicable to their particular transmitter. Owners of transmitter sites are expected to allow applicants and licensees to take reasonable steps to comply with the requirements contained in §1.1307(b) and, where feasible, should encourage co-location of transmitters and common solutions for controlling access to areas where the RF exposure limits contained in §1.1310 might be exceeded.

(i) Applicants for proposed (not otherwise excluded) transmitters, facilities or modifications that would cause non-compliance with the limits specified in §1.1310 at an accessible area previously in compliance must submit an EA if emissions from the applicant's transmitter or facility would result, at the area in question, in a power density that exceeds 5% of the power density exposure limit applicable to that transmitter or facility or in a field strength that, when squared, exceeds 5% of the square of the electric or magnetic field strength limit applicable to that transmitter or facility.

(ii) Renewal applicants whose (not otherwise excluded) transmitters or facilities contribute to the field strength or power density at an accessible area not in compliance with the limits specified in §1.1310 must submit an EA if emissions from the applicant's transmitter or facility results, at the area in question, in a power density that exceeds 5% of the power density exposure limit applicable to that transmitter or facility or in a field strength that, when squared, exceeds 5% of the square of the electric or magnetic field strength limit applicable to that transmitter of facility.

(c) If an interested person alleges that a particular action, otherwise categorically excluded, will have a significant environmental effect, the person shall submit to the Bureau responsible for processing that action a written petition setting forth in detail the reasons justifying or circumstances necessitating environmental consideration in the decision-making process. (*See* §1.1313). The Bureau shall review the petition and consider the environmental concerns that have been raised. If the Bureau determines that the action may have a significant environmental impact, the Bureau will require the applicant to prepare an EA (*see* §§1.1308 and 1.1311), which will serve as the basis for the determination to proceed with or terminate environmental processing.

(d) If the Bureau responsible for processing a particular action, otherwise categorically excluded, determines that the proposal may have a significant environmental impact, the Bureau, on its own motion, shall require the applicant to submit an EA. The Bureau will review and consider the EA as in paragraph (c) of this section.

NOTE TO PARAGRAPH (d): Pending a final determination as to what, if any, permanent measures should be adopted specifically for the protection of migratory birds, the Bureau shall require an Environmental Assessment for an otherwise categorically excluded action involving a new or existing antenna structure, for which an antenna structure registration application (FCC Form 854) is required under part 17 of this chapter, if the proposed antenna structure will be over 450 feet in height above ground level (AGL) and involves either:

1. Construction of a new antenna structure;

2. Modification or replacement of an existing antenna structure involving a substantial increase in size as defined in paragraph I(C)(1)(3) of Appendix B to part 1 of this chapter; or

3. Addition of lighting or adoption of a less preferred lighting style as defined in §17.4(c)(1)(iii) of this chapter. The Bureau shall consider whether to require an EA for other antenna structures subject to §17.4(c) of this chapter in accordance with §17.4(c)(8) of this chapter. An Environmental Assessment required pursuant to this note will be subject to the same procedures that apply to any Environmental Assessment required for a proposed tower or modification of an existing tower for which an antenna structure registration application (FCC Form 854) is required, as set forth in §17.4(c) of this chapter.

(e) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the regulations contained in this chapter concerning the environmental effects of such emissions. For purposes of this paragraph:

(1) The term *personal wireless service* means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(2) The term *personal wireless service facilities* means facilities for the provision of personal wireless services;

(3) The term *unlicensed wireless services* means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services; and

(4) The term *direct-to-home satellite services* means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite.

[51 FR 15000, Apr. 22, 1986]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §1.1307, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov.*

EFFECTIVE DATE NOTE: At 85 FR 18142, Apr. 1, 2020, §1.1307 was amended by revising paragraph (b). At 85 FR 33578, June 2, 2020, this revision was delayed indefinitely.

47 C.F.R. Section 1.1320

§1.1320 Review of Commission undertakings that may affect historic properties.

(a) *Review of Commission undertakings.* Any Commission undertaking that has the potential to cause effects on historic properties, unless excluded from review pursuant to paragraph (b) of this section, shall be subject to review under section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. 306108, by applying—

(1) The procedures set forth in regulations of the Advisory Council on Historic Preservation, 36 CFR800.3-800.13, or

(2) If applicable, a program alternative established pursuant to 36 CFR 800.14, including but not limited to the following:

(i) The Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, as amended, Appendix B of this part.

(ii) The Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings, Appendix C of this part.

(iii) The Program Comment to Tailor the Federal Communications Commission's Section 106 Review for Undertakings Involving the Construction of Positive Train Control Wayside Poles and Infrastructure, 79 FR 30861 (May 29, 2014).

(b) *Exclusions.* The following categories of undertakings are excluded from review under this section:

(1) *Projects reviewed by other agencies.* Undertakings for which an agency other than the Commission is the lead Federal agency pursuant to 36 CFR 800.2(a)(2).

(2) *Projects subject to program alternatives.* Undertakings excluded from review under a program alternative established pursuant to 36 CFR 800.14, including those listed in paragraph (a)(2) of this section.

(3) *Replacement utility poles.* Construction of a replacement for an existing structure where all the following criteria are satisfied:

(i) The original structure—

(A) Is a pole that can hold utility, communications, or related transmission lines;

(B) Was not originally erected for the sole or primary purpose of supporting antennas that operate pursuant to the Commission's spectrum license or authorization; and

(C) Is not itself a historic property.

(ii) The replacement pole—

(A) Is located no more than 10 feet away from the original pole, based on the distance between the centerpoint of the replacement pole and the centerpoint of the original pole; *provided* that construction of the replacement pole in place of the original pole entails no new ground disturbance (either laterally or in depth) outside previously disturbed areas, including disturbance associated with temporary support of utility, communications, or related transmission lines. For purposes of this paragraph, "ground disturbance" means any activity that moves, compacts, alters, displaces, or penetrates the ground surface of previously undisturbed soils;

(B) Has a height that does not exceed the height of the original pole by more than 5 feet or 10 percent of the height of the original pole, whichever is greater; and

(C) Has an appearance consistent with the quality and appearance of the original pole.

(4) *Collocations on buildings and other non-tower structures.* The mounting of antennas (including associated equipment such as wiring, cabling, cabinets, or backup power) on buildings or other non-tower structures where the deployment meets the following conditions:

(i) There is an existing antenna on the building or structure;

(ii) One of the following criteria is met:

(A) *Non-Visible Antennas.* The new antenna is not visible from any adjacent streets or surrounding public spaces and is added in the same vicinity as a pre-existing antenna;

(B) *Visible Replacement Antennas.* The new antenna is visible from adjacent streets or surrounding public spaces, provided that

(1) It is a replacement for a pre-existing antenna,

(2) The new antenna will be located in the same vicinity as the pre-existing antenna,

(3) The new antenna will be visible only from adjacent streets and surrounding public spaces that also afford views of the pre-existing antenna,

(4) The new antenna is not more than 3 feet larger in height or width (including all protuberances) than the pre-existing antenna, and

(5) No new equipment cabinets are visible from the adjacent streets or surrounding public spaces; or

(C) *Other Visible Antennas.* The new antenna is visible from adjacent streets or surrounding public spaces, provided that

(1) It is located in the same vicinity as a pre-existing antenna,

(2) The new antenna will be visible only from adjacent streets and surrounding public spaces that also afford views of the pre-existing antenna,

(3) The pre-existing antenna was not deployed pursuant to the exclusion in this paragraph,

(4) The new antenna is not more than three feet larger in height or width (including all protuberances) than the pre-existing antenna, and

(5) No new equipment cabinets are visible from the adjacent streets or surrounding public spaces;

(iii) The new antenna complies with all zoning conditions and historic preservation conditions applicable to existing antennas in the same vicinity that directly mitigate or prevent effects, such as camouflage or concealment requirements;

(iv) The deployment of the new antenna involves no new ground disturbance; and

(v) The deployment would otherwise require the preparation of an Environmental Assessment under 1.1304(a)(4) solely because of the age of the structure.

NOTE 1 TO PARAGRAPH (b)(4): A non-visible new antenna is in the "same vicinity" as a pre-existing antenna if it will be collocated on the same rooftop, façade or other surface. A visible new antenna is in the "same vicinity" as a pre-existing antenna if it is on the same rooftop, façade, or other surface and the centerpoint of the new antenna is within ten feet of the centerpoint of the pre-existing antenna. A deployment causes no new ground disturbance when the depth and width of previous disturbance exceeds the proposed construction depth and width by at least two feet.

(c) *Responsibilities of applicants.* Applicants seeking Commission authorization for construction or modification of towers, collocation of antennas, or other undertakings shall take the steps mandated by, and comply with the requirements set forth in, Appendix C of this part, sections III-X, or any other applicable program alternative.

(d) *Definitions.* For purposes of this section, the following definitions apply:

Antenna means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the transmission of writing, signs, signals, data, images, pictures, and sounds of all kinds, including the transmitting device and any on-site equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with that antenna and added to a tower, structure, or building as part of the original installation of the antenna. For most services, an antenna will be mounted on or in, and is distinct from, a supporting structure such as a tower, structure or building. However, in the case of AM broadcast stations, the entire tower or group of towers constitutes the antenna for that station. For purposes of this section, the term antenna does not include unintentional radiators, mobile stations, or devices authorized under part 15 of this title.

Applicant means a Commission licensee, permittee, or registration holder, or an applicant or prospective applicant for a wireless or broadcast license, authorization or antenna structure registration, and the duly authorized agents, employees, and contractors of any such person or entity.

Collocation means the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.

Tower means any structure built for the sole or primary purpose of supporting Commission-licensed or authorized antennas, including the on-site fencing, equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with that tower but not installed as part of an antenna as defined herein.

Undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of the Commission, including those requiring a Commission permit, license or approval. Maintenance and servicing of towers, antennas, and associated equipment are not deemed to be undertakings subject to review under this section.

[82 FR 58758, Dec. 14, 2017]

47 C.F.R. Section 1.6002

§1.6002 Definitions.

Terms not specifically defined in this section or elsewhere in this subpart have the meanings defined in this part and the Communications Act of 1934, 47 U.S.C. 151 *et seq.* Terms used in this subpart have the following meanings:

(a) *Action* or *to act* on a siting application means a siting authority's grant of a siting application or issuance of a written decision denying a siting application.

(b) *Antenna,* consistent with §1.1320(d), means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under part 15 of this chapter.

(c) *Antenna equipment,* consistent with §1.1320(d), means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

(d) *Antenna facility* means an antenna and associated antenna equipment.

(e) *Applicant* means a person or entity that submits a siting application and the agents, employees, and contractors of such person or entity.

(f) *Authorization* means any approval that a siting authority must issue under applicable law prior to the deployment of personal wireless service facilities, including, but not limited to, zoning approval and building permit.

(g) *Collocation,* consistent with §1.1320(d) and the Nationwide Programmatic Agreement (NPA) for the Collocation of Wireless Antennas, appendix B of this part, section I.B, means—

(1) Mounting or installing an antenna facility on a pre-existing structure; and/or

(2) Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

(3) The definition of "collocation" in §1.6100(b)(2) applies to the term as used in thatsection.

(h) *Deployment* means placement, construction, or modification of a personal wireless service facility.

(i) *Facility* or *personal wireless service facility* means an antenna facility or a structure that is used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

(j) *Siting application* or *application* means a written submission to a siting authority requesting authorization for the deployment of a personal wireless service facility at a specified location.

(k) *Siting authority* means a State government, local government, or instrumentality of a State government or local government, including any official or organizational unit thereof, whose authorization is necessary prior to the deployment of personal wireless service facilities.

(l) *Small wireless facilities* are facilities that meet each of the following conditions:

(1) The facilities—

(i) Are mounted on structures 50 feet or less in height including their antennas as defined in §1.1320(d); or

(ii) Are mounted on structures no more than 10 percent taller than other adjacent structures; or

(iii) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in §1.1320(d)), is no more than three cubic feet in volume;

(3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

(4) The facilities do not require antenna structure registration under part 17 of this chapter;

(5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in §1.1307(b).

(m) *Structure* means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

[83 FR 51884, Oct. 15, 2018, as amended at 84 FR 59567, Nov. 5, 2019]

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MEMORANDUM

DATE: October 2, 2020

MEETING DATE: October 12, 2020

TO: Planning Commission

FROM: Erik Forsell, Associate Planner

RE: Planning Commission Work Session II

Follow-up from Work Sessions

This memorandum is intended to address suggested revisions related to the proposed telecommunications text amendments received from City Council and the Planning Commission at work sessions held on September 16 and 28, 2020. The memorandum details how those suggested revisions were addressed in the current version of the draft text amendment proposal. Staff has endeavored to include these items while maintaining an appropriate balance with what federal regulations allow local jurisdictions to enforce and regulate.

Comments Received and Changes Made

Staff received a number of comments from City Council and Planning Commission. Many of the comments were focused on undergrounding and removal requirements, design standards, visual appearance of telecommunications equipment and overall organization of the code. The table below describes the suggestions received by Staff and how those were implemented in the current version of the draft text amendments.

Table – Summary of Revisions to Draft of Proposed Text Amendments

Suggestion / Revision	Description of Change	Page
"Strand Mounted" Definition	**16.55.015(O)** Defined as telecommunications antennas that are mounted on cable, conduit, wire or other similar materials between two or more poles or structures.	**4**
Removal Requirements	**16.55.30(C)(10)** Includes removal responsibilities.	**10**
Antenna(s)	**16.55.045(B)(1) and (2)** Added specific requirements regarding antennae size and concealment.	**13-14**
Undergrounding	**16.55.045(B)(3)** and **16.55.045(G**) Includes changes as part of the design standards to locate ancillary equipment underground when technically feasible.	**15, 16-19**
Noise	**16.55.045(B)(7)** Includes changes as part of the design standards to place restrictions on the amount of noise produced by equipment.	**15**

General Restrictions	**16.55.045(C)(1)-(4)** Restrictions on placing telecommunications equipment on certain objects and structures.	**16**
Macro Telecommunications Facilities	**16.55.040 and 16.55.50** Changes to collocation standards, removal of some items, and clarification on what applies. Staff is still trying to honor and fold in the work previously done regarding acceptable and preferred sites. This section was broken up to better fit the overall flow of the new code layout.	**19-24**

Next Steps

Following the conclusion of this work session, staff will have conducted four work sessions regarding the proposed telecommunications text amendments. At this point, we will collect final suggestions and revisions and move forward with internal staff review and a finalization of the work product. The Planning Commission meeting scheduled for October 26, 2020 will be a public hearing on the proposed amendments. Depending on the determinations made by the Planning Commission, Planning Staff will prepare to bring this item to a first reading at City Council, likely sometime in November of 2020.

Chapter 16.55

Telecommunications Facilities

Sections:

16.55.010 Purpose.

A. The purpose this chapter is to:

1. Manage the deployment of wireless telecommunications facilities and ancillary equipment consistent with Federal law and regulations.

2. Place reasonable and appropriate time, place and manner restrictions on telecommunications deployment consistent with federal law and regulations.

3. Encourage the placement of telecommunications facilities in appropriate locations for both the provider and the City.

4. Provide City of Canby residents and businesses with a wide range of telecommunications and wireless options.

5. Provide for the safe construction, location, erection and maintenance of telecommunications equipment.

6. Encourage collocation of telecommunications equipment wherever possible.

7. Contribute to a simple and efficient regulatory process.

8. Develop a consistent and well understood application process for telecommunications providers and for city staff.

9. Ensure that the public will have access to a variety of wireless telecommunications systems and providers.

10. Reduce the visual impact of certain wireless telecommunications systems facilities by encouraging collocation;

11. Implement the applicable provision of the Federal Telecommunications Act of 1996;

12. Implement Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), commonly referred to as the Spectrum Act and;

13. Implement FCC Order 18-133, effective August 15, 2019.

16.55.015 Definitions.

A. Abandoned Telecommunications Equipment. Defined as a facility and / or equipment that has been in disuse continuously for 365 days and no longer has a known owner or FCC licensee.

B. Antenna. Defined in 47 C.F.R. § 1.6002(b). The term includes an apparatus designed for the purpose of emitting radio frequencies (RF) to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15

C. Antenna (Ancillary) Equipment. Defined in 47 C.F.R. § 1.6002(c). The term includes equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

D. Applicant. Defined as any person who represents and submits an application on behalf of a wireless provider.

E. Application – Telecommunications. A written request submitted by an applicant (1) for permission to collocate wireless facilities; or (2) to approve the installation, modification or replacement of a structure on which to collocate a small wireless facility in the rights-of-way or on private property where required. The application consists of a form provided by the City with accompanying materials provided by the applicant.

F. City. Defined as the City of Canby, Oregon. (Ord. 740 section 10.1.20(B)[part], 1984)

G. City Engineer. The Oregon registered Professional Engineer designated to review development within the city.

H. City-Owned Infrastructure. Means infrastructure within the city limits and urban growth boundary, public rights-of-way or public easements, including but not limited to street lights, traffic devices and signals, towers, structures, buildings, and utilities that are owned, operated and/or maintained by the City.

I. Collocation. Defined in 47 C.F.R. § 1.6002(g). Term describes: (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. "Collocate" has a corresponding meaning.

J. Day. A calendar day. For purposes of land use application timelines determined by ORS 227.178(1) and FCC "shot clock" regulations for decisions related to telecommunications, a terminal day that falls on a holiday or weekend shall be deemed to be the next immediate business day.

K. Designee. A city staff person authorized by the City Engineer or Planning Director to process telecommunications facility permits.

L. Licensee. A telecommunication utility registered with the City and the Telecommunications Section of the Development Code 16.55.

M. Macro Cell Wireless Facility. A telecommunications facility that meets each of the following conditions:

1. Facilities mounted on structures greater than 50 feet including the antennas.

2. Facilities mounted on structures that are more than 10 percent taller than any other adjacent structures.

3. Facilities that extend in height existing structure(s) on which the antennas are located by more than 50 feet or more than 10 percent whichever is greater.

4. The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

N. Micro Cell Wireless Facility. A facility that meets each of the following conditions per 47 C.F.R § 1.6002(l), as may be amended or superseded:

1. Facilities mounted on structures 50 feet or less in height including the antennas.

2. Facilities mounted on structures no more than 10 percent taller than other adjacent structures.

3. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;

4. All other wireless equipment associated with the structure, including wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

5. The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

O. NESC. The current up to date version of the National Electric Safety Code (NESC) as approved by the Institute of Electric and Electronics Engineers (IEEE).

P. Planning Director. The City staff person who oversees the Planning Department and reviews or appoints staff to review land use applications for telecommunications facilities.

Q. Public Rights-of-Way. Defined as the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements, and all other public ways or areas, including the subsurface under and air space over these areas, excluding parks, parklands and other City property that is not generally open to the public for the purposes of travel. The definition only applies to the extent of the City's right, title and interest to grant a license to occupy and use such areas for utility facilities.

R. Strand Mounted Equipment. Defined as telecommunications antennas that are mounted on cable, conduit, wire or other similar materials strung between two or more poles or structures.

16.55.020 Applicability

A. The Telecommunications Chapter applies to the following:

1. Proposed new telecommunications facilities, collocations, antennas, equipment, poles, towers, and ancillary facilities typically associated with telecommunications equipment.

2. Replacement poles, towers, collocations and antennas and equipment.

3. Modifications to existing or proposed telecommunications facilities, collocations, antennas, equipment, poles and ancillary facilities typically associated with telecommunications equipment.

16.55.025 Administration.

A. Permit Required. All telecommunications equipment deployed, collocated, placed, replaced, installed and erected after the effective date of this chapter, other than telecommunications equipment that is exempt from permit requirements per 16.55.50 shall require a permit. Applications shall be made on forms provided by the Planning Director with attached required information stated in the application form and in the Permit Requirements Section 16.55.30.

B. Fee. A fee as established by resolution of the City Council shall be paid to the City of Canby upon the filing of an application. Such fees shall not be refundable.

C. Construction and Maintenance. All telecommunications equipment and ancillaries, including: poles, cabinets, power supplies whether above or underground shall meet all applicable requirements of building, structural, mechanical and electrical codes.

1. All telecommunications equipment shall be kept in good repair and maintained in a safe, neat, clean condition. Telecommunications equipment shall be designed and deployed to reduce the impact of visual appearance.

2. No telecommunications equipment shall be erected or maintained in such a manner that any portion of its surface will interfere with the free use of, or any access to any fire escape, exit or standpipe.

3. No telecommunications equipment shall be deployed in a location that creates an immediate danger to the safety and welfare of the public by blocking vision for either pedestrians or motorists, at public and/or private roadways, intersections, driveways, paths, sidewalks or railroad crossings.

D. Appeal. Appeals are limited to procedures set forth in Chapter 16.89 for land use decisions pursuant to requirements in Chapter 16.89. Appeals of building permit decisions are decided by the Clackamas County Building Official.

E. Permit Expiration. Every permit issued by the Clackamas County Building Official under the provisions of this chapter shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one-half of the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year.

F. Permit Suspension or Revocation. The Planning Director and City Engineer or duly authorized representative may, in writing, suspend or revoke a permit issued under

provisions of this chapter whenever the permit is issued on the basis of incorrect information supplied, or in violation of applicable ordinance or regulation or any of the provisions of this chapter.

G. Variance / Deviation from Standards. The procedures which allow variations from the strict application of the regulations of this Title, by reason of exceptional circumstances and other specified conditions, are set forth in 16.55(H) and when applicable Chapter 16.53.

H. Conditional Use Telecommunications Equipment and Design Review. Telecommunications equipment that is proposed and does not meet the Type I Review Process shall be processed under a Design Review Type II or III process at the discretion of the City Engineer or Planning Director. A Conditional Use Permit for certain major installations of macro telecommunications equipment shall be required.

I. Timelines 'Shot Clock' for Processing Telecommunications Equipment. Pursuant to the Telecommunications Act of 1996, provisions of the Middle-Class Tax Relief and Job Creation Act of 2012 (Commonly Referred to as the Spectrum Act) and; FCC 18-133 (Small Cell Order), applications to permit telecommunications shall be consistent with 47 CFR Section 1.6003 – Reasonable Periods of Time to Act of Siting Applications.

1. Review Periods for Individual Applications

a. Micro Telecommunications Facility Minor Installation Permit – Collocations on existing infrastructure. Applications shall comply with regulation and documentations/permissions as set forth by federal, state, and city standards. The review period for applications will be 60 days following reception of a materially complete application. These applications will be reviewed through a Type I Site / Design Review process.

b. Micro Telecommunications Facility Major Installation Permit – Deployment and construction of proposed new infrastructure. Applications for compliant sizes, locations, and aesthetics with necessary supportive documentation permissions as set forth by Federal, State, and City standards. The review period for these applications will be 90 days following reception of a materially complete application. These applications will be reviewed through a Type I Site / Design Review process.

c. Macro Telecommunications Minor Installation Permit – Collocations on existing infrastructure. Applications shall comply with regulation and documentations/permissions as set forth by federal, state, and city standards. The review period for applications will be 90 days following reception of a materially complete application. These applications will be reviewed through a Type I Site / Design Review process.

d. Macro Telecommunications Tower / Structure Major Installation Permit – Deployment and construction of a macro telecommunications tower and associated equipment. Applications shall comply with regulation and documentation/permissions as set forth by federal, state and city standards. The review period for applications shall be 150 days following reception of a materially complete application. These applications will be reviewed through a Type II or III Site / Design Review and under certain proposals with a Conditional Use Permit process.

2. Incomplete Applications.

a. For an initial application to deploy Micro Wireless Facilities, if the Planning Director / City Engineer or designee notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the siting authority to render the application complete.

b. For an initial application to Deploy a new Macro Telecommunications Tower / Structure or major installation permit. Incomplete applications shall treated the same as described in ORS 227.178.

3. Complete Applications

c. Applications shall be deemed complete when the Planning Director and/or City Engineer or designee(s) have determined that the applicant has supplied sufficient information as required by Section 16.55.30 and that the application materials are accurate, true and addresses the criteria of this division and all other applicable sections of Canby Municipal Code.

16.55.30 Telecommunications Equipment Permit Applications

A. Telecommunications facilities within the Public rights-of-way are reviewed by the City Engineer and/or Planning Director, or authorized designee(s), in accordance with the process described below:

1. Micro Telecommunications Facility Minor Installation Permit – installations on existing third-party infrastructure. Applications shall comply with regulation and documentations/permissions as set forth by federal, state, and city standards. Applications shall clearly denote the below outlined requirements.

2. Micro Telecommunications Facility Major Installation Permit – installations on existing City-owned infrastructure or proposed new infrastructure. Applications

for compliant sizes, locations, and aesthetics with necessary supportive documentation permissions as set forth by Federal, State, and City standards.

B. Telecommunications facilities within private and public property that are outside the public rights-of-way are reviewed by the Planning Director, or authorized designee(s), in accordance with the process described below:

1. Macro Telecommunications Minor Installation Permit – installations on existing third-party infrastructure and certain new deployments. Applications shall comply with regulation and documentations/permissions as set forth by federal, state, and city standards. Applications shall clearly denote the below outlined requirements.

2. Macro Telecommunications Major Installation Permit – installations on existing third party infrastructure or proposed new infrastructure. Applications for compliant sizes, locations, and aesthetics with necessary supportive documentation permissions as set forth by Federal, State, and City standards.

C. General Application Requirements

1. Aerial vicinity map indicating the location of the existing and/or proposed wireless support tower/structure to which the telecommunications facility will be attached. The vicinity map shall also indicate all known telecommunications facilities within a 1000 foot radius centered on the proposed deployment area.

2. Aerial vicinity map detailing the propagation area for the proposed telecommunication equipment as well as existing propagations of facilities owned or leased by the applicant.

3. Street view images, rendering or photographs showing the existing and proposed conditions of the project site. The images shall demonstrate how equipment will be visually screened, shrouded, concealed or blended with the surroundings.

4. A scaled site plan, prepared by a professional engineer or surveyor licensed in the State of Oregon indicating at a minimum:

a. Proposed tower, pole or structure to which the small cell equipment will be attached; including: lease area (if applicable).

b. Location of supporting ancillary equipment, including: power supply, cooling equipment, cable, etc.

c. Street names and addresses.

d. Right-of-way lines, property lines, proposed utilities (above and below grade), curb, sidewalks, driveways, streets, paths, structures, street lights, traffic signals. All conflicts with existing structure shall be indicated on the plan with a description on how the anticipated conflict will be remediated;

e. If equipment is placed below grade, the nearest location to access the equipment placed below grade.

5. Structural analysis, prepared and stamped by a professional engineer licensed in the State of Oregon. The analysis shall include evaluation of the existing and/or proposed wireless support structure and demonstrate how the foundation is structurally adequate to safely support the proposed telecommunications facilities. The analysis shall also demonstrate consistency with NESC for structural stability to determine whether the structure can carry the proposed telecommunications facility and comply with applicable NESC and structural safety code.

6. Engineered details of proposed telecommunications facilities, including elevations/profiles, plans and sections, clearly indicating the following:

a. Height, width, depth, and volume (in cubic feet) of all proposed antenna and exposed elements and/or proposed antenna enclosures.

b. Height, width, depth, and volume (in cubic feet) of proposed wireless equipment associated with the facility Including electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services as applicable.

c. Method of installation/connection.

d. Color specifications for proposed wireless support structures and associated exposed equipment, cabinets, and concealment elements.

e. Electrical plans and wiring diagrams.

f. Footing and foundation drawings and structural analysis, sealed and signed by a professional engineer licensed in the State of Oregon.

7. Permission to use utility pole or alternative antenna structure: The operator of a wireless telecommunication facility shall submit to the City a copy of the written approval from the owner of an existing utility pole, monopole, or an alternative antenna structure, to mount the wireless telecommunication facility on that specific pole, tower, or structure, prior to issuance of the City permit. This permission can be provide in a form that clearly indicates authorized permission, such as a provided:

    a. Lease or franchise agreement, memorandum of understanding, signed authorization form or other format deemed acceptable to the City Engineer / Planning Director or their designee.

8. Manufacturer's specification sheets for proposed telecommunications facility equipment, including wireless support structures, equipment cabinets, shrouds or concealment devices, antennas, meters, radios, switches, telecommunications demarcation boxes, and grounding equipment.

9. Certification by an Oregon-registered professional engineer that the new or amended telecommunication facility complies with the non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC).

10. A signed statement of the equipment owner's removal responsibilities should the equipment no longer be used and abandoned. The statement shall indicate that after 365 days of continuous non-use that the equipment is subject to removal by the City of Canby or the utility provider.

11. Documentation showing that the applicant has an FCC license for the geographic region and for the service proposed by the collocation if applicable.

12. A secured bond providing for the required tower or pole removal cost and replacement and repair of lease or deployment area to pre-deployment condition.

13. A statement with accompanying diagrams and plans that describes visual shrouding and concealment design techniques for antennas and ancillary equipment.

14. Other information requested in the application form provided by the City Engineer / Planning Director and their designee(s), such as but not limited to, peer review by an independent engineering firm of the proposed telecommunications facility system design. During the review and approval

process, the Director may request additional information including but not limited to, balloon tests, photo simulations, and other measures of visual impact.

16.55.035 Micro Telecommunications Additional Permit Requirements

A. In addition to the General Permit Requirements stated in 16.55.030 above, the applicant shall provide a detailed narrative with accompanying objective information describing how the proposed collocation meets the definition of Small Wireless Facilities established with FCC 18-133, listed below.

1. The micro telecommunications facilities:

a. Are mounted on structures 50 feet or less in height including their antennas as defined in § 1.1320(d)ii; or

b. Are mounted on structures no more than 10 percent taller than other adjacent structures; or

c. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

d. Contain antenna(s) associated with the deployment, excluding associated antenna equipment (as defined in the definition of ‘‘antenna’’ in § 1.1320(d)), which are no more than three (3) cubic feet in volume.

e. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.

f. Do not require antenna structure registration.

g. Do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in § 1.1307(b).

16.55.40 Macro Telecommunications Additional Permit Requirements

A. In addition to the General Permit Requirements stated in 16.55.030 above, the applicant shall provide the following applicable information:

1. A copy of the lease agreement (or lease memo) with the property owner, facility removal within 90 days of the abandonment and a bond to guarantee removal shall be submitted for review prior to development permit approval.

2. A map of the city showing the approximate geographic limits of the cell coverage area to be generated by the facility. This map shall include the same information for all other facilities owned or operated by the applicant within the city, or extending within the city from a distant location, and any existing detached telecommunications facilities of another provider within 1,000 feet of the proposed site.

3. Anticipated capacity of the telecommunications facility (including number and types of antennas which can be accommodated).

4. The method(s) of stealth design (where applicable).

5. The radio frequency range in megahertz and the wattage output of the equipment.

6. A description of the type of service offered (voice, data, video, etc.) and the consumer receiving equipment.

7. Identification of the provider and backhaul provider, if different.

8. A facilities maintenance regimen.

9. The zoning and comprehensive plan designation of the proposed site.

10. The FAA determination for the proposed tower.

11. The distance from the nearest telecommunications facility.

12. Major Permit Applications Additional Requirements:

    a. Items in section (E) above.

    b. Alternatives for locating/relocating support structures within 250 feet of the proposed site.

    c. Photo simulations of the proposed telecommunications facility from the four cardinal compass points and/or abutting right-of-way, whichever provides the most accurate representation of the proposed facility from a variety of vantage points.

    d. An engineer's statement demonstrating the reasons why the telecommunications facility must be located at the proposed site (service demands, topography, dropped coverage, etc.).

e. An engineer's statement demonstrating the reasons why the telecommunications facility must be constructed at the proposed height.

f. Verification of good faith efforts made to locate or design the proposed telecommunications facility to qualify for a less rigorous approval process (building permit and/or building permit and site and design review approval).

16.55.045 Micro Telecommunications Facility Siting and Design Standards

A. The purpose of this section is provide review procedures and acceptable time, place, and manner constraints on the installation, placement and deployment of micro cell wireless telecommunications facilities within the public-rights-of-way in the City of Canby.

B. General Requirements.

1. Antenna(s).

a. Antenna(s) shall be the smallest possible to achieve the coverage objective.

b. All antennae shall be shrouded or sun shielded when technically feasible. All shrouds and equipment shall be painted to match the existing pole or new pole as applicable. Paint shall be maintained regularly and shrouds replaced or repainted if necessary to maintain visual concealment.

c. The total volume of multiple antennas on one structure shall not exceed fifteen (15) cubic feet, unless additional antenna volume is requested and approved pursuant to Section I.

d. Antennas and antenna equipment shall not be illuminated, except as required by municipal, federal or state authority, provided this shall not preclude deployment on a new or replacement street light.

2. Replacement and/or New poles.

a. Replacement poles and all antenna equipment shall comply with the Americans with Disabilities Act (ADA), city construction and sidewalk clearance standards and city, state and federal laws and regulations in order to provide a clear and safe passage within, through and across the right-of-way. Further, the location of any replacement pole, new pole,

and/or antenna equipment must comply with applicable traffic requirements, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect public health, safety or welfare.

b. Replacement or relocation of telecommunications infrastructure that is triggered by other development such as public or private infrastructure improvements shall be conducted at cost to the telecommunications provider.

c. Replacement or relocation of telecommunications infrastructure that is triggered by other development such as required public or private infrastructure improvements shall be conducted within 30 days from the start of the improvements.

d. Replacement poles shall be located as near as feasible to the existing pole. The abandoned pole must be removed within 90 days. The prior pole location must be returned to the same condition at grade prior to its installation.

e. Replacement pole(s) shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

3. Ancillary equipment such as cooling equipment, cabinets, shelters, switches, wiring, cabling, power sources, or similar equipment shall be required to be placed underground wherever feasible. If not technically feasible, this equipment shall be concealed, shrouded, blended or otherwise have its visual impact reduced to the greatest extent feasible.

4. Ground-mounted equipment in the right-of-way is strongly discouraged. The applicant must demonstrate that pole-mounted equipment is not technically feasible, or the electric utility requires placement of equipment on the ground (such as an electric meter). If ground mounted equipment is necessary, then the applicant shall conceal the equipment from the public in a cabinet, in street furniture or with landscaping.

5. No advertising, branding or other signage is allowed unless approved by the City Engineer or the City Engineer's designee(s) as a concealment technique or as follows:

a. Safety signage as required by applicable laws, regulations, and standards.

b. Identifying information and 24-hour emergency telephone number (such as the telephone number for the operator's network operations center) on wireless equipment in an area that is visible.

6. Small wireless facilities may not displace any existing street tree or landscape features unless:

a. Such displaced street tree or landscaping is replaced with native and/or drought-resistant trees, plants or other landscape features approved by the City.

i. The replaced trees and/or landscaping shall be maintained for a minimum of 2 years from initial planting. Any trees that do not survive shall be replanted subject to the same 2 year survivor standards.

b. The applicant submits and adheres to a landscape maintenance plan or agrees to pay an appropriate in-lieu fee for the maintenance costs.

7. In residential areas with an average 24-hour noise level (Ldn) at or below 70 decibels (dB), noise generated by telecommunications equipment shall not cause the Ldn exceed 60dB or to increase by 5.0 dB or more, even if the resulting Ldn would remain below 70 dB. In residential areas with an Ldn above 70 dB, noise generated by telecommunications equipment shall not cause the average to increase by 3.0 decibels (dB) or more.

C. General Restrictions. Small wireless facilities are not permitted on the following:

1. Decorative street lighting.

2. Street furniture, artwork or monuments.

3. Flag poles.

4. Structures with historic significance to the City of Canby; including all national, state or other registered structures.

D. Microcell Facilities Attached to Wooden Poles, Non-Wooden Poles and Structures with Overhead Lines. Small wireless facilities located on wooden utility poles, non-wooden

utility poles and structures with overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section I:

1. Proposed antenna and related equipment shall meet:

    a. The City's design standards for small wireless facilities.

    b. The pole owner requirements.

    c. National Electric Safety Code (NESC) and National Electric Code (NEC) standards.

2. The pole at the proposed location may be replaced with a taller pole or extended for the purpose of accommodating a small wireless facility; provided that the replacement or extended pole, together with any small wireless facility, does not exceed 50 feet in height or 10 percent taller than adjacent poles, whichever is greater. The replacement or extended pole height may be increased if required by the pole owner, and such height increase is the minimum necessary to provide sufficient separation and/or clearance from electrical and wireline facilities. Such replacement poles may either match the approximate color and materials of the replaced pole or shall be the standard new pole used by the pole owner in the city.

3. Ancillary equipment such as cooling equipment, cabinets, shelters, switches, wiring, cabling, power sources, or similar equipment shall be required to be placed underground wherever feasible. If not technically feasible, this equipment shall be concealed, shrouded, blended or otherwise have its visual impact reduced to the greatest extent feasible.

4. To the extent technically feasible, antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall match the approximate material and design of the surface of the pole or existing equipment on which they are attached, or adjacent poles located within the contiguous right-of-way. Near matches may be permitted by the City when options are limited by technical feasibility considerations, such as when high-frequency antennas cannot be placed within an opaque shroud but could be wrapped with a tinted film.

5. Antennas which are mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

6. No antenna shall extend horizontally more than 20 inches past the outermost mounting point (where the mounting hardware connects to the antenna), unless additional antenna space is requested and approved pursuant to Section I.

7. Antenna equipment, including but not limited to radios, cables, associated shrouding, disconnect boxes, meters, microwaves and conduit, which is mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

8. Antenna equipment for small wireless facilities must be attached to the pole, unless otherwise required by the pole owner or permitted to be ground-mounted pursuant to subsection (C)(1) above. The equipment must be placed in an enclosure reasonably related in size to the intended purpose of the facility.

9. All cables and wiring shall be covered by conduits and cabinets to the extent that it is technically feasible, if allowed by pole owner. The number of conduits shall be minimized to the extent technically feasible.

E. Microcell Wireless Facilities Attached to Non-Wooden Light Poles, Non-Wooden Utility Poles and Structures without Overhead Utility Lines. Small wireless facilities attached to existing or replacement non-wooden light poles, non-wooden utility poles and structures without overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section I.

1. External Equipment. The antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible and must be reasonably related in size to the intended purpose of the facility and reasonable expansion for future frequencies and/or technologies, not to exceed the volumetric requirements described in Section B. If the equipment enclosure(s) is mounted on the exterior of the pole, the applicant is encouraged to place the equipment enclosure(s) behind any decorations, banners or signs that may be on the pole. Conduit and fiber must be fully concealed within the pole.

2. Ancillary equipment such as cooling equipment, cabinets, shelters, switches, wiring, cabling, power sources, or similar equipment shall be required to be placed underground wherever feasible. If not technically feasible, this equipment shall be concealed, shrouded, blended or otherwise have its visual impact reduced to the greatest extent feasible.
3. Concealed Equipment. All equipment (excluding disconnect switches), conduit and fiber must be fully concealed within the pole. The antennas must be

camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible.

4. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

5. The height of any replacement pole may not extend more than 10 feet above the height of the existing pole, unless such further height increase is required in writing by the pole owner.

F. New Poles. Small wireless facilities may be attached to new poles that are not replacement poles under sections D or E, installed by the wireless provider, subject to the following criteria:

1. Antennas, antenna equipment and associated equipment enclosures (excluding disconnect switches), conduit and fiber shall be fully concealed within the structure. If such concealment is not technically feasible, or is incompatible with the pole design, then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the structure or mounted as close to the pole as feasible, and must be reasonably related in size to the intended purpose of the facility, not to exceed the volumetric requirements in Section (B)(6) above.

2. Ancillary equipment such as cooling equipment, cabinets, shelters, switches, wiring, cabling, power sources, or similar equipment shall be required to be placed underground wherever feasible. If not technically feasible, this equipment shall be concealed, shrouded, blended or otherwise have its visual impact reduced to the greatest extent feasible.

3. To the extent technically feasible, all new poles and pole-mounted antennas and equipment shall substantially conform to the material and design of adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

4. New poles shall be no more than forty (40) feet in height unless additional height is requested and approved pursuant to Section I.

5. The city requires whenever feasible that wireless providers install small wireless facilities on existing or replacement poles instead of installing new poles, unless the wireless provider can document that installation on an existing or replacement pole is not technically feasible or otherwise not possible (due to a

lack of owner authorization, safety considerations, or other reasons acceptable to the City Engineer or Planning Director or the designee).

G. Undergrounding Requirements. Ancillary equipment shall be deployed underground whenever feasible.

1. Microcell wireless ancillary equipment deployed within the rights-of-way shall be located in underground vaults whenever technically feasible.

2. Antennas and other equipment that cannot be sited underground shall comply with all other applicable standards of this chapter.

H. Strand Mounted Equipment. Strand mounted small wireless facilities are permitted, subject to the following criteria:

1. Each strand mounted antenna shall not exceed 3 cubic feet in volume, unless a deviation is requested and approved pursuant to Section I.

2. Only 2 strand mounted antennas are permitted between any two existing poles.

3. Strand mounted devices shall be placed as close as possible to the nearest pole and in no event more than five feet from the pole unless a greater distance is required by the pole owner.

4. No strand mounted device will be located in or above the portion of the roadway open to vehicular traffic.

5. Strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than original strand) to meet the technological needs of the facility.

I. Deviation from Design Standards.

1. An applicant may obtain a deviation from these design standards if compliance with the standard:

a. Is not technically feasible.

b. Impedes the effective operation of the small wireless facility.

c. Significantly impairs a desired network performance objective.

d. Conflicts with pole owner requirements.

e. Materially inhibits or limits the provision of wireless service.

2. When requests for deviation are sought under subsections (I)(1)(a)-(e), the request must be narrowly tailored to minimize deviation from the requirements of these design standards, and the City Engineer / Planning Director or designee must find the applicant's proposed design provides similar aesthetic value when compared to strict compliance with these standards.

3. The City Engineer / Planning Director or designee may also allow for a deviation from these standards when it finds the applicant's proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these standards.

4. The small wireless facility design approved under Section I must meet the conditions of 47 C.F.R. Sec. 1.6002(l).

5. The City Engineer / Planning Director or designee will review and may approve a request for deviation to the minimum extent required to address the applicant's needs or facilitate a superior design.

16.55.50 Macro Telecommunications Facilities Siting and Design Standards

A. The siting and review process for Macro telecommunications facilities is based on the type of facility (lattice, monopole, attached, stealth design or collocation) and its proposed location in a Preferred Site (M-1 or M-2 zoning districts), Acceptable Site (C-2 or C-M zoning districts), or Conditionally Suitable Site (C-R, C-C or C-1 zoning districts).

1. Standards for siting telecommunications facilities shall be as follows:

a. Site plan review permits for macro telecommunications facilities that meet the Minor Permit (Type 1 – Site Plan Review) requirements.

b. Site and Design Review standards and criteria (section 16.49.040) shall apply to all telecommunications facilities described as a (Major Permit Type II/III Site and Design Review)

c. Site and Design Review standards and criteria (section 16.49.040 and Conditional Use Permit standards and criteria (section 16.50.010) shall apply to all telecommunications facilities described as a (Major Permit Type II/III Site and Design Review and Conditional Use Permit)

B. Minor Permit (Type I – Site Plan Review):

1. An attached macro telecommunications facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on any previously approved telecommunications pole, tower or structure, where the height of the attached facility is no more than 10 feet higher than the existing structure.

2. A detached macro telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and less than 150 feet in height, including antennas.

3. A detached, stealth design macro telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 60 feet high.

C. Major Permit (Type II/III – Site and Design Review):

1. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.

2. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and under 100 feet in height, including antennas.

3. A detached telecommunications facility (lattice tower), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and under 150 feet in height, including antennas.

4. A detached, stealth design telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 100 feet high, including antennas.

5. An attached telecommunications facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site or Acceptable Site, where the height of the attached telecommunications facility is more than 10 feet higher than the existing structure.

6. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.

7. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and under 100 feet in height, including antennas.

8. A detached telecommunications facility (lattice tower), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and under 150 feet in height, including antennas.

9. A detached, stealth design telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 100 feet high, including antennas.

D. Major Permit (Type II/III – Site and Design Review and Conditional Use Permit)

1. A detached telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 100 feet in height, including antennas.

2. A detached telecommunications facility (lattice tower), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.

3. A detached, stealth design telecommunications facility (monopole), including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, including, unless it is demonstrated that locating the proposed facility within the required setback area will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts, and equal to or over 100 feet high, with a maximum height of 130 feet.

4. An attached telecommunications facility (on an existing structure that is not a telecommunications pole or tower on a Conditionally Suitable Site, including equipment shelters, buildings and cabinets housing telecommunications land line switching/connection equipment, where the height of the attached telecommunications facility is no more than 10 feet higher than the existing structure.

A. All macro telecommunications facilities shall observe minimum lot size, lot coverage, building height and building setback requirements of the underlying zoning district unless specifically exempted or otherwise regulated by this section. Underground facilities may encroach upon required yards or may be placed in appropriate easements.

B. All detached macro telecommunications facilities shall be landscaped at the base of the towers/poles, and completely around the equipment shelters. The landscaping shall conform to the ODOT standards for plant size and spacing.

C. Lighting for all telecommunications facilities shall be as required by the FAA or recommended by ODOT Aeronautics Division. All other lighting must be deflected away from adjoining property.

D. All detached macro telecommunications facilities shall be screened from the public right-of-way and abutting property by a security fence or wall at least 6 feet in height consisting of chain link fencing with vinyl slats, solid wood fencing, concrete masonry unit block, or brick.

E. Attached macro telecommunications facilities shall be painted to match the color of the mechanical screen wall or building to which it is attached.

F. Equipment shelters, buildings and cabinets housing telecommunications ancillary equipment shall be concealed, camouflaged or placed underground.

G. Any telecommunications facility sited on or designed with any of the following attributes shall first receive FCC approval, as specified in FCC Rules 1.1301 - 1.1319, as a condition of city approval prior to construction; Wilderness Area; Wildlife Preserve;

Endangered Species; Historical Site; Indian Religious Site; Flood Plain; Wetlands; High Intensity White lights in residential neighborhoods; Excessive radio frequency radiation exposure.

16.55.055 Exemptions

A. Private amateur radio (HAM) antennas, their support structures, and direct to home satellite receiving antennas are exempt from this section (16.08.120), but shall otherwise comply with the applicable provisions of the underlying zoning district in which they are located to the extent that such provisions comply with Federal Communications Commission policy. (Ord. 981 section 19, 1997)

16.55.100 Severability

A. Invalidity of a section of this ordinance shall not affect the validity and application of the remaining sections or parts of sections of this ordinance or prohibit the regulation of telecommunications facilities within rights-of-way, public and private real property.

BEFORE THE PLANNING COMMISSION
OF THE CITY OF CANBY

A REQUEST FOR SUBDIVISION NORTH SIDE OF NW 3RD, MID-BLOCK BETWEEN N CEDAR STREET AND N DOUGLAS STREET	))))	**FINDINGS, CONCLUSION & FINAL ORDER SUB 20-03 SCHNEIDER SQUARE SUBDIVISION**

NATURE OF THE APPLICATION

The Applicant has sought approval to subdivide a 0.15-acre lot into four legal lots that would accommodate the future construction of two duplexes.

The subject property is an infill site located on the north side of NW 3rd Avenue, mid-block between N Cedar Street and N Douglas Street. The property is designated for High Density Residential (HDR) uses in the City of Canby Comprehensive Plan and has an R-2, High Density Residential Zone, classification. The property is vacant with no structures or vegetation. Adjacent properties feature residential uses on parcels also zoned for R-2 uses.

HEARINGS

The Planning Commission considered application **SUB 20-03** after the duly noticed hearing on November 9, 2020 during which the Planning Commission approved **Schneider Square Subdivision** by a vote of __/__. These Findings are entered to document the approval.

CRITERIA AND STANDARDS

In judging whether or not the aforementioned application shall be approved, the Planning Commission determines whether criteria from the City of Canby Land Development and Planning Ordinance are met, or can be met by observance of conditions. Applicable code criteria and standards were reviewed in the Staff Report dated October 30, 2020 and presented at the November 9, 2020 meeting of the Canby Planning Commission.

FINDINGS AND REASONS

The Staff Report was presented, and written and oral testimony was received at the public hearing. Staff recommended approval of the Subdivision application and applied Conditions of Approval, in order to ensure that the proposed project will meet all required City of Canby Land Development and Planning Ordinance approval criteria.

CONCLUSION

In summary, the Planning Commission adopted the findings contained in the Staff Report, concluding at the public hearing and noted herein, that the application met all applicable approval criteria, and recommending that **Schneider Square Subdivision (City File SUB 20-03)** be approved with the Conditions of Approval, as amended reflected in the written Order below.

ORDER

The Planning Commission concludes that, with the following conditions, the application meets the requirements for Subdivision approval. Therefore, IT IS ORDERED BY THE PLANNING COMMISSION of the City of Canby that **Schneider Square Subdivision (City File SUB 20-03)** is approved, subject to the following conditions:

Conditions of Approval

General Public Improvement Conditions:

1. Prior to the start of any public improvement work, the applicant shall schedule a pre-construction conference with the City and obtain construction plan sign-off from applicable agencies.

   Submittal of construction drawings shall include items required but not included in the subdivision application submittal, including a utility plan, a landscape plan, and a detailed site plan showing sidewalks, curbs, and other proposed modifications to the public ROW.

2. The development shall comply with all applicable City of Canby Public Works Design Standards.

3. Civil engineering drawings for public improvements shall use the North American Vertical Datum of 1988 (NAVD 88) when establishing depths and heights

Fees/Assurances:

4. All public improvements, with the exception of sidewalks, are normally installed prior to the recordation of the final plat. If the applicant wishes to forgo construction of any portion of the public improvements until after the recordation of the final plat, then the applicant shall provide the City with appropriate performance security (subdivision performance bond or cash escrow) in the amount of 110% of the cost of the remaining public improvements to be installed.

5. If the applicant chooses to provide a subdivision performance bond for some or all of the required public improvements, the applicant shall obtain a certificate from the City Engineer that states:

   a. The applicant has complied with the requirements for bonding or otherwise assured completion of required public improvements.

   b. The total cost or estimate of the total cost for the development of the subdivision. This is to be accompanied by a final bid estimate of the subdivider's contractor, if there is a contractor engaged to perform the work, and the certificate of the total cost estimate must be approved by the city engineer.

6. The applicant must guarantee or warranty all public improvement work with a one-year subdivision maintenance bond in accordance with 16.64.070(P), except for sidewalks.

7. The applicant must pay the appropriate City fees authorized public improvement and a Site Plan Development Engineering Plan Review fee as applicable prior to the construction of public or private improvements.

Streets:

8. Improvements to NW 3rd Avenue shall include construction of new curb cuts and driveway approaches, demolition and replacement of the existing sidewalk, removal and replacement of curb where necessary (as determined by the City Engineer or their designee), and accommodation of utilities extensions as needed. Improvements to the existing alley shall also be constructed as needed to accommodate the horizontal transition from alley to new driveways and/or to minimize drainage issues. All public improvements shall be constructed in conformance with Section 2.2 of the City of Canby Public Works Design Standards, dated December 2019.

9. The existing sidewalk on NW 3rd Avenue shall be replaced to match the existing sidewalk width of adjoining properties.

Water/Sewer:

10. An existing sanitary sewer line is located under the alley at the northern boundary of the subject property. Sanitary sewer laterals will be required to extend and serve this development.

11. Any existing domestic or irrigation wells shall be abandoned in conformance with OAR 690-220-0030. A copy of the Oregon Water Rights Department (OWRD) abandonment certification shall be submitted to the City.

12. Any existing onsite sewage disposal system shall be abandoned in conformance with DEQ and Clackamas County Water Environmental Services (WES) regulations. A copy of the septic tank removal certificate shall be submitted to the City.

13. Water services/fire protection infrastructure shall be constructed in conformance with Canby Utility and Canby Fire Department requirements.

Storm Water:

14. All private storm drainage discharge shall be disposed on-site. A storm water drainage plan to address onsite runoff shall be submitted to the City Engineer. The design methodology shall be in conformance with the City of Canby December 2019 Public Works Standards.

15. The developer's engineer shall demonstrate how storm runoff generated from the new impervious surfaces will be disposed. If drywells (UIC) are used as a means to discharge storm runoff, they must meet the following criteria:

    The UIC structure's location shall meet at least one of the two conditions:

    a. The vertical separation distance from the UIC and seasonal high groundwater is more than 2.5 feet, or

    b. The horizontal separation distance between the UIC and any water well is a minimum of 267 feet in accordance with the City of Canby Stormwater Master Plan, Appendix C, Groundwater Protectiveness Demonstration and Risk Prioritization Underground Injection Control (UIC) Devices.

16. The storm drainage report shall be in conformance with the requirements as stated in Chapter 4 of the City of Canby Public Works Design Standards dated December 2019.

Grading/Erosion Control:

17. An erosion control permit shall be obtained from the City of Canby prior to any onsite ground disturbance.

18. The applicant shall submit a grading and erosion control plan for approval by Canby Public Works in conjunction with construction plan approval prior to the installation of public improvements and start of grading for this subdivision.

General Final Plat Conditions:

19. The applicant shall apply for final plat approval at the City and pay any applicable City fees to gain approval of the final subdivision plat. Prior to the recordation of the final plat at Clackamas County, it must be approved by the City and all other applicable agencies. The City will distribute the final plat to applicable agencies for comment prior to signing off on the final plat if deemed necessary.

20. All public improvements or submittal of necessary performance security assurance shall be made prior to the signing and release of the final plat for filing of record.

21. The final plat shall conform to the necessary information requirements of CMC 16.68.030, 16.68.040(B), and 16.68.050. The City Engineer or County Surveyor shall verify that these standards are met prior to the recordation of the subdivision plat.

22. All "as-builts" of City public improvements installed shall be filed with Canby Public Works within sixty days of the completion of improvements.

23. Clackamas County Surveying reviews pending subdivision plat documents for Oregon Statutes and county requirements. A subdivision final plat prepared in substantial conformance with the approved tentative plat must be submitted to the City for approval within one year of approval of the tentative plat or formally request an extension of up to 6-months with a finding of good cause.

24. The applicant shall record the final plat at Clackamas County within 6 months of the date of the signature of the Planning Director.

25. The applicant shall assure that the City is provided with a copy of the final plat in a timely manner after it is recorded at Clackamas County, including any CC&Rs recorded in conjunction with the final plat.

26. The City shall assign addresses for each newly created subdivision lot and distribute that to the developer, and other agencies that have an interest.

Final Plat – Easements:

27. A 12-foot utility and sidewalk easement along the street frontage of NW 3rd Avenue shall be noted on the final plat unless specifically waived by utility service providers. This easement may be combined with other easements and shall be measured from the property boundary. An additional 12-foot easement along the rear alley shall be noted if specifically requested by a utility provider.

28. Public utility easements traversing the subject property related to water, sewer, and electric service shall be noted on the final plat. These shall include easements on the eastern and western outside edges of the property (for sewer service) and along the site's interior pathway (for water and electric service).

29. A Shared Private Sidewalk Access and Maintenance Agreement for the pathway traversing the center of the subject property shall be recorded with the final plat. The recorded plat

shall include a note identifying the location of the area of shared access.

Street Trees:

30. A Street Tree Plan shall be submitted with the final plat, and street tree fees must be paid prior to release of the final plat. The plan will allow the City to establish street trees per the Tree Regulation standards in Chapter 12.32 of the Canby Municipal Code.

31. Street trees shall be selected from the City-approved tree list. The street tree ordinance requires the developer to pay the City $250 per tree for installation and two (2) year maintenance period; the property owners will take over all the responsibilities after that date.

Monumentation/Survey Accuracy Conditions:

32. The County Surveyor shall verify that the survey accuracy and monumentation requirements set forth in Oregon Revised Statutes and CMC 16.64.070(M) are met prior to the recordation of the final plat. Installation of the front lot monumentation (along and within street rights-of-way) and the replacement of any existing monuments destroyed during improvement installation shall be confirmed by the City Engineer or County Surveyor prior to the recordation of the final partition plat.

33. Monuments shall be reestablished and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street centerlines as required by Oregon Revised Statutes Chapter 92. The City Engineer or County Surveyor shall verify compliance with this condition prior to the recordation of the final plat.

Residential Building Permit Conditions:

34. Construction of all required public improvements and recordation of the final subdivision plat must be completed prior to the construction of any homes.

35. The homebuilder shall apply for a City of Canby Site Plan Permit and County Building Permit for the proposed duplexes.

36. The homebuilder shall apply for a City of Canby Erosion Control Permit.

37. All residential construction shall be in accordance with applicable Public Works Design Standards.

38. Onsite storm water management on individual lots shall be designed in compliance with the Canby Public Works Design Standards.

39. Clackamas County Building Codes Division will provide structural, electrical, plumbing, and mechanical plan review and inspection services for home construction per contract with the City. The applicable county building permits are required prior to construction of each home.

40. Minimum residential driveway widths at the inside edge of the sidewalk shall be 12 feet. Driveways shall be ADA-compliant.

41. Sidewalks and planter strips shall be constructed by the homebuilder as shown on the approved tentative plat.

42. All usual system development charges shall be collected for each home within this development.

43. Prior to occupancy of the proposed homes, a code-compliant privacy fence shall be constructed on the property lines facing adjacent residential uses.

44. In order to meet the intent of CMC 16.21.040, homes constructed on the property shall feature the amount of front-façade glazing (windows and doors) conceptually shown in the

building elevations included in the subdivision application materials. Per these same conceptual exhibits, pergolas shall be constructed over the shared central sidewalk to demarcate the pedestrian entrance to the subdivision's homes.

*****END OF CONDITIONS*****

I CERTIFY THAT THIS ORDER approving **SUB 20-03 SCHNEIDER SQUARE SUBDIVISION**, was presented to and **APPROVED** by the Planning Commission of the City of Canby.
DATED this 9th day of November, 2020.

_____
John Savory
Planning Commission Chair

_____
Ryan Potter, AICP
Senior Planner

_____
Laney Fouse Lawrence, Attest
Recording Secretary

ORAL DECISION: November 9, 2020

Name	*Aye*	*No*	*Abstain*	*Absent*
John Savory				
Larry Boatright				
Jennifer Trundy				
Jeff Mills				
Jason Taylor				
Michael Hutchinson				
Vacant				

WRITTEN DECISION: November 9, 2020

Name	*Aye*	*No*	*Abstain*	*Absent*
John Savory				
Larry Boatright				
Jennifer Trundy				
Jeff Mills				
Jason Taylor				
Michael Hutchinson				
Vacant				

BEFORE THE PLANNING COMMISSION
OF THE
CITY OF CANBY

THIS IS A LEGISLATIVE AND QUASI-JUDICIAL AMENDMENT TO ADOPT AN AMENDMENT TO THE 2010 TRANSPORTATION SYSTEM PLAN (TSP) TO REFLECT A CHANGE FROM OTTO RD TO THE S WALNUT ROAD EXTENSION CONNECTING CANBY PIONEER INDUSTRIAL PARK WITH THE STATE HIGHWAY 99E.	)	**FINDINGS, CONCLUSION, & FINAL ORDER** **CPA 20-01/TA 20-01** **CITY OF CANBY**

NATURE OF APPLICATION

This is a legislative and quasi-judicial amendment to adopt an amendment to the 2010 Transportation System Plan (TSP). This amendment was initiated by City Staff to reflect changes in the planned alignment of a new roadway connecting the City's Pioneer Industrial Park with State Highway 99E. Because of environmental and development constraints, the previously adopted alignment that extended Otto Road to the highway now consists of an extension of S Walnut Street.

HEARINGS

The Planning Commission considered Text Amendment CPA 20-01TA 20-02 after the duly noticed public hearing held on November 9, 2020, at which time provisions of this text amendment application were considered.

CRITERIA AND STANDARDS

In judging whether or not to approve amendments to the *City of Canby's 2010 Transportation System Plan (TSP)*, the Planning Commission determines whether criteria from the *Land Development and Planning Ordinance* are met, or can be met by observance of conditions. Applicable criteria and standards were reviewed in the Planning Commission staff report dated October 30, 2020 and presented at the November 9, 2020 public hearing of the Planning Commission.

FINDINGS AND REASONS

The Planning Commission considered application CPA 20-1/TA 20-02 at public hearing held on November 9, 2020 during which time the staff report was presented. Staff recommended that the Planning Commission forward a recommendation of approval to the City Council for the proposed text amendment.

CONCLUSION

The Planning Commission of the City of Canby concludes that based on public testimony, the recommendations and conclusions contained in the staff report and based on the Commission deliberations that the proposal to amend *City of Canby's 2010 Transportation System Plan (TSP)*, is in conformance with the applicable criteria and is suitable for amendment as proposed.

ORDER

THE PLANNING COMMISSION of the City of Canby recommends that the City Council **APPROVE** CPA 20-01/TA 20-03 as indicated with the *Findings* noted herein.

I CERTIFY THAT THIS ORDER approving **TA 20-02 TRANSPORTATION SYSTEM PLAN AMENDMENT**, was presented to and **APPROVED** by the Planning Commission of the City of Canby.
DATED this 9th day of November, 2020.

_____
John Savory
Planning Commission Chair

_____
Ryan Potter, AICP
Senior Planner

_____
Laney Fouse Lawrence, Attest
Recording Secretary

ORAL DECISION: November 9, 2020

Name	***Aye***	***No***	***Abstain***	***Absent***
John Savory				
Larry Boatright				
Jennifer Trundy				
Jeff Mills				
Jason Taylor				
Michael Hutchinson				
Vacant				

WRITTEN DECISION: November 9, 2020

Name	***Aye***	***No***	***Abstain***	***Absent***
John Savory				
Larry Boatright				
Jennifer Trundy				
Jeff Mills				
Jason Taylor				
Michael Hutchinson				
Vacant				

BEFORE THE PLANNING COMMISSION
OF THE
CITY OF CANBY

A LEGISLATIVE AMENDMENT TO AMEND CHAPTER 16.04 DEFINITIONS; CHAPTER 16.08 GENERAL PROVISIONS; CHAPTER 16.22 C-1 DOWNTOWN COMMERCIAL ZONE; CHAPTER 16.24 C-R RESIDENTIAL/COMMERCIAL ZONE; CHAPTER 16.28 C-2 HIGHWAY COMMERCIAL ZONE CHAPTER 16.30 C-M COMMERCIAL/MANUFACTURING ZONE; CHAPTER 16.32 M-1 LIGHT INDUSTRIAL ZONE; 16.34 M-2 HEAVY INDUSTRIAL ZONE; AND TO ADD CHAPTER 16.55 – TELECOMMUNICATIONS FACILITIES TO THE PLANNING ORDINANCE, TITLE 16 OF THE CANBY MUNICIPAL CODE	)	**FINDINGS, CONCLUSION, & FINAL ORDER** **TA 20-01** **CITY OF CANBY**

NATURE OF APPLICATION

This is a legislative amendment to Title 16 of the Canby Municipal Code. The intent of the text amendments is to create a new telecommunications facilities section of the code to adapt and prepare for changes in the telecommunications industry and the dynamic landscape of telecommunications regulations. The proposed changes include amendment and modifications to existing code language and the creation of a new Chapter 16.55 – Telecommunications Facilities as part of Title 16.

HEARINGS

The Planning Commission considered Text Amendment TA 20-01 after the duly noticed public hearing held on November 9, 2020, at which time provisions of this text amendment application were considered. This item has also been presented at a number of work session meetings with the Planning Commission and City Council.

CRITERIA AND STANDARDS

In judging whether or not to approve amendments to the *City of Canby Land Development and Planning Ordinance*, the Planning Commission determines whether criteria from the *Land Development and Planning Ordinance* are met, or can be met by observance of conditions. Applicable criteria and standards were reviewed in the Planning Commission staff report dated and presented at the November 9, 2020 public hearing of the Planning Commission.

FINDINGS AND REASONS

The Planning Commission considered application TA 20-01 at public hearing held on November 9, 2020 during which time the staff report was presented. Staff recommended that the Planning Commission forward a recommendation of approval to the City Council for the proposed text amendment.

CONCLUSION

The Planning Commission of the City of Canby concludes that based on public testimony, the recommendations and conclusions contained in the staff report and based on the Commission deliberations that the proposal to amend Title 16, Chapters: 16.04 Definitions, Chapter 16.08 General Provisions, 16.22 C-1 Downtown Commercial Zone, Chapter 16.24 C-R Residential/Commercial Zone; Chapter 16.28 C-2 Highway Commercial Zone, Chapter 16.30 C-M Commercial/Manufacturing Zone, Chapter 16.32 M-1 Light Industrial

Zone, 16.34 M-2 Heavy Industrial of the Canby Municipal Code is in conformance with the applicable criteria and is suitable for amendment as proposed.

ORDER

THE PLANNING COMMISSION of the City of Canby recommends that the City Council **APPROVE** Text Amendment TA 20-01 as indicated with the *Findings* noted herein.

I CERTIFY THAT THIS ORDER approving **TA 20-02 TELECOMMUNICATIONS FACILITIES**, was presented to and **APPROVED** by the Planning Commission of the City of Canby.
DATED this 9th day of November, 2020.

_____
John Savory
Planning Commission Chair

_____
Ryan Potter, AICP
Senior Planner

_____
Laney Fouse Lawrence, Attest
Recording Secretary

ORAL DECISION: November 9, 2020

Name	*Aye*	*No*	*Abstain*	*Absent*
John Savory				
Larry Boatright				
Jennifer Trundy				
Jeff Mills				
Jason Taylor				
Michael Hutchinson				
Vacant				

WRITTEN DECISION: November 9, 2020

Name	*Aye*	*No*	*Abstain*	*Absent*
John Savory				
Larry Boatright				
Jennifer Trundy				
Jeff Mills				
Jason Taylor				
Michael Hutchinson				
Vacant				