

835 WIRELESS TELECOMMUNICATION FACILITIES

835.01 PURPOSE

- A. This section is intended to bring this ordinance into compliance with the Federal Telecommunications Act of 1996;
- B. Enhance the provision of communication services to county residents, businesses and visitors;
- C. Protect the visual character of the county from the potential adverse effects of wireless communications facilities development;
- D. Encourage collocation of facilities to minimize the number of new facilities; and
- E. Ensure structural safety.

835.02 APPLICABILITY

All wireless telecommunication facilities are subject to the standards of this section, with the following exceptions:

- A. Existing wireless telecommunication facilities. Collocation on existing wireless telecommunication facilities is subject to the provisions of this section;
- B. Amateur (Ham) radio towers, citizen band transmitters and antennas;
- C. Wireless telecommunication facilities located in the Exclusive Farm Use District when the wireless telecommunication tower is less than or equal to 200 feet tall; and
- D. Towers located on lands wholly owned by any branch of the United States government.

835.03 DEFINITIONS

- A. Abandonment: Wireless telecommunication facilities will be considered abandoned when there has not been a carrier licensed or recognized by the Federal Communications Commission operating on the facility for a period of one year (365 consecutive days).
- B. Antenna: A transmitting or receiving device used in telecommunications that radiates or captures electromagnetic waves, including, but not limited to, directional antennas, such as panel and microwave dish antennas, and omni-directional antennas, such as whips.

- C. Collocation: The use of a single support structure by more than one wireless telecommunications provider.
- D. Essential Public Communication Services: Police, fire and other emergency communications networks.
- E. Equipment Shelter: A structure that houses power lines, cable, connectors and other equipment ancillary to the transmission and reception of telecommunications.
- F. Existing Wireless Telecommunication Facility: A wireless telecommunications tower, or other supporting structure, antenna and equipment structures that received land use approval prior to 3/14/02.
- G. Support Structure: A wireless telecommunication tower, building, or other structure that supports an antenna used for wireless telecommunications.
- H. Wireless Telecommunication Facility: An unmanned facility for the transmission of radio frequency (RF) signals, consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices.

Freestanding point-to-point microwave dishes, high power television and FM transmission facilities and AM facilities are not wireless telecommunication facilities.

- I. Wireless Telecommunication Tower: A freestanding support structure, including monopole and lattice tower, designed and constructed primarily to support antennas and transmitting and receiving equipment. Wireless telecommunication towers include:
 - 1. Lattice tower: A tower characterized by an open framework of lateral cross members which stabilize the tower; and
 - 2. Monopole: A single upright pole, engineered to be self-supporting, that does not require guy wires or lateral cross supports.
- J. Wireless Telecommunication Tower Height: The distance from the finished grade at the antenna tower base to the highest point of the tower, including the base pad, mounting structures and panel antennas, but not including lightning rods and whip antennas.

835.04 PRIMARY USES

- A. Collocation of antennas on a previously approved wireless telecommunication facility, provided:

1. Collocation proposals involving an existing wireless telecommunication facility must have an approved and implemented landscaping plan that is in compliance with Subsection 835.08(G);
 2. No increase in the height of the existing wireless telecommunication support structure is proposed;
 3. The proposed collocated antennas are no more than 20 feet higher than the existing support structure;
 4. All aspects of the collocation improvements must be located within the previously approved fenced (lease) area;
 5. The collocation improvements must satisfy the development standards for the underlying zone;
 6. The collocation may not involve the removal of any previously approved landscaping/buffering;
 7. The collocation does not propose the location of antennas on a wireless telecommunication tower within an urban residential zoning district, to include the Future Urbanizable (FU-10) 10 Acre District; and
 8. Collocations in commercial and industrial zones are not subject to Section 1102 (Design Review).
- B. Use of existing utility poles (electric, cable, telephone, etc.), within a public right-of-way, for the placement of wireless telecommunication facilities, provided the following requirements are satisfied:
1. If it is necessary to replace the existing pole with a pole that is suitable for wireless communication, the new pole shall be no taller than the pole that is being replaced; and
 2. Equipment shelters shall be consistent with Section 830, located on the pole and within the public right-of-way.
- C. Essential Public Communication Services. When these facilities are proposed in commercial, industrial, or multifamily zoning districts, they are subject to the Section 1102 (Design Review).

835.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR

- A. The following uses may be approved by the Planning Director pursuant to Subsection 1305.02 when the applicant demonstrates compliance with Subsections 835.08 and 835.09 and Section 1000. Uses authorized under Subsection 835.05(A)(1) are also subject to Subsection 835.07.

1. Wireless telecommunication facilities on lands located within commercial and industrial zoning districts, except the Neighborhood Commercial zone;
2. Collocation of facilities that exceed the limitations identified in Subsection 835.04(A). Collocations in commercial or industrial zones are not subject to Section 1102 (Design Review); and
3. The use of a replacement utility pole (electric, cable, telephone, etc.), within a public right-of-way, for the placement of wireless telecommunication facilities when the height of the replacement pole exceeds the height of the pole being replaced by no more than 20 feet.

835.06 CONDITIONAL USES

- A. The following uses may be approved by the Hearings Officer when the applicant demonstrates compliance with Subsections 835.07, 835.08 and 835.09 and Sections 1000 and 1203:
 1. Wireless telecommunication facilities proposed in the Village Community Service District or on sites with a Comprehensive Plan designation of Residential, Unincorporated Community Residential, Rural, or Forest; and
 2. Wireless telecommunication facilities in the Exclusive Farm Use District that include a tower over 200 feet in height.
- B. The Hearings Officer may require the applicant to provide information about possible alternate locations on the tract. The Hearings Officer may require placement of the tower in an alternate location on the tract if the Hearings Officer finds that the alternate location would result in greater compliance with the criteria in Section 1203 than the proposed site. In order to avoid relocating the proposed facility, the applicant must demonstrate that the necessary service cannot reasonably be provided from the alternate location.

835.07 COLLOCATION

No new tower will be permitted under the provisions of Subsections 835.05(A)(1) or 835.06 unless the applicant demonstrates to the satisfaction of the Planning Director or Hearings Officer, as applicable, that no existing tower or support structure can accommodate the applicant's proposed antenna. All proposals for new wireless telecommunication facilities must be accompanied by a statement from a qualified person, as determined by the Planning Director or Hearings Officer, that the necessary service cannot be provided by collocation for one or more of the following reasons:

- A. No existing towers or support structures, or approved but not yet constructed towers or support structures, are located within the geographic area required to meet the applicant's engineering requirements;

- B. Existing towers or support structures are not of sufficient height to meet the applicant's engineering requirements;
- C. Existing towers or support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;
- D. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing tower or support structure, or the existing antenna would cause interference with the applicant's proposed antenna; or
- E. The applicant demonstrates that there are other limiting factors that render existing towers and support structures unsuitable.

835.08 CONDITIONAL STANDARDS

- A. All wireless telecommunication towers proposed for location within the Portland metropolitan area urban growth boundary shall be of monopole type construction.
- B. All new wireless telecommunication towers shall be designed and built to accommodate collocation or additional loading. For the purposes of this provision, this means that the tower shall be designed specifically to accommodate no less than the following equipment, in addition to the applicant's proposed equipment:
 - 1. Twelve antennas with a float plate wind-loading of not less than four square feet per antenna;
 - 2. A standard mounting structure, standoff arms, platform or other similar structure designed to hold the antennas;
 - 3. Cable ports at the base and antenna levels of the tower; and
 - 4. Sufficient room within or on the tower for 12 runs of 7/8" coaxial cable from the base of the tower to the antennas.
- C. Wireless telecommunication towers shall be painted or coated in a manner that blends with the surrounding area. The finished coloring shall result in a non-reflective surface that makes the tower as visually unobtrusive as possible, unless state or federal regulations require different colors. Colors will be determined through the Design Review process.
- D. Equipment shelters may be painted or coated with a finish that best suits the operational needs of the facility, including the ability to reflect heat and to resist accumulations of dirt. Colors will be determined through the Design Review process. If, through the Design Review process, it is determined that there is a conflict between acceptable colors and the operational needs of the facility, Design Review may require the use of architectural screen panels.

- E. No lighting shall be permitted on a tower, except as required by state or federal regulations. If required, the light shall be shielded or deflected from the ground and other properties, to the extent practicable.
- F. The wireless telecommunication facility shall be located within an area that is enclosed on all sides. The enclosure must be at least six feet tall and sight obscuring.
- G. Landscaping shall be placed outside of the enclosed area and shall consist of the following:
 - 1. A combination of landscaping materials that includes ground cover, shrubs and trees that are reflective of the natural surrounding vegetation in the area, as determined through the Design Review process;
 - 2. Existing landscaping/vegetation may be used to satisfy the above requirements;
 - 3. Through the Design Review process, applications shall be reviewed for consistency with Subsection 1009.08; and
 - 4. In cases where a portion of the wireless telecommunication facility is screened from points off-site by a building that is at least eight feet tall, the landscaping requirements of this subsection will not be required for the screened area.
- H. Applications reviewed under Subsections 835.05(A)(1) and (3) and 835.06 are subject to Section 1102 (Design Review).
- I. Equipment shelters shall be entirely enclosed. Equipment shelter exterior materials shall be those approved through the Design Review process.
- J. Noise generated by the wireless telecommunication facility shall not exceed the levels established by the State of Oregon, Department of Environmental Quality (DEQ). If properties adjacent to the property upon which the wireless telecommunication facility is proposed have a lower DEQ standard than the proposed site, the lower standard shall be applicable.
- K. Maintenance of the lease area is the responsibility of the owner/operator of the wireless telecommunication facility. The owner operator shall prevent the facility from entering into a state of disrepair due to negligence, vandalism, natural hazard, or any other source. This requirement places the responsibility for maintenance on the owner/operator and is, otherwise, consistent with the requirements of Subsection 1102.06.

[Amended by Ord. ZDO-224, 5/31/11]

835.09 DIMENSIONAL STANDARDS.

- A. Lands within the Portland metropolitan area urban growth boundary and lands zoned HR, RR, MRR and RTC:
 - 1. Wireless telecommunication tower maximum height: 100 feet.
 - 2. Minimum tower separation: 1000 feet.
 - 3. Setbacks: Must satisfy setbacks of the zone. Additionally, the wireless telecommunication tower shall be set back a distance not less than its height from all property lines.
- B. Lands with a Comprehensive Plan designation of Unincorporated Community Residential, Rural Commercial, Rural Industrial, or Rural (except lands zoned RR):
 - 1. Wireless telecommunication tower maximum height: 150 feet.
 - 2. Minimum tower separation: 2000 feet.
 - 3. Setbacks: Same as 835.09(A)(3).
- C. Lands with a Comprehensive Plan designation of Forest or Agriculture:
 - 1. Wireless telecommunication tower maximum height: 250 feet.
 - 2. Minimum tower separation: 2640 feet.
 - 3. Setbacks: Same as 835.09(A)(3).

835.10 SUBMITTAL REQUIREMENTS

- A. Uses authorized under Subsection 835.04 (Primary Uses):
 - 1. Building permit application accompanied by information demonstrating compliance with Subsections 835.04(A)(1) through (6) or (B)(1) and (2).
- B. Uses reviewed under Subsection 835.05 (Uses Subject to Review by the Planning Director):
 - 1. Planning Division land use application form;
 - 2. Planning Division supplemental application form;
 - 3. A site plan, drawn to scale, that includes:
 - a. existing and proposed improvements;

- b. adjacent roads;
- c. parking, circulation and access;
- d. areas of existing and proposed vegetation to be added, retained, replaced, or removed; and
- e. setbacks from property lines of all existing and proposed structures. If an adjustment is requested, the plan must identify the distance from the wireless telecommunication tower to dwellings and other structures off-site that are within a distance not less than the height of the tower from the proposed location of the tower.

Plans that have been reduced, but have not had their scale adjusted, will not be accepted as satisfying this submittal requirement;

- 4. A vicinity map showing adjacent properties, land uses, zoning and roadways within 500 feet of the proposed antenna site;
 - 5. Elevations showing antennas, towers, equipment shelters, area enclosure and other improvements related to the facility;
 - 6. Color simulations of the site after construction of the antenna for all new antennas;
 - 7. An accurate graphic (map) inventory of existing wireless telecommunication facilities within one mile of the property under consideration; and
 - 8. An alternatives analysis demonstrating compliance with Subsection 835.07.
- C. Uses subject to review under Subsection 835.06 (Conditional Uses):
- 1. Requirements listed under Subsections 835.10(B)(1) through (8); and
 - 2. Requirements listed in Subsection 1203.04.

835.11 ADJUSTMENTS

- A. Adjustments to the standards of this section may be approved by the Hearings Officer. The Hearings Officer may grant an adjustment under either of the following circumstances:
 - 1. The Hearings Officer may grant an adjustment when a gap in the applicant's service exists and that gap can only be alleviated through the adjustment of one or more of the standards of this section. If an

adjustment is to be approved, the applicant must demonstrate the following:

- a. A gap in coverage or capacity exists in the wireless telecommunication provider's service network that results in network users being regularly unable to connect with the provider's network, or maintain connection;
 - b. The proposed facility will fill the existing service gap. The gap would be filled if the proposed facility would substantially reduce the frequency with which users of the network are unable to connect, or maintain connection, with the provider's network; and
 - c. The gap cannot be filled through collocation on existing facilities, or establishment of facilities that are consistent with the standards of this section on properties other than the proposed site or on the proposed site in a manner which does not require an adjustment under this subsection.
2. The Hearings Officer may grant an adjustment to a standard when the proposed adjustment would utilize existing site characteristics to minimize demonstrated or potential impacts on the use of surrounding properties. For the purposes of this subsection, site characteristics shall include, but need not be limited to, those identified in Subsection 1203.01(B). Applicants for an adjustment under this provision must demonstrate that the adjustment will result in a lower level of impact on surrounding properties than would be generated if the standard were not adjusted. In considering the requested adjustment, the Hearings Officer may consider the following:
- a. Visual impacts;
 - b. Impacts on view;
 - c. Impacts on property values; and
 - d. Other impacts that the Hearings Officer finds can be mitigated by an adjustment so that greater compliance with Subsection 1203.01(D) occurs.
- B. Requests for adjustment under this subsection shall be considered part of the application to establish a wireless telecommunication facility, not a separate application. All applications that propose an adjustment must be reviewed by the Hearings Officer pursuant to Section 1300.

835.12 ABANDONMENT

- A. Determination of abandonment will be made by the Planning Director, who shall have the right to demand documentation from the facility owner regarding the tower or antenna use.
- B. Upon determination of abandonment, the facility owner shall have 60 calendar days to:
 - 1. Reuse the facility or transfer the facility to another owner who will reuse it within 60 calendar days of the determination of abandonment; or
 - 2. Remove the facility.
- C. If the facility is not reused within 60 calendar days of the determination of abandonment, county authorization for the use shall expire. Once authorization for the use has expired, the facility operator shall remove the facility from the property within 90 calendar days. If the facility operator does not remove the facility within 90 calendar days, the county may remove the facility at the expense of the facility operator, or, in the alternative, at the property owner's expense.