

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 958

An Ordinance Amending Multnomah County Code Chapters 11.15, 33, 34, and 35 to Provide Standards for the Appropriate Location, Regulation, and Development of Wireless Communications Facilities and Declaring an Emergency.

(Struckthrough language is deleted; double-underlined language is new.)

The Multnomah County Board of Commissioners Finds:

a. As time passes, conditions and trends change beyond those envisioned, such is the case with the current zoning code, adopted before the current and future level of wireless communications facilities were anticipated. Therefore, due to the rapid and unforeseen evolution of wireless communications systems necessary procedural and substantive safeguards were henceforth not adequately considered, and appropriate siting and development standards do not exist.

b. In consideration of the Sauvie Island Multnomah Channel Rural Area Plan adopted pursuant to the laws of the State of Oregon, realization of deficiencies within the existing regulations and development standards for wireless communications facilities prompted the Multnomah Board of County Commissioners to address concerns raised by citizens and reexamine the current ordinance regulating wireless communications facilities.

c. Section 704 of the Federal Telecommunications Act of 1996 preserved local zoning authority over decisions regarding the placement, construction, and modification of personal wireless service facilities, provided that regulation not discriminate among providers of functionally equivalent services nor prohibit, or have the effect of prohibiting, the provision of wireless communications facilities.

d. This ordinance is based upon the premise that the Federal Government has completely preempted the ability of the County to regulate location or placement of wireless communication facilities based upon health concerns related to radio frequency emissions.

e. County residents benefit from the convenience of wireless communications facilities for home and business use as well as from their use in emergency services communications, as they are currently employed in Multnomah County.

f. Wireless Communications Facilities:

- i. May detract from the rural character, natural beauty and scenic resources of Multnomah County;
- ii. Are capable of disrupting residential and scenic vistas and landscapes sought by those that travel through the County.

g. The Planning Commission held a duly advertised work session and two public hearings to consider the current state and future trend of wireless communications technology within the context of the Telecommunications Act of 1996, thereby providing direction as to the form and substance of subsequent regulations pertaining to wireless communications facilities.

h. The Planning Commission directed staff to conduct a workshop with representatives from the wireless communications industry to obtain technical input pertaining to the siting of wireless communications facilities.

i. Local land use and development regulations effecting a balance between the federal mandate and requirements of Oregon Planning Goals and values, Oregon Revised Statutes and Administrative Regulations and Multnomah County's policies for the development of wireless communication facilities are appropriate to address the rapid changes in technology and the service needs of county residents.

j. The Planning Commission has determined that the location of wireless communications facilities in the County can and should be accomplished to the fullest extent possible in a manner that minimizes visual impacts, and thereby maintains the rural and natural character of the landscape. This may be accomplished by making maximum use of existing topography, natural vegetative screening, colors, textures and other design elements that blend in with the site and setting; encouraging co-location and concealment technology; employing height limitation and setbacks.

k. The first preference for location of wireless communication facilities should be placement upon existing wireless communications towers or other existing structures, where their use should be encouraged by requiring an expedited review and permit process than required for the development of new less-concealed tower sites.

l. The first preference for design of wireless communications facilities where co-location is unavailable and a new tower is unavoidable is for the design to be of a concealed design so that it blends into the surrounding landscape and thereby minimizing visual impact. Use of such technology should be encouraged by requiring an expedited review and permit process. Absent concealment technology, the wireless facility should be screened either topographically, vegetatively, or structurally.

Multnomah County Ordains as follows:

Section 1. MCC subsections 11.15.2010(A) and (B), 33.2625(A) and (B), 34.2625(A) and (B), and 35.2625(A) and (B) are amended as follows:

11.15.2010 Review Uses

(A) Utility facilities necessary for public service, except but not including commercial facilities for the purpose of generating electrical power for public use by sale and or transmission towers over 200 feet in height provided as follows:

(1) Radio and television towers 200 feet and under when found to satisfy the requirements of ORS 215.275 "Utility facilities necessary for public service; criteria; mitigating impact of facility" and MCC 11.15.7035 through 11.15.7040.

(2) Wireless communications facilities 200 feet and under when found to satisfy the requirements of MCC 11.15.7075 through 11.15.7088.

(3) All other utility facilities and transmission towers 200 feet and under in height subject to the following.

(a)(1) The facility satisfies the requirements of ORS 215.275, "Utility facilities necessary for public service; criteria; mitigating impact of facility" A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided; and

(b)(2) The facility satisfies the requirements of MCC 11.15.6100 through 11.15.6148; 11.15.7025(A); 11.15.7805 through 11.15.7870; and 11.15.7942.

~~(B) Radio Towers 200 feet and under when found to satisfy the requirements of MCC 11.15.7035 through 11.15.7040 Deleted 2001, Ord. §~~

33.2625 Review Uses

(A) Utility facilities necessary for public service, except but not including commercial facilities for the purpose of generating electrical power for public use by sale and or transmission towers over 200 feet in height provided as follows:

(1) Radio and television towers 200 feet and under when found to satisfy the requirements of ORS 215.275 "Utility facilities necessary for public service; criteria; mitigating impact of facility" and MCC 33.6100 through 33.6130.

(2) Wireless communications facilities 200 feet and under when found to satisfy the requirements of MCC 33.6175 through 33.6188.

(3) All other utility facilities and transmission towers 200 feet and under in height subject to the following.

(a)(1) The facility satisfies the requirements of ORS 215.275, "Utility facilities necessary for public service; criteria; mitigating impact of facility" A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided; and

(b)(2) The facility satisfies the requirements of MCC 33.4100 through 33.4220; 33.6020(A); 33.7000 through 33.7070; and 33.7450.

~~(B) Radio Towers 200 feet and under when found to satisfy the requirements of MCC 33.6100 through 33.6130. Deleted 2001, Ord. §~~

34.2625 Review Uses

(A) Utility facilities necessary for public service, except but not including commercial facilities for the purpose of generating electrical power for public use by sale and or transmission towers over 200 feet in height provided as follows:

(1) Radio and television towers 200 feet and under when found to satisfy the requirements of ORS 215.275 "Utility facilities necessary for public service; criteria; mitigating impact of facility" and MCC 34.6100 through 34.6300.

(2) Wireless communications facilities 200 feet and under when found to satisfy the requirements of MCC 34.6175 through 34.6188.

(3) All other utility facilities and transmission towers 200 feet and under in height subject to the following.

(a)(1) The facility satisfies the requirements of ORS 215.275, "Utility facilities necessary for public service; criteria; mitigating impact of facility" A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided; and

(b)(2) The facility satisfies the requirements of MCC 34.4100 through 34.4220; 34.6020(A); 34.7000 through 34.7000 through 34.7070; and 34.7450.

~~(B) Radio Towers 200 feet and under when found to satisfy the requirements of MCC 34.6100 through 34.6130. Deleted 2001, Ord. §~~

35.2625 Review Uses

(A) Utility facilities necessary for public service, except but not including commercial facilities for the purpose of generating electrical power for public use by sale and or transmission towers over 200 feet in height provided as follows:

(1) Radio and television towers 200 feet and under when found to satisfy the requirements of ORS 215.275 "Utility facilities necessary for public service; criteria; mitigating impact of facility" and MCC 35.6100 through 35.6130.

(2) Wireless communications facilities 200 feet and under when found to satisfy the requirements of MCC 35.6175 through 35.6188.

(3) All other utility facilities and transmission towers 200 feet and under in height subject to the following.

(a)(4) The facility satisfies the requirements of ORS 215.275, "Utility facilities necessary for public service; criteria; mitigating impact of facility" A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided; and

(b)(2) The facility satisfies the requirements of MCC 35.4100 through 35.4220; 35.6020(A); 35.7000 through 35.7070 and 35.7450.

~~(B) Radio Towers 200 feet and under when found to satisfy the requirements of MCC 35.6100 through 35.6130. Deleted 2001, Ord. _____ § _____.~~

Section 2. MCC subsections 11.15.2012(I), 33.2630(I), 34.2630(I), and 35.2630(I) are amended as follows:

11.15.2012 Conditional Uses

The following uses may be permitted when approved by the Hearings Officer...

* * * * *

(I) Transmission towers over 200 feet in height, except as follows: ~~subject to the requirements of MCC 11.15.7035 through MCC 11.15.7040.~~

(1) Radio and television towers if found to satisfy the requirements of MCC 11.15.7035 through MCC 11.15.7040; and

(2) Wireless communications facilities 200 feet and over are not allowed.

33.2630 Conditional Uses

The following uses may be permitted when approved by the Hearings Officer...

* * * * *

(I) Transmission towers over 200 feet in height, except as follows: ~~subject to the requirements of MCC 33.6100 through MCC 33.6130.~~

(1) Radio and television towers if found to satisfy the requirements of MCC 33.6100 through 33.6130; and

(2) Wireless communications facilities 200 feet and over are not allowed.

34.2630 Conditional Uses

The following uses may be permitted when approved by the Hearings Officer...

* * * * *

(I) Transmission towers over 200 feet in height, except as follows: ~~subject to the requirements of MCC 34.6100 through MCC 34.6100 through 34.6130.~~

(1) Radio and television towers if found to satisfy the requirements of MCC 11.15.7035 through MCC 34.6100 through 34.6300; and

(2) Wireless communications facilities 200 feet and over are not allowed.

35.2630 Conditional Uses

The following uses may be permitted when approved by the Hearings Officer...

* * * * *

(I) Transmission towers over 200 feet in height, except as follows: ~~subject to the requirements of MCC 35.6100 through 35.6130.~~

(1) Radio and television towers if found to satisfy the requirements of MCC 35.6100 through 35.6130; and

(2) Wireless communications facilities 200 feet and over are not allowed.

Section 3. MCC subsections 11.15.2049(C), 33.2025(J), 33.2225(J), 35.2025(J), 35.2225(J), and 33.2425(J) are added as follows:

11.15.2049 Uses Permitted Under Prescribed Conditions

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(C) Wireless communications facilities when found to satisfy the requirements of MCC 11.15.7075 through 11.15.7088.

33.2025 Review Uses

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(J) Wireless communications facilities when found to satisfy the requirements of MCC 33.6175 through 33.6188.

33.2225 Review Uses

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(J) Wireless communications facilities when found to satisfy the requirements of MCC 33.6175 through 33.6188.

35.2025 Review Uses

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(J) Wireless communications facilities when found to satisfy the requirements of MCC 35.6175 through 35.6188.

35.2225 Review Uses

* * * * *

(J) Wireless communications facilities when found to satisfy the requirements of MCC 35.6175 through 35.6188.

33.2425 Review Uses

* * * * *

(J) Wireless communications facilities when found to satisfy the requirements of MCC 33.6175 through 33.6188.

Section 4. MCC subsections 11.15.2050(C)(11), 33.2030(B)(11), 33.2230(D)(11), 35.2030(A)(11), 35.2230(D)(11), and 33.2430(B)(11) are amended as follows:

11.15.2050 Conditional Uses

* * * * *

(C) The following Community Service Uses...

* * * * *

- (11) Radio, ~~microwave~~, and television transmission towers subject to the definitions, restrictions and standards in MCC .7020(15) and .7035 through .7041 and wireless communications facilities when found to satisfy the requirements of MCC 11.15.7075 through .7088.

33.2030 Conditional Uses

* * * * *

(B) The following Community Service Uses...

* * * * *

- (11) Radio, ~~microwave~~, and television transmission towers subject to the definitions, restrictions and standards in CFU-1, CFU-2 and CFU-5: 33.6015(A)(15) and 33.6100 through 33.6130 and wireless communications facilities when found to satisfy the requirements of MCC 33.6175 through 33.6188.

33.2230 Conditional Uses

* * * * *

(D) The following Community Service Uses...

* * * * *

- (11) Radio, ~~microwave~~, and television transmission towers subject to the definitions, restrictions and standards in CFU-1, CFU-2 and CFU-5: 33.6015(A)(15) and 33.6100 through 33.6130 and wireless communications facilities when found to satisfy the requirements of MCC 33.6175 through 33.6188.

35.2030 Conditional Uses

* * * * *

(A) The following Community Service Uses...

* * * * *

- (11) Radio, ~~microwave~~, and television transmission towers subject to the definitions, restrictions and standards in CFU-3 and CFU-4: 35.6015(A)(15) and 35.6100 through 35.6130 and wireless communications facilities when found to satisfy the requirements of MCC 35.6175 through 35.6188.

35.2230 Conditional Uses

(D) The following Community Service Uses...

- (11) Radio, ~~microwave~~, and television transmission towers subject to the definitions, restrictions and standards CFU-3 and CFU-4: 35.6015(A)(15) and 35.6100 through 35.6130, and wireless communications facilities when found to satisfy the requirements of 35.6175 through 35.6188.

33.2430 Conditional Uses

(B) The following Community Service Uses...

- (11) Radio, ~~microwave~~, and television transmission towers subject to the definitions, restrictions and standards CFU-1, CFU-2 and CFU-5: 33.6015(A)(15) and 33.6100 through 33.6130 and wireless communications facilities when found to satisfy the requirements of MCC 33.6175 through 33.6188.

Section 5. MCC Chapter 11.15 is amended to add the following subsections:

11.15.2130(D), 11.15.2170(C), 11.15.2210(D), 11.15.2250(D), 11.15.2388(H), 11.15.2408(H), 11.15.2508(H), 11.15.2528(H), 11.15.2548(H), 11.15.2568(I), 11.15.2588(J), 11.15.2608(K), 11.15.2628(J), 11.15.2748(K), 11.15.2768(K), 11.15.2832(L), 11.15.2842(L), 11.15.2852(L), 11.15.2862(L), 11.15.2872(L), 11.15.2882(L), 11.15.2892(O), and 11.15.2914(L),

that shall read as follows:

Wireless communications facilities when found to satisfy the requirements of MCC 11.15.7075 through 11.15.7088.

Section 6. MCC Section 11.15.7005 (Community Service) is amended as follows:

11.15.7005 Purpose

MCC 11.15.7005 through .7044 11.15.7088 provides for the review and approval of the location and development of special uses which, by reason of their public convenience, necessity, unusual character or effect on the neighborhood, may be appropriate in any district, but not suitable for listing within the other sections of this Chapter.

Section 7. MCC Sections 11.15.7015, 33.6010, 34.6010 and 35.6010 are amended as follows:

11.15.7015 Approval Criteria

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for radio and television transmission towers, which shall meet the approval criteria of MCC 11.15.7035, wireless communications facilities which shall meet the approval criteria of MCC .7075 through .7088; and except for regional sanitary landfills which shall comply with MCC 11.15.7045 through 11.15.7070.

- (A) Is consistent with the character of the area;
- (B) Will not adversely affect natural resources;
- (C) Will not conflict with farm or forest uses in the area;
- (D) Will not require public services other than those existing or programmed for the area;
- (E) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- (F) Will not create hazardous conditions;
- (G) Will satisfy the applicable policies of the Comprehensive Plan; and
- (H) Will satisfy such other applicable approval criteria as are stated in this Section.

33.6010 Approval Criteria

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for radio and television transmission towers, which shall meet the approval criteria of MCC 33.6100 through 33.6125, wireless communications facilities which shall meet the approval criteria of MCC 33.6175 through 33.6188; and except for regional sanitary landfills which shall comply with MCC 33.6200 through 33.6230.

* * * * *

34.6010 Approval Criteria

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for radio and television transmission towers, which shall meet the approval criteria of MCC 34.6100 through 34.6125, wireless communications facilities which shall meet the approval criteria of MCC 34.6175 through 34.6188; and except for regional sanitary landfills which shall comply with MCC 34.6200 through 6230.

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35.6010 Approval Criteria

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for radio and television transmission towers, which shall meet the approval criteria of MCC 35.6100 through 35.6125, wireless communications facilities which shall meet the approval criteria of MCC 35.6175 through 35.6188; and except for regional sanitary landfills which shall comply with MCC 35.6200 through 35.6230.

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Section 8. MCC subsections 11.15.7020(A)(15), (27), & (28); 33.6015(A)(15), (27), & (28); 34.6015(A)(15), (27), & (28); and 35.6015(A)(15), (27), & (28) are amended or added as follows:

11.15.7020 Uses

(A)

* * * * *

- (15) Radio and television transmission towers.
 - (a) VHF and UHF television towers, FM radio towers, two-way radio, common carrier personal wireless communications towers for cellular, personal communications service(PCS), specialized mobile radio (SMR) transmitters, and fixed point microwave towers are permitted in any district.
 - (b) Low-power television towers, satellite ground stations, AM radio towers, and building-mounted towers are permitted in any district except urban residential districts.
 - (c) Ham radio, amateur sole source emitters, Citizen Band transmitters, and structures to support them are permitted in any district as an accessory use and do not require a Community Service use designation if used for non-commercial purposes only. Any such tower shall comply with the regulations of the district in which it is located. Non-amateur sole source emitters shall also comply with the registration requirements of MCC .7035(F)(2).

- (d) Receive-only facilities in conjunction with a permitted use are exempt from the provisions of this section, but shall comply with all other requirements of MCC. 7020(15), .7035, and .7040.

- (27) Wireless communications facilities ~~Accessory uses to the above.~~
(28) Accessory uses to the above.

33.6015 Uses

(A)

- (15) Radio and television transmission towers.
- (a) VHF and UHF television towers, FM radio towers, two-way radio, common carrier personal wireless communications towers for cellular, personal communications service(PCS), specialized mobile radio (SMR) transmitters, and fixed point microwave towers are permitted in any district.
 - (b) Low-power television towers, satellite ground stations, AM radio towers, and building-mounted towers are permitted in any district except urban residential districts.
 - (c) Ham radio, amateur sole source emitters, Citizen Band transmitters, and structures to support them are permitted in any district as an accessory use and do not require a Community Service use designation if used for non-commercial purposes only. Any such tower shall comply with the regulations of the district in which it is located. Non-amateur sole source emitters shall also comply with the registration requirements of MCC 33.6125(B).
 - (d) Receive-only facilities in conjunction with a permitted use are exempt from the provisions of this section, but shall comply with all other requirements of MCC 33.6015(A)(15), 33.6100 through 33.6125, and 33.6135.

- (27) Wireless communications facilities ~~Accessory uses to the above.~~
(28) Accessory uses to the above.

34.6015 Uses

(A)

- (15) Radio and television transmission towers.
- (a) VHF and UHF television towers, FM radio towers, two-way radio, common carrier personal wireless communications towers for cellular, personal communications service(PCS), specialized mobile radio (SMR) transmitters, and fixed point microwave towers are permitted in any district.
 - (b) Low-power television towers, satellite ground stations, AM radio

towers, and building-mounted towers are permitted in any district except urban residential districts.

- (c) Ham radio, amateur sole source emitters, Citizen Band transmitters, and structures to support them are permitted in any district as an accessory use and do not require a Community Service use designation if used for non-commercial purposes only. Any such tower shall comply with the regulations of the district in which it is located. Non-amateur sole source emitters shall also comply with the registration requirements of MCC 34.6125(B).
- (d) Receive-only facilities in conjunction with a permitted use are exempt from the provisions of this section, but shall comply with all other requirements of MCC 34.6015(A)(15), 34.6100 through 34.6125, and 34.6135.

(27) Wireless communications facilities ~~Accessory uses to the above.~~

(28) Accessory uses to the above.

35.6015 Uses

(A)

(15) Radio and television transmission towers.

- (a) VHF and UHF television towers, FM radio towers, two-way radio, common carrier personal wireless communications towers for cellular, personal communications service(PCS), specialized mobile radio (SMR) transmitters, and fixed point microwave towers are permitted in any district.
- (b) Low-power television towers, satellite ground stations, AM radio towers, and building-mounted towers are permitted in any district except urban residential districts.
- (c) Ham radio, amateur sole source emitters, Citizen Band transmitters, and structures to support them are permitted in any district as an accessory use and do not require a Community Service use designation if used for non-commercial purposes only. Any such tower shall comply with the regulations of the district in which it is located. Non-amateur sole source emitters shall also comply with the registration requirements of MCC 35.6125(B).
- (d) Receive-only facilities in conjunction with a permitted use are exempt from the provisions of this section, but shall comply with all other requirements of MCC 35.6015(A)(15), 35.6100 through 35.6125, and 35.6135.

(27) Wireless communications facilities ~~Accessory uses to the above.~~

(28) Accessory uses to the above.

Section 9. MCC Chapters 11.15, 33, 34 and 35 are amended to add the following sections to the respective code chapters.

11.15.7075 Wireless Communications Facilities.

The purpose and intent of 11.15.7075 through 11.15.7088 is to provide a process and uniform comprehensive standards for the development and regulation of wireless communications facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare, and the aesthetic quality of unincorporated Multnomah County as set forth within the State-wide Oregon Planning Goals and policies of the Comprehensive Plan; while at the same time not unduly restricting the development of needed wireless communications facilities and encouraging managed development of the evolving wireless communications network.

It is furthermore intended that, to all extent permitted by law, the County shall apply these regulations to specifically accomplish the following:

- (A) Protect the visual character of the County from the potential adverse effects of wireless communications facilities development;
- (B) Insure against the degradation of the County's scenic corridors and ridgelines and rural communities designated under local, state or federal law;
- (C) Retain local responsibility for and control over the use of public rights-of-way to protect citizens and enhance the quality of their lives by requiring a review of any proposed WCF in a public right-of-way;
- (D) Protect the environmental resources of Multnomah County;
- (E) Insure that a competitive and broad range of personal wireless communications services including but not limited to; cellular, personal communications service(PCS), specialized mobile radio(SMR), are provided to serve residential and business communities;
- (F) Create and preserve wireless communications facilities that may serve as an important and effective part of Multnomah County's emergency response network;
- (G) Simplify and shorten the process for obtaining necessary permits for wireless communications facilities while at the same time protecting legitimate interests of Multnomah County citizens; and
- (H) Reconcile established use requirements in EFU zoned lands with Oregon Revised Statutes.

33.6175 Wireless Communications Facilities.

The purpose and intent of 33.6175 through 33.6188 is to provide a process and uniform comprehensive standards for the development and regulation of wireless communications facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare, and the aesthetic quality of unincorporated Multnomah County as set forth within the State-wide Oregon Planning Goals and policies of the Comprehensive Plan; while at the same time not unduly restricting the development of needed wireless communications facilities and encouraging managed development of the evolving wireless communications network.

It is furthermore intended that, to all extent permitted by law, the County shall apply these regulations to specifically accomplish the following:

- (A) Protect the visual character of the County from the potential adverse effects of wireless communications facilities development;
- (B) Insure against the degradation of the County's scenic corridors and ridgelines and rural communities designated under local, state or federal law;
- (C) Retain local responsibility for and control over the use of public rights-of-way to protect citizens and enhance the quality of their lives by requiring a review of any proposed WCF in a public right-of-way;
- (D) Protect the environmental resources of Multnomah County;
- (E) Insure that a competitive and broad range of personal wireless communications services including but not limited to; cellular, personal communications service(PCS), specialized mobile radio(SMR), are provided to serve residential and business communities;
- (F) Create and preserve wireless communications facilities that may serve as an important and effective part of Multnomah County's emergency response network;
- (G) Simplify and shorten the process for obtaining necessary permits for wireless communications facilities while at the same time protecting legitimate interests of Multnomah County citizens; and
- (H) Reconcile established use requirements in EFU zoned lands with Oregon Revised Statutes.

34.6175 Wireless Communications Facilities.

The purpose and intent of 34.6175 through 34.6188 is to provide a process and uniform comprehensive standards for the development and regulation of wireless communications facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare, and the aesthetic quality of unincorporated Multnomah County as set forth within the State-wide Oregon Planning Goals and policies of the Comprehensive Plan; while at the same time not unduly restricting the development of needed wireless communications facilities and encouraging managed development of the evolving wireless communications network.

It is furthermore intended that, to all extent permitted by law, the County shall apply these regulations to specifically accomplish the following:

- (A) Protect the visual character of the County from the potential adverse effects of wireless communications facilities development;
- (B) Insure against the degradation of the County's scenic corridors and ridgelines and rural communities designated under local, state or federal law;
- (C) Retain local responsibility for and control over the use of public rights-of-way to protect citizens and enhance the quality of their lives by requiring a review of any proposed WCF in a public right-of-way;
- (D) Protect the environmental resources of Multnomah County;
- (E) Insure that a competitive and broad range of personal wireless communications services including but not limited to: cellular, personal communications service(PCS), specialized mobile radio(SMR), are provided to serve residential and business communities;
- (F) Create and preserve wireless communications facilities that may serve as an important and effective part of Multnomah County's emergency response network;
- (G) Simplify and shorten the process for obtaining necessary permits for wireless communications facilities while at the same time protecting legitimate interests of Multnomah County citizens; and
- (H) Reconcile established use requirements in EFU zoned lands with Oregon Revised Statutes.

35.6175 Wireless Communications Facilities.

The purpose and intent of 35.6175 through 35.6188 is to provide a process and uniform comprehensive standards for the development and regulation of wireless communications facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare, and the aesthetic quality of unincorporated Multnomah County as set forth within the State-wide Oregon Planning Goals and policies of the Comprehensive Plan; while at the same time not unduly restricting the development of needed wireless communications facilities and encouraging managed development of the evolving wireless communications network.

It is furthermore intended that, to all extent permitted by law, the County shall apply these regulations to specifically accomplish the following:

- (A) Protect the visual character of the County from the potential adverse effects of wireless communications facilities development;
- (B) Insure against the degradation of the County's scenic corridors and ridgelines and rural communities designated under local, state or federal law;
- (C) Retain local responsibility for and control over the use of public rights-of-way to protect citizens and enhance the quality of their lives by requiring a review of any proposed WCF in a public right-of-way;
- (D) Protect the environmental resources of Multnomah County;
- (E) Insure that a competitive and broad range of personal wireless communications services including but not limited to; cellular, personal communications service(PCS), specialized mobile radio(SMR), are provided to serve residential and business communities;
- (F) Create and preserve wireless communications facilities that may serve as an important and effective part of Multnomah County's emergency response network;
- (G) Simplify and shorten the process for obtaining necessary permits for wireless communications facilities while at the same time protecting legitimate interests of Multnomah County citizens; and
- (H) Reconcile established use requirements in EFU zoned lands with Oregon Revised Statutes.

Section 10. MCC Chapters 11.15, 33, 34 and 35 are amended to add the following sections to the respective code chapters.

11.15.7076 Applicability.

- (A) Siting for a personal wireless communications facility is a use of land, and subject to the County's zoning ordinance and all other applicable ordinances and regulations.
- (B) The requirements of MCC 11.15.7075 through 11.15.7088 shall apply to all new wireless communications facilities (WCFs).

33.6176 Applicability.

- (A) Siting for a personal wireless communications facility is a use of land, and subject to the County's zoning ordinance and all other applicable ordinances and regulations.
- (B) The requirements of MCC 33.6175 through 33.6188 shall apply to all new wireless communications facilities (WCFs).

34.6176 Applicability.

- (A) Siting for a personal wireless communications facility is a use of land, and subject to the County's zoning ordinance and all other applicable ordinances and regulations.
- (B) The requirements of 34.6175 through 34.6188 shall apply to all new wireless communications facilities (WCFs).

35.6176 Applicability.

- (A) Siting for a personal wireless communications facility is a use of land, and subject to the County's zoning ordinance and all other applicable ordinances and regulations.
- (B) The requirements of MCC 35.6175 through 35.6188 shall apply to all new wireless communications facilities (WCFs).

Section 11. MCC Chapters 11.15, 33, 34 and 35 are amended to add the following sections to the respective code chapters.

11.15.7077 Review Procedures Distinguished.

- (A) An application for a WCF that employs *co-location* upon a tower or structure approved under MCC 11.15.7075 through 11.15.7088 (Ord. _____) shall be reviewed under a *Building Permit Review/Type I* process in any zone.
- (B) An application for a WCF that employs *concealment technology* or *co-location* upon a tower or structure not approved under MCC 11.15.7075 through 11.15.7088 (Ord. _____) shall be reviewed under a *Planning Director Review/Type II* process.
- (C) An application for a WCF not employing *co-location* or *concealment technology* shall be reviewed under a *Community Service Review/Type III* and *Design Review* process unless within an Exclusive Farm Use district. New WCFs within an Exclusive Farm Use district shall be processed under a *Planning Director Review* or *Building Permit Review* as appropriate.

REVIEW PROCESS AND HEIGHT LIMITATION

| <u>TOWER/ANTENNA TYPE</u> | <u>REVIEW PROCESS</u> | <u>HEIGHT LIMIT</u> |
|---|----------------------------------|---------------------------------|
| <u>Co-location (tower or structure approved under this ordinance)</u> | <u>Building Permit</u> | <u>N/A</u> |
| <u>Co-location (tower or structure not approved under this ordinance)</u> | <u>Planning Director</u> | <u>N/A</u> |
| <u>Concealment Technology</u> | <u>Planning Director</u> | <u>See: 11.15.7083(B)(2)(a)</u> |
| <u>Screened Tower</u> | <u>Community Service Hearing</u> | <u>See: 11.15.7083(B)(2)(a)</u> |
| <u>All Towers within EFU zone</u> | <u>Planning Director</u> | <u>< 200 feet</u> |

33.6177 Review Procedures Distinguished.

- (A) An application for a WCF that employs *co-location* upon a tower or structure approved under MCC 33.6175 through 33.6188 (Ord. _____) shall be reviewed under a *Building Permit Review/Type I* process in any zone.
- (B) An application for a WCF that employs *concealment technology* or *co-location* upon a tower or structure not approved under MCC 33.6175 through 33.6188 (Ord. _____) shall be reviewed under a *Planning Director Review/Type II* process.

- (C) An application for a WCF not employing *co-location* or *concealment technology* shall be reviewed under a *Community Service Review/Type III* and *Design Review* process unless within an Exclusive Farm Use district. New WCFs within an Exclusive Farm Use district shall be processed under a *Planning Director Review* or *Building Permit Review* as appropriate.

REVIEW PROCESS AND HEIGHT LIMITATION

| <u>TOWER/ANTENNA TYPE</u> | <u>REVIEW PROCESS</u> | <u>HEIGHT LIMIT</u> |
|---|----------------------------------|------------------------------|
| <u>Co-location (tower or structure approved under this ordinance)</u> | <u>Building Permit</u> | <u>N/A</u> |
| <u>Co-location (tower or structure not approved under this ordinance)</u> | <u>Planning Director</u> | <u>N/A</u> |
| <u>Concealment Technology</u> | <u>Planning Director</u> | <u>See: 33.6183(B)(2)(a)</u> |
| <u>Screened Tower</u> | <u>Community Service Hearing</u> | <u>See: 33.6183(B)(2)(a)</u> |
| <u>All Towers within EFU zone</u> | <u>Planning Director</u> | <u>< 200 feet</u> |

34.6177 Review Procedures Distinguished.

- (A) An application for a WCF that employs *co-location* upon a tower or structure approved under 34.6175 through 34.6188 (Ord. _____) shall be reviewed under a *Building Permit Review/Type I* process in any zone.
- (B) An application for a WCF that employs *concealment technology* or *co-location* upon a tower or structure not approved under MCC 34.6175 through 34.6188 (Ord. _____) shall be reviewed under a *Planning Director Review/Type II* process.
- (C) An application for a WCF not employing *co-location* or *concealment technology* shall be reviewed under a *Community Service Review/Type III* and *Design Review* process unless within an Exclusive Farm Use district. New WCFs within an Exclusive Farm Use district shall be processed under a *Planning Director Review* or *Building Permit Review* as appropriate.

REVIEW PROCESS AND HEIGHT LIMITATION

| <u>TOWER/ANTENNA TYPE</u> | <u>REVIEW PROCESS</u> | <u>HEIGHT LIMIT</u> |
|---|------------------------------|----------------------------|
| <u>Co-location (tower or structure approved under this ordinance)</u> | <u>Building Permit</u> | <u>N/A</u> |
| <u>Co-location (tower or structure not approved under this ordinance)</u> | <u>Planning Director</u> | <u>N/A</u> |

| | | |
|-----------------------------------|--|-------------------------------|
| <u>Concealment Technology</u> | <u>Planning Director</u> | <u>See: 34.6183(B)(2)(a).</u> |
| <u>Screened Tower</u> | <u>Community Service</u> <u>Hearing</u> | <u>See: 34.6183(B)(2)(a).</u> |
| <u>All Towers within EFU zone</u> | <u>Planning Director</u> | <u>< 200 feet</u> |

35.6177 Review Procedures Distinguished.

- (A) An application for a WCF that employs *co-location* upon a tower or structure approved under MCC 35.6175 through 35.6188 (Ord. _____) shall be reviewed under a *Building Permit Review/Type I* process in any zone.
- (B) An application for a WCF that employs *concealment technology* or *co-location* upon a tower or structure not approved under MCC 35.6175 through 35.6188 (Ord. _____) shall be reviewed under a *Planning Director Review/Type II* process.
- (C) An application for a WCF not employing *co-location* or *concealment technology* shall be reviewed under a *Community Service Review/Type III* and *Design Review* process unless within an Exclusive Farm Use district. New WCFs within an Exclusive Farm Use district shall be processed under a *Planning Director Review* or *Building Permit Review* as appropriate.

REVIEW PROCESS AND HEIGHT LIMITATION

| <u>TOWER/ANTENNA TYPE</u> | <u>REVIEW PROCESS</u> | <u>HEIGHT LIMIT</u> |
|---|--|-------------------------------|
| <u>Co-location (tower or structure approved under this ordinance)</u> | <u>Building Permit</u> | <u>N/A</u> |
| <u>Co-location (tower or structure not approved under this ordinance)</u> | <u>Planning Director</u> | <u>N/A</u> |
| <u>Concealment Technology</u> | <u>Planning Director</u> | <u>See: 35.6183(B)(2)(a)</u> |
| <u>Screened Tower</u> | <u>Community Service</u> <u>Hearing</u> | <u>See: 35.6183(B)(2)(a)]</u> |
| <u>All Towers within EFU zone</u> | <u>Planning Director</u> | <u>< 200 feet</u> |

Section 12. MCC Chapters 11.15, 33, 34 and 35 are amended to add sections 11.15.7078, 33.6178, 34.6178, and 35.6178 to the respective code chapters that shall read as follows:

Definitions.

As used in this section the following words and their derivations shall have the meanings provided below.

Antenna – The surface from which wireless radio signals are sent from and received by a wireless communications facility.

Carrier – A company that provides wireless services.

Co-applicant – All persons and/or entities joining with an applicant in an application for a development permit, including the owners of the subject property and any tenants proposing to conduct a development or activity subject to a development permit.

Co-location – The use of a single mount and/or site by more than one licensed wireless communications carrier. Also, the use by one or more carriers of an existing structure as a telecommunications antenna mount, such as, but not limited to a water tank, fire station, electrical substation, utility pole, or tower etc.

Commercial mobile radio services – Any of several technologies using radio signals at various frequencies to send and receive voice, data, and video.

Community Service Review (Type III)– Review as a Community Service Use before a Hearings Officer for a new wireless communication facility that is neither co-located nor employs concealment technology.

Concealment technology – The use of technology through which a wireless communications facility is designed to resemble an object which is not a wireless communications facility and which is already present in the natural environment, or designed to resemble or placed within, an existing or proposed structure.

Equipment cabinet - An enclosed structure at the base of the mount within which are housed batteries and electrical equipment necessary for the operation of a WCF. This equipment is connected to the antenna by cable.

FCC – Federal Communications Commission.

FCC guidelines – The Radiofrequency (RF) Performance Standards set forth by the FCC's OET Bulletin 65, *Evaluating Compliance with FCC Guidelines for human Exposure to Radiofrequency Electromagnetic Fields*, as referenced in *A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance* or a subsequent FCC publication delineating required radiofrequency performance standards.

Guyed tower – A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

Lattice tower – A type of mount that is self-supporting with multiple legs and cross bracing of either structural steel or diagonal cables, or a combination thereof.

Licensed carrier – A company authorized by the FCC to build and operate a commercial mobile radio services system.

Location – The subject property where a use or development is located or proposed to be located.

Maintenance - Emergency or routine repairs, reconstruction of previously approved facilities, or replacement of transmitters, antennas, or other components of previously approved facilities which do not create a significant change in visual impact or an increase in radio frequency emissions.

Modification – The changing of any portion of a wireless communication facility from its description in a previously approved permit.

Monopole – The type of mount that is self-supporting with a single shaft, typically of wood, steel or concrete.

Mount – The structure or surface upon which antennas are placed including but not limited to:

1. Roof-mounted. Mounted on the roof of a building.
2. Side-mounted. Mounted on the side of a structure including a tower.
3. Ground mounted. Mounted on the ground.

Planning Director Review (Type II)– Expedited review encouraging the *co-location* of wireless communication facilities onto existing in use tower facilities, existing structures, or the use of concealment technology. Such review is an Administrative decision by the Planning Director.

Radiofrequency engineer – An engineer specializing in electrical or microwave engineering, licensed in Oregon, with a degree in engineering, and experience to perform and certify radiofrequency radiation measurements.

Site – A portion of a subject property.

Siting – The method and form of placement of a use or development on a specific area of a subject property.

Speculation (“Spec”) tower – A tower designed for the purpose of providing location mounts for wireless communications facilities without a binding commitment or option to lease a location upon the tower by a service provider at time of initial application.

Subject Property – For the purpose of MCC 11.15.7075 through 11.15.7088 [33.6175 through 33.6188; 34.6175 through 34.6188; 35.6175 through 35.6188] subject property shall mean one or more contiguous lots or parcels in the same

ownership.

Tower – A mast, pole, or monopole, guyed or free standing lattice tower designed and primarily used to support antennas associated with wireless communication service. A speculation tower may consist of any one of these tower types. As part of the service, the term tower includes but is not limited to microwave towers, common carrier towers, personal communications service (PCS) and cellular telephone towers.

Wireless communications facility (WCF) – An unstaffed facility for the transmission or reception of radiofrequency (RF) signals, usually consisting of an equipment cabinet or other enclosed structure containing electronic equipment, a support structure, antennas, or other transmission and reception devices.

Visually subordinate – The relative visibility of a wireless communication facility, where that facility does not noticeably contrast with the surrounding landscape. Visibly subordinate facilities may be partially visible, but not visually dominate in relation to their surroundings.

Section 13. MCC Chapters 11.15, 33, 34 and 35 are amended to add sections 11.15.7079, 33.6179, 34.6179 and 35.6179 to the respective code chapters that shall read as follows:

Exclusions.

The following uses and activities shall be exempt from these regulations:

(A) Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components of previously approved facilities which do not create a significant change in visual impact or an increase in radiofrequency emissions;

(B) Medical, industrial, and scientific equipment operating at frequencies designated for that purpose by the Federal Communications Commission;

(C) Ham radio, amateur sole source emitters, citizen band transmitters and accessory structures including antennas;

(D) Two-way communication transmitters used on a temporary basis by "911" emergency services. Including fire, police, and emergency aid or ambulance service;

(E) Radio transceivers normally hand-held or installed in moving vehicles, such as automobiles, trucks, watercraft, or aircraft. This includes cellular phones;

(F) Military and civilian radar, operating within the regulated frequency ranges, for

the purpose of defense or aircraft safety;

(G) Machines and equipment that are designed and marketed as consumer products, such as microwave ovens and remote control toys; and

(H) Two-way broadband antenna(s) smaller than one (1) meter in any dimension operating at less than 7 watts effective radiated power (ERP) for use by a dwelling unit occupant for personal use or home occupation.

Section 14. MCC Chapters 11.15, 33, 34 and 35 are amended to add the following sections to the respective code chapters.

11.15.7080 General Requirements.

(A) No WCF shall be constructed or operated within unincorporated Multnomah County until all necessary approvals and permits, whether local, state, or federal have been secured.

(B) No more than one ground mount shall be allowed per subject property.

(C) An application for a WCF shall include both the licensed carrier and the landowner of the subject property.

(D) A permit shall be required for the construction and operation of all WCFs. Review and approval shall be under either a *Community Service Review*, *Planning Director Review*, or a *Building Permit Review*.

(E) Design Review shall be required of all WCF towers regardless of review procedure and may at applicant's option be processed concurrently with the respective review process pursuant to MCC 11.15.7805 through 11.15.7820.

(F) A new permit shall be required for all modifications, not constituting maintenance, to an approved permit for any WCF.

(G) If co-location or concealment technology is not feasible, the applicant shall demonstrate that such locations or concealment technology designs are unworkable for the carrier's coverage plan.

(H) All approvals for a WCF shall become null, void, and non-renewable if the facility is not constructed and placed into service within two years of the date of the *Community Service Review Decision*, *Planning Director Review Decision*, *Building Permit*, or superceding decision.

(I) The applicant, co-applicant, or tenant shall notify the Planning Director of all changes in applicant and/or co-applicants or tenants of a previously permitted

WCF permitted under this section within 90 days of change. Failure to provide appropriate notice shall constitute a violation of the original permit approval and be processed pursuant to 11.15.9052.

(J) All WCFs must comply with all applicable Multnomah County codes and regulations, including, but not limited to the Uniform Building Code, Grading and Erosion Control, Flood Hazard, and Significant Environmental Concern.

(K) No on-premises storage of material or equipment shall be allowed other than that used in the operation and maintenance of the WCF site.

(L) Self-supporting lattice towers not employing concealment technology and speculation towers are not permitted in any zone.

33.6180 General Requirements.

(A) No WCF shall be constructed or operated within unincorporated Multnomah County until all necessary approvals and permits, whether local, state, or federal have been secured.

(B) No more than one ground mount shall be allowed per subject property.

(C) An application for a WCF shall include both the licensed carrier and the landowner of the subject property.

(D) A permit shall be required for the construction and operation of all WCFs. Review and approval shall be under either a *Community Service Review*, *Planning Director Review*, or a *Building Permit Review*.

(E) Design Review shall be required of all WCF towers regardless of review procedure and may at applicant's option be processed concurrently with the respective review process pursuant to MCC 33.7000 through 33.7020.

(F) A new permit shall be required for all modifications, not constituting maintenance, to an approved permit for any WCF.

(G) If co-location or concealment technology is not feasible, the applicant shall demonstrate that such locations or concealment technology designs are unworkable for the carrier's coverage plan.

(H) All approvals for a WCF shall become null, void, and non-renewable if the facility is not constructed and placed into service within two years of the date of the *Community Service Review Decision*, *Planning Director Review Decision*, *Building Permit*, or superceding decision.

- (I) The applicant, co-applicant, or tenant shall notify the Planning Director of all changes in applicant and/or co-applicants or tenants of a previously permitted WCF permitted under this section within 90 days of change. Failure to provide appropriate notice shall constitute a violation of the original permit approval and be processed pursuant to 33.0910.
- (J) All WCFs must comply with all applicable Multnomah County codes and regulations, including, but not limited to the Uniform Building Code, Grading and Erosion Control, Flood Hazard, and Significant Environmental Concern.
- (K) No on-premises storage of material or equipment shall be allowed other than that used in the operation and maintenance of the WCF site.
- (L) Self-supporting lattice towers not employing concealment technology and speculation towers are not permitted in any zone.

34.6180 General Requirements.

- (A) No WCF shall be constructed or operated within unincorporated Multnomah County until all necessary approvals and permits, whether local, state, or federal have been secured.
- (B) No more than one ground mount shall be allowed per subject property.
- (C) An application for a WCF shall include both the licensed carrier and the landowner of the subject property.
- (D) A permit shall be required for the construction and operation of all WCFs. Review and approval shall be under either a *Community Service Review*, *Planning Director Review*, or a *Building Permit Review*.
- (E) Design Review shall be required of all WCF towers regardless of review procedure and may at applicant's option be processed concurrently with the respective review process pursuant to MCC 34.7000 through 34.7020.
- (F) A new permit shall be required for all modifications, not constituting maintenance, to an approved permit for any WCF.
- (G) If co-location or concealment technology is not feasible, the applicant shall demonstrate that such locations or concealment technology designs are unworkable for the carrier's coverage plan.
- (H) All approvals for a WCF shall become null, void, and non-renewable if the facility is not constructed and placed into service within two years of the date of the *Community Service Review Decision*, *Planning Director Review Decision*.

Building Permit, or superceding decision.

- (I) The applicant, co-applicant, or tenant shall notify the Planning Director of all changes in applicant and/or co-applicants or tenants of a previously permitted WCF permitted under this section within 90 days of change. Failure to provide appropriate notice shall constitute a violation of the original permit approval and be processed pursuant to 34.0910.
- (J) All WCFs must comply with all applicable Multnomah County codes and regulations, including, but not limited to the Uniform Building Code, Grading and Erosion Control, Flood Hazard, and Significant Environmental Concern.
- (K) No on-premises storage of material or equipment shall be allowed other than that used in the operation and maintenance of the WCF site.
- (L) Self-supporting lattice towers not employing concealment technology and speculation towers are not permitted in any zone.

35.6180 General Requirements.

- (A) No WCF shall be constructed or operated within unincorporated Multnomah County until all necessary approvals and permits, whether local, state, or federal have been secured.
- (B) No more than one ground mount shall be allowed per subject property.
- (C) An application for a WCF shall include both the licensed carrier and the landowner of the subject property.
- (D) A permit shall be required for the construction and operation of all WCFs. Review and approval shall be under either a *Community Service Review*, *Planning Director Review*, or a *Building Permit Review*.
- (E) Design Review shall be required of all WCF towers regardless of review procedure and may at applicant's option be processed concurrently with the respective review process pursuant to MCC 35.7000 through 35.7020.
- (F) A new permit shall be required for all modifications, not constituting maintenance, to an approved permit for any WCF.
- (G) If co-location or concealment technology is not feasible, the applicant shall demonstrate that such locations or concealment technology designs are unworkable for the carrier's coverage plan.
- (H) All approvals for a WCF shall become null, void, and non-renewable if the facility

is not constructed and placed into service within two years of the date of the Community Service Review Decision, Planning Director Review Decision, Building Permit, or superceding decision.

- (I) The applicant, co-applicant, or tenant shall notify the Planning Director of all changes in applicant and/or co-applicants or tenants of a previously permitted WCF permitted under this section within 90 days of change. Failure to provide appropriate notice shall constitute a violation of the original permit approval and be processed pursuant to 35.0910.
- (J) All WCFs must comply with all applicable Multnomah County codes and regulations, including, but not limited to the Uniform Building Code, Grading and Erosion Control, Flood Hazard, and Significant Environmental Concern.
- (K) No on-premises storage of material or equipment shall be allowed other than that used in the operation and maintenance of the WCF site.
- (L) Self-supporting lattice towers not employing concealment technology and speculation towers are not permitted in any zone.

Section 15. MCC Chapters 11.15, 33, 34 and 35 are amended to add sections 11.15.7081, 33.6181, 34.6181 and 35.6181 to the respective code chapters that shall read as follows:

Registration of Wireless Communications Carriers and Providers.

- (A) Registration Required. All wireless communication carriers and providers that offer or provide any wireless communications services for a fee directly to the public, within unincorporated Multnomah County, shall register each WCF with the County pursuant to this Section on forms to be provided by the Planning Director.

Section 16. MCC Chapters 11.15, 33, 34 and 35 are amended to add sections 11.15.7082, 33.6182, 34.6182 and 35.6182 to the respective code chapters that shall read as follows:

Application Submittal Requirements.

For an application for a Planning Director Review or Building Permit Review to be deemed complete the following information is required:

- (A) Co-location of antennas upon existing towers or structures.
 - (1) An accurate and to-scale site plan showing the location of the tower, or

structure upon which the proposed antenna is to be mounted including guy anchors (if any), antennas, equipment cabinets and other uses accessory to the communication tower or antenna. The site plan shall include a description of the proposed antenna including use of concealment technology if applicable;

(2) A report/analysis from a licensed professional engineer documenting the following for each antenna:

(a) Antenna height above ground, design, dimensions, wind load rating, gain and radiation pattern;

(b) Failure characteristics of the antenna and documentation that the site and setbacks are of adequate size to contain debris; and

(c) Ice hazards and mitigation measures that can be employed.

(3) A statement documenting that placement of the antenna is designed to allow future co-location of additional antennas if technologically possible.

(4) Plans showing the connection to utilities/right-of-way cuts required, ownership of utilities and access easements required.

(5) Documents demonstrating that necessary easements have been obtained.

(6) Documentation that the ancillary facilities will not produce sound levels in excess of those standards specified below in the Approval Criteria for lands not zoned Exclusive Farm Use.

(7) If ancillary facilities will be located on the ground, a landscape plan drawn to scale showing the proposed and existing landscaping, including type, spacing, and size.

(8) A map of the county 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 county, or extending within the county from a distant location, and any existing detached WCF of another provider within 1,000 feet of the proposed site.

(9) Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards set forth by the Federal Communications Commission as outlined in *A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance*, or a subsequent FCC publication delineating required radiofrequency performance standards.

(10) Documentation demonstrating that the FAA has reviewed and approved the proposal, and the Oregon Aeronautics Division has reviewed the proposal.

(B) Construction of a New Tower. For an application for either a *Planning Director Review* or *Community Service Review* to be deemed complete the following information is required:

(1) An accurate and to-scale site plan showing the location of the tower, guy anchors (if any), antennas, equipment cabinet and other uses accessory to the communication tower or antenna. The site plan shall include a description of the proposed tower including use of concealment technology if applicable;

(2) A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed tower, antennas, and ancillary facilities from at least five points within a five mile radius. Such points shall include views from public places including but not limited to parks, rights-of-way, and waterways and chosen by the Planning Director at the pre-application conference to ensure that various potential views are represented.

(3) The distance from the nearest WCF and nearest potential co-location site.

(4) A report/analysis from a licensed professional engineer documenting the following:

(a) The reasons why the WCF must be located at the proposed site (service demands, topography, dropped coverage, etc.)

(b) The reason why the WCF must be constructed at the proposed height;

(c) Verification of good faith efforts made to locate or design the proposed WCF to qualify for an expedited review process. To this end, if an existing structure approved for co-location is within the area recommended by the engineers report, the reason for not co-locating shall be provided;

(d) Tower height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design such as, but not limited to, an explanation for the failure to employ concealment technology if applicable;

(e) Total anticipated capacity of the structure, including number and

types of antennas which can be accommodated:

(f) Evidence of structural integrity of the tower structure as required by the Building Official;

(g) Failure characteristics of the tower; and

(h) Ice hazards and mitigation measures which can be employed.

(5) Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIE) emissions standards set forth by the Federal Communications Commission as outlined in *A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance* or a subsequent FCC publication delineating required radio frequency performance standards.

(6) A signed agreement, stating that the applicant will allow co-location with other users, provided all safety, structural, and technological requirements are met. This agreement shall also state that any future owners or operators will allow co-location on the tower.

(7) A statement documenting a binding commitment to lease or option to lease an antenna mount upon the proposed tower by a service provider.

(8) A landscape plan drawn to scale showing the proposed and existing landscaping, including type, spacing, and size.

(9) Plans showing the connection to utilities/right-of-way cuts required, ownership of utilities and easements required.

(10) Documents demonstrating that any necessary easements have been obtained.

(11) Plans showing how vehicle access will be provided.

(12) Signature of the property owner(s) on the application form or a statement from the property owner(s) granting authorization to proceed with building permit and land use processes.

(13) Documentation that the ancillary facilities will not produce sound levels in excess of those standards specified below in the Approval Criteria for lands not zoned Exclusive Farm Use.

(14) A map of the county 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 county, or extending within the county from a distant location, and any existing detached WCF of another provider within 1,000 feet of the proposed site.

(15) Documentation demonstrating that the FAA has reviewed and approved the proposal, and the Oregon Aeronautics Division has reviewed the proposal.

(16) Full response to the Approval Criteria for lands not zoned Exclusive Farm Use specified below as applicable.

Section 17. MCC Chapters 11.15, 33, 34 and 35 are amended to add sections 11.15.7083, 33.6183, 34.6183 and 35.6183 to the respective code chapters that shall read as follows:

Approval Criteria for lands not zoned Exclusive Farm Use.

To be approved all applications for *Planning Director Review*, *Community Service Review* or *Building Permit Review* of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

(1) The service provider of the WCF and his or her successors and assigns shall agree to:

(a) Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

(b) Negotiate in good faith for shared use of the WCF by third parties; and

(c) Allow shared use of the WCF if an applicant agrees in writing to pay reasonable charges for co-location.

(2) Radiofrequency Standards. The applicant shall comply with all applicable FCC RF emissions standards (FCC Guidelines).

(3) Noise. Noise levels shall not exceed 5 dBA above ambient levels or 55 dBA Sound Pressure Level (SPL), whichever is greater, on adjacent properties. Operation of a back-up generator in the event of power failure or the testing of a back-up generator between 8 AM and 8 PM are exempt from this standard. No testing of back-up power generators shall occur between the hours of 8 PM and 8 AM.

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

(a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;

(b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 through 29.305 when applicable;

(c) The facility shall comply with Flood Hazard regulations of MCC 29.600 through 29.611 when applicable; and

(d) Alteration or disturbance of native vegetation and topography shall be minimized.

(B) Siting Requirements.

(1) Location. WCFs shall be located so as to minimize their visibility and the number of distinct facilities. The ranking of siting preferences is as follows: first, co-location upon an existing tower or existing structure; second, use of concealment technology; and third, a vegetatively, topographically, or structurally screened monopole.

(a) Co-location.

1. All co-located and multiple-user WCFs shall be designed to promote facility and site sharing. To this end wireless communications towers and necessary appurtenances, including but not limited to, parking areas, access roads, utilities and storage facilities shall be shared by site users when in the determination of the Planning Director or Hearings Officer, as appropriate. This will minimize overall visual impact to the community.

2. Existing sites for potential co-location, may include but are not limited to buildings, water towers, existing WCFs, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those sites. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for their WCF.

3. No commercial WCF operating at an effective radiated power (ERP) of more than 7 watts shall be located on any residential structure, including accessory buildings.

(b) Use of concealment technology.

1. When demonstrated that it is not feasible to co-locate the antenna(s) on an existing structure or tower, the WCF shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: concealment technology, use of compatible building materials and colors.

(c) A vegetatively, topographically, or structurally screened monopole.

1. A WCF tower or monopole not employing concealment technology shall not be installed on a site unless it blends with the surrounding existing natural and man-made environment in such a manner so as to be visually subordinate. Existing trees or significant vegetation should be retained to the greatest possible degree in order to help conceal a facility or tower. Vegetation of a similar species and a size acceptable to the approval authority shall be planted immediately following the loss of any vegetation used to conceal a facility or tower. Vegetation used to demonstrate visual subordination shall be under the control of the applicant/co-applicant or tenant.
2. The facility shall make available un-utilized space for co-location of other telecommunication facilities, including space for these entities providing similar competing services.
3. A proposal for a new wireless communication service tower shall not be approved unless the Approving authority finds that the wireless communications equipment for the proposed tower cannot be accommodated on an existing or approved tower or structure due to one or more of the following reasons:
 - A. The wireless communications equipment would exceed the structural capacity of the existing or approved tower or structure, as documented by a qualified and licensed professional engineer, and the existing or approved tower/structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - B. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or structure as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
 - C. Existing or approved towers and structures within the applicant's search radius cannot accommodate the planned equipment at a

height necessary to function reasonably as documented by a qualified and licensed professional engineer.

D. The radiofrequency coverage objective cannot be adequately met.

4. Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional facilities if the tower is over 100 feet in height or for at least one additional facility if the tower is between 60 and 100 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

5. Towers/monopoles shall not be sited in locations where there is no vegetative, structural, or topographic screening available.

6. The County may require independent verification of the analysis at the applicant's expense.

(2) Height. Notwithstanding the maximum structure height requirements of each zoning district, wireless communications facilities shall comply with the following requirements:

(a) Ground mounted facilities. The maximum height of a tower shall be 120 feet, unless:

1. The tower and facility uses concealment technology; or

2. It is demonstrated by an engineer that a greater height is required to provide the necessary service.

(b) Building or other structure mounted WCF shall not project more than ten additional feet above the highest point on the existing building or structure.

(3) Setback/Yard.

(a) No dwelling on the subject property shall be closer to a ground mounted facility than a distance equal to the total height of the WCF measured from finished grade or according to the yard requirements of the underlying zone, which ever is greater.

(b) All ground mounted towers shall be setback from any property line a minimum distance equal to the total height of the tower.

- (c) All equipment shelters shall be set back from property lines according to the required yard of the underlying zone.
 - (d) A WCF setback and yard requirement to a property line may be reduced as much as fifty percent (50%) of the proposed tower height when it is found that the reduction will allow the integration of a WCF into an existing or proposed structure such as a light standard, power line support device, or similar structure or if the approval authority finds that visual subordination may be achieved.
 - (e) A reduction of the setback/yard requirement below fifty percent (50%) under (d) of this section may be authorized subject to the variance approval criteria, variance classification and landing field height limitation of this chapter.
- (4) Storage.
- (a) Wireless communications storage facilities (i.e., vaults, equipment rooms, utilities, and equipment cabinets or enclosures) shall be constructed of non-reflective materials (exterior surfaces only). The placement of equipment in underground vaults is encouraged.
 - (b) Wireless communications storage facilities shall be no taller than one story (fifteen feet) in height and shall be treated to look like a building or facility typically found in the area.
- (5) Color and materials. All buildings, poles, towers, antenna supports, antennas, and other components of each wireless communications site shall initially be colored with "flat" muted tones. The color selected shall be one that in the opinion of the approval authority minimizes visibility of the WCF to the greatest extent feasible.
- (6) Fences.
- (a) A sight obscuring fence shall be installed and maintained around the perimeter of the lease area of a ground mounted facility not employing concealment technology. The sight-obscuring fence shall surround the tower and the equipment shelter.
 - (b) A ground mounted facility located in a public right-of-way may be exempted from fencing requirements.
 - (c) Chain link fences shall be painted or coated with a non-reflective color.
- (7) Security. In the event a fence is required, WCFs shall insure that sufficient anti-climbing measures have been incorporated into the facility, as needed.

to reduce potential for trespass and injury.

(8) Lighting.

(a) A new WCF shall only be illuminated as necessary to comply with FAA or other applicable state and federal requirements.

(b) No other exterior lighting shall be permitted on premises.

(9) Signs. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(10) Access driveways and parking. All access drives and parking areas shall be no longer or wider than necessary and be improved to comply with the requirements of the local Rural Fire District.

(a) Existing driveways shall be used for access whenever possible.

(b) New parking areas shall whenever feasible, be shared with subsequent WCFs and/or other permitted uses.

(c) Any new parking area constructed shall consist of a durable and dustless surface capable of carrying a wheel load of 4,000 pounds and be no larger than three hundred (350) square feet.

(11) Landscape and Screening. All WCFs shall be improved in such a manner so as to maintain and enhance existing native vegetation and suitable landscaping installed to screen the base of the tower and all accessory equipment, where necessary. To this end, all of the following measures shall be implemented for all ground mounted WCFs including accessory structures.

(a) A landscape plan shall be submitted indicating all existing vegetation, landscaping that is to be retained within the leased area on the site, and any additional vegetation that is needed to satisfactorily screen the facility from adjacent land and public view areas. Planted vegetation shall be of the evergreen variety and placed outside of the fence. The landscape plan shall be subject to review and approval of the Design Review process. All trees, larger than four inches (4") in diameter and four and a half feet high (4½') shall be identified in the landscape plan by species type, and whether it is to be retained or removed with project development;

(b) Existing trees and other screening vegetation in the vicinity of the facility and along the access drive and any power/telecommunication line routes involved shall be protected from damage, during the construction period.

Section 18. MCC Chapters 11.15, 33, 34 and 35 are amended to add sections 11.15.7084, 33.6184, 34.6184 and 35.6184 to the respective code chapters as follows:

11.15.7084 Approval Criteria for land zoned Exclusive Farm Use.

A wireless communications facility located within an Exclusive Farm Use district shall demonstrate that the facility:

(A) Is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.

(B) To demonstrate that a utility facility is necessary, an applicant for approval under or ORS 215.283 (1)(d) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(a) Technical and engineering feasibility;

(b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(c) Lack of available urban and non-resource lands;

(d) Availability of existing rights of way;

(e) Public health and safety; and

(f) Other requirements of state or federal agencies.

(C) The following standards shall apply in addition to those of ORS 215.283 (1)(d) et. seq.

(1) Location pursuant to: 11.15.7083(B)(1).

(2) Height. The maximum height of any tower shall be 200 feet from finished grade.

(3) Setback pursuant to: 11.15.7083(B)(3).

(4) Storage pursuant to: 11.15.7083(B)(4).

(5) Color and materials pursuant to: 11.15.7083(B)(5).

(6) Fences pursuant to: 11.15.7083(B)(6).

(7) Security pursuant to: 11.15.7083(B)(7).

(8) Lighting pursuant to: 11.15.7083(B)(8).

(9) Signs pursuant to: 11.15.7083(B)(9).

(10) Access driveways and parking pursuant to: 11.15.7083(B)(10).

(11) Landscaping and screening pursuant to: 11.15.7083(B)(11).

33.6184 Approval Criteria for land zoned Exclusive Farm Use.

A wireless communications facility located within an Exclusive Farm Use district shall demonstrate that the facility:

(A) Is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.

(B) To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.283 (1)(d) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(a) Technical and engineering feasibility;

(b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(c) Lack of available urban and non-resource lands;

(d) Availability of existing rights of way;

(e) Public health and safety; and

(f) Other requirements of state or federal agencies.

(C) The following standards shall apply in addition to those of ORS 215.283 (1)(d) et. seq.

(1) Location pursuant to: 33.6183(B)(1).

(2) Height. The maximum height of any tower shall be 200 feet from finished grade.

(3) Setback pursuant to: 33.6183(B)(3).

(4) Storage pursuant to: 33.6183(B)(4).

(5) Color and materials pursuant to: 33.6183(B)(5).

(6) Fences pursuant to: 33.6183(B)(6).

(7) Security pursuant to: 33.6183(B)(7).

(8) Lighting pursuant to: 33.6183(B)(8).

(9) Signs pursuant to: 33.6183(B)(9).

(10) Access driveways and parking pursuant to: 33.6183(B)(10).

(11) Landscaping and screening pursuant to: 33.6183(B)(11).

34.6184 Approval Criteria for land zoned Exclusive Farm Use.

A wireless communications facility located within an Exclusive Farm Use district shall demonstrate that the facility:

(A) Is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.

(B) To demonstrate that a utility facility is necessary, an applicant for approval under or ORS 215.283 (1)(d) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(a) Technical and engineering feasibility;

(b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(c) Lack of available urban and non-resource lands;

(d) Availability of existing rights of way;

(e) Public health and safety; and

(f) Other requirements of state or federal agencies.

(C) The following standards shall apply in addition to those of ORS 215.283 (1)(d) et. seq.

(1) Location pursuant to: 34.6183(B)(1).

(2) Height. The maximum height of any tower shall be 200 feet from finished grade.

(3) Setback pursuant to: 34.6183(B)(3).

(4) Storage pursuant to: 34.6183(B)(4).

(5) Color and materials pursuant to: 34.6183(B)(5).

(6) Fences pursuant to: 34.6183(B)(6).

- (7) Security pursuant to: 34.6183(B)(7).
- (8) Lighting pursuant to: 34.6183(B)(8).
- (9) Signs pursuant to: 34.6183(B)(9).
- (10) Access driveways and parking pursuant to: 34.6183(B)(10).
- (11) Landscaping and screening pursuant to: 34.6183(B)(11).

35.6184 Approval Criteria for land zoned Exclusive Farm Use.

A wireless communications facility located within an Exclusive Farm Use district shall demonstrate that the facility:

- (A) Is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.
- (B) To demonstrate that a utility facility is necessary, an applicant for approval under or ORS 215.283 (1)(d) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:
 - (a) Technical and engineering feasibility;
 - (b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - (c) Lack of available urban and non-resource lands;
 - (d) Availability of existing rights of way;
 - (e) Public health and safety; and
 - (f) Other requirements of state or federal agencies.
- (C) The following standards shall apply in addition to those of ORS 215.283 (1)(d) et. seq.
 - (1) Location pursuant to: 35.6183(B)(1).
 - (2) Height. The maximum height of any tower shall be 200 feet from finished grade.
 - (3) Setback pursuant to: 35.6183(B)(3).
 - (4) Storage pursuant to: 35.6183(B)(4).
 - (5) Color and materials pursuant to: 35.6183(B)(5).

(6) Fences pursuant to: 35.6183(B)(6).

(7) Security pursuant to: 35.6183(B)(7).

(8) Lighting pursuant to: 35.6183(B)(8).

(9) Signs pursuant to: 35.6183(B)(9).

(10) Access driveways and parking pursuant to: 35.6183(B)(10).

(11) Landscaping and screening pursuant to 35.6183(B)(11).

Section 19. MCC Chapters 11.15, 33, 34 and 35 are amended to add sections 11.15.7085, 33.6185, 34.6185 and 35.6185 to the respective code chapters that shall read as follows:

Maintenance.

(A) The applicant/co-applicant or tenant shall maintain the WCF. Such maintenance shall include, but shall not be limited to painting, maintaining structural integrity, and landscaping.

(B) In the event the applicant/co-applicant or tenant/carrier fails to maintain the facility in accordance with permit conditions regarding visual impacts or public safety, Multnomah County may undertake the maintenance at the expense of the applicant or co-applicant landowner.

Section 20. MCC Chapters 11.15, 33, 34 and 35 are amended to add sections 11.15.7086, 33.6186, 34.6186 and 35.6186 to the respective code chapters that shall read as follows:

Abandonment.

(A) At such time that a carrier plans to abandon or discontinue, or is required to discontinue, the operation of a WCF, such carrier will notify Multnomah County Land Use Planning Division by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations.

(B) In the event that a carrier fails to give such notice, the WCF shall be considered abandoned if the antenna or tower is not operated for a continuous period of twelve months, unless the owner of said tower provides proof of continued maintenance on a quarterly basis.

(C) Upon abandonment or discontinuation of use, the person who constructed the facility, the person who operated the facility, carrier, or the property owner shall physically remove the WCF within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

(1) Removal of the antenna(s), mounts, equipment cabinets, security barriers, and foundations down to three feet below ground surface.

(2) Transportation of the antenna(s), mount, equipment cabinets, and security barriers to an appropriate disposal site.

(3) Restoring the site of the WCF to its pre-construction condition, except any remaining landscaping and grading.

(4) The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition.

(D) If a party as stated in (C) fails to remove a WCF in accordance with this section, Multnomah County shall have the authority to enter the subject property and physically remove the facility. Costs for the removal of the WCF shall be charged to the landowner of record in the event Multnomah County must remove the facility.

(E) If there are two or more carriers/operators of a single tower, then provisions of this section shall not become effective until all carriers/operators cease using the tower.

(F) Failure to remove an abandoned facility as required by this subsection shall constitute a violation and be subject to the penalties prescribed this chapter.

Section 21. MCC Chapters 11.15, 33, 34 and 35 are amended to add sections 1.15.7087, 33.6187, 34.6187 and 35.6187 to the respective code chapters that shall read as follows:

Appeals.

Any person aggrieved by a decision of the Approval Authority made pursuant to this section may appeal that decision as provided in MCC 37.0640.

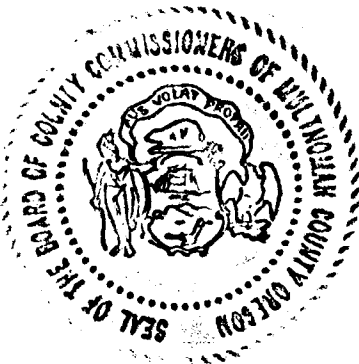
Section 22. MCC Chapters 11.15, 33, 34 and 35 are amended to add sections 11.15.7088, 33.6188, 34.6188 and 35.6188 to the respective code chapters that shall read as follows:

Statutory Severability.

If any subsection, sentence, clause, phrase, or word of this section is for any reason held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section. The Multnomah County Board of Commissioners hereby declares that it would have passed and adopted this section and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional.

Section 23. This ordinance, being necessary to implement new policies and process pending applications with respect to wireless communication facilities and for the health, safety, and general welfare of the people of Multnomah County, an emergency is declared and the ordinance shall take effect on February 15, 2001, pursuant to section 5.50 of the Charter of Multnomah County.

FIRST READING AND ADOPTION: February 15, 2001

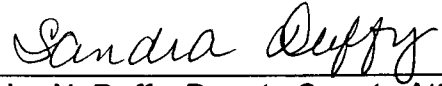


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

REVIEWED:

THOMAS SPONSER, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Sandra N. Duffy, Deputy County Attorney