

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 17-04

IN THE MATTER OF AMENDING CHAPTER 16 OF LANE  
CODE TO REVISE THE APPLICABLE STANDARDS FOR  
TELECOMMUNICATION FACILITIES (LC 16.264)

PASSED

The Board of County Commissioners of Lane County ordains as follows:

Chapter 16 of Lane Code is hereby amended by removing, substituting and adding new sections as follows:

**REMOVE THESE SECTIONS**

16.264  
as located on pages 16-579 through 16-583  
(a total of 5 pages)

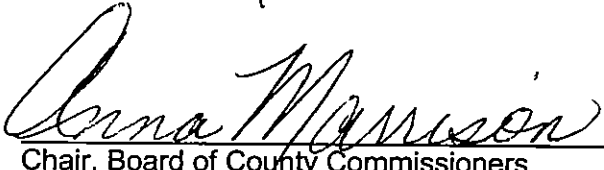
**INSERT THESE SECTIONS**


16.264  
as located on page 16-579 through 16-584  
(a total of 6 pages)

Said sections are attached hereto and incorporated herein by reference. The purpose of these substitutions and additions is to revise the applicable standards for telecommunication facilities. (LC 16.264)

While not part of this Ordinance, findings attached as Exhibit "A" and incorporated herein by this reference are adopted in support of this decision.

ENACTED this 16 day of February <sup>2005</sup>~~2004~~.

  
Chair, Board of County Commissioners

  
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 10-5-2004 Lane County

  
OFFICE OF LEGAL COUNSEL

(9) Remedies Cumulative. It is the intent of this chapter that the remedies provided be cumulative and not mutually exclusive. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 1-93, 4.16.93)*

## ENFORCEMENT RURAL COMPREHENSIVE PLAN

### 16.263 Failure to Comply.

Failure to comply with any of the requirements of this chapter may be subject to an administrative civil penalty as provided by LC 5.017. Failure to comply with a condition of an approved Special Use application or other discretionary permit issued pursuant to the requirements of any of the sections of this chapter may also be subject to an administrative civil penalty. Continued failure to comply with this chapter 10 days from the mailing of the notice of the failure to comply by registered or certified mail to the last known address of the alleged responsible person or after personal service, and continued failure to comply after an order has been entered constitutes a separate failure to comply for each day the occurrence continues. The Manager of the Lane County Land Management Division, Department of Public Works, or said Manager's duly authorized representatives, shall have the authority to issue a notice of failure to comply. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 1-93, 4.16.93)*

## TELECOMMUNICATION TOWER STANDARDS RURAL COMPREHENSIVE PLAN

### 16.264 Telecommunication Tower Standards.

(1) Purpose. The provisions of this section are intended to ensure that telecommunication facilities are located, constructed, maintained and removed in a manner that:

- (a) Recognizes the public need for provision of telecommunication facilities;
- (b) Allows appropriate levels of service to be obtained throughout the County;
- (c) Minimizes the number of transmission towers throughout the County;
- (d) Encourages the collocation of telecommunication facilities; and
- (e) Ensures that all telecommunication facilities, including towers, antennas, and ancillary facilities are located and designed to minimize the visual impact on the immediate surroundings and throughout the county. Nothing in this section shall preclude collocation opportunities nor adversely affect multiple use towers. Nothing in this section shall apply to amateur radio antennae, or facilities used exclusively for the transmission of television and radio signals.

(2) Definitions. As used in LC 16.264, the following words and phrases mean:  
Ancillary facilities. The buildings, cabinets, vaults, closures and equipment required for operation of telecommunication facilities including but not limited to repeaters, equipment housing, and ventilation and other mechanical equipment.

Antennae. An electrical conductor or group of electrical conductors that transmit or receive radio signals, excluding amateur radio antennae.

Attachment. An antenna or other piece of related equipment affixed to a transmission tower.

Changeout. Reconstruction or replacement of existing collocations or transmission towers with similar equipment, in conformance with LC 163.264(3)(h).

**Collocation.** Placement of an antenna or related telecommunication equipment on an existing structure or building where the antennas and all supports are located on the existing structure or building.

**Provider.** A person in the business of designing and/or using telecommunication facilities including cellular radiotelephones, personal communications services, enhanced/specialized mobile radios, and commercial paging services.

**Telecommunication Facility.** A facility designed and/or used for the purpose of transmitting, receiving, and relaying voice and data signals from antennae, related telecommunication equipment, towers and ancillary facilities. For purposes of this section, amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio signals are not "telecommunication facilities."

**Tract.** A unit of land comprised of adjacent parcels and lots under the same ownership.

**Transmission Tower.** The structure, such as a monopole or lattice framework, designed to support transmitting and receiving antennae and related telecommunication equipment. For purposes of this section, amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio signals are not "transmission towers."

(3) **Standards applicable to all telecommunication facilities.**

(a) Telecommunication facilities shall be limited to the height necessary to provide the service, not to exceed 200 feet in height from ground level.

(b) Based on the existing conditions and vegetation at the site, telecommunication facilities shall be designed and constructed to reduce visibility of the facilities. Nothing in this subsection preempts the coloring requirements of the Federal Aviation Administration or the Oregon Department of Aviation.

(i) The transmission tower shall be surfaced in a non-reflective material that minimizes glare and is colored similar to the sky or adjacent background. A light gray shade is appropriate for blending the tower into the sky background.

(ii) The antenna, related telecommunication equipment and ancillary facilities shall be surfaced in non-reflective material to match the transmission tower. If not attached to a transmission tower, they shall be colored similar to the adjacent background.

(c) Consideration shall be given to other sites and equipment that would have less visual impact than those proposed. The applicant shall demonstrate that less intrusive sites and equipment are not available or do not provide the communication coverage necessary to provide the service. Visual impact can be measured by techniques including, but not limited to, balloon tests and photo simulations.

(d) No lighting of telecommunication facilities is allowed, except as required by the Federal Aviation Administration, Oregon Department of Aviation or other federal or state agencies. Required lighting shall be shielded from the ground to the extent it does not violate state or federal requirements.

(e) Equipment areas shall be enclosed by a chain link fence or equivalent.

(f) Warning and safety signs, up to three square feet in area, are allowed. All other signs are prohibited.

(g) Maintenance and repair of a lawfully existing telecommunication facility does not require a land use application approval.

(h) Changeouts. The changeout of an existing transmission tower or collocation does not require a land use application when the following criteria apply:

(i) The new equipment does not increase the tower height or base diameter.

(ii) No new lights are proposed unless required by the Oregon Department of Aviation (ODA) or the Federal Aviation Administration (FAA).

(iii) The new equipment does not increase the number of antennas or external transmitters. Existing antennas and external transmitters may remain for a period not to exceed six (6) months in order to accommodate the transfer of service from the existing antennas or transmitters to the replacement antennas or transmitters.

(iv) The replacement antennas or external transmitters shall not exceed the size (e.g., area or length) of existing antennas or transmitters by more than twenty (20) percent.

(v) The new equipment shall have a similar exterior color as the existing equipment.

(i) Within a forest zone, the following standards shall apply:

(i) A fuel break shall extend 50 feet surrounding ancillary facilities containing propane or gas powered generating equipment. Except for trees, vegetation within the fuel break shall be maintained at less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet above ground) branches. Nonflammable materials (i.e., gravel) shall be placed within 30 feet surrounding ancillary facilities that contain propane or gas powered generating equipment.

(ii) Private roads and driveways that provide access to transmission towers in the forest zones shall comply with the Fire Safety Design Standards of LC 16.211(8)(e)(i) through (vii).

(j) Notice. In lieu of the notice area in LC 14.100(4) and 14.300(3)(d), when the application involves a leased area notice shall be sent to landowners and applicable community organizations recognized by the Lane County Board of Commissioners in LM 3.513, within ½ mile of the leased area. If the property does not contain a leased area, notice shall be sent as required by LC 14.100(4) or 14.300(3)(d), as applicable.

(4) Standards for a new or replacement transmission tower.

(a) Review & notice process. An application for placement of a transmission tower requires submittal of an application in accordance with LC 14.050 and a hearing with the Director in accordance with LC 14.300, excluding LC 14.300(3)(d) for applications involving a leased area. To be approved, the application must comply with LC 16.264(3) and 16.264(4).

(b) Neighborhood meeting. Prior to submittal of a land use application, the applicant shall conduct a neighborhood meeting in the general area of the proposed telecommunication tower.

(i) The applicant shall, at least fourteen (14) days but not more than thirty (30) days in advance of the meeting, mail notice of the meeting in conformance with 16.264(3)(j). In addition, the notice shall be sent to tenants living within the noticed area. The notice shall state the date, time, and location of the meeting and that the topic of the meeting is to discuss the proposed location of a telecommunication facility on the subject property and to hear from area residents about any concerns they might have with the proposal. The notice shall state the Lane County map and tax lot numbers for the subject property and the address for the subject property.

(ii) The applicant shall, at least ten (10) days in advance of the meeting, publish notice of the meeting in a newspaper of general circulation serving the area. The published notice shall contain the information required by LC 16.264(4)(b)(i) for the mailed notice.

(iii) Nothing in this subsection limits the applicant from providing additional opportunity for input from area property owners and residents.

(c) Required submittals. The application shall contain the following information:

(i) A site plan, drawn to scale, showing:  
(A) Structures. All existing and proposed structures on the site. Include any dwellings or schools within 1200 feet of the tower;  
(B) Access. The access road to the site and the public road serving that access road. Submit all necessary easements for access to the site; and  
(C) Taxlots. Identify the taxlot containing the telecommunication facility and all taxlots crossed by the access road.

(ii) A description of the tower design and height. The description shall include:

(A) A site-specific study of the tower site identifying the proposed color and surfacing of the tower and ancillary facilities;  
(B) The engineered design capacity of the tower in terms of the number and type of collocations it is designed to accommodate;  
(C) Documentation in the form of lease agreements for a minimum of two collocations on the proposed telecommunication tower.

(iii) Certification by an Oregon-registered professional engineer that the telecommunication facility, as amended by any proposed collocations, complies with the non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC).

(iv) A signed statement from the property owner indicating awareness of the removal responsibilities of LC 16.264(4)(f)(iv). A lease agreement or similar authorization for the proposed use from the federal government that includes a removal requirement may be substituted for applications involving telecommunication facilities located on federal land.

(v) Signature(s) of the property owner(s) on the application form or a written statement from the property owner(s) granting authorization to proceed with the land use application. A lease agreement or similar authorization for the proposed use from the federal government may be substituted for applications involving telecommunication facilities located on federal land.

(vi) A map of all transmission towers and properties that have obtained approval for a transmission tower, within ten (10) miles of the proposed facility.

(vii) Certification by an Oregon-registered professional engineer that the design of the tower will support at least three users (the primary user and two collocation sites).

(viii) Evidence of the notification and the neighborhood meeting.

(ix) A performance bond payable to Lane County and acceptable to the Director to cover the cost of removal of the telecommunication tower, ancillary facilities, and restoration of the site.

(x) Other information requested in the application form provided by the Director, such as but not limited to, peer review by an independent engineering firm of the proposed telecommunications facility system design.

(d) Performance standards. The transmission tower shall comply with the following:

(i) The tower shall be necessary to provide service to the intended area. The applicant shall provide evidence the existing and approved telecommunication facilities within ten miles would not provide an adequate level of service, based on the following:

(A) Lack of useable and compatible collocation space;

(B) Inability to meet service coverage area and capacity needs; or  
 (C) Technical reasons such as channel proximity and inter-modulation.

(ii) The transmission tower shall be designed to accommodate at least three users (the primary user and two collocation sites).

(iii) The cumulative radio frequency emissions from all the collocations on a single structure shall not exceed the maximum exposure limits of the FCC.

(iv) When access is provided by a private road, all necessary access easements and roadways shall be maintained.

(v) Prior to land use approval of a building permit for a telecommunication tower, the applicant shall:

(A) Provide documentation showing the FAA, the ODA, and any other applicable state agency, have approved the tower, or that the tower does not require approval by these agencies;

(B) When the tower is within 14,000 feet of an airport, provide the FAA registration number for the transmission tower, or documentation showing the tower does not require registration.

(e) Setbacks and separation requirements.

(i) Setbacks. The tower shall comply with the setback of the base zone.

(ii) Separation. The tower shall be 1200 feet from any dwelling or school, except:

(A) An encroachment into the separation distance is allowed if the homeowner(s) who is being encroached upon submits written approval of the encroachment.

(B) This separation shall not apply to any dwellings or schools located on the parcel containing the proposed tower.

(f) Expiration and Renewal of the Special Use Permit.

(i) If a telecommunications tower is not placed into service within 2 years of issuance of a building permit, the special use permit shall expire.

(ii) In lieu of LC 14.700(4), all conditions of approval must be completed by December 31st of the year following the date of final special use permit approval. No time extensions are allowed. The special use permit shall be renewed every two (2) years thereafter.

(iii) To renew the special use permit, an application shall be submitted in accordance with LC 14.050. To be approved, the application shall contain documentation showing:

(A) The telecommunications facility has complied with non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC); and

(B) The tower continues to meet any applicable conditions of approval by Lane County, including provision of an adequate current performance bond for removal of the facility and restoration of the site.

(iv) If a transmission tower authorized under this section is not used as a telecommunication facility for a period of one (1) year, the special use permit shall expire and the tower shall be removed.

(5) Collocation. A new or replacement collocation shall comply with the following:

(a) Review process. Collocation requires submittal of a land use application pursuant to LC 14.050. Director approval is required pursuant to LC 14.100, excluding LC 14.100(4) for applications involving a leased area. To be approved, the application must comply with LC 16.264(3) and 16.264(5).

(b) Required submittals. An application for a collocation shall include the following information:

(i) A site plan, drawn to scale, showing:  
(A) Structures. All existing and proposed structures on the site. Include any dwellings or schools within 1200 feet of the tower;  
(B) Access. The access road to the site and the public road serving that access road. Submit all necessary easements for access to the site; and  
(C) Taxlots. Identify the taxlot containing the telecommunication facility and all taxlots crossed by the access road.

(ii) A description of the tower design and height. The description shall include:

(A) A site-specific study of the tower site identifying the proposed color and surfacing of the tower, collocation, and ancillary facilities;

(B) The engineered design capacity of the tower in terms of the number and type of collocations it is designed to accommodate.

(iii) If the collocation is within 14,000 feet of an airport, provide the FAA registration number for the tower structure, or documentation showing that the tower does not require registration.

(iv) Documentation demonstrating that the Oregon Department of Aviation has reviewed the proposal. When the proposed collocation does not increase the height of the tower, documents from the ODA approving the tower may be substituted.

(v) A signed statement from the property owner indicating awareness of the removal responsibilities of LC 16.264(5)(c)(ii). A lease agreement or similar authorization for the proposed use from the federal government that includes a removal requirement may be substituted for applications involving telecommunication facilities located on federal land.

(vi) Signature(s) of the property owner(s) on the application form or a written statement from the property owner(s) granting authorization to proceed with the land use application. A lease agreement or similar authorization for the proposed use from the Federal government may be substituted for applications involving telecommunication facilities located on federal land.

(vii) Certification by an Oregon-registered professional engineer that the telecommunication facility, as amended by the proposed collocation, complies with the non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC).

(viii) Certification by an Oregon-registered professional engineer that the telecommunication facility will support the proposed collocated equipment.

(ix) Documentation showing that the applicant has an FCC license for the geographic region and for the service proposed by the collocation.

(x) A performance bond payable to Lane County and acceptable to the Director to cover the cost of removal of the collocation, ancillary facilities, and restoration of the site to the way it appeared before collocation approval.

(xi) Other information requested in the application form provided by the Director, such as but not limited to, peer review by an independent engineering firm of the proposed telecommunications facility system design.

(c) Performance standards. Collocations shall comply with the following:

(i) All collocations on the structure shall comply with the non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC).

(ii) Any collocation and ancillary facilities authorized under this subsection shall be removed after one year of non-use and the approval shall expire.

(iii) The provider shall maintain an FCC license for the geographic region and for the service provided by the collocation. *(Revised by Ordinance 4-02, Effective 4.10.02)*

## TRANSPORTATION FACILITIES AND USES RURAL COMPREHENSIVE PLAN

### 16.265 Transportation Facilities and Uses.

(1) Purpose. The purpose of this section is to define roadway and other transportation activities, uses, and projects that may be allowed in any land use zone governed by LC Chapter 16, subject to applicable standards and requirements. It clarifies the status of these activities and the processes necessary to implement the Lane County Transportation System Plan (TSP), a Special Purpose Plan of the Rural Comprehensive Plan.

(2) Definitions. The definitions in LC 15.010 shall apply to transportation facilities and uses specified in LC 16.265(3) below.

(3) Transportation Facilities and Uses. The following transportation facilities and uses may be permitted outright or as special uses only as specified in the applicable land use zone, subject to LC 16.265(4) and other applicable requirements of Lane Code:

- (a) Climbing and passing lanes;
- (b) Reconstruction or modification as defined in LC 15.010, and modernization as defined in LC 15.010 of public roads and highways, including:
  - (i) acquisition of right-of-way, including the removal or displacement of buildings but not including the creation of new parcels.
  - (ii) channelization as defined in LC 15.010.
  - (iii) the placement of utility facilities overhead and in the subsurface of public roads and highways along public right of way.
  - (iv) the addition of travel lanes.
  - (v) continuous median turn lanes.
- (c) Temporary public road and highway detours that will be abandoned and restored to the condition or use in effect prior to construction of the detour at such time as no longer needed.
- (d) Improvement of public roads and related facilities such as maintenance yards, weigh stations and rest areas, to support the operation and maintenance of public roads and highways, including the acquisition of right-of-way but not resulting in the creation of new lots or parcels;
- (e) Operations, maintenance, and repair as defined in LC 15.010 of existing transportation facilities, services, and improvements, including road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals.
- (f) Preservation as defined in LC 15.010, and rehabilitation activities and projects as defined in LC 15.010 for existing transportation facilities, services, and improvements, including road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals.
- (g) Dedication and acquisition of right-of-way, authorization of construction and the construction of facilities and improvements, where the

## FINDINGS OF FACT

**Finding 1. Lane Code 16.252(2):** This subsection of Lane Code requires that the adoption of amendments to land use regulations implementing the Lane County Rural Comprehensive Plan (RCP), and components thereto, be by ordinances. The adoption of Ordinance No. 17-04 would amend the Lane Code 16.264 by ordinance and therefore complies with this code requirement.

**Finding 2. Lane Code 16.252(2).** This section of Lane Code requires Ordinance No. 17-04 to comply with applicable state laws and the Statewide Planning Goals. Based on the findings below, Ordinance No. 17-04 complies with applicable state laws and Statewide Planning Goals.

- a. Statewide Planning Goal 1 ensures citizen participation and Goal 2 requires, "Opportunities shall be provided for review and comment by citizens during the preparation, review and revision of plans and implementation ordinances." Lane County followed its acknowledged citizen involvement program and provided the opportunities identified below for citizens to review and comment on the preparation, review and revision of Ordinance No. 17-04. These opportunities were adequate to comply with Goals 1 and 2.
  - Beginning June 16, 2004, copies of the proposed changes to LC 16.264 were available at the LMD for distribution to citizens.
  - A legal ad was published in the *Register-Guard* on June 16, 2004, providing notice of the Lane County Planning Commission (LCPC) public hearing in Harris Hall of the Lane County Public Service Building on July 6, 2004.
  - On July 6, 2004, LCPC held a public hearing in Harris Hall of the Lane County Public Service Building in Eugene to receive citizen comments on proposed amendments to Lane Code Chapter 16.264. The LCPC also requested additional information regarding the proposed changes to the Lane Code.
  - At the public hearing on July 6, 2004, Mona Linstromberg requested an extension to submit additional comments into the record. The LCPC granted the request and kept the record open until July 13, 2004.
  - On July 6, 2004, the LCPC tabled the item to September 7, 2004.
  - On August 3, 2004, a packet containing the requested information was mailed to the LCPC members.
  - On August 10, 2004, the public comment period on the requested information ended.
  - On September 7, 2004, the LCPC voted 4-1 to recommend approval of the amendment to the Board of County Commissioners.
  - On July 20, 2004, at least 45 days in advance of the Board of County Commissioners' November 3, 2004 public hearing, LMD mailed a 45-day post-acknowledgment amendment notice and two copies of the proposed changes to Lane Code 16.264 to DLCD.

- At least 20 days in advance of the First Reading, a legal ad was published in the *The Register-Guard* (on September 29, 2004) providing notice of the Board of Commissioners' First Reading on October 20, 2004, and the Second Reading and public hearing on November 3, 2004 in the Commissioners' Conference Room of the Lane County Public Service Building.
  - On November 3, 2004, a public hearing was held by the Board of Commissioners in the Commissioners' Conference Room of the Lane County Public Service Building of Eugene, to receive citizen comments on the proposed amendments to Lane Code Chapter 16.264. On that date, the Board voted unanimously to direct staff to work with those testifying to further draft revision to the ordinance to address three concerns identified during the public hearing.
  - On December 6, 2004, the people who gave testimony at the public hearing met with staff to discuss and draft revisions to the ordinance that addressed the three issues identified at the hearing.
  - At least 20 days in advance of the Third Reading and Public Hearing, a legal ad was published in the *The Register-Guard* (on January 12, 2005) providing notice of the Board of Commissioners' Third Reading and public hearing on February 2, 2005 in the Commissioners' Conference Room of the Lane County Public Service Building.
  - On February 2, 2005, a public hearing was held by the Board of Commissioners in the Commissioners' Conference Room of the Lane County Public Service Building in Eugene, to receive citizen comments on the proposed revisions to Ordinance No. 17-04. On that date, the Board requested additional information. The hearing was closed but the record was left open.
  - The Fourth Reading occurred on February 16, 2005, in Commissioners' Conference Room of the Lane County Public Service Building.
- b. Ordinance No. 17-04 acknowledges citizen comments received during citizen information meetings, written testimony submitted into the record, and testimony during the Lane County Planning Commission public hearings on July 6, 2004. Board action also considers the testimony and evidence received in the record and at the public hearings conducted on November 3, 2004, and February 2, 2005. As a result of the public testimony, a new policy was created to allow limited changes to existing telecommunication facilities without a land use application. In addition, the separation requirements were revised to comply with citizen comments. Specifically, the separation is 1,200 feet from towers to schools or dwellings, with an allowance for a reduced separation. These findings establish an adequate basis for a Board action taken to enact Ordinance No. 17-04 and comply with Goal 2.

- c. The changes to the standards made applicable to telecommunication facilities by Ordinance No. 17-04 do not otherwise affect compliance with Statewide Planning Goals 3-19. Many of the standards adopted by Ordinance No. 4-02 remain in the regulations and the findings of Goal compliance adopted in support of those standards remain valid and are incorporated here by this reference.

**Finding 3. Lane Code 16.252(2).** This subsection of Lane Code requires the Board to find the amendment achieves the general purposes of LC Chapter 16, is consistent with applicable RCP elements or components and is not contrary to the public interest. Ordinance No. 17-04 is appropriate and proper as set forth in subsections III(A) and III(B) of the staff report, dated October 6, 2004, prepared for the October 20, 2004 and November 3, 2004 Board meetings, and incorporated here by this reference. By resolving the three issues originally identified by the Board, this amendment will promote public participation on the planning process. The original issues identified by the Board were:

- The need to verify the technical statements made by the applicant,
- The need for an alternate notice requirement on large forestlands, and
- When the proposed facility is located on federal land, there was a need to verify the federal government, as the landowner, will allow the submittal of the land use application.

These issues are resolved by amending the Lane Code to:

- Require a licensed engineer to verify the technical statements of the applicant related to radiation levels of the facility, and
- Allow the applicant to send notice to landowners within ½ mile of the location of the tower instead of sending notice based on the perimeter of the tract, and
- To recognize a signed lease agreement with the applicable agency, such as the Bureau of Land Management or the Forest Service, as the signature of the landowner.

No one has identified any inconsistency with the purposes of LC Chapter 16 or any RCP elements and components. For those reasons and the reasons stated above, the amendments are not contrary to the public interest and should be adopted.

**Finding 4.** The Board finds that, in accordance with Measure 37, a landowner can submit a claim for compensation when a new land use regulation lowers the land value. The government has the option of paying the claim or waiving the regulation. The Board finds Ordinance No. 17-04 amends the land use regulations pertaining to telecommunication facilities. Because Ordinance No. 17-04 does not implement a state statute or administrative rule, a claim against this ordinance would be filed with Lane County. The Board also finds Ordinance No. 17-04 is less restrictive than the current code, as identified in Table #1 and Table #2 of the staff report dated January 19, 2005, prepared for the February 2, 2005 Board meeting, and incorporated here by this reference.

(9) Remedies Cumulative. It is the intent of this chapter that the remedies provided be cumulative and not mutually exclusive. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 1-93, 4.16.93)*

## ENFORCEMENT RURAL COMPREHENSIVE PLAN

### 16.263 Failure to Comply.

Failure to comply with any of the requirements of this chapter may be subject to an administrative civil penalty as provided by LC 5.017. Failure to comply with a condition of an approved Special Use application or other discretionary permit issued pursuant to the requirements of any of the sections of this chapter may also be subject to an administrative civil penalty. Continued failure to comply with this chapter 10 days from the mailing of the notice of the failure to comply by registered or certified mail to the last known address of the alleged responsible person or after personal service, and continued failure to comply after an order has been entered constitutes a separate failure to comply for each day the occurrence continues. The Manager of the Lane County Land Management Division, Department of Public Works, or said Manager's duly authorized representatives, shall have the authority to issue a notice of failure to comply. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 1-93, 4.16.93)*

## TELECOMMUNICATION TOWER STANDARDS RURAL COMPREHENSIVE PLAN

### 16.264 Telecommunication Tower Standards.

(1) Purpose. The provisions of this section are intended to ensure that telecommunication facilities are located, constructed, maintained and removed in a manner that:

- (a) Recognizes the public need for provision of telecommunication facilities;
- (b) Allows appropriate levels of service to be obtained throughout the County;
- (c) Minimizes the number of transmission towers throughout the County;
- (d) Encourages the collocation of telecommunication facilities; and
- (e) Ensures that all telecommunication facilities, including towers, antennas, and ancillary facilities are located and designed to minimize the visual impact on the immediate surroundings and throughout the county. Nothing in this section shall preclude collocation opportunities nor adversely affect multiple use towers. Nothing in this section shall apply to amateur radio antennae, or facilities used exclusively for the transmission of television and radio signals; ~~however, these uses are not exempted from applicable provisions in other sections of the code, including the requirement to obtain a conditional use permit to construct transmission facilities or modify existing installations.~~

(2) Definitions. As used in LC 16.264, the following words and phrases mean:  
Ancillary facilities. The buildings, cabinets, vaults, closures and equipment required for operation of telecommunication facilities including but not limited to repeaters, equipment housing, and ventilation and other mechanical equipment.

Antennae. An electrical conductor or group of electrical conductors that transmit or receive radio signals, excluding amateur radio antennae.

Attachment. An antenna or other piece of related equipment affixed to a transmission tower.

**Changeout. Reconstruction or replacement of existing collocations or transmission towers with similar equipment, in conformance with LC 163.264(3)(h).**

**Collocation. Placement of an antenna or related telecommunication equipment on an existing structure or building where the antennas and all supports are located on the existing structure or building.**

**Provider. A person in the business of designing and/or using telecommunication facilities including cellular radiotelephones, personal communications services, enhanced/specialized mobile radios, and commercial paging services.**

**Telecommunication Facility. A facility designed and/or used for the purpose of transmitting, receiving, and relaying voice and data signals from antennae, related telecommunication equipment, towers and ancillary facilities. For purposes of this section, amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio signals are not "telecommunication facilities."**

**Tract. A unit of land comprised of adjacent parcels and lots under the same ownership.**

**Transmission Tower. The structure, such as a monopole or lattice framework, designed to support transmitting and receiving antennae and related telecommunication equipment. For purposes of this section, amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio signals are not "transmission towers."**

~~(3) Application, Information and Processing Requirements. A new or replacement telecommunication facility may be allowed provided an application is submitted for Director approval pursuant to LC 14.050, the application complies with the requirements specified in LC 16.264(3)(6) below, and provided the application is approved pursuant to the requirements of LC 14.300 for a hearing with the Director. Notice of the hearing shall be provided pursuant to the requirements of LC 14 and to the owners of property within one half mile radius of the exterior boundaries of the subject property and any property contiguous to and in the same ownership as the subject property. (Maintenance and repair of lawfully (per LC Chapter 16) existing uses and development is considered a permitted use.)~~

~~(a) Prior to submission of an application, the applicant shall provide notice and hold a meeting with area property owners as required in LC 16.264(3)(a)(i) (iii), below. The applicant shall submit evidence of the notification and meeting with the application. The application shall include evidence of compliance with this requirement.~~

~~(i) The applicant shall, at least fourteen (14) days but not more than thirty (30) days in advance of the meeting, mail notice of the meeting to property owners and tenants living on property that would otherwise be notified pursuant to the requirements of LC 14.100 and to the applicable community organization recognized by the Lane County Board of Commissioners in Lane Manual 3.513 within the area in which the proposed site is located. The notice shall state the date, time, and location of the meeting and that the topic of the meeting is to discuss the proposed location of a telecommunication facility on the subject property and to hear from area residents about any concerns they might have with the proposal. The notice shall state the Lane County map and tax lot numbers for the subject property and the address for the subject property.~~

~~(ii) The applicant shall, at least ten (10) days in advance of the meeting, publish notice of the meeting in a newspaper of general circulation serving the area. The published notice shall contain at least the same information as required by LC 16.264(3)(a)(i) above for the mailed notice.~~

- ~~(iii) The applicant shall conduct a meeting within the general area of the proposed location of the telecommunication facility with the area property owners, tenants living on surrounding properties and interested parties to discuss the proposed application to allow community concerns regarding the proposed tower to be addressed. Nothing in this subsection limits the applicant from providing additional opportunity for input from area property owners and residents.~~
- ~~(b) An application shall include the following information:~~
- ~~(i) A description of the proposed tower location, design and height. When the proposed tower location is within 14,000 feet of an airport, the applicant shall show the tower height in relation to the imaginary surfaces for that airport and demonstrate that the tower does not penetrate those surfaces.~~
- ~~(ii) The engineered design capacity of the tower in terms of the number and type of antennas it is designed to accommodate and constructed in such a manner as to optimize performance and minimize visual impact;~~
- ~~(iii) Signature(s) of the property owner(s) on the application form or a written statement from the property owner(s) granting authorization to proceed with land use and building permit application;~~
- ~~(iv) A signed statement from the property owner indicating awareness of the removal responsibilities of LC 16.264(7)(d);~~
- ~~(v) Documentation in the form of lease agreements for the telecommunications facility that provide space for a minimum of three (3) users (the primary user and two (2) collocation sites);~~
- ~~(vi) Documentation of lease agreements with a Federal Communications Commission (FCC) licensed provider;~~
- ~~(vii) Documentation demonstrating that the Federal Aviation Administration (FAA) has reviewed and commented on the proposal, and the Oregon Department of Aviation has reviewed and provided comment on the proposal.~~
- ~~(viii) Plans showing how vehicle access will be provided and documents demonstrating that necessary easements have been obtained; and~~
- ~~(ix) Other information requested in the application form provided by the Director, such as but not limited to, peer review by an independent engineering firm of the proposed telecommunications facility system design.~~
- ~~(c) The applicant shall identify all existing towers, or properties that have obtained approval for a tower within ten (10) miles of the proposed tower location. The applicant shall provide evidence that collocation at all existing or approved towers within ten miles is not feasible, and provide documentation for locating a new tower, based on either of the following:~~
- ~~(i) Lack of useable and compatible collocation space;~~
- ~~(ii) Inability to meet service coverage area and capacity needs; or~~
- ~~(iii) Technical reasons such as channel proximity and inter-modulation.~~
- ~~(d) The tower shall comply with all required State of Oregon and Federal licenses for telecommunication tower facilities. The application shall include a certification that the completed installation will comply with all Federal, state and local standards. The applicant shall submit documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIEER) emission standards as set forth by the Federal Communications Commission (FCC).~~
- ~~(e) Factual information addressing compliance with requirements in LC 16.264 (4) and (5), below.~~

~~(4) Collocation Requirements for Telecommunication Facilities. Collocation of a telecommunications facility on an existing structure or building is not subject to the land-use application and approval provisions of LC 16.264 (3). However, collocation of a new or replacement telecommunication facility may be allowed provided a land-use application is submitted pursuant to LC 14.050 and approved pursuant to LC 14.100. The application for collocation may be allowed provided the requirements in LC 16.264(4)(a) and (b) are met.~~

~~(a) An application for collocation of a new or replacement telecommunications facility shall provide the information required in LC 16.264(3)(b)(i)-(ix) and (d).~~

~~(b) Factual information addressing compliance with requirements in LC 16.264 (5) and (6), below.~~

~~(5) Siting Standards for Height, Setbacks and Access to Telecommunication Facilities. The following standards shall apply to all new or replacement telecommunication facilities.~~

~~(a) Consideration shall be given to other sites in the service area that would have less visual impact than the site proposed as viewed from nearby residences and that the applicant has demonstrated that less intrusive sites are not available or do not provide the communication coverage necessary to provide the service. Visual impact can be measured by techniques including, but not limited to, balloon tests and photo simulations.~~

~~(b) Telecommunication facilities shall be limited to the height necessary to provide the service, not to exceed 200 feet in height from ground level.~~

~~(c) Directional / parabolic antennae shall be selected to optimize performance and minimize visual impact.~~

~~(d) The setbacks for a tower shall be the setback otherwise allowed for all other structures in the zone except that:~~

~~(i) The tower shall be setback at least the height of the tower from an adjacent property line.~~

~~(ii) A tract (contiguous property under the same ownership) shall be considered as a single parcel for purposes of setbacks.~~

~~(e) The proposed telecommunications tower is sited at least 1200 feet from nearby residences and schools not on the property owner/applicant's tract or as far away from nearby residences and schools as it is sited from the closest dwelling on the property owner/applicant's tract, whichever is greater.~~

~~(f) If access is obtained from a private road, the applicant shall be responsible as required by Oregon law for providing for improvements and maintenance to the private road that provides access to the subject property. In general, the applicant is responsible for impacts to the private road as a result of activities conducted by the applicant. The applicant shall maintain all necessary access easements and maintenance agreements for the private road as required by State law.~~

~~(g) In Forest zones, access from private roads and driveways shall comply with the Fire Safety Design Standards of LC 16.211(8)(e).~~

~~(h) In Forest zones, a fuel break shall extend 50 feet in all directions surrounding ancillary facilities containing propane or gas-powered generating facilities. Vegetation within the fuel break may allow low shrubs (less than 24 inches in height). Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Nonflammable materials (i.e., rock) shall be placed next to the ancillary facilities.~~

~~(6) Standards for Construction, Lighting, Signage and Fencing of Telecommunication Facilities. The following standards shall apply to all new or replacement telecommunication facilities.~~

~~(a) The applicant shall submit a site-specific study of the tower site identifying the proposed color and surfacing of the tower and associated fixtures. Based on the existing conditions and vegetation at the proposed site, the tower must be constructed with material to reduce visibility of the tower by:~~

~~(i) Use of non reflective materials that minimize glare and are colored similar to the sky or adjacent background. A light gray shade is appropriate for blending the tower into the sky background. Nothing in this subsection preempts the coloring requirements of the Federal Aviation Administration or the Oregon Department of Aviation;~~

~~(ii) Use of non reflective materials painted to match the existing or attached structure to blend into the surrounding environment; and~~

~~(iii) Antenna and associated equipment located on the same structure as the antenna shall be surfaced in a non reflective material color to match the structure on which it is located.~~

~~(b) An Oregon registered professional engineer shall certify that the construction of the tower complies with building code structural standards.~~

~~(c) Prior to issuance of building permits for the tower, the applicant shall submit to the Building Official documentation from the Federal Aviation Administration, the Oregon Department of Aviation and any other local or state agency with jurisdiction that the tower has been reviewed and is not determined to be a hazard if constructed as proposed.~~

~~(d) No lighting of communication facilities is allowed, except as required by the Federal Aviation Administration, Oregon Department of Aviation or other federal or state agency. Required lighting shall be shielded from the ground, to the extent practicable. Shielding of tower lighting onto nearby properties shall be installed as part of construction of the tower.~~

~~(e) Warning and safety signs, up to three square feet in area, are allowed. All other signs are prohibited.~~

~~(f) Equipment areas must be enclosed by a chain link fence or equivalent with or without slats for screening.~~

~~(7) Permit Renewal and Expiration Requirements for Telecommunication Towers.~~

~~(a) Approved applications for telecommunication towers shall be valid until December 31<sup>st</sup> of the year following the date of final Lane County approval and shall be renewed every two (2) years, thereafter.~~

~~(b) Permit renewal is based upon the applicant submitting documentation that the telecommunications facility has complied with non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC) and continues to meet any applicable conditions of approval by Lane County, including provision of an adequate current performance bond for removal of the facility and restoration of the site.~~

~~(c) If a telecommunications tower is not constructed and placed into service within 2 years of issuance of an approved permit, the land use approval expires.~~

~~(d) If the tower is discontinued from being used as a telecommunication facility for a period of one (1) year, the tower shall be removed. To insure removal of the telecommunication facility, the applicant shall, as a condition of the Special Use Permit, provide a performance bond payable to Lane County and acceptable to the Director to~~

~~cover the cost of removal of the telecommunications facility and restoration of the site at the time the facility is removed. The property owner shall be notified of the determination of discontinued use and the property owner shall be responsible for removal of the telecommunication tower and equipment facilities and securing any required demolition permits within the six (6) months immediately following cessation of the operation of the telecommunication facility. The property owner shall bear the ultimate responsibility for removal of the facilities and shall sign a document that is recorded in the deed history of the subject property with Lane County Deeds and Records recognizing such responsibility. Any Special Use Permit granted for the property will automatically expire upon removal.~~

**(3) Standards applicable to all telecommunication facilities.**

**(a) Telecommunication facilities shall be limited to the height necessary to provide the service, not to exceed 200 feet in height from ground level.**

**(b) Based on the existing conditions and vegetation at the site, telecommunication facilities shall be designed and constructed to reduce visibility of the facilities. Nothing in this subsection preempts the coloring requirements of the Federal Aviation Administration or the Oregon Department of Aviation.**

**(i) The transmission tower shall be surfaced in a non-reflective material that minimizes glare and is colored similar to the sky or adjacent background. A light gray shade is appropriate for blending the tower into the sky background.**

**(ii) The antenna, related telecommunication equipment and ancillary facilities shall be surfaced in non-reflective material to match the transmission tower. If not attached to a transmission tower, they shall be colored similar to the adjacent background.**

**(c) Consideration shall be given to other sites and equipment that would have less visual impact than those proposed. The applicant shall demonstrate that less intrusive sites and equipment are not available or do not provide the communication coverage necessary to provide the service. Visual impact can be measured by techniques including, but not limited to, balloon tests and photo simulations.**

**(d) No lighting of telecommunication facilities is allowed, except as required by the Federal Aviation Administration, Oregon Department of Aviation or other federal or state agencies. Required lighting shall be shielded from the ground to the extent it does not violate state or federal requirements.**

**(e) Equipment areas shall be enclosed by a chain link fence or equivalent.**

**(f) Warning and safety signs, up to three square feet in area, are allowed. All other signs are prohibited.**

**(g) Maintenance and repair of a lawfully existing telecommunication facility does not require a land use application approval.**

**(h) Changeouts. The changeout of an existing transmission tower or collocation does not require a land use application when the following criteria apply:**

**(i) The new equipment does not increase the tower height or base diameter.**

**(ii) No new lights are proposed unless required by the Oregon Department of Aviation (ODA) or the Federal Aviation Administration (FAA).**

**(iii) The new equipment does not increase the number of antennas or external transmitters. Existing antennas and external transmitters may**

remain for a period not to exceed six (6) months in order to accommodate the transfer of service from the existing antennas or transmitters to the replacement antennas or transmitters.

(iv) The replacement antennas or external transmitters shall not exceed the size (e.g., area or length) of existing antennas or transmitters by more than twenty (20) percent.

(v) The new equipment shall have a similar exterior color as the existing equipment.

(i) Within a forest zone, the following standards shall apply:

(i) A fuel break shall extend 50 feet surrounding ancillary facilities containing propane or gas powered generating equipment. Except for trees, vegetation within the fuel break shall be maintained at less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet above ground) branches. Nonflammable materials (i.e., gravel) shall be placed within 30 feet surrounding ancillary facilities that contain propane or gas powered generating equipment.

(ii) Private roads and driveways that provide access to transmission towers in the forest zones shall comply with the Fire Safety Design Standards of LC 16.211(8)(e)(i) through (vii).

(j) Notice. In lieu of the notice area in LC 14.100(4) and 14.300(3)(d), when the application involves a leased area notice shall be sent to landowners and applicable community organizations recognized by the Lane County Board of Commissioners in LM 3.513, within ½ mile of the leased area. If the property does not contain a leased area, notice shall be sent as required by LC 14.100(4) or 14.300(3)(d), as applicable.

(4) Standards for a new or replacement transmission tower.

(a) Review & notice process. An application for placement of a transmission tower requires submittal of an application in accordance with LC 14.050 and a hearing with the Director in accordance with LC 14.300, excluding LC 14.300(3)(d) for applications involving a leased area. To be approved, the application must comply with LC 16.264(3) and 16.264(4).

(b) Neighborhood meeting. Prior to submittal of a land use application, the applicant shall conduct a neighborhood meeting in the general area of the proposed telecommunication tower.

(i) The applicant shall, at least fourteen (14) days but not more than thirty (30) days in advance of the meeting, mail notice of the meeting in conformance with 16.264(3)(j). In addition, the notice shall be sent to tenants living within the noticed area. The notice shall state the date, time, and location of the meeting and that the topic of the meeting is to discuss the proposed location of a telecommunication facility on the subject property and to hear from area residents about any concerns they might have with the proposal. The notice shall state the Lane County map and tax lot numbers for the subject property and the address for the subject property.

(ii) The applicant shall, at least ten (10) days in advance of the meeting, publish notice of the meeting in a newspaper of general circulation serving the area. The published notice shall contain the information required by LC 16.264(4)(b)(i) for the mailed notice.

(iii) Nothing in this subsection limits the applicant from providing additional opportunity for input from area property owners and residents.

(c) **Required submittals. The application shall contain the following information:**

- (i) **A site plan, drawn to scale, showing:**
    - (A) **Structures. All existing and proposed structures on the site. Include any dwellings or schools within 1200 feet of the tower;**
    - (B) **Access. The access road to the site and the public road serving that access road. Submit all necessary easements for access to the site; and**
    - (C) **Taxlots. Identify the taxlot containing the telecommunication facility and all taxlots crossed by the access road.**
  - (ii) **A description of the tower design and height. The description shall include:**
    - (A) **A site-specific study of the tower site identifying the proposed color and surfacing of the tower and ancillary facilities;**
    - (B) **The engineered design capacity of the tower in terms of the number and type of collocations it is designed to accommodate;**
    - (C) **Documentation in the form of lease agreements for a minimum of two collocations on the proposed telecommunication tower.**
  - (iii) **Certification by an Oregon-registered professional engineer that the telecommunication facility, as amended by any proposed collocations, complies with the non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC).**
  - (iv) **A signed statement from the property owner indicating awareness of the removal responsibilities of LC 16.264(4)(f)(iv). A lease agreement or similar authorization for the proposed use from the federal government that includes a removal requirement may be substituted for applications involving telecommunication facilities located on federal land.**
  - (v) **Signature(s) of the property owner(s) on the application form or a written statement from the property owner(s) granting authorization to proceed with the land use application. A lease agreement or similar authorization for the proposed use from the federal government may be substituted for applications involving telecommunication facilities located on federal land.**
  - (vi) **A map of all transmission towers and properties that have obtained approval for a transmission tower, within ten (10) miles of the proposed facility.**
  - (vii) **Certification by an Oregon-registered professional engineer that the design of the tower will support at least three users (the primary user and two collocation sites).**
  - (viii) **Evidence of the notification and the neighborhood meeting.**
  - (ix) **A performance bond payable to Lane County and acceptable to the Director to cover the cost of removal of the telecommunication tower, ancillary facilities, and restoration of the site.**
  - (x) **Other information requested in the application form provided by the Director, such as but not limited to, peer review by an independent engineering firm of the proposed telecommunications facility system design.**
- (d) **Performance standards. The transmission tower shall comply with the following:**
- (i) **The tower shall be necessary to provide service to the intended area. The applicant shall provide evidence the existing and approved**

telecommunication facilities within ten miles would not provide an adequate level of service, based on the following:

(A) Lack of useable and compatible collocation space;  
(B) Inability to meet service coverage area and capacity needs; or

(C) Technical reasons such as channel proximity and inter-modulation.

(ii) The transmission tower shall be designed to accommodate at least three users (the primary user and two collocation sites).

(iii) The cumulative radio frequency emissions from all the collocations on a single structure shall not exceed the maximum exposure limits of the FCC.

(iv) When access is provided by a private road, all necessary access easements and roadways shall be maintained.

(v) Prior to land use approval of a building permit for a telecommunication tower, the applicant shall:

(A) Provide documentation showing the FAA, the ODA, and any other applicable state agency, have approved the tower, or that the tower does not require approval by these agencies;

(B) When the tower is within 14,000 feet of an airport, provide the FAA registration number for the transmission tower, or documentation showing the tower does not require registration.

(e) Setbacks and separation requirements.

(i) Setbacks. The tower shall comply with the setback of the base zone.

(ii) Separation. The tower shall be 1200 feet from any dwelling or school, except:

(A) An encroachment into the separation distance is allowed if the homeowner(s) who is being encroached upon submits written approval of the encroachment.

(B) This separation shall not apply to any dwellings or schools located on the parcel containing the proposed tower.

(f) Expiration and Renewal of the Special Use Permit.

(i) If a telecommunications tower is not placed into service within 2 years of issuance of a building permit, the special use permit shall expire.

(ii) In lieu of LC 14.700(4), all conditions of approval must be completed by December 31st of the year following the date of final special use permit approval. No time extensions are allowed. The special use permit shall be renewed every two (2) years thereafter.

(iii) To renew the special use permit, an application shall be submitted in accordance with LC 14.050. To be approved, the application shall contain documentation showing:

(A) The telecommunications facility has complied with non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC); and

(B) The tower continues to meet any applicable conditions of approval by Lane County, including provision of an adequate current performance bond for removal of the facility and restoration of the site.

(iv) If a transmission tower authorized under this section is not used as a telecommunication facility for a period of one (1) year, the special use permit shall expire and the tower shall be removed.

(5) **Collocation.** A new or replacement collocation shall comply with the following:

(a) Review process. Collocation requires submittal of a land use application pursuant to LC 14.050. Director approval is required pursuant to LC 14.100, excluding LC 14.100(4) for applications involving a leased area. To be approved, the application must comply with LC 16.264(3) and 16.264(5).

(b) Required submittals. An application for a collocation shall include the following information:

(i) A site plan, drawn to scale, showing:

(A) Structures. All existing and proposed structures on the site. Include any dwellings or schools within 1200 feet of the tower;

(B) Access. The access road to the site and the public road serving that access road. Submit all necessary easements for access to the site; and

(C) Taxlots. Identify the taxlot containing the telecommunication facility and all taxlots crossed by the access road.

(ii) A description of the tower design and height. The description shall include:

(A) A site-specific study of the tower site identifying the proposed color and surfacing of the tower, collocation, and ancillary facilities;

(B) The engineered design capacity of the tower in terms of the number and type of collocations it is designed to accommodate.

(iii) If the collocation is within 14,000 feet of an airport, provide the FAA registration number for the tower structure, or documentation showing that the tower does not require registration.

(iv) Documentation demonstrating that the Oregon Department of Aviation has reviewed the proposal. When the proposed collocation does not increase the height of the tower, documents from the ODA approving the tower may be substituted.

(v) A signed statement from the property owner indicating awareness of the removal responsibilities of LC 16.264(5)(c)(ii). A lease agreement or similar authorization for the proposed use from the federal government that includes a removal requirement may be substituted for applications involving telecommunication facilities located on federal land.

(vi) Signature(s) of the property owner(s) on the application form or a written statement from the property owner(s) granting authorization to proceed with the land use application. A lease agreement or similar authorization for the proposed use from the Federal government may be substituted for applications involving telecommunication facilities located on federal land.

(vii) Certification by an Oregon-registered professional engineer that the telecommunication facility, as amended by the proposed collocation, complies with the non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC).

(viii) Certification by an Oregon-registered professional engineer that the telecommunication facility will support the proposed collocated equipment.

(ix) Documentation showing that the applicant has an FCC license for the geographic region and for the service proposed by the collocation.

(x) A performance bond payable to Lane County and acceptable to the Director to cover the cost of removal of the collocation, ancillary facilities, and restoration of the site to the way it appeared before collocation approval.

(xi) Other information requested in the application form provided by the Director, such as but not limited to, peer review by an independent engineering firm of the proposed telecommunications facility system design.

(c) Performance standards. Collocations shall comply with the following:

(i) All collocations on the structure shall comply with the non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC).

(ii) Any collocation and ancillary facilities authorized under this subsection shall be removed after one year of non-use and the approval shall expire.

(iii) The provider shall maintain an FCC license for the geographic region and for the service provided by the collocation. *(Revised by Ordinance 4-02, Effective 4.10.02.)*

## TRANSPORTATION FACILITIES AND USES RURAL COMPREHENSIVE PLAN

### 16.265 Transportation Facilities and Uses.

(1) Purpose. The purpose of this section is to define roadway and other transportation activities, uses, and projects that may be allowed in any land use zone governed by LC Chapter 16, subject to applicable standards and requirements. It clarifies the status of these activities and the processes necessary to implement the Lane County Transportation System Plan (TSP), a Special Purpose Plan of the Rural Comprehensive Plan.

(2) Definitions. The definitions in LC 15.010 shall apply to transportation facilities and uses specified in LC 16.265(3) below.

(3) Transportation Facilities and Uses. The following transportation facilities and uses may be permitted outright or as special uses only as specified in the applicable land use zone, subject to LC 16.265(4) and other applicable requirements of Lane Code:

(a) Climbing and passing lanes;

(b) Reconstruction or modification as defined in LC 15.010, and modernization as defined in LC 15.010 of public roads and highways, including:

(i) acquisition of right-of-way, including the removal or displacement of buildings but not including the creation of new parcels.

(ii) channelization as defined in LC 15.010.

(iii) the placement of utility facilities overhead and in the subsurface of public roads and highways along public right of way.

(iv) the addition of travel lanes.

(v) continuous median turn lanes.

(c) Temporary public road and highway detours that will be abandoned and restored to the condition or use in effect prior to construction of the detour at such time as no longer needed.

(d) Improvement of public roads and related facilities such as maintenance yards, weigh stations and rest areas, to support the operation and