

**PASSED**

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 11-02

IN THE MATTER OF AMENDING CHAPTERS 10 AND 16 OF LANE CODE TO REVISE THE TELECOMMUNICATION TOWER STANDARDS, AND DECLARING AN EMERGENCY

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

Chapters 10 and 16 of Lane Code are hereby amended by removing, substituting and adding new sections as follows:

**REMOVE THESE SECTIONS**

**INSERT THESE SECTIONS**

10-400  
located on pages 10-346  
through 10-350  
(a total of 5 pages)

10-400  
located on pages 10-346  
through 10-350  
(a total of 5 pages)

16.264  
located on pages 16-336  
through 16-340  
(a total of 5 pages)

16.264  
located on pages 16-336  
through 16-340  
(a total of 5 pages)

Said sections are attached hereto and incorporated herein by reference. The purpose of these substitutions and additions is to revise and add telecommunications facilities siting and removal regulations to Lane Code Chapters 10 and 16.

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

An emergency is hereby declared to exist and this Ordinance, being enacted by the Board in the exercise of its police power for the purpose of meeting such emergency and for the immediate preservation of the public peace, health and safety, shall take effect immediately upon adoption.

ENACTED this 16<sup>th</sup> day of OCTOBER 2002.

Anna Morrison  
Chair, Board of County Commissioners

Melissa A. Zimmer  
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 8-15-2002 Lane County

Stephen J. Orshen  
OFFICE OF LEGAL COUNSEL

(b) Where cluster subdivision lots intended for dwellings or mobile homes abut a zoning district which does not permit a cluster subdivision, a special building setback may be established for one or more lots. Special building setback requirements shall be established only for the purposes of reducing potential conflicts relating to fire, traffic, noise or similar man-made or natural hazards, nuisances and for protection of natural resources and open space. The special building setback requirement may consist of, but is not limited to, the setback requirements of the abutting zoning district which does not permit cluster subdivisions. *(Revised by Ordinance No. 16-83, Effective 9.14.83)*

#### **10.375-30 Application and Additional Requirements.**

Cluster subdivisions shall be processed in the same manner and conform to the applicable provisions, standards and procedures as required for subdivisions as provided in LC Chapter 13. *(Revised by Ordinance No. 16-83, Effective 9.14.83)*

### **TELECOMMUNICATION TOWER STANDARDS**

#### **10.400-05 Purpose.**

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

- (1) Recognizes the public need for provision of telecommunication facilities;
- (2) Allows appropriate levels of service to be obtained throughout the County;
- (3) Minimizes the number of transmission towers throughout the County;
- (4) Encourages the collocation of telecommunication facilities; and
- (5) 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. *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

#### **10.400-10 Definitions.**

As used in LC 10.400, 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.

**Antenna.** 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.

**Collocation.** Placement of an antenna on an existing structure or building where the antenna 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, 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".

**Transmission Tower.** The monopole or lattice framework designed to support transmitting and receiving antennae. 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". *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

#### **10.400-15 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 10.400-15 through -50 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 Chapter 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 10) existing uses and development is considered a permitted use.

(1) Prior to submission of an application, the applicant shall provide notice and hold a meeting with area property owners as required in LC 10.400-15(1)(a)-(c) below. The applicant shall submit evidence of the notification and meeting with the application. The application shall include evidence of compliance with this requirement.

(a) 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.

(b) 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 10.400-15(1)(a) above for the mailed notice.

(c) 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.

(2) An application shall include the following information:

(a) 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;

(b) The engineered design capacity of the tower in terms of the number and type of antennae it is designed to accommodate and constructed in such a manner as to optimize performance and minimize visual impact;

(c) 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;

(d) A signed statement from the property owner indicating awareness of the removal responsibilities of LC 10.400-50(4) below;

(e) Documentation in the form of lease agreements for the telecommunications facility that provide space for a minimum of three users (the primary user and two collocation sites);

(f) Documentation of lease agreements with a Federal Communications Commission (FCC) licensed provider;

(g) 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;

(h) Plans showing how vehicle access will be provided and documents demonstrating that necessary easements have been obtained; and

(i) 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.

(3) 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:

(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.

(4) 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 (NIER) emission standards as set forth by the Federal Communications Commission (FCC).

(5) Factual information addressing compliance with requirements in LC 10.400-20 and -30 below. *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

#### **10.400-20 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 10.400-15 above. 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 10.400-20(1) and (2) below are met.

(1) An application for collocation of a new or replacement telecommunications facility shall provide the information required in LC10.400-15(2)(a)-(i) and -15(4) above.

(2) Factual information addressing compliance with requirements in LC 10.400-30 and -40 below. *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

#### **10.400-30 Siting Standards for Height, Setbacks and Access to Telecommunication Facilities.**

The following standards shall apply to all new or replacement telecommunication facilities.

(1) 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.

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

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

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

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

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

(5) The proposed telecommunications tower is sited at least 1200' 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.

(6) 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. *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

#### **10.400-40 Standards for Construction, Lighting, Signage and Fencing of Telecommunication Facilities.**

The following standards shall apply to all new or replacement telecommunication facilities.

(1) 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:

(a) 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;

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

(c) 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.

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

(3) 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.

(4) 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.

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

(6) Equipment areas must be enclosed by a chain link fence or equivalent with or without slats for screening. *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

#### **10.400-50 Permit Renewal and Expiration Requirements for Telecommunication Towers.**

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

(2) 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.

(3) 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.

(4) 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 tower 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 land will automatically expire upon removal. *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

(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.

**Collocation.** Placement of an antenna 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, 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".

**Transmission Tower.** The monopole or lattice framework designed to support transmitting and receiving antennae. 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 (NIER) 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' 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' 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. *(Revised by Ordinance 4-02, Effective 4.10.02)*

## **Exhibit "A"**

### **Findings in Support of Ordinance No. 11-02 Amending Lane Code Chapters 10 and 16 to Revise the Telecommunication Tower Standards.**

The Board of County Commissioners finds that the code amendment as described in the Ordinance No. 11-02 is consistent with adopted plans and Oregon's Statewide Planning Goals and Guidelines as follows:

#### **Goal 1, Citizen Involvement**

To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

The public notification process for the amendments to Lane Code to address telecommunication facilities exceeded the established requirements in the Lane Code for public notification. The Board of County Commissioners conducted a Joint Public Hearing on countywide telecommunication facility siting regulations with the Lane County Planning Commission on April 10, 2002. Based on public testimony at that hearing, the Board directed Planning Commission review and recommendations on the concerns raised in the public testimony. The Planning Commission scheduled their deliberations for May 7th and continued them to May 21, 2002. Ordinance No. 11-02 reflects the Planning Commission's final recommendation. The Board held a work session on the Planning Commission recommendations on June 18, 2002. The Board has continued to receive public comments on the recommendations and held a public hearing on September 25, 2002. Therefore, adoption of Ordinance No. 11-02 complies with Goal 1.

#### **Goal 2, Land Use Planning**

To establish a land use planning process and policy framework as a basis of all decisions and action related to use of land and to assure an adequate factual base for such decisions and actions.

This code amendment was processed consistent with the adopted amendment procedures in the Lane Code Chapters 10, 14 and 16 through the Lane County Planning Commission and the Board of County Commissioners. The Board of County Commissioners conducted a work session and a public hearing on the ordinance before taking action to approve the ordinance. These findings and the record in this matter provide an adequate factual base for action. Therefore, adoption of Ordinance No. 11-02 complies with Goal 2.

#### **Goal 3, Agricultural Lands**

To preserve and maintain agricultural lands.

The revisions to the Telecommunication Tower Standards are consistent with the provisions in ORS 215.213 and the Goal 3 Agricultural Lands Rule (OAR 660 Division 33) for utility facilities necessary for public service and otherwise allowed by Goal 3. Therefore, adoption of Ordinance No. 11-02 complies with Goal 3.

#### Goal 4. Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

The revisions to the Telecommunication Tower Standards are consistent with the provisions in the Goal 4 Forest Lands Rule (OAR 660 Division 06) for locationally dependent uses such as telecommunication towers. Therefore, adoption of Ordinance No. 11-02 complies with Goal 4.

#### Goal 5. Open Spaces, Scenic and Historic Areas, and Natural Resources

To conserve open space and protect natural and scenic resources.

The ordinance and revisions to the Telecommunication Tower Standards do not change the current standards governing new telecommunications towers in the natural resource zoning districts. Existing Goal 5 inventoried resource protection standards will continue to apply. Therefore, adoption of Ordinance No. 11-02 complies with Goal 5.

#### Goal 6. Air, Water and Land Resource Quality

To maintain and improve the quality of the air, water, and land resources of the state.

The ordinance does not directly impact the quality of the air, water, or land resources of the state. The revisions to the Telecommunication Tower Standards do not affect the requirements that the telecommunications providers submit documentation to the County verifying compliance with non-ionizing electromagnetic radiation standards as set forth by the Federal Communications Commission. Therefore, adoption of Ordinance No. 11-02 complies with Goal 6.

#### Goal 7. Areas Subject to Natural Disasters and Hazards

To protect life and property from natural disasters and hazards.

The revisions to the Telecommunication Tower Standards are designed to preserve property values, avoid attractive nuisances, protect life and property from natural disasters and hazards, and provide for the general safety and welfare of the community. As part of the normal building permit review, information on structural stability, the ability of a tower to withstand wind, and information on soils will be required as necessary to ensure public safety. Therefore, adoption of Ordinance No. 11-02 complies with Goal 7.

#### Goal 8. Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate to provide for the siting of necessary recreational facilities, including destination resorts.

The ordinance does not significantly change the existing requirements that provide for a review process to assure that no other sites in the service area 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. Therefore, adoption of Ordinance No. 11-02 complies with Goal 8.

#### Goal 9, Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

The ordinance continues to recognize the need for telecommunication systems, operated by a variety of providers, to be constructed in Lane County. The revisions to the Telecommunication Tower Standards only affect the notice, setback and renewal requirements. The ordinance ensures that all telecommunication providers are treated equally. Therefore, adoption of Ordinance No. 11-02 complies with Goal 9.

#### Goal 10, Housing

To provide for the housing needs of citizens of the state.

The ordinance does not directly relate to housing needs. In the event that a telecommunications provider believes that location of a transmission tower in a residential zoning district is necessary, the ordinance ensures opportunities for public input through the requirement for neighborhood meetings and approval through a conditional use process. The conditional use process provides for public notice to surrounding property owners and recognized community organizations and requires a public hearing. The standards established by the ordinance are intended to reduce the operational, visual, and potential nuisance impact of telecommunication facilities on the surrounding residential neighborhood. Therefore, adoption of Ordinance No. 11-02 complies with Goal 10.

#### Goal 11, Public Facilities and Services

To plan and develop timely, orderly, and efficient arrangement of public facilities and service to serve as a framework for urban and rural development.

The ordinance does not directly impact public facilities and services. The revisions to the Telecommunication Tower Standards only affect the notice, setback and renewal requirements. Therefore, adoption of Ordinance No. 11-02 complies with Goal 11.

#### Goal 12, Transportation

To provide and encourage a safe, convenient, and economic transportation system.

The ordinance does not relate directly to transportation. The revisions to the Telecommunication Tower Standards only affect the notice, setback and renewal requirements. Therefore, adoption of Ordinance No. 11-02 complies with Goal 12.

#### Goal 13, Energy Conservation

To conserve energy.

The ordinance continues to provide opportunities for the location of telecommunication facilities

throughout Lane County. The revisions to the Telecommunication Tower Standards only affect the notice, setback and renewal requirements. Therefore, adoption of Ordinance No. 11-02 complies with Goal 13.

#### Goal 14, Urbanization

To provide for an orderly and efficient transition from rural to urban land use.

The ordinance continues to provide for an orderly and efficient transition from rural to urban land use by requiring the applicant to demonstrate that collocation at all existing towers is not feasible and to document that the site is required to meet service coverage area and capacity needs. Therefore, adoption of Ordinance No. 11-02 complies with Goal 14.

#### Goal 15, Willamette River Greenway

To protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of land along the Willamette River Greenway.

The ordinance and revisions to the Telecommunication Tower Standards do not change the current standards governing new telecommunications towers within the Willamette River Greenway to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of this land. Therefore, adoption of Ordinance No. 11-02 complies with Goal 15.

#### Goal 16, Estuarine Resources

To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and  
To protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.

The ordinance and revised Telecommunication Tower Standards are consistent with the provisions in Goal 16 for locationally dependent uses such as communication facilities. The revisions to the Telecommunication Tower Standards only affect the notice, setback and renewal requirements. Existing standards will continue to apply. Therefore, adoption of Ordinance No. 11-02 complies with Goal 16.

#### Goal 17, Coastal Shorelands

To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and  
To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

The ordinance and revisions to Telecommunication Tower Standards do not change the current

standards governing new telecommunications towers on coastal shorelands recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The revisions to the Telecommunication Tower Standards only affect the notice, setback and renewal requirements. Existing standards will continue to apply. Therefore, adoption of Ordinance No. 11-02 complies with Goal 17.

#### Goal 18, Beaches and Dunes

To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and  
To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.

The ordinance and revised Telecommunication Tower Standards are consistent with the provisions in Goal 18 for locationally dependent uses such as communication facilities. The revisions to the Telecommunication Tower Standards only affect the notice, setback and renewal requirements. Existing standards will continue to apply. Therefore, adoption of Ordinance No. 11-02 complies with Goal 18.

#### Goal 19, Ocean Resources

To conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf.  
All local, state, and federal plans, policies, projects, and activities which affect the territorial sea shall be developed, managed and conducted to maintain, and where appropriate, enhance and restore, the long-term benefits derived from the nearshore oceanic resources of Oregon. Since renewable ocean resources and uses, such as food production, water quality, navigation, recreation, and aesthetic enjoyment, will provide greater long-term benefits than will nonrenewable resources, such plans and activities shall give clear priority to the proper management and protection of renewable resources.

Goal 19 addresses ocean resources and is not applicable to this code amendment.

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(b) Where cluster subdivision lots intended for dwellings or mobile homes abut a zoning district which does not permit a cluster subdivision, a special building setback may be established for one or more lots. Special building setback requirements shall be established only for the purposes of reducing potential conflicts relating to fire, traffic, noise or similar man-made or natural hazards, nuisances and for protection of natural resources and open space. The special building setback requirement may consist of, but is not limited to, the setback requirements of the abutting zoning district which does not permit cluster subdivisions. *(Revised by Ordinance No. 16-83, Effective 9.14.83)*

#### **10.375-30 Application and Additional Requirements.**

Cluster subdivisions shall be processed in the same manner and conform to the applicable provisions, standards and procedures as required for subdivisions as provided in LC Chapter 13. *(Revised by Ordinance No. 16-83, Effective 9.14.83)*

### **TELECOMMUNICATION TOWER STANDARDS**

#### **10.400-05 Purpose.**

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

- (1) Recognizes the public need for provision of telecommunication facilities;
- (2) Allows appropriate levels of service to be obtained throughout the County;
- (3) Minimizes the number of transmission towers throughout the County;
- (4) Encourages the collocation of telecommunication facilities; and
- (5) 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. *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

#### **10.400-10 Definitions.**

As used in LC 10.400, 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.

Antenna. 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.

Collocation. Placement of an antenna on an existing structure or building where the antenna 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, towers and

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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".

Transmission Tower. The monopole or lattice framework designed to support transmitting and receiving antennae. 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". *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

#### **10.400-15 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 10.400-15 through -50 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 Chapter 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 10) existing uses and development is considered a permitted use.

(1) Prior to submission of an application, the applicant shall provide notice and hold a meeting with area property owners as required in LC 10.400-15(1)(a)-(c) below. The applicant shall submit evidence of the notification and meeting with the application. The application shall include evidence of compliance with this requirement.

(a) 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.

(b) 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 10.400-15(1)(a) above for the mailed notice.

(c) 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.

(2) An application shall include the following information:

(a) 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;

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(b) The engineered design capacity of the tower in terms of the number and type of antennae it is designed to accommodate and constructed in such a manner as to optimize performance and minimize visual impact;

(c) 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;

(d) A signed statement from the property owner indicating awareness of the removal responsibilities of LC 10.400-50(4) below;

(e) Documentation in the form of lease agreements for the telecommunications facility that provide space for a minimum of three users (the primary user and two collocation sites);

(f) Documentation of lease agreements with a Federal Communications Commission (FCC) licensed provider;

(g) 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;

(h) Plans showing how vehicle access will be provided and documents demonstrating that necessary easements have been obtained; and

(i) 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.

(3) 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:

(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.

(4) 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 (NIER) emission standards as set forth by the Federal Communications Commission (FCC).

(5) Factual information addressing compliance with requirements in LC 10.400-20 and -30 below. *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

#### **10.400-20 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 10.400-15 above. 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 10.400-20(1) and (2) below are met.

(1) An application for collocation of a new or replacement telecommunications facility shall provide the information required in LC10.400-15(2)(a)-(i) and -15(4) above.

(2) Factual information addressing compliance with requirements in LC 10.400-30 and -40 below. *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

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**10.400-30 Siting Standards for Height, Setbacks and Access to Telecommunication Facilities.**

The following standards shall apply to all new or replacement telecommunication facilities.

(1) 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.

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

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

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

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

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

(5) The proposed telecommunications tower is sited at least 1+200' 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.

(6) 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. *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

**10.400-40 Standards for Construction, Lighting, Signage and Fencing of Telecommunication Facilities.**

The following standards shall apply to all new or replacement telecommunication facilities.

(1) 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:

(a) 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;

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

(c) 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.

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

(3) 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.

(4) 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.

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

(6) Equipment areas must be enclosed by a chain link fence or equivalent with or without slats for screening. *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

#### **10.400-50 Permit Renewal and Expiration Requirements for Telecommunication Towers.**

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

(2) 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.**

(3) 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.

(4) 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 tower 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 land will automatically expire upon removal. *(Revised by Ordinance No. 4-02, Effective 4.10.02)*

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(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.

Collocation. Placement of an antenna 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, 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".

Transmission Tower. The monopole or lattice framework designed to support transmitting and receiving antennae. 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:

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(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 (NIER) 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.

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(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 1+200 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 (NIEER) 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

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**Bold** indicates material being added  
~~Strikethrough~~ indicates material being deleted  
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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. *(Revised by Ordinance 4-02, Effective 4.10.02)*