

**TITLE 10
CHAPTER 33**

TELECOMMUNICATIONS FACILITIES OVERLAY DISTRICT

SECTION:

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10-33-1: PURPOSE: The purpose of the Telecommunications Facilities Overlay District is to facilitate the location of necessary wireless telecommunications facilities, including towers, sufficient to provide service to area businesses and residents while preserving the viewsheds and character of the community, especially in residential districts.

10-33-2: DEFINITIONS:

- A. Ancillary facilities: the structures and equipment required for operation of the telecommunication equipment, including but not limited to antennae, repeaters, base stations, equipment housing structures, footings and foundations, and ventilation or other electrical or mechanical equipment.
- B. Antenna: an exterior apparatus, electrical conductor or group of electrical conductors, the surface of which is designed for telephonic, radio, data, or television communications by sending and/or receiving radio frequency or electromagnetic waves, including those sent and/or received by wireless communication facilities. Antenna include, but are not limited to, the following types:
 - 1. Ancillary antenna, which are antenna less than 12 inches in their largest dimension and are not directly used to provide wireless communication services.
 - 2. Omni-direction (whip) antenna, which receives and transmits signals in a 360 degree pattern
 - 3. Directional or parabolic (panel or disk) antenna, which receives and transmits signals in a directional pattern typically encompassing an arc of 120 degrees.
 - 4. Satellite Dish antenna, which receives signals that are reflected from satellites
- C. Attached wireless communication facility: A wireless communication facility that is affixed to an existing structure, e.g., an existing building, wall or roof, mechanical equipment or alternative tower structure.
- D. Attachment: An antenna or other piece of related equipment affixed to a transmission tower.
- E. Base Station: Any on-site fencing, equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with a tower. The term does not include a tower or facilities affixed to a tower.
- F. Co-location: The mounting or installation of antenna on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- G. Fall zone: The area within a prescribed radius from the base of a wireless communication facility. The fall zone is the area within there might be a potential hazard from falling debris or a collapsing mount.

- H. Height: The distance measured from above ground level to the highest point of a wireless communication facility, including the antenna array. For purposes of measuring height, all attachments shall be included in the measurements to determine overall combined height.
- I. Roof line: The highest point of a roof, excluding chimneys, parapets, tanks, ventilating fans, towers, steeples, flagpoles, or similar structures.
- J. “Substantially change the physical dimensions” means:
1. The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10 percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
 2. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
 3. The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from the inclement weather or to connect the antenna to the tower via cable; or
 4. The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.
- K. Support structure: The structure to which wireless communication antennae and other necessary hardware are mounted. For purposes of this ordinance, the terms “support structure”, “tower”, and “transmission tower” shall be interchangeable. Support structures include, but are not limited to:
1. Lattice tower: A freestanding support structure which consists of an open framework of crossed metal braces on three or four sides which stabilize the tower and which is built without guy wires and ground anchors.
 2. Monopole: A freestanding support structure consisting of a single upright pole sunk into the ground and/or attached to a foundation and engineered to be self-supporting without guy wires or ground anchors.
 3. Guyed tower: A tower which is supported, in whole or in part, by the use of cables (guy wires) and ground anchors.
- L. Tower height: The distance measured vertically from the highest point when positioned for operation to the lowest point, which is defined as the bottom of the base of the structure being measured at either roof level for a roof-mounted structure or at ground level for a freestanding structure. The height of a tower shall include the height of any antenna positioned for operation attached or which may be attached to the highest point of the tower.
- M. Wireless communication facilities (WCF): An unstaffed facility, and its component parts, for the transmission and reception of radio or microwave signals used for commercial communications. Wireless communication facilities include facilities that provide telecommunication service as defined by the Federal Telecommunications Act of 1996, and facilities that use technologies that currently exist or that may be developed in the future, including but not limited to cellular, personal communications services, specialized mobile radio, enhanced specialized mobile radio, paging, and similar Federal Communications Commission (FCC) licensed commercial wireless telecommunications services. Wireless communication facilities are composed of a support structure and ancillary facilities.

10-33-3: SITING PERMITS, EXEMPTIONS, SITE REVIEW & CONDITIONAL USES, APPLICATION CONTENTS:

- A. Siting Permits Required: Except as provided in subsection B of this section, no wireless communications facility may be sited, or existing facility modified, without a siting permit. Siting of wireless communications facilities shall be according to the following priority, by descending order of preference:
1. First Priority: Collocation or attachment of an antenna or antenna array on a support tower, support structure, or utility structure;
 2. Second Priority: Replacement of a utility structure for the purpose of attachment of an antenna or antenna array.
 3. Third Priority: Substantial change in the physical dimensions of a support tower or replacement with a support tower that represents a substantial change in the physical dimensions of the original support tower;
 4. Fourth Priority: Construction of a new support tower.
- B. Exemptions: A siting permit is not required for the following when meeting the height requirements of the district where the facility is located and the development standards of FCC 10-33-4:
1. Sighting of dish or other antenna with a diameter of 3 feet or less or height of 5 feet or less, respectively, solely for the benefit of persons residing on a property or necessary for the conduct of the business on the site of the dish or antenna.
 2. Sighting of temporary wireless communications facilities that are used by a public agency or wireless carrier for emergency communications, emergency preparedness, or other public health or safety purposes or during support structure and facility replacement.
 3. Amateur radio towers, also known as Ham radios, and associated equipment.
 4. Ordinary or emergency maintenance or repair of a wireless communications facility that does not increase the size, footprint, or bulk of such facilities, and which otherwise comply with City, state, and federal regulations.
- C. Siting Permits. Siting permits shall be processed using the following procedures.
1. Type 1 review is required for:
 - a. A modification of an existing support structure or base station for the collocation of or attachment of new transmission equipment or removal or replacement of existing transmission equipment, pursuant to 47 U.S.C. § 1455, and notwithstanding any provision of this Chapter to the contrary, provided that such modification does not “substantially change the physical dimensions” of such support structure or base station from the dimensions approved as part of the original decision or building permit for the support structure or base station, that the applicant requesting a modification or expansion of a support structure or base station establishes by substantial evidence that the requested separation between antennas is the minimum necessary to avoid interference, and, to the extent feasible, that the additional equipment or modified equipment shall maintain the appearance and design of the original facility, including, but not limited to, color, screening, landscaping, stealth or camouflage design, mounting configuration, and architectural treatment.
 - b. Siting of temporary wireless communications facilities which do not meet the criteria listed in FCC 10-33-3-B-2 above or that will require placement for longer than 60 days, but no longer than 120 days.

2. A Type II Review shall be required for all proposals meeting the height requirements in FCC 10-33-4-B.
3. A Type III (Conditional Use Permit) Review shall be required for all proposals which do not meet the height requirements listed in FCC 10-33-4-B and all proposals.

D. Application Contents: For a siting permit, the applicant shall submit:

1. A site plan, drawn to scale.
2. To-scale elevations of all proposed buildings and structures, together with a depiction of proposed screening.
3. A landscaping and screening plan.
4. The engineered design capacity of the WCF relative to the number and type of antenna it is designed to accommodate, at the location of such antenna in such a manner as to optimize performance, minimize visual impact, and encourage co-location.
5. A feasibility study showing why this facility is necessary, including but not limited to an alternate candidate analysis and coverage/capacity maps depicting anticipated coverage and the area to be serviced. The study shall demonstrate the priority designation of the facility and why other higher priority options under 10-33-3-A are not feasible. The study must show that co-location is unfeasible due to one or more of the following reasons: structural support limitations, safety considerations, lack of available space, failure to meet service coverage needs, consent cannot be obtained, or unreasonable economic constraints.
6. Evidence of conformance with FAA requirements.
7. Details of proposed security measures and content and location of warning signs. Such signs shall include notification of any hazardous materials onsite, and a 24/7 contact number for emergency use.
8. Evidence that the proposed WCF meets FCC electromagnetic radiation emission standards.
9. Narrative showing compliance with conditional use criteria and/or design review criteria.
10. Applications that require a Type III review shall conduct a meeting with surrounding property owners prior to the submittal of a land use application. To the greatest extent practical, the neighborhood meeting shall be held in the general vicinity of the proposed telecommunications facility.
 - a. Notice of the meeting shall be sent to neighboring property owners within 300 feet of the subject parcel and the Planning Department.
 - b. The applicant shall mail notice no less than 14 days prior to the date set for the meeting to owners of record including the date, time, and location of the meeting, as well as information that the topic of the meeting will be to discuss the proposed location of a telecommunications facility on the subject property. The notice shall state the assessor's map and taxlot numbers for the subject property and, if available, the address of the subject property.
 - c. The application submittal shall include the following:
 - i. Notice letter and any attachments;
 - ii. Mailing labels;
 - iii. Affidavit of mailing;
 - iv. List of attendees;
 - v. Summary of discussion.

10-33-4: DEVELOPMENT STANDARDS: WCFs shall meet the following development standards:

A. Setbacks:

1. WCFs shall not be located in front yards
2. Telecommunication facilities meeting the height requirements of the underlying district shall meet the setbacks required in that district.
3. The setback of the structure shall be governed by the setback requirements of the underlying zone. In all zoning districts, the Planning Commission may allow a variance to any required setback upon the request of the applicant if:
 - a. The Applicant provides a letter stamped by a certified structural engineer documenting that the proposed structure's fall zone is less than the actual height of the structure.
 - b. The Applicant can show that the proposed encroachment of the setback minimizes the potential adverse impacts through natural topography, reasonable design, landscape and/or construction practices.
 - c. The setback of the structure shall be governed by the setback requirements of the underlying zone. However, the setback for a WCF from a residential dwelling not on the subject parcel shall be no less than the height of the proposed facility.
4. Additional setbacks may be required if there are lighting or noise impacts, or if protection from damage or collapse of the facility warrants additional setbacks.

B. Height Limits by District: Height limits for each district apply to all wireless telecommunication facilities, including those exempted from Siting Permits. Wireless telecommunications facilities in excess of these height limits may be permitted through a Type III review process.

1. Limited Industrial, Service Industrial, Marine, Pacific View Business Park and Highway Districts: All non-exempt WCF meeting the height requirements of those districts are subject to Siting Permits. Those height limits are 38' from ground-level in the Limited Industrial District, Service Industrial, Marine, and Pacific View Business Park Districts and 28' from ground-level in the Highway District. Permitted without review or siting permits are antenna mounted on a roof or side of a building where such antenna is necessary for the conduct of the business on the site of the antenna and extends no more than 8 feet above the roof line.
2. Old Town, Mainstreet, Professional Office / Institutional and Commercial Districts: WCF may extend 5' above the roofline.
3. North Commercial District: WCF may extend 5' above the roofline.
4. Public and Estuary Districts: WCF heights may not exceed those of the most restrictive abutting district.
5. Residential Districts: WCF may not exceed 5' in height above the roofline in any residential district. Towers erected for use by amateur radio operators may exceed the 5' above roofline restriction if it is demonstrated that the increased height is technically necessary to enable functional radio communications is approved through a Type II Review.
6. Public Facilities: Monopoles for personal communication devices attached to existing light, power, or telephone poles may not extend more than 6' in height in any zone. WCFs attached to existing public facilities may not exceed 9' in height. The owner of the facility may require screening, security measures, or liability coverage, and may control access to the facility.

7. Amateur Radio Towers: Towers erected for use by amateur radio operators may not exceed 40' in height. Amateur radio towers in excess of 40' shall be reviewed by a committee of three amateur radio operators to determine whether the additional height is technically necessary to enable functional amateur radio communications and reviewed through a Type II Review.
- C. Collocation Required: All wireless communications facilities located in the right-of-way shall be collocated or attached to replacement utility structures. All wireless communications facilities located outside the right-of-way shall be collocated, unless the collocation would interfere with other wireless communications facilities located on the same structure or jeopardize the physical integrity of the structure upon which collocation will be made, consent cannot be obtained for collocation on the structure, or the available structures do not provide sufficient height to obtain coverage or capacity objectives.
- D. Access: Access to commercial WCFs shall be from an arterial or a collector street.
- E. General Requirements:
1. Tower sharing: WCFs shall incorporate co-location either with another existing facility, or offer the option for another entity to co-locate on the proposed facility.
 2. Towers exceeding height limits: Towers which exceed district height limits shall not exceed that necessary to meet the needs of the applicant, provide reasonable service to the Florence area, and provide for future collocation of facilities to prevent the siting of additional towers.
 3. Security: Antennas must be secured from public access, either by vertical or horizontal separation, fencing not less than 6 feet in height, locked access, or other measures as appropriate. Ladders, rungs, and other means of access shall be locked or removed to prevent unauthorized access to the facility.
 4. Tower Color, Finish, Concealment: For towers not regulated by the Oregon Department of Aviation, or Federal Aviation Administration, a non-reflective finish (paint / surface) must be provided that reduces the visibility of the structure so as to blend in with the surrounding environment. In the alternative, the tower may be designed so as to look like some feature other than a wireless tower from the surrounding environment. Whether via color, finish, or design, the proposed WCF design shall reduce, to the extent reasonably feasible, the visibility of the proposed facility from adjacent streets, residences, parks and viewpoints.
 5. Landscaping / Screening: The base of a tower and all necessary equipment or structures located at grade must be fully screened from the street and any abutting sites as follows:
 - a. A landscaped area at least 5 feet deep meeting the requirements of FCC 10-34-3-7 must be provided around the base of a tower and all accessory equipment or structures located at grade.
 - i. Landscaping shall be selected from the City of Florence Tree and Plant List and planted with a minimum height of 4 feet.
 - ii. Plantings shall be spaced evenly apart to create adequate screening density, provided that maximum spacing shall be 36 inches on center.
 - iii. Plantings shall be of a species that attain a minimum mature height of 10 feet.
 - iv. Plantings shall be comprised of a minimum of three varieties of shrub species, preferably evergreen.
 - v. Maintenance of landscaping shall meet the criteria of FCC 10-34-3-8.
 - b. Sight Obscuring Fence: A sight-obscuring fence that is a minimum of 6 feet high and shall consist of chain link with slats, wood, masonry, or brick.

- c. Equipment shelters / cabinets: All at-grade equipment shall be enclosed within equipment shelters and/or cabinets constructed of wood, metal, or masonry. Building materials shall be stained or painted in a color that is consistent and compatible with surrounding development and then sealed for weather protection. Roofing and other architectural treatments proposed for the material shall also be consistent and compatible with surrounding development. Shipping containers are not acceptable unless fully screened. Ground mounted equipment cabinets shall be of a muted, earth-tone Pacific Northwest coastal color palette.
 - d. The Planning Commission may approve plans which do not meet the above criteria, but serve the intended purpose through alternative means.
6. State and Federal Requirements: The site shall comply with electromagnetic radiation emission standards as established by the FCC. No WCF shall interfere with public safety telecommunications. Applicants must provide certification from a registered engineer that the proposed facility will be in compliance with FCC emission standards with the permit application. The applicant shall also provide certification from a registered engineer that the proposed facility will be in compliance with FAA and Oregon Department of Aviation standards with the permit application.
 7. Lighting: No lighting shall be permitted except as required by the Oregon Department of Aviation, FAA, or as necessary to provide security to the site. Refer to Chapter 10-37 of this Title for lighting requirements.
 8. Fall zone: The applicant shall provide a fall zone adequate to protect surrounding uses, especially residences, but no less than the required setback.
 9. Liability Coverage: The owner / operator shall certify that they have obtained sufficient liability insurance to cover damage from tower failure or collapse.
 10. Lattice towers are permitted only if utilized by essential services such as fire, police, other City services, or amateur radio operators.
 11. Noise requirements: Applications to locate or replace accessory equipment in or within 50 feet of a residential zone must be accompanied by a signed and stamped acoustical engineer's report demonstrating that noise levels from the equipment are in full compliance with noise regulations contained within FCC 6-1-2-3.
 12. Display: No signs, striping, graphics, or other attention getting devices, other than those required by state or federal regulations, are permitted on the transmission tower or ancillary facilities. Notwithstanding the proceeding, each sign may be no larger than 3 square feet in surface area. Such signs must be single-faced, two dimensional and unlit; commonly, such signs are used to display ownership information, a warning message, or a safety message.

10-33-5: MAINTENANCE: The owner(s) of any WCF shall maintain the facility and its accessory structures in a way that provides for safety and continuous compliance with any conditions of approval.

10-33-6: DECOMMISSIONING:

- A. If an owner plans to abandon or discontinue operation of a WCF, such owner shall notify the City by certified mail of the proposed date of abandonment or discontinuance of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuance.
- B. The City may require, as part of a review process, that an applicant post a bond or other financial security in the amount necessary to remove a WCF and its accessory structures in the case of discontinuance of use.

- C. In the event that an owner discontinues use of a transmission facility for more than six consecutive months, the City may require that the owner remove the WCF and associated accessory structures. Failure to remove the WCF without a request for extension of use, or other application to the City for continuation of use, shall allow the City to declare the WCF a nuisance and subject to the abatement procedures of the Florence City Code. The City may utilize the bond or other financial security for abatement.

10-33-7: SEVERABILITY: If any section, subsection, sentence, clause, phase or portion of this code is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

10-33-8: REVIEW OF REGULATIONS: New federal or state standards. In the event that either the federal or state government adopts mandatory or advisory standards more stringent than those described in this chapter, the Planning staff will prepare a report and recommendation on any necessary revisions to the City's adopted standards.

Ordinance No. 17, Series 2003

Section 10-33-7 amended by Ord. No. 12, Series 2014, effective 12-31-14

Sections 10-33-2 through 10-33-13 modified and/or deleted by Ord. No. 8, Series 2016, effective 7-20-16