

Chapter 740
WIRELESS COMMUNICATION FACILITIES

- 740.01 Purpose**
- 740.02 Designated Areas**
- 740.03 Uses Permitted Through a Type I Procedure**
- 740.04 New Tower Location**
- 740.05 Uses Permitted Through a Type III Procedure**
- 740.06 Standards for Uses Permitted Through a Type III Procedure**
- 740.07 Submittal Requirements**
- 740.08 Adjustments**
- 740.09 Abandonment**

740.01 Purpose. The purpose of this section is: to bring this Ordinance into compliance with the Federal Communications Act of 1996; to enhance the provision of communication services to county residents, businesses and visitors; to protect the visual character of the county from the potential adverse effects of wireless communications facilities development in Rural Residential Zones, Scenic Byways, and historic sites; to encourage facilities co-location to minimize the number of new facilities; and to ensure structural safety.

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

- A. Existing wireless telecommunication facilities. Co-location on existing wireless telecommunication facilities is subject to the provisions of this section.
- B. Amateur (Ham) radio towers, citizen band transmitters and antennas.

740.03 Uses Permitted Through a Type I Procedure. The following uses may be established subject to the Type I review process identified in Section 205.04:

- A. Co-location of antennas on a previously approved wireless telecommunication facility, provided:
 - 1. Co-location proposals involving an existing wireless telecommunication facility must have an approved and implemented landscaping plan that is in compliance with Subsection 740.06(G);
 - 2. No increase in the height of the existing wireless telecommunication support structure is proposed;
 - 3. The proposed co-located antennas are no higher than the existing antennae;

4. All aspects of the co-location improvements must be located within the previously approved fenced (lease) area;
 5. The co-location may not involve the removal of any previously approved landscaping/buffering.
- B. Use of existing utility poles (electric, cable, telephone, etc.), within a public right-of-way, for the placement of wireless telecommunication facilities, provided the following requirements are satisfied:
1. All required permits are applied for and granted;
 2. If it is necessary to replace the existing pole with a pole that is suitable for wireless communication, the new pole shall be no taller than the pole that is being replaced.

740.04 New Tower Location. All proposals for new wireless telecommunication facilities must be accompanied by a statement from a qualified independent third party, that the necessary service cannot be provided by co-location for one or more of the following reasons:

- A. No existing towers, or support structures, or approved but not yet constructed towers, or support structures, are located within the geographic area required meeting the applicant's engineering requirements.
- B. Existing towers or support structures are not of sufficient height to meet the applicant's engineering requirements.
- C. Existing towers or support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
- D. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing tower or support structure, or the existing antenna would cause interference with the applicant's proposed antenna.
- E. The applicant demonstrates that there are other limiting factors that render existing towers and support structures unsuitable.

740.05 Uses Permitted Through a Type III Procedure

- A. The following uses may be established subject to the Type III review process identified in Section 205.06. Conditional Use permits will be issued to the facility operator and the

property owner jointly. Uses must demonstrate compliance with Section 740.07 and Chapters 205 and 210:

1. Any wireless telecommunication facilities proposed in rural residential zones.
2. New wireless telecommunication facilities in resource and other zones that are not co-located.

740.06 Standards for Uses Permitted Through a Type III Procedure

- A. The Planning Commission may require placement of the tower in an alternate location on the tract. In order to avoid relocating the proposed facility, the applicant must demonstrate that the necessary service cannot reasonably be provided from an alternate location.
- B. All new wireless telecommunication towers shall be designed and built to accommodate co-location or additional loading. For the purposes of this provision, this means that the tower shall be designed specifically to accommodate co-location, with towers constructed to the latest industry design standards. Applicant shall submit to Planning Director documentation of up-to-date tower construction standards.
- C. Wireless telecommunication towers and equipment shelters shall be painted or coated in a manner that blends with the surrounding area. The finished coloring shall result in a non-reflective surface that makes the tower and equipment shelter as visually unobtrusive as possible, unless state or federal regulations require different colors. Colors will be determined through the Design Review process.
- D. In areas zone Rural Residential, Scenic Byways designated by the Oregon State Highway Commission, and historic sites inventoried in the Baker County Comprehensive Land Use Plan, the Planning Commission may require as necessary a technology through which a wireless telecommunication facility is designed to resemble an object present in the natural environment or to resemble a building of a type typically and customarily found in the area.
- E. No lighting shall be permitted on a tower, except as required by state or federal regulations. If required, the light shall be shielded or deflected from the ground and other properties, to the extent practicable.
- F. The wireless telecommunication facility shall be located within an area that is enclosed on all sides. The enclosure must be at least six feet tall and sight obscuring.
- G. At the discretion of the Planning Commission, landscaping may be required. If required, landscaping shall be placed outside of the enclosed area and shall consist of the following:
 1. A combination of landscaping materials, if needed, that includes ground cover, shrubs and trees that are of the natural surrounding vegetation in the area.

2. Existing landscaping/vegetation may be used to satisfy the above requirements;
 3. In cases where a portion of the wireless telecommunication facility is screened from points offsite by a building that is at least eight feet tall, the landscaping requirements of this subsection will not be required for the screened area. Equipment shelters shall be entirely enclosed. Equipment shelter exterior materials shall be those approved through the Design Review process.
- H. Noise generated by the wireless telecommunication facility shall not exceed the levels established by the State of Oregon, Department of Environmental Quality (DEQ). If properties adjacent to the property upon which the wireless telecommunication facility is proposed have a lower DEQ standard than the proposed site, the lower standard shall be applicable.
- I. Maintenance of the lease area is the responsibility of the owner/operator of the wireless telecommunication facility. The owner/operator shall prevent the facility from entering into a state of disrepair due to negligence, vandalism, natural hazard, or any other source. This requirement places the responsibility for maintenance on the owner/operator.

740.07 Submittal Requirements. A Development Plan must accompany the application for review, and approval by the Planning Director and consist of the following information:

- A. Uses authorized under Section 740.03 (Uses Permitted Outright):
1. Building permit applications accompanied by information demonstrating compliance with Subsections 740.03(A) and (B).
- B. Uses proposed under Section 740.05 (Conditional Uses):
1. Planning Department land use application form;
 2. A site plan, drawn to scale, that includes:
 - a. Existing and proposed improvements;
 - b. Adjacent roads;
 - c. Parking, circulation and access;
 - d. Areas of existing and proposed vegetation to be added, retained, replaced, or removed; and

- e. Setbacks from property lines of all existing and proposed structures. If an adjustment is requested, the plan must identify the distance from the wireless telecommunication tower to residences and other structures offsite that are within a distance not less than the height of the tower from the proposed location of the tower.
3. A vicinity map showing adjacent properties, land uses, zoning and roadways within 500 feet of the proposed antenna site;
4. Elevations showing antennas, towers, equipment shelters, area enclosure and other improvements related to the facility;
5. An accurate graphic (map) inventory of existing wireless telecommunication facilities within one mile of the property under consideration; and
6. A map and description of two alternative locations.
7. Statement addressing Conditional Use Standards listed under Section 740.06.

740.08 Adjustments. Adjustments to the standards of this section may be approved by the Planning Commission. The Planning Commission may grant an adjustment under either of the following circumstances:

- A. The Planning Commission may grant new tower construction when a gap in the applicant's service exists and that gap can only be alleviated through new tower construction. For new tower construction the applicant must demonstrate the following:
 1. A gap in coverage or capacity exists in the wireless telecommunication provider's service network that results in network users being regularly unable to connect with the provider's network, or maintain connection;
 2. The proposed facility will fill the existing service gap. The gap would be filled if the proposed facility would substantially reduce the frequency with which users of the network are unable to connect, or maintain connection, with the provider's network; and
 3. The gap cannot be filled through co-location on existing facilities, or establishment of facilities that are consistent with the standards of this section on properties other than the proposed site or on the proposed site in a manner which does not require an adjustment under this subsection.
- B. The Planning Commission may authorize new tower construction when the proposed tower construction would utilize existing site characteristics to minimize demonstrated or

potential impacts on the use of surrounding properties. Applicants for new tower construction under this provision must demonstrate that construction will result in a lower level of impact on surrounding properties than would be generated if new tower construction were not granted. In considering the requested, the Planning Commission may consider the following:

1. Visual impacts;
 2. Impacts on view;
 3. Impacts on property values; and
 4. Other impacts that the Planning Commission finds can be mitigated by an adjustment.
- C. Requests for new tower construction under this subsection shall be considered part of the application to establish a wireless telecommunication facility, not a separate application. All applications that propose new tower construction must be reviewed by the Planning Commission pursuant to Chapter 210.

740.09 Abandonment

- A. Determination of abandonment will be made by the Planning Director, who shall have the right to demand documentation from the facility owner regarding the tower or antenna use.
- B. Upon determination of abandonment, the facility owner shall have 1 year to:
1. Reuse the facility or transfer the facility to another owner who will reuse it within 1 year of the determination of abandonment; or
 2. Remove the facility.
- C. If the facility is not reused within 1 year of the determination of abandonment, county authorization for the use shall expire. Once authorization for the use has expired, the facility operator shall remove the facility from the property within 120 calendar days. If the facility operator does not remove the facility within 120 calendar days, the county may remove the facility at the expense of the facility operator, or, in the alternative, at the property owner's expense.