



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150
Salem, OR 97301-2540
(503) 373-0050
Fax (503) 378-5518
www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

07/31/2012

TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Ashland Plan Amendment
DLCD File Number 002-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, August 13, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Maria Harris, City of Ashland
Gordon Howard, DLCD Urban Planning Specialist

<paa> YA

FORM
2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE	<input type="checkbox"/> In person <input type="checkbox"/> electronic <input type="checkbox"/> mailed
STAMP	DEPT OF JUL 25 2012 LAND CONSERVATION AND DEVELOPMENT For Office Use Only

Jurisdiction: **City of Ashland**Local file number: **2011- 01175**Date of Adoption: **7/17/2012**Date Mailed: **7/23/2012**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 8/25/2011

- Comprehensive Plan Text Amendment
 Land Use Regulation Amendment
 New Land Use Regulation

- Comprehensive Plan Map Amendment
 Zoning Map Amendment
 Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The revision of existing development standards for wireless communication facilities to reflect the City Council interpretation for the Preferred Design hierarchy and collocation study requirements.

Does the Adoption differ from proposal? Please select one

The requirement for a review of the applications not involving collocation by an independent contractor was added in the final draft (18.72.180.C.8). The original draft sent with the notice of adoption did not include a requirement for a third-party review.

Plan Map Changed from: **N/A**

to:

Zone Map Changed from: **N/A**

to:

Location: **N/A**

Acres Involved:

Specify Density: Previous: **N/A**

New:

Applicable statewide planning goals:

- 1** **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19**

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

 Yes No

If no, do the statewide planning goals apply?

 Yes No

If no, did Emergency Circumstances require immediate adoption?

 Yes No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Maria Harris, Planning Manager**
Address: **City of Ashland, 20 E. Main St**
City: **Ashland**

Zip: **97520-**

Phone: **(541) 552-2045** Extension:
Fax Number: 542-552-2050
E-mail Address: harrism@ashland.or.us

ADOPTION SUBMITTAL REQUIREMENTS

**This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by
the public official designated by the jurisdiction to sign the approved ordinance(s)**
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

ORDINANCE NO. 3068

**AN ORDINANCE AMENDING THE DEVELOPMENT STANDARDS FOR
WIRELESS COMMUNICATION FACILITIES IN 18.72.180 OF THE
ASHLAND MUNICIPAL CODE AND LAND USE ORDINANCE**

Annotated to show **deletions** and **additions** to the code sections being modified. Deletions are **bold lined through** and additions are in **bold underline**.

WHEREAS, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop 20 Or. App. 293; 531 P 2d 730, 734 (1975); and

WHEREAS, the City of Ashland City Council found AMC 18.72.180.C.2 to be ambiguous on its face, and interpreted this standard in the final decision on November 2, 2010 for the appeal of a Planning Action 2009-01244, a request to install rooftop wireless communications facilities on the existing building located at 1644 Ashland Street; and

WHEREAS, the City of Ashland Planning Commission considered the above-referenced recommended amendments to the Ashland Municipal Code and Land Use Ordinances based on the final decision of the City Council on Planning Action 2009-01244 at a duly advertised public hearing on October 11, 2011, following deliberations, recommended approval of the amendments unanimously; and

WHEREAS, the City Council of the City of Ashland, following the close of the public hearings and record, deliberated and conducted first and second readings approving adoption of the Ordinance in accordance with Article 10 of the Ashland City Charter; and

WHEREAS, the City Council of the City of Ashland has determined that in order to protect and benefit the health, safety and welfare of existing and future residents of the City, it is necessary to amend the Ashland Municipal Code and Land Use Ordinance in manner proposed, that an adequate factual base exists for the amendments, the amendments are consistent with the comprehensive plan and that such amendments are fully supported by the record of this proceeding.

THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:

SECTION 1. The above recitations are true and correct and are incorporated herein by this reference.

SECTION 2. AMC Chapter 18.72.180 [*Development Standards for Wireless Communication Facilities*] is hereby amended to read as follows:

SECTION 18.72.180 Development Standards for Wireless Communication Facilities.

A. Purpose and Intent - The purpose of this section is to establish standards that regulate the placement, appearance and impact of wireless communication facilities, while providing residents with the ability to access and adequately utilize the services that these facilities support.

Because of the physical characteristics of wireless communication facilities, the impact imposed by these facilities affect not only the neighboring residents, but also the community as a whole.

The standards are intended to ensure that the visual and aesthetic impacts of wireless communication facilities are mitigated to the greatest extent possible, especially in or near residential areas.

B. Applicability.

1. All installation of wireless communication systems shall be subject to the requirements of this section in addition to all applicable Site Design and Use Standards and are subject to the following approval process:

<u>Zoning Designations</u>	<u>Attached to Existing Structures</u>	<u>Alternative Structures</u>	<u>Freestanding Support Structures</u>
<u>Residential Zones</u>	<u>CUP</u>	<u>Prohibited</u>	<u>Prohibited</u>
<u>C-1</u>	<u>CUP</u>	<u>CUP</u>	<u>Prohibited</u>
<u>C-1-D (Downtown)</u>	<u>CUP</u>	<u>Prohibited</u>	<u>Prohibited</u>
<u>C-1 - Freeway overlay</u>	<u>Site Review</u>	<u>Site Review</u>	<u>CUP</u>
<u>E-1</u>	<u>Site Review</u>	<u>Site Review</u>	<u>CUP</u>
<u>M-1</u>	<u>Site Review</u>	<u>Site Review</u>	<u>CUP</u>
<u>SOU</u>	<u>Site Review</u>	<u>CUP</u>	<u>CUP</u>
<u>NM (North Mountain)</u>	<u>Prohibited</u>	<u>Prohibited</u>	<u>Prohibited</u>
<u>Historic District</u>	<u>CUP</u>	<u>Prohibited</u>	<u>Prohibited</u>
<u>A-1 (Airport Overlay)</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>

<u>HC (Health Care)</u>	<u>CUP</u>	<u>Prohibited</u>	<u>Prohibited</u>
<u>CM-NC</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>
<u>CM-OE</u>	<u>Site Review</u>	<u>Site Review</u>	<u>CUP</u>
<u>CM-CI</u>	<u>Site Review</u>	<u>Site Review</u>	<u>CUP</u>
<u>CM-MU</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>
<u>CM-OS</u>	<u>Prohibited</u>	<u>Prohibited</u>	<u>Prohibited</u>

2. Additional Provisions.

- a. In residential zoning districts, wireless communication facilities are permitted on existing structures greater than 45 feet in height. For the purposes of this section, existing structures shall include the replacement of existing pole, mast or tower structures (such as stadium light towers) for the combined purposes of their previous use and wireless communication facilities.
- b. In the Downtown Commercial zoning district (C-1-D), wireless communication facilities are permitted on existing structures with a height greater than 50 feet.
- c. With the exception of the C-1-D zoning district as described above, wireless communication facilities are prohibited in the Historic Districts, as defined in the Comprehensive Plan.

- 3. Exemptions.** Replacement of previously approved antennas and accessory equipment are permitted outright with an approved building permit, and are allowed without a Site Review or Conditional Use Permit as specified in the preceding subsection, provided that these actions:
- a. Do not create an increase in the height of the facility; and
 - b. Conforms with the conditions of the previously approved planning action; and
 - c. Do not cause the facility to go out of conformance with the standards of Section 18.72.180.D.

B C. Submittals - In addition to the submittals required in sSection 18.72.060, the following items shall be provided as part of the application for a wireless communication facility.

1. A photo of each of the major components of a similar installation, including a photo montage of the overall facility as proposed.
2. Exterior elevations of the proposed wireless communication facility (min 1"=10').
3. A set of manufacturers specifications of the support structure, antennas, and accessory buildings with a listing of materials being proposed including colors of the exterior materials.
4. A site plan indicating all structures, land uses and zoning designation within 150 feet of the site boundaries, or 300 feet if the height of the structure is greater than 80 feet.
5. A map that includes the following information:
 - a. the coverage area of the proposed wireless communication facility; and
 - b. A map showing the existing and approved wireless communication facility sites operated by the applicant, and all other wireless communication facilities within a 5 mile radius of the proposed site.
6. Details and specifications for exterior lighting.

- ~~6 7.A collocation feasibility study that adequately indicates collocation efforts were made and states the reasons collocation can or cannot occur addressing the Collocation Standards in Section 18.72.180.D.3.~~
- 8. For applications requesting approval of installation of new wireless communication facilities that are not collocated on a structure used by one or more wireless communications providers, an applicant shall submit, along with the standard application fee, an additional fee to reimburse the City for the cost of having the application materials reviewed by an independent contractor. The contractor must provide objective advice based on professional qualifications and experience in telecommunication/radio frequency engineering, structural engineering, assessment of electromagnetic fields, telecommunications law, and other related fields of expertise. The fee for this independent analysis of application materials shall be in an amount established by resolution of the City Council.**
- 7 9.A copy of the lease agreement for the proposed site showing that the agreement does not preclude collocation.**
- 8 10.Documentation detailing the general capacity of the tower in terms of the number and type of antennas it is designed to accommodate.**
- 9 11.Any other documentation the applicant feels is relevant to comply with the applicable design standards.**
- 10 12.Documentation that the applicant has held a local community meeting to inform members of the surrounding area of the proposed wireless communication facility. Documentation to include:**
- a. a copy of the mailing list to properties within 300' of the proposed facility.**
 - b. a copy of the notice of community meeting, mailed one week prior to the meeting.**
 - c. a copy of the newspaper ad placed in a local paper one week prior to the meeting.**
 - d. a summary of issues raised during the meeting.**

C D. Design Standards - All wireless communication facilities shall be located, designed, constructed, treated and maintained in accordance with the following standards:

- 1. General Provisions**
 - a. All facilities shall be installed and maintained in compliance with the requirements of the Building Code. At the time of building permit application, written statements from the Federal Aviation Administration (FAA), the Aeronautics Section of the Oregon Department of Transportation, and the Federal Communication Commission that the proposed wireless communication facility complies with regulations administered by that agency, or that the facility is exempt from regulation.**
 - b. All associated transmittal equipment must be housed in a building, above or below ground level, which must be designed and landscaped to achieve minimal visual impact with the surrounding environment.**
 - c. Wireless communication facilities shall be exempted from height limitations imposed in each zoning district.**
 - d. WCF Wireless communication facilities shall be installed at the minimum height and mass necessary for its intended use. A submittal verifying the proposed height and mass shall be prepared by a licensed engineer.**
 - e. Lattice towers are prohibited as freestanding wireless communication support structures.**

- e. Signage for wireless communication facilities shall consist of a maximum of two non-illuminated signs, with a maximum of two square feet each stating the name of the facility operator and a contact phone number.
 - f. Applicant is required to remove all equipment and structures from the site and return the site to its original condition, or condition as approved by the Staff Advisor, if the facility is abandoned for a period greater than six months. Removal and restoration must occur within 90 days of the end of the six month period.
 - g. All new wireless communication support structures shall be constructed so as to allow other users to collocate on the facility.
- 2. Preferred Designs. The following preferred designs are a stepped hierarchy, and the standards shall be applied in succession from subsection a to e, with the previous standard exhausted before moving to the following design alterative.

For the purpose of Section 18.72.180, feasible is defined as capable of being done, executed or effected; possible of realization. A demonstration of feasibility requires a substantial showing that a preferred design can or cannot be accomplished.

- a. Collocation. Where possible, the use of existing WCF sites for new installations shall be encouraged. Collocation of new facilities on existing facilities shall be the preferred option. Where technically feasible, collocate new facilities on pre-existing structures with wireless communication facilities in place, or on pre-existing towers.
- b. Attached to Existing Structure. If (a) above is not feasible, WCF wireless communication facilities shall be attached to pre-existing structures, when feasible.
- c. Alternative Structure. If (a) or (b) above are not feasible, alternative structures shall be used with design features that conceal, camouflage or mitigate the visual impacts created by the proposed WCF wireless communication facilities.
- d. Freestanding Support Structure. If (a), (b), or (c) listed above are not feasible, a monopole design shall be used with the attached antennas positioned in a vertical manner to lessens the visual impact compared to the antennas in a platform design. Platform designs shall be used only if it is shown that the use of an alternate attached antenna design is not feasible.
- e. Lattice towers are prohibited as freestanding wireless communication support structures.

3. Collocation Standards.

- a. The collocation feasibility study shall: 1) document that alternative sites have been considered and are technologically unfeasible or unavailable; 2) demonstrate that a reasonable effort was made to locate collocation sites that meet the applicant's service coverage area needs; and 3) document the reasons collocation can or cannot occur.
- b. Relief from collocation under this section may be granted at the discretion of the approving authority, if the application and independent third party analysis demonstrate collocation is not feasible because one or more of the following conditions exist at prospective collocation sites:
 - i. a significant service gap in coverage area.

- ii. sufficient height cannot be achieved by modifying existing structure or towers.
 - iii. structural support requirements cannot be met.
 - iv. collocation would result in electronic, electromagnetic, obstruction or other radio frequency interference.

- 3 **4. Landscaping.** The following standards apply to all **WCF wireless communication facilities** with any primary or accessory equipment located on the ground and visible from a residential use or the public right-of-way.
- a. Vegetation and materials shall be selected and sited to produce a drought resistant landscaped area.
 - b. The perimeter of the **WCF wireless communication facilities** shall be enclosed with a security fence or wall. Such barriers shall be landscaped in a manner that provides a natural sight obscuring screen around the barrier to a minimum height of six feet.
 - c. The outer perimeter of the **WCF wireless communication facilities** shall have a 10 foot landscaped buffer zone.
 - d. The landscaped area shall be irrigated and maintained to provide for proper growth and health of the vegetation.
 - e. One tree shall be required per 20 feet of the landscape buffer zone to provide a continuous canopy around the perimeter of the **WCF wireless communication facilities**. Each tree shall have a caliper of 2 inches, measured at breast height, at the time of planting.

4 **5. Visual Impacts**

- a. Antennas, if attached to a pre-existing or alternative structure shall be integrated into the existing building architecturally and, to the greatest extent possible, shall not exceed the height of the pre-existing or alternative structure.
- b. Wireless communication facilities shall be located in the area of minimal visual impact within the site which will allow the facility to function consistent with its purpose.
- c. Antennas, if attached to a pre-existing or alternative structure shall have a non-reflective finish and color that blends with the color and design of the structure to which it is attached.
- d. **WCF Wireless communication facilities**, in any zone, must be set back from any residential zone a distance equal to twice its overall height. The setback requirement may be reduced if, as determined by the Hearing Authority, it can be demonstrated through findings of fact that increased mitigation of visual impact can be achieved within of the setback area. Underground accessory equipment is not subject to the setback requirement.
- e. Exterior lighting for a **WCF wireless communication facility** is permitted only when required by a federal or state authority.
- f. All wireless communication support structures must have a non-reflective finish and color that will mitigate visual impact, unless otherwise required by other government agencies.
- g. Should it be deemed necessary by the Hearing Authority for the mitigation of visual impact of the **WCF wireless communication facility**, additional design measures may be required. These may include, but are not limited to: additional camouflage

materials and designs, facades, specific colors and materials, masking, shielding techniques.

5. Collocation standards

- a. ~~Each addition of an antenna to an existing WCF requires a building permit, unless the additional antenna increases the height of the facility more than ten feet.~~
- b. ~~Addition of antennas to an existing WCF that increases the overall height of the facility more than ten feet is subject to a site review.~~

D. All installation of wireless communication systems shall be subject to the requirements of this section in addition to all applicable Site Design and Use Standards and are subject to the following approval process:

Zoning Designations	Attached to Existing Structures	Alternative Structures	Freestanding Support Structures
Residential Zones⁽¹⁾	CUP	Prohibited	Prohibited
C-1	CUP	CUP	Prohibited
C-1-D (Downtown)⁽²⁾	CUP	Prohibited	Prohibited
C-1—Freeway overlay	Site Review	Site Review	CUP
E-1	Site Review	Site Review	CUP
M-1	Site Review	Site Review	CUP
SOU	Site Review	CUP	CUP
NM (North Mountain)	Prohibited	Prohibited	Prohibited
Historic District⁽²⁾	CUP	Prohibited	Prohibited
A-1 (Airport Overlay)	CUP	CUP	CUP
HC (Health Care)	CUP	Prohibited	Prohibited
CM-NC	CUP	CUP	CUP
CM-OE	Site Review	Site Review	CUP
CM-CI	Site Review	Site Review	CUP
CM-MU	CUP	CUP	CUP
CM-OS	Prohibited	Prohibited	Prohibited

SECTION 3. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions, and text descriptions of amendments (i.e. Sections 1, 22-23) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the 5 day of June, 2012, and ~~July~~ PASSED and ADOPTED this 17 day of July, 2012.

Barbara M. Christensen

Barbara M. Christensen, City Recorder

SIGNED and APPROVED this 18 day of July, 2012.

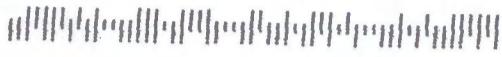
John Stromberg

John Stromberg, Mayor

Reviewed as to form:

David Lohman

David Lohman, City Attorney



DEPT OF

JUL 25 2012

LAND CONSERVATION
AND DEVELOPMENT

CITY HALL
20 EAST MAIN STREET
ASHLAND, OR 97520

CITY OF
ASHLAND

Attention: Plan Amendment Specialist
Dept. of Land Conservation & Development
635 Capitol Street NE
Suite 150
Salem, OR
97301-2540

