



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: April 26, 2016
Jurisdiction: Hood River County
Local file no.: P-15-0201
DLCD file no.: 003-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 04/22/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD less than 35 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 003-15 {24206}
Received: 4/22/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: Hood River County

Local file no.: **P-15-0201**

Date of adoption: April 18, 2016

Date sent: April 22nd, 2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 9/25/2015

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Local contact (name and title): John Roberts, Community Development Director

Phone: (541) 387-6868

E-mail: john.roberts@co.hood-river.or.us

Street address: 601 State St.

City: Hood River

Zip: 97031-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- | | | | |
|-------------|----|--------|--|
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Hood River County Zoning Ordinance specific articles amended: Article 74 (Communications Facilities & Towers) established in entirety; Article 10 (R-1) Zone; Article 15 (RR) Zone; Article 21 (C-1) Zone; Article 25 (RUC-1) Zone; Article 27 (MH-C1) Zone; Article 31 (M-1) Zone; Article 32 (M-2) Zone; Article 33 (AD) Zone; Article 35 (NA) Zone; Article 55 (Supplementary Provisions).

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: A list of the agencies and individuals who received notice is available. Includes, but not limited to: county building, forestry, public works, records, clerk, environmental health departments; cooperative extension; City of Hood River; Department of Agriculture; DLCD Representative, Department of Fish & Wildlife; State Parks and Recreation; Department of Forestry; Mt. Hood National Forest; all local fires and water agencies; Columbia Gorge Fruit Growers; and more

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Supplementary Materials Included: 1) April 18, 2016 signed Ordinance (332) and attached Exhibit; 2) April 18th, 2016 - Staff Report to Board of Commissioners; and 3) December 21, 2015 - Staff Report to Board of Commissioners.

NOTICE OF ADOPTED CHANGE – SUBMITTAL INSTRUCTIONS

1. A Notice of Adopted Change must be received by DLCD no later than 20 days after the ordinance(s) implementing the change has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) as provided in [ORS 197.615](#) and [OAR 660-018-0040](#).

2. A Notice of Adopted Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of Adopted Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of Adopted Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 2 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

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

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to plan.amendments@state.or.us with the subject line "Notice of Adopted Amendment."

Submittals may also be uploaded to DLCD's FTP site at http://www.oregon.gov/LCD/Pages/papa_submittal.aspx

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 2 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of Adopted Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or .xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or plan.amendments@state.or.us.

6. **Content:** An administrative rule lists required content of a submittal of an adopted change ([OAR 660-018-0040\(3\)](#)). By completing this form and including the materials listed in the checklist below, the notice will include the required contents.

Where the amendments or new land use regulations, including supplementary materials, exceed 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

7. Remember to notify persons who participated in the local proceedings and requested notice of the final decision. ([ORS 197.615](#))

If you have any questions or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail plan.amendments@state.or.us.

HOOD RIVER COUNTY

ORDINANCE NO. 332

AN ORDINANCE TO ADOPT AMENDMENTS OF THE HOOD RIVER COUNTY ZONING ORDINANCE TO ADD ARTICLE 74 (“COMMUNICATION FACILITEIS AND TOWERS”) AND TO MAKE MODIFICATIONS TO OTHER ARTICLES DIRECTLY RELATED.

WHEREAS, the Hood River Board of County Commissioners (“Board”) initiated the legislative actions pursuant to Article 62 (“Legislative Amendments”) of the Hood River County Zoning Ordinance, as a result of a Board meeting on January 24, 2015.

WHEREAS, the legislative action has been reviewed for compliance with applicable Oregon Revised Statutes, the Statewide Planning Goals, and the County Comprehensive Plan.

WHEREAS, approval of this legislative amendment would result in adoption of amendments to the Hood River County Zoning Ordinance to include the new Article 74 (“Communication Facilities and Towers”).

WHEREAS, the legislative updates provided an opportunity to make minor modifications to other Articles of the Hood River County Zoning Ordinance directly related to the proposed Article 74 to reference the uses, specifically: Article 10 (Residential Zone), Article 15 (Rural Residential Zone), Article 21 (Commercial Zone), Article 25 (Rural Unincorporated Community Commercial Zone), Article 27 (Mt. Hood Unincorporated Community Commercial Zone), Article 31 (Industrial Zone), Article 32 (Light Industrial), Article 33 (Airport Development Zone), and Article 55 (Supplementary Provisions).

WHEREAS, the County Planning Commission held a public hearing on October 28th, 2015, February 24th, 2016 and April 6th, 2016, and thereupon voted unanimously to refer proposed changes incorporated in Exhibit “A” to the Board for adoption.

WHEREAS, the above matter came before the Board for a public hearing on December 21, 2015, January 19th, 2016, February 16th, 2016 and April 18th, 2016 in the County Board of Commissioner Conference Room (1st floor), 601 State Street, Hood River, Oregon to consider the ordinance changes recommended by the County Planning Commission. Due notice was given of the hearing before the Board and opportunity provided to allow testimony to all parties.

WHEREAS, at the hearing the Board voted to approve the amendments attached in Exhibit “A” incorporated herein with the following changes:

- Section 74.30 – remove provision D which stated: “The proposed facilities will fill a significant gap in coverage”.
- Section 74.35.B.3 (setbacks) – amend as follows:
 - a. Unless permission is received from affected property owner(s), road authority or utility; towers shall be required to meet the property line/yard setbacks and buffer requirements of the underlying zone in which they are located or a minimum distance equal to the total height of the tower plus 10% whichever is greater.
 - b. Unless permission is received from affected property owner(s), road authority or utility; equipment shelters and guy wires associated with a tower shall be required to meet the property line/yard setbacks and buffer requirements of the underlying zone in which they are located.
 - c. Exception to the setback standards of (a) or (b) of this section may be granted if the applicant can demonstrate all of the following:
 - (i) A reduced setback would provide better concealment or screening than the setback required by (a) and (b) above.
 - (ii) Signed agreements from adjacent property owners assenting to the reduced setback.

NOW, THEREFORE, the Board of County Commissioners for Hood River County adopts this Ordinance, as set forth below:

I. IT IS HEREBY ORDAINED that the Hood River County Zoning Ordinance be amended to incorporate the new Article 74 (“Communication Facilities and Towers”). Said document is attached hereto as Exhibit “A”, and by this reference incorporate herein.

II. IT IS HEREBY ORDAINED that the Hood River County Zoning Ordinance be amended to incorporate minor modifications directly related to Article 74 to reference the uses, specifically: Article 10 (Residential Zone), Article 15 (Rural Residential Zone), Article 21 (Commercial Zone), Article 25 (Rural Unincorporated Community Commercial Zone), Article 27 (Mt. Hood Unincorporated Community Commercial Zone), Article 31 (Industrial Zone), Article 32 (Light Industrial), Article 33 (Airport Development Zone), and Article 55 (Supplementary Provisions). Said document is attached hereto as Exhibit “A”, and by this reference incorporated herein.

DATED THIS 18th DAY OF APRIL, 2016

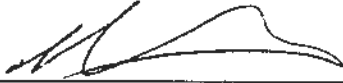
HOOD RIVER COUNTY BOARD OF COMMISSIONERS



Ron Rivers, Chair



Les Perkins, Commissioner



Maui Meyer, Commissioner

Karen Joplin, Commissioner



Bob Benton, Commissioner

Approved as to Form:



Wilford K. Carey, County Counsel

Exhibit A – HRCZO - Article 74

Article 74 to be Established in its Entirety.

Incorrect numbering and references will be revised in the adopted version.

ARTICLE 74 – COMMUNICATION FACILITIES & TOWERS

Section 74.00 Purpose.....

Section 74.05 Applicability

Section 74.10 Exempt Towers & Facilities

Section 74.15 Review Procedures.....

Section 74.20 Definitions.....

Section 74.25 Application Requirements

Section 74.30 General Standards & Requirements.....

Section 74.35 Standards & Approval Criteria (Lands Not Zoned EFU)

Section 74.40 Standards & Approval Criteria for Land Zoned EFU.....

Section 74.45 Maintenance

Section 74.50 Abandonment.....

Section 74.55 Modification/Variances to Development Standards

Exhibit A – HRCZO - Article 74

Section 74.00 - Purpose

The purpose of this Article is to provide a process and standards for the construction, modification and removal of communication towers, meteorological towers, non-commercial wind energy systems using towers (collectively referred to as 'towers') while protecting public health and safety and the scenic quality of unincorporated Hood River County. At the same time it encourages managed development of needed wireless communication facilities.

The specific purposes of this Article are:

- To recognize that towers are required to serve a variety of public needs.
- To provide communication services to county residents, businesses and visitors.
- To protect the unique scenic quality of the county and its neighborhoods by the thoughtful design, siting, landscaping, and camouflaging techniques of wireless communication facilities.
- To encourage the collocation of facilities as a primary option rather than the construction of additional single-use towers.
- To ensure the prompt and complete removal of facilities when abandoned or discontinued, including site restoration.

Section 74.05 – Applicability

1. This Article does not apply to those areas within the Mount Hood National Forest, the Columbia River Gorge National Scenic Area, or the Urban Growth Areas of the cities of Hood River and Cascade Locks.
2. Wireless telecommunications facilities existing prior to the effective date of this Article that do not conform to the standards of this Article and which have been in continuous use prior to the effective date of this Ordinance are allowed to continue as non-conforming uses. Expansion of an existing facility is subject to the requirements of this Article if the proposed changes exceed the dimensional standards of the Spectrum Act (see 47 C.F.R. § 1.40001 and definition of “substantial change,” below).
3. All wireless telecommunication facilities are subject to the requirements of this Article, except those Exempt Towers and Facilities identified below. The requirements of this Article are in addition to the requirements of the base or overlay zone and all other applicable county ordinances and regulations. Except for height, if a conflict is noted between development standards, the restrictive will govern.

Section 74.10 - Exempt Towers & Facilities

The following towers and wireless telecommunication facilities are not subject to the standards and requirements of this Article:

1. Amateur (Ham) radio towers, citizen band transmitters and antennas.
2. Whip or other similar antennas no taller than 6-feet with a maximum diameter of 2-

Exhibit A – HRCZO - Article 74

inches.

3. Residential scale antennas designed to receive television broadcast signals.
4. Low-powered networked telecommunications facilities such as microcell radio transceivers, small cell and Distributed Antenna Systems (DAS) located on existing utility poles and light standards within public right-of-ways.
5. Wireless communication devices less than or equal to 10 square feet in area and approved by the Federal Communications Commission (FCC) for residential areas (regardless of the zone).
6. Cells-On-Wheels (COW), are permitted as temporary uses in all zones for a period not to exceed 30 days or during a period of emergency as declared by the City, County, or State, or to address a short term capacity or coverage need, such as an event, relocation or repair of an existing facility.
7. Emergency or routine repairs or maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components of approved facilities which do not create a significant change in visual impact.
8. Two-way communication transmitters used on a temporary basis by “911” emergency services, including fire, police, and emergency aid or ambulance service.
9. Essential public communication services such as police, fire and other emergency communication networks.
10. Existing electrical utility poles and towers.

Section 74.15 - Review Procedures

The review procedure and approval for an application for a communication facility and tower shall be as indicated in Table A and described in this Article.

Section 74.20 - Definitions

Abandonment – Wireless telecommunication facilities will be considered abandoned when there has not been a carrier licensed or recognized by the FCC operating on the facility for a period of one year (365 consecutive days).

Antenna - A transmitting or receiving device used in telecommunications that radiates or captures electromagnetic waves, including, but not limited to, directional antennas, such as panel and microwave dish antennas, and omni-directional antennas, such as whips.

Antenna, Whip - An antenna that transmits or receives 360 degree signals. Whip antennas are typically cylindrical in shape, less than 3 inches in diameter and no more than 6 feet long, including the mounting assembly.

Base Station - A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this subpart or any equipment associated with a tower.

Exhibit A – HRCZO - Article 74

- (i) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- (ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
- (iii) The term includes any structure other than a tower that, at the time an eligible facilities modification application is filed with the County under this Chapter, supports or houses equipment described in paragraphs (i) - (ii) above, and that has been reviewed and approved under the applicable zoning or siting process, or under another State, county or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- (iv) For the purposes of a “Spectrum Act” Modification Request, the term does not include any structure that, at the time the relevant application is filed with the County under this Article, does not support or house equipment described in paragraphs (i) - (ii) of this definition.

Carrier/Provider - A company that provides wireless services.

Collocation - The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Concealment Technology - The use of technology (e.g., stealth) through which a wireless communications facility is designed to resemble an object which is already present in the natural environment; is designed to resemble a building, building feature or facade of a type typically found in the area; or is placed within an existing or proposed structure.

Eligible Facilities Request - Any proposed modification of an existing eligible support structure that does not substantially change the physical dimensions of that eligible support structure which the applicant asserts is subject to review under Section 6409 of the Spectrum Act, and which involves:

- (i) Collocation of new transmission equipment;
- (ii) Removal of transmission equipment; or
- (iii) Replacement of transmission equipment.

Eligible Support Structure - Refers to any base station or tower as defined in this Article, provided that it is existing at the time the relevant application for a Spectrum Act modification is filed with the County under this Article.

Essential Public Communication Service - Police, fire and other emergency communications networks.

Equipment Shelter - A structure that houses power lines, cable, connectors and other equipment ancillary to the transmission and reception of telecommunications.

Exhibit A – HRCZO - Article 74

Existing Telecommunication Facility - A constructed tower or base station is existing for purposes of this section if it has been reviewed and approved under the applicable zoning or siting process of the County, or under another State, or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this Article.

Existing Tower - A tower, or other supporting structure, attached equipment and associated structures that received land use approval prior to the adoption of this Article.

FCC - Federal Communications Commission.

Grade - The lowest point of elevation of the finished surface of the ground within 5 feet of the structure.

Maintenance - Emergency or routine repairs of previously approved facilities and the replacement of components of previously approved facilities which do not create a significant change in visual impact.

Microcell - A cell in a mobile phone network served by a low power cellular base station (tower), covering a limited area such as a hotel, and typically the range is less than two kilometers. Microcell antennas are typically mounted at street level on the external walls of existing buildings, lamp-posts and other street furniture. These include small cells and Distributed Antenna Systems (DAS).

Modification - The changing of any portion of a tower and its associated facility from its description in a previously approved permit.

Restoration - To return a site to its pre-construction condition unless otherwise reviewed and approved by the Hood River County Planning Department.

Site - For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

“Spectrum Act” - Means Section 6409(a) of the Middle Class Tax Relief Act and Job Creation Act, 47 U.S.C. § 1455(a), as amended.

Speculation Communications Tower - A tower designed for the purpose of providing location mounts for wireless telecommunications facilities without a binding commitment or option to lease a location upon the tower at the time of application.

Substantial Change - A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

- a. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest

Exhibit A – HRCZO - Article 74

- existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;
- b. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- d. It entails any excavation or deployment outside the current site;
- e. It would defeat the concealment elements of the eligible support structure; or
- f. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs (a) – (d) of this definition.
- g. For purposes of this definition, changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

Support Structure - A wireless telecommunication tower, building, or other structure that supports an antenna used for wireless telecommunications.

Tower - A pole, telescoping mast, tripod or any other structure that provides support for or is an integral component of such devices as wireless antennas, wind power generation facilities and meteorological measuring and recording equipment.

Tower Height - The distance from the finished grade at the tower base to the highest point of the tower, including the base pad and turbine blades, mounting structures and panel antennas, but not including lightning rods and whip antennas.

Wireless Telecommunication Facility (“WTCF”) - An unmanned facility for the transmission of radio frequency (RF) signals, consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices. Freestanding point-to-point microwave dishes, high power television and FM transmission and AM facilities are considered wireless telecommunication facilities.

Wireless Telecommunication Tower – Any structure built for the sole or primary purpose of supporting

Exhibit A – HRCZO - Article 74

any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

Section 74.25 - Application Requirements

A complete application is one that contains the information required to address the relevant standards as specified by this Article. At any time during the application process, the Planning Director may request additional information relevant to the proposal. Furthermore, the Director may require review and validation of technical information contained in an application by a qualified, county approved, independent third party. The cost of such a review shall be borne by the applicant.

A. Submittal Requirements

The following information may be required for an application for a Type I, Type II, or a Type II Conditional Use Permit (CUP):

1. Description of the proposed facility; demonstrated need for the WTCF; distance from the nearest WTCF and nearest potential collocation site; total anticipated capacity of the structure, including number and types of antennas which can be accommodated; the proposed color, surfacing of the facility and associated fixtures; and use of concealment technology (if applicable).
2. A site plan, drawn to scale, that includes:
 - a. Existing and proposed improvements.
 - b. Adjacent roads.
 - c. Parking, circulation and legal access.
 - d. Connections to utilities required.
 - e. Areas of existing and proposed vegetation to be retained, replaced, added, or removed.
 - f. Setbacks from property lines of all existing and proposed structures.
3. Elevations showing height above ground, antennas, towers, equipment shelters, area enclosure and other improvements related to the facility.
4. A landscape plan, if ancillary facilities will be located on the ground, to obscure equipment.
5. Applications for eligible facilities or collocations requests must include documentation from a qualified professional demonstrating:

Exhibit A – HRCZO - Article 74

- a. Applicant has the owner's permission to collocate, if applicable.
- b. The project will not produce noise levels in excess of the levels set forth in the Hood River County Noise Ordinance and state code.
- c. The eligible facilities request, if applicable, is not a substantial change, as defined in this Article.
- d. All components of the eligible facilities request are located within the previously approved site.
- e. The project complies with the conditions of approval for the structure's existing permits.

B. Submittal Requirements - Construction of a New WTCF or Tower

In addition to the application requirements in Section A, specified above, applications for construction of new WTCF and towers shall include:

1. A vicinity map showing:
 - a. The applicant's proposed facility site.
 - b. Other sites in the vicinity evaluated for the proposed facility.
 - c. Other similar existing facilities in the area and distance to them.
 - d. The proposed coverage area and approximate geographic limits of the "cell" to be created by the facility.
2. A photographic simulation showing how the facility will appear on the landscape. The simulation should contain a graphic simulation showing the appearance of the proposed tower, antennas and ancillary facilities from at least three points within a five mile radius. Such points shall include views from public places, including but not limited to parks, rights-of-way, and waterways to ensure that various potential views are represented. The study shall also include existing scaled elements (e.g., houses, trees, power lines).
3. A report/analysis from a qualified professional documenting the following:
 - a. Demonstrated need for the WTCF.
 - b. Information justifying the need to locate the proposed facility in the requested location and why collocation is not feasible.
 - c. The reasons why the WTCF must be constructed at the proposed height.
 - d. The use of sensitive site design demonstrating compliance with Section 74.35.B (Siting Requirements).
4. A signed statement by the applicant and future owners or operators will allow collocation

Exhibit A – HRCZO - Article 74

with other users provided all safety, structural, and technological requirements are met, and reasonable charges for collocation can be reached.

5. Documentation that the proposed WTCF is in compliance with the requirements of the FAA, the Oregon Department of Aviation, the FCC and any other local or state agency with jurisdiction.
6. Statement demonstrating compliance with the applicable Approval Criteria of this Article, and Burden of Proof Criteria in Article 60, if applicable.

Section 74.30 - General Standards & Requirements Applicable to New Facilities & Towers

- A. Outstanding scenic views and sites will be conserved.
- B. Protect and preserve the visual character of the county.
- C. No application shall be accepted or approved for a speculation tower (i.e., from an applicant that proposes to construct a tower only). The application must be signed by a lawful representative of a service provider intending to lease the tower in addition to other required signatures.
- D. The applicant has the burden of proof to demonstrate concealment technology designs have been explored and are unworkable with regard to the primary purpose of the tower or are not necessary for compatibility with the surrounding area.
- E. All support structures shall be designed to comply with applicable Building Codes.
- F. All necessary local, state and federal authorizations/permits shall be obtained prior to constructing the use.
- G. The applicant shall comply with all applicable FCC Radio Frequency emission standards (FCC Guidelines).
- H. Within 180 days of receipt of written notice, all facilities located on a utility pole shall be promptly removed at the operator's expense at any time a utility is scheduled to be undergrounded or otherwise moved.
- I. No WTCF shall be located on any single family residential structure.

Section 74.35 - Standards & Approval Criteria (Lands Not Zoned EFU)

A. Operating Requirements

If technologically possible, all new and replacement towers shall provide for the future collocation of antenna systems by other service providers with a tower sharing plan as follows:

1. The applicant and/or service provider of the wireless telecommunication tower, on behalf of his or her successors and assigns, shall agree to negotiate in good faith for shared use

Exhibit A – HRCZO - Article 74

of the tower by third parties. The applicant shall allow shared use of the tower if the third party agrees in writing to pay reasonable charges for collocation.

2. Any proposed new wireless telecommunication tower shall be designed to accommodate both the applicant's antennas and comparable antennas for at least two additional facilities if the tower is over 100 feet in height and for at least one additional facility if the tower is between 60 and 100 feet in height.

B. Siting Requirements

1. Location - WTCFs shall be located so as to minimize their visibility. The ranking of siting preferences is as follows: first, collocation upon an existing tower or existing structure; second, use of concealment technology; third, a new tower screened by trees or other natural or built features; and last, other new towers.

a. Collocation

1. All WTCF's shall be designed to permit shared parking areas and access roads.
2. Existing sites for potential collocation may include, but are not limited to buildings, water towers, existing WTCF's, utility poles and towers, and related facilities
3. A proposal for a new tower shall not be approved unless the approving authority finds that the wireless communications equipment for the proposed tower cannot be accommodated on any existing tower or structure within 2,630 feet of the proposed site, due to one or more of the following reasons (as documented by a qualified professional):
 - a. No existing towers or support structures, or approved but not yet constructed towers or support structures, are available within the geographic area required to meet the applicant's coverage objectives, including engineering requirements.
 - b. Existing towers or support structures are not of sufficient height to meet the applicant's coverage objectives, including engineering requirements.
 - c. Existing towers or support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment and tower/structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - d. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or structure and the interference cannot be prevented at a reasonable cost.
 - e. The applicant demonstrates that there are other limiting factors that render

Exhibit A – HRCZO - Article 74

existing towers and support structures unsuitable.

- b. Use of Concealment Technology - When demonstrated that it is not feasible to collocate the antenna(s) on an existing structure or tower, the WTCF shall be designed so as to be concealed to the greatest extent possible, including but not limited to the use of concealment technology, and the use of compatible building materials and colors. All concealment facilities shall be designed to visually and operationally blend into the surrounding area in a manner consistent with the natural environment and existing development. The facility shall also be appropriate for the specific site. For example, the WTCF should not “stand out” from its surrounding environment.
 - c. Screening - To the extent practicable, towers shall not be sited in locations where there is no vegetative, structural, or topographic screening available. A WTCF tower not employing concealment technology shall not be installed on a site unless it blends with the surrounding natural environment and existing development. Existing trees or significant vegetation should be retained to the greatest possible degree in order to help screen a facility or tower. New vegetation used to screen a facility or tower shall be of a species similar to that existing at the site and a size acceptable to the approval authority and shall be planted immediately following completion of construction. Applicant agrees to maintain added vegetation.
2. Height - The maximum structure height requirements of each zoning district are not applicable to WTCFs which shall comply with the following requirements:
 - a. See Table A for the height requirements in each zone. Request to modify height requirement are subject to Section 74.55.
 - b. Building or other structure mounted WTCF, other than an existing tower or a concealed facility, shall not project more than twenty (20) additional feet above the highest point on the existing building or structure.
3. Setbacks
 - a. Unless permission is received from affected property owner(s), road authority or utility; towers associated with a tower shall be required to meet the property line/yard setbacks and buffer requirements of the underlying zone in which they are located or a minimum distance equal to the total height of the tower plus 10% whichever is greater.
 - b. Unless permission is received from affected property owner(s), road authority or utility; equipment shelters and guy wires associated with a tower shall be required to meet the property line/yard setbacks and buffer requirements of the underlying zone

Exhibit A – HRCZO - Article 74

- in which they are located.
- c. Exception to the setback standards of (a) or (b) of this section may be granted if the applicant can demonstrate all of the following:
 - (i) A reduced setback would provide better concealment or screening than the setback required by (a) and (b) above.
 - (ii) Signed agreements from adjacent property owners assenting to the reduced setback.
4. Storage – Equipment Shelters
- a. No on-premise storage of material or equipment shall be allowed other than that used in the operation and maintenance of the tower site.
 - b. WTCFs (i.e. vaults, equipment rooms, utilities, and equipment cabinets or enclosures) shall be non-reflective material (exterior surfaces only) that blends with the surrounding environment. All equipment shall be stored inside a building or suitable enclosure rated for outdoor use. The placement of equipment in underground vaults is encouraged.
 - c. WTCFs storage facilities shall be not taller than one story (15-feet) in height and shall blend with existing development.
 - d. Equipment shelters shall be entirely enclosed.
5. Color & Visibility - All buildings, poles, towers, antenna supports, antennas, and their accessory electrical control equipment shall be a non-reflective, unobtrusive color that blends in with the surrounding environment unless otherwise required by the FAA or Oregon Department of Aviation.
6. Fences
- a. A sight obscuring fence may be required to be installed and maintained around the perimeter of a ground mounted facility not employing concealment technology.
 - b. Chain link fences shall be painted or coated with a non-reflective color that blends with the surrounding natural and built environment to the greatest extent feasible.
 - c. Barbed or razor wire fencing is discouraged, particularly in residential areas.
7. Lighting
- a. No lighting shall be permitted on a tower, except as required by state or federal regulations or as required by the reviewing body for aerial spraying. If required, the light shall be shielded or deflected from the ground and other properties, to the extent practicable (e.g., dual mode light or radar trigger lighting).
 - b. No other exterior lighting shall be permitted on the premises unless necessary for emergency repairs and services.

Exhibit A – HRCZO - Article 74

8. **Signs & Advertising**
 - a. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
 - b. No commercial or advertising markings shall be allowed except those of the manufacturer and installer.

9. **Access Driveways & Parking** - All access drives and parking areas shall be no longer or wider than necessary and be improved to comply with the requirements of the local Rural Fire District.
 - a. Existing driveways shall be used for access whenever possible.
 - b. New parking areas shall be shared with subsequent WTCF's or other permitted uses whenever feasible. Any new access and parking areas shall consist of a durable and dustless surface and shall comply with local Fire District Standards.

10. **Landscaping & Screening** - WTCF's shall be improved in such a manner so as to maintain and enhance existing vegetation and to install suitable landscaping to screen the base of the tower and all accessory equipment where necessary. All of the following measures shall be implemented for all ground mounted WTCF's including accessory structures.
 - a. A landscape plan shall be submitted indicating all existing vegetation, and landscaping that is to be retained within the leased area on the site, and any additional vegetation that is needed to satisfactorily screen the facility from adjacent land, adjacent roads and public view areas. Planted vegetation shall be evergreen trees or shrubs and placed outside the fenced area.
 - b. Existing trees and other screening vegetation in the vicinity of the facility and along the access drive shall be protected from damage during the construction period.

11. **Noise** – Noise generated by the WTCF shall comply with the Hood River County Noise Ordinance and not exceed the levels established by the State of Oregon, Department of Environmental Quality (DEQ). Operation of a backup generator in the event of a power failure or the testing of a backup generator between 8 AM and 8 PM are exempt from this standard. No testing of backup power generators shall occur between the hours of 8 PM and 8 AM.

Requests to modify any of the above siting requirements/standards are subject to Section 74.55.

Section 74.40 - Standards & Approval Criteria for Land Zoned EFU

Exhibit A – HRCZO - Article 74

Facilities and towers located in Exclusive Farm Use (EFU) zone as authorized by ORS 215.283(1)(c) are subject to the criteria and standards as set forth in ORS 215.275.

- A. That a facility is necessary under ORS 215.283(1)(c), an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an EFU zone due to one or more of the following factors:
1. Technical and engineering feasibility;
 2. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 3. Lack of available urban and non-resource lands;
 4. Availability of existing rights-of-way;
 5. Public health and safety; and
 6. Other requirements of local, state or federal agencies.

Cost associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that a WTCF is necessary for public service. Land costs shall not be included when considering alternative locations.

- B. When a WTCF is abandoned or decommissioned, the property owner shall be responsible for restoring the land to its former agricultural condition as is reasonably possible. The owner may obtain a bond or other security from the contractor or carrier for the cost of restoration.
- C. Conditions for mitigating and minimizing impacts resulting from the WTCF shall assure farm uses on surrounding lands will not experience significant changes in accepted farm practices or significant increases in the cost of farm practices on the surrounding farmlands.

Section 74.45 - Maintenance

The applicant, co-applicant or tenant shall maintain the WTCF. Such maintenance shall include, but shall not be limited to painting, maintaining structural integrity, and landscaping.

Section 74.50 – 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.

Exhibit A – HRCZO - Article 74

- B. Upon determination of abandonment, the facility owner shall have 60-calendar days to:
1. Reuse the facility or transfer the facility to another owner who will reuse it within 120-calendar days of the determination of abandonment; or
 2. Remove the facility.
- C. If the facility is not reused within 120-calendar days of the determination of abandonment, county authorization for the use shall expire. Once authorization for the use has expired, the property owner or facility operator shall remove the facility from the property within 90-calendar days. Failure to remove an abandoned facility as required by this subsection shall constitute a violation and be subject Article 70 – Enforcement.

Section 74.55 - Wireless Communications Facilities Adjustment

- A. **Applicability** - Except as otherwise provided in this Article, no WTCF shall be used or developed contrary to any applicable development standard unless an adjustment has been granted pursuant to this Section. These provisions apply exclusively to wireless communications facilities, and are in lieu of the County's generally applicable variance provisions.
- B. **Submittal Requirements** - An application for a WTCF adjustment shall include:
1. A written statement demonstrating how the adjustment would meet the criteria.
 2. A site plan that includes:
 - a. Description of the proposed siting's design and dimensions, as it would appear with and without the adjustment.
 - b. Elevations showing all components of the wireless communications facility, and its connection to utilities, as it would appear with and without the adjustment.
 - c. Color simulations of the wireless communications facility after construction demonstrating compatibility with the vicinity, as it would appear with and without the adjustment.
- C. **Criteria** - An application for a WTCF adjustment will be granted if the following criteria are met:
1. The adjustment is consistent with the purpose of the development standard for which the adjustment is sought.

Exhibit A – HRCZO - Article 74

2. Based on a visual analysis, the design minimizes the visual impacts to residential zones through mitigating measures, including, but not limited to, building heights, bulk, color, and landscaping.
 3. The owner demonstrates the existence of either of the following:
 - a. Gap in Service
 - (i) A gap in the coverage or capacity of the service network exists such that users are regularly unable to connect to the service network, or are regularly unable to maintain a connection.
 - (ii) The gap can only be filled through an adjustment in one or more of the standards in this Article; and
 - (iii) The adjustment is narrowly tailored to fill the service gap such that the wireless communications facility conforms to this Article's standards to the greatest extent possible.
 - b. Minimization of Impacts - The adjustment would minimize or eliminate negative impacts to surrounding properties and their uses, through a utilization of existing site characteristics, including, but not limited to, the site's size, shape, location, topography, improvements, and natural features. Negative impacts are minimized or eliminated if there is:
 - (i) A decrease in negative visual impacts, including, but not limited to, visual clutter;
 - (ii) Better preservation of views or view corridors;
 - (iii) A decrease in negative impacts on property values; or
 - (iv) A decrease in any other identifiable negative impacts to the surrounding area's primary uses.
- D. Requests for adjustment under this subsection shall be considered part of the application to establish a WTCF, not a separate application.

Exhibit A – HRCZO - Article 74

Article 74 – Table A						
ZONE	COLLOCATIONS / ELIGIBLE FACILITIES REQUESTS ¹	HEIGHT LIMIT (Feet) ²	TOWER WITH CONCEALMENT TECHNOLOGY	HEIGHT LIMIT (Feet)	NEW TOWER	HEIGHT LIMIT (Feet)
F-1	Type I	200	Type II	200	Type II - CUP	200
F-2	Type I	200	Type II	200	Type II - CUP	200
EFU	Type I	200	Type II	200	Type II - CUP	200
R-1	Type I		P	N/A	P	N/A
RR	Type I		Type II	60	Type II - CUP	60
C-1	Type I		Type II	55	Type II - CUP	55
RC	Type I		P	N/A	P	N/A
RUC-1	Type I		P	N/A	P	N/A
MH-C1	Type I		P	N/A	P	N/A
M-1	Type I		Type II	65	Type II - CUP	65
M-2	Type I		Type II	65	Type II - CUP	65
AD Zone	Type I		Type II	50	Type II - CUP	50
NA Zone	Type I		P	N/A	P	N/A
Overlays: SPO, EP, FP, GH, HHO	Type I		P	N/A	P	N/A

Footnotes:

¹ Existing facilities must be in compliance with the terms of existing permits, if any were required at the time the facility was constructed.

² Eligible facilities requests must not exceed the dimensional requirements of the Spectrum Act.

Review Types:

Building Permit – All approvals are subject to building code review and permits.

Type I (Ministerial Review) / Land Use Permits (LUPs) are permitted by right, requiring only non-discretionary staff review to demonstrate compliance with the standards in this Ordinance or Article.

Type II (Administrative Actions) / Planning Director’s Decision involve permits that are *Subject to Standards* contained in Article 72, and do not include the “Burden of Proof Criteria” contained in Article 60.

Type II - CUP (Administrative Actions) / Planning Director’s Decision involve permits that are *Subject to Standards* contained in Article 72 and the “Burden of Proof Criteria” contained in Article 60. In the Forest and EFU zones, reviews are subject to the CUP criteria contained in Sections 5.05 and 7.05 respectively, not the Burden of Proof Criteria contained in Article 60.

Exhibit A – HRCZO - Article 74

CONSISTENCY WITH HRCZO & OTHER NECESSARY UPDATES

To provide conformity with Table A, there are other articles in the HRCZO that should reference if communication facilities and towers are an allowed use and the review type. These specific articles and provisions are identified below. Additionally, it is recommended Article 55.50 “Supplementary Provisions” be amended to recognize updated nomenclature associated with wireless communication technologies. Proposed text amendments are shown in ~~strike-through~~ and **bold underline**.

Article 10 – Residential R-1 Zone (R-1)

Section 10.10 – Uses Permitted Outright

C. Collocation of antennas and wireless telecommunication facilities, subject to Article 74.

Article 15 - Rural Residential Zone (RR)

Section 15.10 – Permitted Uses

C. Utility transmission lines; **and communication facilities and towers, subject to Article 74**

Section 15.40 – Conditional Uses Permitted

E. Utility facilities necessary for public service, **including communication facilities and towers subject to Article 74.**

Article 21 - Commercial Zone (C-1)

Section 21.10 – Uses Permitted Outright

F. Communication facilities and towers, subject to Article 74.

Section 21.20 – Conditional Uses Permitted

D. Communication facilities and towers, subject to Article 74.

Article 25 - Rural Unincorporated Community Commercial Zone (RUC-1)

Section 25.10 – Uses Permitted Outright

Exhibit A – HRCZO - Article 74

U. Collocation of antennas and wireless telecommunication facilities, subject to Article 74.

Article 27 - Mt. Hood Unincorporated Community Commercial Zone (MH-C1)

Section 27.10 – Uses Permitted Outright

V. Collocation of antennas and wireless telecommunication facilities, subject to Article 74.

Article 31 - Industrial Zone (M-1)

Section 31.10 – Uses Permitted Outright

G. Communication facilities and towers, subject to Article 74.

Section 31.20 - Conditional Uses Permitted

C. Communication facilities and towers, subject to Article 74.

Article 32 - Light Industrial (M-2)

Section 32.15 – Uses Permitted

F. Utilities

1. Distribution plants and substations

2. Service yards

3. Communication Facilities and Towers, subject to Article 74

Section 32.20 – Conditional Uses Permitted

C. Communication Facilities and Towers, subject to Article 74.

Article 33 - Airport Development Zone (AD)

Section 33.15 – Uses Permitted

M. Communication Facilities and Towers, subject to Article 74

Section 33.20 – Uses Subject to a Conditional Use Permit

C. Communication Facilities and Towers, subject to Article 74

Article 35 – Natural Area Zone (NA)

No changes

Exhibit A – HRCZO - Article 74

Article 55 - Supplementary Provisions

Section 55.60 – General Exception to Building Height Limitation

The following type of structure or structural parts are not subject to the building height limitations of this Ordinance and may be allowed reasonable extensions: antennas or dish antenna, aerials, chimneys, tanks, church spires, belfries, domes, monuments, fire and hose towers, observation towers, masts, aerials, cooling towers, elevator shafts, transmission towers, smoke-stacks, flagpoles, radio-or-television towers, and other similar projections. Structures or structural parts listed within the Airport Height Combining Zone, including structures necessary to operate the airport, are excluded from the provisions of this section.

**Hood River County
Cell Tower Ordinance**

P-15-0201

**April 18th, 2016 - Staff Report to
Board of Commissioners**



Hood River County Community Development

Planning, Building Codes, Code Compliance, Economic Development & Veterans' Services

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STAFF REPORT: Communication Facilities & Towers Ordinance

FILE NUMBER: P-15-0201 (formerly P-08-0157)

DATE: Prepared for April 18th, 2016 Board Public Hearing

STAFF CONTACT: John Roberts, Community Development Director

REQUEST: Text amendments to the Hood River County Zoning Ordinance ("HRCZO") by inserting a new Article 74 and other amendments to adopt standards and procedures for review and development of communication facilities and towers.

RECOMMENDATION: Accept public testimony and approve amendment

EXHIBITS: Board of Commissioner Ordinance - for possible adoption
Exhibit A - Proposed Amendments to HRCZO:

- Article 74: Working Draft - Communication Facilities & Towers Ordinance (incorporates planning commission recommendations)
- Proposed Minor Amendments to Other Related Articles

ATTACHMENTS:

- Planning commission resolution
- Public comments received since February 16th, 2016 Board Public Hearing

I. **APRIL 18th, 2016 PUBLIC HEARING:** This is the fourth public hearing to consider text amendments to adopt a cell tower ordinance. At the February 16th Board of County Commissioner ("Board") hearing the amendments were remanded to the planning commission for additional testimony, deliberation and consideration. The first remand hearing was conducted February 24th and the second hearing April 6th, 2016. The purpose of this hearing is to re-evaluate the draft cell tower ordinance in light of the remand and planning commission recommendations, and make a final decision. It is anticipated this will be the last public hearing on the subject.

II. **CHRONOLOGY OF RECENT EVENTS/PROCESS**

- October 28th, 2015 planning commission conducted a public hearing on the cell tower ordinance and made a recommendation to the Board for approval.
- December 21st, 2015 Board conducted a public hearing on the cell tower ordinance.

Staff provided a brief presentation and requested a continuance based on comments received from industry representatives.

- January 19th, 2016 Board conducted a second public hearing and staff requested another continuance based on a request from industry representatives.
- February 4th, 2016 staff met with cell tower advisory committee to overview suggested changes from industry representatives.
- February 16th, 2016 Board conducted a third public hearing and did not take public testimony. Staff recommended the Board remand the proposed ordinance to the planning commission for further deliberation.
- February 24th, 2016 planning commission conducted first remand hearing.
- April 6th, 2016 planning commission conducted second remand hearing and adopted recommendation to forward to the Board for consideration.
- April 18th, 2016 Board will conduct their fourth public hearing.

III. CHANGES DISCUSSED AS PART OF BOARD REMAND: As part of the remand from the Board two public hearings were needed to accept testimony, deliberate and decide on specific recommendations. Changes that were discussed primarily included those with an obvious disconnect between the advisory committee and industry representatives. These specific issues were identified by staff and primarily addressed the following:

- Section 74.10 - Timeline for temporary use of Cells-On-Wheels.
- Section 74.20 - Changes and modification to definitions: Base Station, Concealment Technology, Stealth Technology, Eligible Support Structure, Spectrum Act, Substantial Change, and Visually Subordinate.
- Section 74.25.A – Modification to submittal requirements regarding design.
- Section 74.25.B – Modification to submittal requirements from a qualified engineer.
- Section 74.30 – Standard related to demonstrating a gap in coverage.
- Section 74.35.A – Clarity on appropriate nomenclature regarding operating requirements, applicant and/or service provider.
- Section 74.35.B – Reorganizing collocation requirements/provisions; addressing the notion of coverage objectives versus engineering requirements; specifics related to screening requirements; and merits of breakpoint technology language.
- Section 74.55 – Deviation from use of variance criteria to adjustment criteria.
- Section 74.55.C – Use of the word shall, will or may; and achieving reliable coverage within a building.
- Table A – Adding a column for setbacks.

Many of the above changes conform to commonly understood industry terms and practices, help align the code and the definitions with federal law, and address the concerns raised in earlier public hearings. Moreover, some of these changes were based on best practices in other jurisdictions. It is felt specifics associated with these issues do not need to be raised with the Board. However, if the Board would like details or background on any of the above issues staff would certainly be willing to provide specifics.

IV. **TWO ISSUES OF INTEREST (Setbacks and Height)**: One would expect at the public hearing on the 18th there will be public testimony on two important issues (i.e., setbacks and height). As such, staff feels it is appropriate to bring to the Board's attention these specific issues and provide some background information. Both of the issues are interesting in the context of competing policy issues.

Section 74.35.B.3 - Setbacks

The original setback provisions presented or proffered acknowledged existing setbacks within the zone and fall height from a residence on an adjacent property. Specific language was:

- a. *Unless permission is received from affected property owner(s), road authority or utility, towers, equipment shelters and guy wires associated with a tower shall be required to meet the property line/yard setbacks and buffer requirements of the underlying zone in which they are located.*
- b. *Unless permission is received from affected property owner(s) all ground mounted facilities shall be no closer to a dwelling on the adjacent property than a distance equal to the total height of the WTCF or the setback requirement of the underlying zone, whichever is greater.*

The planning commission adopted stricter setback provisions which are essentially fall height plus 10% from the property line (not utilizing the underlying zone setback distance):

- a. *Unless permission is received from affected property owner(s), road authority or utility; towers, equipment shelters and guy wires associated with a tower shall be required to meet the property line/yard setbacks and buffer requirements of the underlying zone in which they are located or a minimum distance equal to the total height of the tower plus 10% whichever is greater.*
- b. *Exception to the setback standards of (a) of this section may be granted if the applicant can demonstrate all of the following:*
 - (i) *A reduced setback would provide better concealment or screening than the setback required by (a) and (b) above.*
 - (ii) *Signed agreements from adjacent property owners assenting to the reduced setback.*

Staff advocated for the initial or more flexible setback provisions proposed. However, it is unclear the exception standards as proposed was included in the planning commission's recommendation. Regardless, staff is in support of including the exception standards if the Board thinks it is appropriate.

Table A - Height

Obviously the most important topic to be discussed when addressing cell towers is the appropriate height of towers in each zone district. Table A lists the height limits for towers in each county zoning district recommended by the planning commission. The heights range from 200-feet in the EFU zone to 50-feet in the Airport Development (AD) zone. Determining how tall a tower should be is a tough question and chief concern among citizens. A challenging question is if restrictive height limits subsequently create the need for more towers to be sited?

Wireless telecommunication relies on "line of sight" transmission (i.e., unobstructed transmission), and, as such, companies argue that taller towers are necessary to provide adequate service. Moreover, tower height must be raised to compensate for buildings, trees, hills, or other obstacles. For example, in a suburban setting, with houses and small offices, it may be necessary to add 20 to 40-feet to the tower height to get over the homes, offices, and trees that would be in the line-of-sight between the two towers.

When it comes to cell tower height there are essentially two-camps: 1) allow for taller towers in more zones, or 2) allow for smaller towers in fewer zones. As can be expected there were different preferences for allowed height between industry representatives and the advisory committee. Staff's characterization / considerations of the different positions regarding height presented to the planning commission were:

Industry Representatives:

- By creating smaller heights you are forcing applicants to explore the exception/adjustment process, which then the exception can become the rule.
- Shorter heights do not align with industry standards.
- There are fewer options the more zones towers are prohibited in. Industrial sites make for good locations for cell towers.

Advisory Committee:

- The tower applications in the County's Residential Zones have historically caused conflict (i.e., unconcealed towers near residential neighborhoods).
- Currently the county code prohibits towers in Residential (R-1), Rural Unincorporated Community (RUC-1), and Mt. Hood Community (MH-C 1). It should be carefully considered whether to allow new WCTF in these zones.
- It is not uncommon for local jurisdictions to prohibit WCTF in residential zones, unless it can be demonstrated that no alternative exists.
- The City of Hood River considers Commercial wireless communication facilities to be commercial uses and only allows them in commercial zones. The city also applies the same height limit to towers as it does to all structures in commercial zones—45 feet.

- Siting new, unconcealed towers in EFU and Forest zones would have the least impact on neighborhoods, thus the 200 foot height limit.
- The unincorporated area of the county that this Article would apply to is 78,669 acres. All but 5,249 acres is zoned either EFU or Forest, so eligible for a 200 foot tower. If new WCTF were prohibited in all residential zones (including RR) and the Mt. Hood Community Commercial Zone, towers could still be located on 74,083 acres or 94% of the area that this article applies to.

**Proposed Heights as adopted by the planning commission
and presented initially to the Board**

Article 74 – Table A						
ZONE	COLLOCATIONS / ELIGIBLE FACILITIES REQUESTS ¹	HEIGHT LIMIT (Feet) ²	TOWER WITH CONCEALMENT TECHNOLOGY	HEIGHT LIMIT (Feet)	NEW TOWER	HEIGHT LIMIT (Feet)
F-1	Type I	200	Type II	200	Type II - CUP	200
F-2	Type I	200	Type II	200	Type II - CUP	200
EFU	Type I	200	Type II	200	Type II - CUP	200
R-1	Type I		P	N/A	P	N/A
RR	Type I		Type II	60	Type II - CUP	60
C-1	Type I		Type II	55	Type II - CUP	55
RC	Type I		P	N/A	P	N/A
RUC-1	Type I		P	N/A	P	N/A
MH-C1	Type I		P	N/A	P	N/A
M-1	Type I		Type II	65	Type II - CUP	65
M-2	Type I		Type II	65	Type II - CUP	65
AD Zone	Type I		Type II	50	Type II - CUP	50
NA Zone	Type I		P	N/A	P	N/A
<u>Overlays:</u> SPO, EP, FP, GH, HHO	Type I		P	N/A	P	N/A

**Proposed heights presented to the planning commission for
consideration and preferred by industry representatives
(notable differences highlighted in yellow)**

Article 74 – Table A						
ZONE	COLLOCATIONS / ELIGIBLE FACILITIES REQUESTS ¹	HEIGHT LIMIT (Feet) ²	TOWER WITH CONCEALMENT TECHNOLOGY	HEIGHT LIMIT (Feet)	NEW TOWER	HEIGHT LIMIT (Feet)
F-1	Type I	200	Type II	200	Type II - CUP	200
F-2	Type I	200	Type II	200	Type II - CUP	200
EFU	Type I	200	Type II	200	Type II - CUP	200
R-1	Type I		P	N/A	P	N/A

Article 74 – Table A						
ZONE	COLLOCATIONS / ELIGIBLE FACILITIES REQUESTS ¹	HEIGHT LIMIT (Feet) ²	TOWER WITH CONCEALMENT TECHNOLOGY	HEIGHT LIMIT (Feet)	NEW TOWER	HEIGHT LIMIT (Feet)
RR	Type I		Type II	75 ³	Type II - CUP	75
C-1	Type I		Type II	75	Type II - CUP	55
RC	Type I		Type II – CUP	75	P	N/A
RUC-1	Type I		Type II – CUP	75	P	N/A
MH-C1	Type I		Type II – CUP	75	P	N/A
M-1	Type I		Type II	120	Type II - CUP	120
M-2	Type I		Type II	120	Type II - CUP	120
AD Zone	Type I		Type II	75	Type II - CUP	75
NA Zone	Type I		P	N/A	P	N/A
Overlays: SPO, EP, FP, GH, HHO	Type I		P	N/A	P	N/A

V. **BOARD OPTIONS:** At the public hearing staff will provide an overview the proposed changes and recommend approval. The Board's options include:

- A. **Accept** the amendments as proposed in Exhibit A.
- B. Recommend **changes** to Exhibit A and **adopt** the amendments.
- C. Recommend **denial** of the proposed amendments identified in Exhibit A.
- D. **Continue** the public hearing to a date and time certain, as a result of requesting additional materials and research to aid in making potential changes or a decision.

Staff Report and proposed amendments are available for review on the Community Development Department website under Upcoming Meetings and Recent Decisions: <http://hrccd.co.hood-river.or.us/>. Or click on the Planning & Zoning Services page and scroll to Important Land Use Actions, Legislative amendments or Special Projects.

A copy of the draft materials are also available for review or purchase (\$0.25'/page) at Hood River County Planning Department (601 Stote Street, Hood River) seven (7) days prior to the Planning Session.

For additional information or questions concerning the proposed omenagements, please contact Jahn Roberts, Hood River County Community Development Director, by e-mail at plan.dept@co.hood-river.or.us or by telephone at (541) 387-6840.

Hood River County
Cell Tower Ordinance

P-15-0201

December 18th, 2015 - Staff
Report to Board of
Commissioners (without
Exhibits)

Findings Included



Hood River County Community Development

Planning, Building Codes, Code Compliance, Economic Development & Veterans' Services

601 State Street, Hood River OR 97031

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STAFF REPORT: Communication Facilities & Towers Ordinance

- FILE NUMBER:** P-15-0201 (formerly P-08-0157)
- DATE:** December 21, 2015, Public Hearing
- APPLICANT:** Hood River County Community Development Department
- REQUEST:** Text amendments to the Hood River County Zoning Ordinance ("HRCZO") by inserting new Article 74 and other amendments as necessary to recognize the foregoing. Article 74 will provide standards and procedures for review and development of communication facilities and towers.
- STAFF CONTACT:** John Roberts, Community Development Department Director
- RECOMMENDATION:** Accept public testimony, advise staff of additional changes, and approve amendments
- EXHIBITS:** BOARD OF COUNTY COMMISSIONER ORDINANCE
(for possible adoption)
- EXHIBIT A - Proposed Amendments to HRCZO (Article 74):
- Article 74: Working Draft - Communication Facilities & Towers Ordinance (includes Table A)
- EXHIBIT B - Proposed Amendments to HRCZO (Other Articles):
- Article 10 – Residential R-1 Zone (R-1); Article 15 – Rural Residential Zone (RR); Article 21 – Commercial Zone (C-1); Article 25 – Rural Unincorporated Community Commercial Zone (RUC-1); Article 27 – Mt. Hood Unincorporated Community Commercial Zone (MH-C1); Article 31 – Industrial Zone (M-1); Article 32 – Light Industrial (M-2); Article 33 – Airport Development Zone (AD); and Article 55 – Supplementary Provisions.
- SUPPLEMENTAL INFO:**
- Planning Commission Recommendation – November 3, 2015
 - ATT Overview/Presentation (Demand and Consumers)
 - Federal Communications Commission Public Notice - Wireless Facilities Deployment
 - Federal Communications Commission – Fact Sheet

I. BACKGROUND

The HRCZO does not have regulations that specifically address wireless communications facilities and towers, although many other counties in Oregon have implemented such procedures and standards. Towers are currently regulated under vague and general approval criteria from several different sections of the HRCZO. The land-use process for communications towers and facilities can place significant time and expense burdens on the county, applicants, and neighbors. Specific provisions in the HRCZO to regulate placement and design of cell towers should lead to a more predictable and efficient process for all parties. In light of this context, the Board of County Commissioners asked the planning department to prepare an amendment to HRCZO to bring finality to developing and adopting cell tower regulations.

As noted by AT&T in the attached handout, people are choosing wireless technologies faster than ever before. Business and consumers' rapid adoption of mobile technologies and services has led to unprecedented growth in network data usage (i.e., day-to-day use of mobile apps, tablets and smart phones). For example:

- More than half (56.8%) of Oregon homes are now wireless-only or wireless-mostly.
- Since 2010 ownership of tablet PCs and smart phones have increased significantly – tablets ownership from 8% to 42% and smart phones from 33% to 60%.

Increased demand for coverage and growing technologies invariably has led to a rapidly evolving industry to provide for the demand for more coverage closer to residential properties and subsequent required upgrades or expansion to existing facilities and technologies. These technologies in their initial and subsequent generations require large data transmissions, and tower capacities must be expanded or new ones built in order to support increased demand.

Hood River County frequently receives cell tower applications. Recent cell tower applications in the county (i.e., applications located near Fairview/Rocky Rd and Belmont/Methodist Rd) have met opposition, which has led to prolonged dialogue between the provider, community and staff. Specific concerns expressed as part of this dialogue include:

- 1) The need for clear and effective regulations for communication facilities and towers within the proper meaning of the Telecommunications Act of 1996.
- 2) Minimizing effects of cell towers on real property values.
- 3) Minimizing visual, noise, aesthetic and development impacts of cell towers.
- 4) Assuring protection of the community and neighbors by monitoring approved cell towers for continued compliance.
- 5) Assuring timely and appropriate removal of cell towers in the event of abandonment.
- 6) The need for independent technical consultation for applications.

In light of the aforementioned, the purpose of the proposed amendments are to provide a process and standards for the construction, modification and removal of communication towers, non-commercial wind energy systems using towers, and meteorological towers

(collectively referred to as ‘towers’) while protecting public health and safety and the scenic quality of unincorporated Hood River County (outside of the National Scenic Area, too). At the same time encourage managed deployment and development of needed wireless communication facilities and towers.

II. CHRONOLOGY

The following provides a chronology of events that have been documented as it relates to the history and process to develop the proposed communications facilities and towers ordinance in the county:

- 1996: Passage of the Telecommunications Act of 1996 – creates desire to write a specific ordinance.
- 2002 Planning Staff Meeting: Cell tower ordinance mentioned at staff meeting as a result of discussing energy facilities. There was some discussion that towers could be regulated through Goal 5 – Scenic Views, but would be a bit tricky.
- 2008: Board of County Commissioners directed staff to begin the legislative process for the development of a Cell Tower Ordinance.
- December 2008: Legislative action initiated and planning staff starts working on an ordinance.
- December 2008 – January 2009: Tower Advisory Committee established: Bill Fashing, County Economic Development Coordinator; John Gerstenberger, Hood River Electric Co-op; Linda Streich, Professional Business Solutions; Peter Frothingham, Hood River Valley Residents Committee; and Anne Debbaut, Senior Planner.
- January 14, 2009: Task force had kick-off meeting. Ordinances referenced included: Multnomah and Wallowa counties and 8 others.
- Planning Commission Meeting February 11, 2009: At planning commission meeting staff presented purpose and intent, existing code provisions, identified draft sections and next steps in developing draft ordinance.
- Planning Commission “First Planning Session” June 24, 2009: Planning session on proposed legislative amendment for Wireless Communication Facilities. Presentation topics included: project history, project status and work group, review of draft ordinance sections, review of “Table A” and other sections, and identified next steps.
- Planning Commission “Second Planning Session” July 8, 2009: Purpose was to provide additional time for the public and the commission to discuss a draft ordinance intended to regulate the development of wireless communication facilities. Continued discussion of the first draft to “hopefully” complete the review of the draft ordinance.

A continuation of the second planning session was scheduled for later that summer 2009. Unfortunately due to significant county budget issues and restructuring efforts at that time, the lead staff planner was laid off prior to that planning session and the project was dropped.

- Board of Commissioners Early 2011: At annual goal setting session the Board directed

staff to provide them with the current draft of the cell tower ordinance and give a short update on the status of the project.

- Board of Commissioners March 2011: Staff and counsel spoke to the Board about a cell tower ordinance. The Board's consensus was that, while a cell tower ordinance might be considered in the future, there are inadequate staff resources to approach this task during the 2010-2011 Fiscal Year.
- Board of Commissioners 2013 & 2014 Goal Setting Sessions: Cell tower ordinance discussed and determined not to be high priority in light of staff resources and existing CUP process.
- Late-2013 & Early-2014: Cell tower application on Multnomah Road re-stimulates community interests and concerns, and discussion ensues regarding the need for a cell tower ordinance.
- August 27, 2014 Planning Commission: Planning Director gives report indicating Hood River Valley Residents Committee (HRVRC) will be preparing a draft cell tower ordinance for commission perusal at some point. HRVRC provided with a digital copy of the draft that the county task force committee had developed with Anne Debbaut (Senior Planner) in 2009.
- October 13, 2014 Board of County Commissioners: HRVRC requests that an advisory committee continue to work on drafting an ordinance.
- October 23, 2014 Planning Commission: Planning commission requests HRVRC help bring closure to county cell tower ordinance through task force participation. Planning Commissioners Frothingham and Brennan agree to participate.
- Board of Commissioners January 2015: At annual goal setting session Board directed staff to finish and adopt cell tower ordinance.
- February 25, 2015: Task force reconvened to review and amend draft ordinance. Participants included: Planning Commissioners Frothingham and Brennan; Heath Staten and Polly Wood (HRVRC); Celcia Goodman; and Eric Walker and John Roberts (planning department staff).
- March 10, 2015: Task force reconvened to review and amend draft ordinance for March 25, 2015 planning commission planning session. Participants included: Planning Commissioners Frothingham and Brennan; Heath Staten and Polly Wood (HRVRC); Celcia Goodman; Jeff Hunter; and Eric Walker and John Roberts (planning department staff).
- March 25, 2015: Planning commission conducted planning session to discuss draft ordinance.
- June 12, 2015: Planning staff met with industry representative Rich Fenton (FCCM, Inc.) to overview draft amendments and discuss tower heights.
- September 30, 2015: Task force reconvened one last time to review draft amendments, particularly Table A and proposed tower heights. Participants included: Planning Commissioner Brennan, Polly Wood (HRVRC), Celcia Goodman, Jeff Hunter, Doug Thiesies (County Forester), and Eric Walker and John Roberts (planning department staff).

- October 21, 2015: Final draft prepared for planning commission October 28 public hearing and due notice sent to agencies and interested parties.
- October 28, 2015: Planning commission adopts recommendation to the Board of Commissioners.
- December 1, 2015: Per a presentation at the annual Association of Counties conference to county planning directors, staff solicits feedback from Kim Allen (wireless counsel for Busch Law Firm, LLC) to overview draft amendments specific to Section 6409.
- December 21, 2015: Board of County Commissioners conducts duly noticed public hearing.

It is evident from the above chronology there is a history of concerted efforts to try and get a cell tower ordinance adopted. Moreover, it is apparent there is the political will to adopt said ordinance, which was suspended multi-times due to a lack of staffing resources. It also appears from the chronology that the various committees established tried to get a broad representation of viewpoints. The most recent task force convened met three-times to consider changes to the draft ordinance and build consensus. Additionally, staff made an effort to reach out to and communicate with two local industry representatives who are familiar with applicable wireless communication facilities permitting requirements (notably Robert Fenton with FCCM, Inc and Kim Allen with Busch Law Firm).

III. WIRELESS TELECOMMUNICATIONS ACT 1996

The stated purpose of the Telecommunications Act of 1996 (TCA) is to “promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunication consumers and encourage the rapid deployment of new telecommunications technologies.” In carrying out this purpose, the TCA implements three important (but somewhat competing) principles:

- 1) The siting of wireless telecommunication facilities (WTF) must comply with local zoning and land use regulations.
- 2) Local jurisdictions must not unreasonable discriminate among providers of functionally equivalent services but may distinguish applications based upon different visual, aesthetic and safety concerns.
- 3) The local regulations must not result in the actual or effective prohibition in the provision of personal wireless services.

During the 19-years that have elapsed since the enactment of the TCA, a number of federal case have explained or elaborated the meaning and application of the three principles (not always consistently). As a result, a great deal of uncertainty exists as to what local jurisdictions can and cannot do, and what cell tower providers can expect. However, the following two cases from the Ninth Circuit Court of Appeals give clearer guidelines for reviewing tower applications and, therefore, provide a platform for the proposed amendments and existing regulations in place elsewhere:

- MetroPCS, Inc. v. City of County of San Francisco, 400 F.3rd 715 (2005)
- T-Mobile USA, Inc. v. City of Anacortes, 572 F.3rd 987 (2009)

Two subsequent amendments to the TCA need to be mentioned. First, the law now requires all new towers to have backup power supplies as a matter of homeland defense planning. Second, local jurisdictions must process and complete new tower applications within 150 days. Collocation applications must be approved within 90 days. Failure to meet these deadlines gives tower applicants the right to transfer application review to the Federal District Court. Overall, the TCA regulates certain aspects of tower applications while leaving approval or denial of those applications to local land use processes.

IV. IMPORTANT CONSIDERATIONS

- A. **National Scenic Area (NSA)**: The applicability/jurisdiction of the proposed ordinance is important to recognize. One of the recently contested cell tower applications was in the NSA, specifically P-12-194 (American Tower Corporation off Fairview and Rocky Road). Additionally, there will be future cell tower applications proposed in the NSA.

The proposed ordinance would only be applicable to unincorporated portions of Hood River County and would not include lands within the NSA. The NSA is governed by Article 75 of the HRCZO. However, it is plausible the proposed ordinance could eventually be adopted into Article 75. For that to happen the ordinance would be required to go through an entirely separate and different legislative process that is outside the purview of the Oregon Statewide Planning Program.

- B. **Requirement for Independent Consultation**: Draft Section 74.25 – Application Requirements proposes that,

“At any time during the application process, the planning director may request additional information relevant to the proposal. Furthermore, the director may require review and validation of technical information contained in an application by a qualified, county approved, independent third-party. The cost of such a review shall be borne by the applicant.”

The concept of providing for independent consultation as a potential requirement for application review is not an uncommon provision. This approach acknowledges the obvious fact that properly processing of a communication facility or tower application depends on sophisticated technical expertise not ordinarily available to county staff and decision makers and other land use participants. Having competent, verified technical facts in support of key standards and criteria should serve all participants, including applicants.

- C. **Towers in Farm Zones – Sub (1) Use**: Facilities and towers in the Exclusive Farm Use (EFU) zone are authorized by Oregon Revised Statute (ORS) 215.281(1)(c) and are

subject to further specialized criteria and standards as set forth in ORS 215.275. These statutes specify the county must impose clear and objective conditions on the approval of facilities and towers to mitigate and minimize impacts on surrounding land devoted to farm use. The standards listed in the draft (Section 74.40 – Standards and Approval Criteria for Land Zoned EFU) come directly from ORS at 215.283(1)(c).

- D. Height: Table A lists the height limits for towers in each county zoning district. The heights range from 200-feet in the EFU zone to 50-feet in the Airport Development zone. Determining how tall a tower should be is a tough question and chief concern among citizens (i.e., to avoid towers from looming over their surroundings). Staff had two initial reactions to Table A: 1) are the proposed height limits too restrictive, and 2) could restrictive height limits subsequently create the need for more towers to be sited?

Wireless telecommunication relies on "line of sight" transmission (i.e., unobstructed transmission), and, as such, companies argue that taller towers are necessary to provide adequate service. Moreover, tower height must be raised to compensate for buildings, trees, hills, or other obstacles. For example, in a suburban setting, with houses and small offices, it may be necessary to add 20 to 40-feet to the tower height to get over the homes, offices, and trees that would be in the line-of-sight between the two towers. As such, the proposed heights in Table A are higher than the maximum building height allowed in the respective zone.

It is not clear if the prior advisory committee/task force conducted significant research or had dialogue regarding the tower heights identified in Table A and what drove those thresholds. This is further complicated by research, which will reveal there are a number of factors that influence tower height such as line of sight, power output, and timing advance.

Nevertheless, the tower heights identified in Table A represent a consensus from the current advisory committee/task force. Feedback from an industry representative on the topic indicated the need to recognize the FCC's Wireless Facilities Rules Implementing Section 6409. Section 6409 allows an increase in height if it does not substantially change the physical dimensions of an existing tower (i.e., less than 20 feet or 10 percent, whichever is greater). This notion is captured in Table A. Lastly the ability to request a modification (commonly referred to as a "variance") to the height limits is also imbedded into the draft regulations. Specifically Section 74.55 (Modification / Variances to Development Standards) would allow an applicant to request a deviation from any standard, not just height.

- E. Consistency with HRCZO & Other Updates: To provide conformity with Table A, there are nine (9) other articles in the HRCZO that should reference if communication facilities and towers are an allowed use and, if so, the review type. These specific articles and provisions are included in the proposed amendments (Exhibit B) and the proposed amendments are very concise. Additionally, it is recommended Article 55.50

“Supplementary Provisions” be amended to recognize updated terminology associated with wireless communication technologies.

V. APPLICABLE PLANNING GOALS & OTHER CRITERIA

The proposed amendments will not impact the statewide planning goals, county’s comprehensive plan or policy document. The proposed changes are a legislative amendment initiated by the Board of County Commissioners and Planning Department.

A. GOAL 1 – CITIZEN INVOLVEMENT

GOAL: Maintain a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

POLICIES:

- 1. Improve and use existing citizen participation programs to insure ongoing citizen involvement in plan and land use regulation revisions now and after Plan acknowledgement.*
- 2. Establish, maintain and encourage use of an ongoing citizen involvement program for the County.*

STRATEGIES - The County shall:

- 1. Encourage public participation in the planning process by continuing support of existing programs. The Planning Commission shall advise the Board of the effectiveness of these programs and changes to improve these programs;*
- 2. Improve the availability of planning information to citizens and agencies;*
- 3. Establish other special purpose committees to facilitate citizen involvement during plan review update or as otherwise needed;*

(***)

FINDING: A special purpose committee (i.e., Citizen Advisory Committee) was formed to assist in the proposed amendments. The original citizen advisory committee/task force to oversee the updates and forward a recommendation to the Board of County Commissioners was formed in 2008, and reconvened with new members in 2015. Both task forces were composed of a good cross-section of the community. It is staff’s opinion the make-up and experience of the task force(s) made for competent working groups of individuals to balance public interests and provide constructive feedback.

With that said, per the Planning Commission Bylaws Purpose and Responsibilities:

- B.1 - “The Planning Commission is designated and serves as the County’s Citizens Advisory Committee (CAC) under Goal 1 of the Oregon Land Use Planning Program.”
- B.2 - “The Planning Commission shall be responsible for making recommendation to the

Board of County Commissioners (“Board”) on matters of planning, plan implementation, and community development.”

- B.8 – “The Planning Commission shall make recommendations to the Board regarding the following items:
 - a. Adoption of Comprehensive Plan amendments.
 - b. Adoption of Zoning Ordinances designed to carry out the Comprehensive Plan.
 - c. Legislative changes to the text of Zoning Ordinances and map changes.”

During the update efforts in 2009, the planning commission conducted a total of four (4) planning sessions on the proposed amendments. At each planning sessions issues were identified and discussed. The dates of the planning commission meetings included: February 11, 2009; June 24, 2009; July 8, 2009; and March 25, 2015 (as identified in Section III Chronology above). At each of these planning sessions, the public had opportunities to participate. Moreover, a public hearing was conducted on October 28 that allowed for more citizen involvement. Reaching out to industry representatives and County’s Forest Department throughout the process also demonstrate trying to ensure opportunities for industry representatives, citizens and agencies to be involved and participate.

B. APPLICABLE STATE LAW

ORS 197.610 and OAR 660-018-0020 – Notice of a Proposed Change to a Comprehensive Plan or Land Use Regulation – 20 - 35 day notice to DLCDC, prior to 1st evidentiary hearing

FINDING: Local governments are required to send notice of a proposed change to a comprehensive plan or land use regulations at least 35-days before the first evidentiary hearing. In an attempt to use existing staff resources in a judicious manner, it was originally envisioned to couple the proposed amendments with the Model Code Update Project (P-15-0017).

Consistent with the above rules, staff provided notice of the proposed amendments to the DLCDC on May 5, 2015. This is more than 35-days prior to the first evidentiary hearing. On September 25, 2015 another notice of proposed change was sent to DLCDC regarding the revisions. Specifically that the proposed amendments were now separate from the Model Code Update Project (P-15-0017). This was 34-days prior to the first evidentiary hearing. The proposed amendments to the other zoning Articles have not been submitted to DLCDC, as the amendments are completely incidental to the proposed amendments and intended merely to create conformance with Table A. Updates adopted by the Board of County Commissioners are required to be forwarded to DLCDC for final review and acknowledgement.

ORS 215.223 - Procedure for adopting zoning ordinances; notice. (1) No zoning ordinance enacted by the county governing body may have legal effect unless prior to its enactment the governing body or the planning commission conducts one or more public hearings on the ordinance and unless 10 days’ advance public notice of each hearing is published in a newspaper of general circulation in the county or, in case the ordinance applies to only a part of the county,

is so published in that part of the county.

FINDING: Consistent with the above rule, notice of the June 10, 2015 Public Hearing (i.e., Model Code Update Project) was published in the *Hood River News* on May 30, 2015, more than 10-days before the hearing. Although the June 10th Public Hearing was continued by the planning commission to a date and time certain since, the communication facilities and towers project evolved and separated from the Model Code Update Project. As such, a notice of the October 28, 2015 Public Hearing was published in the *Hood River News* on Saturday, October 17 and Wednesday, October 21, 2015. This was more than 10-days before the hearing. Lastly, a notice of the Board of County Commissioner public hearing was published in the *Hood River News* on December 9, 2015, more than 10-days prior to the hearing.

C. LEGISLATIVE REVIEW - Article 62 ("Legislative Amendments"), HRCZO

Section 62.00 - Initiation: An amendment, supplement or change to the text or maps of this ordinance may be initiated by: A. The Board of Commissioners. B. The Planning Commission. C. The Planning Director.

FINDING: The legislative action was initiated by the Board of County Commissioners multiple times. In 2008 and January 2015 the Board of County Commissioners directed staff to begin the legislative process for the development of a Cell Tower Ordinance.

Section 62.02 – Procedures

FINDING: As mentioned, a public hearing was originally scheduled before the planning commission to review the amendments on June 10, 2015. The hearing was continued to a date and time certain since that hearing. However, in light of changes to the amendments (i.e., separating the proposed communication facilities and towers amendments from the Model Code Update Project), a new public hearing was scheduled and re-noticed for October 28, 2015. Within 30-days from receipt of the recommendation by the planning commission, a request was forwarded to the Board of County Commissioners to conduct a public hearing. The planning commission recommendation (un-signed) is included as part of this staff report.

Section 62.04 – Notice

FINDING: Notice of the October 28, 2015 Planning Commission Public Hearing was published in the *Hood River News* on Saturday, October 17, 2015, more than 10-days prior to the October 28, 2015 hearing. Notification was sent by mail to affected local and state agencies, the City of Hood River, and individuals who indicated an interest in the legislative action on October 21, 2015. A list of the agencies and individuals who received notice of the public hearing and staff report is available at the county planning department. Consistent with the above rule, notice of the December 21st, 2015 Board Public Hearing was published in the *Hood River News* on December 9th, 2015, more than 10-days before the hearing.

V. BOARD OF COMMISSIONER OPTIONS

- A. **Accept** the amendments as proposed in the attached Exhibits A and B.
- B. Recommend **changes** to the attached Exhibits A and B and **adopt** the amendments.
- C. Recommend **denial** of the proposed amendments identified in the attached Exhibits A and B.
- D. **Continue** the public hearing to a date and time certain, as a result of requesting additional materials and research to aid in making potential changes or a decision.

VI. STAFF RECOMMENDATION

Staff concludes that all criteria have been met for this request. Based on the findings of fact and other relevant information contained within this staff report and exhibits, staff recommends that the Board of Commissioners approve the Legislative Amendment request P-15-0201 after 1) accepting public testimony and deliberating, and 2) directing staff to make additional changes.

Staff Report and proposed amendments are available for review on the Community Development Department website: <http://www.co.hood-river.or.us/>.

Reports and proposed amendments are also available for review or purchase (at 0.25¢/sheet) at County Community Development at 601 State Street, Hood River, OR 97031