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**RECORDED DOCUMENT**

STATE OF OREGON  
COUNTY OF DESCHUTES



\*CJ2000-900 \* Vol-Page

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**DO NOT REMOVE THIS CERTIFICATE**

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Sep. 19, 2000; 8:32 a.m.

DOCUMENT TYPE: Ordinance (CJ)

NUMBER OF PAGES: 6

A handwritten signature in cursive script that reads "Mary Sue Penhollow".

MARY SUE PENHOLLOW  
DESCHUTES COUNTY CLERK

KEYRUNCHED  
Handwritten initials, possibly "BW", in cursive.  
SEP 20 2000

CJ2000.900

REVIEWED  
LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

00 SEP 19 AM 8:32

MARY SUE FENHOLLOW  
COUNTY CLERK

An Ordinance Amending Title 18, the  
Deschutes County Zoning Ordinance,  
of the Deschutes County Code, to Amend the  
Regulations for Wireless Telecommunications  
Facilities and Declaring an Emergency. \*

ORDINANCE NO. 2000-019

WHEREAS, the Deschutes County Board of Commissioners and the Deschutes County Planning Commission held a joint work session on July 10, 2000 to consider making changes to the County Zoning Ordinance regulation for wireless telecommunications facilities; and

WHEREAS, after notice was given and hearing conducted on August 9, 2000 before the Board of County Commissioners in accordance with applicable law, the Board of County Commissioners has considered the proposed amendments; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. Section 18.116.250, Wireless telecommunications facilities, of the Deschutes County Zoning Ordinance is amended to read as set forth in Exhibit "A," attached hereto and by this reference incorporated herein, with new language underlined and deleted language shown in ~~strikethrough~~.

Section 2. AMENDMENT. Section 18.128.040, Specific use standards, of the Deschutes County Zoning Ordinance is amended to read as set forth in Exhibit "B," attached hereto and by this reference incorporated herein, with new language underlined and deleted language shown in ~~strikethrough~~.

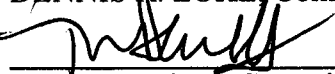
Section 3. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

DATED this 6<sup>th</sup> day of September, 2000.

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

  
LINDA L. SWEARINGEN, Chair

  
DENNIS R. LUKE, Commissioner

  
TOM DEWOLF, Commissioner

ATTEST:

  
Bonnie Baker  
Recording Secretary

EXHIBIT "A"

**18.116.250, Wireless telecommunications facilities.**

A. Tier 1 Facilities. Wireless telecommunications facilities that do not require aviation lighting, that utilize natural wood colors or muted tones from amongst colors approved by Ordinance 97-017, that utilize a radio equipment cabinet or shelter that is less than 120 square feet in area and less than 10 feet in height, and that meet the following standards are allowed outright in any zone other than the Exclusive Farm Use, the Surface Mining Zone, and the Forest Zones and shall not be subject to any other provision of the zone:

1. Facilities established by colocating an additional set of antennas on an existing wireless telecommunications tower or monopole that do not exceed the County-approved height of the tower or monopole, and do not add ground based equipment outside the existing lease area. Notwithstanding any provision of subsection (A) of this section, facilities established under this paragraph are permitted outright in any zoning district.
2. Facilities that make use of existing vertical structures, including but not limited to power or telephone utility poles or towers, parking lot or street lighting standards or flagpoles. For the purpose of this subsection, a vertical structure is "existing" if it was constructed after receiving all required land use and/or building permits on or before November 12, 1997, the date of adoption of Ordinance 97-063. A pole location in a public right-of-way shall not be fenced. Antennas established on an existing vertical structure shall be installed so that they do not exceed the height of the existing vertical structure by more than 15 feet. New structures in this category are limited to equipment shelters that do not require a building permit. Walk-in

equipment shelters shall be set back out of any road right-of-way at least 20 feet back from the pole location. Any necessary road right-of-way permits shall be obtained from the Deschutes County Road Department. Equipment cabinets shall be subject only to the road right-of-way setback requirements.

3. Facilities that are established by attaching or placing an antenna or set of antennas on an existing building not designated as an historic structure, where the antenna array does not exceed the height of the building by more than 15 feet. All equipment shall be stored inside a building. For the purpose of this subsection, a building exists if it was constructed after receiving all required land use and/or building permits and was occupied on or before November 12, 1997, the date of adoption of Ordinance 97-063.
4. Facilities that include installation of a new wood monopole that does not exceed the height limit of the underlying zone, and does not exceed 45 feet in height. All equipment shall be stored in a building that has a roof area that does not exceed 120 square feet in area or ten feet in height. The monopole, and any building, shall be set back from adjacent property lines according to the setbacks of the underlying zone. Any microwave dishes installed on the monopole shall not exceed a diameter of three feet. No more than two dishes shall be installed on a monopole or tower. The perimeter of a lease area for a facility established under this subsection shall be landscaped with shrubs eight feet in height and planted a maximum of 24 inches on center.

B. Tier 2 Facilities. Wireless telecommunications facilities that do not require aviation lighting, that utilize a wood monopole for supporting antennas

## EXHIBIT "A"

and/or microwave dishes and that meet the criteria in this section are allowed outright, subject to site plan review under this subsection (and not section 18.124.060) in the following zones: La Pine Commercial District (LPCD), La Pine Industrial District (LPID), Rural Industrial (RI), Rural Service Center (RSC), Rural Service Center-Wickiup Junction (RSC-WJ), Terrebonne Commercial District (TeC), and Tumalo Commercial District (TuC). Lattice towers or metal monopoles are not permitted with a Tier 2 facility.

1. An application for site plan review for a Tier 2 wireless telecommunications facility shall meet the following criteria:
  - a. **Maximum Monopole Height.** In the LPCD, LPID, RSC, RSC-WJ, TeC, and TuC zones, the maximum height of a monopole that supports antennas and/or microwave dishes for a wireless telecommunications facility shall be 60 feet from finished grade. In the RI Zone, the maximum height of a monopole that supports antennas and/or microwave dishes for a wireless telecommunications facility shall be 75 feet from finished grade.
  - b. **Setbacks.** All equipment shelters shall be set back from property lines according to the required setbacks of the underlying zone. A monopole shall be set back from any adjacent dwelling a distance equal to the height of the monopole from finished grade, or according to the setbacks of the underlying zone, whichever is greater.
  - c. **Shelters.** Any equipment shelter shall be finished with natural aggregate materials or from colors approved with Ordinance 97-017.
  - d. **Landscaping.** The perimeter of a lease area shall be landscaped with plant materials appropriate for its location. The lessee shall continuously maintain all installed landscaping and any existing landscaping used to screen a facility.

- e. **Cabinets.** Any equipment cabinets shall be finished with colors from amongst those colors approved with Ordinance 97-063. Such colors shall be non-reflective and neutral.
- f. **Fences.** A sight-obscuring fence, as defined by this title, shall be installed around the perimeter of the lease area. The sight-obscuring fence shall surround the monopole and the equipment shelter.

- C. **Tier 3 Facilities.** Wireless telecommunications facilities (or their equivalent uses described in the EFU, Forest, and SM Zones) not qualifying as either a Tier 1 or 2 facility may be approved in all zones, subject to the applicable criteria set forth in subsections 18.128.040(CC) and (DD).

1. A request for a written determination from the county as to whether a proposed facility falls within Tiers 1 or 2 of this section shall be submitted to the county in writing and accompanied by a site plan and proposed schematics of the facility. If the county can issue a written determination without exercising discretion or by making a land use decision as defined under ORS 197.015(10), the County shall respond to the request in writing.
2. A request for a written determination from the county as to whether a proposed facility falls within Tiers 1 or 2 of this section that involves exercising discretion or making a land use decision shall be submitted and acted upon as a request for a declaratory ruling under Chapter 22.40 of the County Code.

(Ord. 2000-19 § 1, 2000; Ord. 97-063 § 1, 1997; Ord. 97-017 § 7, 1997)

## EXHIBIT "B"

### Section 18.128.040, Specific Use Standards

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#### DD. Wireless Telecommunications Facilities.

An application for a conditional use permit for a wireless telecommunications facility or its equivalent in the EFU, Forest, or Surface Mining Zones shall comply with the applicable standards, setbacks and criteria of the base zone and any combining zone and the following requirements. Site plan review under chapter 18.124 of this title including site plan review for a use that would otherwise require site plan review under chapter 18.84 of this title shall not be required.

1. Application Requirements. An application for a wireless telecommunications facility shall comply with the following meeting, notice, and submittal requirements:
  - a. Neighborhood Meeting. Prior to scheduling a pre-application conference with Planning Division staff, the applicant shall provide notice of and hold a meeting with interested owners of property nearby to a potential facility location. Notice shall be in writing and shall be mailed no less than 10 days prior to the date set for the meeting to owners of record of property within
    - a) a notice area of 1,320 feet of the boundary of the property on which the applicant proposes to establish for a tower or monopole no greater than 100 feet in height, and
    - b) a notice area of 2,000 feet of the boundary of the property on which the applicant proposes to establish for a tower or monopole at least 100 feet and no higher than 150 feet in height. For the purpose of this section, the property on which an applicant proposes to establish a wireless telecommunications facility includes the lot of record on which the applicant will locate the facility and all contiguous lots of record held

in common ownership. The applicant shall notify the owners of record of a minimum of 20 properties. If the number of owners of property notified in the notice area does not equal at least 20, the applicant shall notify the owners of record of property within the next increment of 660 feet from the initial notice area until the number of owners of property notified reaches at least 20. The applicant shall also provide a copy of this notice to the Planning Division. Such notice shall not take the place of notice required by title 22 of this code.

- b. Pre-Application Conference. Applicant shall attend a scheduled pre-application conference prior to submission of a land use application. An application for a wireless telecommunications facility permit will not be deemed complete until the applicant has had a pre-application conference with Planning Division staff.
- c. Submittal Requirements. An application for a conditional use permit for a wireless telecommunications facility shall include:
  - i. A copy of the blank lease form.
  - ii. A copy of the applicant's Federal Communications Commission license.
  - iii. A map that shows the applicant's search ring for the proposed site and the properties within the search ring, including locations of existing telecommunications towers or monopoles.
  - iv. A copy of the written notice of the required neighborhood meeting and a certificate of mailing showing that the notice was mailed to the list of property owners falling within the notice area designated under subparagraph (1)(a) of this section.

## EXHIBIT "B"

- v. A written summary of the neighborhood meeting detailing the substance of the meeting, the time, date and location of the meeting and a list of meeting attendees.
  - vi. A site plan showing the location of the proposed facility and its components. The site plan shall also identify the location of existing and proposed landscaping, any equipment shelters, utility connections, and any fencing proposed to enclose the facility.
  - vii. A copy of the design specifications, including proposed colors, and/or elevation of an antenna array proposed with the facility.
  - viii. An elevation drawing of the facility and a photographic simulation of the facility showing how it would fit into the landscape.
  - ix. A copy of a letter of determination from the Federal Aviation Administration or the Oregon Department of Transportation - Aeronautics Division as to whether or not aviation lighting would be required for the proposed facility.
2. Approval Criteria: An application for a wireless telecommunication facility will be approved upon findings that:
- a. The facility will not be located on irrigated land, as defined by section 18.04.605 of this title.
  - b. The applicant has considered other sites in its search area that would have less visual impact as viewed from nearby residences than the site proposed and has determined that any less intrusive sites are either unavailable or do not provide the communications coverage necessary. To meet this criterion, the applicant must demonstrate that it has made a good faith effort to co-locate its antennas on existing monopoles in the area to be served. The applicant can demonstrate this by submitting a statement from a qualified engineer that indicates whether the necessary service can or cannot be provided by co-location within the area to be served.
  - c. The facility is sited using trees, vegetation, and topography to the maximum extent practicable to screen the facility from view of nearby residences.
  - d. A proposed tower or monopole does not exceed a height of 150 feet from existing grade to the highest point of the support structure or any transmission equipment. A tower or monopole located in an LM Zone is no taller than 30 feet. Towers or monopoles shall not be sited in locations where there is no vegetative, structural or topographic screening available.
  - e. In all cases, the applicant shall site the facility in a manner to minimize its impact on scenic views and shall site the facility using trees, vegetation, and topography in order to screen it to the maximum extent practicable from view from protected roadways. Towers or monopoles shall not be sited in locations where there is no vegetative, structural or topographic screening available.
  - f. Any tower or monopole is finished with natural wood colors or colors selected from amongst colors approved by Ordinance 97-017.
  - g. Any required aviation lighting is shielded to the maximum extent allowed by FAA and/or ODOT-Aeronautics regulations.
  - h. The form of lease for the site does not prevent the possibility of co-location of additional wireless telecommunication facilities at the site.
  - i. Any tower or monopole shall be designed in a manner that it can carry

## EXHIBIT "B"

the antennas of at least one additional wireless carrier. This criterion may be satisfied by submitting the statement of a licensed structural engineer licensed in Oregon that the monopole or tower has been designed with sufficient strength to carry such an additional antenna array and by elevation drawings of the proposed tower or monopole that identifies an area designed to provide the required spacing between antenna arrays of different carriers.

- j. Any approval of a wireless telecommunication facility shall include a condition that if the facility is left unused or is abandoned by all wireless providers located on the facility for more than one year the facility shall be removed by the landowner.

(Ord. 2000-19 § 2, 2000; Ord. 98-056 § 2, 1998. Ord. 98-013 §§ 2, 3, 4 & 5, 1998; Ord. 97-063 § 2, 1997; Ord. 97-029 § 3, 1997; Ord. 97-022 § 1, 1997; Ord. 97-017 § 8, 1997; Ord. 96-003 § 9, 1996; Ord. 95-075 § 1, 1995; Ord. 95-046 § 3, 1995; Ord. 94-053, § 6, 1994; Ord. 94-008 § 15, 1994; Ord. 93-043 §§ 23A-J, 1993; Ord. 93-005 §§ 9, 10 and 11, 1993; Ord. 92-025 §§ 6 and 7, 1992; Ord. 92-004 § 12, 1992; Ord. 91-038 §§ 1 and 3, 1991; Ord. 91-020 § 1, 1991; Ord. 91-005 §§ 46 and 47, 1991; Ord. 90-014 §§ 39 and 40, 1990; Ord. 89-008 § 1, 1989; Ord. 87-032 § 1, 1987; Ord. 86-056 §§ 3 and 4, 1986; Ord. 86-018 § 1, 1986; Ord. 85-002 § 9, 1985; Ord. 84-023 § 4, 1984; Ord. 84-015 § 3, 1984; Ord. 80-206 § 4, 1980)

**Note:** DCC 18.128.040(FF) is repealed December 31, 2001.