

ORDINANCE NO. NS-2158

AN ORDINANCE AMENDING THE BEND DEVELOPMENT CODE TO REGULATE WIRELESS AND BROADCAST COMMUNICATION FACILITIES

Findings:

- A. The City of Bend initiated the application on August 6, 2010. Timely and sufficient notice pursuant to Section 4.1.515 of the Bend Development Code was provided.
- B. On September 27, 2010, the Bend Planning Commission held a public hearing to accept testimony on the request. At the conclusion of the hearing, the Commission voted to recommend the proposed text amendments be approved by the City Council.
- C. Notice of the Council's public hearing on March 16, 2011 was mailed to all recognized neighborhood associations on February 23, 2011. A notice of the Council's hearing was published in the Bulletin on February 24, 2011. Measure 56 notices were also mailed to all property owners in the city.
- D. The Bend City Council held a public hearing on March 16, 2011, to accept evidence and consider the Planning Commission's affirmative recommendation. The public hearing was continued to April 6, 2011. The City Council found that the text amendments satisfy the criteria for approval contained at Section 4.6.200 of the Bend Development Code.
- E. The Council finds that this ordinance is a comprehensive and progressive approach to regulating wireless and broadcasting facilities. It uses a combination of regulations, such as requiring conditional use permits for towers with high visual or aesthetic impacts in the City's residential areas, while encouraging antennas that are hidden, and moderate and low visibility facilities within the height limits in all zones.
- F. This ordinance does not regulate based on radio frequency (RF) emissions, as the federal Telecommunications Act of 1996 preempts state and local government regulation of the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of RF emissions, to the extent that such facilities comply with the Federal Communications Commission's regulations concerning such emissions. In adopting this ordinance the City Council is also cognizant of the federal law that local regulations may not prohibit or have the effect of prohibiting the provision of telecommunications service, or unreasonably discriminate among providers of functionally equivalent services, while at the same time preserving local authority over zoning and land use matters except in these limited circumstances.
- G. This ordinance is intended, to the extent consistent with the federal Telecommunications Act, to preserve neighborhood character and protect the aesthetic qualities of the Bend community's residential areas, by strongly encouraging the siting of new cell, radio & television towers in preferred locations where the impact on the community is minimal. This is achieved through a streamlined review process for the

more highly visible facilities if they are constructed and set back in industrial and commercial zones.

H. By limiting high visibility facilities to one per lot or parcel, this ordinance is intended to encourage the joint use of existing facilities and the use of moderate or low visibility facilities, with the ability of the Planning Commission, upon application, to approve additional tower(s) through a public process if specific findings related to neighborhood character or the provider's ability to provide coverage are made.

I. This ordinance is intended to help minimize any adverse visual impacts of wireless and broadcast communication facilities through provisions that require careful design, configuration, screening, and innovative camouflaging techniques.

J. This ordinance is intended to consider public health and safety and avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

K. Through clear regulations and defined processes, this ordinance is intended to enhance the ability of providers of telecommunications and broadcast services to provide such services to the community quickly, efficiently and effectively.

L. This ordinance is intended to give the City staff and decision-making bodies the ability to effectively balance the competing goals of the provision of wireless services and other valid goals such as safety and aesthetics.

M. These general findings are further supported by specific findings of fact contained in Exhibit B of this ordinance related to the Bend Development Code, which are incorporated into these findings.

Based on these findings, the City of Bend ordains as follows:

Section 1 The Bend Development Code is amended to regulate wireless and broadcast communication facilities as depicted in Exhibit A.

Read for the first time the 6th day of April, 2011.

Read for the second time the 20th day of April, 2011.

Placed upon its passage the 20th day of April, 2011.

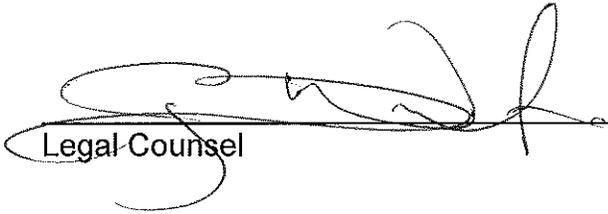
YES: 4

NO: 2

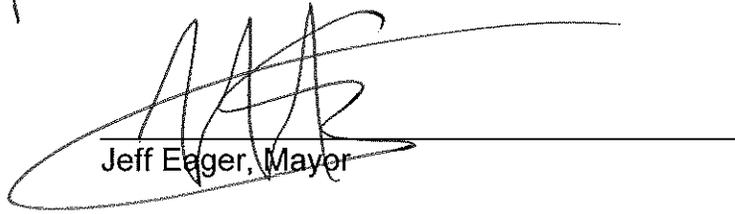
Authenticated by the Mayor the 20th day of April, 2011.

Approved as to form:

Ordinance NS-2158



Legal Counsel



Jeff Eger, Mayor

ATTEST:



Patricia Stell, City of Bend Recorder

Exhibit A

Text in underlined typeface is to be added.

Text in ~~strikethrough~~ typeface is to be deleted.

*** Indicates where text from the existing code has been omitted.

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Chapter 1.2 Definitions

Building height means the average maximum vertical height of a building or structure measured at a minimum of three points from finished grade along each building elevation. Architectural elements that do not add floor area to a building or structure, such as ~~chimneys, vents, antennae and towers~~ chimneys and vents, are not considered part of the height of a building or structure.

Table 1.2.100
Summary of Development Application Types

Development Application	Type I*	Type II*	Type III	Type IV
Change of Use - Site Conforms to All Existing Standards	X			
Condo Plat/Condo Change of Use	X			
Design Review CB Zone - Minor Façade Change	X			
Design Review - Minor Alteration	X			
Final Plat - Partition or Subdivision	X			
Home Occupation Type I (Minor)	X			
Lot of Record Verification	X			
Property Line Adjustment	X			
Site Plan - Mini (ADU, 2nd Dwelling)	X			
Site Plan Minor Alteration	X			
Temporary Use	X			
Vacation Home Rental	X			
Cemetery Subdivision		X		
Change of Use - Site Does Not Conform to All Existing Standards		X		
Conditional Use Permit		X		
Declaratory Ruling- Administrative Decision		X		
Design Review CB Zone - Track 1		X		
Design Review Deschutes River, Administrative		X		
Design Review for New Construction/Major Alterations		X		
Home Occupation Type II (Major)		X		
Partition (Tentative Plan)		X		
Planned Unit Development (PUD) Modification		X		
Residential Compatibility Exception, Administrative		X		
Site Plan Major Alteration		X		
Site Plan New Development		X		
Solar Access Permit		X		
Solar Shade Exemption		X		
Subdivision (Tentative Plan)		X		
Surface Mining Permit		X		
Temporary Permit		X		
Duplex or Triplex Review		X		
Variance (Class A, B, C)		X		
Wireless and Broadcast Communication Facility Site Plan*	X	X		
Declaratory Ruling - Hearings Officer or Planning Commission			X	
Design Review CB Zone - Track 2			X	
Deschutes River Design Review - Planning Commission Hearing			X	
Master Development Plan or Special Planned District			X	

MR Zone Review - Facilities or Master			X	
Residential Compatibility Exception, Hearings Officer			X	
River Setback Exception			X	
Zone Change			X	
General Plan Map Amendment				X
General Plan Text Amendment				X
Refinement Plan/Development Agreement per ORS Chapter 94				X
Urban Growth Boundary (UGB) Expansion				X

*Unless elevated by the Community Development Director as authorized in Chapter 4.1.

*See Chapter 3.7, Wireless and Broadcast Communication Facilities - Standards and Procedures.

Chapter 2.1 Residential Districts
(UAR, UH-10, UH-2 ½, SR 2 ½, RL, RS, RM-10, RM, RH)

2.1.100 Purpose, Applicability and Location

Table 2.1.200 - Permitted Land Uses

Land Use	SR 21/2	RL	RS	RM- 10	RM	RH	UAR
Residential							
Single-family detached housing	P	P	P	P	P	C	P
Single-family courtyard housing	N	C	C	P	P	C	C
*Accessory dwellings	P/C	P/C	P/C	P	P	P	P
*Manufactured homes on individual lots	P	P	P	P	P	N	P
*Manufactured Home Park	N	C	C	P	P	P	N
*Attached Single-family Townhomes	N	N	C	P	P	P	N
*Two-and three-family housing (duplex and triplex)	N	C	C	P	P	P	N
Adult Foster Homes (5 or fewer residents)	P	P	P	P	P	P	P
Adult Day Care	P	P	P	P	P	P	P
Residential Care Facility (6 or more residents)	N	N	N	C	P	P	N
Family Childcare Home, (16 or fewer children)	P	P	P	P	P	P	P
*Multi-family housing (more than 3 units)	N	N	N	P	P	P	N
*Home occupation (Type I / Type II)	P/C	P/C	P/C	P/C	P/C	P/C	P/C
*Temporary Housing	N	C	C	C	C	C	N
*Accessory Uses and Structures	P	P	P	P	P	P	P
*Public and Institutional							
*Churches and places of worship	C	C	C	C	C	C	C
Clubs, lodges, similar uses	C	C	C	C	C	C	C
*Government offices and facilities (administration, public safety, utilities, and similar uses)	C	C	C	C	C	C	C
Libraries, museums, community centers, and similar uses	C	C	C	C	C	C	C
*Utilities (above ground) and Radio/Television Transmission	C	C	C	C	C	C	C
Neighborhood Parks	P	P	P	P	P	P	P
Community Parks	C	C	C	C	C	C	C
Regional Parks	C	C	C	C	C	C	C
Recreational facilities	C	C	C	C	C	C	C
Schools (public and private)	C	C	C	C	C	C	C
Cemetery/Mausoleum	C	C	C	C	C	C	C
Child Care Facility (17 or more children)	C	C	C	C	C	C	C
Hospital	C	C	C	C	C	C	C
*Neighborhood Commercial							
Child Care Facility (13 or more children)	N	C	P	P	P	P	N

Land Use	SR 21/2	RL	RS	RM- 10	RM	RH	UAR
*Food services less than 2,000 square feet, (with or without alcohol) excluding automobile dependent and automobile-oriented, drive-in, and drive-through uses	N	C	C	C	C	P	N
Laundromats and dry cleaners	N	C	C	P	P	P	N
Retail goods and services	N	C	C	P	P	P	N
Personal services (e.g., barber shops, salons, similar uses)	N	C	P	P	P	P	N
Repair services, conducted entirely within building; excluding vehicle repair, small engine repair and similar services	N	C	C	C	C	C	N
Mixed use building	N	C	C	P	P	P	N
*Miscellaneous Uses							
Diagnostic testing, counseling, administrative offices, meeting facilities for non-profit and public community service programs for children and families.	N	C	C	C	C	C	N
*Bed & breakfast inns and vacation rentals	C	C	C	C	C	C	C
Office uses lawfully existing prior to the adoption date of this ordinance	N	N	N	N	P	P	N
*Plant Nursery							
• Existing	P	P	P	P	P	P	P
• New (limited to 1 acre)	C	C	C	C	C	N	C
• New larger than 1 acre)	C	N	N	N	N	N	C
*Timeshare Unit	N	N	C	C	C	C	N
*Vacation Home Rental	P	P	P	P	P	P	P
Farm Use, Agriculture	P	N	N	N	N	N	P
Destination Resorts	C	N	N	N	N	N	C
Boarding Kennel	C	N	N	N	N	N	C
Veterinary Services							
• Small animal (only)	N	C	N	N	N	N	N
• Large animal	C	C	N	N	N	N	C
<u>Wireless and Broadcast Communication Facilities</u>	<u>See Chapter 3.7</u>						

Key to Districts:

UAR = Urban Area Reserve

RS = Standard Density Residential

RM-10= Medium-10 Density Residential

RL = Low Density Residential

RM = Medium Density Residential

RH = High Density Residential

Key to Permitted Uses

P = Permitted; subject to Chapter 4.1; Procedures

N = Not Permitted

C = Conditional Use subject to permit standards in Chapter 4.4.

* Subject to special standards as described in Section 2.1.900; Architectural Design Standards and/or Chapter 3.6; Special Standards for Certain Uses

NOTE: Existing Neighborhood Commercial (CN) zoned properties will remain as mapped recognizing neighborhood commercial properties established prior to the adoption of this ordinance. The development of these sites shall conform to the standards outlined in Chapter 3.6; Special Standards for Certain Uses, for the uses described above.

2.1.1100

Urban Holding Districts, UH-10 and UH-2 ½

Table 2.1.1100B - Permitted Land Uses

Land Use	UH-2 ½	UH-10
Residential		
Single-family detached housing		
• New	P	P
• Existing	P	P
Adult Foster Homes (5 or fewer residents)	P	P
Adult Day Care	P	P
Family Childcare Home, (16 or fewer children)	P	P
*Home occupation (Type I / Type II)	P/C	P/C
*Accessory Uses and Structures customarily provided in conjunction w/a permitted use.	P	P
*Public and Institutional		
*Churches and places of worship (Existing)	P	P
*Churches and places of worship (New)	C	C
*Utilities (above ground) and Radio/Television Transmission	C	C
Neighborhood Parks	P	P
Community Parks	C	C
Regional Parks	C	C
Recreational facilities	N	N
Schools (public and private)	C	C
Cemetery/Mausoleum	N	N
*Miscellaneous Uses		
*Plant Nursery (Existing)	P	P
Farm Use, Agriculture	P	P
Boarding Kennel	C	C
Veterinary Services Small animal (only)	C	C
Large animal	C	C
Wireless and Broadcast Communication Facilities	See Chapter 3.7	

Key to Districts:

UH-10 = Urban Holding

UH-C = Urban Holding Commercial

UH 2 ½ = Urban Holding 2 ½

UH-I = Urban Holding Industrial

Key to Permitted Uses:

P = Permitted; subject to Chapter 4.1; Procedures

N = Not Permitted

C = Conditional Use subject to permit standards in Chapter 4.4.

* Subject to special standards as described in Chapter 3.6; Special Standards for Certain Uses

Chapter 2.2 Commercial Districts (CBD, CC, CL, CG)

2.2.300 Permitted Land Uses

Table 2.2.300 - Permitted Land Uses

Land Use	CBD	*CC	CL	CG
Residential				
Existing Residential uses	P	P	P	P
*New Residential uses	P	P	P	P
*Temporary Housing	C	N	C	C
Commercial				
Retail Sales and Service				
- building footprint less than 50,000 square feet	P	P	P	P
- building footprint greater than 50,000 square feet	P	N	P	P
Retail Sales and Service (*auto dependent)	N	C	P	P
Retail Sales and Service (*auto oriented)	C	C	P	P
Restaurants/Food Services				
- with *drive-through 300 sq ft or less	C	C	P	P
- without drive-through	P	P	P	P
Offices and Clinics	P	P	P	P
Production Businesses (e.g. <i>IT support, Radio/Television Broadcast Studio</i>)	N	N	C	P
Convention Centers/Meeting Rooms	C	N	P	P
Lodging (hotels, motels, *bed and breakfast inns, *vacation rentals, boarding houses)	P	P	P	P
Hospitals	N	N	P	P
Commercial and Public Parking	P	P	P	P
Commercial Storage				
- enclosed in building and on an upper story	C	P	P	P
- not enclosed in building	N	N	P	P
- enclosed in building on ground floor (i.e., mini-storage)	N	N	C	P
Entertainment and Recreation				
- enclosed in building (e.g., theater, fitness facility)	P	P	P	P
- not enclosed (e.g., amusement)	N	N	C	P
Time Share Units	C	C	C	C
Trailer Park / Campground	N	N	C	C
Mortuary	N	N	P	P
Wholesale Sales (more than 75% of sales are wholesale)	N	N	P	P
Veterinary Clinic (small animal)	C	P	P	P
*Mixed Use (residential with commercial/civic/industrial) Mixed-use developments shall be subject to the use limitations prescribed for the respective individual uses	P	P	P	P

Public and Institutional				
Government - point of service intended to serve the entire city (e.g., city hall, main library main post office, main Department of Motor Vehicles service center)	P	N	P	P
Government – branch service intended to serve a portion of the city	P	P	P	P
Parks and Open Space	P	P	P	P
Schools				
-- *pre-school, daycare, and primary, secondary	P	P	P	P
-- colleges, and vocational schools	P	N	P	P
*Clubs and Places of Worship	C	C	C	C
*Utilities (above ground)	P	P	P	P
Industrial				
*Manufacturing and Production				
- greater than 5,000 sq. ft.	N	N	C	N
- less than 5,000 sq. ft. with retail outlet	P	P	P	P
Warehouse	N	N	P	P
Transportation, Freight and Distribution	N	N	C	P
Industrial Service (e.g., cleaning, repair)	N	N	P	P
Manufactured Home Sales	N	N	C	P
Lumber / Building Supplies	N	N	C	P
*Hydroelectric facilities	C	N	C	C
Miscellaneous Uses				
Wireless and Broadcast Communication Facilities	See Chapter 3.7			

Key to Permitted Uses

P = Permitted, subject to Chapter 4.1 N = Not Permitted; C = Conditional Use.

Conditional Uses are subject to Conditional Use permit standards in Chapter 4.4.

* Special Standards for Certain Uses subject to Chapter 3.6

Note: The CC zone limits the size of uses within the zone. See Section 3.6.300(J)

Chapter 2.3

Mixed - Use Districts (ME, MR and PO)

2.3.200 Permitted Land Uses

Table 2.3.200
Permitted Land Uses

Land Use	ME	MR	PO
Residential			
Single Family / as primary use	C	P	C
as secondary use	P	P	P
Multi-family housing */ as primary use	C	P	C
as secondary use	P	P	P
Temporary Housing* as a secondary use	P	N	P/C
Commercial			
Retail Sales and Service			
• Not to exceed 20,000 sq ft gross floor area	P	N	NN
• not to exceed 20,000 sq ft ground floor per lease space	N	P	P
• ground floor only / not to exceed 2500 sq ft for single use / 5000 sq ft for multiple users	N	N	

Commercial (continued)	ME	MR	PO
Retail Sales and Service (auto dependent*)	P	N	N
Retail Sales and Service (auto oriented*)	P	N	N
Restaurants/Food Services			N
- with drive-through*	P	N	
- without drive-through	P	P	
Offices and Clinics	P	P	P
Conference Centers/Meeting facility associated with a hotel / motel	C	P	N
Lodging (bed and breakfast inns, vacation rentals, boarding houses timeshare)	P	P	N
Hotel / Motels	P	P	N
- with conference center	P	P	
Commercial and Public Parking as primary use	P	P	C
Commercial Storage			
- enclosed in building and on an upper story	P	P	N
- not enclosed in building	N	N	N
- enclosed in building on ground floor (i.e., mini-storage)	P	P	N
Entertainment and Recreation			
- enclosed in building (e.g., theater)	P	P	C
- not enclosed (e.g., amusement)	P	C	C
Wholesale Sales (more than 75% of sales are wholesale)	P	P	N
Broadcasting/production studios and facilities	P	P	N
Hospital	P	C	C
Public & Institutional			
Government - point of service (e.g., library)	P	P	C
Government - limited point of service ;(e.g., public works yards,	N	N	N

vehicle storage etc.)			
Parks and Open Space	P	P	P
Schools			
-- pre-school, daycare, and primary, secondary	P	P	C
-- colleges, and vocational schools	P	P	P
Clubs and Religious Institutions	P	P	P
*Utilities (above ground)	P	P	P
Industrial			
Manufacturing and Production			
- greater than 5,000 sq. ft.	P	P	N
- less than 5,000 sq. ft. with retail outlet	P	P	N
Warehouse	P	P	N
Transportation, Freight and Distribution	C	C	N
Production businesses (e.g., IT Support Centers, biotechnology, software/hardware development Broadcast and Production studios/facilities.)	P	P	C
Industrial Service (e.g., cleaning, repair)	P	N	N
Miscellaneous Uses			
Wireless and Broadcast Communication Facilities	See Chapter 3.7		

Key to Districts

ME = Mixed Employment
MR = Mixed Use Riverfront
PO = Professional Office

Key to Permitted Uses

P = Permitted; subject to Chapter 4.1
N = Not Permitted;
C = Conditional Use, subject to Chapter 4.4

* Special Standards for Certain Uses subject to Chapter 3.6 and 2.1.900

Chapter 2.4 Industrial Districts (IG, IL)

2.4.300 Permitted Land Uses

Table 2.4.300 Permitted Land Uses

Land Use	IG	IL
Industrial		
Light manufacturing, fabrication and repair (e.g., appliances, electronic equipment, printing, furniture, signs and similar goods) with incidental sales associated with a permitted use.	P	P
Heavy manufacturing, assembly, and processing of raw materials and recycling	P	C
Junk yards, automobile wrecking yards, and similar uses	P	N
Research and development facilities	C	P
Wholesale warehousing, storage and distribution	P	P
Fuel distribution	P	C
Production businesses (e.g., IT Support Centers, biotechnology, software/hardware development Broadcast and Production studios/facilities.)	C	P
Wholesale processing uses (e.g., dry cleaning, laundry)	P	P
Food and beverage processing and packaging	P	P
Residential		
One caretaker unit shall be permitted for each development, <i>NOTE: Other residential uses are not permitted, however, residences existing prior to the effective date of this Code may continue subject to the standards in Chapter 5.2 Non-Conforming Uses and Developments.</i>	P	P
Commercial		
Vehicle, equipment and boat repair, rental, storage, service	C	P
Medical and dental laboratories and large animal veterinary clinics	C	P
Outdoor commercial uses (e.g., outdoor storage, Building and garden supply)	C	C
Small-scale personal and professional services		
<ul style="list-style-type: none"> • up to 2500 square feet of gross floor area (e.g., coffee shop / deli, dry cleaners, barber shops and salons, copy center, banks, and financial institutions and similar uses)* 	C	C
<ul style="list-style-type: none"> • No limit to size (e.g., child care, fitness center and similar uses)* 	C	C
Commercial (continued)		
Equipment Rental and Repair services	P	P
Corporate Headquarter/Office when co-located with a permitted or conditional use	C	P
Mini-storage Warehouse	N	C
Contractor storage	P	P
Heavy equipment sales	P	P
Ambulance Service/Transportation yards	P	C
Commercial parking lot	C	P
Recreation Facility (privately owned)	C	C

Land Use	IG	IL
Public and Institutional		
Government facilities where the public is generally not received. (e.g., public safety, utilities, school district bus facilities, public works yards, transit and transportation, and similar facilities)	P	P
*Utilities (above ground) Utility Facilities (e.g., natural gas, electricity, telephone, cable, Telecommunication facilities and similar facilities).	P	P
Special district facilities (e.g., irrigation district, and similar facilities)	P	P
Vocational schools	C	C
Public Park and Recreation Facility	C	C

Miscellaneous Uses	
Wireless and Broadcast Communication Facilities	See Chapter 3.7

Key to Districts:

IG = General Industrial District

IL = Light Industrial District

Key to Permitted Uses

P = Permitted; subject to Chapter 4.1

N = Not Permitted;

C = Conditional Use, subject to Chapter 4.4

* Special Standards in conformance with Chapter 3.6, Special Standards for Certain Uses and Section 2.4.800, Special Development Standards in this Chapter.

Chapter 2.5 Surface Mining District (SM)

2.5.200 Permitted Uses.

Table 2.5.200 - Permitted Land Uses

Land Use	SM
Industrial	
Rock crushing, processing washing and sizing	P
Extraction of materials including: sand gravel, rock, cinders, pumice, topsoil, fill material (including select fill) and any other mineral or aggregate material	P
Landfill**	C
Utility Facility Utilities (above ground)	C
Ore Smelter***	C
Other related activities using materials found primarily on site, such as concrete batching plants and mineral refining plants	C
Accessory Uses and Structures	P
Residential	
One caretaker unit shall be permitted for each development * <i>Other residential uses are not permitted, however, residences existing prior to the effective date of this Code may continue subject to the standards in Chapter 5.2. Non-Conforming Uses and Developments</i>	P
Commercial	
Sale of products produced on site	P
Miscellaneous Uses	
Wireless and Broadcast Communication Facilities	See Chapter 3.7

Key to Table

P = Permitted Use, in conformance with Chapter 4.1; Procedures

C = Conditional Use in conformance with Chapter 4.4; Conditional Use Permit

(*) = Special Standards for Certain Uses

(**)=When a written tentative approval by DEQ is submitted with the conditional use application

(***)=Using materials from the site subject to stringent pollution controls

Chapter 2.6 Public Facilities District

2.6.200 Permitted Uses

Table 2.6.200 - Permitted Land Uses

Land Use	PF
Publicly owned buildings such as city hall, county courthouse, administrative buildings, library, museum, fire station, public safety training facilities, and similar structures, but excluding correctional facilities	P
Public parks, playgrounds, swimming pool, skateboard park, pedestrian/bicycle trails and similar public recreation facilities.	P
Publicly owned and operated community meeting halls, lodges, and conference halls open to and used by the general public.	P
Public reservoirs, well sites, pump stations, utilities (above ground), and similar utility buildings or structures.	P
Elementary and Middle schools operated by the Bend-La Pine School District	P
Magnet schools or other special schools operated by the Bend-La Pine School District	C
Public college or university	P
Trails, natural areas, open space, future park sites, and similar public or special district owned lands with no or minimal improvements	P
Accessory uses and buildings customarily used to support a permitted use or an approved conditional use	P
Minor repairs and maintenance to any permitted or conditional use	P
Parking lots and parking areas to serve a permitted or conditional use	P
Public utility maintenance facilities and operation yards with outdoor storage of materials and supplies	C
High schools operated by the Bend-La Pine School District	C
Ball fields, sport complexes, and similar outdoor recreational areas that have night lighting or amplified sound systems	C
Public transmission tower sites <u>Wireless and Broadcast Communication Facilities</u>	<u>See Chapter 3.7</u>
County solid waste disposal sites or solid waste transfer sites	C
Correctional facilities for adults and juveniles including work farms and training centers	C
Park sites with outdoor amphitheater or facilities for community events such as music or theater performances, and similar events.	C

Key to Permitted Uses

P = Permitted, subject to provisions of Chapter 4.1

N = Not Permitted

C = Conditional Use - Conditional Uses are subject to Conditional Use permit standards in Chapter 4.4

Chapter 2.7 Special Planned Districts

2.7.500 Medical District Overlay

2.7.520 Permitted Land Uses

Table 2.7.530 Permitted Uses within the Medical Services District Overlay Zone

Land Use	RM	RH	CC
Residential			
All residential uses permitted or conditionally allowed in the applicable zoning district unless specifically listed herein	P/C	P/C	N
Public and Institutional			
All public and institutional uses permitted or conditionally allowed in the applicable zoning district unless specifically listed herein	P/C	P/C	P/C
Hospitals	N	P	P
Commercial			
All commercial uses permitted or conditionally allowed in the applicable zoning district unless specifically listed herein	N	N	P/C*
General Office*			P*
• In buildings built after April 2, 2004, office uses may occupy no more than 33% of the floor area*	P*	P*	
• In buildings built after April 2, 2004, offices may occupy more than 33% of the floor area*	C*	C*	
Dancing and music schools	N	N	P
Mortuaries	N	N	P
Photographic Studios	N	N	P
Service commercial uses up to 4000 square feet, gross floor area, excluding drive-thru and auto-related & auto dependent uses*	C*	C*	P
Eating and drinking establishments up to 4000 square feet, gross floor area, in size.*	C*	C*	P
Auto parts sales	N	N	N
Automobile service station	N	N	N
Minor auto repair	N	N	N
Medical Offices / Uses including a Pharmacy	P	P	P
Miscellaneous Uses			
Club, lodge and fraternal organization	N	N	C

Plant Nursery	N	N	N
Timeshare units	N	N	N
Vacation Rental	N	N	N
<u>Wireless and Broadcast Communication Facilities</u>	See Chapter 3.7		

Key to Districts:

RM = Medium Density Residential

RH = High Density Residential

CC = Convenience Commercial

Key to Permitted Uses

P = Permitted; subject to the provisions of Chapter 4.1

N = Not Permitted

C = Conditional Use subject to permit standards in Chapter 4.4.

* Use has Special Development Standards subject to Section 2.7.540

2.7.1000 Central Oregon Community College (COCC)- Special Planned District/Overlay Zone

2.7.1004 Permitted and Conditional Land Uses

Table 2.7.1000 – Permitted and Conditional Land Uses

Land Use	Core Campus Area	Campus Village Area
Residential Uses		
Single-family detached housing	C*	P
Single-family courtyard housing	C*	P
Attached Single-family Townhomes	C*	P
Two-and three-family housing (duplex and triplex)	P*	P
Multi-family housing (more than 3 units)	P*	P
Residence Halls	P*	P
Overnight lodging	P*	P
Child Day Care Facility	P*	P
Adult Day Care	P*	P
Residential Care Facility (6 or more residents)	C*	P
Accessory uses and structures, including dwellings	P*	P

Public, Institutional and General Uses		
All uses permitted in the Public Facilities (PF) Zoning District	P*	P
Educational, vocational and related research buildings and/or facilities	P	P
Meeting and conference facilities	P*	P
Entertainment related facilities	P*	P
Roads, pathways and transportation systems whether public or privately owned.	P	P
Light industrial uses	P*	C*
Repair services	P*	P*
<u>Wireless Communication Facilities</u> Communication and/or broadcasting facilities, production studio transmission facilities and necessary or supporting structures.	P*/C*	P/C*
<u>Utilities (above ground)</u> Utility facilities and transmission towers	C	C
Parks, playgrounds, play fields, athletic facilities, sports complexes, recreational facilities, trails, natural areas, open spaces (without night lighting or amplified sound)	P*	P
Places of worship	P*	C
Service and Commercial Uses		
Retail, commercial and service uses that are open to the public and available to serve students, faculty, employees and other persons associated with the College ¹ .	P*	P
Office Uses	P*	P
Food services, personal and professional services, and student shopping opportunities.	P*	P

¹ No single retail user may exceed 20,000 square feet on the first floor.

Culinary Institute and all related and accessory uses including, but not limited to any hospitality related service operated in connection with the Culinary Institute.	P*	P
Credit unions, banks and financial service institutions that are open to public use and available to serve students, faculty, employees and other persons associated with the College	P*	P
Medical offices, health and wellness clinics that are open to public use and available to serve students, faculty, employees and other persons associated with the College	P*	P
Related Uses		
Outdoor athletic, recreational or entertainment related facilities with night lighting and/or amplified sound systems.	C*	C*
Accessory uses and buildings customarily used to support a permitted use or an approved conditional use, including parking lots/parking areas and service roads needed to serve permitted or conditional uses.	P	P
Outdoor storage provided such storage is setback at least 25- feet from the Campus boundary.	P*	P
Buildings containing a mix of uses permissible in this District.	P*	P
Other Uses		
Government offices and facilities (including but not limited to: administration, public safety, utilities, and similar uses)	P*	P

Diagnostic testing, counseling and administrative offices. Meeting, office and administrative facilities for non-profit, philanthropic, and public community service programs.	P*	P
The conversion of buildings or structures from office, commercial or retail use to classroom space or other College or educational purposes.	NA	P
Temporary activities and sales such as Christmas trees, benefit sales and activities, and other holiday products.	P	P
Arts and Crafts Studios	P*	P
Accessory and secondary uses that traditionally occur on college campuses.	P*	P

Key to Permitted Uses

P = Uses Permitted Outright

C = Conditional Uses subject to the standards outlined in Chapter 4.4.

N = Not Permitted

* Use shall primarily serve College students, faculty, staff, and/or employees or the intended use is associated with College activities and/or programs, or the use is accessory to a permitted use.

*See Chapter 3.7, Wireless and Broadcast Communication Facilities.

NA = Not applicable

2.7.2000 Juniper Ridge Overlay Zone

2.7.2030 Employment Sub-District

Table 2.7.2030.A Permitted Land Uses

Land Use	Employment Sub-District
Light manufacturing, fabrication, assembly and repair with incidental sales associated with a permitted use	P
Heavy manufacturing, assembly and processing of raw materials and recycling	C
Wholesale Distribution, Warehousing and Storage	P
Research and development facilities	P
Production Office (e.g., IT support centers, biotechnology, software/hardware development, broadcast and production studios/facilities.)	P
Wholesale processing uses (e.g., dry cleaning, laundry)	C
Food and beverage processing and packaging	P
Medical and dental laboratories	P
Small-scale personal and professional services <ul style="list-style-type: none"> • Within a freestanding or multi-tenant building, up to 2,500 square feet of gross floor area (e.g., coffee shop / deli, dry cleaners, barber shops and salons, copy centers, banks, financial institutions, and similar uses)* shall be allowed • Within a freestanding or multi-tenant building, up to 10,000 square feet for child care, fitness center and similar uses shall be allowed when a site has frontage and/or direct access to an Arterial or Collector street 	P
Corporate Headquarters/Regional Corporate Office	P
Trade, vocational technical, professional, business schools including university programs serving industrial needs	P
Professional consulting services.	P
Industrial and professional equipment and supply sales	P
Professional office accessory to a primary use, in the same building, up to 30% of the floor area of the primary use.	P
*Utilities (above ground) Utility Facilities (e.g., natural gas, electricity, telephone, cable, Telecommunication and similar facilities).	P
Public Park and Recreation Facility (not including private Open Space)	C
<u>Wireless and Broadcast Communication Facilities</u>	<u>See Chapter 3.7</u>

Key to Permitted Uses

P = Permitted; subject to Chapter 4.1

C = Conditional Use, subject to Chapter 4.4

* Special Standards in conformance with Section 2.4.800, Special Development Standards

Chapter 3.6 Special Standards for Certain Uses

3.6.300 Non-residential Uses

L. **Utilities** This subsection shall apply ~~applies~~ to the erection, construction, alteration, or maintenance by public utility of municipal or other governmental agencies or licensed franchise of underground, overhead electrical, gas, steam or water transmission or distribution systems, collection, communication, supply or disposal system, including utility poles, towers, wires, mains drains, sewers, pipes, conduits, cables, fire alarm boxes ~~Traffic signals, hydrants, pumping stations~~ and other similar equipment and accessories in connection therewith, ~~but not including buildings, located outside of the public right of way,~~ which may be are permitted in any zone. Utility ~~transmission and distribution lines, poles and towers~~ may exceed the height limits otherwise provided for in this ordinance. However, ~~in~~ In considering an application for a public or licensed franchise utility use, ~~the Hearings Body~~ Review Authority shall determine that the site, easement, or right-of-way easement will not result in the uneconomic parceling of land. ~~As far as possible, transmission towers, all utility poles, overhead wires, pumping stations, equipment shelters and similar gear shall be so located, designed and installed as to minimize their effect on scenic values~~ visual impacts. The Review Authority may require screening as a condition of approval.

Chapter 3.7 Wireless and Broadcast Communication Facilities – Standards and Process

(Note: This is an entirely new Chapter of the Bend Development Code.)

Sections:

3.7.100	Purpose and Applicability
3.7.200	Definitions
3.7.300	Application Requirements
3.7.400	General Regulations
3.7.500	Review Process and Approval Standards
3.7.600	Exemptions
3.7.700	Maintenance
3.7.800	Inspections
3.7.900	Preexisting Towers
3.7.1000	Abandonment or Discontinuation of Use

3.7.100 Purpose and Applicability.

- A. Purpose.** This Chapter is intended to accommodate the provision of wireless and broadcast communication services and provide a uniform and comprehensive set of standards for the development, siting, and installation of wireless and broadcast communication facilities. In accordance with the guidelines and intent of federal law and the Telecommunications Act of 1996, these regulations are intended to: (1) protect and promote the public health, safety, and welfare of the residents of Bend; (2) preserve neighborhood character and protect aesthetic quality; (3) encourage siting in preferred locations and (4) minimize adverse visual impacts through careful design, configuration, screening, and innovative camouflaging techniques.
- B. Applicability.** This Chapter applies to the development, siting, and installation of wireless and broadcast communication facilities, including but not limited to cellular telephone facilities, broadband internet facilities, and radio and TV broadcasting facilities. This Chapter in no way prohibits, restricts, or impairs the installation, maintenance, or use of video antennas (including direct-to-home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations.

3.7.200 Definitions.

The following words and phrases used in this Chapter, which supplement the definitions found in Chapter 1.2 and elsewhere in this Code, shall have the following meanings:

Antenna means any system of wires, poles, rods, reflecting discs or similar devices designed for telephonic, radio, facsimile, data, or television communications through sending and/or receiving of electromagnetic waves when such system is either external

to or attached to the exterior of a structure. Antennas shall include, but not be limited to, devices having active elements extending in any direction, and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted up and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be part of the antenna.

Antenna height means the vertical distance measured from the ground surface at grade to the tip of the highest point of the antenna on the proposed structure.

Antenna support means any pole, telescoping mast, tower, tripod or any other structure that supports a device used in the transmitting and/or receiving of electromagnetic waves.

Broadcast communication facility means any facility that transmits radio or television signals including, but not limited to, antennas, dish antennas, microwave antennas, and other types of equipment for the transmission of such signals, including towers and similar supporting structures, equipment cabinets or buildings, parking areas, and other accessory development. This definition does not apply to Amateur Radio Stations as defined by the Federal Communications Commission, Part 97 of the Commission's Rules.

Camouflaged means any wireless or broadcast communication facility that is designed to blend into the surrounding environment. Examples of camouflaged facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, towers made to look like trees and antenna support structures designed to look like flag poles or light poles.

Co-location means locating wireless or broadcast communication equipment from more than one provider on a single support structure.

Equipment building, shelter or cabinet means a cabinet or building used to house equipment used by wireless or broadcast communication providers at a facility.

Façade mounted antenna means an antenna architecturally integrated into the façade of a building or structure.

Facility means a wireless or broadcast communication facility.

Faux tree means a wireless or broadcast communication tower camouflaged to resemble a tree.

Guyed tower means a wireless or broadcast communication tower that is supported, in whole or in part, by guy wires and ground anchors.

High visibility means the following types of wireless or broadcast communication facilities:

1. Monopoles, lattice towers and guyed towers.
2. Any wireless or broadcast communication facilities that do not meet the definition of stealth, low visibility, or moderate visibility.

Lattice tower means a guyed or self-supporting three or four sided, open, steel frame support structure used to support wireless or broadcast communication equipment.

Low visibility means the following facilities if they do not exceed the height limit of the applicable zoning district, or if they do not increase the height of an existing facility:

1. Whip antennas not exceeding 6 feet in length or height, including mounting, and measuring no more than 3 inches in diameter, located on existing structures including, but not limited to, water storage tanks, high-voltage transmission towers, utility towers and poles, sign standards, and roadway overpasses, with equipment cabinets that are screened from view.
2. Facilities, including equipment cabinets, that are screened from view through the use of architectural treatments, such as cupolas, steeples, and parapets, and are consistent with existing development on adjacent properties.
3. Additions to existing permitted low-visibility facilities if the additions themselves meet the definition of low visibility and are designed to minimize visibility of both the facility and equipment cabinets.
4. Changes to an existing building that are consistent with the building's architectural style and the equipment cabinets are not visible.

Maintenance means emergency or routine repairs or replacement of transmitters, antennas, or other components of previously approved wireless telecommunication facilities which do not create a significant change in visual appearance or visual impact.

Microcells provide additional coverage and capacity where there are high numbers of users within urban and suburban macrocells. The antennas for microcells are mounted at street level, typically on the external walls of existing structures, lamp-posts, and other street furniture. Microcell antennas are usually smaller than macrocell antennas, and when mounted on existing structures, can often blend into building features. Microcells provide radio coverage over distances, typically between 100m and 1000m, and operate at power levels substantially below those of macrocells.

Moderate visibility means the following facilities if they do not exceed the height limit of the applicable zoning district, or do not increase the height of an existing facility, unless approved through a Conditional Use Permit:

1. Panel-shaped antennas not exceeding 8 feet in length or height that are flush-mounted to an existing building façade or other existing structure on at least one edge, or extend a maximum of 24 inches from the building façade or other structure at any edge, do not exceed the height of the building or other structure, and are designed to blend with the color, texture, and design of the existing building or structure, with equipment cabinets that are screened from view.

2. Wireless or broadcast communication facilities that are camouflaged, such as faux trees, flag poles, and light poles, provided that the equipment building, shelter, or cabinet for the facility is screened or camouflaged.

Monopole means a wireless or broadcast communication facility consisting of a single pole constructed for purposes of supporting one or more antennas without guy wires or ground anchors.

Neighborhood character means those unique attributes including, but not limited to, architecture, historical and cultural features, historical development patterns, landscape, hardscape, and the size, scale and spacing of buildings and other structures that define a neighborhood's identity.

Panel or directional antenna means an antenna or array of antennas designed to concentrate a radio signal in a particular area.

RF means Radio Frequency.

Roof mounted antenna means any antenna with its support structure placed directly on the roof of any building or structure.

Screened means concealed from view with a sight obscuring fence, wall or vegetation.

Service area means the area served by a single wireless or broadcast communication facility.

Side-mounted antennas means those antennas that are mounted on the side of a tower structure at any height, and includes both the antennas and equipment with protective radome coatings. This term also includes microwave dish antennas, solid or not, located at 150 feet or lower on a tower structure, regardless of the dish diameter. The term does not include solid microwave dish antennas exceeding 6 feet in diameter that are located above 150 feet on a tower structure.

Small top-mounted antennas means any antenna mounted on the top of a tower structure where the antenna is 20 feet or less in height and 6 inches or less in outside diameter.

Speculation tower means an antenna support structure designed for the purpose of providing location mounts for wireless or broadcast communication facilities, without a binding written commitment or executed lease from a service provider to utilize or lease space on the tower at the time the application is submitted.

Stealth means facilities, including, but not limited to microcells, antennas, equipment cabinets, and any other ancillary equipment that cannot be seen from any street or any adjacent property, improved or unimproved, and that do not result in any apparent architectural changes or additions to existing buildings. The addition of landscaping, walls, fences, or grading as screening techniques does not make an otherwise visible facility a stealth facility.

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Tower or telecommunications tower means any mast, pole, monopole, guyed tower, lattice tower, free standing tower, or other structure designed and primarily used to support antennas.

Whip antenna means an antenna that transmits or receives signals in 360 degrees. Whip antennas are typically cylindrical in shape, less than 3 inches in diameter and no more than 6 feet long, including the mounting.

Wireless communication facility means any facility that transmits and/or receives electromagnetic waves, including, but not limited to, antennas, dish antennas, microwave antennas, and other types of equipment for the transmission or receipt of such signals, including telecommunications towers and similar supporting structures, equipment cabinets or buildings, parking areas, and other accessory development. This definition does not apply to Amateur Radio Stations as defined by the Federal Communications Commission, Part 97 of the Commission's Rules.

3.7.300 Application Requirements.

All applications for a wireless or broadcast communication facility shall provide the following reports, documents or documentation:

- A. Geographic Service Area.** The applicant shall identify the geographic service area for the proposed facility, including a map showing all the applicant's existing sites in the local service network associated with the gap the facility is meant to close. The applicant shall describe how this service area fits into and is necessary for the service provider's service network. Prior to the issuance of any building permits, applicants for AM, FM, HDFS, TV, and DTV projects shall provide a copy of the corresponding FCC Construction Permit or license for the facility being built or re-located.
- B. Visual Impact, Technological Design Options, and Alternative Site Analysis.** The applicant shall provide a visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette, and proposed screening for all components of the facility. The analysis shall include photo simulations and other information as necessary to determine visual impact of the facility as seen from multiple directions. The applicant shall include a map showing where the photos were taken. Except for Type I applications, the applicant shall include an analysis of alternative sites and technological design options for the facility within and outside of the city that are capable of meeting the same service objectives as the preferred site with an equivalent or lesser visual impact. If a new tower is proposed, the applicant must demonstrate the need for a new tower, and why alternative locations and design alternatives, such as the use of microcell technology, cannot be used to meet the identified service objectives.

C. **Narrative.** The application shall include a written narrative that describes in detail all of the equipment and components to be included in the facility, *e.g.*, antenna(s) and arrays, equipment cabinet(s), back-up generator(s), air conditioning unit(s), lighting, fencing, etc. The following information shall also be provided:

1. Height. Provide an engineer's diagram showing the height of the facility and all of its visible components. Carriers must provide evidence that establishes that the proposed facilities are designed to the minimum height required from a technological standpoint for the proposed site to meet the carrier's coverage objectives. If the tower height will exceed the base height restrictions of the applicable zone, this narrative shall include a discussion of the physical constraints (topographical features, etc.) making the additional height necessary. The narrative shall include consideration of the possibility for design alternatives, including the use of multiple sites or microcell technology that would avoid the need for the new facility or the requested height.
2. Construction. Describe the anticipated construction techniques and timeframe for construction or installation of the facilities. This narrative shall include all temporary staging and the type of vehicles and equipment to be used.
3. Maintenance. Describe the anticipated maintenance and monitoring program for the antennas, back-up equipment, and landscaping.
4. Noise/Acoustical Information. Provide manufacturer's specifications for all noise-generating equipment such as air conditioning units and back-up generators, and a depiction of the equipment location in relation to adjoining properties.
5. Landscape Plan. Provide a plan showing all proposed landscaping, screening and proposed irrigation with a discussion of how the chosen materials at maturity will screen the site.
6. Parking. Provide a site plan showing the designated parking area for maintenance vehicles and equipment.
7. Co-location. In the case of new multi-user towers or similar support structures, the applicant shall submit engineering feasibility data and a letter stating the applicant's willingness to allow other carriers to co-locate on the proposed facilities wherever technically and economically feasible and aesthetically desirable.
8. Lease. The site plan shall show the lease area of the proposed facility.
9. FCC License. Provide a copy of the applicant's FCC license and/or construction permit, if an FCC license and/or construction permit is required for the proposed facility, including documentation showing that the applicant is in compliance with all FCC RF emissions safety standards.

10. Lighting and Marking. Any proposed lighting and marking of the facility, including any required by the FAA.

3.7.400 General Regulations.

All applications for wireless and broadcast communication facilities are subject to the following requirements and regulations:

- A. **Maximum number of high visibility facilities per lot or parcel.** No more than one high visibility facility is allowed on any one lot or parcel. The Planning Commission may approve exceeding the maximum number of high visibility facilities per lot or parcel if one of the following findings is made through a Type III review process: 1) co-location of additional high visibility facilities is consistent with neighborhood character, 2) the provider has shown that denial of an application for additional high visibility facilities would have the effect of prohibiting service because the facility would fill a significant gap in coverage and no alternative locations are available and technologically feasible, or 3) the provider has shown that denial of an application for additional high visibility facilities would unreasonably discriminate among providers of functionally equivalent services. In such cases, the Planning Commission shall be the Review Authority for all related applications (e.g., Wireless or Broadcast Communication Facility Site Plan, Conditional Use Permit).
- B. **Towers adjacent to residentially designated property.** In order to ensure public safety, all wireless and broadcast communication towers located adjacent to any property designated as Residential on the Bend Area General Plan Map shall be set back from all residential property lines by a distance at least equal to the height of the facility, including any antennas or other appurtenances. The setback shall be measured from that part of the tower that is closest to the neighboring residentially designated property.
- C. **High visibility facilities** require a Conditional Use Permit on any property designated as Residential on the Bend Area General Plan Map, or designated Public Facilities (PF) on the Bend Area General Plan Map but developed as a residential subdivision.
- D. **Historical buildings and structures.** No facility shall be allowed on any building or structure, or in any district, that is listed on any Federal, State or local historical register unless it is determined by the Review Authority that the facility will have no adverse effect on the appearance of the building, structure, or district. No change in architecture and no High Visibility facilities are permitted on any such building, any such site, or in any such district.
- E. **Equipment location.** No tower or equipment shall be located in a front, rear, or side yard setback in any zone, and no portion of any antenna array shall extend beyond the property lines. For guyed towers, all guy anchors shall be located at least 50 feet from all abutting properties.

- F. Tower heights.** Towers may exceed the height limits otherwise provided for in the Development Code. However, all towers greater than the height limit of the underlying zone shall require a Conditional Use Permit application to be reviewed by the Community Development Director through a Type II process under Chapter 4.1, Land Use Review and Procedures, subject to the approval standards in Chapter 4.4, Conditional Use Permits.
- G. Accessory building size.** All accessory buildings and structures built to contain equipment accessory to a wireless or broadcast communication facility may not exceed 12 feet in height unless a greater height is necessary and required by a condition of approval to maximize architectural integration. Each accessory building or structure located on any property designated as Public Facilities or Residential on the Bend Area General Plan Map is limited to 200 square feet, unless approved through a Conditional Use Permit.
- H. Visual impact.** All facilities shall be designed to minimize the visual impact to the greatest extent practicable by means of placement, screening, landscaping, and camouflage. All facilities shall also be designed to be compatible with existing architectural elements, building materials, and other site characteristics. The applicant shall use the least visible antennas reasonably available to accomplish the coverage objectives. All high visibility facilities shall be sited in such a manner as to cause the least detriment to the view shed of adjoining properties, neighboring properties, and distant properties.
- I. Colors and materials** for facilities shall be non-reflective and chosen to minimize visibility. Facilities, including support equipment and buildings, shall be painted or textured using colors to match or blend with the primary background, unless required by any other applicable law.
- J. All camouflaged facilities** shall be designed to visually and operationally blend into the surrounding area in a manner consistent with existing development on adjacent properties. The facility shall also be appropriate for the specific site. In other words, it should not "stand out" from its surrounding environment.
- K. Facade-mounted antennas** shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Facade-mounted antennas shall not extend more than 2 feet out from the building face.
- L. Roof mounted antennas** shall be constructed at the minimum height possible to serve the operator's service area and shall be set back as far from the building edge as possible or otherwise screened to minimize visibility from the public right-of-way and adjacent properties.
- M. Compliance with photo simulations.** As a condition of approval and prior to final inspection of the facility, the applicant shall submit evidence, such as photos, to the satisfaction of the city sufficient to prove that the facility is in substantial

conformance with photo simulations provided with the application. Non-conformance shall require modification to compliance within 90 days or the structure must be removed.

- N. **Noise** from any equipment supporting the facility shall meet the requirements of the City's Noise Ordinance.
- O. **No signs, striping, graphics, or other attention-getting devices** are permitted on any wireless or broadcast communication facility except for warning and safety signage with a surface area of no more than 3 square feet. Signs shall be affixed to a fence or ancillary facility and limited to no more than two signs unless more is required by law.
- P. **Traffic obstruction.** Maintenance vehicles servicing facilities located in the public or private right of way shall not park on the traveled way or in a manner that obstructs traffic.
- Q. **No net loss in required parking spaces** shall occur as a result of the installation of any wireless or broadcast communication facility.
- R. **Sidewalks and pathways.** Cabinets and other equipment shall not impair pedestrian use of sidewalks or other pedestrian paths or bikeways on public or private land and shall be screened from view.
- S. **Lighting.** Wireless or broadcast communication facilities shall not include any beacon lights or strobe lights, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If beacon lights or strobe lights are required, the Review Authority shall review the available alternatives and approve the design with the least visual impact. All other site lighting for security and maintenance purposes shall be shielded and directed downward, and shall comply with the Outdoor Lighting Standards in Section 3.5.200 of the Development Code, unless otherwise required under federal law.
- T. **Speculation.** No application shall be accepted or approved for a speculation tower, *i.e.*, from an applicant that simply constructs towers and leases tower space to service providers, but is not a service provider, unless the applicant submits a binding written commitment or executed lease from a service provider to utilize or lease space on the tower.

3.7.500 Review Process and Approval Standards.

A. **Type I Process.** The following facilities are allowed with the approval of a Wireless or Broadcast Communication Facility Site Plan to be reviewed by the Community Development Director pursuant to a Type I process under Chapter 4.1, Land Use Review and Procedures.

1. Stealth and low visibility facilities.

2. Facilities proposed within the public right-of-way on an existing utility or light pole, so long as they meet all of the following:
 - a. The antennas do not project more than 24 inches above the existing utility pole support structure;
 - b. No more than a total of 2 antennas or antenna arrays are located on a single pole;
 - c. The equipment cabinet is no larger than 6 cubic feet and is concealed from public view by burying or screening by means other than walls or fences.
3. Façade mounted antennas or low powered networked telecommunications facilities, such as those employing microcell antennas, integrated into the architecture of an existing building in such a manner that no change to the architecture is apparent and no part of the facility is visible to public view.
4. Antennas or arrays that are hidden from public view through the use of architectural treatments, *e.g.*, within a cupola, steeple, or parapet which is consistent with the applicable building height limitation.
5. New antennas or arrays that are attached to an existing broadcast communication facility located in any zone, provided that they do not exceed the following "safe harbor" parameters:
 - a. Side-mounted antennas.
 - b. Small top-mounted antennas. No more than three small top-mounted antennas shall be placed on the top of any one broadcast communication facility without a Type II review.
6. To minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location of antennas or arrays on existing towers shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:
 - a. An existing tower may be modified or rebuilt to a taller height to accommodate the co-location of additional antennas or arrays, as long as the modified or rebuilt tower will not exceed the height limit of the applicable zoning district. The height change may only occur one time per tower.
 - b. An existing tower that is modified or reconstructed to accommodate the co-location of additional antennas or arrays shall be of the same tower type and reconstructed in the exact same location as the existing tower.

B. Type II Process. The following facilities are allowed with the approval of a Wireless or Broadcast Communication Facility Site Plan to be reviewed by the Community Development Director pursuant to a Type II process under Chapter 4.1, Land Use Review and Procedures:

1. High visibility facilities located on any property designated as Commercial, Industrial, Public Facilities, Surface Mining or Mixed Use on the Bend Area

General Plan Map and at least 500 feet from any property designated as Residential on the Bend Area General Plan Map.

2. Moderate visibility facilities that do not exceed the height limit of the applicable zone.
3. New antennas or arrays that are attached to an existing broadcast communication facility located in any zone which exceed the "safe harbor" parameters of Section 3.7.500(A)(6)(a) or (b).

C. Conditional Use Permit Requirements. Applications for wireless or broadcast communication facilities in all other locations and situations including Moderate or High Visibility facilities that exceed the height limit of the applicable zone shall also require a Conditional Use Permit to be reviewed by the Community Development Director through a Type II process under Chapter 4.1, Land Use Review and Procedures, subject to the approval standards in Chapter 4.4, Conditional Use Permits. In addition to the approval standards in Chapter 4.4, the applicant shall demonstrate that the Wireless or Broadcast Communication Facility Site Plan approval standards in Section 3.7.500(D)(2)-(5) below are met.

D. Approval Criteria. The Community Development Director shall approve the use and Wireless or Broadcast Communication Facility Site Plan for any of the facilities listed in Subsections B and C above upon a determination that the following criteria are met:

1. The height of the proposed tower or facility does not exceed the height limit of the underlying zoning district, or does not increase the height of an existing facility.
2. The location is the least visible of other possible locations and technological design options that achieve approximately the same signal coverage objectives.
3. The location, size, design, and operating characteristics of the proposed facility will be compatible with adjacent uses, residences, buildings, and structures, with consideration given to:
 - a. Scale, bulk, coverage and density;
 - b. The harmful effect, if any, upon neighboring properties;
 - c. The suitability of the site for the type and intensity of the proposed facility; and
 - d. Any other relevant impact of the proposed use in the setting where it is proposed.
4. All required public facilities have adequate capacity as determined by the City, to serve the proposed wireless or broadcast communication facility; and

5. The proposed wireless or broadcast communication facility complies with all of the General Regulations contained in Section 3.7.400 of this Chapter.

E. **Conditions of Approval.** The City may impose any other reasonable condition(s) deemed necessary to achieve compliance with the approval standards, including designation of an alternate location, or if compliance with all of the applicable approval criteria cannot be achieved through the imposition of reasonable conditions, the application shall be denied.

3.7.600 Exemptions.

The following shall be considered exempt structures or activities under this Chapter:

- A. Whip or other similar antennas no taller than 6 feet with a maximum diameter of 2 inches.
- B. Antennas (including direct-to-home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations regardless of zone category.
- C. Low-powered networked telecommunications facilities such as microcell radio transceivers located on existing utility poles and light standards within public right-of-way. Low-powered networked telecommunications facilities shall comply with this Chapter of the Development Code.
- D. All military, federal, state, and local government communication facilities except for towers.
- E. Cell on Wheels (COW), which are permitted as temporary uses in nonresidential zones for a period not to exceed 14 days, or during a period of emergency as declared by the City, County, or State.
- F. Replacement antennas or equipment, provided the replacement antennas and/or equipment have a function similar to the replaced antenna and/or equipment and do not exceed the overall size of the original antenna and/or equipment.

3.7.700 Maintenance.

The following maintenance requirements apply to all facilities:

- A. All landscaping shall be maintained at all times and shall be promptly replaced if not successful.
- B. If a flagpole is used for camouflaging a facility, flags must be flown and must be properly maintained at all times.
- C. All wireless and broadcast communication sites shall be kept clean and free of litter.

- D. All wireless and broadcast communication sites shall maintain compliance with current RF emission standards of the FCC, the National Electric Safety Code, and all state and local regulations.
- E. All equipment cabinets shall display a legible operator's contact number for reporting maintenance problems.

3.7.800 Inspections.

- A. The City or its agents shall have authority to enter onto the property upon which a wireless or broadcast communication facility is located, to inspect the facility for the purpose of determining whether it complies with the Building Code and all other construction standards provided by the City and federal and state law.
- B. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the wireless or broadcast communication facility owner. In the event such inspection results in a determination that violation of applicable construction and maintenance standards set forth by the City has occurred, remedy of the violation may include cost recovery for all costs incurred in confirming and processing the violation.

3.7.900 Preexisting Towers.

Towers that lawfully existed prior to the adoption of this Chapter shall be allowed to continue their use as they presently exist. This ordinance does not make lawful any towers that are not lawfully approved on the date this ordinance is adopted. Routine maintenance shall be permitted on such lawful preexisting towers. Lawfully existing towers may be replaced as long as the replacement is in the exact location of the tower being replaced and is of a construction type identical in height, width, weight, lighting and painting. Any changes or modifications to a replacement tower shall not be considered routine maintenance, shall be treated as new construction, and shall comply with the requirements of this Chapter.

3.7.1000 Abandonment or Discontinuation of Use.

The following requirements apply to the abandonment and/or discontinuation of use for all facilities:

- A. 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 placed underground or otherwise moved.
- B. All operators who intend to abandon or discontinue the use of any wireless or broadcast communication facility shall notify the City of such intentions no less than 60 days prior to the final day of use.
- C. Wireless or broadcast communication facilities shall be considered abandoned 90 days following the final day of use or operation.

- D. All abandoned facilities shall be physically removed by the facility owner no more than 90 days following the final day of use or of determination that the facility has been abandoned, whichever occurs first.
- E. The City reserves the right to remove any facilities that are abandoned for more than 90 days at the expense of the facility owner.
- F. Any abandoned site shall be restored to its natural or former condition. Grading and landscaping in good condition may remain.

Exhibit B

Findings of Fact Legislative Code Amendment PZ 10-244

Procedural Findings:

The application was initiated on August 6, 2010. Notice of the proposed amendments was provided to the Department of Land Conservation and Development (DLCD) on August 6, 2010. Notification of the public hearing before the Bend Planning Commission was printed in the September 6, 2010 edition of the Bend Bulletin. The Planning Commission held a public hearing on September 27, 2010 and voted in favor of recommending approval to the City Council. Notification of the public hearing before the City Council was printed in the February 24, 2011 edition of the Bulletin. The City Council held a first reading on April 6, 2011 and a second reading on April 20, 2011.

Criteria of Approval:

The criteria applied to legislative plan amendments are found within the Bend Development Code (BDC) Chapter 4, Section 4.6.200. The criteria are:

1. *The request is consistent with the applicable State land use law;*
2. *The request is consistent with the applicable Bend Area General Plan goals and policies;*
3. *The applicant can demonstrate a public need or benefit for the proposed amendment.*

Application of the Criteria:

1. **The request is consistent with the applicable State land use law;**

FINDING: The proposed amendments are consistent with the applicable State land use law. In particular, they will satisfy Goal 1: Citizen Involvement, Goal 2: Land Use Planning, and Goal 11: Public Facilities and Services.

Goal 1, Citizen Involvement, is satisfied through following the City's acknowledged text amendment process that includes a Planning Commission public hearing, followed by a City Council public hearing. The first draft of the proposed ordinance was also prepared with the assistance of an advisory committee comprised of four residents, two industry representatives, one planning commissioner and one city councilor. The advisory committee was established by the Planning Commission in their role as the City's Citizen Involvement Committee.

Goal 2, Land Use Planning, is met because the City followed the land use planning process and policy framework established in the City's acknowledged comprehensive plan and development code as a basis for the decisions and actions related to the new regulations regarding the use of land and to assure an adequate factual base for these decisions and actions. The proposed ordinance was adopted by the City Council after a public hearing, with due consideration given to federal regulations governing wireless and broadcast communication facilities. Multiple opportunities were provided for review

and comment by citizens and affected governmental units during the preparation of this ordinance.

The process, which includes the 120 day time limit of Oregon law, is intended to allow the decision maker to evaluate fully and promptly the merits of an application.

The proposed ordinance was reviewed by Planning Division staff for compliance with Goal 11, Public Facilities and Services, and determined to be consistent with State land use policies regarding Public Facilities and Services. Adoption of this ordinance will support a timely, orderly, and efficient arrangement of wireless and broadcast communication facilities within the City of Bend.

Because the new code regulations are limited in scope to the locational and procedural standards for siting telecommunication facilities, there are no other Statewide Planning Goals applicable to this ordinance. Likewise, there are no applicable Oregon Revised Statutes or Oregon Administrative Rules that apply to these code amendments.

2. The request is consistent with the applicable Bend Area General Plan goals and policies;

FINDING: The Bend Area General Plan is a broad policy document, which contains few references regarding wireless and broadcast communication facilities. However, Chapter 9 of the General Plan states, "The residential areas of Bend are generally among the most attractive and pleasant sections in the city." One of the goals of Chapter 9 is as follows: "To identify those characteristics that give the community its individual identity and to preserve and expand those characteristics as growth occurs." This ordinance is intended to minimize the visual impacts of wireless and broadcast communication facilities, particularly within residential areas, but also in commercial, industrial, and mixed-use areas of the City, while allowing for the provision of such communication facilities and services.

Chapter 6 of the Bend Area General Plan contains the following statement, under the heading "Goals and Economic Objectives":

"Our access to the global marketplace is efficient and viable due to enhancements of local and regional communications and transportation systems including air, rail, highways, and alternative modes of travel."

Chapter 8 of the Bend Area General Plan also recognizes the need for multiple wireless and broadcast communication service providers, and healthy competition among such companies:

"Many private companies compete to provide long distance and cellular phone services. Cable television service within the urban area is provided by Bend Broadband, which also provides phone and high-speed internet service. Private utility providers within the city limits operate under non-exclusive franchise agreements with the City."

Based on the above findings, the proposed amendments are consistent with the

applicable Bend Area General Plan goals and policies.

3. The applicant can demonstrate a public need or benefit for the proposed amendment.

FINDING: This ordinance establishes comprehensive guidelines for the placement, design and processing of wireless telecommunications and broadcast facilities in all zones within the City of Bend. The ordinance categorizes applications for wireless and broadcast communications facilities into four tiers, depending primarily on the visibility and location of the proposed facility: stealth, low visibility, moderate visibility, and high visibility. These definitions affect the application requirements and the review procedures within the different General Plan designations.

A key intent of the ordinance is to identify preferred zones and design criteria, consistent with the character and aesthetic values of the different General Plan designations in the City. For example, an application for a low visibility facility in an industrial zone generally must meet fewer requirements than an application for a tower in a residential zone. The setback requirements for towers located adjacent to residential properties are intended to protect the general safety of the public in the event of tower collapse, failure or a natural disaster.

The conditional use process required in more sensitive areas is designed to allow the Review Authority to balance the competing goals of the ordinance – e.g., the provision of wireless and broadcast services, and other valuable public goals such as safety and aesthetics. Requiring a certain amount of camouflage, modest setbacks, and maintenance of wireless and broadcast communication facilities are found to be reasonable and responsible conditions for the construction of such facilities.

Requiring conditional use permits for high visibility facilities in areas with a Bend Area General Plan Designation of Residential strikes a balance between legitimate concerns expressed at the public hearings over aesthetics, visual impacts, residential character, and home values, and the need for the industry to have adequate locations within the City of Bend where facilities can be more easily sited. Moderate and low visibility facilities are allowed in these residential areas with either a Type I or Type II permit. The review process, which includes the 120-day time limit of Oregon law, is intended to allow the Review Authority to evaluate fully and promptly the merits of an application.

Based on the above findings, there is a public need or benefit for the proposed amendments to the Bend Development Code.

