

19.58 COMMUNICATION AND UTILITY FACILITIES

Chapter 19.58 – COMMUNICATION AND UTILITY FACILITIES

Section 19.58.010 - Purpose

In addition to the general purposes of the Comprehensive Plan and the Zoning Ordinance, this section provides for a wide range of locations and options for communication providers while minimizing impacts and encouraging creative approaches in locating said facilities that will blend in with the surroundings.

Section 19.58.020 - Special Definitions

1. Antenna. A device used in the sending and receiving of electromagnetic waves.
2. Antenna Height. The overall vertical length of the antenna and antenna support structure above grade.
3. Antenna Support Structures. Any structure, mast pole, tripod, or tower utilized for the purpose of supporting an antenna or antennas.
4. Pole Structure. One or more poles placed in the ground or attached to a building or other structure.
5. Guyed Tower. A structure placed on a cement base engineered for the overall height, weight, and ground conditions, with guy wires and anchors.
6. Self Support Tower. A non-guy wire structure placed on a cement base engineered for the overall height, weight, and ground conditions.
7. Microwave Antenna. Any antenna used in the reception of and or transmission of frequency signals on a point to point path.
8. Microwave Systems. Any point to point licensed or unlicensed transmitting and receiving system used for the purpose of data transfer.
9. Small-Antenna Facility. An attached wireless communication device that consists of an antenna equal to or less than 25 feet in height or a parabolic antenna up to twelve feet in diameter.
10. Wireless Communications Facility. A facility for the transmission and or reception of radio frequency signals usually composed of an equipment structure, a support structure, transmission and or reception devices consisting of linear or parabolic antennas, and related equipment.
11. Communication Accessory Structure (cabinet, shed, shelter or platform). A structure used to house radio electronic equipment, wireless communication equipment and its associated connecting cables. (Revised 11/16/09, Ordinance # 070081)
12. Maximum Build Out: In reference to antenna support structures built for cellular A & B or PCS communication that are greater than 40 feet in height, this means that an application for a conditional use must show a site plan size and capacity for a minimum of three cellular carriers and all of their accessory structures. An applicant may show a greater capacity. The conditional use permit thus issued will allow future addition of

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carriers and accessory structures up to that permitted maximum. Changes in carriers or structures within that approved site will be permitted without another conditional use permit hearing, so as to encourage co-location. This requirement for maximum build-out does not apply to other towers such as, radio, private two-way radio, TV and so forth.

(Revised 11/16/09, Ordinance # 070081)

Section 19.58.030 - Development standards for Small-Antenna Facilities

1. Small antenna facilities are permitted in all zoning districts.
2. Small antenna facilities shall be located on existing and/or primary use buildings, poles or other existing support structures. Placement of an antenna on a non-conforming structure shall not be considered as an expansion of the non-conforming structure.
3. The shelter or cabinet used to house radio electronic equipment and its associated connecting cables shall preferably be contained wholly within an existing building or structure, or otherwise appropriately concealed or screened. If one shelter or cabinet less than 200 square feet of base area is required, it shall be placed as close to the principal structure as possible, without interfering with the principal structure's primary function. It must be compatible with the surrounding environment. Color compatibility means earth-tone colors or a color matching that of the principal structure.
4. Small antenna facilities shall be exempt from zoning district height limitations when co-located.

Section 19.58.040 - Development Standards for Antenna Support Structures Less Than 40 Feet in Height (Revised 11/16/09, Ordinance # 070081)

1. Antenna support structures up to 40 feet in height are a permitted use within all zoning districts. (Revised 11/16/09, Ordinance # 070081)
2. Antennas which extend above the support structure shall be calculated as part of the height of the structure.
3. Co-location on existing support structures shall be encouraged. Co-location on an existing grandfathered non-conforming support structure shall be permitted. Co-location facilities shall be exempt from zoning district height limitations. Small-antenna facilities are the largest wireless communication facilities allowed on these antenna support structures.
4. The shelter or cabinet used to house radio electronic equipment and its associate connecting cables shall preferably be contained wholly within the existing building or structure, or otherwise appropriately concealed or screened. If one shelter or cabinet less than 200 square feet of base area is required, it shall be placed as close to the principal structure as possible, without interfering with the principal structure's primary function. It must be compatible with the surrounding environment. Color compatibility means earth-tone colors or a color matching that of the principal structure. A structure with more than a 200-square-foot base, or more than one shelter or cabinet shall require a conditional use, except within HC, AC, LI and HI Districts. Placement of the radio electronic equipment within an existing structure or one outside structure (with a base of 200 square feet or less) shall not be considered an expansion of use.

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5. Poles under 40 feet are exempt from all zoning district setbacks. Accessory structures (equipment cabinets/shelters) shall conform to zoning district setbacks.

Section 19.58.050 - Development Standards for Antenna Support Structures 40 to 130 feet and Greater Than 130 Feet in Height (Revised 11/16/09, Ordinance # 070081)

1a. Antenna support structure facilities from 40 to a maximum of 130 feet in height shall be allowed as a conditional use within the Agricultural, Heavy Commercial, Airport Commercial, Light Industrial, and Heavy Industrial Districts. (Revised 11/16/09, Ordinance # 070081)

1b. Antenna support structure facilities greater than 130 feet shall be allowed as a conditional use in the Agricultural, Heavy Commercial, Airport Commercial, Light Industrial, and Heavy Industrial Districts as long as the site is located more than 1/2 mile from any incorporated city or town or Rural Community District. (Revised 11/16/09, Ordinance # 070081)

2. Co-location on an existing support structure shall be strongly encouraged.

- a. The applicant for this kind of conditional use permit must provide a signed notarized statement agreeing to accommodate co-location of additional antennas on the tower by agreeing to enter into leases with other providers allowing use of the tower at a monthly lease rate mutually agreed upon. If no lease agreement can be reached, current market lease terms should apply, if no lease agreement can be negotiated between the existing tower owner and the interested potential renter both parties shall submit to arbitration. The arbitration process shall be governed by the laws of the then current arbitration code in the state of Washington. The cost of the arbitration shall be shared equally between the two parties.
- b. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Adjustment that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (i) No existing towers or structures are located within the geographic area, which meet applicant's engineering requirements.
- (ii) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (v) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

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3. The application site plan shall include: legal description, type of tower (lattice or mono-pole, self-supporting, guyed), list of property owners within 1,500 feet of the telecommunication parcel or lease lines and all property owners in municipal jurisdictions within 300 feet of the telecommunication parcel or lease line, existing and proposed overhead and underground utility lines prior to any site disturbance, rock outcroppings, vegetation that will be removed, any trenching that will be done from source power, phone lines, etc... to location on-site, existing fence-lines or tree-lines, existing and proposed driveways or roads on property, distance of property lines from existing and proposed structures, and widths of the roadway and right-of-way. In the case of antenna support structures built for cellular A & B or PCS communication, a maximum build-out plan for at least three carriers is required (increases flexibility and co-location options). (Revised 11/16/09, Ordinance # 070081)
4. These antenna support structure facilities shall be landscaped in conformance with provisions set by the Board of Adjustment.
5. Antenna support structures shall be set back 20 feet from the lease or parcel line. Accessories to the antenna support structures shall be setback 5 feet from the lease or parcel line. (Revised 11/16/09, Ordinance # 070081)
6. Antenna support structures shall be sited no closer than 1,500 feet from any residence (except the residence[s] of the land owner on whose property the structure is to be placed), unless the other residence owner(s) signs a waiver to allow the structure to be closer. Such waivers would be valid for the current residence owner and for all future owners, unless the antenna support structure is dismantled and removed. (Revised 11/16/09, Ordinance # 070081)
7. No guy wires shall cross the Bill Chipman Palouse Trail, or a county park.
8. Antenna support structures and their accessory structures shall be fenced sufficient to prevent unauthorized access. Fencing is also required around each guyed wire anchor on those towers that use guy wires. At a minimum, a six-foot high fence shall obscure the base of the tower and the accessory structures. Building a solid fence or using slats within woven-wire fence, and so forth may accomplish this screening. This fenced screening must be maintained throughout the existence of the facility. In lieu of solid fencing or slats, the facility may be screened by landscaping (See N-PMC 19.15.080(6) A (1&5) for requirements).

Section 19.58.060 - Additional Conditional Use Criteria.

In addition to the conditional use permit criteria specified in section 19.06.010, the following specific criteria shall be met before a conditional use permit can be granted:

1. Application and conditional use criteria - FCC preemption. In any proceeding regarding the issuance of a conditional use permit under the terms of this section, federal law prohibits consideration of environmental effects of radio frequency emissions to the extent that the proposed facilities comply with the Federal Communications Commission regulations concerning such emissions.
2. Community communication access to the proposed facilities (to ensure that there are adequate connections and capacity for the residences and governmental entities within the county):

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- a. Within the County right-of-way, (R-O-W), or County property, negotiations for location and capabilities of the service connections and service fees may be required prior to approval for construction.
 - b. The Board of Adjustment shall set conditions as they deem necessary including possible franchise and or access lease agreements with common carriers that increase local access for the benefit of the public.
3. Prior to construction of new facilities in proximity of existing facilities, letters explaining the reasons for the inability to co-locate must be on file with Whitman County Planning.
 - a. Site lease or option-to-buy agreements are required as part of the conditional use application.
 4. Disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area. Safety considerations may include, but are not limited to: non-reflective surfaces; fire resistant barriers; security fencing; and grounding.
 5. Antenna support structures including any guy wire anchors, accessory structures and any other buildings shall be fenced applicable to prevent unauthorized access.

Section 19.58.065 Height Limitations

The maximum height of towers shall not exceed 350 feet, and the height of accessory structures (equipment sheds, cabinets, shelters or platforms) shall not exceed 12 feet in height. Antennas or blades, which extend above the support structure, shall be calculated as part of the height of the structure.

Section 19.58.070 – Obsolescence

Construction of an antenna support structure must be completed within 2 years of the date of conditional use approval, with possible administrative extension of one year. An antenna support structure and/or accessory structures shall be removed by the facility owner within two years of the date the facility ceases to be operational or if it falls into disrepair. An appeal may be made to the Board of Adjustment. (Revised 11/16/09, Ordinance # 070081)

Section 19.58.080 – Communication and Utility Facilities within County Right-of-Way and or Properties Owned by the County.

Refer to Accommodation of Utilities on County Road Right-of-Way and Lands for Whitman County (WAC 136.40, RCW 36.55 and Resolution #046041).

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