**11.15.7005 Purpose**

MCC .7005 through .7041 provides for the review and approval of the location and development of special uses which, by reason of their public convenience, necessity, unusual character or effect on the neighborhood, may be appropriate in any district, but not suitable for listing within the other sections of this Chapter. *[Amended 1983, Ord. 330 § 2]*

**11.15.7010 General Provisions**

(A) Application for approval of a Community Service use shall be made in the manner provided in MCC .8205 through .8280.

(B) Except as provided in MCC .7022(F) and (G), the Approval Authority shall hold a public hearing on each application for a Community Service Use, modification thereof, or time extension. *[Amended 1982, Ord. 329 § 2]*

(C) The approval of a Community Service Use shall expire two years from the date of issuance of the Board Order in the matter, or two years from the date of final resolution of subsequent appeals, unless:

(1) The project is completed as approved, or

(2) The Approval Authority establishes an expiration date in excess of the two year period, or

(3) The Planning Director determines that substantial construction or development has taken place. That determination shall be processed as follows:

(a) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.

(b) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:

(i) Final Design Review approval has been granted under MCC .7845 on the total project; and

(ii) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined by MCC .9025(A) or .9027(A).

(c) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.

(d) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.

*[Amended 1982, Ord. 329 § 2 and 1990, Ord. 643 § 2]*

(D) A Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority. Any change of use or modification of limitations or conditions shall be subject to approval authority approval after a public hearing.

*[Amended 1982, Ord. 329 § 2]*

(E) In granting approval of a Community Service Use, the approval authority may attach limitations or conditions to the development, operation or maintenance of such use including but not limited to setbacks, screening and landscaping, off-street parking and loading, access, performance bonds, noise or illumination controls, structure height and location limits, construction standards, periods of operation and expiration dates of approval.

*[Amended 1982, Ord. 329 § 2]*

(F) Uses authorized pursuant to this section shall be subject to Design Review approval under MCC .7805 through .7865.

(G) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.

## 11.15.7015 Approval Criteria

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for transmission towers, which shall meet the approval criteria of MCC .7035, and except for regil sanitary landfills which shall comply with MCC .7045 through .7070. *[Added 1984, Ord. 445 § 3]*

(A) Is consistent with the character of the area;

(B) Will not adversely affect natural resources;

(C) Will not conflict with farm or forest uses in the area;

(D) Will not require public services other than those existing or programmed for the area;

(E) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;

(F) Will not create hazardous conditions; and

(G) Will satisfy the applicable policies of the Comprehensive Plan.

(H) Will satisfy such other applicable approval criteria as are stated in this Section.

*[Amended 1982, Ord. 329 § 3; 1982, Ord. 330 § 2]*

## 11.15.7020 Uses

(A) Except as otherwise provided in MCC .2012, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

(1) Boat moorage, marina or boathouse moorage.

(2) Camp, campground or recreational vehicle park.

(3) Cemetery, crematory, mausoleum, mortuary or funeral home.

(4) Church.

(5) Group care facility.

(6) Government building or use.

(7) Hospital, sanitarium, rest or retirement home.

(8) Kindergarten or day nursery.

(9) Library.

(10) Park, playground, sports area, golf course or recreational use of a similar nature.

(11) Philanthropic or eleemosynary institution.

(12) Power substation or other public utility building or use.

(13) Private club, fraternal organization, lodge.

(14) Racetrack.

(15) Radio and television transmission towers.

(a) VHF and UHF television towers, FM radio towers, two-way radio, common carrier, and cellular telephone towers, and fixed point microwave towers are permitted in any district, provided only self-supporting structures are permitted in the Exclusive Farm Use district.

(b) Low-power television towers, satellite ground stations, AM radio towers, and building-mounted towers are permitted in any district except urban residential districts, provided only self-supporting structures are permitted in the Exclusive Farm Use district.

(c) Ham radio, amateur sole source emitters, Citizen Band transmitters, and structures to support them are permitted in any district as an accessory use and do not require a Community Service use designation if used for non-commercial purposes only. Any such tower shall comply with the regulations of the district in which it is located.

Non-amateur sole source emitters shall also comply with the registration requirements of MCC .7035(F)(2).

(d) Receive-only facilities in conjunction with a permitted use are exempt from the provisions of this section, but shall comply with all other requirements of MCC. 7020(15), .7035, and .7040.

*[Added 1982, Ord 330 § 2]*

(16) Refuse dump or sanitary landfill.

(17) Resort, dude ranch, hunting or fishing lodge.

(18) Recycling collection center.

(19) Riding academy or the boarding of horses for profit.

(20) School, private, parochial or public; educational institution.

(21) Transit station.

(22) Waste collection, transfer, processing, or recovery facility.

(23) Accessory uses to the above.

(24) Ambulance Service Substation.

*[Added 1982, Ord. 299 § 2]*

(25) Regional Sanitary Landfills

*[Added 1984, Ord. 445 § 3]*

(26) Mining and processing of geothermal resources. *[Added 1990, Ord. 643 § 2]*

(B) Approval of a Community Service Use shall be deemed to authorize associated public utilities, including energy and communication facilities.

**11.15.7022 Limited Alternative Uses of Surplus Public School Space**

(A) Purpose – The purpose of this section is to facilitate the efficient alternative use of vacant or under-utilized public school building space by authorizing those uses which are beneficial to or compatible with the community.

(1) The school district board having jurisdiction over the school building in question, is hereby designated as the approval authority for the purposes of MCC 11.15.7022.

(B) Minor Uses – The Board finds that the uses listed in this subsection are so similar to school use in land use impact, that they should be allowed as accessory or alternative uses to approved school use. At the same time, the policy of citizen involvement and open public participation dictates that these listed uses only be permitted after public review by the affected school district board.

Subject to the provisions of MCC .7022(F),(H), and (I), one or more of the following alternative uses may be permitted to occupy vacant or under-utilized space in an existing public school building where the total of such space does not exceed 20 percent of the classroom space in the building:

(1) Adult, teen or senior center.

(2) Community food or non-profit hot meals service.

(3) Day nursery, kindergarten or after-school child care.

(4) Day or evening classes, such as high school or college level courses, vocational school, physical fitness, indoor or outdoor recreation.

(5) Health center, including counseling, well-baby clinic, or physical therapy.

(6) Library.

(7) Accessory uses common to the above uses.

The 20 percent-of-the-classroom-space standard shall be interpreted narrowly so as to rule out the applicability of this subsection in the event of doubt.

(C) Other Uses – Subject to the provisions of MCC .7022(G), (H), and (I), the following alternative uses may be permitted to occupy vacant or under-utilized space in the existing public school building:

(1) Those uses listed in (B) above when occupying more than 20 percent of the building classroom space.

(2) Arts or crafts gallery or sales.

(3) Community access cable TV studio.

(4) Computer or data processing facility.

(5) Governmental branch office or subcenter.

(6) Office of non-profit or charitable group or association.

(7) Professional or business office.

(8) Accessory uses common to the above uses.

(D) Exceptions – The uses listed in .7022(B) and (C) do not include a corrections center, halfway house or rehabilitation facility.

(E) Pre-existing Uses – A use listed in MCC .7022(B) or (C) which occupied public school building space on August 19, 1982, shall be deemed to have satisfied the provisions of this section.

(F) Action on Minor Uses – Action on a proposal to locate a use listed in MCC .7022(B) shall be taken by the school district board.

(1) The proposal shall be considered at a regular school board meeting and again at a public hearing called by the school board for the purpose.

(2) Notice of the meetings and purpose shall be given by the school board by first class mail at least 15 days in advance of each meeting to each owner of property within 250 feet of the school site, and to such other persons or groups as have requested notice on such matters.

(3) The school board shall conduct the public hearing generally in accordance with the Rules of Procedure adopted by the Approval Authority under MCC .8125(A).

(4) The decision and the statement of findings of fact and conclusions adopted by the school board at the public hearing shall be filed with the Planning Director within ten days of the action.

(G) Action on Other Uses – Action on a proposal to locate a use listed in MCC .7022(C) shall be taken under the provisions of MCC .8205 through .8285, modified to substitute *School District Board* for *Approval Authority* or *Planning Commission*, and further modified as follows:

(1) An action may only be initiated by the school district board under MCC .8210(A).

(2) The school district board shall:

(a) Act to give notice of public hearing under MCC .8220;

(b) Conduct the required hearing(s) under MCC .8230;

(c) Make findings of fact and conclusions under MCC .8235;

(d) Make decisions under MCC .8240;

(e) Maintain proceeding records under MCC .8245; and

(3) The school district board shall file the written decision in accordance with MCC .8240. The Planning Director and the Clerk of the Board shall follow the requirements of MCC .8255.

(4) The decision of the school district board shall become final on the tenth business day following submittal to the Clerk of the Board of County Commissioners orders review under MCC .8265.

(5) Exception – At the option of the school district board, action proceedings may be taken by the Approval Authority.

(H) Approval Criteria – In approving an alternative use listed in .7022(B) or (C), the approval authority shall find:

(1) The approval criteria of MCC .7015 are satisfied; and

(2) The use will occupy existing public school building space which is surplus to the current or anticipated need for school purposes; and

(3) The use will provide an appropriate

public facility or public non-profit service to the immediate area of community; or

(4) The use is consistent with urban area needs in a location and under circumstances reasonably suitable for the purpose; and

(5) There are safe, convenient and reasonably suitable means of pedestrian, bicycle and vehicle access to and circulation on the site; and

(6) The applicable development standards of this Chapter are met or can be satisfied through appropriate conditions of approval.

(I) Approval Conditions – The approval authority may impose approval limitations or conditions as listed in MCC .7010(E).

*[Amended 1982, Ord. 329 § 4]*

## 11.15.7025 Restrictions

A building or use approved under MCC .7020 through .7030 shall meet the following requirements:

(A) Minimum yards in EFU, CFU, F-2, MUA-20, MUF, RR, RC, UF-20, UF-10, LR-40, LR-30, LR-20, LR-10, R-40, R-30, R-20, and R-10 Districts:

(1) Front yards shall be 30 feet.

(2) Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.

(3) Rear yards shall be as required in the district.

(B) Minimum yards in LR-7.5, LR-7, LR-5, MR-4, MR-3, HR-2, HR- 1, R-7.5, R-7, R-4, A-2, BPO, and A-1-B Districts:

(1) Front yards shall be 30 feet.

(2) Side yards for buildings 25 feet or less in height shall be 15 feet; for buildings over 25 feet, 20 feet.

*[Amended 1984, Ord. 428 § 2]*

(3) Rear yards shall be as required in the district.

(C) Minimum yards in other districts shall be as required in the district.

(D) Minimum Site Size;

(1) A day nursery or kindergarten shall provide not less than 100 square feet per child, of outdoor play area located other than in a required front yard.

(2) Primary (kindergarten through fourth grade), private and parochial schools shall be on sites of one acre for each 90 pupils or one acre for each three classrooms, whichever is greater.

(3) Elementary public schools shall be on sites of one acre for each 75 pupils or one acre for each two and one-half classrooms, whichever is greater.

(4) Churches shall be on sites of 15,000 square feet.

(E) Off-street parking and loading shall be provided as required in MCC .6100 through .6148.

(F) Signs for Community Service Uses located in districts in MCC .2002 - .2966 pursuant to the provisions of MCC .7902 - .7982.

*[Amended 1986, Ord. 543 § 2]*

(G) Other restrictions or limitations of use or development not required under this subsection shall be provided in the district.

(H) For noise sensitive uses as defined in MCC .7305(E) the minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:

(1) To 50 feet if the property owner records with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate

resources to conduct legally operating extraction uses.

(2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

*[Added 1990, Ord. 643 § 2]*

### 11.15.7030 Bus Passenger Shelters

(A) In addition to all other uses permitted in any district, bus passenger shelters (hereinafter *shelters*) intended for use by the general public and owned or controlled by a city, county, state or municipal corporation shall be allowed.

(B) Prior to installing a shelter, the sponsor shall notify owners of property located within 150 feet of the center point of the proposed site location that the sponsor intends to apply to the Planning Director for authority to install a shelter. Thereafter, the sponsor may submit to the Planning Director an application which shall include a plot plan setting out the location of and plans and specifications for the proposed shelter. With the consent of the Director, more than one shelter location may be included in an application.

(C) Within 30 days after the application, the Planning Director shall review it in light of the effects on:

(1) Surrounding land uses;

(2) Vehicular traffic and pedestrian safety;

(3) Drainage:

(4) Native or landscaped vegetation;

(5) Public and private utilities;

(6) Road construction and maintenance;

(7) Access or egress from adjacent property; and

(8) Compliance with the applicable building code.

(D) If the application is approved, the shelter may be installed. If the application is not approved, the sponsor shall be given written notice of that determination and the basis therefor.

*[Added 1982, Ord. 329 § 4]*

### 11.15.7035 Radio and Television Transmission Towers.

(A) Purposes – The purposes of the Section are to:

(1) Minimize visual impacts of towers through careful design, siting and vegetative screening.

(2) Avoid potential damage to adjacent properties from tower failure and falling ice, through engineering and careful siting of tower structures.

(3) Lessen traffic impacts on surrounding residential areas.

(4) Maximize use of any new transmission tower so as to minimize the need to construct new towers. Assuming a need to accommodate six high power television antennas in the 1982-87 period, this Section requires sharing so that all six can be located on either of two new towers. All other tower uses create much less structural loads; a majority can also be accommodated on these two new towers.

(5) Ensure that the amount of non-ionizing electromagnetic radiation emitted by antennas does not exceed the amount at which human health has been found to be affected and is the minimum necessary to provide adequate access to the area's broadcasters by requiring compliance with stated emission standards and required separation standards.

(6) Allow new transmission towers in urban residential areas only when necessary to meet functional requirements of the broadcast industry.

(B) Approval criteria for new transmission tow-

ers in urban residential districts. New transmission towers in urban residential districts permitted under MCC .7020(15)(a) may be allowed, based on findings by the approval authority that the following approval criteria are met.

(1) Shared use of existing towers – A new transmission tower shall not be permitted in an urban residential district unless the applicant makes a good faith effort to substantially demonstrate that no existing or planned tower approved after August 19, 1982, can accommodate the applicant's proposed antenna/transmitter as described below.

(a) The applicant shall contact the owners of all existing or planned towers approved after August 19, 1982, of a height roughly equal to or greater than the height of the tower proposed by the applicant. A list shall be provided of all owners contacted, the date of such contact, and the form and content of such contact.

(b) Such contact shall be made in a timely manner; that is, sufficiently before the filing of an application for a hearing to include a response into the application when filed.

(i) Failure of a listed owner to respond shall not be relevant to the approval authority if a timely, good faith effort was made to obtain one. However, where an existing or planned tower approved after August 19, 1982, is known to have capacity for additional antennas of the sort proposed, based on the decision regarding such tower, the application for a new tower shall not be complete until the owner of the existing or planned tower responds. Such response is to be required as a condition of approval.

(ii) The Planning Director shall maintain and provide, on request, records of responses from each owner.

(iii) Once an owner demonstrates an antenna of the sort proposed by the applicant cannot be accommodated on the owner's tower as described below, the owner need not be contacted by future applicants for antennas of the sort proposed.

(c) The applicant shall request the following information from each owner contacted:

(i) Identification of the site by location, tax lot number, existing uses, and tower height.

(ii) Whether each such tower could structurally accommodate the antenna proposed by the applicant without requiring structural changes be made to the tower. To enable the owner to respond, the applicant shall provide each such owner with the height, length, weight, and other relevant data about the proposed antenna contained in the statement required in MCC .7035(F)(2)(e) through (l).

(iii) Whether each such tower could structurally accommodate the proposed antenna if structural changes were made, not including totally rebuilding the tower. If so, the owner shall specify in general terms what structural changes would be required

(iv) If structurally able, would shared use by such existing tower be precluded for reasons related to RF interference. If so, the owner shall describe in general terms what changes in either the existing or proposed antenna would be required to accommodate the proposed tower, if at all.

(v) If shared use is possible based

on (iii) and (iv) above, the fee an owner of an existing tower would charge for such shared use.

(d) Shared use is not precluded simply because a reasonable fee for shared use is charged, or because of reasonable costs necessary to adapt the existing and proposed uses to a shared tower. The approval authority may consider expert testimony to determine whether the fee and costs are reasonable. Costs exceeding new tower development are presumed unreasonable.

(2) Shared use of existing tower sites – A new transmission tower shall not be approved on a lot in an urban residential district where no similar tower exists unless the applicant makes a good faith effort to substantially demonstrate that the proposed tower cannot be located on the site of an existing or planned tower approved after August 19, 1982, as described below.

(a) The applicant shall contact the owners of all existing or planned tower sites approved after the effective date of this ordinance, containing sufficient area to accommodate the proposed tower and support elements. A list shall be provided of all owners contacted, the date of such contact, and the form and content of such contact.

(b) Such contact shall be timely, as describe in MCC .7035(B)(1)(b) above, and shall be considered, recorded, and reconsidered as described therein.

(c) The applicant shall request the following information from each owner contacted:

(i) Identification of the site by location, tax lot number, area, existing uses, and topographic, forest and other significant natural features.

(ii) Whether each such site could accommodate the tower proposed by the applicant without changing the existing or proposed structure. To enable the owner to respond, the applicant shall provide each owner with the dimensional characteristics of the proposed tower and other relevant data about the tower contained in the statement required by MCC .7035(D)(3).

(iii) Whether each such site could accommodate the tower proposed by the applicant if either or both the existing or proposed tower was structurally or otherwise changed. If changes due to structural or RF interference would be required, the owner shall specify in general terms what those changes are.

(iv) If shared use is possible based on (ii) and (iii) above, the fee an owner would charge for such shared use.

(d) Shared use is not precluded simply because a reasonable fee for shared use is charged, or because of reasonable costs necessary to adapt the existing and proposed uses to a shared site. The approval authority may consider expert testimony to determine whether the fee and costs are reasonable.

Exception – The provisions of subsections .7035(B)(1) and (2) shall not apply to any application approved by the Board on or before July 30, 1982.

(3) Non-urban sites – The Planning Director shall consult with the Federal Aviation Administration, Federal Communications Commission, Oregon State Aeronautics Division, and Port of Portland to identify sites for towers in unincorporated Multnomah County outside the Urban Growth Boundary, which:

(a) Will contain sufficient area and be topographically capable of supporting major transmission towers in accordance with MCC .7035(B)(4),

(b) Will not create a hazard to aircraft, and

(c) Will provide substantially similar coverage for transmissions with currently available technology.

If such sites can be identified, no new transmission tower shall be permitted in any urban residential district until such non-urban sites are used to capacity.

(4) Site size and tower setbacks.

(a) The site shall be of a size and shape sufficient to provide an adequate setback from the base of the tower to any property line abutting and urban residential district, public property, or public street. Such setback shall be sufficient to:

(i) Provide for an adequate vegetative, topographic or other buffer, as provided in MCC .7035(B)(7) and (11),

(ii) Preserve the privacy of adjoining residential property,

(iii) Protect adjoining property from the potential impact of tower failure and ice falling from the tower by being large enough to accommodate such failure and ice on the site, based on the engineer's analysis required in MCC .7035(D)(3)(d) and (e)., and

(iv) Protect the public from NIER in excess of the standard of MCC .7035(F)(1).

(b) A site is presumed to be of sufficient size when it:

(i) Meets the requirements of (a) (iii) and (iv) above,

(ii) Provides a setback equal to 20 percent of the height of the tower to any property line abutting an urban residential district, public property, or public street, and

(iii) Provides a setback equal to or exceeding the rear yard setback required for the adjoining property where the adjoining property is not in an urban residential district nor a public property or a public street.

(c) Placement of more than one tower on a lot shall be permitted, provided all setback, design and landscape requirements are met as to each tower. Structures may be located as close to each other as technically feasible, provided tower failure characteristics of the towers on the site described in MCC .7035(D)(3)(d) will not lead to multiple failures in the event that one fails.

(d) Structures and uses associated with the transmission use other than the transmission tower shall be located to meet the setbacks required in MCC .7025.

(5) Guy setback:

(a) For a guyed structure, the site shall be of a size and shape sufficient to provide an adequate setback from a guy anchor to any property line abutting an urban residential district, public property or public street in addition to the size required to comply with (4) above. Such setback shall be adequate to provide a vegetative, topographic or other buffer sufficient to obscure view to the anchor from such adjoining properties.

(b) A site is presumed to be of sufficient size when it provides:

(i) A setback of at least 25 feet between a guy anchor and any property line abutting an

urban residential district or public property or street, and

(ii) A setback equal to or exceeding the rear yard setback required for the adjoining property where the adjoining property is not a public property or street nor in an urban residential district.

(c) A guy anchor may be located on an adjoining property when:

(i) The owner of the adjoining property on which it is to be placed authorizes it in writing, and

(ii) The guy anchor meets the requirements of (a) or (b) above as to all other adjoining property lines.

(d) Guy anchors may be located within required landscape areas.

A guy from a tower which was previously approved under any ordinance may be extended to an adjacent site if the guy anchor will comply with (B)(5)(c) as determined by the Planning Director.

(6) Required sharing of new towers – All new towers shall be designed to structurally accommodate the maximum number of additional users technically practicable, but in no case less than the following:

(a) For television antenna towers, at least three high power television antennas and one microwave facility or two FM antennas, and at least one two-way radio antenna for every ten feet of the tower over 200 feet.

(b) For any other towers, at least one two-way radio antenna for every ten feet of the tower, or at least one two-way radio antenna for every 20 feet of the tower and at least one microwave facility.

(c) Such other combination as found by the approval authority to provide the maximum possible number of foreseeable users.

(i) Such requirements may be reduced if the Federal Communications Commission provides a written statement that no more licenses for those broadcast frequencies that could use the tower will be available in the foreseeable future.

(ii) Such requirements may be reduced if the size of the tower required significantly exceeds the size of the existing towers in the area and would therefore create an unusually onerous, visual impact that would dominate and alter the visual character of the area when compared to the impact of other existing towers. This provision is only to be applied in unusual circumstances not resulting from the applicant's action or site selection unless no other site is possible.

(d) Once a new tower is approved, additional antennas and accessory uses to permitted antennas may be added to it in accordance with the approved sharing plan if the Planning Director finds that the standards of MCC .7035(B)(7) through (9),(12), (14) and (15) are met.

(i) A request for additional antennas or accessory uses shall be processed under MCC .7835 through .7845, provided the standards of MCC .7850 may only be applied in direct proportion to the extent of the proposed change.

(ii) If the proposed change results in an increase in the extent to which the existing use violates the setback and landscape standards of MCC

.7035(B)(4)(b) through (d), (B)(5)(b) through (d), and (B)(11)(a), the application for approval shall be considered as an action proceeding by the approval authority, who may approve the change based on the applicable standard of MCC .7035(B)(4)(a), (B)(5)(a), and (B)(11)(a).

(e) The antennas sharing a tower will generally be arranged as follows, provided changes may be allowed by the approval authority when necessary to accommodate RF interference, topographic circumstances, or tower structure characteristics:

(i) Towers in excess of 200 feet shall be guyed towers with one top-mounted high power television (HPTV) antenna and two side-mounted HPTV antennas. In the alternative, one HPTV antenna may be top-mounted, the second HPTV antenna located below it, and a third HPTV antenna side-mounted.

(ii) No candelabra shall be permitted. No triangular platforms larger than 10 feet on a side shall be permitted. Triangular and T-bar platforms shall not be permitted if mounting of required antennas can be accomplished without such platforms.

(iii) The required microwave facilities, FM antennas, and two-way radio antennas may be located anywhere on the tower above a height of eighty feet above grade, provided the other requirements of this section are met.

(f) If a new tower is approved, the applicant shall be required as conditions of approval, to:

(i) Record the letter of intent required in MCC .7035(D)(5) in Miscellaneous Deed Records fo the Office of the County Recorder,

(ii) Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant required under MCC .7035(B)(1) and (2),

(iii) Negotiate in good faith for shared use by third parties, and

(iv) Allow shared use where the third party seeing such use agrees in writing to pay reasonable, pro rata charges for sharing, including all charges necessary to modify the tower and transmitters to accommodate shared use, but not total tower reconstruction, and to observe whatever technical requirements are necessary to allow shared use without creating interference,

(v) Willful, knowing failure of an owner whose tower was approved after the effective date of this ordinance, to comply with the requirement of (i) through (iv) above shall be grounds for suspension or revocation of the Community Service designation. Following report of such failure, the Planning Director shall schedule a public hearing in the manner provided in MCC .8290 and .8295 to determine whether the CS designation should be suspended or revoked.

Such conditions shall run with the land and be binding on subsequent purchasers of the tower site.

(7) Visual impact – The applicant shall demonstrate that the tower can be expected to have the least visual impact on the environment, taking into consid-

eration technical, engineering, economic and other pertinent factors. Towers clustered at the same site shall be of similar height and design, whenever possible. Towers shall be painted and lighted as follows:

(a) Towers 200 feet or less in height shall have a galvanized finish or be painted silver. If there is heavy vegetation in the immediate area, such towers shall be painted green from base to treeline, with the remainder painted silver or given a galvanized finish.

(b) Towers more than 200 feet in height shall be painted in accordance with regulations of the Oregon State Aeronautics Division.

(c) Towers shall be illuminated as required by the Oregon State Aeronautics Division. However, no lighting shall be incorporated if not required by the Aeronautics Division or other responsible agency.

(d) Towers shall be the minimum height necessary to provide parity with existing similar tower supported antenna, and shall be freestanding where the negative visual effect is less than would be created by use of a guyed tower.

(8) Maintenance impacts – Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. The applicant shall describe anticipated maintenance needs, including frequency of service, personnel needs, equipment needs, and traffic, noise or safety impacts of such maintenance. Where the site abuts or has access to a collector and local street, access for maintenance vehicles shall be exclusively by means of the collector street.

(9) Parking – A minimum of two parking spaces shall be provided on each site; an additional parking space for each two employees shall be provided at facilities which require on-site personnel.

(10) Vegetation – Native vegetation on the site shall be preserved to the greatest practical extent. The applicant shall provide a site plan showing existing significant vegetation to be removed, and vegetation to be replanted to replace that lost.

(11) Landscaping – Landscaping at the perimeter of the property which abuts streets, residences, public parks or areas with access to the general public other than the owner of such adjoining property shall be required, as follows:

(a) For towers 200 feet tall or less, a buffer area no less than 25 feet wide shall commence at the property line. At least one row of evergreen shrubs shall be spaced not more than five feet apart. Materials should be of a variety which can be expected to grow to form a continuous hedge at least five feet in height within two years of planting. At least one row of evergreen trees or shrubs, not less than four feet height at the time of planting, and spaced not more than 15 feet apart, also shall be provided. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height or would not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the anchor from the transmission building or security facilities and staff.

(b) For towers more than 200 feet tall, a buffer area not less than 40 feet wide shall be provided at the property line with at least one row of evergreen shrubs spaced not more than five feet apart which will grow to form a continuous hedge at least five feet in height within two years of planting; one row of deciduous trees, not less than 1 1/2 inch caliper measured three feet from the ground at the time of planting, and spaced not more than 20 feet apart; and at least one row of evergreen trees, not less than four feet at the time of planting,

and spaced not more than 15 feet apart. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height or would not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the anchor from the transmission building or security facilities and staff.

(c) In lieu of these standards, the approval authority may allow use of an alternate detailed plan and specifications for landscape and screening, including plantings, fences, walls and other features designed to screen and buffer towers and accessory uses. The plan shall accomplish the same degree of screening achieved in (a) and (b) above, except as lesser requirements are desirable for adequate visibility for security purposes and for continued operation of existing bona fide agricultural or forest uses, including but not limited to produce farms, nurseries, and tree farms.

(12) Accessory uses – Accessory uses shall include only such buildings and facilities necessary for transmission function and satellite ground stations associated with them, but shall not include broadcast studios, offices, vehicle storage areas, nor other similar uses not necessary for the transmission function.

Accessory uses may include studio facilities for emergency broadcast purposes or for other special, limited purposes found by the approval authority not to create significant additional impacts nor to require construction of additional buildings or facilities exceeding 25 percent of the floor area of other permitted buildings.

(13) Comprehensive Plan – The proposed use shall comply with Policies No. 13 (Air and Water Quality and Noise Level), No. 14 (Development Limitations), No. 16 (Natural Resources), No. 19 (Community Design), No. 31 (Community Facilities), and other plan policies identified as applicable by the approval authority.

(14) Agency Coordination – The applicant shall provide the following information in writing from the appropriate responsible official:

(a) A statement from the Federal Aviation Administration that the application has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or a statement that no compliance with Part 77 is required.

(b) A statement from the Oregon State Aeronautics Division that the application has been found to comply with the applicable regulations of the Division, or a statement that no such compliance is required.

(c) A statement from the Federal Communications Commission that the application complies with the regulations of the Commission or a statement that no such compliance is necessary.

(d) The statements in (a) through (c) may be waived when the applicant demonstrates that a good faith, timely effort was made to obtain such responses but that no such response was forthcoming, provided the applicant conveys any response received; and further provided any subsequent response that is received is conveyed to the approval authority as soon as possible.

(15) Emission of non-ionizing electromagnetic radiation. The NIER requirements of (F) are met.)

(C) Approval criteria for new transmission towers in districts other than urban residential districts. New transmission towers in non-residential districts permitted under MCC .7020(5)(a) or (b) may be allowed, based on findings by the approval authority that the following criteria are met.

(1) The site is of a size and shape suffi-

cient to provide the following setbacks:

(a) For a tower located on a lot abutting an urban residential district or a public property or street, except a building-mounted tower, the site size standards of MCC. 7035(B)(4) and (5) are met as to those portions of the property abutting the residential or public uses.

(b) For all other towers, the site shall be of sufficient size to provide the setback required in the underlying district between the base of the tower, accessory structures and uses, and guy anchors, if any, to all abutting property lines.

(2) The required setbacks shall be improved to meet the landscaping standard of MCC .7035(B)(11) to the extent possible within the area provided.

(3) The visual impact standard of MCC .7035(B)(7) is met.

(4) The parking requirement of MCC .7035(B)(9) is met, provided additional parking may be required in accordance with MCC .6100 to .6148 if the site serves multiple purposes.

(5) The applicable policies of the Comprehensive Plan are met.

(6) The NIER standards of (F) are met.

(7) The agency coordination standards of MCC .7035(B)(14) are met.

(8) Accessory uses – For a proposed tower in the EFU, MUF, CFU, MUA, and UF districts, the restrictions on accessory uses in MCC .7035 (B)(12) shall be met.

(D) Requirements for an application – An application for approval of a Community Service designation for a radio or television transmission tower shall contain at least the following information before it is complete:

(1) Site plan or plans to scale specifying the location of towers(s), guy anchors (if any), transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses. Such plan shall also demonstrate compliance with MCC .7035(B)(4) and (5).

(2) Landscape plan to scale indicating size, spacing and type of plantings required in MCC .7035(B)(11).

(3) Report from a professional engineer licensed in the State of Oregon, documenting the following:

(a) Tower height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design. A cross-section of the tower structure shall be included.

(b) Total anticipated capacity of the structure, including number and types of antennas which can be accommodated.

(c) Evidence of structural integrity of the tower structure as required by the Building Official.

(d) Failure characteristics of the tower and demonstration that site and setbacks are of adequate size to contain debris.

(e) Ice hazards and mitigation measures which have been employed, including increased setbacks and/or deicing equipment.

(f) Specific design and reconstruction plans indicating the means by which the shared use provisions of this section will be met. This submission is required only in the event that the applicant intends to meet the shared use requirements of this section by subsequent reinforcement and reconstruction of the tower.

(g) The requirements of subpart (f) above may be deferred, subject to the provisions of subsection (D)(3)(f), above, if:

(i) At the time the building permit for the tower is issued, there are no applications before the FCC that could use the tower, or

(ii) The applications which are before the FCC have contractual arrangements for the use of other towers.

(4) Statements from the F.A.A., O.S.A.D., and F.C.C., that the standards of MCC .7035(B)(14) are met or the required good faith, timely effort to achieve such responses.

(5) Letter of intent to lease excess space on the tower structure and to lease additional excess land on the tower site when the shared use potential of the tower is absorbed, if structurally and technically possible.

A reasonable pro rata charge may be made for shared use, consistent with an appropriate sharing of construction, financing and maintenance costs. Fees may also be charged for any structural or RF changes necessitated by such shared use. Such sharing shall be a condition of approval if approval is granted.

(a) The applicant shall describe what range of charges are reasonably expected to be assessed against HPTV shared users, FM shared users, land based mobile and common carriers, and microwave shared users.

(b) The applicant shall base charges on generally accepted accounting principles and shall explain the elements included in the charge, including but not limited to a pro rata share of actual site selection and processing costs, land costs, site design, construction and maintenance costs, finance costs, return on equity, and depreciation.

(6) The applicant shall quantify the additional tower capacity anticipated, including the approximate number and types of antennas. The applicant shall also describe any limitations on the ability of the tower to accommodate other uses, e.g., radio frequency interference, mass height, frequency or other characteristics. The applicant shall describe the technical options available to overcome those limitations and reasons why the technical options considered were not chosen to be incorporated. The approval authority shall approve those limitations if they cannot be overcome by reasonable technical means.

(7) Studies and reports by a professional engineer licensed in the State of Oregon to establish compliance with the NIER emission standard of MCC .7035(F), except as exempted therein.

(8) Evidence of the lack of space on all suitable existing towers to locate the proposed antenna and of the lack of space on existing tower sites to construct a tower for the proposed antenna.

(9) Written authorization from adjoining property owners if needed, under MCC .7035(B)(5).

(10) Written evidence from the Federal Communications Commission related to a request for approval of a reduction in the capacity of the proposed tower under MCC .7035(B)(6)(c), if needed.

(11) Maintenance impacts as described in MCC .7035(B)(8).

(12) Responses to the applicable Comprehensive Plan Policies.

(E) Design Review – The use shall comply with the design review provisions of MCC .7805 to .7865. This may be implemented as a condition of approval.

(F) Non-ionizing electromagnetic radiation standards.

(1) No source of non-ionizing electromagnetic radiation shall hereinafter be operating, which causes the general population to be exposed to radiation levels exceeding the mean squared

electric ($E^2$) or mean squared magnetic ($H^2$) field strengths, or their equivalent plan wave free space power density, as specified in Table 1.

For near field exposures, measurements of the mean squared electric and magnetic field strengths are especially important to determine compliance with the standards in columns 2 and 3 of Table 1. For convenience, mean squared electric or magnetic field strengths may be specified as the equivalent plane-wave power density. At higher frequencies (e.g., above 30-300 MHz), measurement of mean-squared magnetic field strength may not be necessary if it can be reliably inferred from measurements of either mean squared electric field strength or equivalent plane-wave power density.

(a) In the event the federal government promulgates mandatory or advisory standards more stringent than those described herein, the more stringent standards shall apply.

(b) These standards are adapted from the American National Standards Institute's American National Standard C95.1-1982, Safety Levels With Respect to Human Exposure to Electromagnetic Fields (300 kHz to 100 GHz). This ANSI standard's documentation should be consulted to help resolve any future questions about the basis or interpretation of the standards in this section.

(c) Similarly, the latest revision of ANSI's American National Standards Institute's American National Standard C95.3, Techniques and Instrumentation for the Measurement of Potentially Hazardous Electromagnetic Radiation at Microwave Frequencies, is incorporated here by reference as one source of acceptable methods for measuring non-ionizing radiation levels in determining compliance with this standard.

For all measurements made to ensure compliance with this section, evidence shall be submitted showing that the instrument or instruments used were calibrated within the manufacturer's suggested periodic calibration interval; that the calibration is by methods traceable to the National Bureau of Standards; a statement that the

**TABLE 1**

**Non-Ionizing Electromagnetic Radiation Standards**

| Frequency (MHz) | Mean Squared Electric (E) Field Strength[1] ($V^2/m^2$)[2] | Mean Squared Magnetic (H) Field Stregnth[1] ($A^2/m^2$)[3] | Equivalent Plane-Wave PowerDensity[1] ($mW/cm^2$) |
|---|---|---|---|
| 100 kHZ – 3 MHz | 80,000 | 0.5 | 20 |
| 3 MHz – 30 MHz | $4{,}000(180/f^2)$ | $0.025(180/f^2)$ | $180/f^2$ |
| 30 MHz - 300 MHz | 800 | 0.005 | 0.2 |
| 300 MHz – 1500 MHz | $4{,}000(f/1500)$ | $0.025(f/1500)$ | $f/1500$ |
| 1500 MHz – 300 GHz | 4,000 | 0.025 | 1.0 |

[1] All standards refer to root mean square (rms) measurements averaged over 0.5 hour (30 minutes).

[2] $V^2/m^2$ = Volts squared per meter squared.

[3] $A^2/m^2$ = Amperes squared per meter squared.

Note: $f$ = frequency in megahertz (MHz).

measurements were made in accordance with good engineering practice; and a statement or statements as to the accuracy of the results of the measurements.

(d) The standards adopted herein shall be periodically reviewed by the Multnomah County Health Officer, in light of any new scientific knowledge as to the effects on the general population of non-ionizing electromagnetic radiation; and these standards may hereafter be raised, lowered or otherwise changed as the County shall require by amendment of this section. The first such reports shall be delivered on or before January 1, 1984.

(e) For average times less than 0.5 hour, the allowed power density P in $\mu w/cm^2$ as a function of averaging time $\tau$ in hours is given by $P = k/\tau$ where in turn K is equal to 1/2 times the allowed power density for averaging times of 0.5 hour and greater.

(2) All existing sources of non-ionizing electromagnetic radiation in the frequency spectrum, 100 kHz to 300 GHz, except those exempted below, are within 120 days of the enactment of this section, hereby required to register with the County and provide the following information for each individual source on forms provided by the Planning Director.

(a) Name and address of owner of transmitter and/or antenna.

(b) Name and address of owner of property on which the transmitter and/or antenna is located.

(c) Location of transmitter.

(d) Location of antenna by geographic coordinates by either latitude and longitude or state plane coordinates.

(e) Output frequency of transmitter.

(f) Type of modulation and class of service.

(g) Power output of transmitter (average and peak).

(h) Power input to antenna.

(i) Manufacturer, type, manufacturer's model number of antenna and a copy of the antenna radiation patterns.

(j) Gain of antenna with respect to an isotopic radiator.

(k) Polarization of radiation from antenna.

(l) Height of antenna above ground.

(m) Horizontal and radial distance of antenna to nearest point on property line and to nearest habitable space regularly occupied by others than immediate family or employees of transmitter and/or antenna owner and/or operator.

(n) Elevation above mean sea level of ground at the antenna location and the points specified in (2)(m).

(o) The call letters assigned to the source.

(p) Date of installation of present transmitter, and date of installation of the associated antenna, date of installation of the structure, if any, on which the antenna is located.

Any sources not so registered shall be regarded as a new source and any registered source with different essential technical characteristics than those of (2)(c) through (2)(m) above as a changed existing source.

(3) After the date of enactment of this ordinance, no installation of a new source of non-ionizing electromagnetic radiation or changes in an existing source which in any way causes increases in the NIER or radiation pattern of the NIER source shall occur without first

obtaining a Community Service use designation or modification thereof, unless otherwise provided herein.

(4) The application for the use shall be on forms provided by the planning Director, and shall show:

(a) The information required under (a) through (p) of subpart (2) above.

(b) The measured existing non-ionizing radiation levels at the nearest point on the property lines of the predicted maximum radiation from the source, and the nearest point regularly occupied by other than the immediate family and/or employees of the transmitter owner and/or operator.

(i) These measurements shall be made at a height of 1.5 meters above the ground or at the greater height if habitation occurs at a greater height with lesser radial distance to the source.

(ii) If the measured level is equal to or less than 1/5 of the limits, the measurement shall be made for the continuous period 6 a.m., to 6 p.m., on a regular business day.

(iii) If the measured level is greater than 1/5 of the limits, the measurement shall be made for a continuous period of 168 hours.

(iv) If there exists an operational situation which would cause higher levels to occur at some other time than the intervals of (ii) or (iii) above, the measurement shall be made during that time.

(v) These measurements may be made by whatever means the registered professional engineer under whose direction and supervision they are made deems appropriate. The effects of contributing sources of frequency below the lower frequency limit of broadband instruments may be appropriate separate single instant measurements of the contribution due to these sources. Further, levels below 20 microwatts/cm2 or the minimum sensitivity of the instruments used, whichever is lesser, shall be deemed zero for further computational purposes.

(c) The calculated average levels at the three points specified in (4)(b) after installation of the new source, including both the background and the new source.

(d) The calculated levels at the boundaries of other sources at which the new source may cause a detectable increase in level.

(e) The calculated level at the predicted point of maximum radiation off of the property on which the new source is located caused by the new source along with the measured background NIER at this point. This measurement shall meet the requirements of (4)(b).

(f) The geographic coordinates (latitude and longitude or state plane coordinates) of each point of measurement and/or calculation shall be furnished.

(5) A Community Service use designation or modification thereof may be granted if the levels calculated in (F)(4), including the existing measured background, do not exceed the limits set forth in (F)(1), and if a new tower is required, the siting standards of this section are met. However, if the calculated levels, including existing measured background at any point specified in (F)(4) exceed one-third of the maximum levels of (F)(1), then, the approval shall be conditional upon measurements made after the new source is installed showing that the

maximum levels of (F)(1) are not exceeded. If the calculated levels exceed the maximum level of (F)(1), the application shall be denied.

(6) All commercial intermittent sole source emitters of less than 1 KW average output are exempt from the measurement requirements of MCC .7035(F)(4) if they comply with the separation requirement of MCC .7035(F)(6) and all other requirements of this section. Prior to issuance of a building permit for a tower to support an antenna associated with one of these uses, the Planning Director shall determine that the antenna meets the following requirements:

(a) For an effective radiated power (ERP) of less than 100 watts the highest current point of the antenna is located at least ten feet and all portions of the antenna three feet from the external surface of any habitable structure not located on the property containing the source and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.

(b) For an ERP greater than 100 watts, but less than 1,000 watts, the highest current point of the antenna is at least 15 feet and all portions of the antenna at least six feet from the external surface of any habitable structure not located on the property containing the source and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.

(c) For an ERP equal to or greater than 1,000 watts, but less than 10 kW, the antenna meets the following separation criteria from the external surface of any habitable structure not located on the property containing the source and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.

| Frequency | Minimum Distance from Highest Current Portion | Minimum Distance from Any Portion |
|---|---|---|
| <7 MHz | 11 feet | 5 feet |
| 7 - 30 MHz | $f$/0.67 feet | $f$/1.5 feet |
| 30 - 300 MHz | 45 feet | 20 feet |
| 300 -1500 MHz | $780/\sqrt{f}$ feet | $364/\sqrt{f}$ feet |
| >1500 MHz | 20 feet | 10 feet |

Where $f$ is frequency in megahertz.

(d) For an ERP equal to or greater than 10 kW, but less than 30 kW, the antenna meets the following separation criteria from the external surface of any habitable structure not located on the property containing the source, and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.

| Frequency | Minimum Distance from Highest Current Portion | Minimum Distance from Any Portion |
|---|---|---|
| <7 MHz | 17.5 feet | 8 feet |
| 7 - 30 MHz | $f$/0.4 feet | $f$/0.91 feet |
| 30 - 300 MHz | 75 feet | 33 feet |
| 300 - 1500 MHz | $1300/\sqrt{f}$ feet | $572/\sqrt{f}$ feet |
| >1500 MHz | 34 feet | 15 feet |

(7) The following uses are exempt from all requirements of this section:

(a) All portable, hand-held and vehicular transmission sources.

(b) Industrial, scientific, and medical equipment operating at frequencies designated for that purpose by the FCC.

(c) Radio frequency machines:

(i) which have an effective radiated power of 7 watts or less;

(ii) which are designated and marketed as consumer products, such as microwave ovens, citizen band radios, and remote control toys, or

(iii) which are in storage, shipment or on display for sale, provided such machines are not operated.

(d) Amateur intermittent sole source emitters of less than 1 KW average output.

(G) Definitions – The following definitions shall apply to this section:

(1) *Sole Source Emitter* – An individual piece of property containing one or more radio transmitters, only one of which is normally transmitting at a given instant in time.

(2) *Intermittent Operation* – An operation where the radio transmitter does not normally continually operate for a period of 15 minutes or more at one time and generally, the transmitter operation is random in time.

(3) *Vehicular Source* – Transmitters located in vehicles which normally move about.

(4) *Hand-Held Source* – Transmitters normally held in the hand of, or on the person of, the person operating the transmitters.

(5) *Portable Sources* – Transmitters and associated antenna which are capable of being moved from one point to another and operated from a given location for a period of less than one month.

(6) *Regularly Occupied* – Occupied by a given individual on an on-going regular basis and excluding occasional visitors, passersby, etc.

(7) *Source of Non-ionizing Electromagnetic Radiation* – Any source of electromagnetic radiation emanating emissions between 100 kHz and 300 GHz with an effective radiated power greater than 1 watt.

(8) *Height of Antenna Above Ground* – The vertical distance between the highest current point of the antenna and the ground directly below this point.

(9) *General Population* – That segment of the population which is not a member of the immediate family or employee of the owner or operator of source of NIER or, because of occupation, is required to work with sources of NIER.

(10) *Urban Residential District* – Those zoning districts described in MCC 11.15.2472 through .2900 except a lot currently used for a radio or television transmission tower established legally.

(11) *The effective radiated power (ERP)* is the power input to the antenna, times the numerical power gain of the antenna relative to an isotropic radiator.

(12) *Point on property line of highest radiation* means for sites with more than one source, the point on the property line where the radiation is predicted to be maximum with all sources of NIER operating.

*[Added 1982, Ord. 330 § 2]*

**11.15.7040 Pre-existing Communication Facilities.**

Communication facilities, including radio and television transmission towers, common carrier and cellular telephone towers, microwave towers, satellite ground stations and accessories thereto (the *Facilities*) which were legally established prior to August 19, 1982, or any addition to, reconstruction or modification of the facilities shall be deemed conforming and not subject to the provisions of MCC .8805 or MCC .7010-.7035, provided that:

(A) The use shall comply with the NIER standard of MCC .7035(F)(1);

(B) The use shall comply with MCC .7035(B)(9), (12), and (14); and

(C) Any addition to or modification of the facilities shall not create an unusually onerous visual impact that would dominate and alter the visual character of the area when compared to the impact of other existing towers.

*[Added 1982, Ord. 330 § 2]*

**11.15.7041 Pending Applications.**

The provisions of MCC .7020(15), .7035, and .7040 shall apply as a condition of approval of any radio or television transmission tower for which application was made and final action was pending prior to July 20, 1982.

*[Added 1982, Ord. 330 § 2]*

**11.15.7045 Regional Sanitary Landfills**

*[Added 1984, Ord.445, § 3]*

(A) **Definitions**

(1) *Regional Sanitary Landfill* shall mean a general purpose landfill facility which, by itself or as a component of a network of such facilities, is designed and operated for the disposal of the region's solid waste and which METRO or its franchisee shall operate.

(2) *METRO* shall mean the Metropolitan Service District or its successor. (County or other authorized unit of government.)

(3) *Suitable* shall mean adapted or adaptable to a use.

(5) *Mitigate* shall mean to make less severe, less painful or less of a loss, to a level provided for in MCC .7045 through .7070.

(6) *Beneficial Continuation of Existing Uses* shall mean capable of using the property for the purposes already in existence, although there may be minor diminution in the quality of the use.

**11.15.7050 Board Findings – The Board Finds:**

(A) A landfill may need to be located within Multnomah County based on Solid Waste Management Plan and Study by METRO.

(B) There is a need to provide approval criteria and to require reclamation for the benefit of the site and the surrounding area.

(C) There is a need to provide for a review, to determine whether the proposed site is suitable and whether adverse impacts to the surrounding area can be mitigated.

**11.15.7055 Purpose**

The purposes of MCC .7045-.7070 are to:

(A) Determine whether a proposed landfill site is suitable and whether it can be reclaimed for uses allowed by the underlying zoning district.

(B) Mitigate any adverse impacts to the surrounding area by the imposition of conditions on the design, operation and off-site effects of the proposed landfill.

(C) Assure that the proposed landfill site has been determined preferable to other sites, based on an Alternative Sites Study conducted by METRO.

**11.15.7060 Application Requirements**

(A) An application for a Community Service Use permit under these provisions shall be filed on forms made available for that purpose. Information, maps, and reports submitted shall be deemed by the Planning Director to be necessary to determine compliance with the criteria.

(B) The base fee shall be $2,000 payable at the time of application. An additional fee of not more than $20,000 may be charged to cover the cost of any technical review and analysis required to evaluate the application, as determined by the Planning Director. Additionally, the Board of County Commissioners may, by order, provide that the fee for technical review and analysis be increased to a total of $30,000 if the Board determines that such an increase is justified by the complexity of issues raised on a particular application. If charged, the additional fee shall be used to hire technical consultants to supplement the staff. This subsection fees supersedes any conflicting fee required in MCC 11.15.9010.

(C) The applicant shall determine that the pro-

posed landfill is the most appropriate method of disposing of solid waste.

## 11.15.7065 Criteria for Approval

The Approval Authority shall find that:

(A) METRO or its franchisee has adopted Landfill Site Selection Criteria that addresses environmental, economic, operational and land use factors; they have applied these criteria to a study of alternative landfill sites, that study to have been completed no more than twelve (12) months from the date of Application to the Approval Authority, and have determined that, based on the criteria, a preferred site has been selected for development.

(B) The site is suitable for the proposed landfill, considering each of the factors below. In determining suitability, the Approval Authority shall also apply the following test to the findings for each of the factors; The Approval Authority finds, after any mitigation of impacts, that the impacts of the factor would not prevent the beneficial continuation of existing uses on surrounding property.

(1) Site Size — when the site is of sufficient size for the use and to allow for sufficient buffering of adverse impacts.

(2) Traffic Routes and Capacities — when projected traffic will not create dangerous intersections or traffic congestion, considering road design capacities, existing and projected traffic counts, speed limits and number of turning points. Traffic must have access to collector or arterial streets and not use local streets;

(3) Geologic Conditions — when the site is geologically stable enough to support the landfill; evidence shall include testimony from State of Oregon Certified Engineering Geologists; the Approval Authority shall also request that the Oregon State Department of Geology review and comment on all geological evidence which is submitted;

(4) Surface and Groundwater Conditions — when flooding will not occur, where surface water can be feasibly controlled and diverted away from the landfill, where leacheate or other landfill pollutants would not be discharged into adjacent public or private waterways such that State and Federal water quality standards will be exceeded, and where groundwater sources of domestic (human and livestock) water supply would not be contaminated beyond those quality levels of OAR 340-61-040(4) and (5) or OAR 340-41-029, whichever is the most strict. As used in this ordinance, the term *discharge* shall include both intentional and unintentional escape or release of landfill pollutants;

(5) Soil and Slope Conditions — when soils and topography allow feasible operating conditions for the landfill, and would not result in substantial off-site erosion and sedimentation; on-site soil erosion must be controlled to the extent that the productive capability of on-site land, not utilized directly for landfilling operations, is not reduced. The Approval Authority shall also request that any Soil and Water Conservation District which includes the site within its boundaries review the proposal and offer testimony on potential soil erosion problems;

(6) Leacheate and Gas — when site characteristics, such as geology and slope, will permit the safe and effective collection and treatment of these landfill by-products;

(7) Critical Habitat of Endangered Species — where such habitat and species, if found, will be protected pursuant to OAR 340-61-040(7) and any applicable Federal law;

(8) Historically, anthropologically, and archaeologically significant areas — where such areas, if found, will be protected pursuant to ORS Chapter 358, 16 U.S.C. Sections 461 through 470n, or any other applicable State or Federal law;

(9) Public Facilities and Services — where all such facilities necessary to serve the

landfill are either available or programmed for the area; and

(10) Fire Standards Criteria — Fire danger, where the landfill shall not significantly increase the fire danger in any given area and there shall be adequate fire protection systems in place at the site and in the surrounding community, including State systems, if any.

In determining suitability of the above factors, the Approval Authority may place substantial weight on DEQ's Findings for approval or denial of a preliminary application.

(C) The proposed landfill is designed and operated so as to mitigate conflicts with the surrounding uses. Conflicts with regard to the following shall be identified and mitigated (mitigation shall be made to the level of the applicable State standard, if any, and to a level that will not prevent the beneficial continuation of existing uses on surrounding lands):

(1) Visual appearance, including lighting on surrounding property, including OAR 340-61-040(15) and any other applicable State or Federal standard;

(2) Signing, including OAR 340-61-040(15) and any other applicable State or Federal standard;

(3) Hours of operation;

(4) Odors;

(5) Safety and security risks, including OAR 340-61-040(14) and any other applicable State or Federal standard;

(6) Noise levels, including OAR Chapter 340 and any other applicable State or Federal standard;

(7) Dust, and other air pollution, including OAR 340-61-040(8) and any other applicable State or Federal standard;

(8) Bird and vector problems, including OAR 340-61-040(23) and any ode applicable State or Federal standard; and

(9) Damage to fish and wildlife habitats, including OAR 340-61-040(7) and any other applicable State or Federal standard.

(D) The proposed landfill site is capable of being reclaimed to a primary use permitted in the underlying zoning district. For resource districts (CFU, EFU, MUF, MUA), the primary use will be the resource for which the district was created (i.e., timber production in CFU, farmland in EFU, etc.). The soil productivity, if in a natural resource zone, is capable of being brought back to the closest level economically and technically feasible to that which existed on the site prior to the landfill.

(E) Where the Approval Authority finds it appropriate, the approval criteria may be satisfied by the applicant's submission of a statement of intent to provide facilities as necessary to prevent impermissible conflict with surrounding uses. If this evidence is relied on in satisfying any approval criteria, a condition shall be imposed to guarantee the performance of the actions specified.

**11.15.7070 Conditions**

(A) The proposal provides a plan for the reclamation of the site, in compliance with MCC .7965(D). The implementation of the reclamation plan shall be funded by a trust fund deemed sufficient by the Approval Authority.

(B) Approval for all phases of the proposed landfill must be received from all governmental agencies having jurisdiction over sanitary landfills. Such agencies shall be consulted by Multnomah County for the setting and enforcement of permit conditions. Preliminary approval from DEQ is necessary prior to County approval. Final DEQ approval is required prior to the construction and operation of the landfill.

(C) METRO or its franchisee shall provide annual reports, within 90 days of each anniversary of approval date, to the County, describing the landfill operation and compliance with permit conditions.

(D) Other conditions of approval shall be specified in the decision and shall be reasonably imposed to insure compliance with the pur-

poses and criteria of these provisions, and in the public interest.

### 11.15.7072 Limitations on Application of Ordinance

MCC .7045 through .7072 shall not be applied to any proposed regional or other sanitary landfill site which has previously been the subject of an application for a community service designation as a regional or other sanitary landfill. Such proposal shall be considered under the Multnomah County Ordinance provisions applicable to such landfills which were in effect at the time of the initial application.