

Ordinance No. 1050

Telecommunications

The Athena City council finds that the enactment of development regulations prohibiting the placement, construction or modification of wireless communication facilities (a/k/a personal wireless service facilities) in residential zones and establishing conditions upon their placement in other zones of the City of Athena is necessary and appropriate to effectuate the goals and objectives of the Comprehensive Plan.

The mission of residential neighborhoods reflects the City's desire to protect the character of residential areas.

Section 1: The Land Use Element recognizes that efforts need to be made to minimize the impact of above ground utilities which may create unsightly conditions and conflict with the natural environment.

NOW THEREFORE, City of Athena Oregon ordains as follows:

The City's policy is to:

- A.** Coordinate with the private Utilities or any public or municipal Utility Districts in the planning of major new transmission or distribution facilities. Provide screening standards to protect neighborhood aesthetics as well as allowing for the timely and cost effective extension of utilities.
- B.** Work with utility companies or districts to minimize disturbance to vegetation, neighborhood character, and surrounding aesthetics when maintaining or expanding facilities. Support programs to achieve a balance between the efficient provision of needed utilities and environmental quality.
- C.** Require buffers with attractive landscapes between commercial activities and adjacent streets and residential areas.

Section 2: The Athena City Council hereby used as a reference the Athena Comprehensive Plan of 1995 in establishing this ordinance. The Athena City Council expects all future revisions to the Comprehensive Plan will consider this ordinance.

Section 3: The Athena City Council finds that there are no significant gaps in the ability of remote users of personal wireless services to access the national telephone network in the City of Athena, that prohibiting the placement, construction or modification of wireless communication facilities (a/k/a personal wireless service facilities) in residential zones and establishing conditions upon their placement in other zones of the City of Athena do not unreasonably discriminate among providers of functionally equivalent services, and that any service area gaps may be filled by placing, constructing or modifying wireless communication facilities (a/k/a personal wireless service facilities) in industrial zones and under the current development regulations, placing, constructing or modifying wireless communication facilities (a/k/a personal wireless service facilities) in commercial/residence zones under a conditional use process, or co-locating with existing facilities.

- A. Most commercial uses, because they are incompatible with other development in such zones. Wireless communication facilities (a/k/a personal wireless service facilities) are principally placed, constructed, or modified for commercial uses.
- B. Cellular service is currently available throughout the City of Athena.
- C. There are currently a variety of cellular service providers which provide services throughout the City of Athena which do not have wireless communication facilities (a/k/a personal wireless service facilities) located in low density single family residential, commercial or industrial zones.
- D. There are limited properties throughout the City of Athena which are zoned commercial and industrial by the Official Zoning Map for the City of Athena adopted by City Council which are available for the placement, construction or modification of wireless communication facilities (a/k/a personal wireless service facilities).

Section 4: PURPOSE

- A. The purpose of this Chapter is to establish appropriate locations, site development standards, and permit requirements to allow for wireless communications services to the residents of the City, in a manner which will facilitate the location of various types of wireless communication facilities in permitted locations so that they are consistent with the character of the City in general and the land use zones within which they are located.
- B. In addition to implementing the general purposes of the Comprehensive Plan and development regulations, this Chapter addresses the issues of appearance and safety associated with antenna support structures, alternative antenna support structures, wireless communication facilities, amateur radio towers, telecommunications monopoles, satellite dish antennas, and related equipment. It provides adequate sitting opportunities at appropriate locations within the City to support existing communications technologies and to encourage new technologies as needed for Athena businesses and institutions to stay competitive.
- C. A wide range of locations and options for the provision of wireless technology which minimize safety hazards and visual impacts sometimes associated with wireless communication facilities are provided. The sitting of facilities on existing buildings or structures, collocation of telecommunication facilities, and visual mitigation tactics are encouraged to preserve neighborhood aesthetics and reduce visual clutter in the community. This Chapter, together with the provisions of the Uniform Building Code, the Electrical Code, and the Athena Municipal Code, is also intended to protect the public rights-of-way from excessive invasion and disruption and to permit wireless communications service provider's reasonable use of such rights-of-way for the purpose of providing wireless and wired communications services.

Section 5: DEFINITIONS:

Alternative Antenna Support Structures: Includes flat roofs of buildings that are 30 feet or more in height above the street grade upon which such buildings front, bell towers, clock towers, water towers, church steeples, street light standards, traffic light and traffic sign structures, bill boards and commercial signs, and other man-made structures and devices that extend vertically from the ground to a sufficient height or elevation to accommodate the attachment of antennas at an

altitude or elevation that is commercially desirable for wireless communications signal transmission and reception.

Antenna: Means a specific device the surface of which is used to receive or capture incoming and/or to transmit outgoing radio-frequency (RF) signals, microwave signals, or other communications energy transmitted from or to be received by other antennas. Antennas regulated by this Chapter include the following:

1. **Omni-directional** (or “whip”) antennas, designed to receive and/or transmit signals in a 360° pattern, up to 20 feet in height or length, and up to approximately 5 inches in diameter;
2. **Directional** (or “panel”) antennas, designed to receive and/or transmit signals in a directional pattern which is less than 360°, typically an arc of approximately 120°.

Parabolic (or “dish”) Antennas: Generally bowl-shaped devices that are designed to receive and/or transmit signals in an approximate specific direction.

Ancillary Antennas: Designed primarily to receive and transmit signals described as “personal wireless communications services”, including global positioning satellite (GPS) data, “Personal Communications Service” (“PCS”) technology, and “pagers”;

Antenna Array: Two or more devices used for the transmission or reception of radio frequency (RF) signals, microwave or other signals for commercial communications purposes and may include omni-directional antennas (whip), directional antennas (panel), parabolic (dish) antennas and ancillary antennas. Two or more antennas situated or mounted upon or attached to a single platform or mounting structure which is affixed or attached to the top of an antenna support structure or mid-way thereon, or to an alternative antenna support structure, including the roof of a flat-roofed building are included in the definition of antenna array.

Antenna Support Structure: A structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennas at a height, altitude, or elevation which is significantly above the base of such structure; antenna support structures include the following:

1. **Lattice Tower** which is a vertical support structure consisting of a network of crossed metal braces, forming a tower which may be three, four, or more sided;
2. **Monopole Tower** which is a vertical support structure consisting of a single vertical metal, concrete or wooden pole, typically round or square, and driven into the ground or attached to a foundation.

Attached Antenna: *A wireless communication antenna which is fixed to an Alternative Antenna Support Structure.*

Co-location: The use of a single antenna support structure, alternative antenna support structure, or an underground conduit or duct, by more than one wireless communications service provider to accommodate wireless communications facilities of two or more wireless communications service providers.

Equipment Enclosure: A small structure, shelter, cabinet, box or vault designed for and used to house and protect the electronic equipment necessary and/or desirable for processing wireless communications signals and data, including any provisions for air conditioning, ventilation, or auxiliary electricity generators.

Microcell: A wireless communications facility consisting of antenna that is either:

1. Four (4) feet in height and with an area of not more than five hundred eighty square inches, or
2. A tubular antenna, no more than four (4) inches in diameter and no more than six feet in length. (As defined in 1996 for SEPA exemption in HB2828)

Satellite Dish:

1. Small: A small satellite dish is one with a diameter of one meter or less in all zoning districts except commercial and industrial zones, and two meters or less in commercial and industrial zones.
2. Large: A large satellite dish is one with a diameter of greater than one meter in all zones except commercial and industrial zones, and greater than two meters in commercial and industrial zones.

Wireless Communications Facility: An un-staffed facility for the transmission and/or reception of radio frequency (RF), microwave or other signals for commercial communications purposes, typically consisting of an equipment enclosure, an antenna support structure or an alternative antenna support structure, and one or more antennas.

Wireless Communications Service: Providing or offering for rent, sale, lease, or in exchange for other consideration, of the transmittal and reception of voice, data, image, graphic, and other information by the use of wireless communications facilities; this term includes any personal wireless services as defined in the Telecommunications Act of 1996, which includes, *but is not limited to*, FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed.

Wireless communications Service Provider: Every person who provides wireless telecommunications service, for rent, sale, lease, or in exchange for other consideration, through the use of wireless communications facilities, whether or not such facilities are owned by or under the control of such person.

Section 7: Athena Zoning Ordinance 432 is hereby amended as follows:

PERMITS AND EXEMPTIONS

- A. Permits Required: Development Authorizations are required for all wireless communications facilities except for small satellite dishes.
- B. Structural Permits: Building permits and mechanical permits are required for all wireless communications facilities unless specifically exempted under subsection C. Exemptions.
- C. Exemptions: The following antennas shall be exempt from permit requirements:
 1. VHF and UHF receive-only television antennas: VHF and UHF receive-only antennas shall not be required to obtain Development Authorization or a building permit. VHF/UHF antennas shall be restricted to a height limit of no more than 15 feet above the existing or proposed roof.
 2. Small satellite dishes.

Section 8: Athena Zoning Ordinance 432 is hereby added as follows:

PERMIT APPLICATIONS

Any wireless communications service provider wishing to receive authorizations and permits to develop and operate a wireless communications facility in the City of Athena shall submit an application package to City Council that contains the following information:

- A. A Development Authorization Application signed by the property owner.

- B.** Name, address, contact person and contact information for the entity seeking authorization and permits, including copies of all current licenses and authorizations required to provide wireless communications services in the City of Athena.
- C.** Complete description, including technical diagrams and specifications, photos, depictions and plans of the proposed wireless communications facility or facilities, and a complete description of the services to be provided by such facilities.
- D.** A site map depicting the location of the proposed facility and drawings or renderings depicting the antenna support structure or alternative antenna support structure and its appearance from street level from north, south, east, and west perspectives. The drawings should be produced with the purpose of showing the proposed facility from adjacent and nearby properties as it will appear when completed, including any proposed features to conceal, camouflage, or visually blend the proposed facility into its surroundings.
- E.** A complete discussion of the following:
 - 1.** Why the applicant selected the proposed site, including technical analysis, which explains why other sites are not satisfactory for the proposed facility.
 - 2.** If the applicant is proposing a site with no other wireless communications facilities present, explain why co-location is not technically feasible, or is otherwise unsuitable.
 - 3.** A comparison of the service to be provided by the proposed facility with other like or similar services provided in the city, including service features, coverage patterns of wireless signals, plans for new or added services, potential interference with other like or similar services or with radio transmissions for emergency services, and related service issues; and
 - 4.** A description of technologies and their availability to conceal, camouflage, or visually blend the proposed facility into its surroundings, and an explanation why certain technologies were selected or not selected as part of the proposed facility.
- F.** The application fees in immediately available funds required.
- G.** Such other information and materials that may be required.

Section 9: Athena Zoning Ordinance 432 is hereby added as follows:

PERMIT FEES

- A.** Application fees for Wireless Communication Facilities which include construction of antenna support structures or placement on alternative antenna support structures are set by Council and may include the following:
 - 1.** Development Authorization Application Fee
 - 2.** Wireless Communication Facility Application Fee
 - 3.** Conditional Use Permit Application Fee
 - 4.** Building/Mechanical Permit Fee: Based on value of project
 - 5.** SEPA Checklist Fee
- B.** Application fees for co-location of antennas on existing antenna support structures are set by Council:
 - 1.** Application Fee
- C.** Application fees for large satellite dish antennas and amateur radio towers are set by Council.

Section 10: Athena Zoning Ordinance 432 is hereby amended as follows:

GENERAL SITING CRITERIA

- A. The Permitted Land Uses in Ordinance 432 identifies the zoning districts. The development standards in Ordinance 432 address setback and other site specific factors. The siting criteria follows facilities use and apply to wireless communication facilities and related structures and are necessary to encourage the siting of those facilities in locations more appropriate based on land use compatibility, neighborhood characteristics, and aesthetic considerations.
- B. Collocation on existing antenna support structures or alternative antenna support structures is required if technically feasible and otherwise suitable for the proposed wireless communication services. Further, attachment of antennas to existing nonresidential structures and buildings primarily within industrial and commercial zoning districts is preferable to additional antenna support structures. The City may request feasibility studies associated with applications for telecommunication facilities which demonstrate that locations on existing structures have been explored as the preferred siting alternative. The cost of such studies shall be the responsibility of the applicant.
- C. The following sites shall be considered by applicants as the preferred order for location of proposed wireless facilities including antennas, equipment, and equipment shelters. As determined feasible, and in order of preference, the sites are:
 - 1. Existing antenna support structures and alternative antenna support structures: On any existing site or tower where a legal wireless telecommunication facility is currently located.
 - 2. Industrial Zoned Sites: Structures or sites used exclusively for Industrial purposes. These are areas of more intensive land uses where a full range of public facilities are expected.
 - 3. Publicly-Used Structures: Attached to or next to existing public facilities such as water towers, utility structures, fire stations, bridges, and other public buildings within commercial zoning.
 - 4. Commercial Zoned Sites: Structures or sites used exclusively for manufacturing, commercial and office uses. These are areas of more intensive land uses where a full range of public facilities are expected.
 - 5. The City may retain various experts to review application materials submitted by an applicant, and to provide technical and other advice to the City in considering issuance of requested authorizations and permits. Topics on which the City may retain experts include, but are not limited to, collocation, visual screening or buffering of proposed facilities, radio signal coverage and the feasibility of providing the proposed services and comparison of the proposed services with existing or reasonably foreseeable services with like or similar features, and potential signal interference with other like or similar services or with radio communication systems for emergency services and related services, and similar wireless communication service issues.

If the City retains one or more experts on one or more topics related to an application package, the City shall develop a scope of work for each expert. This scope of work shall be made available to the applicant for a period of ten (10) days for review and comment. After ten (10) days, and after review

of any input received from the applicant, the City may retain the expert(s) to perform the scope of work as finally determined by the City. The cost of all experts retained by the City under this subsection shall be the responsibility of the applicant, and shall be paid in advance. The City shall refund any amount paid by the applicant in excess of the actual amount due. The applicant shall pay any amount owed in excess of the original amount. The City shall make available to the applicant all written reports and data produced under the scope of work, unless there is an applicable legal privilege or restriction on sharing such information with the applicant.

Section 11: City of Athena Zoning Ordinance 432 is hereby added as follows:

SITING NEAR RESIDENTIALLY ZONED PROPERTY

Wireless communication facilities and related structures shall be located not less than 100 feet from any nearby residentially zoned property (measured from the facility to the property line of each nearby residentially zoned property).

Section 12: City of Athena Zoning Ordinance 432 is hereby amended as follows:

LARGE SATELLITE DISH ANTENNAS – DEVELOPMENT STANDARDS

- A.** Standards for all Zoning Districts: The following standards shall be applied to all proposed large satellite dish antennas.
1. Satellite dish antennas reviewed under this Section shall not be located within any front yard, or side yard building setback areas.
 2. Mountings and satellite dishes should be no taller than the minimum required for the purposes of obtaining an obstruction-free reception window. The city may require an independent analysis to verify compliance with this provision. The cost of such studies shall be the responsibility of the applicant.
 3. To the extent technically feasible, specific paint colors may be required to allow the large satellite dish and mounting structures to blend better with its setting.
 4. Screening of all large satellite dish antennas shall be provided with one or a combination of the following methods: fencing, walls, landscaping, structures, or topography which will block the view of the antennas as much as practicable from any street and from the yards and main floor living areas of residential properties within approximately 500 feet. Screening may be located anywhere between the antennas and the above mentioned viewpoints. Landscaping for the purposes of screening shall be maintained in healthy condition.
 5. No satellite dish antennas shall be used for the purposes of signage or message display of any kind.
 6. Construction plans and final construction of the mounting bases of all large satellite dish antennas require a building permit.
 7. Aluminum mesh dishes should be used whenever possible instead of a solid fiberglass type.
- B.** Additional Standards in Residential Zones – Large Satellite Dish Antennas
1. Only one large dish satellite antennas shall be allowed on each property.
 2. Large satellite dish antennas shall not be mounted on roofs.

3. Large satellite dish antennas shall not exceed 12 feet in diameter and 15 feet in height, including their bases. Height shall be measured from existing grade.
 4. A visual screen (90 percent solid or more) shall be provided as high as the center of the dish when viewed from off the site. Above the center of the dish, the screening should be 50 percent or more to the top of the antennas when viewed from off the site. Evergreen plants shall be used to accomplish year-round screening, and shall be large enough at installation to meet appropriate screening standards.
- C. Additional Standards in Commercial and Industrial Zones – Large Satellite Dish Antennas
- Large Satellite Dish Antennas may be either roof-mounted or ground-mounted.
1. Ground-mounted:
 - a. Ground-mounted antennas shall not exceed 12 feet in diameter and 15 feet in height. Height shall be measured from existing grade.
 - b. Ground-mounted antennas shall be located outside of any required landscaped area and preferably located in service areas or other less visible locations.
 - c. From the time of installation, ground-mounted antennas shall be solidly screened (90% or more) as high as the center of the dish when viewed from off the site. Solid screening shall be provided as high as the dish if the proposed location abuts an adjoining residential zone.
 2. Roof-mounted:
 - a. Roof-mounted large satellite antennas shall not exceed 12 feet in diameter and 15 feet in height, including their bases. Height shall be measured from the roof line.
 - b. Roof-mounted antennas should be placed as close to the center of the roof as possible. If the dish is still visible from any point within approximately 500 feet as viewed from ground level, additional screening shall be required to supplement the screening provided by the roof itself. If the dish is not visible from 500 feet or less, no additional screening will be necessary.
 - c. Roof-mounted antennas shall be solidly screened at least as high as the center of the dish. The screening shall be of a material and design compatible with the building, and can include penthouse screening, parapet walls, or other similar screening.

Section 13: City of Athena Zoning Ordinance 432 is hereby amended as follows:

AMATEUR RADIO TOWERS-DEVELOPMENT STANDARDS

- A. Standards for all Zoning Districts
1. Amateur radio towers reviewed under this Section shall not be located within any easements, the front yard, or side or rear yard building setback areas.
 2. Mountings and amateur radio towers should be no taller than the minimum required for the purposes of obtaining an obstruction-free reception window.
 3. To the extent technically feasible and in compliance with safety regulations, specific paint colors may be required to allow the tower to blend better with its setting.

4. Screening of the bases of ground-mounted amateur radio towers shall be provided with one or a combination of the following methods: fencing, walls, landscaping, structures, or topography which will block the view of the antennas as much as practicable from any street and from the yards and main floor living areas of residential properties within approximately 500 feet. Screening may be located anywhere between the base and the above mentioned viewpoints. Landscaping for the purposes of screening shall be maintained in a healthy condition. Bases of amateur radio towers shall be solidly screened by a view-obscuring fence, wall, or evergreen plantings at least six feet (6') in height.
5. Amateur radio towers shall not be used for the purposes of signage and shall not display of any kind.
6. Construction plans and final construction of the mounting bases of amateur radio towers covered by this Section shall meet the structural design requirements of this Section and shall have a Building Permit.
7. Amateur radio towers may be ground or roof-mounted; however, ground-mounted towers must be located at a point farthest from lot lines as feasible.
8. Amateur radio towers shall not be used, nor shall they be intended for use, for the placement, construction, or modification of wireless communication facilities.
9. Amateur radio towers shall not be used, nor shall they be intended for use, to provide or offer wireless communication services for rent, sale, and lease or in exchange for other consideration.
10. Towers shall not be constructed or used for commercial use.
11. The height of a ground-mounted tower may not exceed 65 feet unless a proposal demonstrates that physical obstructions impair the adequate use of the tower. Telescoping towers may exceed the 65 foot height limit only when extended and operating. The combined structure of a roof-mounted tower and antennas shall not exceed a height of 25 feet above the existing roofline.
12. Towers shall be located in what would customarily be considered the yard of the residence. Placement shall avoid, to the extent possible, using land that is available for crops, pasturage or other agricultural use.
13. Towers shall be located at a point farthest from lot lines as feasible, or the point farthest from residential structures on abutting properties.
14. In residential zones, the base of a ground-mounted tower shall be screened with fencing, walls, landscaping, or other means such that the view of the antennas base is blocked as much as practicable from any street and from the yards and main living floor areas of surrounding residential properties. The screening may be located anywhere between the antennas and the above mentioned viewpoints. Landscaping that qualifies for the purpose of screening shall be maintained in a healthy condition.
15. Applications shall document that the proposed tower and any mounting bases are designed to withstand wind and seismic loads as established by the Uniform Building Code.

Section 14: City of Athena Zoning Ordinance 432 is hereby amended as follows:

SUPPORT STRUCTURES AND ANTENNAS – DEVELOPMENT STANDARDS

- A. Development Standards for all Zoning Districts
 1. The applicant shall demonstrate that the proposed location was selected pursuant to the sitting criteria. Placement of an antenna support structure shall be denied if the antenna support needs can be met by co-location on

an existing antenna support structure or by mounting on an alternative antenna support structure which already supports an attached antenna. Applications shall be required to provide documentation that comprehensive efforts to identify alternative locations were made.

2. Owners and operators of a proposed antenna support structure shall provide information regarding the opportunity for the collocation of other antennas. If feasible, provision for future collocation may be required.
3. Antenna support structures reviewed under this Section shall not be located within any required building setback areas.
4. Antenna support structures and attached antennas shall not be used for the purposes of signage to display a message of any kind.
5. Applications for antenna support structures or mounting attached antennas upon an alternative antenna support structure shall include one or more proposals on how industry-recognized concealment technology can be employed to mitigate the visual effects of the antenna and antenna support structure. It is expected that the structures and vegetation surrounding the proposed location will be taken into account so that appropriate site-specific concealment alternatives can be analyzed.
6. Any fencing required for security shall meet screening standards.
7. An Oregon licensed professional engineer shall certify in writing, over his or her seal, that both construction plans and final construction of the antenna support structure of alternative antenna support structure upon which attached antennas may be mounted are designed to reasonably withstand wind and seismic loads as established by the Uniform Building Code.
8. All antenna support structures and attached antennas shall be removed by the facility owner within 12 months of the date it ceases to be operational, or if the facility falls into disrepair and is not maintained. Disrepair includes structural features, paint, landscaping, or general lack of maintenance which could result in safety or visual impacts.
9. Antenna support structures and mounting attached antennas upon alternative antenna support structures may be conditioned to allow review for continued use at five year intervals. Rapid technological advancements, changing markets, and regulatory interpretations indicate the need to periodically review the appropriate design of antenna support structures and mounting attached antennas upon alternative antenna support structures.
10. Attached antennas shall not dominate the appearance of a structure.
11. Antenna support structures and attached antennas shall be located at a point farthest from lot lines as feasible.
12. The base of a ground-mounted antenna support structures shall be screened with fencing, walls, landscaping, or other means such that the view of the antennas base is blocked as much as practicable from any street and from the yards and main living floor areas of surrounding residential properties. The screening may be located anywhere between the antennas and the above mentioned viewpoints. Landscaping that qualifies for the purpose of screening shall be maintained in a healthy condition.

B. Development Standards for Downtown Districts:

1. Antenna placements in these districts shall utilize alternative antenna support structures. The antenna(s) shall extend no farther than 15 feet

above the roof and shall be placed as far back from the building perimeter as is feasible.

2. New antenna support structures shall be permitted in these districts only after approval of a special exception application.
- C. Height Limitations: The following height limitations apply to antenna support structures including the antennas mounted thereon:
1. Properties designated Downtown in business district zone have a maximum height of 15 feet above the building upon which the antenna is mounted.
 2. Properties zoned Industrial and Commercial have a maximum height of 150 feet.
 3. Properties used as Public facilities but not to exceed a maximum height of 150 feet.
 4. Properties in zones other than those designated, the combined antenna support structure and antennas shall not extend more than 15 feet above the maximum building height allowed for the property in the zone for which it is proposed.

Section 15: City of Athena Zoning Ordinance 432 is hereby amended as follows:

WIRELESS COMMUNICATIONS FACILITIES – DEVELOPMENT STANDARDS

- A. Development Standards for all Zoning Districts. The following standards shall be applied to all wireless equipment, such as antennas and equipment shelters, exclusive of the antenna support structure.
1. No wireless equipment reviewed under this Section shall be located within any conflicting easements or required building setback areas.
 2. Antennas mounted on alternative antenna support structures shall not extend more than 15 feet above the existing or proposed roof structure.
 3. No wireless equipment shall be used for the purposes of signage or message display of any kind.
 4. Location of wireless communication antennas on existing buildings shall be screened or camouflaged to the greatest practicable extent by use of shelters, compatible materials, location, color, and/or other stealth tactics to reduce visibility of the antennas as viewed from any street or residential property.
 5. Screening of wireless equipment shall be provided with one or a combination of the following materials: fencing, walls, landscaping, structures, or topography which will block the view of the antennas and equipment shelter as much as practicable from any street and from the yards and main floor living areas of residential properties within approximately 500 feet. Screening may be located anywhere between the base and the above mentioned viewpoints. Landscaping for the purposes of screening shall be maintained in a healthy condition.
 6. Any fencing required for security shall meet screening standards.
 7. Construction plans and final construction of the mountings of wireless antennas and equipment shelters shall be approved by the City's Building Division prior to any construction or site preparation. Applications shall document that the proposed structure and any mounting bases are designed to reasonably withstand wind and seismic loads.
 8. A wireless communication facility shall be removed by the facility owner within 12 months of the date it ceases to be operational or if the facility

falls into disrepair and is not maintained. Disrepair includes structural features, paint, landscaping, or general lack of maintenance which could result in safety or visual impacts.

9. The antennas shall not dominate the structure upon which it is attached and shall be visually concealed utilizing color and compatible material to camouflage the facility to the greatest extent feasible.
10. Except as otherwise provided herein solely in Commercial and Industrial Zones, associated above ground equipment shelters shall be minimized, and shall not exceed 240 square feet (e.g. 12' x 20'), shelters shall be painted a color that matches existing structures or the surrounding landscape a visual screen shall be created around the perimeter of the shelter, and operators shall consider under-grounding equipment if technically feasible or placing the equipment within existing structures.

B. Additional Development Standards in Commercial and Industrial Zones-Wireless Communications Facilities

1. Associated above-ground equipment shelters shall not exceed 240 square feet (e.g. 12' x 20') unless operators can demonstrate that more space is needed. Operators shall consider under-grounding equipment if technically feasible or placing the equipment within an existing structure. Above ground equipment shelters for antennas located on buildings shall be located within, on the sides or behind the buildings and screened to the fullest extent possible. Screening of exterior shelters shall provide colors and materials which blend with surrounding structures.

Section 16: City of Athena Zoning Ordinance 432 is hereby added as follows:

REMOVAL OF WIRELESS COMMUNICATION FACILITIES

A. Provider to give notice of abandonment or discontinuance of service:

1. No less than 30 days prior to the date that a wireless service provider plans to abandon or discontinue operation of a wireless communication facility or any significant component thereof, the provider must notify the city by certified U.S. mail of the proposed date of abandonment of a facility or discontinuance of operation of such facility.
2. Failure of a service provider to give such notice will constitute grounds for the city to declare the Development Authorization for the site to be suspended, thereby placing the facility in violation of this code.

B. Discontinued service or abandonment of site: Removal required:

1. Any wireless telecommunication facility which is abandoned and/or which does not provide service for a least four months in any running six month period is declared to be in violation of its Development Authorization in that it is not meeting its conditions of approval.
2. A facility which is abandoned or discontinued shall be removed within 90 days of said abandonment or discontinuation of service. Any facility which is not timely removed in accordance with this subsection is declared to be a public nuisance.

C. Disrepair, Hazard, Nuisance, Improper Maintenance: Abatement Required:

1. When the city determines that a wireless communication facility or any significant component thereof is in a state of disrepair, presents a safety hazard to the public, constitutes a public nuisance due to disrepair or improper maintenance, or is otherwise not properly maintained, the city

shall notify the owner of the facility of such concern by certified mail. Such notice shall specify the problems and the expected resolution.

2. By certified mail, the facility owner shall specify the actions which will be undertaken to rectify the problems with the site. The city may accept or modify the proposed actions as it determines necessary. Such actions shall be completed within 60 days of the original date of notice provided in item 1 above.
3. Failure to complete work specified by the city shall constitute a violation and penalties set by City Council.

D. Responsible Parties Determined and Responsibility Assigned:

1. The owner of the telecommunications facility, the lessee of the property upon which the facility is located (if different from the owner of the facility), and the owner of the property (if different from the owner of the facility and/or the holder of the lease) are individually, jointly, and severally responsible for removal of the facility as described in item B above.
2. Should the responsible parties fail to remove a facility or component thereof, or resolve maintenance issues, as directed by the city pursuant to this Section, the city may remove the facility at the expense of the responsible parties.
3. The city may pursue recovery of costs for its actions from any and all responsible parties through any means available in courts of competent jurisdiction.

Section 17: City of Athena Zoning Ordinance 432 is hereby amended as follows:

SPECIAL EXCEPTIONS

When adherence to all development standards of this Section would result in a physical barrier which would block signal reception or transmission or prevent effective communication in all permissible locations, a Special Exception may be permitted provided both criteria outlined below are met. Exceptions do not apply to variations from the Uniform Building Code.

The final approval authority for granting of the Special Exception shall be the same as that of the permit approving the antenna location. A request for a Special Exception shall be processed in conjunction with the permit approving the antenna location and shall not require any additional application or fees.

Upon review of Special Exception requests, the approval authority shall consider first those standards having the least effect upon the resulting aesthetic compatibility of the antennas or tower with the surrounding environment. The approval authority shall review setback, size, screening requirements, and height limits.

A. Special Exception Criteria

1. The applicant shall justify the request for a Special Exception by demonstrating that the obstruction or inability to receive a communication signal is the result of factors beyond the property owner's or applicant's control, taking into consideration potential permitted development on adjacent and neighboring lots with regard to future reception window obstruction. Pictures, drawings (to scale), maps and/or manufacturer's specifications, and other technical information as necessary, should be provided to demonstrate to the City that the Special Exception is necessary.

2. The applicant for a Special Exception shall demonstrate that the proposed materials, shape, and color of the antennas will minimize negative visual impacts on adjacent or nearby residential uses to the greatest extent possible. The use of certain materials, shapes and colors may be required in order to minimize visual impacts.

B. Large Satellite Dish Antenna: Residential Zones – Special Exceptions

1. Modifications to requirements for setbacks, size, and screening and maximum height limit may be considered by Special Exception. If a Special Exception from the height limit for a ground-mounted dish is required, the height of the dish shall be limited to a maximum of 18 feet.
2. Only if these modifications would still block an electromagnetic signal, shall rooftop location be considered. If a Special Exception is sought to obtain a rooftop location, the diameter of the dish shall be limited to six feet and maximum permitted height shall be 15 feet above the roof line. The approval authority may require the applicant to place the antennas in an area on the roof which takes into consideration view blockage and aesthetics, provided there is a usable signal.

C. Large Satellite Dish Antenna: Commercial and Industrial Zones

1. Ground-mounted antennas. Exceptions to be first considered shall be from setback, landscape and service area requirement, size and screening requirements. Only if these waived regulations would still block an electromagnetic signal, shall a Special Exception from height requirements be considered. If a Special Exception is sought to vary from the height limit, the height of the dish shall be limited to a maximum of 20 feet.
2. Roof-mounted antennas. The first exception to be considered shall be the center of roof requirement; the second exception shall be from the size, and screening requirements, respectively. Only if these waived regulations would still result in a block of the signal shall a Special Exception from height requirements be considered. A Special Exception from the height limit shall be allowed up to a maximum of 20 feet above the existing or proposed structure. The approval authority may require the applicant to place the antennas in an area on the roof which takes into consideration view blockage and aesthetics, provided there is a usable signal and structural considerations allow the alternative placement.

D. Wireless Communication Facilities and related structure; Residential Zones – Special Exceptions Process

The Special Exception process shall be permitted to be used to place, construct, or modify wireless communication facilities or related structures in residential zones under an approved conditional use permit.

E. Antenna Support Structures; Commercial, Public Reserve, and Industrial Zones – Special Exceptions

1. An applicant of a proposed antenna support structure that exceeds height limits shall be required to apply for a Conditional Use Permit under provisions of Chapter 20.216.

Section 18: City of Athena Zoning Ordinance 432 is hereby added as follows:

WIRELESS COMMUNICATION FACILITIES AND RELATED STRUCTURES PROHIBITED IN RESIDENTIAL ZONES.

Wireless communications facilities, antenna support structures, and all related structures are prohibited on properties zoned low density single family residential (R-96), medium density single family residential (R-72), high density single family residential (R-60), or multi-family residential (RM). No structure located upon a property zoned low density single family

residential (R-96), medium density single family residential (R-72), height density single family residential (R-60), or multi-family residential (RM) may be used as an alternative support structure. This section shall not preclude co-location of facilities upon existing legally located antenna support structures or existing legally located attached antennas; provided that such co-location does not materially change the existing use or materially expand the size of the facilities at that location.

Section 19: The Athena City Council finds that there is substantial evidence contained in a written record supporting adoption of this ordinance.

- A. The Athena City Council takes official notice of Ordinance 432 passed in 1995.
- B. A DECLARATION RE: WRITTEN RECORD regarding *PROPOSED* Athena Ordinance 432 was submitted and made part of the record supporting adoption of this ordinance and considered by the Athena City Council prior to its passage of this amendment.
- C. A map showing the zoning of properties throughout the City of Athena and location of existing cellular towers was submitted and made part of the record supporting adoption of this ordinance and considered by the Athena City Council prior to its passage of this ordinance.
- D. There are no cellular towers within the city limits of Athena prior to its passage of this ordinance.

Section 20: The indexes to each chapter of Athena Ordinance 432 shall be amended to conform to amendments made by this ordinance.

Section 21: Upon this ordinance becoming effective, Athena Ordinance 432 is amended.

Section 22: This ordinance shall take effect 30 days after passage and available at the Athena City Recorder's Office.

Section 23: If any part of this ordinance is for any reason declared or held to be invalid or unconstitutional by any court of competent jurisdiction, such part shall be deemed a separate and distinct and independent provision and such holding shall not affect the validity of the remaining parts hereof.

- A. If the prohibition against locating wireless communication facilities (a/k/a personal wireless service facilities) and related structures in residential zones is for any reason declared or held to be invalid or unconstitutional by any court of competent jurisdiction, the placement, construction, and modification of such facilities and related structures shall be subject to a review and the conditional use process.

PASSED by the City Council of the City of Athena, Oregon, on July 31, 2003.

Mayor

Attest:

City Recorder/Treasurer

Approved as to Form:

City Attorney