

Chapter 17.42 WIRELESS TELECOMMUNICATION TOWERS, ANTENNAS AND FACILITIES

17.42.005 [In general.]

The regulations of this chapter are intended to provide for the growing need for telecommunications towers, antennas and facilities while minimizing any adverse environmental, aesthetic and visual impacts through careful design, siting and landscape screening; to promote and encourage shared use (co-location) of existing and new towers and sites; to avoid potential damage to adjacent properties; to protect the health, safety and welfare of the general public; and to preserve the character of residential ~~districts~~ zones through judicious permitting of towers.

(Ord. No. 527, § 1, 6-14-2022)

17.42.010 Permit required—Application.

- A. No person, company, corporation or business entity of any kind shall erect any telecommunication facility, tower or accessory building of any kind or alter any such use without first obtaining a permit, in writing, from the city. Any permit shall expire at the end of one year after issuance unless the permittee has completed the structure or commenced the use authorized by the permit. Each permit is valid for five years from the date of issue and shall thereafter be subject to renewal by the city. Each application for a permit shall contain the following information unless specifically exempted:
1. A site plan drawn to scale and identifying the boundaries of the lot where the tower, accessory structure or facility is to be located and all required yard setbacks; location, type and height of tower or facility; guy anchors; location, use and dimensions of existing and proposed structures and fences; vehicular parking and access; existing vegetation to be retained; topography of the site; adjacent land uses and current zoning;
 2. A copy of the subdivision plat, deed or lease agreement for the site;
 3. A plan drawn to scale showing proposed landscaping, including species type, size and spacing;
 4. Report from a registered professional engineer indicating tower height and design, structure, installation, and total number and types of antennas that could be accommodated;
 5. A notarized verification of compliance signed by both the owner and a registered professional engineer stating that the tower complies with all EIA/TIA 222-E Standards, as amended;
 6. A signed affidavit from the applicant verifying the lack of space on suitable existing towers or other structures to locate the proposed antenna accompanied by supporting documentation as specified in Section 17.42.090 of this chapter;
 7. A letter of intent stating whether the applicant intends to lease excess space on the tower to other potential users at reasonable rates and on reasonable terms. The letter shall commit the tower owner and successors in interest to:
 - a. Negotiate in good faith for shared use by third parties,
 - b. Allow shared use if an applicant agrees in writing to pay reasonable rental charges or other consideration and to pay costs of adapting the tower or existing users' equipment to accommodate a shared user if required by the terms of the agreement,

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- c. Make no more than a reasonable charge for shared use based on generally accepted industry standards;
 - 8. Documentation demonstrating that the proposed site is required to serve the company's planned network in the city;
 - 9. A notarized statement signed by the applicant and owner that the tower and facility will conform with applicable FCC regulations concerning the environmental effects of radiofrequency emissions;
 - 10. A current inventory of the company's existing towers and facilities in the city and within two miles of the city's incorporation boundaries, including information on the height, location, antenna capacity, existing antennas and structural design of each tower;
 - 11. If federal regulations require an environmental assessment (EA), then a copy of the EA shall be submitted as part of the application;
 - 12. If state regulations require a State Environmental Policy Act (SEPA) review, then a copy of the completed SEPA checklist shall be submitted as part of the application.
- B. The City Clerk shall act upon any application for authorization to place, construct or modify telecommunications tower, antenna, or other facilities pursuant to this Code after the application and all required supporting documentation is duly filed, taking into account the nature and scope of such application.
 - C. A decision by the City Clerk to grant or deny an application to place, construct, or modify a telecommunications tower, antenna, or other facility shall be in writing and supported by substantial evidence contained in the record.
 - D. The City Clerk shall issue permits only for those facilities, antennas and towers that meet the requirements of this chapter and are expressly allowed by this chapter. For any permit application that does not meet the requirements of this chapter the applicant must follow the special permit/variance process.
 - E. As a condition of permit approval, the applicant shall submit to the city within eight weeks of project completion, an engineer's report stating the tower and facility meet all FCC conditions and requirements. Failure to submit this required report shall be grounds for revoking the permit.

(Ord. No. 527, § 1, 6-14-2022)

17.42.020 Reserved.

17.42.030 Reserved.

17.42.040 Fees.

Fees for construction and inspection of telecommunication facilities shall be those adopted by the city of Millwood or its designee.

(Ord. No. 527, § 1, 6-14-2022)

17.42.050 Development standards for Type I facilities on existing buildings or other existing support structures.

- A. Type I facilities are not permitted in residential ~~districts~~zones. Type I facilities are permitted on existing buildings or other existing support structures in areas zoned C-1 commercial ~~district~~zone, C-2 low-intensity commercial/mixed use zone, I-1 light industrial ~~district~~zone, and PR-1 public reserve ~~district~~zone subject to the conditions listed in this section.
- B. The Type I facility shall be located on existing buildings or other existing support structures. They shall not be allowed in buildings which are used solely for residential use. The Type I facility may locate on buildings and structures which contain uses mixed with residential uses provided that the interior wall or ceiling immediately adjacent to the facility is not used as residential space.
- C. Antennas equal to or less than four feet in height and with an area of not more than four hundred eighty (480) square inches in the aggregate (e.g., one foot diameter parabola or two foot by one and one-half foot panel as viewed from any one point) are exempt from the height limitation of the zone in which they are located. Existing structures which are nonconforming with respect to height, may be used for omnidirectional antennas providing the antenna does not extend more than four feet above the existing structure. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.
- D. The Type I facility shall not be artificially illuminated except as required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC).
- E. Radio electronic equipment shall be enclosed, and the enclosure shall be located underground, or contained wholly within an existing building or structure, or be surrounded by a chain link fence or a wall and be concealed or camouflaged.
- F. Enclosures and security fences or walls for Type I facilities shall be constructed so as to be compatible with the surrounding structures in their design, materials, textures and colors.
- G. Type I facilities located in C-1 and C-2 commercial /mixed use ~~districts~~zones shall be stealth facilities or concealed antennas. Within the C-2 zone, Type I facilities shall only be located on roofs.
- H. Type I facilities shall comply with all applicable FCC and FAA regulations.
- I. The support structure for the Type I facility shall comply with all applicable building codes and have received appropriate permits.
- J. Type I facilities in the PR-1 public reserve ~~district~~zone shall not include offices, vehicle storage, indoor or outdoor storage, or broadcast studios.
- K. Type I facilities shall not be permitted within the boundaries of any historic district listed in the National Register of Historic Places.

(Ord. No. 527, § 1, 6-14-2022)

17.42.060 Development standards for Type II facilities on existing buildings and other support structures.

- A. Type II facilities are not permitted in residential ~~districts~~zones. Type II facilities are permitted in areas zoned C-1 commercial ~~district~~zone, MI-1 manufacturing ~~district~~light industrial zone, and PR-1 public reserve ~~district~~zone subject to the conditions listed in this section.

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- B. Type II facilities shall not be allowed on buildings which are used solely for residential use. Type II facilities may be situated on buildings and structures which contain uses mixed with residential uses provided that the interior wall or ceiling immediately adjacent to the facility is not used as residential space.
 - C. Type II facilities shall comply with the height limitation specified in the zone in which it is located except as follows: omni-directional antennas may exceed the height limitation by eighteen (18) feet, panel antennas may exceed the height limitation by six feet if affixed to the side of an existing building and if they architecturally blend in with the building. Existing structures which are nonconforming with respect to height, may be used for omni-directional antennas providing the antenna does not exceed eighteen (18) feet above the existing structure. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.
 - D. Type II facilities shall not be artificially illuminated except as required by the FAA or the FCC.
 - E. Radio electronic equipment shall be enclosed, and the enclosure shall be located underground, or contained wholly within an existing building or structure, or be surrounded by a chain link fence or a wall and be concealed or camouflaged.
 - F. Enclosures and security fences or walls of Type II facilities shall be constructed so as to be compatible with the surrounding structures in their design, materials, textures and colors.
 - G. Type II facilities located in C-1 commercial ~~districts-zones~~ shall be stealth facilities or concealed antennas.
 - H. Type II facilities shall comply with all applicable FCC and FAA regulations.
 - I. The support structure for the Type II facilities shall comply with all applicable building codes and have received appropriate permits.
 - J. Type II facilities in the P-I public reserve ~~district-zone~~ shall not include offices, vehicle storage, outdoor storage or broadcast studios.
 - K. Type II facilities shall not be permitted within the boundaries of any historic district listed in the National Register of Historic Places.

(Ord. No. 527, § 1, 6-14-2022)

17.42.070 Development standards for telecommunication towers.

- A. Wireless telecommunication towers are permitted in areas zoned I-1 light industrial ~~district~~ only.
- B. Wireless telecommunication towers shall be designed and built to accommodate the location of two or more wireless communications facilities (co-location). An exception may be made to this requirement if the applicant can provide written documentation that, given the applicable zoning regulations, federal law, engineering requirements, and other relevant codes and requirements placed on the site or structures, installation of a single carrier tower would better serve the goals of the zoning ordinance than would a tower designed to accommodate multiple users.
- C. Any tower that exceeds one hundred twenty (120) feet in height shall require a special permit. Co-location on an existing permitted support structure shall be permitted without an additional special permit, provided there is not substantial change to the existing support structure and the facility otherwise complies with this chapter.
- D. Type II facilities are the largest permitted wireless communication facilities allowed on a tower. Antennas which extend above the wireless communications support structure shall not be calculated as part of the height of a wireless communications support structure. For example, the maximum height for a tower (without a special permit) shall be one hundred twenty (120) feet, making the maximum permitted height of the support structure and antennas one hundred thirty-eight (138) feet (one hundred twenty (120) feet plus

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eighteen (18) feet). Measurement of tower height shall include base pad and other appurtenances and shall be measured from the natural grade of the site.

- E. Towers shall be separated from each other by a distance equal to or greater than one thousand two hundred (1,200) linear feet.
- F. Yard setback requirements for wireless telecommunications towers are as follows:
 - 1. The minimum yard setback for a tower shall be twenty-five (25) percent of the tower height unless a greater yard setback is required by the regulations of the ~~district zone~~ in which the tower is located; however, no tower shall be located closer than two hundred (200) feet to any residential ~~district zone~~ nor closer than a distance equal to the height of the tower to any structure containing a residential use.
 - 2. Towers located on a portion of a larger lot shall not be constructed in any yard which is required by a setback of the larger lot.
 - 3. Tower yard setbacks from the property lines of the lot on which the tower is located shall be measured from the perimeter of the tower base for monopoles and self-supporting towers and from the guy anchors for guyed towers.
 - 4. Guyed towers shall have their guy anchors located on the tower site, and guy wires shall not cross any adjoining property, public rights-of-way or public easements.
 - 5. Yard setbacks shall be sufficient to contain all ice-fall on site, unless adequate provisions have been incorporated to prevent the buildup of ice.
- G. Wireless telecommunication towers shall not be artificially illuminated except as required by the FAA or the FCC. All security lighting must be contained within the fenced area and must not illuminate higher than ten feet.
- H. Towers shall have a galvanized finish or be painted a nonreflective silver, pale blue or gray provided however, any regulation of the FAA or FCC that contradicts this requirement shall govern.
- I. The tower and accessory structures shall be fully secured. A chain link fence or a wall not less than eight feet in height from finished grade shall be provided around each tower and all accessory structures. Access to the tower shall be through a locked gate. Towers without accessory structures may utilize anti-climb devices in place of a fence.
- J. Towers shall meet or exceed the structural requirements as set out in EIA/TIA 222-E "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," as amended, published by the Electronic Industries Association and all applicable city building codes. Any improvements and/or additions (antennas, dishes, etc.) to existing towers shall require that a notarized verification of compliance with the EIA/TIA 222-E Standards, in effect at the time of the improvement or addition, be signed by the owner and a registered professional engineer and be submitted to the City Clerk.
- K. Towers may not be located within two hundred (200) feet of the Spokane River's ordinary high water mark.
- L. No signs shall be allowed on any tower or antenna unless required for safety purposes.
- M. Where the lot on which a tower is to be erected does not meet the minimum lot size requirement of the ~~zoning district zone~~ or does not have frontage on the public street from which it derives access, then building permits shall not be issued for any structures other than telecommunications towers and the unmanned accessory facilities required for that tower's operation. This use restriction must be made a part of any plat or deed describing this lot until such time as the lot comes into compliance with the zoning regulations.
- N. Whenever a tower site does not have frontage on the public street from which it derives access, a permanent, twenty (20) foot wide access easement shall be required.

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- O. A landscape buffer shall be required in all ~~districts-zones~~ and shall effectively screen the view of the fence and accessory structures from public ways and adjacent properties.
1. The buffer shall be installed outside the security fence.
 2. The buffer shall consist of a minimum ten-foot-wide landscaped strip planted with an attractive combination of trees, shrubs, vines and/or groundcovers.
 3. Minimum required plantings include:
 - a. A row of evergreen trees a minimum of eight feet tall when planted placed a maximum of ten feet apart;
 - b. A continuous hedge of evergreen shrubs at least thirty (30) inches high when planted placed in front of the tree line;
 - c. All plant materials shall be xeriscape tolerant.
 4. The owner of the tower shall be responsible for providing and maintaining all landscaping in a healthy and growing condition and replacing unhealthy or dead plants by the beginning of the next growing season with plants that conform to the original intent of these regulations for as long as the tower stands.

(Ord. No. 527, § 1, 6-14-2022)

17.42.080 Amateur radio towers and antennas.

Amateur radio towers and antennas are permitted in any residential ~~district-zones~~ subject to the following conditions:

- A. One tower may be installed in the rear yard only as an accessory structure to a licensed operator's legal residence, and all guy wires and anchors must be contained on the lot and may not extend closer than ten feet to any boundary line of the lot.
- B. The tower and antenna shall not exceed the height limitation of the zone. The applicant shall show that the impact area (that area in all directions from the tower base equal to the tower's/antenna's height above grade) is completely on the operator's property.
- C. Amateur radio towers in residential ~~districts-zones~~ shall be used exclusively for amateur radio antennas.
- D. A building permit must be issued prior to installation of an amateur radio tower.
- E. Amateur radio towers to be located in nonresidential ~~districts-zones~~ must comply with Sections 17.42.010, 17.42.050, 17.42.070 and 17.42.100 of this chapter, as applicable.

(Ord. No. 527, § 1, 6-14-2022)

17.42.090 Co-location.

To minimize the adverse visual, aesthetic and environmental impacts associated with the proliferation of towers, co-location of antennas or facilities by more than one provider on existing or permitted towers shall take precedence over the construction of new towers. Towers shall be designed to maximize shared use to the extent possible for the type of tower proposed without creating structural instability or electromagnetic interference with other antennas on the tower.

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- A. Subject to subsection B of this section, no new tower shall be permitted unless the applicant demonstrates by sufficient documentary evidence that at least one of the following conditions is applicable:
1. No existing towers or suitable structures are located or available within the geographic area required to meet applicant's engineering requirements, and no such towers are under consideration for building permits.
 2. Existing towers or structures are not of sufficient height and cannot be reasonably altered to meet applicant's engineering requirements.
 3. Existing towers or structures do not have sufficient structural strength and cannot be reasonably altered to support applicant's proposed antenna and related equipment.
 4. The proposed antenna would cause electromagnetic interference with existing antenna(s) on the tower or structure, or the existing antenna(s) would cause interference with the proposed antenna and the interference cannot be prevented at a reasonable cost.
 5. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 6. Co-location would have a more detrimental environmental, aesthetic or visual impact on the surrounding area than would construction of a new tower.
- B. Even if an applicant is able to demonstrate the existence of one of the foregoing conditions, a new tower may not be permitted if it is determined by substantial evidence that the proposed location of the tower is not essential to the applicant to provide service in a given geographical area, and the tower would:
1. Interfere with or endanger the use of other telecommunication facilities; or
 2. Endanger persons or property; or
 3. Not be compatible with existing or proposed adjacent development; or
 4. Have a significant environmental, visual or aesthetic impact on the surrounding area.

(Ord. No. 527, § 1, 6-14-2022)

17.42.100 Abandonment.

- A. Any telecommunications tower, antenna or facility that has not been in use for its original telecommunications purpose for a period of one hundred eighty (180) days shall be deemed to be abandoned. The tower owner shall remove the abandoned tower and shall have ninety (90) days to remove an abandoned tower and any accessory structures or to reactivate the tower or to transfer the tower to another owner who shall submit a plan to reactivate it. Removal of abandoned towers and accessory structures shall be at the tower owner's expense. In the event that the tower owner fails to remove the abandoned facility and support structure, the property owner shall be responsible for removal and disposal within ninety (90) days at the property owner's sole expense.
- B. Every tower owner shall provide the City Clerk with a list of all towers owned by them, indicating the date of cessation of operation for any inactive towers, the date of dismantling for removed towers, the date of transfer of towers to other owners or subleases, and a certification that each standing tower is in compliance with Section 17.42.070(J) of this chapter. In addition, every tower owner shall within thirty (30) days of the transfer assignment or sublease of a tower's ownership provide the City Clerk with the date of such transfer.

(Ord. No. 527, § 1, 6-14-2022)

