W. 15. a.

# AGENDA COVER MEMO

**DATE:** January 19, 2005 (date of memo)

October 20, 2004 (1st Reading)
November 3, 2004 (2nd Reading)
February 2, 2005 (3rd Reading)

**TO:** Board of County Commissioners

**DEPT.:** Public Works Department/Land Management Division

**PRESENTED BY:** Steve Hopkins, AICP

**AGENDA ITEM TITLE:**

IN THE MATTER OF AMENDING CHAPTER 16 OF LANE CODE TO REVISE THE APPLICABLE STANDARDS FOR TELECOMMUNICATION FACILITIES (LC 16.264).

**STRATEGIC PLAN:**

This amendment implements the goals of citizen participation and appropriate community development, as identified in the Lane County Strategic Plan.

## I. MOTION

MOVE TO ADOPT THE REVISED ORDINANCE.

## II. ISSUE OR PROBLEM

On November 3, staff presented Ord. No. 17-04 to the Board. After taking public testimony, the Board directed staff to revise the ordinance to resolve 3 issues identified at the hearing. The Board should review the proposed changes to the ordinance and direct staff on how to proceed. There are three options:

- Adopt the ordinance with the proposed changes
- Adopt the ordinance without the changes
- Do not adopt the ordinance. This means LC 16.264 would remain unchanged.

## III. DISCUSSION

### A. Background

The issues identified at the hearing are:

1. A new policy regarding "change outs".
2. The separation distance from new towers and existing dwellings/schools.
3. Peer review.

Staff contacted the 4 people who gave testimony at the hearing. This group met on December 6 and reached consensus regarding issues #1 and #2. The issue of peer review was not resolved. However, according to Ms. Linstromberg, the new 1,200 feet separation standard alleviates much of her concern regarding peer review.

**B. Analysis**

The tower group recommends two changes to Ordinance No. 17-04. The recommendations are explained below.

*Change outs*
This is a new policy that allows the replacement of existing equipment without a landuse application. The new equipment can't increase capacity and it must look similar to the existing equipment. This policy encourages use of the newest technology.

*Separation*
The minimum separation from dwellings or schools is 1200 feet. This is not applicable to schools or dwellings located on the same parcel as the tower. Encroachment is allowed if the encroached homeowners submit written approval of the encroachment. The group also recommends removal of the "imaginary surfaces" height restriction near airports.

*Peer Review*

No consensus was reached on this issue. As written, the ordinance requires an Oregon-registered professional engineer to certify:

1. The proposed facility will comply with the non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC), and
2. The tower is structurally sufficient to support the proposed collocation equipment.

Ms. Linstromberg wants to amend this requirement to have the county hire, at the applicant's expense, a third party engineer to verify these same statements and "review the application for accuracy". Refer to Attachment #6k. The City of Eugene has a similar requirement, but it is used at the discretion of the city manager. Specifically, the city manager may hire a consultant "to verify statements made in conjunction with the permit application, to the extent that verification requires telecommunications expertise."[EC 9.5750(11)] The proposal by Ms. Linstromberg requires this type of third party review for every application. The group remained at an impasse regarding this issue. However, as stated before, Ms. Linstromberg feels the 1,200 feet separation standard alleviates much of her concern regarding peer review.

*Measure 37 Analysis*
In accordance with Measure 37, a landowner can submit a claim for compensation when a new land use regulation lowers the land value. The government has the option of paying the claim or waiving the regulation. Because Ord. No. 17-04 does not implement a state statute or administrative rule, a claim against this ordinance would be filed with Lane County. The proposed ordinance has a low risk of a Measure 37 claim because the ordinance is generally

less restrictive than the current code (refer to Table #2). In addition, portions of the Lane Code will be deleted (refer to Table #1).

One item is included in the ordinance that is only implied in the current code [refer to 4(f)(iii) in Table #2]. Other items are more specific or clearly stated [refer to 4(c)(iii); 5(b)(vii) and 5(c)(iii) in Table #2]. These items may be considered new regulations and could be subject to a Measure 37 claim.

*Table #1: Regulations deleted from existing code.*

| Existing Lane Code | Deleted Text | Comments |
|---|---|---|
| 16.264(5)(c) | "Directional / parabolic antennae shall be selected to optimize performance and minimize visual impact. " | The proposed change is less restrictive. |
| 16.264(3)(b)(vii) | "An application shall include the following information: Documentation of lease agreements with a Federal Communications Commission (FCC) licensed provider." | The proposed change is less restrictive. |

Except for the items listed below, the ordinance is less restrictive than the current code. Refer to Table #2 for more details:

- *Peer review* [4(c)(iii) & 5(b)(vii)]: The verification of emissions is not new. However, the new regulations require an engineer to do the verification.
- *Renewal of tower* [4(f)(iii)]: The ordinance explicitly requires a land use application to renew a tower. The current code only implies a land use application is needed.
- *FCC license* [5(c)(iii)]: This is not a new standard, just more specific. The current code requires compliance with "all State of Oregon and Federal licenses for telecommunication tower facilities."

*Table #2: New Regulations*

| Location in amendment | New standard | Comments |
|---|---|---|
| 2 | A definition of "Changeout" was created. The definitions of "collocation" and "transmission tower" have been broadened to include new technology. | This is less restrictive than the current county code. |
| 3(h) | A new policy that allows equipment changeouts without a land use application. | This is less restrictive than the current county code. |
| 3(j) | Notice shall be sent to landowners and applicable community organizations recognized by the Lane County Board of Commissioners in Lane Manual 3.513, within ½ mile of the leased area. | The current code requires notice from the property lines. The new standard is less restrictive. |
| 4(c)(iii); 5(b)(vii) | An engineer is required to verify that the radiation emissions comply with the FCC standards. | The verification is not new. The engineer's review is new. Refer to LC 16.264(3)(d) & (7)(b) |
| 4(e)(ii) | A tower must be 1,200 feet from the nearest dwelling or school. The adjacent landowners may allow a closer location. The separation does not apply to dwellings or schools on the same parcel as the tower. | This is less restrictive than the current county code. |
| 4(c)(v) | A signed statement from the property owner indicating awareness of the removal responsibilities. A lease agreement with the Federal government that includes a removal requirement may be substituted. | The underlined portion is new. It is less restrictive. |
| 4(c)(vi) | Signature(s) of the property owner(s) on the application form. A lease agreement with the federal government may be substituted. | The underlined portion is new. It is less restrictive. |
| 4(f)(iii) | An application must be submitted to renew a tower. | This is implied by the current code, but is not explicitly stated. Refer to LC 16.264(7). |
| 5(c)(iii) | The provider shall maintain an FCC license for the geographic region and for the service provided by the collocation. | This standard is not new. It is clarified. Refer to LC 16.264(3)(d). |

**C. Alternatives/Options**

1. Adopt the revised ordinance, or
2. Adopt the original ordinance.

**D. Recommendations**

Ron Fowler, Martha Johnson, Heather Kent and Mona Linstromberg endorse the revisions to the ordinance. Staff recommends adoption of the revised ordinance.

If the Board votes to further revise the ordinance, there are two options:

1. Adopt the ordinance and resolve any outstanding or unexpected issues after implementation.
2. Do not adopt the ordinance and direct staff to further revise the ordinance.

This will mean a delay of several months and is the most expensive and time consuming option. In addition, this option does not allow time for implementation to reveal unexpected issues.

**E. Timing**

The amendment does not contain an emergency clause and will become effective 30 days after adoption.

## IV. IMPLEMENTATION/FOLLOW-UP

A notice of the County Commissioners action will be provided to DLCD.

## V. ATTACHMENTS

1. Written comments from Mona Linstromberg, dated December 6, 2004.
2. Proposed changes to Ordinance No. 17-04.

December 6, 2004
Lane Co. Planning
Lane Co. Telecommunication Ordinance
Tower Group: Draft 1

Issues to resolve:

1. Peer review - subsections 4(c)(iv) & (viii); and 5 (b)(vii) & (viii) in no way address our concerns about independent, technical peer review as addressed during the public hearing in Sept. 2002 reflected in the directive given by the Board of Commissioners. These subsections do not even reflect the original ordinance's peer review by an independent engineering firm as expressed under subsection (3)(b)(ix).

The following expressly states the essence of "peer review" and what information is necessary to perform such an evaluation: (from the Concord, MA bylaw, adapted) Upon submission of a complete application under this Section, the Planning Director shall engage the services of a qualified independent consultant and shall provide the independent consultant with the completed application and existing documentation for analysis and review:

Existing documentation will include submittals required under 4.c. and 5.b. of the proposed revision, including the following:

(a) The applicant shall provide written documentation of any facility sites within a radius of (?) miles including facilities located in jurisdictions within the confines of Lane County that fall within this range. Said documentation shall demonstrate the following: that these facility site(s) are not already providing , or do not have the potential, by adjusting the personal wireless communication facility on the site(s), to provide adequate coverage and/or adequate capacity; that there is a significant gap in coverage, and that the proposal reduces or eliminates the significant gap in coverage in a manner that is least intrusive upon the interests of the County as expressed in the purpose section of this Ordinance (purpose section should be restated). A "gap" in coverage exists when a communication facility cannot maintain a connection capable of supporting a reasonably uninterrupted communication. A "significant gap" depends upon the physical size of the gap and upon the number of customers affected by that gap. Documentation shall include, for each facility site listed, the exact location, ground elevation, height of tower or structure, type of antennas, antenna gain, height of antennas on tower or structure, output frequency, number of channels, power input and maximum output per channel. Potential adjustments to these existing facility sites, including changes, in antenna type, orientation, gain, height or power output shall be specified. Radial plots from each of these facility sites, as they exist and with adjustments as above, shall be provided as part of the application.

(b)The applicant shall provide written documentation that they have examined all personal wireless communication facility sites located in the within the specified range (under (a)) to determine whether those existing facility sites can be used to provide adequate coverage and/or adequate capacity. Documentation shall include all information outlined above. Radial plots from each of these facility sites as proposed shall also be provided.

(c)The applicant shall provide written documentation (including radial plots) that they have analyzed the provision of adequate coverage and adequate capacity through the use

of filler sites in conjunction with all personal wireless communication facility sites listed above.

(d)The applicant shall provide a map of all proposed facilities to be applied for over the next twenty (20) months (or a complete build-out analysis) by the personal wireless communication service provider. Such map shall also include any and all existing personal wireless communication facility(s) of the provider and known proposed facilities of other personal wireless communication service providers.

Additionally, other technical information deemed necessary to perform the evaluation by the independent consultant shall be provided by the applicant at the applicant's expense.

The above ensures that all information needed to assess an application is available. In my personal experience, claims are often made which need to be confirmed and can only be done by an independent qualified consultant.

Issue to resolve:

2. A new policy regarding "change outs":
   I will address those items listed by Mr. Fowler in his letter to the County dated November 3, 2004 to the extent of his arguments, as I imagine this is just a sample.

   1. Agreed, definitions need to be cleaned up. Purpose section also needs attention.
   2. Agreed, though I have not seen standards for quality requirement of carriers. Would the US District Court Case, Feb. 2, 04 Voice Stream, PCS vs City of Hillsboro, Oregon be relevant in assessing this particular "need"?
   3. I think this comment came out of misreading this subsection, at least regarding repair and maintenance. Upgrading a facility should be subject to some sort of review process.
   4. Throughout the process of writing this ordinance, I was under the impression that this subsection was to address speculation tower builders and that one provider needed to have signed a lease.
   5. Agreed
   6. First sentence, please refer to US District Court case Voice Stream vs City of Hillsboro. Second sentence, 10 miles is excessive. See my comments under "issues to resolve: 1. peer review".
   7. Nor do service providers adequately address the issues most important to neighbors impacted by PCS transmission towers. I can relate some stories that illustrate that providers sometimes try to ride rough shod over neighbors.
   8. Addressed in "issues to resolve - 3. separation distance form homes and schools."
   9. I have read numerous ordinances throughout the country and have seen provision for actual monitoring of these facilities. This was Lane County's effort at making sure a tower is in compliance, especially if service providers don't want upgrades reviewed. It does not seem an onerous provision. If a facility should fail to meet standards then there should be some recourse for the County.

10. The collocation section in the original ordinance is extremely confusing and poorly worded. I do believe staff wrote the revision from a literal reading. However, it was never the intent of those who wrote this ordinance to have such a convoluted procedure. There should be some review as to compliance with FCC standards and a way in which to record the additional antenna arrays.

Just some of my thoughts, and I am sure to have more.....

Issue to resolve:

3. Separation distance from new towers and existing dwellings/schools - Our group sought and received Board support for an absolute setback of towers of 1200 feet from homes and schools. Given the rural character of Lane County, it seems a reasonable setback that would not effectively prohibit wireless services in the County and would not discriminate against any service provider.

   The confusing aspect of 4.e. in the proposed revision is subsection (ii). This makes no sense given the Boards directive of an absolute setback of 1200 ft. This subsection is a holdover from a Task Force recommendation which was made obsolete by the 1200 ft setback.

   In a letter from TerraQuest International to the County dated November 3, 2004, Mr. Fowler professes to be confused not only by the language but also concept of the setback provision from homes and schools. The language is confusing but the concept is simple. Often, the most significant investment people have are their homes. No matter that industry can provide studies maintaining that homes in the vicinity of transmission towers do not lose value, the industry is probably funding and conducting these studies. It defies logic to think a 190 foot tower 400 ft from our home in rural Lane County would not lessen the value of our property - it defies logic. As to the setback from schools, this is based on attractive nuisance concerns and the potential for emissions from these facilities to exceed FCC standards. With no monitoring of these facilities, it is within the realm of possibility that FCC emission standards could be exceeded. See previously submitted testimony on emissions from the Berjac Building across from (the recently closed) Santa Clara Elementary School. Eugene 4J School District has a policy of not siting towers on school grounds, and Bethel School District also does not site on school grounds.

   Mr. Fowler thinks that the County is catering to a vocal minority. I am not against the appropriate siting of PCS towers, and acknowledge the demand for cell phones. However, Mr. Fowler is naïve if he thinks when a tower is proposed for a neighborhood that he is not going to be challenged by those particular impacted homeowners. Unfortunately, most people are very uneducated as to the infrastructure it takes to provide coverage until they see the financial investment in their homes diminish and the view out their windows blighted.

Mona Linstromberg
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**Recommendation from the Tower Group**

**TELECOMMUNICATION TOWER STANDARDS**

**RURAL COMPREHENSIVE PLAN**

The group that met on December 6 has recommended the following changes to Ord. No. 17-04.

**16.264 Telecommunication Tower Standards.**

(1) Purpose. The provisions of this section are intended to ensure that telecommunication facilities are located, constructed, maintained and removed in a manner that:

(a) Recognizes the public need for provision of telecommunication facilities;

(b) Allows appropriate levels of service to be obtained throughout the County;

(c) Minimizes the number of transmission towers throughout the County;

(d) Encourages the collocation of telecommunication facilities; and

(e) Ensures that all telecommunication facilities, including towers, antennas, and ancillary facilities are located and designed to minimize the visual impact on the immediate surroundings and throughout the county. Nothing in this section shall preclude collocation opportunities nor adversely affect multiple use towers. Nothing in this section shall apply to amateur radio antennae, or facilities used exclusively for the transmission of television and radio signals.

(2) Definitions. As used in LC 16.264, the following words and phrases mean:

Ancillary facilities. The buildings, cabinets, vaults, closures and equipment required for operation of telecommunication facilities including but not limited to repeaters, equipment housing, and ventilation and other mechanical equipment.

Antennae. An electrical conductor or group of electrical conductors that transmit or receive radio signals, excluding amateur radio antennae.

Attachment. An antenna or other piece of related equipment affixed to a transmission tower.

Changeout. Reconstruction or replacement of existing collocations or transmission towers with similar equipment, in conformance with LC 16.264(3)(h).

Collocation. Placement of telecommunication equipment on an existing structure or building where the antennas and all supports are located on the existing structure or building.

Provider. A person in the business of designing and/or using telecommunication facilities including cellular radiotelephones, personal communications services, enhanced/specialized mobile radios, and commercial paging services.

Telecommunication Facility. A facility designed and/or used for the purpose of transmitting, receiving, and relaying voice and data signals from antennae, towers and ancillary facilities. For purposes of this section, amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio signals are not "telecommunication facilities."

~~Tract. A unit of land comprised of adjacent parcels and lots under the same ownership.~~

Transmission Tower. The structure, such as a monopole or lattice framework, that supports telecommunication equipment. For purposes of this section, amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio signals are not "transmission towers."

3. Standards applicable to all telecommunication facilities.

   a. Telecommunication facilities shall be limited to the height necessary to provide the service, not to exceed 200 feet in height from ground level.

   b. Based on the existing conditions and vegetation at the site, telecommunication facilities shall be designed and constructed to reduce visibility of the facilities. Nothing in this subsection preempts the coloring requirements of the Federal Aviation Administration or the Oregon Department of Aviation:

      (i) The transmission tower shall be surfaced in a non-reflective material that minimizes glare and is colored similar to the sky or adjacent background. A light gray shade is appropriate for blending the tower into the sky background.

      (ii) The antenna and ancillary facilities shall be surfaced in non-reflective material to match the transmission tower. If not attached to a transmission tower, they shall be colored similar to the adjacent background.

   c. Consideration shall be given to other sites and equipment that would have less visual impact than those proposed. The applicant shall demonstrate that less intrusive sites and equipment are not available or do not provide the communication coverage necessary to provide the service. Visual impact can be measured by techniques including, but not limited to, balloon tests and photo simulations.

   d. No lighting of telecommunication facilities is allowed, except as required by the Federal Aviation Administration, Oregon Department of Aviation or other federal or state agencies. Required lighting shall be shielded from the ground to the extent it does not violate state or federal requirements.

   e. Equipment areas shall be enclosed by a chain link fence or equivalent.

   f. Warning and safety signs, up to three square feet in area, are allowed. All other signs are prohibited.

~~g. When located with in 14,000 feet of an airport, the telecommunication facility shall not penetrate the imaginary surfaces of that airport, unless the airport approves that encroachment.~~

~~h.~~g. Maintenance and repair of a lawfully existing telecommunication facility does not require a land use application.

h. Changeouts. The changeout of an existing transmission tower or collocation does not require a land use application when the following criteria apply:

(i) The new equipment does not increase in the tower height or base diameter,

(ii) No new lights are proposed unless required by the Oregon Department of Aviation (ODA) or the Federal Aviation Administration (FAA), and

(iii) The new equipment does not increase the number of antennas or external transmitters. Existing antennas and external transmitters may remain for a period not to exceed six (6) months in order to accommodate the transfer of service from the existing antennas or transmitters to the replacement antennas or transmitters.

(iv) The replacement antennas or external transmitters shall not exceed the size (e.g., area or length) of existing antennas or transmitters by more than twenty (20) percent.

(v) The new equipment shall have a similar exterior color as the existing equipment.

i. Within a forest zone, the following standards shall apply:

(i) A fuel break shall extend 50 feet surrounding ancillary facilities containing propane or gas powered generating equipment. Except for trees, vegetation within the fuel break shall be maintained at less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet above ground) branches. Nonflammable materials (i.e., gravel) shall be placed within 30 feet surrounding ancillary facilities that contain propane or gas powered generating equipment.

(ii) Private roads and driveways that provide access to transmission towers in the forest zones shall comply with the Fire Safety Design Standards of LC 16.211(8)(e)(i) through (vii).

j. Notice. In lieu of LC 14.100(4) and LC 14.300(3)(d), notice shall be sent to landowners and applicable community organizations recognized by the Lane County Board of Commissioners in Lane Manual 3.513, within ½ mile of the leased area. If the property does not contain a leased area, this subsection shall not apply.

4. Standards for a new or replacement transmission tower.

a. Review & notice process. An application for placement of a transmission tower requires submittal of an application in accordance with LC 14.050 and a hearing

with the Director in accordance with LC 14.300, excluding LC 14.300(3)(d). To be approved, the application must comply with LC 16.264(3) and 16.264(4).

b. Neighborhood meeting. Prior to submittal of a land use application, the applicant shall conduct a neighborhood meeting in the general area of the proposed telecommunication tower.

(i) The applicant shall, at least fourteen (14) days but not more than thirty (30) days in advance of the meeting, mail notice of the meeting in conformance with 16.264(3)(j). In addition, the notice shall be sent to tenants living within the noticed area. The notice shall state the date, time, and location of the meeting and that the topic of the meeting is to discuss the proposed location of a telecommunication facility on the subject property and to hear from area residents about any concerns they might have with the proposal. The notice shall state the Lane County map and tax lot numbers for the subject property and the address for the subject property.

(ii) The applicant shall, at least ten (10) days in advance of the meeting, publish notice of the meeting in a newspaper of general circulation serving the area. The published notice shall contain the information required by LC 16.264(4)(b)(i) for the mailed notice.

(iii) Nothing in this subsection limits the applicant from providing additional opportunity for input from area property owners and residents.

c. Required submittals. The application shall contain the following information:

(i) A site plan, drawn to scale, showing:

(A) Structures. All existing and proposed structures on the site. Include any dwellings or schools within 1200 feet of the tower.

(B) Access. The access road to the site and the public road serving that access road. Submit all necessary easements for access to the site.

(C) Taxlots. Identify the taxlot containing the telecommunication facility and all taxlots crossed by the access road.

(ii) A description of the tower design and height. The description shall include:

(A) A site-specific study of the tower site identifying the proposed color and surfacing of the tower and ancillary facilities;

(B) The engineered design capacity of the tower in terms of the number and type of collocations it is designed to accommodate;

(C) Documentation in the form of lease agreements for a minimum of two collocations on the proposed telecommunication tower.

(iii) Certification by an Oregon-registered professional engineer that the telecommunication facility~~, as amended by the proposed collocation,~~ complies with the non-ionizing electromagnetic radiation (NIER)

emission standards as set forth by the Federal Communications Commission (FCC).

(iv) A signed statement from the property owner indicating awareness of the removal responsibilities of LC 16.264(4)(f)(iv). A lease agreement with the Federal government that includes a removal requirement may be substituted;

(v) Signature(s) of the property owner(s) on the application form or a written statement from the property owner(s) granting authorization to proceed with the land use application. A lease agreement with the federal government may be substituted;

(vi) A map of all transmission towers and properties that have obtained approval for a transmission tower, within ten (10) miles of the proposed facility;

(vii) Certification by an Oregon-registered professional engineer that the design of the tower will support at least three users (the primary user and two collocation sites);

(viii) Evidence of the notification and the neighborhood meeting;

(ix) A performance bond payable to Lane County and acceptable to the Director, to cover the cost of removal of the telecommunication tower and restoration of the site.

(x) Other information requested in the application form provided by the Director.

d. Performance standards. The transmission tower shall comply with the following:

(i) The tower shall be necessary to provide service to the intended area. The applicant shall provide evidence the existing and approved telecommunication facilities within ten miles would not provide an adequate level of service, based on the following:

(A) Lack of useable and compatible collocation space,

(B) Inability to meet service coverage area and capacity needs,

(C) Technical reasons such as channel proximity and inter-modulation.

(ii) The transmission tower shall be designed to accommodate at least three users (the primary user and two collocation sites);

(iii) The cumulative radio frequency emissions from the collocations on a single structure shall not exceed the maximum exposure limits of the FCC.

(iv) When access is provided by a private road, all necessary access easement shall be maintained.

(v) Prior to zoning approval of a building permit for a telecommunication tower:

(A) Provide documentation showing the FAA, the ODA, and any other applicable state agency, has approved the tower, or that the tower does not require approval by these agencies.

(B) When the tower is within 14,000 feet of an airport, provide the FAA registration number for the transmission tower, or documentation showing the tower does not require registration.

e. Setbacks and separation requirements.

(i) Setbacks. The tower shall comply with the setbacks of the base zone.

(ii) Separation. The tower shall be 1200 feet from any dwelling or school, except:

(A) An encroachment into the separation distance is allowed if the homeowner(s) who is being encroached upon submits written approval of the encroachment.

(B) This separation shall not apply to any dwellings or schools located on the parcel containing the proposed tower.

f. Expiration and Renewal of the Special Use Permit.

(i) If a telecommunications tower is not placed into service within 2 years of issuance of a building permit, the special use permit shall expire.

(ii) In lieu of LC 14.700(4), all conditions of approval must be completed by December 31st of the year following the date of final zoning approval. No time extensions are allowed. The special use permit shall be renewed every two (2) years thereafter.

(iii) To renew the special use permit, an application shall be submitted in accordance with LC 14.050. To be approved, the application shall contain documentation showing:

(A) The telecommunications facility has complied with non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC), and

(B) The tower continues to meet any applicable conditions of approval by Lane County, including provision of an adequate current performance bond for removal of the facility and restoration of the site.

(iv) If a transmission tower authorized under this section is not used as a telecommunication facility for a period of one (1) year, the special use permit shall expire and the tower shall be removed.

5. Collocation. A new or replacement collocation shall comply with the following:

a. Review process. Collocation requires submittal of a land use application pursuant to LC 14.050. Director approval is required pursuant to LC 14.100, excluding LC 14.100(4). To be approved, the application must comply with LC 16.264(3) and 16.264(5).

b. Required submittals. An application for a collocation shall include the following information:

(i) A site plan, drawn to scale, showing:

(A) Structures. All existing and proposed structures on the site. Include any structures within 1200 feet of the tower.

(B) Access. The access road to the site and the public road serving that access road. Submit all necessary easements for access to the site.

(C) Taxlots. Identify the taxlot containing the telecommunication facility and all taxlots crossed by the access road.

(ii) A description of the tower design and height. The description shall include:

(A) A site-specific study of the tower site identifying the proposed color and surfacing of the tower and ancillary facilities;

(B) The engineered design capacity of the tower in terms of the number and type of collocations it is designed to accommodate;

(iii) If the collocation is within 14,000 feet of an airport: Provide the FAA registration number for the tower structure, or documentation showing that the tower does not require registration.

(iv) Documentation demonstrating that the Oregon Department of Aviation has reviewed the proposal. When the proposed collocation does not increase the height of the tower, documents from the ODA approving the tower may be substituted.

(v) A signed statement from the property owner indicating awareness of the removal responsibilities of LC 16.264(5)(c)(ii). A lease agreement with the federal government that includes a removal requirement may be substituted;

(vi) Signature(s) of the property owner(s) on the application form or a written statement from the property owner(s) granting authorization to proceed with the land use application. A lease agreement with the Federal government may be substituted;

(vii) Certification by an Oregon-registered professional engineer that the telecommunication facility, as amended by the proposed collocation, complies with the non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC).

(viii) Certification by an Oregon-registered professional engineer that the telecommunication facility will support the proposed collocated equipment.

(ix) Documentation showing that the applicant has an FCC license for the geographic region and for the service proposed by the collocation.

(x) A performance bond payable to Lane County and acceptable to the Director, to cover the cost of removal of the collocation, ancillary facilities, and restoration of the site.

(xi) Other information requested in the application form provided by the Director.

c. Performance standards

(i) All collocations on the structure shall comply with the non-ionizing electromagnetic radiation (NIER) emission standards as set forth by the Federal Communications Commission (FCC).

(ii) Any collocation and ancillary facilities authorized under this subsection shall be removed after one year of non-use and the zoning approval shall expire.

(iii) The provider shall maintain an FCC license for the geographic region and for the service provided by the collocation.