

CHAPTER 11.65

COMMUNICATION FACILITY CRITERIA

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**11.65.010 PURPOSE.** The purpose of this chapter is to set forth regulations for the placement, development, permitting and removal of communication facilities, including communication towers and antennas. These standards are designed to comply with the Telecommunications Act of 1996 and are intended to minimize visual impacts and flight hazards while furthering the development of enhanced telecommunication services in the County.  
[Ord. 370 (2001) § 2]

**11.65.020 APPLICABILITY.** The requirements of this chapter shall apply to all communication facilities within the County and

to the expansion and/or alteration of any existing communication facilities.

[Ord. 370 (2001) § 3]

**11.65.030 EXEMPTIONS.** The following facilities and activities are exempt from the provisions of this chapter:

(a) satellite earth stations using antenna(s) not more than twelve (12) feet in diameter if located in the: General Commercial District (GC), Interchange Commercial District (IC), Light Industrial District (LI), or the Heavy Industrial District (HI);

(b) direct-to-home satellite services in any zoning district;

(c) antennas for citizen band radios and Amateur (or ham) Radio Facilities; provided, such antennas and facilities are no more than sixty-five (65) feet above ground level;

(d) military, federal, state, and local government communication facilities in any zoning district that are only used for emergency preparedness and public safety purposes; provided, such facilities are no more than two hundred (200) feet above ground level;

(e) maintenance, repair, and replacement of existing communication facilities and related equipment that do not increase the size, footprint, or bulk of such facilities and that complies with local, state, and federal laws and regulations.

[Ord. 370 (2001) § 4; Ord 374 (2001) § 1; Ord. 468 (2009) § 1; Ord. 501 (2011) § 1]

**11.65.040 DEVELOPMENT STANDARDS.** The development standards which follow shall apply to all non-exempt communication facilities and alterations thereto.

## (a) Height.

(1) An attached communication facility shall not add any height to a communication tower to which it is attached and shall not add more than twenty (20) feet in height to an existing building or other structure to which it is attached.

(2) Communication towers shall have the following maximum height as measured from the ground to the highest point on the communication facility, including the associated antenna array:

- (i) Sixty-five (65) feet in the Rural Lands 5 District (RL-5), Rural Lands 20 District (RL-20), Community Commercial District (CC), General Commercial District (GC), Interchange Commercial District (IC), Light Industrial District (LI), and Parks District (P).
- (ii) One hundred and fifty (150) feet in the Heavy Industrial District (HI) and Unclassified District (U).
- (iii) One hundred and fifty (150) feet anywhere in the Growth Management Act Agricultural District (GMAAD) or up to four hundred and fifty (450) feet in the GMAAD if:
  - a. the ground elevation of the location of the communication tower is at least two thousand and fifty (2,050) feet above mean sea level as determined by a licensed Washington State Professional Land Surveyor; and
  - b. the communication tower is located within one half (1/2) mile from five (5) or more communication towers existing as of October 8, 2001.

(3) Accessory equipment structures shall have a maximum height of forty (40) feet as measured from the ground to the highest point on the structure.

(b) Setbacks.

(1) Attached communication facilities may extend up to five (5) feet horizontally beyond the edge of a properly set back building or structure to which it is attached, so long as the attached communication facility does not encroach upon any easements nor upon an adjoining parcel.

(2) All communication towers shall be set back from all property lines the greater of the following distances: fifty (50) feet or one (1) foot for every foot in height of the communication tower.

(3) All communication towers in excess of one hundred and fifty (150) feet in height also must be set back at least one thousand (1,000) feet from all dwelling units.

**NOTE:** This section is continued on the following page.

(4) Accessory equipment structures shall meet the setback requirements for accessory buildings in the underlying zoning district in which they are located.

(c) Lighting and Fencing.

(1) Lighting, if any, of an attached communication facility shall be as required by the Federal Aviation Administration (FAA) and shall, to the extent feasible, be installed in a manner to minimize impacts on adjacent residences.

(2) Communication towers shall not be artificially lighted, except for:

(i) security and safety lighting of accessory equipment structures if such lighting is appropriately down-shielded to keep light within the boundaries of the site; and,

(ii) such lighting of the communication tower as may be required by the Federal Aviation Administration (FAA) and shall, to the extent feasible, be installed in a manner to minimize impacts on adjacent residences.

(3) Communication facilities that include a communication tower shall be enclosed by a security fence not less than six (6) feet in height; provided, that guy wires are not required to be within the enclosed security fence.

(d) Painting.

(1) All painting of communication facilities shall be consistent with any such requirements of the FAA.

(2) Absent painting requirements by the FAA, communication facilities sixty-five (65) feet in height or less shall be painted one of the following neutral, non-reflective colors that blend with the surrounding landscaping: shades of gray, beige, sand, taupe, or light brown.

(3) Absent painting requirements by the FAA, communication facilities exceeding sixty-five (65) feet in height shall be painted in alternate bands of aviation orange and white. The alternate bands shall be:

- (i) a width of one-seventh (1/7) the height of the communication tower; provided, each band may not be less than one (1) foot six (6) inches (1.5 feet);
- (ii) equal in width;
- (iii) perpendicular to the vertical axis of the communication tower, with the bands at the top and bottom ends colored aviation orange; and,
- (iv) odd in number.

(e) Aviation Requirements.

(1) All communication facilities must comply with Federal Aviation Regulation Part 77, *Objects Affecting Navigable Airspace*, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposed communication facility.

(2) All communication towers shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available for private use and identified on the most current edition of the *Sectional Aeronautical Charts* produced by the National Aeronautical Charting Office (NACO).

[Ord. 370 (2001) § 5; Ord. 374 (2001) § 2; Ord. 380 (2002) § 4; Ord. 425 (2005) § 1; Ord. 501 (2011) § 2]

**11.65.050 PLANNING ADMINISTRATOR REVIEW AND APPROVAL.** Where stated in this title that an attached communication facility and/or communication towers may be permitted upon compliance with this section, the procedures set forth in BCC 11.65.060 through BCC 11.65.090 shall apply.

[Ord. 370 (2001) § 6; Ord. 557 (2014) § 1]

**11.65.060 APPLICATION REQUIRED—NON-REFUNDABLE APPLICATION FEE.** (a) The communication facility owner shall submit a complete application consisting of:

(1) A completed application form supplied by the Planning Department and signed by the facility owner and the parcel owner;

(2) A scaled site plan detailing: the outer boundary and dimensions of the property, all structures located on the parcel, the location and height of the proposed communication facility, the distances from all proposed structures to all parcel lines, the distance of the proposed communication facility to the nearest point of the nearest runway of the nearest airport available for public use, the location of all public and private roads, the location of all easements, and the scale and a north arrow;

(3) For communication facilities proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant must provide a written statement from the Federal Aviation Administration (FAA) that confirms the FAA has reviewed the proposal and which sets forth the FAA's response, comments, and requirements, if any, for the proposal;

(4) For communication facilities proposed to be located within four (4) miles of a runway identified on the most current edition of the *Sectional Aeronautical Charts* produced by the National Aeronautical Charting Office (NACO), the applicant must provide a scaled site plan showing the location of any such runways; and,

(5) For proposed communication towers in excess of one hundred and fifty (150) feet in height, a topographical map stamped and signed by a licensed Washington State Professional Land Surveyor must be submitted that indicates the ground elevation where the communication tower is to be located and a scaled site plan identifying all dwelling units within one thousand (1,000) feet of the proposed communication tower.

(b) A non-refundable application fee as established by resolution of the Board of County Commissioners shall be paid at the time the application is submitted.

[Ord. 370 (2001) § 7; Ord. 374 (2001) § 3]

**11.65.070 NOTICE TO OTHER AGENCIES—ISSUANCE OF PERMIT.** The Planning Administrator shall refer the matter to appropriate agencies, allowing fourteen (14) calendar days for their comments.

The Planning Administrator shall issue a communication facility permit if he or she determines that the proposed attached communication facility and/or communication tower will conform with the development regulations set forth in BCC 11.65.040 and all other applicable BCC provisions.

[Ord. 370 (2001) § 8; Ord. 557 (2014) § 2]

**11.65.080 PERMIT ISSUANCE OR DENIAL--NOTICE TO APPLICANT--NOTICE TO ADJACENT PROPERTY OWNERS--APPEAL.** (a) Notice of the Planning Administrator's decision as to whether the communication facility meets the necessary criteria and of the Planning Administrator's decision to issue or deny the permit shall be sent by first class mail to all persons signing the application.

(b) Notice of the Planning Administrator's decision will also be sent to the owners of all real property, as shown in the records of the Benton County Assessor, located within three hundred (300) feet of any boundary of the property for which the proposed communication facility will be located; provided, if the owner of the property for which the proposed facility will be located owns another parcel or parcels adjacent to such property, notification also shall be mailed to owners of real property located within three hundred (300) feet of any boundaries of such adjacent parcels.

(c) The notification shall contain a statement as to whether the proposed use is allowed or is not allowed.

(d) The notification shall state that any person with standing shall have fourteen (14) calendar days to file a written appeal of the Planning Administrator's decision.

(e) The Planning Administrator's decision shall be deemed final upon the date of mailing of the written decision, unless an appeal is filed pursuant to BCC 11.65.090.

[Ord. 370 (2001) § 9; Ord. 557 (2014) § 3]

**11.65.090 APPEAL OF PLANNING ADMINISTRATOR'S DECISION—NON-REFUNDABLE FEE.** (a) Any person with standing aggrieved by the Planning Administrator's decision shall have fourteen (14) calendar days from the date the Planning Administrator's decision was mailed to file a written appeal with the Planning Department.

(b) Said appeal must be accompanied by a non-refundable fee as established by resolution of the Board of County Commissioners.

(c) Said appeal is considered filed upon receipt.

(d) The Hearings Examiner shall act upon the appeal pursuant to BCC 11.52.131.

[Ord. 370 (2001) § 10; Ord. 557 (2014) § 4]

**11.65.100 ABANDONED COMMUNICATION FACILITIES--NOTICE--REMOVAL REQUIRED--VIOLATIONS.** (a) If the use of any communication facility is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department.

(b) If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.54 BCC.  
[Ord. 370 (2001) § 11]

**11.65.110 SEVERABILITY.** If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.  
[Ord. 370 (2001) § 12]

**11.65.120 EFFECTIVE DATE.** This chapter shall take effect and be in full force upon its passage and adoption.  
[Ord. 370 (2001) § 13]

**11.65.130 EFFECTIVE DATE.** Ordinance 501 shall take effect and be in full force on September 1, 2011.  
[Ord. 501 (2011) § 4]