

Article 412 Telecommunications Facilities

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412.01 Purpose

The purpose of this Article is to establish general guidelines for the installation of wireless communications towers and antennas. The goals of this Article are to:

- A. Minimize the adverse visual effects of towers through careful design, siting, and screening, while preserving the rights of wireless telecommunications providers;
- B. Encourage the location of towers in non-residential areas;
- C. Minimize the total number of towers throughout the community;
- D. Strongly encourage the joint use (co-location) of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- E. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- F. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, screening, and innovative camouflaging techniques;

- G. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; and
- H. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

412.02 Applicability

- A. **New Towers and Antennas.** All new towers or antennas in the City, and their related equipment, shall be subject to these regulations. Permitting process is based on scale and design, such as co-location (as defined in Section 602.02) proposals. All permits either qualify for a Zoning Permit (administrative review, see Section 412.04 and Article 503) or a Conditional Use Permit (requiring a Public Hearing, see Section 412.05 and Article 504). This determination is made during a Pre-Application review by the Zoning Administrator or designee.
- B. **Modifications to Pre-existing Towers and Antennas.** All modifications or alterations to towers and antennas in the City, and their related equipment, are subject to these regulations. The review process is determined based on the scale of the modification(s) and whether or not a Conditional Use Permit is in good standing. Review and permitting procedures, via Zoning Permit or Condition Use Permit, is a determination made during a Pre-Application review by the Zoning Administrator or designee in accordance with the requirements of this article. Scale of modification, by permit type, are defined in Section 412.03L.
- ~~B.C.~~ **Mobile and Temporary Antennas.** All new mobile and temporary antennas in the City shall be subject to these regulations and require a Temporary Use Permit. In the event an approved Conditional Use Permit for a permanent tower or antenna does not provide for an interim mobile or temporary antenna, mobile and temporary antennas shall be reviewed and permitted by Temporary Use Permit for a period not to exceed six months. More than one Temporary Use Permit may be approved for the same temporary antenna.
- ~~C.D.~~ **Amateur Radio Towers and Antennas.** This Article shall govern the installation of any tower or antenna that is an Amateur Radio Station Operators/Receive Only Operations, that is under the maximum building height of the Zoning District in which such structure is located and which is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only operations.
- ~~D.E.~~ **Exceptions.** The following are exempt from the provisions of this Article:
 - 1. **Valid Use Permits.** Legally established pre-existing towers and pre-existing antennas with a valid Conditional or Special Use Permit shall not be required to meet the requirements of this Article. Legal Non-Conforming Antennas and Towers proposed for modifications may be allowed (for modifications to pre-existing towers and/or antennas, see Section 412.03L and Section 412.08). Modification to preexisting towers and antennas that substantially increase the

Field Code Changed

Comment [RW2]: Clarification of process and permit language

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Comment [RW3]: Sec. 412.02.B fills a void in the current code: the need to make a determination between Zoning Permit and Conditional Use Permit for modifications. With antennas on pre-existing towers (modifications or new antennas), review determinations will be more consistent.

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~~physical dimensions of the tower, antenna, or equipment, as deemed by the Zoning Administrator or designee, are required to comply with this Article. A substantial change to an existing wireless facility includes any increase to the existing height of a tower or antenna and/or a proposed increase in the existing mass of the antenna or appurtenances greater than 20 percent. All other pre-existing towers and preexisting antennas without an approved use permit shall meet the requirements of this Article accordingly.~~

~~1.2. **Essential Services.** Towers and antennas shall be regulated and permitted pursuant to this Article and shall not be regulated or permitted as essential services, public utilities, or private utilities, unless the tower and antennas' sole purpose is to provide government sanctioned public safety communications.~~

~~2.3. **AM band.** For purposes of implementing this Article, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Additional tower units may be added within the perimeter of the AM array by right.~~

Comment [RW4]: This language has been relocated and modified for clarity

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Comment [RW5]: Moved and clarified. The language has only been modified for clarity.

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412.03 General Requirements

A. **Principal or Accessory Use.** Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

B. **Inventory of Existing Sites.** Each applicant for a new antenna and/or tower shall provide to the Zoning Administrator an inventory of all existing towers, antennas, or sites within five miles of the proposed location for towers or antennas, that are either within the jurisdiction of the City or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Development Services Department shall maintain a map and database with the above information available for public review and purchase; however, the accuracy of the information is subject to change. It shall be the responsibility of the applicant to verify and update any information provided by the City.

C. **State or Federal Requirements.** All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the State or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

~~Towers are prohibited in any airport clear zone or landing zone designated by the FAA.~~

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Comment [RW6]: Moved to a more logical section; regulation is unaltered

~~E.1.~~

2. New towers require a clearance letter from the State Historic Preservation Office (SHPO) as part of their application.

Comment [RW7]: Staff verified with the AZ SHPO directly. There is a SHPO agreement that references "Section 106" per a nationwide agreement with the FCC. This proposed language is designed to be generic in the case the FCC agreement is ever amended in the future, the City regulations are not outdated.

D. **Lighting.** Towers shall not be artificially lit, unless required by the FAA or other applicable authority, or as otherwise approved by the City Council. If lighting is required for ground equipment, a lighting plan shall be submitted in accordance to the Subdivision Ordinance, Section 14-6-15.

E. **Building Codes and Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable State or local building codes and the applicable standards for towers that are published by the Electronic Industries Association (EIA) and by the Telecommunications Industries Association (TIA), as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards, or as otherwise specified in writing by the Building Official. Failure to bring such tower into compliance within said 30 days, or as otherwise specified, shall constitute grounds for the removal of the tower or antenna at the owner's expense.

F. **Measurement.** For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City irrespective of municipal and county jurisdictional boundaries. Distance separation requirements should be measured from the furthest extents of the tower site, including fence and/or base equipment, to the nearest impacted property line.

Comment [RW8]: Clarification: Rules on measurement

~~G. **Not Essential Services.** Towers and antennas shall be regulated and permitted pursuant to this Article and shall not be regulated or permitted as essential services, public utilities, or private utilities, unless the tower and antennas' sole purpose is to provide government sanctioned public safety communications.~~

Comment [RW9]: Concept clarified and moved to Sec. 412.02.E.2

~~H.G.~~ **Franchises.** Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City have been obtained and shall file a copy of all required franchises with the City.

~~H.H.~~ **Signs.** No signs shall be allowed on an antenna, a tower, or any portion of the premises leased for wireless telecommunication use, except for a permanent, weather-proof identification sign, approximately 16 inches by 32 inches in size, must be placed on the gate of the fence or wall surrounding the facility or, if there is no fence or wall, on the facility itself. The sign must identify the facility operator(s), provide the operator's address, and specify a 24-hour telephone number for reaching the operator or an agent authorized to provide 24/7 response to emergency situations.

~~J. **Buildings and Support Equipment.** Buildings and support equipment associated with antennas or towers shall comply with the following requirements:~~

- ~~1. **Roof mounted or facade mounted antennas proposed on an existing building, or on a tower, pole, or other structure shall not extend or project more than 10 feet above the existing height of the building or structure.**~~
- ~~2. **Antenna support equipment that is roof mounted shall meet the screening requirements of this Article and Code.**~~

Comment [RW10]: Concept moved for clarity under Design Standards (Sec. 412.02.I.4)

~~K.I. **Design Standards.** Antennas, antenna support structures, and related equipment shall be located, designed, and screened to integrate and complement the existing natural or built surroundings and existing supporting structures.~~

1. **Design and Visibility.** All facilities shall be designed and located to minimize their visibility to the greatest extent feasible. All wireless telecommunication facilities proposed for locations where they would be readily visible from adjacent property and public right-of-way (measured from the center of the tower location) shall incorporate appropriate techniques to disguise the facility and/or blend into the surrounding environment, to the extent feasible. Facilities shall be compatible in scale and integrated architecturally with the design of surrounding buildings or the natural setting. The City's Design Standards for Wireless Communication Facilities provide additional standards with supporting illustrations to assist applicants in designing facilities to meet the intent of this Code.
2. **Screening.** Antenna support equipment for stand-alone facilities shall be screened by a maximum eight foot high masonry wall or placed within a fully enclosed building. When placed within a fully enclosed building, the building design shall be no taller than one story or 15 feet in height with elevations designed and constructed in a manner compatible with architectural designs found in the area. ~~When both a masonry wall and enclosure are required, the two elements should be designed to integrate together in complementary design featuring at least one face of the building façade.~~
3. **Freestanding Antenna(s).**
 - a. Antenna facilities that are not camouflage or stealth shall be close mount, to the extent possible.
 - b. Stealth or camouflaged facilities shall not have antenna mounts that extend beyond the outside edge (array) of the materials used to provide the stealth or camouflage design.
 - c. At a tower site, the design of the buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

Comment [RW11]: (11/8/16) Enhancement of architecture to the ground equipment. The design standard should be more appealing than a masonry wall hiding a utility structure.

- d. Wireless telecommunications facility support structures and antennas shall be a non-glossy color and/or exterior finish shall be painted so as to minimize visual impacts from surrounding properties.

4. ***Building Mounted Antenna(s) and Support Equipment.***

- a. If an antenna is installed on a building, the antenna and supporting electrical and mechanical equipment must be architecturally integrated in a manner that is identical to, or closely compatible with, the color of the building structure so as to make the antenna and related equipment as visually unnoticeable as possible.

~~a.b.~~ Roof-mounted or facade-mounted antennas proposed on an existing building, or on a tower, pole, or other structure shall not extend or project more than 10 feet above the existing height of the building or structure.

5. ***Alternative Tower Mounted Antenna(s).***

- a. Antennas proposed on the exterior of a structure shall be designed in a manner to appear as an integral element of the structure. Structures may be buildings, utility poles, light poles, if deemed appropriately integrated.

6. ***Stealth Tower and Antenna(s).***

- a. When an alternative tower or co-location does not exist on a parcel adjacent to residential use, stealth design shall be provided. A stealth facility shall be designed and constructed to appear architecturally integrated with the surrounding built environment or the natural setting to minimize the adverse visual impact and ensure the facility is compatible with the environment in which it is located.

~~H.J.~~ **Co-Location and Multiple Antenna/Tower Plan.** The City encourages tower and antenna users to submit a single application for approval of multiple towers and/or antenna sites and to submit applications which utilize co-location with an existing wireless telecommunications provider.

K. Modification of Building Size Requirements. The requirements of this Article may be modified by the City Council in the case of uses permitted by conditional use to encourage co-location.

Comment [RW12]: Requirement existed prior to proposed amendment. This requirement is simply moved to this section for clarity purposes.

Comment [RW13]: Clarification regarding “alternative tower” – an example of how an antenna may be inappropriate for an integrated design would be a decorative light pole where a proposed small cell omnidirectional antenna atop of the pole would denigrate the design.

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L. Modification(s) to Pre-existing Towers.

Table 412.03.L: Modifications to Pre-Existing Towers (or Mounting)

Tower Type	Modification ¹	Permit Required	Additional Standards
Freestanding (Traditional) or Co-location or Stealth	An increase to the height of the structure up to 10% or 20' (whichever is greater). Not in excess of max building height of Zoning.	Zoning Permit	Not to exceed height permitted under an existing CUP ² , otherwise in accordance with Section 412.04B
	An increased to the height of the structure greater than 10% or 20' or exceeds building height allowed within Zoning.	CUP	Section 412.05
	Added or modified protrusion(s) from the edge of structure/tower of up to 6' at any height of the pre-existing structure	Zoning Permit	Must not "defeat existing concealment" to comply with FCC Rule
	Added or modified protrusion(s) exceeding 6' from the edge of the pre-existing structure	CUP	Section 412.05
Building-Mounted (Roof-top or Façade-mounted)	Increase height up to 10% or 10' (whichever is greater). Not in excess of max building height of Zoning.	Zoning Permit	Not to exceed height permitted under an existing CUP ¹ , otherwise in accordance with Design Standards, Section 412.03I
	Increased greater than 10% or 10' or exceeds building height allowed within Zoning.	CUP	Section 412.05

1. Increased height is measured from the highest point on the tower, comparing existing to proposed design.
 2. In compliance with existing CUP includes the Conditions of Approval tied to the active (not expired) CUP.

Comment [RW14]: This section is the primary purpose of this text amendment. It better defines the concept that was once only vaguely referred to as "substantial change" as one of the procedural determinations for processing as a Zoning Permit or a Conditional Use Permit.

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- Scale of Modification(s) & Procedural Determination.** The scale of the tower and/or antenna modification(s), as proposed, determines the review process and permit type required to meet the requirements of this code. Additional considerations for permit type and review process required are detailed in Sections 412.04 and 412.05.
- Modification of Ground Equipment.** When ground equipment is modified in a visible manner, the requirements of Section 412.03 regarding screening and landscaping shall apply.

M. **Site Security and Ground Equipment.** Outdoor ground equipment, unless placed in underground equipment shelters, shall be enclosed with a maximum eight foot high masonry wall, shall be constructed of a block or masonry, or secured in a method as otherwise determined by the Zoning Administrator. All lattice towers (or other structures deemed climbable) shall be equipped with an anti-climbing device.

Comment [RW15]: Clarified, plus safety measures added.

N. **Landscaping.** The following requirements shall govern the landscaping surrounding towers; provided, however, that the City Council may reduce or waive such requirements if the goals of this Article would be better served thereby.

1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from residential property and commercial property or viewable from public right of way. The standard buffer shall consist of a landscaped strip at least eight feet wide outside the perimeter of the compound and any other areas disturbed during construction.
2. Every 20 lineal feet on center of the perimeter of the enclosure of the building shall be landscaped with drought tolerant plants at a rate of one 24 inch box tree and 10 ten-gallon size shrubs. All landscaping shall be irrigated for a minimum period of one year. Landscaping shall be maintained throughout the life of the facility.
3. Additional landscaping may be required at the discretion of the Zoning Administrator as needed to effectively blend applications with the surrounding environment.
4. Existing mature plant growth and natural land forms on the site shall be preserved to the maximum extent possible.

O. **Parking and Access.** A minimum of one nine foot by 18 foot off street parking shall be required for the ongoing and maintenance of the facility. Parking and maneuvering areas shall be surfaced with approved all weather access as determined by the City Engineer and to meet Public Safety access requirements for connection to improved right-of-way. Access surface is to be maintained by the tower operator/owner.

Comment [RW16]: Access requirements more comprehensive and maintenance responsibility clarified.

P. **Noise.** No permit (Conditional or Administrative Use Permit) shall be issued for any facility which generates a noise level greater than 50 decibels (dB) as measured at the edge of the property upon which such facility is sited.

Q. **Term.** In the event a building permit is not received within two years or as otherwise stipulated, or reasonable effort is not made to receive a building permit as determined by the Zoning Administrator, the Administrative Use Permit/Zoning Permit or Conditional Use Permit shall expire. Each Administrative Use/Zoning Permit or Conditional Use Permit issued shall be for a period of five years for Freestanding Tower and Antenna applications, and a period of 10 years for Building Mounted Antennas, Alternative Tower Mounted Antennas, and Stealth Tower and Antennas.

Comment [RW17]: Clarified permit requirement

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Comment [RW18]: Subheading used to better organize content that previously existed as long paragraph

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1. **Expiration.** At the end of the above specified term, the permit shall automatically expire unless a written request for renewal is submitted by the applicant, prior to expiration, to the Zoning Administrator. The City shall notify the applicant in writing at least 90 days prior to the expiration date of the permit for the facility. Upon the expiration of any required permits for the facility, it shall be removed in accordance with the requirement of this Article.

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2. **Renewal.** If a request for renewal of the required permit(s) is received, the permit shall remain in effect until a decision on the renewal is made. The renewal request shall be reviewed in a similar manner as the original approval.

Comment [RW19]: Subheading used to better organize content that previously existed as long paragraph

The review is to ensure that the facility is still in operation; that it has been properly maintained; that the original conditions of approval have been adhered to and whether they are to remain the same or need to be modified; and to determine if new technology exists to upgrade the facility to better meet the purpose, intent, goals and provisions of this Article. If new technology exists that will allow the redesign or relocation of the facility to better meet the purpose, intent, goals and provisions of this Article, then the facility must be redesigned and/or relocated accordingly. Failure to comply with this requirement may be considered grounds for denial of a new permit.

R. Conditions of Approval. The City may add conditions to any new permits as necessary to advance a legitimate governmental interest related to health, safety, or welfare, provided, however, that any condition shall comply with applicable FCC regulations and standards, and that reasonable advance notice thereof has been provided to all affected parties. ▲

Comment [RW20]: Subheading used to better identify this information that exists

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S. Decision to Deny. If a permit is not renewed, the City shall give the applicant written notice thereof together with the rationale and evidence on which the City's decision was made. ▲

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Comment [RW21]: Subheading used to better identify this information that exists

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T. Tower and Antenna Information Required. In addition to any information required for applications for a Zoning Permit pursuant to Article 503 or a Conditional Use Permit pursuant to Article 504, applicants for a Conditional Use Permit applications for a tower or antenna shall submit the following information:

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1. A scaled site plan clearly indicating the location, type, and height of the proposed tower or antenna, including:
 - a. On-site structures, land uses and zoning designation(s);
 - b. Adjacent structures, land uses and zoning within 20 feet of the property line (including when adjacent to other municipalities);
 - c. The setback distance between the proposed tower or antenna to all nearest building structures, residential uses, and commercial and industrial zoned properties as set forth in Table 412.05.E;
 - d. Adjacent roadways and proposed (or existing) means of access; and
 - e. Required and proposed setbacks from property lines.
2. Color elevation drawings of the proposed wireless facility and associated structures as deemed by the City to be necessary to assess compliance with this Article;
3. A CUP application requires a photo simulation of the proposed tower and structures associated with the wireless facility as seen from adjacent right-of-

way(s). The City may request additional simulations as necessary to determine the visual impact of the proposed facility;

4. The separation distance from other towers or antennas described in the inventory of existing sites submitted, pursuant to Section 412.03 of this Article, shall be shown on a site plan or map. The applicant shall also identify the type of construction of the existing tower(s) or antenna(s) and the owner/operator of the existing tower(s) or antenna(s), if known;

5. A description of compliance with Section 412.03, "General Requirements", and all applicable federal, State, county or local laws;

6. A notarized statement by the applicant as to whether construction of the tower or antenna will accommodate co-location of additional towers or antennas for future users;

7. If applicable, aAn analysis explaining the reasons co-location is not feasible on existing towers, antennas, or other vertical structures in the vicinity, and describing the alternative technologies considered to provide similar services in lieu of a new tower or antenna;

8. A CUP application requires a description of the feasible alternative location(s) of future towers or antennas within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower or antenna is not erected;

9. A statement of compliance with applicable Federal Communications Commission (FCC) Radio Frequency (RF) exposure standards; and

Additional information may be required as deemed necessary to determine compliance with the goals of this Article;

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412.04 ~~Permitted Antennas and Towers~~ **Requiring Zoning Permit**

A. **General.** The uses listed in this Section are deemed to be permitted uses and shall require zoning clearance through a Zoning Permit application.

B. **Permitted Uses.** The following uses are specifically permitted:

1. **Wireless Communication Facility.** Permissible in any Rural, Industrial, or Commercial District, provided, however, that freestanding towers or antennas shall not exceed the maximum height of the applicable Zoning District, unless specifically allowed elsewhere in this Code. The facility shall comply with the following:

Comment [RW22]: These regulations have not changed, but only placed in a more logical heading. Added text for clarity and to better define process requirements.

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Comment [RW23]: Process clarification

- a. Meet the minimum setback within the Zoning District in which the facility is proposed; and
 - b. Towers and antennas shall be set back a distance equal to at least 100 percent of the height of the tower and antenna from any adjoining lot line.
 - ~~b.c.~~ Maximum height exception. In Industrial Zoning Districts, towers and antennas are allowed a maximum height of 65 feet when the tower is located greater than 400 feet from the property line of a Residential Use. Such requests shall provide the information required in this Article, prior to permit issuance.
2. **Towers.** Amateur radio towers, antennas, and freestanding towers or antennas located in any Rural, Industrial, or Residential Zoning District shall not exceed the maximum height of the applicable Zoning District and shall comply with the following:
- a. *Setback.* Towers and antennas shall be set back a distance equal to at least 100 percent of the height of the tower or antenna from any adjoining lot line.
 - b. *Front Yard.* Amateur radio towers and antennas are prohibited in any front yard and shall not be placed in front of the front face plane of the principal building.
 - c. If an Amateur Radio Tower is located within a controlled Home Owner Association, the applicant is encouraged to comply with the community's Conditions, Covenants and Restrictions (CC&R's).
3. **Limitation on Quantity of Towers by Zoning District.** In all Zoning Districts:
- a. One radio tower and/or antenna permitted per lot of record, unless determined to achieve the broader purpose statements of this article.
 - b. Additional towers, greater in number than prescribed above, may be permitted in any Zoning District, but shall be subject to securing a Conditional Use Permit as set forth in Section 412.05412.05.
- ~~b.c.~~ Modifications to Pre-existing Towers or Antennas. Refer to Section 412.02B for applicability of reviews by Zoning Permit for modifications or alterations to pre-existing towers and/or antennas. Modification of ground equipment is also reviewed by Zoning Permit. If new antennas are proposed to be co-located on a pre-existing antenna, permit required shall be determined based on provisions of Section 412.06.
- ~~e.a.~~ Towers are prohibited in any airport clear zone or landing zone designated by the FAA.

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Comment [RW24]: (11/8/16) Content unchanged. Max height exception emphasized for clarity purposes to encourage location selection within Industrial Zoning Districts.

Comment [RW25]: Making exceptions for co-locations in spirit of the purpose statements of the Article.

Comment [RW26]: Now hyperlinked

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Comment [RW27]: Clarifying process and encouraging the use of pre-existing towers in spirit of the propose statements of the Article.

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412.05 Antennas and Towers Requiring Conditional Use Permits

A. **General.** The following provisions shall govern the issuance of Conditional Use Permits for towers or antennas by the City Council:

1. ~~If the tower or antenna does not meet the requirements of Section 412.04 above or does not meet the requisite dimensional requirements, then a Conditional Use Permit shall be required for the construction of a tower or the placement of an antenna in all Zoning Districts.~~
- 1.2. For purposes of this Section, any Conditional Use Permit request shall require public notice pursuant to ~~502.06~~502.06, Public Hearing Notification.
2. ~~If the tower or antenna does not meet the requirements of Section 412.04 above or does not meet the requisite dimensional requirements, then a Conditional Use Permit shall be required for the construction of a tower or the placement of an antenna in all Zoning Districts.~~
3. Applications for Conditional Use Permits under this Article shall be subject to the procedures and requirements of Article 504 except as specifically modified in this Article.
4. In granting a Conditional Use Permit, the reviewing authority may impose conditions to the extent such conditions are necessary to minimize any adverse effect of the proposed tower.
5. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by an Arizona licensed professional engineer.
6. A Conditional Use Permit issued under this Article shall be conditioned upon verification by a licensed structural engineer that such tower or antenna is structurally sound, prior to final inspection.

Comment [RW28]: Now hyperlinked

Comment [RW29]: Swapped #1 and #2

Comment [RW30]: Now hyperlinked

~~B.A. **Tower and Antenna Information Required.** In addition to any information required for applications for a Conditional Use Permit pursuant to Article 504, applicants for a Conditional Use Permit for a tower or antenna shall submit the following information:~~

1. ~~A sealed site plan clearly indicating the location, type, and height of the proposed tower or antenna, including:~~
 - a. ~~On site structures, land uses and zoning designation(s);~~
 - b.a. ~~Adjacent structures, land uses and zoning within 20 feet of the property line (including when adjacent to other municipalities);~~

- ~~e.a. The setback distance between the proposed tower or antenna to all nearest building structures, residential, uses, and commercial and industrial zoned properties as set forth in Table 412.05.E;~~
- ~~d.a. Adjacent roadways and proposed means of access; and~~
- ~~e.a. Required and proposed setbacks from property lines.~~
- ~~2.1. Color elevation drawings of the proposed wireless facility and associated structures as deemed by the City to be necessary to assess compliance with this Article;~~
- ~~3.1. A photo simulation of the proposed tower and structures associated with the wireless facility as seen from adjacent right of way(s). The City may request additional simulations as necessary to determine the visual impact of the proposed facility;~~
- ~~4.1. The separation distance from other towers or antennas described in the inventory of existing sites submitted, pursuant to Section 412.03 of this Article, shall be shown on a site plan or map. The applicant shall also identify the type of construction of the existing tower(s) or antenna(s) and the owner/operator of the existing tower(s) or antenna(s), if known;~~
- ~~5.1. A description of compliance with Section 412.03, "General Requirements", and all applicable federal, State, county or local laws;~~
- ~~6.1. A notarized statement by the applicant as to whether construction of the tower or antenna will accommodate co location of additional towers or antennas for future users;~~
- ~~7.1. An analysis explaining the reasons co location is not feasible on existing towers, antennas, or other vertical structures in the vicinity, and describing the alternative technologies considered to provide similar services in lieu of a new tower or antenna;~~
- ~~8.1. A description of the feasible alternative location(s) of future towers or antennas within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower or antenna is not erected;~~
- ~~9.1. A statement of compliance with applicable Federal Communications Commission (FCC) Radio Frequency (RF) exposure standards; and~~
- ~~10.1. Additional information may be required as deemed necessary to determine compliance with the goals of this Article.~~

C.B. Factors Considered in Granting Conditional Use Permits for Towers or Antennas. In addition to any standards for consideration of Conditional Use Permit

Comment [RW31]: Now listed under Sec. 412.03 General Requirements

applications pursuant to this Article, the reviewing authority shall consider the following factors in determining whether to issue a Conditional Use Permit, although the reviewing authority may waive or reduce the burden on the applicant of one or more of these criteria if it is determined that the goals of this Article are better served thereby:

1. Height of the proposed tower or antenna;
2. Proximity of the tower or antenna to any residential structures and uses;
3. Nature of uses on adjacent and nearby properties;
4. Surrounding topography;
5. Surrounding tree coverage and vegetation;
6. Design of the tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
7. Proposed ingress and egress; and
8. Analysis on the availability of suitable existing towers, antennas, other structures, or alternative technologies not requiring the use of towers or antennas, as discussed in Subsection ~~(C)~~ below.

~~D.C.~~ Availability of Suitable Existing Towers, Antennas, Other Structures, or Alternative Technology. No new tower or antenna shall be permitted unless the applicant demonstrates that no existing tower, antenna, structure, or alternative technology that does not require the use of towers, antennas, or structures can accommodate the applicant's proposed tower or antenna. An applicant shall submit information requested by the City related to the availability of suitable existing towers, antennas, other structures, or alternative technology. Evidence submitted to demonstrate that no existing tower, antenna, structure, or alternative technology can accommodate the applicant's proposed tower or antenna may consist of any one or more of the following:

1. No existing towers, antennas or structures are located within the geographic area which meets applicant's engineering requirements;
2. Existing towers, antennas or structures are not of sufficient height to meet applicant's engineering requirements;
3. Existing towers, antennas or structures do not have sufficient structural strength to support applicant's proposed tower or antenna and related equipment;
4. The applicant's proposed tower or antenna would cause electromagnetic interference with the equipment on the existing towers, antennas or structures,

or the existing towers, antennas or structures would cause interference with the applicant's proposed tower or antenna;

5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower, antenna or structure or to adapt an existing tower, antenna or structure for sharing are unreasonable. For this purpose, costs exceeding the construction of a new tower or antenna are presumed to be unreasonable;
6. The applicant demonstrates that there are other limiting factors that render existing towers, antennas and structures unsuitable;
7. The applicant demonstrates that an alternative technology that does not require the use of towers, antennas or structures, such as a cable microcell network using multiple low-powered transmitters or receivers attached to a wireless system, is unsuitable. For this purpose, costs of alternative technology that exceed new tower or antenna development shall be presumed to render the technology unsuitable; or
8. If the proposed location is in a Residential District, that the location is necessary for the provision of personal wireless services to Maricopa residents and businesses, or their owners, customers, guests, or invitees, or other persons traveling in or about the City, based on substantial evidence that siting the facility outside of a Residential District is infeasible and without the proposed facility, the operator will be unable to provide personal wireless services to its customers in the proposed coverage area, or unable to provide the capacity necessary to meet call and data volumes.

F.D. Minimum Setback, Separation and Maximum Height Requirements. The following height, setback, and separation standards shall apply to all towers and antennas for which a Conditional Use Permit is required; provided, however, that the reviewing authority may reduce the standard setback, separation and height requirements if the goals of this Article would be better served thereby:

1. Towers and antennas shall be set back a distance equal to at least 100 percent of the height of the tower or antenna from any adjoining lot line, excluding existing Alternative tower structures; provided, however, that separation distances from residential uses shall be in accordance with Table 412.05.E, set forth below. [Measurement regulations per Section 412.03F.](#)
2. Accessory buildings must satisfy the minimum Zoning District setback requirements set forth in this Code.
3. Separation distances between towers and antennas shall be measured between the proposed tower or antenna and preexisting towers or antennas. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower or antenna and the proposed base,

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~~B.C.~~ **Third Party Technical Review.** In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the City may require the applicant to obtain a third party technical study at the applicant's expense. The City may review any information submitted by the applicant and permittee(s) in determining whether good faith has been exercised.

~~C.D.~~ **Exceptions.** No co-location may be required where the shared use would or does result in significant interference in the broadcast or reception capabilities of the existing wireless telecommunications facilities or failure of the existing wireless telecommunications facilities to meet federal standards for emissions.

~~D.E.~~ **Violation and Penalty.** Failure to comply with co-location requirements when feasible may result in denial of a permit request or revocation of an existing permit.

412.07 Removal of Abandoned Antennas and Towers

Any antenna or tower that is not operated for a continuous period of 180 days shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 60 days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 60 day period shall be grounds for the City to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower for the prescribed period.

412.08 Non-Conforming Antennas and Towers

~~A.~~ ~~**Not Expansion of Non-Conforming Use.** Towers that are constructed and antennas that are installed in accordance with the provisions of this Article shall not be deemed to constitute the expansion of a non-conforming use or structure.~~

A. **Pre-Existing Towers.** Pre-existing towers or antennas shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such pre-existing towers or antennas. New construction other than routine maintenance on a pre-existing tower or antenna shall comply with the requirements of this Article.

1. **Expansion of Non-Conforming Use.** Towers that are constructed and antennas that are installed in accordance with the provisions of this Article shall not be deemed to constitute the expansion of a non-conforming use or structure. Expansion of Non-Conforming Use to utilize the excessive height of Non-Conforming towers may be allowed.

2. **Co-Location.** Per Section 412.06A, pre-existing towers exceeding the height limitations of Table 412.05.E may propose new co-located antennas in the interest of reducing new tower construction.

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Comment [RW33]: This idea was stated prior to the Text Amendment. It remains as a point of record to note ways to expand Non-Conforming Use in ways that comply with the standards for new tower construction.

Comment [RW34]: This proposed change is offered in effort to expand opportunities for co-location, as encouraged by the Purpose section of this Article.

B. Rebuilding Damaged or Destroyed Non-Conforming Towers or Antennas.

Notwithstanding other provisions of this Article, bona fide non-conforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain a Conditional Use Permit and without having to meet the separation requirements specified herein. Bona fide non-conforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain a Conditional Use Permit and without having to meet the separation requirements specified in Section 412.05. The type, height, and location of the tower or antenna onsite shall be of the same type and intensity as the original facility approval; provided, however, that any destroyed lattice or guyed tower shall be replaced with a monopole structure only.

B.1. *Building Permit and Expiration.* Building permits to rebuild the facility shall comply with the current adopted Building Codes and shall be obtained within 90 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section [412.07](#), herein.

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Comment [RW35]: Now hyperlinked.

412.09 Special District Requirements

A. **Heritage District.** All proposed tower and antenna Conditional Use Permit requests for properties located within the MU-H Mixed Use - Heritage Overlay District require review and ~~written~~ recommendation from the Heritage District Advisory Committee to the Planning & Zoning Commission, prior to the initial Public Hearing for such request.

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