

Section 16.21.28 Telecommunication.

**(1) General provisions:**

**(a) Purpose:** The purposes of this ordinance are:

(i) To regulate telecommunications services, CMRS antennas and support structures, and related electronic equipment and equipment structures.

(ii) To provide for the orderly establishment of CMRS telecommunications facilities in the County;

(iii) To minimize the number of antenna support structures by encouraging the co-location of multiple antennas on a single structure, and by encouraging the location of antennas on pre-existing support structures.

(iv) To establish siting, appearance and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of telecommunications CMRS facilities;

(v) To comply with the Telecommunications Act of 1996 by establishing regulations that:

1) Do not unreasonably discriminate among providers of functionally equivalent services;

2) Do not prohibit or have the effect of prohibiting the provision of Telecommunications CMRS services;

3) Are not based on any claimed environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal communication Commission=s regulations concerning such emissions.

**(b) Findings:** The County Legislative Body makes the following findings:

(i) Telecommunications CMRS facilities are an integral part of the rapidly growing and evolving telecommunications industry, and present unique Land Use challenges for the County.

(ii) The County wishes to balance the interests and desires of the telecommunications industry and its customers to provide competitive and effective telecommunications systems in the county, and sometimes differing interests and desires of others concerning health, safety, welfare and aesthetics issues, and orderly planning of the community.

(iii) The County has experienced an increased demand for Telecommunications CMRS facilities to be located in the County, and expects the increased demand to continue into the future.

(iv) It is in the best interests of the citizens of the County to have quality Telecommunications CMRS services available, which necessarily entails the erection of Telecommunications CMRS facilities within the County boundaries.

(v) The visual effects of Telecommunications facilities can be mitigated by fair standards regulating their siting, construction, maintenance and use.

(vi) Locating antennas on existing buildings and structures creates less of a visual impact on the community than the erection of towers.

(vii) Buildings and structures on public and private property are capable of being used to provide support for antenna arrays, thus reducing the number of towers in all areas of the County;

(viii) The public policy objective of mitigating the impact of telecommunications towers can best be facilitated by permitting the locating of systems on existing buildings, towers and antenna support structures;

(ix) The provisions set forth in this ordinance for the placement of telecommunications CMRS facilities will contribute to the health, safety and general welfare of the community.

(x) Chapter 69-3 of the Utah Code, Annotated, grants Counties the authority to create or acquire sites to accommodate the erection of telecommunications towers and facilities in order to promote the location within a manageable area and to protect the aesthetics and environment of the area. The law also allows the County to require the owner of any tower to accommodate the multiple use of the tower by other companies where feasible and to pay the County the fair market rental value for the use of any County-owned site.

**(c) Definitions:** The following words shall have the described meaning when used in this ordinance, unless a

contrary meaning is apparent from the context of the word.

(i) Antenna: A transmitting or receiving device used in telecommunications that radiates or captures radio signals.

(ii) Antenna Support Structures: Any structure that can be used for the purpose of supporting an antenna.

(iii) County: Wasatch County, Utah.

(iv) County-owned property: Real property that is owned, leased or controlled by the County.

(v) CMRS or Commercial Mobile Radio Service: Low power wireless telecommunications service, including, but not limited to cellular, enhanced specialized mobile radio (ESMR), paging, personal communications systems (PCS) and point-to-point microwave.

(vi) Co-location: The location of an antenna on an existing structure, tower, or building that is already being used or considered for antenna facilities of another.

(vii) Guyed Tower: A tower that supports an antenna or antennas and requires guy wires or other stabilizers for support.

(viii) Lattice Tower. A self-supporting three or four sided, open steel frame structure used to support telecommunications equipment.

(ix) Monopole: A single, self-supporting, cylindrical pole, constructed without guy wires or ground anchors, that acts as the support structure for antennas.

(x) Monopole Antenna with Platform: a monopole with antennas and antenna support structure exceeding two feet (2') in width, but not exceeding fifteen feet (15') in width or eight feet (8') in height.

(xi) Monopole antenna with no Platform: A monopole with antennas and antenna support structure not exceeding two feet (2') in width or ten feet (10') in height.

(xii) CMRS Antenna: An antenna used in connection with the provision of CMRS telecommunications.

(xiii) CMRS Facilities: Facilities for the provision of transmitters, antennas, structures supporting antennas, and electronic equipment that is typically installed in close proximity to a transmitter.

(xiv) Private Property: Any real property not owned by the County, even if the property is owned by another public or governmental entity.

(xv) Roof Mounted Antenna: an antenna or series of individual antennas mounted on a roof, mechanical room or penthouse of a building.

(xvi) Stealth Facilities: CMRS Telecommunications facilities which have been designed to be compatible with the natural setting and surrounding structures, and which camouflage or conceal the presence of antennas and/or towers. This term includes, but it not limited to clock towers, church steeples, light poles, flag poles, signs, electrical transmission facilities and water tanks.

(xvii) Tower: A free-standing structure, such as a monopole tower, lattice tower, or guyed tower, that is used as a support structure for antenna.

(xviii) Wall Mounted Antenna: An antenna or series of individual antennas mounted on the vertical wall of a building or structure.

(xvx) Whip Antenna: an antenna that is cylindrical in shape. Whip antennas can be directional or omni directional and vary in size depending on the frequency and gain for which they are designed.

**(d) Applicability:** This ordinance applies to CMRS Telecommunications facilities. This ordinance shall not apply to the following types of communications devices, although they may be regulated by other County ordinances and policies:

(i) Amateur Radio: Any tower or antenna owned and operated by an amateur radio operator licensed by the Federal Communications Commission.

(ii) Satellite: Any device designed for over-the-air reception of television broadcast signals, multi-channel multipoint distribution service or direct satellite service.

(iii) Cable: Any cable television head-end or hub towers and antennas used solely for cable television services.

**(2) Application Requirements:** Any person desiring to develop, construct or establish a CMRS telecommunications facility in the County shall submit an application for site plan approval to the County. The County shall not consider the application until all of the required information has been included. The application shall include the following:

- (a) Fee: the applicable cost-based fee set by the County.
- (b) Site Plan:
  - (c) Name and street address of the site or location;
  - (d) Tax I.D. Number of property upon which the facilities are intended to be located;
  - (e) Plat map of the section, township and range of the location of the property on which the facilities are intended to be located;
  - (f) Name of owner of the property;
  - (g) Lot-line and set-back dimensions of the intended location;
  - (h) Footprints of existing and proposed buildings, towers, antennas and structures, including a notation of each units height above grade.
  - (i) Location of existing and proposed street access to the location;
  - (j) Surface water drainage system plan;
  - (k) Drawings of proposed structure elevations showing the height, dimensions, appearance and materials proposed;
  - (l) Location and description of any existing or proposed fencing;
  - (m) Location and description of existing and proposed signs, lighting, plants.
  - (n) Names and tax notice addresses of all property owners within 500' of the proposed structures.
  - (o) Environment: A full description of the environment surrounding the proposed facility, including a description of adjacent uses, any adjacent residential structures, and any structures and sites of historic significance;
  - (p) Maintenance: A description of the anticipated maintenance needs for the facility, including frequency of service, personnel needs, equipment needs, and traffic noise or safety impacts of such maintenance;
  - (q) Location: A map showing the site and the nearest telecommunications facility sites, whether they belong to the applicant or to another.
  - (r) Copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the antenna.
  - (s) A written commitment to comply with applicable Federal Communications Commission radio frequency emission regulations, so that there will be no interference with existing television or radio transmissions.
  - (t) The name of a contact person who can respond to questions concerning the application and the proposed facility. Include the name, address, telephone number, facsimile number and electronic mail address, if applicable.
  - (u) If the applicant desires to construct a monopole, the applicant shall also submit a detailed written description of why the applicant cannot obtain coverage using existing buildings or structures and a description of the distances between the applicant=s proposed and existing CMRS facilities, whether the nearest belongs to the applicant or another.
  - (v) If the applicant desires to locate antennas on a site other than the highest priority site (as described herein below) the applicant shall provide the following information to the County:
    - (i) The identity and location of any higher priority sites located within the desired service area.
    - (ii) The reason(s) why the higher priority sites were rejected
  - (w) A copy of a liability insurance policy naming Wasatch County as an additional insured in an amount to be determined by the Planning Department after reviewing the particular facility being requested and any safety hazards associated therewith.

**(3) Approval Process:** The application and site plan shall be reviewed by the County Planning Department, and

if complete, the Planning Department shall place the matter on the Planning Commission agenda for a Public Hearing. If the application is granted, it shall be granted as a conditional Use permit. Any conditions on such use shall be given in writing. Any decision to deny the applicant's request shall also be in writing within 30 days from the date of the public hearing, and shall include the reasons for the denial.

**(4) Location:** Priority of Antenna Site Locations: CMRS Telecommunications antennas shall be located as unobtrusively as is reasonably possible. To accomplish this goal, the provider shall create A stealth facilities@ and make a good faith effort to locate antennas on sites in the following order of priority:

(a) At the same location where another CMRS facility is already located; or

(b) Existing Structures: Lawfully existing buildings, structures and antenna support structures, provided that the buildings, structures or support structures are either:

(i) Located in the P-160 (Preservation) zone in a non-residential area; or

(ii) Located in the M (Mountain) zone at least 1000 feet from any residential area or commercial area on property that is being used for non-residential and non-commercial uses; or

(iii) Located in a commercial zone or a residential zone on property that is being used for a residential building and is at least thirty five feet (35') in height.

(c) Monopoles and guyed towers constructed on public or private property, provided that the property is:

(i) Located in the P-160 (Preservation) zone in a non-residential area; or

(ii) Located in the M (Mountain) zone at least 1000 feet from any residential area or commercial area on property that is being used for non-residential and non-commercial uses; or

(iii) Located in a commercial zone or a residential zone on property that is being used for a multi-family residential building having eight (8) or more dwelling units and which is at least thirty five feet (35') in height.

(iv) Sites other than those listed above.

(d) Co-Location Required: Owners of CMRS facilities within the county shall design or construct their facilities within the County so as to allow for co-location where practicable. Any conditional use permit for any facilities may be conditioned upon the agreement of the applicant to allow co-location of other provider's facilities on such terms as are common in the industry.

**(5) Types of Antennas and Standards:** CMRS facilities are characterized by the type or location of the antenna structure. There are five general types of antenna structures allowed by this ordinance as a Conditional Use: wall-mounted antennas; roof-mounted antennas; stealth facilities; Monopoles with a platform; and Monopoles without a platform. The minimum standard are as follows:

**(a) Wall-mounted Antennas:**

(i) Wall mounted antennas may not extend above the roof-line of the building or extend more than four (4) feet horizontally from the face of the building;

(ii) The antennas, equipment and supporting structures shall be painted to match the color of the background against which they are most commonly seen. Antennas and the supporting structures on the building shall be architecturally compatible with the building. Whip antennas are not allowed on a wall mounted antenna structure.

**(b) Roof Mounted Antennas:**

(i) The maximum height of a roof-mounted antenna shall be twelve feet (12') above the roof-line of the building.

(ii) Roof mounted antennas shall be located a least five feet (5') from the exterior wall of the building.

(iii) Roof mounted antennas may be mounted on top of existing penthouses or mechanical equipment rooms if the antennas and antenna support structures are enclosed or visually screened from view. The screening structure may not extend more than eight feet (8') above the existing roof line of the penthouse or mechanical equipment room.

(iv) Roof mounted antennas, equipment and supporting structures shall be painted to match the color of the background against which they are most commonly seen. Antennas and supporting

structures shall be architecturally compatible with the building.

**(c) Area Limitation for Wall and Roof Mounted Antennas:** Buildings may have a combination of wall and roof mounted antennas. The total area for all wall and roof mounted antennas and supporting structures on any one building shall not exceed the lesser of fifty (50) square feet or 4% of each exterior wall of the building.

**(d) Monopoles with no Platform:**

(i) The maximum height of the monopole or monopole antenna shall be sixty feet (60') although the approving body may grant up to one hundred feet (100') if the location is not obtrusively visible from residential, commercial and any resort areas of the County, and the applicant has demonstrated to the satisfaction of the approving body that the additional height is necessary to obtain coverage or allow co-location, and the applicant has taken all reasonable steps to mitigate adverse effects on the surrounding neighborhood. The entire antenna structure mounted on the monopole shall not exceed three feet (3') in width.

(ii) Monopoles shall be set back a minimum of one hundred and fifteen percent (115%) of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line.

(iii) Monopoles, antennas and related support structures shall be painted a neutral color or a color to match the background against which they are most commonly seen.

**(e) Monopoles with Platform:**

(i) The maximum height of the monopole or monopole antenna shall be sixty feet (60') although the approving body may, allow an antenna or antenna support structure up to one hundred feet (100') in height if the location is not obtrusively visible from residential, commercial and any resort areas of the County, and the applicant has demonstrated to the satisfaction of the approving body that the additional height is necessary to obtain coverage or allow co-location, and the applicant has taken all reasonable steps to mitigate adverse effects on the surrounding neighborhood. The entire antenna structure including the monopole shall not exceed twelve feet (12') in width, or one hundred twenty feet (120') in height.

(ii) Monopoles shall be set back a minimum of one hundred and fifteen percent (115%) of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line.

(iii) Monopoles, antennas and related support structures shall be painted a neutral color or a color to match the background against which they are most commonly seen.

(iv) Monopoles and towers shall be located at least two thousand feet (2000') from each other, except upon a showing of necessity by the applicant, or upon a finding by the County that a closer distance would adequately protect the health, safety and welfare of the community and/or the shorter distance will be more visibly screened in a particular instance.

(v) Monopoles shall be located as unobtrusively as possible.

**(f) Stealth Facilities:** The height and location of a stealth facility shall be limited to the maximum height allowed in the zone, unless specially approved by the Planning Commission.

**(6) The Planning Commission shall also consider the following:**

(a) Height, mass and design of buildings and structures in the vicinity of the facility;

(b) Whether the facility is located relative to existing vegetation, topography and structures in a manner that optimizes the visual screening;

(c) The willingness of the applicant to co-locate its facility on the facility of another, or to allow others to co-locate on applicants facility on such terms and conditions as are common in the industry.

**(7) Safety:**

(a) Regulations: All operators of CMRS facilities shall comply with the rules and regulations of the Federal communications Commission (FCC) and the Federal Aviation Administration (FAA) regulations at all times. Failure to comply with the applicable regulations shall be grounds for revoking the conditional use permit approval.

(b) Licenses and Permits: Applicant will submit copies of all licenses and permits required by other agencies and shall maintain such licenses and permits in good standing and shall provide evidence of renewal thereof upon request by the county.

(c) All facilities shall be protected against unauthorized climbing by removing the climbing pegs from the lower twenty feet (20') of the facility.

(d) All facilities shall be fenced in accordance with the condition outlined in the Conditional Use Permit, unless such requirement is determined to be unnecessary in a particular instance.

(e) Monopoles and towers shall comply with the Airport Overlay zone requirements and the FAA requirements for height and lighting. If security lighting is used it shall not be allowed to trespass into any residential areas.

**(8) Abandonment:** the County may require the removal of all facilities if the facility has been inoperative or out of service for more than twelve (12) consecutive months.

(a) Notice: Notice to remove shall be given in writing by certified mail addressed to the operator's last known address, or by personal service.

(b) Failure to remove the facilities after proper notice has been given, is a violation of the terms of this ordinance. The county may initiate criminal and/or civil legal proceedings and may seek a civil injunction requiring the removal of any structures. If the owner does not remove the facilities within the time period allowed in the notice, the County may remove the facilities and the owner shall be responsible for the costs thereof, and failure to remove the facilities after receiving notice to do so automatically transfers ownership of the facilities on the site to the County.

**(9) Site Requirements:**

(a) No outside storage or solid waste receptacles shall be permitted on the site.

(b) All electronic and other related equipment and appurtenances necessary for the operation of any CMRS facility shall, whenever practicable, be located within or on a lawfully pre-existing structure. When a new structure is required, the structure will be harmonious with and blend with the natural features and buildings surrounding such structure.

(c) The County requires a minimum of one parking space for facilities to allow for service of the facility.

(d) The CMRS facilities shall be maintained in a safe, neat and attractive manner.

(e) All sites with a CMRS facility shall be landscaped in accordance with zone requirements where the facility is located.

(2005-18, Amended, 03/09/2006, [Prior Text](#); 2003-22, Added, 11/24/2003, Effective Date 12/19/2003)