

15-4 -14. TELECOMMUNICATION FACILITIES.

The intent of this section is to ensure that telecommunications facilities are Compatible with the unique characteristics of each Zoning District of Park City, and that adverse impacts on community quality and safety in residential, commercial and industrial Areas, are mitigated. The intent of these requirements is to locate Telecommunications facilities and related equipment where they are least visible from Public Streets, public Areas and designated view corridors and, to the best extent possible, provide Screening from adjacent Property Owners. The installation of these devices is governed by the following regulations.

(A) **PERMIT REQUIRED.** The installation of telecommunication facilities, unless otherwise addressed in this Code, shall be deemed a Conditional Use and subject to the Park City Building Permit process. It shall be unlawful to install any telecommunication facility without first having a Conditional Use permit and Building Permit from the City.

(B) **SUBMITTAL REQUIREMENTS.** A complete Application shall include all elements of the proposed Telecommunications Facility and shall produce all information required by the Telecommunications Facility Application. Applicants shall provide the following submittal requirements.

(1) Each Applicant shall present documentary evidence regarding the need for Telecommunications Facilities within the City. This information shall identify the Applicant's existing Telecommunications Facilities and coverage Areas to demonstrate the need for the proposed Telecommunications Facility with the City.

(2) An Applicant proposing to erect a new Telecommunications Facility shall provide documentary evidence that a legitimate attempt has been made to locate the new Telecommunications Facility on existing Buildings or Structures or as a co-location. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing Buildings or Structures or co-location Sites in the radio frequency coverage Area for the proposed Telecommunications Facility. Efforts to secure such locations shall be documented through correspondence between the Applicant and the Property Owner(s) of the existing Buildings, Structures or co-location Sites.

(3) Applicants proposing to construct new Telecommunications Facilities shall document the locations of all of the Applicant's existing Telecommunications Facilities that provide Telecommunications within the City, as well as any changes proposed within the following twelve (12) month period, including plans to discontinue or replace such existing Telecommunications Facilities. Applicants shall provide competent testimony from a radio frequency engineer regarding the suitability of potential Telecommunications Facility locations in relation to the Applicant's existing Telecommunications Facilities.

(4) Each Application shall include a Site location alternative analysis describing the location of other Sites considered for the proposed Telecommunications Facility, the availability of those Sites, the extent to which other Sites do or do not meet the Applicant's Telecommunications needs and the reason why the subject Site was chosen for the proposed Telecommunications Facility. The analysis shall address the following

issues:

- (a) How the proposed location and Telecommunications Facility relate to the object of providing full Telecommunications services within the City Area;
 - (b) How the proposed Telecommunications Facilities relate to the location of the Applicant's existing Telecommunications Facilities that provide Telecommunications within and near the City;
 - (c) How the proposed Telecommunications Facility relates to the Applicant's anticipated need for additional Telecommunications Facilities that provide Telecommunications within and near the City;
 - (d) If applicable, how the Applicant's plans specifically relate to, and are coordinated with, the needs of all other Telecommunications providers within and near the City.
 - (5) A visual impact study, graphically simulating through models, computer enhanced graphics or similar techniques, the appearance of any proposed Telecommunications Facility and indicating its view from at least five (5) locations around and within one (1) mile of the proposed Telecommunications Facility will be most visible.
- (C) **COMPLIANCE WITH OTHER LAWS.** Telecommunications Facilities shall comply with applicable Federal Aviation Administration and Federal Communications Commission regulations available. Evidence of substantial compliance must be submitted prior to the issuance of a Building Permit for a Telecommunications Facility.
- (D) **NOT ESSENTIAL SERVICES.** Telecommunications Facilities shall be regulated and permitted pursuant to this and other applicable sections of the Park City Land Management Code, General Plan and Sensitive Lands Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.
- (E) **CONDITIONAL USE REVIEW PROCESS.** A Conditional Use permit is required for all Telecommunications Facilities. The Planning Department shall review all Telecommunications Facility Applications and forward the Applications to the Planning Commission. The Planning Commission shall review an Application pursuant to Section 15-1-10 herein.
- (1) **NOTICING.** Noticing of all Applications shall comply with LMC Chapter 15-1.10 (c), which requires a published notice of not less than fourteen (14) days prior to the hearing and courtesy mailed notice to Owners of Property within three hundred feet (300') of the proposed Telecommunications Facility. If there are no occupied Properties within three hundred feet (300'), notice shall be given to the closest, registered home Owners association.
 - (2) **CONSENT AGENDA REVIEW.** Applications meeting the Consent Agenda Review criteria will be placed on the Planning Commission's agenda and will not require a public hearing. Applications placed as a consent agenda item may be removed by the Planning Commission from the consent agenda and set as a public hearing on the same date or a later meeting of the Planning Commission at the Applicant's discretion.
 - (3) **PUBLIC HEARING.** Applications requiring a public hearing shall be placed on the Planning Commission's regular agenda for review.

(F) SITE REQUIREMENTS.

(1) **SETBACKS.** The placement of Telecommunications Facilities on a Lot shall comply with the Setbacks of the underlying zone as stated herein. Telecommunications Facilities shall comply with the Setbacks for main Structures and shall not be determined accessory Structures.

(2) **HEIGHT.** The Telecommunications Facilities shall comply with the base height requirement, as stated in LMC Chapter 15-2, for the zone in which it is placed. The height shall be measured from the Grade or roof beneath to the top of the Antenna or mounting hardware whichever is higher. The following exemptions shall apply:

(a) Roof Mounted Antenna, placed on a flat roof, may extend up to ten feet (10') above the existing Structure, provided that the Antenna Setback from the edge of the roof is a minimum distance equal to or greater than the height of the antenna.

(b) Roof mounted Antenna, placed on a pitched roof, may extend a maximum of five feet (5') above the existing Structure.

(3) **USE OF PROPERTY.** The Telecommunications Facility shall be an ancillary Use on the Lot on which it is placed. The Lot shall contain a separate principal Use.

(4) DESIGN.

(a) Equipment shelters located outside an existing Building shall require a public hearing in front of the Planning Commission for compliance with the Architectural Design Guidelines if applicable, and Park City Design Guidelines.

(b) Antenna and associated equipment shall incorporate materials and colors present in the context of the surrounding Area. Stealth Telecommunications Facilities shall be designed in a manner to blend with the existing and natural environment.

(c) Panel Antennas shall be no more than five square feet (5 sq. ft.) in Area per face.

(d) Freestanding Antennas and wall mounted Antennas shall be mounted a maximum of twelve inches (12") from the all or pole.

(G) SITE DISTURBANCE. Any Application, temporary or permanent, which requires the removal of Significant Vegetation or proposes any new, or improvements to driveways or roads a length greater than twenty feet (20') and/or a width greater than ten feet (10') wide, shall require a public hearing before the Planning Commission. As used herein, "Significant Vegetation" includes trees six inches (6") in diameter or greater measured four feet six inches (4'6") above the ground, groves of small trees or clumps of oak and maple covering an Area of twenty square feet (20 sq. ft.) or more measured at the drip line. Plans must show all such trees within twenty feet (20') of a proposed Telecommunications Facility. The Planning Department shall determine the Limits of Disturbance and may require mitigation for loss of Significant Vegetation.

(H) ZONING RESTRICTIONS. Unless otherwise required within this Section, Applications for Antennas shall be permitted and reviewed as follows:

(1) FREESTANDING ANTENNA.

(a) Prohibited. Any Antenna located on Historic Structures and all freestanding Antenna located within the HRL, HR-1, HR-2, HRM, E-40, E, SF, R-1, RM and POS zones.

Freestanding Antenna on new Structures within the ROS zone are also prohibited.

(b) Consent Agenda Review. Freestanding Antenna located in RDM, GC, PUT and LI zones may be approved by the Planning Commission on its consent agenda.

(c) Public Hearing Required. Freestanding Antenna located in HRC, HCB, RD, and RC zones. Any freestanding Antenna located on existing poles in the ROS zone.

(2) ROOF MOUNTED ANTENNA.

(a) Prohibited. Any roof mounted Antenna located on a Historic or underground Structure or within the POS zone.

(b) Consent Agenda Review. Roof mounted Antenna within the RDM, RC, GC, PUT and LI zones may be approved by the Planning Commisiosn on its consent agenda.

(c) Public Hearing Required. Roof mounted Antenna located in HRL, HR-1, HR-2, HRM, HRC, HCB, ROS, E-40, E, SF, R-1, RD and RM zones shall require a public hearing.

(3) WALL MOUNTED ANTENNA.

(a) Prohibited. Any wall mounted Antenna located on a Historic or underground Structure or within the POS zone.

(b) Consent Agenda Review. Wall mounted Antennas located within the RD, RDM, RC, GC, PUT and LI zones may be approved by the Planning Commission on its consent agenda.

(c) Public Hearing Required. All Wall Mounted Antennas located in HRL, HR-1, HR-2, HRM, HRC, HCB, ROS, E-40, E, SF, R-1, and RM zones shall require a public hearing with approval granted by the Planning Commission.

(4) ENCLOSED ANTENNA.

(a) Prohibited. Any Enclosed Antenna located within a Historic Structure or within the POS zone, unless approved by the Planning Commisiosn as a CUP, with a public hearing, and provided the antennas are enclosed within the Historic Structure, Historic material is not removed, and the enclosure does not increase the Building height or require any exterior wall modifications to the existing Structure.

(b) Consent Agenda Review. Enclosed Antennas located within the HRL, HR-1, HR-2, HRM, HRC, HCB, ROS, E-40, E, SF, R-1, RD, RDM, RM, RC, GC, PUT and LI may be approved by the Planning Commission on its consent agenda.

(c) Public Hearing Required. The location of any enclosed Antenna, which requires an increase in height or exterior wall modification to the existing Structure shall require a public hearing.

(I) **TECHNICAL NECESSITY EXCEPTION**. If the Application does not meet the criteria as stated in SEction F, G, H and I, the Applicant may apply to the Board of Adjustment for a technical necessity exception. The Board of Adjustment shall review the Application as a Variance pursuant to LMC Chapter 15-10 and shall require the Applicant to provide any additional technical information in order to approve the variance including the following:

(1) A written explanation describing the surrounding topography, Structures, vegetation and other factors which make the proposed Telecommunications Facility technically necessary for Telecommunications consistent with the Federal Telecommunications Act of 1996, as amended.

(J) **CO-LOCATION**. To discourage the proliferation Telecommunications Facilities co-location is both permitted and encouraged. Co-location, on a Lot may be permitted by the Planning Commission if all Setbacks, design and landscape requirements are met for each Telecommunications Facility. The Application shall include any existing or approved, but unbuilt, Telecommunications Facility within the Telecommunications Area that may meet the needs of the Applicant. The supplied documentation shall evaluate the following factors:

- (1) Structural capacity of the Antenna towers;
- (2) Geographic Telecommunications Area requirements;
- (3) Mechanical or electrical incompatibilities;
- (4) Inability or ability to locate equipment on existing Antenna towers; and
- (5) Any restriction or limitation of the Federal Communication Commission that would preclude the shared Use of the Antenna tower.

(K) **SIGNS**. Signs shall only be permitted if they are related to the health and safety of the general public. All proposed signs shall be submitted with the Telecommunications Facility Application and subject to review by the Planning Department.

(L) **ABANDONMENT**. The Applicant, or the Applicant's successor(s) and/or assign(s) shall be responsible for the removal of unused Telecommunications Facilities within twelve (12) months of abandonment of Use. If such tower is not removed by the Property Owner, then the City may employ all legal measures, including as necessary, obtaining authorization from a court of competent jurisdiction, to remove the tower, and after removal may place a lien on the subject Property for all direct and indirect costs incurred in dismantling and disposal of the tower, including court costs and reasonable attorney fees.

(M) **SUBDIVISION AND CONDOMINIUM COVENANTS**. Many Subdivision and Condominium covenants may address the location of Telecommunications Facilities within Condominium units and the Lots of a Subdivision. If the proposed installation is within the Common Area of a Condominium or Planned Unit Development, and the Application submitted is not in the name of the home Owner's association or management committee, the Applicant shall provide a letter from the home Owners association or management committee indicating consent to the location of the Telecommunications Facilities within the Common Area has been granted as a part of the permit Application filed with the City.

(N) **TEMPORARY PERMITS**. A temporary permit may be approved for temporary Antennas only in conjunction with a special event licensed under Municipal Code Title 4, Chapter 8. A temporary Antenna permit Application must be submitted to the Planning Department. The Application will be administratively reviewed by the Planning Department based on the following criteria:

(1) **TIME.** Permits will be issued only for the duration of a licensed special event plus five (5) calendar days. In no case will a temporary Administrative Permit be issued for a period of greater than thirty (30) days.

(2) **HEIGHT.** The height of the temporary Antenna may not be greater than five feet (5') more than the zoning height for the specific zone where the Antenna is placed, as stated in the Land Management Code.

(3) **ZONING.** Temporary Antennas are permitted in the following zones: RCO, GC, HCB, HRC, RC, PUT and LI.

(4) **PERMISSION.** Temporary Antenna permit Applications shall be accompanied by written permission from the Property Owner.

If the above criteria are met, the Planning Department shall grant a temporary Administrative Permit for the facility.

(O) **TEMPORARY ANTENNA FOR USE DURING DRIVE TESTS.**

Telecommunications companies wishing to perform drive tests shall submit notice to the Park City Planning Department stating the location and the date of the proposed test. Antennas in Use for a drive test shall not be left standing for a period greater than one (1) day. Drive tests shall be limited to testing functions only and shall not be used for Telecommunications services to customers. Drive tests on City Property also require Planning Department approval and execution of the City's standard drive test agreement.

(Amended by Ordinance Nos. 02-47; 06-22)