

## Chapter 30

### REGULATION OF WIRELESS TELECOMMUNICATION

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#### **16-30-010 Purpose.**

1. To insure that all telecommunications facilities comply with Federal, State, and County regulations.
2. To regulate telecommunications services, antennas and support structures, and related electronic equipment and equipment enclosures.
3. To provide for the orderly establishment of telecommunications facilities in the County;
4. 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 structures.
5. To establish siting, appearance and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of telecommunications facilities;
6. To comply with the Telecommunications Act of 1996 by establishing regulations that:
  - a. Do not unreasonably discriminate among providers of functionally equivalent services;
  - b. Do not prohibit or have the effect of prohibiting the provision of telecommunications services;
  - c. Are not based on any claimed environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commissions regulations concerning such emissions.
    - d. Ensure that all utility facilities/structures are located, installed, buffered/screened, and maintained in a manner that will minimize the impact of such facilities/structures on nearby landowners and will not adversely affect the rural, agricultural, small town character and scenic beauty of Morgan County.

#### **16-30-020 Findings.**

1. Whereas, the telecommunications facilities are an integral part of the rapidly growing and evolving telecommunications industry and present unique zoning challenges for the County.

2. Whereas 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, with the sometimes differing interests and desires of others concerning health, safety, welfare and aesthetics issues, and orderly planning of the community.
3. Whereas the County has experienced and increased demand for telecommunications facilities to be located in the County, and expects the increased demand to continue into the future.
4. Whereas it is the best interests of the citizens of the County to have quality telecommunications services available, which necessarily entails the installation of telecommunications facilities within the County boundaries.
5. Whereas the visual effects of telecommunications facilities can be mitigated by fair standards regulating their siting, construction, maintenance and use.
6. Whereas locating antennas on existing buildings and structures creates less of a visual impact on the community than the erection of towers.
7. Whereas 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;
8. Whereas the placement of telecommunication facilities on public property usually distributes the positive and negative effects of telecommunication facilities most equitable;
9. Whereas 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;
10. Whereas the provisions set forth in this ordinance for the placement of telecommunications facilities will contribute to the health, safety and general welfare of the community.
11. Whereas 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.

**16-30-030 Definitions. Definitions to Be Included**

1. Equipment Enclosure. A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals and other telecommunication equipment.
2. Antenna. Any system of wires, poles, rods, arms, reflecting discs or similar devices of various sizes, materials, and shapes including but not limited to solid or wire-mesh dish, horn, spherical or bar configurations used for wireless transmission. Types of antennas include, but are not limited to the following:
  - a. Wall Mounted Antenna. Any antenna mounted directly to the fascia or outside walls of a structure, existing parapet walls, penthouses, or mechanical equipment rooms, with no portion of the antenna extending above the roofline of such structures.
  - b. Roof Mounted Antenna. An antenna mounted directly to the roof of a building, mechanical penthouse or parapet enclosure wall that is on the rooftop of a building.
  - c. Top-hat Antenna- spatial array of antennas, generally located on a freestanding structure, where

the visible width of antennas and antenna mounting structures are more than two (2) feet in width as viewed looking directly at the structure.

3. Antenna Support Structure. A structure, the principal purpose of which is for location of antennas. Types of antenna support structures may include:
  - a. Monopole. A standing antenna support structure placed directly on the ground to support one or more antennas.
  - b. Lattice Tower. A multiple sided, open steel frame structure used to support one or more antennas. Lattice towers and guyed structures are not allowed in any zone except, towers under 70' that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive only antennas.
4. Co-Location. A telecommunications facility that includes a single antenna support structure, but more than one telecommunications provider's antennas and telecommunication equipment.
5. Cell on Wheels (COW). A mobile temporary telecommunications facility which is located and operated on a trailer for 30 days or less.
6. Telecommunications Equipment. Equipment used in a telecommunications facility other than the Antenna, Antenna Support Structure, or Equipment Enclosures. Telecommunications equipment may include, but is not limited to electronic equipment necessary for processing wireless communication signals, air conditioning, backup power supplies, and emergency generators.
7. Telecommunications Facility. An unmanned structure which consists of antennas, antenna support structures, telecommunications equipment, equipment enclosures as defined herein, that transmit and/or receive voice and/or data communications through radio signals such as, but not limited to "cellular" or "PCS" (Personal Communications System) communications and paging systems, whether commercially or privately operated. Such sites typically require the construction of transmission support structures, access roads, fences, and any other attendant infrastructure. A monopole by itself without an accompanying lease agreement or other agency agreement acceptable to the County Attorney with a wireless telecommunications provider company does not qualify as a Wireless Telecommunications Facility. Towers under 70' that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive only antennas are except from this ordinance.
8. Non-Stealth Design. Any antenna or equipment enclosures not camouflaged in a manner to blend with surrounding land uses, features or architecture. Non-stealth design does not conceal the intended use of the telecommunications facility. A monopole with equipment enclosures above the ground and unscreened would be considered non-stealth.
9. Stealth. Antennas, antenna support structures and telecommunication equipment enclosures camouflaged or designed to blend with surrounding land uses, features, and architecture, thus minimizing the aesthetic impact on adjacent uses, thereby concealing the intended use and appearance of the telecommunications facility such as heavy landscaping, or installing telecommunications equipment within existing buildings, behind vegetative screening, or placing equipment enclosures underground, thus preserving or striving to maintain the rural aesthetics of Morgan County. A flush wall mount antenna that is painted the same color as the background and located on a building where the telecommunications equipment is located inside the building would be one example of stealth design. Other examples of stealth design include, but may not necessarily be limited to roof mount antennas, utility pole antennas, light or flag poles, artificial rocks or trees.

**16-30-040 General Review Provisions.**

1. Independent Review. The County may, if it deems necessary, cause the applicant to submit an impact study from a qualified, third party radio frequency engineer, to insure that the proposed telecommunications facility will not interfere with existing radio, television, and emergency

signals. The purpose of the review shall be to determine if other sites are available which can achieve an equivalent signal distribution without significantly affecting the existing telecommunication operations within the County. Such a review may be required when an applicant indicates that no other acceptable site exists. These costs shall be borne by the applicant. If the applicant disagrees with Staff or the Planning Commission regarding this impact study, then an appeal can be made before the Morgan County Council.

2. Communication Facilities Applications shall be considered for either a Temporary Use Permit, Conditional Use Permit or Permitted Use Permit.
3. Towers under 70' that are owned and operated by a federally licensed amateur radio station operator or towers used exclusively for receive only antennas are except from this ordinance.

**16-30-050 Construction Standards.**

1. Building Codes and Safety Standards. To ensure the structural integrity of telecommunications facilities, the owner of a telecommunication facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such telecommunications facilities, as amended from time to time.
2. Letter of Intent. All applicants, who apply to build a tower, shall provide one (1) letter of intent from a telecommunications company that will locate on the tower.
3. Lattice towers and guy wires. Lattice towers and guyed structures are not allowed in any zone, except towers described under C. (4).

**16-30-060 General Requirements.**

1. Setbacks. Telecommunication facility presumptive setback shall be 115 percent of the tower's height from the property line or what the zone dictates, whichever is greater. Planning Staff, upon review of the application, can vary setbacks if the telecommunication facility can be hidden more appropriately by topography, vegetation, or existing structures, however, the adjacent landowner(s) must provide written agreement approved by the County Attorney of the proximity to their property line.
2. Height. Height of towers shall be minimized as much as reasonably possible. Height of the telecommunication facilities shall be measured from the existing grade to the top of the antenna support structure or to the highest point of any portion of the telecommunications facility, whichever is greater. If the proposed site is a roof mount or wall mount, the County may request that the study verify that the existing or proposed screening will screen telecommunications facility from view. Heights shall be no higher than 60' in any zone allowed; and up to 100' if the monopole is stealth, requires additional height for coverage and/or co-location, and the applicant has taken all reasonable steps to mitigate adverse effects on the surrounding neighborhood.
3. Signage. Signs shall be limited to non-illuminated warning and equipment identification signs unless warranted by FAA, FCC, or any other agency of the state or federal government with the authority to regulate towers and antennas.
4. Access roads. Access roads shall be limited to ten (10) feet in width except where safety considerations require otherwise. Said roads shall contain gravel or other non-paved surface. Existing roads shall, whenever possible, be upgraded the minimum amount necessary.
5. Zoning. Telecommunication facilities are allowed in larger than RR-1 zones and legal lots two acres or greater.

**16-30-070 Temporary Use Permit.**

If an applicant submits an application for a COW, the applicant must comply with Section 6.30.100 Site Justification Study Requirements.

**16-30-080 Conditional Use Permit.**

For all new telecommunication facilities, the applicant shall submit a Master Plan along with a completed application, and a Site Justifications Study for each proposed telecommunications facility or site. A Site Justification Study and Master Plan shall be submitted to the Planning Department. This study shall provide a review of the proposed project to insure that the provisions of the Morgan County Development Code are being met. If the application is a co-location or stealth, go to the Permitted Use (Section 16.30.130) for application requirements. Permitted uses shall be reviewed and approved by the planning staff. Temporary and Conditional Uses shall be review and approved by the Planning Commission and approved by the County Council. Any conflicts shall be submitted to the Planning Commission for consideration. Said Planning Commission shall review, take public comment and render a decision by 1) approving the application, 2) approving the application with conditions, or 3) denying the application. The applicant shall request in written form what information submitted with the application is to be kept confidential from public review.

**16-30-090 Master Plan Requirements.**

1. A Master Plan shall be completed by each company submitting an application for a Conditional Use Review. The Master Plan shall show:
  - a. Where the applicant’s proposed, existing, and future telecommunication facilities are within Morgan County. The master plan may be amended as needed by the carrier for future site applications as long as the Planning Staff justifies the amendment.
  - b. The number of possible co-locations that can be physically located on the proposed tower.
  - c. The Master Plan shall contain a copy of the applicant’s current FCC license to the Morgan County Planning Department.
  - d. An initial indication of where the road or access will be located to the proposed site. Prior to approval of a building permit, the applicant shall provide Staff with a copy of recorded easement(s) to the proposed site,
  - e. A signed agreement, stating that the applicant will:
    - i. Allow co-location with other users, provided all safety, structural, and technological requirements are met. This agreement shall also state that any future owners or operators will allow co-location on the tower;
    - ii. Restore site to its former condition. (See Section 16.30.160, Non-maintained or Abandoned Facilities of this ordinance.)
    - iii. A security program or system that addresses unauthorized access and vandalism,
    - iv. Latitude and Longitude of proposed tower location,

**16-30-100 Site Justification Study Requirements.**

1. A Site Justification Study shall be completed for each site. The Study shall include:
  - a. Rationale. The site justification study shall include a description of the elevations, vegetation, and rock formations at the proposed site and in the area a description of the telecommunications facilities proposed to be placed on the site with technical reasons for a tower, its location and its design efforts made to minimize impacts on the farming activities found on the land propagation information for the proposed site demonstration that the telecommunications facility complies with the Morgan County General Plan, as well as the required setback, and landscaping requirements of the zoning district in which the proposal is being made. The Planning Commission may waive or reduce the burden on applicant if the Planning Commission concludes that the goals of this ordinance are better served thereby.
  - b. Co-location. The Study shall also examine the potential for co-location at existing site(s) or

the proposed site. If co-location is not possible at an existing site or if the proposed new site is not available for co-location, then the applicant shall included a written explanation of why co-location is not possible.

- c. Equipment Enclosures. The Study must include a detailed written explanation and analysis, not limited to fiscal reasons alone, of the potential for the equipment enclosures to be either:
    - i. Located in any existing building or
    - ii. Designed whereby the incorporation of stealth design technology or other visual screening is utilized that readily conceals the appearance of the equipment enclosures.
  - d. Visual Analysis. On all new sites, the applicant shall submit a detailed twenty-four by thirty-six (24x36) inch surveyed map, not more than one (1) inch equals one hundred (100) feet, which includes:
    - i. The topography of the area (in 2 ft. elevations) in which tower and/or telecommunication facilities can be located while continuing to communicate with sister tower(s).
    - ii. Delineation of where telecommunication facilities can be placed so as to minimize:
      1. the placement of structures from being placed on slopes of thirty percent or greater; and,
      2. The intrusion of equipmentenclosures from being silhouetted against the sky as seen from a public road or other public location.
      3. Graphical illustration of thecoverage of the proposed telecommunication facility.
2. Once the applicant and Staff locate asite, the applicant shall provide an illustration which can include photo simulation(s), field mock up(s) or other techniques, which illustrate all possible visual impacts of the proposed telecommunication facility. The analysis should consider views from public areas (streets, parks, etc.) and from private residences. The applicant(s) should identify all reasonable mitigation measures consistent with the technical aspects and requirements of the proposed telecommunications facility to insure that hill cuts for roads are minimized and that the telecommunication facility can be hidden as best as possible to preserve the rural character of the County. All costs associated with this requirement are to be borne by the applicant.

**16-30-110 Public Hearing.**

All conditional use applications shall have a public hearing before the Planning Commission. Public hearings by the Governing Body are optional. In addition to all other notices required by law and no less than ten (10) days prior to the public hearing, the applicant shall cause that a sign be constructed and placed on the lot where the proposed wireless telecommunication facilities are to be located. The sign shall be placed near the frontage road in a conspicuous location, with its view unobstructed, so as to be easily read by the public. The sign must be 2' x 3' in size and must state that a public hearing is to be held on the erection of a tower or other wireless telecommunications facility on this lot. The sign shall give the date, time, and place of the hearing. The words "A PUBLIC HEARING" must be printed in letters at least 4" high. Following the public hearing the Planning Commission shall make a recommendation to the County Council regarding an "approval," "approval with conditions," or a "denial of the application."

**16-30-120 Public Notice.**

The applicant shall provide stamped addressed envelopes for each property owner within 600' of the proposed facility property line or 1,200' from the proposed facility whichever is lesser.

**16-30-130 Permitted Use Permit.**

1. Any request for telecommunications facilities differing from the standards as allowed in this section shall require a Conditional Use Permit.
2. Telecommunications facilities must comply with the Morgan County General Plan.
3. All permitted use telecommunication facilities listed in this section must be a co-location stealth

design, or of a height of 35' or less.

- a. Co-location. Be located on an existing antenna support structure without having to replace or extend said tower, or,
  - b. Stealth. Incorporate stealth design technology or other visual screening that readily conceals the appearance of the antenna support structures, and equipment enclosures. Stealth design can be incorporated on existing facilities. Some examples may include, but not be limited to, roof mounts, wall mounts, and utility, light or flag pole antennas.
  - c. 35'. Towers 35' or less are permitted if in agreement to all other criteria of this ordinance.
4. If there is a conflict between Planning Staff and Applicant, the application shall be referred to the Planning Commission for review.

**16-30-140 Master Plan.**

1. Where the applicant's proposed, existing, and future telecommunication facilities are within Morgan County, the master plan may be amended as needed by the carrier for future site applications as long as the Planning Staff justifies the amendment.
2. The Master Plan shall contain a copy of the applicant's current FCC license to the Morgan County Planning Department.
3. Site Justification Study Requirements.
  - a. Equipment Enclosures. The Study must include a detailed written explanation and analysis, not limited to fiscal reasons alone, of the potential for the equipment enclosures to be either:
    - i. Located in an existing building or
    - ii. Designed whereby the incorporation of stealth design technology or other visual screening is utilized that readily conceals the appearance of the equipment enclosures.
  - b. Delineation of where telecommunication facilities can be placed so as to minimize: the placement of structures from being placed on slopes of thirty percent or greater; and,
  - c. The intrusion of equipment enclosures from being silhouetted against the sky as seen from a public road or other public place.

**16-30-150 Permitted Use Review Process.**

In proposals where either the applicant or the Planning Department determine that potential issues may arise or additional comment is needed from the community, a public hearing on the application may be scheduled with the Morgan County Planning Commission.

**16-30-160 Non-Maintained or Abandoned Facilities.**

The Planning Department may require each non-maintained or abandoned telecommunication facility to be removed when such telecommunication facility has not been repaired or put into use by the owner, person having control, or person receiving benefit of such structure after 6 months of continuous non-use and after 90 days written notice of non-maintenance or abandonment is given to the owner, person having control or person receiving the benefit of such structure. [2001-06]