

TOWN OF MOUNTAIN VIEW

ORDINANCE 2017-3

AN ORDINANCE OF THE TOWN OF MOUNTAIN VIEW, WYOMING CONCERNING WIRELESS TOWERS, ANTENNAS, AND POLES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF MOUNTAIN VIEW, COUNTY OF UINTA, AND STATE OF WYOMING:

WHEREAS, the Town of Mountain View is an incorporated town in the State of Wyoming;

WHEREAS, the Town of Mountain View desires to establish by this Ordinance, concerning wireless tower, antennas, and poles.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VIEW, WYOMING THAT:

Section 1. INTENT AND PURPOSE.

The intent is to provide the Town of Mountain View with access to fast reliable wireless communications and technologies while minimizing the number of towers in and around town. The Town may provide land for the construction and operations of wireless communication towers in acceptable locations. Locations will provide adequate coverage for the Town and the surrounding communities. Providers will be strongly encouraged to co-locate on towers built at the provided areas.

This Article regulates all towers, antennas and poles, as herein defined, to: (1) protect residential areas and land uses from potential adverse economic impacts of towers, antennas or poles; (2) encourage the location of towers, antennas and poles in nonresidential areas; (3) mandate the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; (4) encourage users of towers, antennas or poles to locate them in areas where the adverse effects on the community are minimal; and (5) provide adequate area surrounding towers to minimize damage to people and property if a failure occurs. This section is enacted to promote and protect the health, safety, and general welfare of the citizens of the Town of Mountain View.

Section 2. DEFINITIONS.

ANTENNA: Any exterior transmitting and/or receiving wireless communication device used exclusively by commercial entities mounted on a tower, building or structure and used in communications, unless specifically prohibited by the FCC. Antennas used by amateur radio operators are excluded from this definition.

ANTENNA/TOWER HEIGHT: Vertical distance from the finished grade of the lot or parcel to the highest point on the structure, including the highest antenna. In cases where substantial fill is proposed, "finished grade" shall be established by the Town Engineer, consistent with parcels in the immediate vicinity, and shall not be, nor have been artificially raised to gain additional antenna/tower height.

CARRIER: Any entity that provides wireless communications and technology services. This definition also includes companies that build communications towers and lease tower space to carriers.

FAA: Federal Aviation Administration.

FCC: Federal Communications Commission.

GUYED TOWER: A tower that is supported by use of cables (guy wires) that are permanently anchored to the ground.

LOT SIZE: The dimensions of the entire lot (if platted) or parcel (if unplatted) shall control for purposes of measurements under this section, even though the towers, antennas or poles may be located on leased parcels within a lot. "Lot" as used in this section shall include both platted lots and unplatted parcels.

MEASUREMENT: Tower, antenna or pole setbacks and separation distances shall be calculated and applied to facilities located within the Town limits, and also those within one mile of the Town limits, irrespective of municipal and county jurisdictional boundaries.

ROUTINE MAINTENANCE: Any work on an existing structure that does not increase the current loading.

COMMERCIAL TOWER: A tower that a carrier is using to supply patrons with communication and/or technology services.

TOWER: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, internet and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. The

term includes, but is not limited to, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and any tower support.

TOWER MANAGER: Entity that controls the activity on and around the tower. The tower manager shall also control the financial matters associated with the tower.

WIRELESS COMMUNICATIONS: The technology which enables information to be exchanged through the transmission of voice, video or data signals by means of electrical or electromagnetic systems and without the use of wires, cables or other similar transmission facilities.

Section 3. APPLICABILITY.

- A. Towers, antennas and poles shall be permissible subject to the provisions of this Ordinance.
- B. This article pertains to any future tower or antenna which is to be constructed or extended in height to exceed the maximum height limit permitted in the zone district.
- C. New towers, antennas or poles, freestanding or building-mounted, shall not exceed the maximum height requirements permitted in the zone district without receiving a conditional use and building permit from the Town.
- D. All commercial carrier towers and other towers, antennas and poles shall require a building permit. If the tower is to exceed the zoning height limit, the applicant shall follow the conditional use application process.
- E. Commercial towers or antennas shall not be constructed in residential zone districts.
- F. The following uses shall be specifically permitted as accessory uses by right and shall not require a building permit:
 - 1. Receiving antennas or amateur radio antennas in residential zoning districts, for the exclusive use of the residence on the lot where the antenna is located, and that do not exceed the zone district's maximum height limit;
 - 2. Television and radio antennas in nonresidential zoning districts for the exclusive use of owners or tenants of the property where located, and that do not exceed the zone district's maximum height limit;
 - 3. Antennas or similar hardware installed in all zones, for the purposes of receiving satellite television, radio transmissions, internet service or

any other similar service for the exclusive use of occupants of the building to which it is attached, provided that the antenna, or similar hardware, is attached to an existing structure, and provided the antenna does not exceed the zone district's maximum height limit; and

4. Antennas attached to utility poles and light poles upon private property in all zoning districts, provided the antenna does not extend more than three feet above the highest point of the pole structure. Antennas attached to utility poles and light poles within the public right-of-way shall not extend more than three feet above the highest point of the pole structure and may be installed: (1) when permitted by the pole owner's franchise; or (2) by amendment to the pole owner's franchise ordinance or right-of-way use easement and agreement with the consent of the Town Council and upon payment of reasonable compensation for use of the right-of-way.

5. All other towers, antennas and poles shall require a building permit.

Section 4. General Provisions

- A. State and Federal Requirements. All towers, antennas or poles shall meet the standards and requirements of the FAA, FCC, and any other agency of local, state or federal government with jurisdiction to regulate towers, antennas or poles.
- B. Building Codes - Safety Standards. To ensure the structural integrity of towers, the owner of a tower, antenna or pole shall be responsible to construct and maintain it in compliance with applicable state and local building code standards and the applicable standards for towers published by the Electronic Industries Association, as amended. Any inspection requirements for structural details shall be performed in accordance with the latest code revision. All plans shall be stamped by a Wyoming licensed professional engineer with extensive experience and expertise in tower construction. The Town Engineer, or a person designated by the mayor, or a Wyoming licensed professional engineer shall verify that the structure was built according to the approved plans and specifications. Photos of the tower foundation with structural steel in place shall be taken prior to concrete being poured and provided to the Town Engineer prior to commencement of construction on the tower. Photos shall include a picture of a readable measuring device that clearly shows the size of the footing/base. Certification of cure time of the concrete in the foundation shall also be

provided to the Town Engineer prior to commencement of construction on the tower.

- C. Guyed towers are only permitted with a temporary permit approved by the Town Council
- D. Non-Essential Services. Towers, antennas and poles shall be regulated and permitted pursuant to this title, and not regulated or permitted as public utilities or private utilities.
- E. Franchises. Owners and operators of towers, antennas and poles shall certify to the Town Engineer's satisfaction that all franchises required for the construction or operation of such towers, antennas or poles have been filed or recorded, as applicable.
- F. Bonding. Applicants may be required to provide a bond to insure removal of any new tower in a form and amount acceptable to the Town Engineer, or a person designated by the mayor. If required, the bond shall be provided to the Town prior to the commencement of construction of any approved new tower.

Section 5. DEVELOPMENT STANDARDS.

- A. Materials. Towers, antennas or poles, to the extent possible, shall be constructed using materials, colors, textures, screening and landscaping that will blend them in to the natural setting and surrounding buildings. Buildings associated with a tower shall be designed to blend in with the surrounding area. Landscaping may be required by the Town to help improve the visual integrity of the site.
- B. Commercial Tower Structural Requirements
 - (1) All new towers shall be designed with the structural capacity to accommodate at least three co-located carriers.
 - (2) All new towers shall be located upon sites that are large enough to contain the support equipment for at least three co-located carriers.
 - (3) Towers shall not be loaded above the current Telecommunications Industry Association (TIA) 222 Revision wind load requirement. If the TIA changes, the tower manager must follow the new TIA wind load limits. Equipment may not need to be removed to reach the new design limits. However, new equipment may not be added that would cause the tower to exceed the new limits.

C. Setbacks and Separation.

- (1) Setbacks. Towers shall be set back from adjoining lot lines a distance equal to the height of the tower. Any tower proposed to be located on a lot with residential or occupied commercial structures, which structures are located at a distance from the tower base which is less than the height of the tower, shall require a building permit. In addition to all other considerations, the building permit process shall also include safety measures.
- (2) Separation Distances Between Towers.
 - (a) Separation distances between towers shall be applicable for and measured between the proposed towers/antennas and existing towers/antennas. The separation distances shall be measured by a straight horizontal line between the center of the base of the existing tower, antenna or pole and the center of the base of the proposed tower, antenna or pole.
 - (b) For towers thirty-five (35) feet or less in height, no separation distance is required; however, setback distances still apply.
 - (c) For towers more than thirty-five (35) feet in height the separation distance shall be determined during the conditional use application process.

D. Buildings and Other Equipment.

- (1) For antennas mounted on structures or rooftops, any equipment cabinet or structure used in association with antennas shall not be more than fifteen feet in height and shall comply with all applicable building codes and zoning requirements.
- (2) For antennas mounted on utility poles or light poles, any associated equipment cabinet or structure shall be located outside of the public right-of-way and in accordance with the following:
 - (a) In residential zoning districts, the equipment cabinet or structure may be located in a side or rear yard. The equipment cabinet or structure shall be no more than fifteen feet in height, with a floor area of three hundred fifty square feet or less, and shall be located at least twenty-five feet from all lot lines.
 - (b) In non-residential districts, the equipment cabinet or structure shall be no greater than twenty feet in height, and shall be screened from view by landscaping, fencing, or both, of all adjacent residential properties.

- (3) For antennas located on towers, any related unmanned equipment cabinet or structure shall be no more than twenty feet in height, and shall be located in accordance with the minimum setback requirements for the zoning district in which it is located.

E. Co-locations. For towers on which carriers are co-located.

- (1) Inventory of Existing Sites. Each applicant for a building permit for a tower, antenna or pole shall provide to the Town Engineer an inventory of the applicant's existing towers antennas and poles and sites within the town limits and within one mile outside of the town limits, including specific information about the location, height, and type of communication service for each commercial tower.
- (2) No application for a building permit for a new tower shall be processed until the applicant has met with the Town Engineer prior to submitting the application, in order to review the feasibility of using an existing tower or structure. The applicant shall demonstrate that there is no existing facility that can reasonably accommodate the applicant's proposed antenna before the building permit application is processed. The Town Engineer may require the applicant to make reasonable efforts to co-locate upon an existing tower. The Town Engineer may require the applicant to make reasonable efforts to use a stealth tower. Co-location of facilities and/or stealth technology may be considered a mitigating factor to a conditional use request and may justify the request.
- (3) If an applicant claims that it cannot co-locate upon an existing tower, the applicant shall provide a written report from a communications specialist, radio frequency expert or other professional in support of its position. The Town Engineer shall consider the written report in making his/her decision.
- (4) Any applicant who is aggrieved by the decision of the Town Engineer concerning a building permit application for a tower, antenna or pole may appeal the decision to the Town Council. Technical considerations, not financial considerations, will be the determining factors used to decide issues regarding co-location disputes.
- (5) A building permit shall be required for a tower that is being rebuilt to accommodate co-location of an additional antenna. After rebuilding, one tower only shall remain on the site. A relocated onsite tower shall meet all requirements of this article.

F. Lighting. Towers shall not be artificially lighted unless required by the FAA or other authority having jurisdiction. Lighting shall not negatively impact neighbors or public safety.

- G. Signs. No commercial messages or any other signs beyond safety warnings and an identification sign of not greater than two (2) square feet shall be placed on any tower or facility. If OSHA or any other organization having jurisdiction requires more signage, permission will not be reasonably withheld.

Section 6. REMOVAL OF ABANDONED TOWERS, ANTENNAS AND POLES.

Any tower, antenna or pole not operated for six (6) consecutive months shall be considered abandoned. The owner of the tower, antenna or pole shall remove the same within ninety days of abandonment. If not so removed by the owner, the Town, after notice, may remove such tower, antenna or pole and recover the cost thereof from the tower or land owner thereof or the bond posted under Section 4(F) above. This provision shall not apply to any tower, antenna or pole owned by the Town of Mountain View.

Section 7. PRE-EXISTING TOWERS.

All new construction, other than routine maintenance with no structural change on a pre-existing tower, shall comply with the requirements of this chapter, including the issuance of a building permit.

Section 8. CONFLICTS.

If the terms of this chapter conflict with any other applicable provision of local, state, or federal law, the most restrictive terms shall apply, unless otherwise controlled.

Section 9. USE OF RIGHT-OF-WAY.

This chapter concerns wireless communication towers, antennas or poles on private or governmental property only. Use of public rights-of-way for any system or components of a system for the collection or distribution of signals to be broadcast or which are received by antennas may require a license or franchise as is appropriate.

Section 10. TEMPORARY STRUCTURES.

Temporary structures used for testing, emergency situations, special events, etc. are permitted under this ordinance. A Temporary Use Permit from the Town of Mountain View must be obtained.

**PASSED AND APPROVED ON FIRST READING THIS THE 19th DAY OF
DECEMBER, 2017.**

Scott Dellinger
Scott Dellinger, Mayor

ATTEST:
Penny Robbins
Penny Robbins, Clerk

**PASSED AND APPROVED ON SECOND READING THIS THE 2nd DAY OF
JANUARY, 2018.**

Scott Dellinger
Scott Dellinger, Mayor

ATTEST:
Penny Robbins
Penny Robbins, Clerk

**PASSED, APPROVED AND ADOPTED ON THIRD AND FINAL READING THIS
THE 16th DAY OF JANUARY, 2018, AND BE IT THEREFORE ORDAINED TO BE IN
FULL FORCE AND AFFECT.**

Scott Dellinger
Scott Dellinger, Mayor

ATTEST:
Penny Robbins
Penny Robbins, Clerk

CERTIFICATE OF PUBLICATION

I, **Penny Robbins**, duly authorized Clerk of the Town of Mountain View, Wyoming, do hereby certify that a copy of the above Ordinance 2017-3 was published in the Bridger Valley Pioneer on the 26th day of January, 2018.

**WITNESS MY HAND AND THE OFFICIAL SEAL OF THE TOWN OF
MOUNTAIN VIEW, WYOMING.**

Penny Robbins
Penny Robbins, Clerk

