

**ORDINANCE NO. 24-04**

An ordinance amending Wasatch County Code §16.21.28(C) entitled "Telecommunication" in order to reduce the setback distance of cellular towers from residential or commercial properties from 1,000 feet to 100 feet and additional changes to the ordinance.

**RECITALS**

**WHEREAS**, Wasatch County received an application to consider amending Chapter 16.21.28 of the Wasatch County Code to change some of the aspects of the telecommunications section of the code; and

**WHEREAS**, after review of the proposed changes additional changes and clarifications have been made to the code by staff; and

**WHEREAS**, after discussion with the planning commission it was determined that the proposed ordinance amendments are appropriate; and

**WHEREAS**, the County Legislative Body has determined that the proposed request is in compliance with the General Plan; and

**WHEREAS**, Utah Code 17-27a-502 requires Wasatch County to give notice of public hearing as provided in Utah Code 17-27a-205(1)(a), and to hold a public hearing; and

**WHEREAS**, Wasatch County gave notice of all public meetings and public hearings related to this ordinance as required, and the planning commission held a public hearing as required; and

**WHEREAS**, the County Legislative Body, having considered all of the evidence provided to be in the best interest of the health, general welfare, and safety of the inhabitants of Wasatch County;

**NOW THEREFORE**, the County Legislative Body of Wasatch County ordains that the Wasatch County Zoning Map and Land Use and Development Code be amended as follows:

**SECTION I: Enactment.** The following amendments, additions, and deletions to Title 16, the Land Use and Development Code, are hereby enacted: ***See attached Exhibit A.***

**SECTION II: Repealer.** If any provisions of the County Code heretofore adopted are wholly inconsistent with this ordinance, they are hereby repealed.

**SECTION III: Amendment of Conflicting Ordinances.** To the extent that any ordinances, resolutions, or policies of Wasatch County partially conflict with this ordinance, they are hereby amended to comply with the provisions hereof.

**SECTION IV: Effective Date.** This Ordinance shall become effective immediately upon execution by the Chair of the County Council and the completion of public notice requirements imposed by state statute.

SECTION V: **Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

SECTION VI: **Public Notice.** The Wasatch County Clerk, and ex officio Clerk of the Wasatch County Council, is hereby ordered, in accordance with the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, to do as follows:

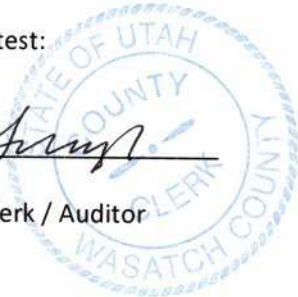
- a. Enter at length this ordinance in the ordinance book;
- b. Deposit a copy of this ordinance in the office of the County Clerk;
- c. Publish a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance, for at least one publication in a newspaper published in and having general circulation in the county; or post a complete copy of this ordinance in nine (9) public places within the County.

APPROVED and PASSED this 26 day of June, 2024.

Attest:

WASATCH COUNTY COUNCIL:

  
 Joey Granger  
 Wasatch County Clerk / Auditor



  
 Spencer Park, Chair  
 Wasatch County Council

	VOTE
Spencer Park, Chairman	<u>Y</u>
Karl McMillan, Vice-Chair	<u>Y</u>
Luke Searle	<u>-</u>
Steve Farrell	<u>Y</u>
Erik Rowland	<u>Y</u>
Kendall Crittenden	<u>Y</u>
Mark Nelson	<u>Y</u>

ADOPTION OF ORDINANCE AFFIDAVIT

STATE OF UTAH )  
 ) : ss.  
COUNTY OF WASATCH )

I, the undersigned, the duly qualified and acting County Clerk of Wasatch County, Utah, and ex officio Clerk of the Wasatch County Council do hereby further certify, according to the records of said Council in my official possession, and upon my own knowledge and belief, that I have fulfilled the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, by:

- (a) Causing this ordinance to be entered at length in the ordinance book;
- (b) Causing three (3) copies of this ordinance to be deposited in the office of the County Clerk;
- (c) Causing a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance to be published for at least one publication in *The Wasatch Wave*, a newspaper of general circulation within the geographical jurisdiction of Wasatch County; or posting a complete copy of this ordinance in nine (9) public places within the County.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of the County Council of Wasatch County, Utah, this 26 day of June, 2024.

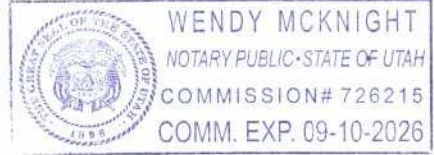
Joey D. Granger  
Joey Granger  
Wasatch County Clerk / Auditor



SUBSCRIBED AND SWORN to me, a Notary Public, this 26 day of June, 2024.

Wendy McKnight  
Notary Public

Residing in:  
My commission expires:



**EXHIBIT A – PROPOSED AMENDMENT**

**16.21.28: WIRELESS TELECOMMUNICATION FACILITIES**

A. General Provisions:

1. ~~Purpose-~~ The purposes of this section ~~are~~ is to:

- a. ~~To r~~Regulate wireless telecommunications services, ~~CMRS~~ antennas and support structures, and related electronic equipment and equipment structures to the extent permitted by the state of Utah and Federal law;
- b. ~~To p~~Provide for the orderly establishment of wireless ~~CMRS~~ telecommunications facilities in the county;
- c. ~~To m~~Minimize the number of antenna support structures by encouraging the collocation of multiple antennas on a single structure, and by encouraging the location of antennas on preexisting support structures;
- d. ~~To e~~Establish siting, appearance and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of wireless telecommunications ~~CMRS~~ facilities;
- e. ~~To a~~Allow for appropriate service levels while mitigating the visual impacts of telecommunication facilities.
- f. ~~To e~~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 wireless telecommunications ~~CMRS~~ facilities and 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 regulations concerning such emissions.

2. Definitions: The following words shall have the described meaning when used in this section, unless a contrary meaning is apparent from the context of the word:

ANTENNA: A transmitting or receiving device used in telecommunications that radiates or captures radio signals.

ANTENNA SUPPORT STRUCTURES: Any structure that can be used for the purpose of supporting an antenna.

~~CMRS ANTENNA: An antenna used in connection with the provision of CMRS telecommunications.~~

WIRELESS TELECOMMUNICATION ~~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.

~~CMRS OR COMMERCIAL MOBILE RADIO SERVICE: Low power wireless telecommunications service, including, but not limited to, cellular, enhanced specialized~~

45 ~~mobile radio (ESMR), paging, personal communications systems (PCS) and point to~~  
46 ~~point microwave.~~

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48 ~~COUNTY: Wasatch County, Utah.~~

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50 ~~COUNTY OWNED PROPERTY: Real property that is owned, leased or controlled by~~  
51 ~~the county.~~

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53 COLLOCATION: The location of an antenna on an existing structure, tower or building  
54 that is already being used or considered for antenna facilities of another.

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56 GUYED TOWER: A tower that supports an antenna or antennas and requires guywires  
57 or other stabilizers for support.

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59 LATTICE TOWER: A self-supporting three (3) or four (4) sided, open steel frame  
60 structure used to support telecommunications equipment.

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62 MONOPOLE: A single, self-supporting, cylindrical pole, constructed without guy wires  
63 or ground anchors, that acts as the support structure for antennas.

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65 ~~MONOPOLE ANTENNA WITH NO PLATFORM: A monopole with antennas and~~  
66 ~~antenna support structure not exceeding two feet (2') in width or ten feet (10') in height.~~

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68 ~~MONOPOLE ANTENNA WITH PLATFORM: A monopole with antennas and antenna~~  
69 ~~support structure exceeding two feet (2') in width, but not exceeding fifteen feet (15') in~~  
70 ~~width or eight feet (8') in height.~~

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72 ~~PRIVATE PROPERTY: Any real property not owned by the county, even if the property~~  
73 ~~is owned by another public or governmental entity.~~

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75 ROOF MOUNTED ANTENNA: An antenna or series of individual antennas mounted on  
76 a roof, mechanical room or penthouse of a building.

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78 STEALTH FACILITIES: ~~CMRS telecommunications~~ Facilities which have been  
79 designed to be compatible with the natural setting and surrounding structures, and which  
80 camouflage or conceal the presence of antennas and/or towers. This term includes, but is  
81 not limited to, clock towers, church steeples, light poles, flagpoles, signs, electrical  
82 transmission facilities, ~~falseux trees~~ and water tanks.

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84 ~~TOWER: A freestanding structure, such as a monopole tower, lattice tower or guyed~~  
85 ~~tower, that is used as a support structure for antenna.~~

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87 WALL MOUNTED ANTENNA: An antenna or series of individual antennas mounted  
88 on the vertical wall of a building or structure.

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90 WHIP ANTENNA: An antenna that is cylindrical in shape. Whip antennas can be  
91 directional or omnidirectional and vary in size depending on the frequency and gain for  
92 which they are designed.  
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95 3. Applicability: This section applies to all wireless CMRS telecommunications facilities  
 96 except for the following. ~~This section shall not apply to the following~~ types of  
 97 communications devices, that although they may be regulated by other county ordinances  
 98 and policies:

99 a. Small wireless facilities, although a conditional use, are regulated in 16.21.47.

100 ~~a.b.~~ Amateur Radio: Any tower or antenna owned and operated by an amateur radio  
 101 operator licensed by the federal communications commission.

102 ~~b.c.~~ Satellite: Any device designed for over the air reception of television broadcast  
 103 signals, multichannel, multipoint distribution service or direct satellite service.

104 ~~e.d.~~ Cable: Any cable television head end or hub towers and antennas used solely for  
 105 cable television services.

106 B. Application Requirements: Any person desiring to develop, construct or establish a CMRS  
 107 wireless telecommunications facility ~~in the county~~ shall submit an application for a Conditional  
 108 Use Permit and Site Plan in compliance with Section 16.23.04. ~~The county shall not consider the~~  
 109 ~~application until all of the required information has been included.~~ In addition to the requirements  
 110 of the Conditional Use Permit application requirements, an application for wireless  
 111 telecommunication services shall also include the following:

112 ~~1. A description of the anticipated maintenance needs for the facility, including frequency~~  
 113 ~~of service, personnel needs, equipment needs, and traffic noise or safety impacts of such~~  
 114 ~~maintenance;~~

115 ~~2.1.~~ A map showing the site and ~~the nearest all~~ wireless telecommunications facility sites, with  
 116 detailed descriptions of those facilities, within a two five (5) mile radius of the  
 117 proposed site, whether they belong to the applicant or to another;

118 ~~3.2.~~ Copies of all licenses and permits required by other agencies and governments with  
 119 jurisdiction over the design, construction, location and operation of the antenna;

120 ~~4. A written commitment to comply with applicable federal communications commission~~  
 121 ~~radio frequency emission regulations, so that there will be no interference with existing~~  
 122 ~~television or radio transmissions;~~

123 ~~5. If the applicant desires to construct a monopole, the applicant shall also submit a~~  
 124 ~~detailed written description, if applicable, of why the applicant cannot obtain coverage~~  
 125 ~~using existing buildings or structures within the two (2) mile radius and a description of~~  
 126 ~~the telecommunication facility type and distances between the applicant's proposal and~~  
 127 ~~any existing wireless telecommunication CMRS facilities, whether the nearest belongs to~~  
 128 ~~the applicant or another;~~

129 ~~6. If the applicant desires to locate antennas on a site other than the highest priority site (as~~  
 130 ~~described herein below) the applicant shall provide the following information to the~~  
 131 ~~county:~~

132 ~~a. The identity and location of any higher priority sites located within the desired~~  
 133 ~~service area;~~

134 ~~b. The reason why the higher priority sites were rejected.~~

135 ~~7.3.~~ A copy of a liability insurance policy naming Wasatch County as an additional insured in  
 136 an amount to be determined by the planning department after reviewing the particular  
 137 facility being requested and any safety hazards associated therewith. ~~An A detailed~~  
 138 explanation of how the applicant will comply with applicable requirements of subsection  
 139 C below regarding ~~Location~~; Priority Of Antenna Site Locations; subsection D below  
 140 regarding Types ~~Of~~ Antennas And Standards; ~~subsection E below regarding Additional~~  
 141 ~~Considerations~~; ~~subsection F below regarding Safety~~; and subsection ~~G-F~~ below  
 142 regarding Site Requirements. The county may, require the applicant to submit an impact  
 143 study from a qualified, third-party radio frequency engineer or the County may hire a  
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145 third-party engineer, to ensure that the proposed telecommunications facility  
 146 accomplishes the required, "order of priority" of location requirements as stated in this  
 147 title.

148 C. ~~Location~~-Priority ~~Of~~ Antenna Site Locations: Wireless CMRS-telecommunications facilities  
 149 antennas shall be located as unobtrusively as is reasonably possible.

151 Any new wireless telecommunication facility, or addition or alteration to an existing facility shall  
 152 and make a good faith effort to locate antennas on sites in the following order of priority:

153 8.1. Co-locate on ~~At~~ the same facility location where another lawfully existing wireless  
 154 telecommunication ~~CMRS~~ facility is already located; or

155 9.2. Lawfully existing buildings, structures and antenna support structures; provided, that the  
 156 buildings, structures or support structures are either:

157 a. Located in the P-160 (preservation) zone ~~not including dwellings in a~~  
 158 nonresidential area; or

159 b. Located in the M (mountain) zone ~~not including dwellings at least one thousand~~  
 160 feet (1,000') from any residential area or commercial area on property that is  
 161 being used for nonresidential and noncommercial uses; or

162 c. Located in an ~~Industrial, Highway Services, or commercial zone or a residential~~  
 163 zone; ~~on; and~~ or

164 d. ~~Residential zones~~ Located on existing ~~residential~~ accessory structures, ~~not~~  
 165 including dwellings, on lots of five (5) acres or larger in a residential zone; ~~or;~~  
 166 ~~not including dwellings, except for~~

167 e. Located on ~~multi-story~~ family housing and hotels in compliance with this  
 168 section; ~~and~~ or

169 f. Water tanks and other public infrastructure structures in residential zones, ~~are not~~  
 170 required to be on 5 acres or more; ~~and~~ property that is being used for a  
 171 residential building and is at least thirty five feet (35') in height.

172 e. ~~Additions or alterations zone made to structures must be done in compliance with~~  
 173 this section.

174 10.3. ~~Monopoles and guyed towers proposed constructed~~ on public or private property;  
 175 ~~provided, that the property is in the Preservation (P-160), ~~or Mountain (M) zone,~~~~  
 176 ~~Highway Services (HS) zone or the Industrial (I) zone.~~

177 a. ~~Located in the P-160 (preservation) zone in a nonresidential area; or~~

178 b. ~~Located in the M (mountain) zone, at least one thousand feet (1,000') from any~~  
 179 ~~residential area or commercial area on property that is being used for nonresidential~~  
 180 ~~and noncommercial uses; or~~

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

184 11. Collocation Required: ~~Owners of CMRS facilities within the county shall design~~  
 185 ~~or construct their facilities within the county so as to allow for collocation where~~  
 186 ~~practicable. Any conditional use permit for any facilities may be conditioned upon~~  
 187 ~~the agreement of the applicant to allow collocation of other provider's facilities on~~  
 188 ~~such terms as are common in the industry.~~

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~~C.D. Types of Antennas and Standards: Types Of Antennas And Standards: CMRS facilities are characterized by the type or location of the antenna structure. There are four five (54) general types of antenna structures allowed by this section as a conditional use: wall mounted antennas; roof mounted antennas; stealth facilities and; monopoles, with a platform; and monopoles without a platform. The minimum standards are as follows:~~

~~1. Wall Mounted Antennas:~~

- ~~a. Wall mounted antennas may not extend above the roofline of the building or extend more than four feet (4') horizontally from the face of the building.~~
- ~~b. 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.~~
- ~~c. The total area for wall mounted antennas and supporting structures on any one building shall not exceed the lesser of fifty (50) square feet or four percent (4%) of each exterior wall of the building.~~

~~2. Roof Mounted Antennas on multi-story buildings with flat roofs:~~

- ~~a. The maximum height of a roof mounted antenna shall be ten twelve feet (120') above the roofline of the building.~~
- ~~b. Roof mounted antennas shall be located at least ten five feet (10'5') from the exterior wall of the building or whatever setback is deemed necessary so the antenna is not visible from any public or private right of way.~~
- ~~c. 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 roofline of the penthouse or mechanical equipment room.~~
- ~~d.c. 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.~~

~~3. 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 four percent (4%) of each exterior wall of the building.~~

~~4.3. Monopoles With No Platform:~~

- ~~a. The maximum height of the monopole or monopole antenna shall be sixty feet (60'), although the approving body may grant a total height of up to one hundred feet (100') if the location is not obtrusively visible from residential, commercial and any part of the JSPA area 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 collocation, 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.~~
- ~~b. Monopoles shall be set back a minimum of one hundred 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.~~

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- c. ~~Monopoles, antennas and related support structures may be required to shall be painted a neutral color or a color to match the background against which they are most commonly seen.~~
- d. ~~Owners of CMRS wireless facilities within the county shall design or construct their facilities shall be designed within the county so as to allow for collocation where practicable. Any conditional use permit for any facilities may have a be conditioned upon the agreement of the applicant to allow collocation of other provider's facilities on such terms as are common in the industry.~~
- e. ~~Monopoles and towers shall be located at least two thousand feet (2,000') 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.~~
- f. ~~Monopoles shall not be allowed on ridgelines unless it can be shown that the impacts of the proposal can be mitigated through either a stealth proposal or showing that the distance to the antenna structure is such that it will not be visibly conspicuous.~~

~~5. Monopoles With Platform:~~

- a. ~~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 collocation, 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.~~
- b. ~~Monopoles shall be set back a minimum of one hundred 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.~~
- e. ~~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.~~
- d. ~~Monopoles and towers shall be located at least two thousand feet (2,000') 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.~~
- e. ~~Monopoles shall be located as unobtrusively as possible.~~

~~6.4. Stealth Facilities: The height and location of a stealth facility shall be limited to the maximum height for primary structures allowed in the zone, unless specially approved for a greater height by the planning commission.~~

- ~~D.E.~~ Additional Considerations: The planning commission shall also consider the following:
1. Height, mass and design of buildings and structures in the vicinity of the facility;
  2. Whether the facility is located relative to existing vegetation, topography and structures in a manner that optimizes the visual screening;
  3. The willingness of the applicant to collocate its facility on the facility of another, or to allow others to collocate on applicant's facility on such terms and conditions as are common in the industry.

~~E.F.~~ Safety:

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1. 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.
2. 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.
3. All facilities shall be protected against unauthorized climbing by removing the climbing pegs from the lower twenty feet (20') of the facility.
4. 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.
5. 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.

F.G. 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.

1. Notice: Notice to remove shall be given in writing by certified mail addressed to the operator's last known address, or by personal service.
2. Failure to remove the facilities after proper notice has been given is a violation of the terms of this section. 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 with 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.

G.H. Site Requirements:

1. No outside storage or solid waste receptacles shall be permitted on the site.
2. 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 preexisting structure. When a new structure is required, the structure will be harmonious with and blend with the natural features and buildings surrounding such structure.
3. The county requires a minimum of one parking space for facilities to allow for service of the facility.
4. The CMRS facilities shall be maintained in a safe, neat and attractive manner.
5. All sites with a CMRS facility shall be landscaped in accordance with zone requirements where the facility is located.