

## **ORDINANCE NO. 2020-3**

### **WIRELESS COMMUNICATION TOWERS AND FACILITIES**

#### **AN ORDINANCE AMENDING THE BOULDER ZONING ORDINANCE FOR THE PURPOSE OF REGULATING CELL TOWERS, ANTENNAS, FACILITIES AND RELATED INFRASTRUCTURE**

**WHEREAS** the Boulder Town Council is concerned about compliance with state and federal regulations governing wireless communications, towers and associated infrastructure in a manner consistent with the General Plan and in a manner that does not have an adverse impact on the health, safety, and general welfare of the public and the residents of the Town of Boulder; and

**WHEREAS** said Council deems it desirable to establish standards for the siting of telecommunications towers and antennas; encourage the use of existing structures as an alternative to new tower construction; encourage the joint use of towers; encourage the design and construction of towers and antennae which minimize adverse visual impacts; and

**WHEREAS** said Council also deems it desirable to ensure compliance of all telecommunications facilities with current federal, state, and local regulations; facilitate the provision of wireless telecommunications services; prevent harm to the health, welfare, and visual environment of Boulder Town and its citizens.

**WHEREAS** the Boulder Town Planning Commission has reviewed and recommended the changes and amendments herein.

**NOW, THEREFORE, BE IT ORDAINED by the Boulder Town Council as follows:**

**Chapter 10 of the Boulder Town Zoning Ordinance is hereby amended and supplemented as follows:**

**1. Chapter 10, Section 1008, Exceptions to Height Limitations, is hereby repealed in part and amended as follows:**

Steeple, flagpoles, chimneys, water tanks, ~~wireless or television masts~~, silos, barns, or similar structures may be erected above the height limits required by this



Ordinance, but no space above the height limit shall be allowed for the purpose of providing additional floor space.

**2. Chapter 10 is hereby amended, and Section 1021 is added thereto as follows:**

**Section 1021 Wireless Communication Towers and Facilities:**

**1. Requirements for facility permit submissions:**

- A. A conditional use permit is required. In addition to any other materials required for a standard permit under this section or any other Town ordinances, all applicants for permits to construct a telecommunications tower or antenna shall submit visual impact demonstrations using photo simulations of the proposed facility as it would be seen from residential areas, public rights of way, and public parks and other sites as deemed appropriate by the Planning Department.
  - a. Weight may be given in favor of the application if the applicant is able to demonstrate a net benefit to the community and its residents for increased cell service and/or other desirable communications capacities and capabilities.

**2. Location of facilities at or near the center of Town, on mesa tops, or highly visible from scenic corridors such as State Highway 12:**

- A. Towers and antennae may be approved at or near the center of Town, on mesa tops, and in designated scenic corridors by special exception and if possible concealed so as to be substantially invisible. The views of, and vistas from, such areas and corridors shall not be impaired or diminished by the placement of telecommunications towers and antennae.

**3. Height Restrictions:**

- A. No new telecommunications facility shall exceed fifty (50) feet in height over ground level directly below. Due to the wide variation in topographical features and remote locations sited away from Town center, residential areas, and State Highway 12, the Planning Commission has broad discretion in requiring the applicant to seek out locations and exhaust all reasonable options for siting the tower in the least impactful locations.
- B. Telecommunications facilities that simulate objects that typically occur in landscapes similar to the proposed location (except billboards, electrical



transmission, or telecommunications towers) may exceed fifty (50) feet in height if, based on the judgment of the Planning Commission or body issuing the conditional use permit, it would appear in context on the landscape, is aesthetically acceptable, and would be a preferable alternative to an undisguised facility.

- C. Telecommunications facilities located atop or within existing buildings or structures may result in an overall increase in height of the structure of no more than ten percent of the structure's height without the facility or the maximum height allowed in the zoning district in which the structure is located, whichever is less.

#### 4. Co-location:

- A. In all applications for construction of a new facility, the applicant must prove by substantial evidence that a bona fide need exists for the facility and that no reasonable combination of locations, techniques, or technologies will obviate the need. The applicant must further prove that it has made all reasonable efforts to procure antenna space on existing facilities and that the cost of co-location exceeds the cost of a new facility by at least fifty percent.
- B. Prior to the issuance of a permit for a new tower, the applicant shall demonstrate commitment to joint use as follows.
- a. The applicant requesting the permit shall submit evidence to the city demonstrating that a genuine effort has been made to solicit additional users for the proposed new tower. Evidence of this shall include, at a minimum, copies of notices sent by registered mail, return receipt requested, to all other providers of cellular and wireless communications services within Garfield County and adjacent counties, advising of the intent to construct a new tower, identifying the location, inviting the joint use and sharing of costs, and requesting a written response within fifteen business days.
  - b. The applicant shall sign an instrument, maintained by the city, agreeing to encourage and promote the joint use of telecommunications towers within the city and, to that extent, committing that there shall be no unreasonable act or omission that would have the effect of excluding, obstructing or delaying joint use of any tower where fair and just market reasonable compensation is offered for such use.

#### 5. Setback:



- A. No new tower shall be constructed without a setback from the tower's base of at least one and one-half (1.5) times the tower height to a public or private road and at least two and one-half (2.5) times the tower height to the nearest property line.

#### 6. Equipment shelters:

- A. No equipment shed for a telecommunications facility shall exceed seven hundred and fifty (750) square feet in area nor twelve (12) feet in height. All such sheds shall be screened with vegetation or other aesthetically pleasing materials. Furthermore, all such sheds shall be secured with approved fencing and a locked gate if deemed necessary by the Planning Commission.

#### 7. Signs, lighting and noise:

- A. No commercial messages nor any other signs beyond safety warnings and an identification sign of not greater than four (4) square feet shall be placed on any tower or facility, nor placed higher than five (5) feet above ground level. No lighting, or devices emitting noise, shall be placed or maintained on the tower or facility in a manner visible or audible offsite.

#### 8. Electronic emissions and electromagnetic radiation:

- A. Prior to commencing regular operation of the facility, all facility owners and operators must submit a certificate of compliance with all current Federal Communications Commission regulations concerning electromagnetic radiation and other electronic emissions applicable to the facility.
- B. All facility operators and owners must sign an agreement, to be maintained by the city, agreeing to bring facilities into compliance with any new federal, state, or local laws or regulations concerning electromagnetic radiation and other electronic emissions applicable to the facility within one hundred and twenty (120) days of the effective date of the regulations.

#### 9. Removal of facilities:

- A. The owner of a facility shall establish a ten thousand dollar (\$10,000) cash security fund or provide the City with an irrevocable letter of credit in the same amount to secure the cost of removing an antenna, antenna array, or tower that has been abandoned. In the event of a transfer of ownership, the seller shall be responsible for notifying the buyer of this requirement and for notifying the Town of the transfer.



(Modified by Ord. # \_\_\_\_\_, passed \_\_\_\_\_.)

3. The town clerk or recorder is hereby ordered, in accordance with the requirements of Section 10-3-711, Utah Code Annotated, 1953, as amended, to do as follows:

A. Cause a copy of this ordinance to be deposited in the office of the town recorder; and

B. Either:

(1) Cause a short summary of this ordinance to be published for at least one publication in \_\_\_\_\_, a newspaper of general circulation within Boulder Town;

or

(2) Cause to be posted a complete copy of this ordinance in three  
(3) public places within Boulder Town.

APPROVED and PASSED this 3 day of September 2020.

ATTEST:

BOULDER TOWN

Judith Davis  
Judith Davis  
Boulder Town Clerk

Steven Cox  
Steven Cox  
Mayor

VOTE

Steven Cox,	Mayor	<u>Yes</u>
Gladys LeFevre,	Councilperson	<u>Yes</u>
Peter Benson,	Councilperson	<u>Yes</u>
Conrad Jepsen,	Councilperson	<u>Yes</u>
Judy Drain,	Councilperson	<u>Yes</u>



STATE OF UTAH )  
 : ss.  
COUNTY OF GARFIELD )

[ X ] (a) Causing one (1) copy of this ordinance to be deposited in the office of the Town Recorder; and

[ ] (b1) Causing a short summary of this ordinance to be published for at least one publication in \_\_\_\_\_, a newspaper of general circulation within Boulder Town;

~~[X]~~ (b2) Causing to be posted a complete copy of this ordinance in three (3) public places within Boulder Town.

[Seal]

/s/ Judith Davis  
Judith Davis  
Boulder Town Clerk