

## **Draft amendments to Sandpoint City Code, Title 9 creating a new Chapter 15: Telecommunication Facilities**

### **A. Purpose**

1. The provisions of this Section are intended to ensure that telecommunications facilities are located, installed, maintained and removed in a manner that:
  - a. Minimizes the number of antenna towers throughout the community;
  - b. Encourages the co-location of telecommunications facilities;
  - c. Encourages the use of existing buildings, light or utility poles, or other structures for antenna mounting and discourages construction of new antenna towers;
  - d. Ensures that telecommunications facilities are located and designed to minimize visual impact on the surroundings.
  - e. Ensures that regulation of telecommunications facilities does not have the effect of prohibiting the provision of telecommunications services, does not unreasonably discriminate among functionally equivalent providers of such services, and allows the provision of adequate area coverage by such services.

- ### **B. Conflicting Standards:** In the event that other standards of this title conflict with standards in this provision, unless otherwise indicated the most restrictive shall prevail.

### **C. Definitions**

1. "Antenna" means any device that transmits and/or receives radio waves, microwaves, or other electro-magnetic radiation for voice, data or video communications purposes including, but not limited to, television, AM/FM radio, micro-wave, cellular telephone and similar forms of communications.
2. "Antenna Array" means a single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.
3. "Co-location" means the placement of one or more antenna(s) on an antenna support structure or the placement of an antenna on an antenna tower on which one or more antennas are already located.
4. "Commission" means the Federal Communications Commission ("FCC").
5. "Host-mounted Support Structure" means any structure or building not constructed primarily for the purpose of supporting an antenna but that supports an antenna as a secondary or accessory use (eg. street lights; traffic light structures; sign structures; or water towers).
6. "Lattice Tower" means an antenna tower characterized by a framework of lateral or diagonal cross members that stabilize the tower.
7. "Personal Wireless Service" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

8. "Personal Wireless Service Facilities" means facilities for the provision of personal wireless services.
9. "Roof-mounted facilities" means any facility installed on either the roof or side of a building.
10. "Small Cells" mean compact wireless base stations containing their own transceiver equipment and function like cells in a mobile network but provide a smaller coverage area than traditional macrocells. Small cells will meet the two parameters in subsections (a) and (b). For purposes of these definitions, volume is a measure of the exterior displacement, not the interior volume of the enclosures. Antennas or equipment concealed from public view in or behind an otherwise approved structure or concealment are not included in calculating volume.
  - (a) Small Cell Antenna: Each antenna shall be no more than three (3) cubic feet in volume.
  - (b) Small Cell Equipment: Each equipment enclosure shall be no larger than seventeen (17) cubic feet in volume. Associated conduit, mounting bracket or extension arm, electric meter, concealment, telecommunications demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch may be located outside the primary equipment enclosure(s) and are not included in the calculation of equipment volume.
11. "Support Structure" means a structure that is designed for supporting the installation of one or more antennas (e.g. a tower; roof mount; mounts attached to a utility pole).
12. "Visual Impact Mitigation" means technology that minimizes the visual impact of telecommunication facilities by camouflaging, disguising, screening, and/or blending into the surrounding environment. Examples of visual impact mitigation include but are not limited to facilities disguised as trees, flagpoles, bell towers, and architecturally screened roof-mounted antennas.
13. "Telecommunications Facilities" or "Facilities" means any antenna towers, support structures, antennas and their ancillary facilities that are used to provide commercial wireless communications or telecommunications services.
14. "Temporary Antenna Tower" means an antenna tower established for the purpose of providing telecommunications services on a temporary basis for a special event or to temporarily replace an antenna tower while it is being repaired.
15. "Tower" means any structure built for the sole or primary purpose of supporting one or more antennas that are used to provide commercial telecommunications services.
16. "Tower Height" means the vertical distance measured from the base of the tower structure at grade to the highest point of the structure including the antenna.

#### D. Applicability

1. The telecommunication facility regulations of this section apply to all telecommunication facilities used to provide commercial telecommunication services, except those associated solely with the following which are exempt:
  - a. Safety services provided by public agencies (e.g. police and fire);

- b. Noncommercial telecommunication facilities exclusively used as accessory to a residential use on the same lot;
  - c. Telecommunications facilities used exclusively as an accessory to a commercial use (e.g. satellite television receivers);
  - d. Land mobile radio; and
2. Any public lands and agencies exemption from compliance with zoning in state law does not apply to private entities utilizing publicly owned lands.

E. Prohibited Support Structures Types

1. The following locations and support structures are not permitted:
  - a. Lattice and guyed tower support structures for telecommunication facilities.

F. Permitted Locations

1. Co-location on Nonconforming Existing Support Structures: Support structures for telecommunication facilities on the effective date hereof that do not comply with the regulations of this section are deemed nonconforming structures.
2. Co-location on Legal Existing Support Structures: New telecommunication facilities co-located on support structures in existence on the effective date hereof are permitted in all zoning districts, subject to compliance with other applicable standards of this section.
3. New Roof-Mounted or Host-mounted Support Structures: New telecommunication facilities located on roof-mounted or host-mounted support structures are permitted in all zoning districts, subject to compliance with other applicable standards of this section.
4. New Ground-Mounted Support Structures: New ground-mounted support structures for telecommunication facilities are permitted in IG, IBP, ITP, CA, CB and CC zoning districts, subject to compliance with other applicable standards of this section.

G. Code Compliance: All facilities shall at all times comply with all applicable federal, State and local building codes, electrical codes, fire codes and any other code related to public health and safety.

H. Safety: The structural design for all support structures must be certified by a professional structural engineer licensed to practice in the State of Idaho. The drawings shall meet the currently adopted building codes in accordance with City of Sandpoint Code Section 8-1-1: Building Codes Adopted.

I. Building Permit Required: A building permit, unless waived by the Sandpoint Building department, must be obtained prior to the installation of any telecommunication facility.

J. Telecommunications Facility Development Permit: A Telecommunications Facility Development Permit shall contain the following information:

1. Construction drawings showing the proposed method of installation. Drawings shall be stamped by a licensed engineer and meet the currently adopted building codes in accordance with City of Sandpoint Code Section 8-1-1: Building Codes Adopted.
2. The manufacturer's recommend installations, if any;

3. A diagram to scale showing the location of the telecommunication facility, property and setback lines, easements, power lines, all structures, and any required buffering and screening.

K. Development Standards

1. Schedule: The following standards apply to telecommunication facilities:

Support Type	Permitted Zones	Permitted Height	Setback	Screening	Visual Impact Mitigation	CUP
Existing support structures	Existing location	Existing height	Existing setback	N/A	N/A	N/A
Roof-mounted support structures	All zoning districts	Not to exceed the zoning district height limit	N/A	Not required	Required (1)	Yes (2)
Host-mounted support structures	All zoning districts	5' above host structure	N/A	Not required	Required	Yes
Ground-mounted support structures	IG, IBP, ITP	Not to exceed the zoning district height limit	From property line: building setbacks of zone for both tower and equipment enclosure(3)	Required	Required	Yes
	CA, CB, CC	Support structure + antenna together may not exceed 35 ft.	From property line: building setbacks of zone for both tower and equipment enclosure(3)	Required	Required	Yes

- (1) One antenna under 10 square feet in surface area allowed on roof-mounted support structures without having to meet Visual Impact Mitigation standards for roof-mounted facilities, so long as the support structure does not exceed the tallest element of the building to which it is attached.
- (2) CUP required when total antenna surface area for all antennas exceeds 10 square feet.
- (3) See "Residential Zone Setback" requirements.

## 2. Screening

- a. Telecommunications facilities located above ground in or directly adjacent to RS, RM, RR1, RR2, MUR, CA, CB, CC zone shall be surrounded by a minimum six-foot (6') high decorative wall constructed of brick, stone, or textured concrete block.  
Telecommunications facilities in all other zones shall be surrounded by a minimum six-foot (6') high wall or solid or slatted fence.
- b. The area around the perimeter of ground telecommunications facilities shall be landscaped unless the Planning Commission determines otherwise.

## 3. Visual Impact Mitigation

- a. Antenna Towers:
    - i. Antenna towers shall be painted a neutral color consistent with the natural or built environment of the subject site and the surrounding area unless otherwise required by the FAA or any other state or federal agency having such authority.
    - ii. Antenna towers shall be constructed in a manner that is visually compatible with the surrounding built environment.
  - b. Roof-mounted Facilities: Facilities mounted on the roof of buildings must be visually incorporated into the building or background by the use of architectural elements, color, screening or other methods.
  - c. Host-mounted Support Structure:
    - i. Telecommunication facilities mounted on other structures not constructed for the primary purpose of supporting telecommunication services must be either fully concealed within the host structure or camouflaged to appear to be an integral part of the host structure.
  - d. Ground-mounted Equipment Enclosures: Above-ground equipment enclosures that are used in or adjacent to residential and commercial zones must be designed with exterior façade materials of masonry, stucco, or beveled siding and be constructed in a manner that is visually compatible with the surrounding environment.
  - e. Antennas and Cables: When visible, antennas and cables shall be of a color identical to or closely compatible with that of the structure to which they are attached unless otherwise required by the FAA or any applicable state or federal agency.
- L. Lighting: Telecommunication facilities may not be artificially illuminated except as required by FAA regulations. All other outdoor lighting must meet the standards in Sandpoint City Code Section 8-10: Outdoor Lighting.
- M. Signage: Identification and contact information is permitted on one wall- or fence-mounted sign not exceeding 4 square feet in area per site. Other signage may not be located on telecommunication facilities, unless required by the FCC or FAA.
- N. Residential Zone Setback:

1. Antenna towers shall be separated from the property line of any adjacent property zoned RS, RM, RR1, RR2, or MUR at least a distance equal to the height of the antenna tower or 100 feet, whichever is greater.

O. Noise Reduction

1. Noise generating equipment shall be sound buffered by means of baffling, barriers, or other suitable means and shall conform to Sandpoint City Code Section 5-2-6: Noise.

P. Modification and Removal

1. Modification or Removal of Nonconforming Telecommunication Facilities: Nonconforming telecommunication facilities being demolished or rebuilt must conform to Sandpoint City Code Section 9-7: Nonconforming Buildings and Uses.

2. Removal of Telecommunication Facilities

- a. Providers must notify the city in writing when a telecommunication facility is no longer being utilized. Any facilities that are not utilized for the provision of telecommunication services for a continuous period of 6 months or more will be considered abandoned. All abandoned facilities must be removed within 6 months of abandonment. If a facility is not removed within 6 months, the city is authorized to remove the facility at the facility owner's or land owner's expense.
- b. Where multiple users share a support structure, the non-operational antenna and equipment enclosure must be removed. Any necessary shared facilities may be retained until all users have terminated the utilization of the support structure.

- Q. Third Party Review: Adequate review of applications, particularly for new ground-mounted support structures, may require the city to retain consultants or other third party assistance to review an application. In such an event, the applicant must reimburse the city for the reasonable actual costs incurred by the city for retention of consultants or other third parties prior to issuance of any applicable permit. The city must provide a written scope and cost proposal to the provider for approval prior to the city entering into an agreement with a third party.

R. Exceptions

1. Applicability: In the event that standards of this section cannot be met by an applicant, and there exists no feasible alternative to providing adequate service by any provider for a particular geographic area, the applicant may apply for conditional use approval in accordance with Sandpoint City Code Section 9-9-6.A: Conditional Use Permit Procedures.
2. Review and Submittal Requirements: Prior to submitting an application for conditional use approval in accordance with 9-9-6.A, the applicant must request in writing a pre-application conference with the Planning Department. The purpose of the pre-application conference is to acquaint the participants with the applicable requirements of this section. A conditional use application must provide documentation demonstrating evidence of all the following:

- a. telecommunications services by any provider are not adequate within a specific geographic area, and cannot be made available unless a new telecommunication facility is built or erected in a manner or location contrary to the standards of this section;
  - b. location on buildings or other structures is not possible because:
    - i. no existing or proposed structures adequate to support the proposed antenna are located within the geographic area required to meet the applicant's engineering and service requirements; or
    - ii. property owners or owners of existing structures for smaller scale installations are unwilling to accommodate the applicant's needs; or
    - iii. the applicant demonstrates that there are other factual and verifiable limiting factors that render rooftops and other sites or monuments unsuitable for location of telecommunication facilities; and
  - c. co-location on existing support structures is not possible because:
    - i. existing or approved support structures are not of sufficient height to meet the applicant's engineering and service requirements and a combination of smaller scale facilities will not enable adequate service delivery; or
    - ii. existing or approved support structures do not have sufficient structural strength to support the proposed antenna and related equipment and cannot be reinforced to provide sufficient structural strength; or
    - iii. the proposed antenna would cause electromagnetic interference with antenna on existing or approved support structures, or the antenna on existing or approved support structures would cause interference with the proposed antenna; or
    - iv. the applicant demonstrates that there are other factual and verifiable limiting factors that render existing or approved structural supports for telecommunication facilities unsuitable for co-location.
- S. Affirmative Duty to Keep City Informed: All telecommunications service providers having facilities in the jurisdiction of the City shall file with the Zoning Administrator an annual written statement due by the end of the calendar year verifying continued use of each of their facilities in the City's jurisdiction as well as continued compliance with the state and federal agency regulations. All telecommunications service providers having telecommunications facilities in the jurisdiction of the City shall be required to report in writing to the Zoning Administrator any change in the status of their operations. Change in status shall include, but is not limited to, the following:
- a. Change in or loss of license from the FCC to operate.
  - b. Receipt of notice of failure to comply with the regulations of any other authority having jurisdiction over the business or facility.
  - c. Change in ownership of the company that owns the telecommunications facilities or that provides telecommunications services.
  - d. Loss or termination of lease with the property owner or the owner of the telecommunications facilities.
  - e. Abandonment of a facility or non-use of a facility for a period of six (6) months or longer.

T. Severability: Should any sentence, section, clause, part or provision of this Chapter be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Chapter as a whole or any other part thereof other than the part declared to be invalid.