

City of Grand Junction, Colorado

Emergency Ordinance No. 3184

**AMENDING THE ZONING AND DEVELOPMENT CODE TO PROVIDE FOR THE
REGULATION OF TELECOMMUNICATIONS FACILITIES AND TOWERS AND
DECLARING AN EMERGENCY**

RECITALS:

Due to the advent of and burgeoning growth of wireless telecommunications services throughout the nation, many municipalities are realizing that their local regulations are inadequate to address the problems, opportunities and predicaments that come with that growth. Specifically, those communities have found that regulations of only a few years ago are outdated, no longer capable of protecting the citizens and meeting the needs of the wireless industry.

The City has only recently received inquiries from wireless services providers intending to locate telecommunications facilities here. Adoption of the new Code, which will contain appropriate regulation, will not occur for several months but is necessary now. Regulation is necessary now in order to protect the community's interests because the current City Zoning and Development Code is virtually devoid of any appropriate standards and contains very little to guide the industry through the regulatory review process. In order to protect the community while facilitating the national communications interests, and given that the new Code has been in process for many months and is now nearly complete, the Council hereby finds the existence of an emergency which warrants adoption of the following provisions as soon as possible. These provisions shall be added to and shall amend the Grand Junction Zoning and Development Code.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT

1. An emergency, as contemplated by the City Charter §§ 50 and 51, exists so that the implementation of these provisions is necessary to protect and promote the health, welfare and safety of the citizens of the City of Grand Junction.

The text of the ordinance, to be codified as determined by the Clerk, is as follows:

DEFINITIONS – Additions

AMATEUR RADIO

Radio communications, which are licensed or regulated as such by the Federal Communications Commission, are not subject to provisions of this Code.

ANTENNA

Any device designed and intended for transmitting or receiving television, radio, microwave signals, or other electromagnetic waves. An antenna includes all mounting and

stabilizing items such as a tower, a pole, a bracket, guy wires, hardware, connection equipment and related items.

CO-LOCATION

The location of wireless communication facilities on an existing structure, tower, or building in a manner so that an additional tower, structure or facility is not required.

SATELLITE DISH

An antenna, consisting of radiation element(s) that transmit or receive radiation signals, that is supported by a structure with or without a reflective component to the radiating dish, usually circular in shape with a parabolic curve design constructed of a solid or open mesh surface and intended for transmitting or receiving television, radio, microwave signals or other electromagnetic waves to or from earth satellites.

CONCEALED, or STEALTH

Any tower or telecommunications facility which is designed to enhance compatibility with adjacent land, buildings, structure and uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements and towers designed to not look like a Tower such as light poles, power poles and trees. The term Stealth does not necessarily exclude the use of uncamouflaged lattice, guyed or monopole Tower designs.

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TELECOMMUNICATION FACILITIES

Any cables, wires, lines, wave guides, antennas and any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a Tower or Antenna Support Structure.

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TOWER

A self-supporting lattice, guyed or monopole structure constructed from grade which supports Telecommunications Facilities. The term Tower shall not include amateur radio operators' equipment, as licensed by the FCC.

TELECOMMUNICATION FACILITIES/TOWERS

A. Purpose. The purpose of this section is to regulate the placement, construction and modification of Towers and/or Telecommunications Facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of competitive wireless telecommunications in the City.

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B. Application. No Telecommunications Facilities and Towers shall be altered, added to, installed or permitted unless the Director has approved a site plan review for the property and the Facility or Tower.

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C. Exemptions. This ordinance does not apply to amateur radio equipment, as licensed by the FCC, that is less than 10 feet tall measured from grade, or 10 feet higher than the highest point of the roof.

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D. Telecommunications Facilities and Tower Review. No site plan shall be approved until the applicant establishes, to the satisfaction of the Director or other decision making body, that the following are satisfied:

1. Towers and Telecommunications Facilities shall be located to minimize any visual and other adverse impact to the neighborhood, especially residential areas and land uses. If the proposed location is on leased property, proof of possession is required.

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2. Telecommunications Facilities and Towers shall be set back from all residentially zoned or used property by a minimum of two hundred (200) feet or two hundred (200) percent of the height of the proposed Tower or Facility, whichever is greater. Setback requirements shall be measured from the outside perimeter of the base of the Tower, and every other vertical component of the TF or T higher than 10 feet, to any portion of the other property. If notice to the affected property owner is given, the Director may reduce any such setback by up to 25 % if such reduction will allow a Tower to be located so that the visual impact on the neighborhood is reduced. For example, a setback could be reduced to allow a Tower to be located next to trees in order to partially shield the Tower from view.

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3. All Telecommunication Facilities and Towers shall be set back a minimum of 85' from the property line or at a 2:1 ratio (2' of setback for every foot of tower height from the property boundary of the facility) which ever is greater, from residentially zoned or used property.

4. All Telecommunications Facilities and Towers on public utility structures, facilities or property shall be exempt from the 2:1 setback requirement if they are no taller than the existing utility structure in said location and if approved by the Director.

a. Monopole Tower structures shall be separated from all other Towers, whether monopole, self-supporting lattice or guyed, by a minimum of seven hundred and fifty (750) feet.

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b. Self-supporting lattice or guyed Towers shall be separated from all other self-supporting lattice or guyed Towers by a minimum of fifteen hundred (1,500) feet.

c. Location. Shared use/co-location of wireless communication facilities on existing structures, towers or buildings in a manner that precludes the need for the construction of a freestanding structure of its own is encouraged. To that end, an application for an integral, concealed Tower or Telecommunication Facility may be issued by the Director.

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d. City property and buildings. Towers or Facilities that can be constructed as an integral part or component of light standards, buildings, utility structure or other structures at City parks or other City buildings facilities are encouraged. To that end, upon the payment of an appropriate fee compliance with any conditions imposed, the Director and the head of the City Department, which operates such property or building, may co-issue a permit therefor. Director of Public Works and Utilities, or the review criteria, shall be approved by the Director on a first come, first served basis.

e. No new Tower or Facility shall be permitted unless the applicant demonstrates to the satisfaction of the Director that no existing tower, structure or utility facility can be used in lieu of new construction for the applicant's use. At a minimum, such applicant shall demonstrate that:

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1. No existing Tower, Facility or utility structure is located within a distance which meets the applicant's engineering requirements;

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2. No existing Tower, Facility or utility structure is located within a distance which meets the applicant's engineering requirements and which has sufficient structural strength or space available to support the applicant's telecommunication facility and related equipment;

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3. The applicant's proposed telecommunication facility will not cause unreasonable electromagnetic or other interference with the antennas on existing towers, structures or utility structures or the antennas of existing Towers, Facilities or utility structures or that such existing facilities would interfere with the applicant's uses such that co-location is not possible;

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4. There is some other reasonable factor that render existing Towers, Facilities or utility structures unsuitable; and

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5. No owner of existing towers, structures or utility structures, including the City and other governments, within a distance which meets the applicant's engineering requirements, will allow the applicant to place its telecommunication facility thereon or such owner is requiring unreasonable payment or terms.

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6. The applicant shall submit evidence concerning structural and engineering standards prepared by a Colorado registered professional engineer. The safety of the property and the neighborhood shall be protected.

E. **Interference.** Every Tower and Telecommunication Facility shall meet the regulations of the Federal Communications Commission (FCC) regarding physical and electromagnetic interference.

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F. **Health Issues.** Every Tower and Telecommunication Facility shall meet applicable health and safety standards for electromagnetic field (EMF) emissions as established by the FCC and/or any other federal or state agency having jurisdiction.

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G. **View Corridors.** Only a Concealed Tower or Telecommunications Facility, the antennas of which all are located on existing vertical structures, is allowed within 1/8 mile from the right-of-way of: Grand Avenue from 1st Street to 12th Street; any portion of Monument Road within the City; 7th Street from North Avenue to the Colorado River; and other rights of way designated by resolution of the City Council.

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H. **Historic Zones.** Only a Concealed Tower or Telecommunication Facility is allowed within a historic zone or area as designated by the City Council by resolution.

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I. **Application Requirements.** In addition to other requirements of this Code, each applicant for a Tower or Telecommunication Facility shall provide the Director with an inventory of all of the applicant's existing Tower(s) and/or Telecommunication Facility(ies) or approved sites for the facilities that are either within the City or are within one (1) mile of the then existing border of the City.

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1. A zone map specific to the application from the City's zoning map drawn to scale, showing land uses and zoning designation of all uses within a quarter (1/4) of a mile.

2. A computer generated visual analysis from all adjacent rights-of-way, showing the relationship of the Tower/Facility to the topography and other spatial relationships deemed necessary or required by the Director to assess compliance with the Code. If there are more than four (4) such rights-of-way, the Director shall designate which rights-of-way shall be analyzed.

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3. A description of the Tower/Facility's capacity which declares the number and type(s) of antennae(s) that it can accommodate or an explanation why their facility cannot be designated to accommodate other users.

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4. An agreement retained by the City which commits the facility owner and its successors to allow shared use of the facility if an additional user(s) agree in writing to the reasonable terms and conditions of shared use. The applicant shall annually report to the Director: the names, addresses and telephone numbers of every inquiries for co-location; and the status of such inquiry.

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5. The applicant shall provide evidence of mailed notice of a proposed Tower or Telecommunication Facility to all abutting property owners within four (4) times the distance that the Tower or Facility is tall, or 250 feet, whichever is greater, and to any neighborhood association that would be entitled to notice under this Code.

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6. Any other information as required by the Director to evaluate the request, especially technical information.

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J. Public and Utility Structures. A Tower or Telecommunication Facilities mounted on existing structures of public utilities which have a franchise or other written permission from the City and Concealed Towers/Telecommunication Facility (ies) are permitted in all non-residential zoning districts, unless otherwise specified by this Code. The Director may approve the placement, extension or replacement of a Tower or Telecommunication Facility on an existing public utility structure up to 50' above the highest point on the same; the Director may waive public notice and may waive any other submission requirement if he deems that the public interest will not be harmed.

K. Design, Materials and Color. Towers and Telecommunication Facilities shall be designed and maintained: to minimize visual impact; carry gravity loads, wind loads and with safety measures as required by applicable regulations including adopted building codes; using Concealment or Stealth methods, such as camouflaging Towers to look like light poles or trees, if at all possible; if co-located, to match the color, shape and look of the structure or facility to which they are attached; to use only non-specular materials. In order to be considered a Concealed Tower or Telecommunication Facility, the Tower or Telecommunication Facility shall:

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1. Be architecturally integrated with existing buildings, structures and landscaping, including height, color, style, massing, placement, design and shape.

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2. Be located to avoid a silhouette and preserve view corridors to the east and the west of the Grand Mesa and the Colorado National Monument, as determined from viewing the Tower or Facility from anywhere within the original square mile of the City.

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3. Be located on existing vertical infrastructure such as utility poles and public building or utility structures.

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4. Roof mounted antennas shall be located as far away as feasible from the edge of the building. Antennas attached to the building should be painted or otherwise treated to match the exterior of the building.

5. Equipment shelters and antennas shall not extend more than ten (10) feet from the top of the building. Any deviation from this standard shall be reviewed and approved, disapproved or approved with conditions by the Director.

6. Be located in areas where the existing topography, vegetation, buildings or other structures provide screening.

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7. The applicant/developer shall be required to structurally design the footing of the tower or antenna to support a tower or antenna which is at least fifteen (15) feet higher than that proposed by the applicant to accommodate co-locations.

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L. Landscaping and Screening. The property on which a telecommunication facility or tower is located shall be landscaped and screened, as follows:

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1. A free-standing Tower or Telecommunication Facility shall include landscaping planted and maintained according to a landscaping plan approved by the Director in accordance with the applicable landscaping requirements of the zoning district where the Tower or Facility is located. Landscaping may be waived or varied by the Planning Commission where the Commission determines that existing site vegetation is equal to or greater than that required by the Code.

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2. A freestanding Tower or Telecommunication Facility shall be surrounded by a six (6) foot high wall or fence or other suitable buffer yard. Chain link with slats shall not constitute acceptable fencing nor shall it satisfy the screening requirement.

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M. Lighting and Signage.

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1. Only lighting required by a federal agency is allowed. The location of the lighting fixture(s) shall be such that the lights do not shine directly on any public right-of-way and that the light emitted is otherwise in compliance with this Code.

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2. Only signage that is required by state or federal law is allowed. No advertising shall be permitted.

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N. Each exterior Tower or Telecommunication Facility equipment building(s) or cabinet(s) shall:

1. Not contain more than 400 square feet of gross floor area and shall not be more than twelve feet (12') in height.

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2. Maintain the minimum setback, landscaping and screening requirements of the zone in which it is located.

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O. Modification or Demolition. Any Tower or Telecommunications Facilities being modified, demolished or rebuilt shall be brought into compliance with the standards adopted in this Code.

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P. Maintenance. Every owner of a Tower or Telecommunications Facility shall take special care to operate, repair and maintain all such facilities so as to prevent failures and accidents which cause damage, injuries or nuisances to the neighborhood and public. All wires, cables, fixtures and other equipment shall be installed in compliance with the requirements of the National Electric Safety Code and all FCC, FAA, state and local

regulations and in such a manner that will not interfere with radio communications, electronic transmissions or all other electromagnetic communications or otherwise cause a safety hazard.

Q. **Review.** Each new tower or facility will be subject to a two (2)-year review by the Director. The review will determine whether or not the originally approved number of antenna and design are still appropriate and necessary to provide adequate communications services.

R. **Abandonment.** The wireless telecommunication facility owner shall remove all wireless telecommunications facilities, which are not in use for any six (6)-month period, within three (3) months of the end of such six (6)-month abandonment. As a part of such removal, the owner shall re-vegetate the site so that it is compatible with the neighborhood. Abandonment shall only be determined by the City Council, after the owner has had notice and an opportunity to be heard.

S. **FAA.**

1. No person shall construct or alter a Telecommunications Tower or Facility without a permit therefor and without having first obtained the approval of the Director. To obtain such review, the applicant shall submit FAA Form 7460-1, Notice of Proposed Construction or Alteration;

2. Form 7460-1 shall not be required for the following:

a. Amateur radio. An amateur radio antennae if owned and operated by a federally licensed amateur radio operator or used exclusively for a receive-only antennae;

b. Any existing tower and antennae provided a building permit was issued for a tower or antennae prior to the adoption of this Code;

c. Emergency telecommunications facilities used exclusively for emergency services including, but not limited to, police, fire and operation of governmental entities; and

d. Any antennae used for FCC licensees engaged in AM, FM or television broadcasting.

T. **Appeal.** Any decision by the Director shall be subject to review pursuant to appeal to the Planning Commission provided by this Code. Decisions of the Planning Commission are final and may be appealed to District Court in accordance with Colorado Rule of Civil Procedure 106(a)(4).

PASSED AND ADOPTED AS AN EMERGENCY BY UNANIMOUS VOTE OF THE COUNCIL THIS 20th DAY OF OCTOBER 1999.

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/s/ Gene Kinsey
President of the Council

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Attest:

/s/ Stephanie Nye
City Clerk

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