



TOWN OF
PINEDALE
WYOMING

**Thursday, October 12, 2017 Special Town Meeting at 3:30 PM at the Sublette
County Unified Fire Department Meeting Room to allow public comment on
the proposed Ordinance 633 – TOWERS**

A. CALL TO ORDER

A-1 Pledge of Allegiance

B. DISCUSSION OF ORDINANCE 633

C. ADJOURN

AN ORDINANCE OF THE TOWN OF PINEDALE, WYOMING CREATING ARTICLE XL OF CHAPTER 475 CONCERNING WIRELESS TOWERS/ANTENNAS.

NOW, THEREFORE BE IT HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PINEDALE, WYOMING, THAT ARTICLE XL OF CHAPTER 475 OF THE PINEDALE MUNICIPAL CODE IS HEREBY CREATED TO READ AS FOLLOWS:

ARTICLE XL

WIRELESS TOWERS AND ANTENNAS

§ 475-330. *Intent and Purpose.*

The intent of this ordinance is to provide the Town of Pinedale with access to fast reliable internet and wireless communications 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 wireless towers, antennas and poles (~~including internet~~), microwave towers, common carrier towers, cellular, television and radio towers, telecommunications towers and towers/antennas in general, both monopole and lattice type, to: (1) protect residential areas and land uses from potential adverse economic impacts of wireless towers, antennas or poles; (2) encourage the location of towers/antennas 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 wireless 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 Pinedale.

§ 475-331. *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 which is authorized 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 at the base of the tower to the highest point on the structure, including the highest antenna.*

CARRIER: *An entity that provides wireless telecommunications services. This definition shall also include companies that build telecommunications 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 wireless 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: *Wireless tower, antenna or pole setbacks and separation distances shall be calculated and applied to facilities located in the Town limits and within one mile of the Town limits, irrespective of municipal and county jurisdictional boundaries.*

COMMERCIAL TOWER: *A TOWER that a CARRIER is using to supply patrons with telecommunication services.*

TOWER: *Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio 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 TELECOMMUNICATIONS: *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.*

§ 475-332. Applicability.

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.

New wireless towers, antenna 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.

All commercial carrier towers and other wireless 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 as described in § 160-22 and include all information required in this article with the application.

§ 475-333. Use by Right.

- A. ~~Telecommunication~~ towers, antennas and poles shall be permissible subject to the provisions of this Article.
- B. The following uses shall be specifically permitted as accessory uses by right and shall not require a building permit:
 - (1) ***Non-commercial towers which are constructed to a height less than the zone districts height; (NOTE: It was recommended by industry that all towers, commercial and residential, less than the zoning height limit not apply; however seems as if all commercial towers, regardless of height should require a building permit)***
 - (2) Receiving antenna or amateur radio antennas in residential zoning districts, for the exclusive use of the residence on the lot where the antenna is located;
 - (3) 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;
 - (4) 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 to, 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;
 - (5) 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;

~~C. All other wireless towers, antennas and poles shall require a building permit.~~

§ 475-334. General Requirements.

~~A. Allowed Use. Wireless towers, antennas and poles and associated facilities shall be considered either principal or accessory use in any zoning district. A different existing use of an existing structure on the same lot shall not alone preclude the installation of a wireless tower, antenna or pole on the lot. (removed in its entirety)~~

~~B. 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 wireless 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. (relocated to definitions)~~

A. Inventory of Existing Sites. Each applicant for a building permit for a wireless tower, antenna or pole shall provide to the Town Engineer an inventory of the applicant's existing wireless 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 telecommunication service for each ~~wireless tower, antenna or pole~~ **commercial tower**.

B. Materials. ~~Wireless Towers, antennas or poles shall~~, to the extent possible, use 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.**

C. Lighting. Wireless 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.**

D. State and Federal Requirements. All wireless 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 wireless towers, antennas or poles.

- E. Building Codes - Safety Standards. To ensure the structural integrity of towers, the owner of a wireless 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. 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 certify will verify*** that the structure was built according to the plans and specifications. A ***Wyoming licensed professional engineer*** shall certify that ***the tower*** is safe after ~~conducting inspections during construction and~~ completion ***of the tower***. 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.

~~Measurement. Wireless tower, antenna or pole setbacks and separation distances shall be calculated and applied to facilities located in the Town limits and within one mile of the Town limits, irrespective of municipal and county jurisdictional boundaries. (relocated to definitions)~~

- F. ***Prohibited: Guyed towers are prohibited within Town limits.***

- G. ~~Not~~ ***Non*** Essential Services. Wireless towers, antennas and poles shall be regulated and permitted pursuant to this title, and not regulated or permitted as public utilities or private utilities.

- H. Franchises. Owners and operators of wireless 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 have been filed or recorded, as applicable.

- ~~K. Public Notice. Any request for a variance regarding a building permit for a wireless tower, antenna or pole shall require notice to all property owners who would be entitled to notice for a zoning variance concerning the lot where the tower or antenna is to be constructed, and any other notice required by law. (removed in its entirety since condition use application applies)~~

- I. Bonding. Applicants may be required to provide a bond to insure removal of any a new wireless tower, in a form and amount acceptable to the Town Engineer, or its designee

by the mayor. If required, the bond shall be provided to the Town prior to the commencement of construction of any approved new tower.

§ 475-335. **Commercial Tower** Structural Requirements ~~Availability of Existing Towers, Other Structures, Stealth Towers.~~

- A. All new wireless towers shall be designed with the structural capacity to accommodate at least three co-located antennas.
- B. All new wireless towers shall be located upon sites that are large enough to contain the support equipment for at least three co-located antennas.
- C. No application for a building permit for a new wireless tower shall be processed until the applicant has met with the Town Engineer before submitting the application, to review the feasibility of using an existing **towers or structures** ~~or a stealth tower~~. 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 wireless tower. The Town Engineer may require the applicant to make reasonable efforts to use a stealth tower. Collocation of facilities and/or stealth technology may be considered a mitigating factor to a conditional use request and may justify the request.
- D. If an applicant claims that it cannot co-locate upon an existing tower, the applicant shall provide a written report from a **qualified communications specialist** ~~Wyoming licensed engineer~~, **experienced** radio frequency expert, or other expert professional in support of its position. The Town Engineer shall consider the written report in making its decision.
- E. 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 disputes regarding co-location disputes.
- F. ***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 decrease below the original standards. 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.***

§ 475-336. Setbacks and Separation.

A. Setbacks.

- (1) ~~Freestanding Tower. Freestanding Towers shall be set back a distance equal to at least seventy-five percent of the height of the tower from adjoining lot lines and all residential structures.~~
- (2) ~~Building Mounted Towers/Antennas. Building mounted towers/antennas within twenty feet from the nearest roof's edge shall be camouflaged to minimize contrast from ground level view and shall include, but not be limited to, architecturally screened roof mounted antennas, building mounted antennas painted to match the existing structure or skyline behind the antenna, antennas integrated into architectural elements such as church spires or window walls, and antenna structures designed to resemble light poles or flag poles.~~
- (3) ~~Accessory Buildings, Guys and Other Equipment. Setbacks shall correspond to applicable zone district.~~

B. Separation Distances Between Towers.

- (1) 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 poles and the center of the base of the proposed tower, antenna or pole.
- (2) ~~The minimum separation distances shall be:~~
 - (a) ~~For towers thirty five (35) feet or less in height, five hundred feet separation;~~
 - (b2) For towers more than thirty-five (35) feet in height, ~~if allowed by variance, one thousand feet separation.~~ ***the separation distance shall be determined during the variance conditional use application process.***

§ 475-337. Buildings and Other Equipment.

- A. 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.

- B. 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:
- (1) 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.
 - (2) 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.
- C. 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 located.

§ 475-338. Removal of Abandoned Towers, Antennas and Poles.

Any wireless tower, antenna or pole not operated for ~~six (6)~~ twelve consecutive months shall be considered abandoned. The owner of the wireless 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 wireless tower, antenna or pole and recover the cost thereof from the **tower or land owner** thereof or the bond posted under § 475-331-I above. This provision shall not apply to any wireless tower, antenna or pole owned by the Town of Pinedale.

§ 475-339. Pre-Existing Towers.

New construction, other than routine maintenance on a pre-existing tower, shall comply with the requirements of this chapter **and a building permit shall be required.**

§ 475-340. Co-locations. For towers on which antennas are co-located.

- ~~A. Separation distances under subsection § 475-334 of this chapter are reduced by twenty-five percent.~~
- ~~B. An existing tower may be modified or rebuilt to a taller height, not to exceed forty feet over the tower's existing height, to accommodate the co-location of an additional antenna. The additional height allowed by this provision shall not require additional setback or distance separation.~~

A building permit shall be required for a tower that is being rebuilt to accommodate co-location of an additional antenna. ~~may be relocated onsite within fifty feet of its existing location.~~ After rebuilding, one tower only shall remain on the site. A relocated onsite tower shall ***meet all requirements of this article.*** ~~be measured from its original location for measurement of separation distances.~~

§ 475-339. Height.

~~New wireless towers, antenna or poles, freestanding or building mounted, shall not exceed thirty five (35) feet in heights above grade. Building mounted towers shall be measured from the base elevation of the building at grade to the tallest elevation point of the tower.~~
(moved into Applicability section)

§ 475-341. Signs.

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

§ 475-342. Conflicts.

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

§ 475-343. Use of Right-of-Way.

This chapter concerns wireless communication towers, antennas or poles on private or governmental property only. Use of public right-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.

§ 475-344. Town Towers.

The Tower Manager shall decide all matters related to wireless tower owned by the Town. Any entity who is aggrieved by the decision of the Tower Manager regarding a wireless tower owned by the Town may appeal the decision to the Town Council.

PASSED ON FIRST READING ON _____, 2017.

PASSED ON SECOND READING ON _____, 2017.

PASSED, APPROVED AND ADOPTED ON THIRD READING ON _____, 2017.

ATTEST:

TOWN OF PINEDALE,
WYOMING:

BY: _____
ROBERT M. JONES, MAYOR

TOWN CLERK

ATTESTATION BY TOWN CLERK

STATE OF WYOMING)
COUNTY OF SUBLETTE) ss.
TOWN OF PINEDALE)

I hereby certify that the foregoing Ordinance No. _____ was duly published in the _____, a newspaper of general circulation published in the Town of Pinedale, Wyoming, on the _____ day of _____, 2017.

I further certify that the foregoing Ordinance was duly recorded on Page _____ of Book _____ of Ordinances of the Town of Pinedale, Wyoming.

Town Clerk

Current Outline

- Intent and Purpose
- Definitions
- Applicability
- Use By Right
- General Requirements
- Structural requirements
- Setbacks and separation
- Buildings and Other equipment
- Removal of abandoned towers, antennas and poles
- Pre-existing towers
- Co-locations. For towers on which antennas are collocated
- Signs
- Conflicts
- Use by right-of-way
- Town Towers

Proposed

- Intent and Purpose
- Definitions
- Applicability
 - Use By Right
- General Provisions
- Development Standards
 - Structural requirements
 - Setback and separation
 - Buildings and other equipment
 - Signs
 - Co-locations on service towers
- Removal of abandoned towers, antennas and poles
- Pre-existing towers
- Conflicts
- Use by right-of-way
- Town Towers