

EXISTING CITY CODE

10-4-11: COMMERCIAL MOBILE RADIO SERVICE (CMRS) FACILITIES:

(A) CMRS Facilities Located Or Collocated On Existing Structures:

1. CMRS facilities which are supported entirely by a roof or wall of an existing nonresidential structure are allowed as a permitted use in any zone district. A CMRS facility may be located on a multiple dwelling unit structure containing eight (8) or more dwelling units that is at least thirty five feet (35') in height. Antennas, ancillary utility structures, and associated transmission equipment shall be a neutral color that is identical to, or closely compatible with, the color of the supporting structure. Antennas shall not extend more than fifteen feet (15') beyond the highest point of the supporting structure.
2. Before any request for the construction of a new antenna support structure is approved, and where technologically feasible, collocation of antennas on existing antenna support structures shall be required. Where any party seeking access to an existing antenna support structure is unable to satisfactorily contract for collocation, the parties shall appoint an arbitrator for purposes of providing, by contract, for the terms, conditions, and costs which are to be associated with the collocation. In those situations where the parties cannot agree on an arbitrator, one shall, upon the request of the parties, be appointed by the city attorney. All costs of arbitration shall be at the sole expense of the parties. The decision of the arbitrator shall be final and shall be binding on the parties.
3. An applicant for a new antenna support structure shall demonstrate that it has contacted the owners of all suitable structures within a five hundred foot (500') radius of the proposed facility, and was denied permission to locate its CMRS facility on those structures.
4. No antenna support structure owner or lessee or employee thereof shall act to exclude or attempt to exclude any other CMRS provider from the same location. An antenna support structure owner or lessee or employee thereof shall cooperate in good faith to achieve collocation of antennas with other CMRS providers.

(B) Antenna Support Structures:

1. Antenna support structures are allowed as a permitted use in any I-P, I-1 or I-2 zone district. (Ord. 30, Series of 1997)
2. Antenna support structures which are proposed to be located in any OS, A-1, R-S, R-L, R-4, R-5, B-P, T, B-1, B-2, B-3, CA, STP, CEM, or any PD zone district (except PD-R single-family) or which are proposed to be located within two hundred fifty feet (250') of any R-E, R-1, R-2, R-3, R-3X, or PD-R zone district shall require approval by the planning commission as a conditional use. (Ord. 8, Series of 2000; amd. Ord. 5, Series of 2005; Ord. 19, Series of 2012; Ord. 15, Series of 2016)

3. Applications for proposed antenna support structures where, upon commencement of service, the antennas of two (2) or more CMRS providers will be located, may be approved by community development, based on the criteria applicable to conditional uses and the standards set forth in this section.
4. Community development may approve the installation of a proposed antenna support structure facility located on public property, based on the criteria applicable to conditional uses and the standards set forth in this section. (Ord. 20, Series of 2012)
5. Excepting those antenna support structures permitted in the I-P, I-1, or I-2 zone districts, an antenna support structure shall not be permitted within a distance of five hundred feet (500') from an existing antenna support structure, except those facilities which are designed as alternative tower structures and which receive planning commission approval as a conditional use. The maximum permitted height of any antenna support structure shall be sixty feet (60') for the first CMRS provider whose antennas are located on the structure, plus twenty feet (20') for each additional provider's antennas, to a maximum height of one hundred feet (100'). (Ord. 30, Series of 1997; amd. Ord. 19, Series of 2012; Ord. 15, Series of 2016)
6. New antenna support structures shall be constructed to accommodate reasonably anticipated future collocated carriers.
7. An applicant for a new antenna support structure shall notify all CMRS providers licensed to offer service in the city that an application has been submitted. Notice shall include the address of the proposed facility. (Ord. 30, Series of 1997)

(C) Site Development Plan (SDP) Approvals:

1. Applications for CMRS facilities which include an ancillary utility structure shall require approval of an SDP. Applications may also be referred to the planning commission for review under the procedures established for conditional uses where unique environmental or aesthetic considerations exist which may affect the application. (Ord. 20, Series of 2012; amd. Ord. 15, Series of 2016)
2. Any decision to deny a request to place, construct, or modify personal wireless service (CMRS) facilities shall be in writing and supported by substantial evidence contained in a written record.

(D) Site Development Plan; CMRS Standards: An SDP (see [chapter 7](#) of this title) shall be required for all parcels upon which any antenna support structure is proposed to be installed. In addition to all applicable zone district standards, the following standards for all CMRS facilities shall apply:

1. CMRS antennas attached to an antenna support structure may exceed the permissible height of the antenna support structure by no more than fifteen feet (15').
2. CMRS facilities shall not occupy a leased parcel of more than two thousand five hundred (2,500) square feet of the total land area of the site on which they are located, except that where a freestanding CMRS facility supports antennas of two (2) or more providers, an

additional three hundred (300) square feet of land area for each additional provider may be occupied. (Ord. 30, Series of 1997)

3. CMRS facilities shall be landscaped and/or visually screened from adjacent residential properties and public rights of way. The exterior finish and color of CMRS facilities shall be compatible with adjacent development. Specific requirements for screening, landscaping, and/or exterior building finish shall be determined by community development for each application. Such requirements shall be based upon aesthetic considerations such as, but not limited to, preservation of views, compatibility with existing surrounding vegetation and development, and proximity of the proposed facility to residential properties and public rights of way. It is not the intent of this subsection to require the total screening of antenna support structures. (Ord. 20, Series of 2012)
4. Ancillary utility structures shall meet the required minimum building setbacks. Antenna support structures which are not self-supporting shall be separated from any existing building except ancillary utility structures, by a distance not less than twenty five percent (25%) of the antenna support structure's height. Antenna support structures shall meet the required minimum setbacks and separations unless specifically requested otherwise in a conditional use application and approved by the planning commission. (Ord. 30, Series of 1997; amd. Ord. 19, Series of 2012; Ord. 15, Series of 2016)

(E) Abandonment:

1. Whenever a CMRS provider notifies the federal communications commission that a site is to be removed from service, the provider shall promptly provide a copy of that notice to the city manager. CMRS facilities which are not in use for cellular purposes or which are deemed abandoned under subsection (E)2 of this section for a period of six (6) consecutive months, shall be removed by the CMRS facility owner. This removal shall occur within ninety (90) days of the end of said six (6) month period. Upon removal, the site shall be revegetated to substantially the condition it was in prior to the existence of the CMRS facility and, to that end, pursuant to a site plan approved by the city.
2. Without limiting the generality of subsection (E)1 of this section, CMRS facilities shall be deemed abandoned if one or more of the following conditions exist:
 - (a) Power service is intentionally disconnected, unless such disconnection is for the temporary purpose of maintenance or repair;
 - (b) Any or all of the equipment required for transmission has been intentionally removed by the owner or lessee from the site; and/or
 - (c) The affected CMRS facility owner has lost ownership, lease rights, or other legal authority to use the property for purposes of operating a CMRS facility. (Ord. 30, Series of 1997)
3. Prior to any determination of abandonment by the city, the city shall notify the CMRS facility owner in writing of its intent to declare the facilities abandoned. The CMRS facility owner shall be entitled to respond within thirty (30) calendar days after its receipt of such notice stating reasons why the determination of abandonment should not be made. A decision concerning the matter of abandonment shall be made by the director of community development based upon the written response of the CMRS facility owner within fifteen (15) days from its receipt of the

owner's reasons. A decision by the director of community development that the CMRS facility has been abandoned shall be subject to appeal to the planning commission in accordance with the provisions contained in subsection (E)4 of this section.

4. The owner of a CMRS facility which has been determined by the director of community development to be abandoned may request a hearing before the planning commission, if such hearing is requested in writing within thirty (30) calendar days after its receipt of notice from the city that its site has been deemed abandoned. A hearing concerning the matter of abandonment shall thereafter be held by the planning commission within thirty (30) calendar days after its receipt of the owner's written request. A decision by the planning commission that the CMRS facility has been abandoned shall be final, shall direct the owner to remove said facility in conformance with subsection (E)1 of this section, and shall be subject to judicial review under rule 106(a)(4), CRCP. (Ord. 20, Series of 2012; amd. Ord. 15, Series of 2016)
5. In the event that the owner fails to remove the abandoned CMRS facility within the time specified in subsection (E)1 of this section, the city is hereby authorized to remove or cause the removal of the abandoned CMRS facility without any liability for trespass therefor, and all costs incurred by the city, including an administrative cost equal to twenty five percent (25%) of all direct costs, shall be charged as a lien against such real property and the owners thereof.
6. If the amount specified in subsection (E)5 of this section, is not paid within thirty (30) calendar days, the city shall have the right to seek collection of any amount due, plus statutory interest and any and all costs of collection, including, but not limited to, its attorney fees, through institution of an action at law or in equity. (Ord. 30, Series of 1997)
7. If the CMRS facility owner intends to abandon or cease use of a facility, he or she shall immediately notify the director of community development, in writing, of such intent or cessation of usage. The owner shall thereafter have ninety (90) days in which to remove the facility, and if he or she fails to remove the facility, then subsections (E)5 and (E)6 of this section shall control. (Ord. 20, Series of 2012)