

ORDINANCE NO.

NO. 15-10  
Series of 2015

**TITLE: AN ORDINANCE AMENDING THE HUDSON MUNICIPAL CODE  
CONCERNING MODIFICATIONS TO EXISTING WIRELESS  
TELECOMMUNICATIONS FACILITIES**

WHEREAS, Article 10 of Chapter 16 of the Hudson Municipal Code (the "Code") governs Commercial Mobile Radio Service ("CMRS") facilities;

WHEREAS, Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (the "Spectrum Act") prohibits the Town from denying land use applications that would not substantially change the physical dimensions of certain CMRS facilities, and restricts the review process for an application for the modification of certain CMRS facilities; and

WHEREAS, the Board desires to amend the Code to comply with Section 6409(a) of the Spectrum Act.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF HUDSON, COLORADO, THAT:

Section 1. Section 16-152 of the Code is hereby amended by the addition of the following new definitions, to be inserted alphabetically:

*Base station* means a structure or equipment, other than a tower, at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communications between user equipment and a communications network. The term includes any equipment associated with wireless communications services, including radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks). The term includes any structure, other than a tower, to which any of the equipment described hereof is attached.

*Eligible telecommunications facility request* means a request for approval of the modification of an existing tower or base station that involves the collocation of new transmission equipment, the removal of transmission equipment or the replacement of transmission equipment.

*Substantial change* means a modification to an existing tower or base station under the following circumstances:

- (1) A substantial change in the height of an existing tower or base station occurs as follows:

- a. For a tower outside of a public right-of-way, when the height of the tower is increased by more than ten percent (10%), or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater.
  - b. For a tower located in a public right-of-way or for a base station, when the height of the structure increases by more than ten percent (10%) or by more than ten (10) feet, whichever is greater.
- (2) Changes in height are measured as follows:
- a. When deployments are separated horizontally, changes in height shall be measured from the original support structure, not from the height of any existing telecommunications equipment.
  - b. When deployments are separated vertically, changes in height shall be measured from the height of the tower or base station, including any appurtenances, as the tower or base station existed on February 22, 2012.
- (3) A substantial change in the width of an existing tower or base station occurs as follows:
- a. For a tower outside of public rights-of-way, when the addition of an appurtenance to the body of the tower protrudes from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.
  - b. For a tower in a public right-of-way or a base station, when the addition of an appurtenance to the body of the structure would protrude from the edge of the structure by more than six (6) feet.
- (4) A substantial change also occurs for an existing tower in a public right-of-way or an existing base station as follows:
- a. When the change involves the installation of any new equipment cabinets on the ground, if no ground cabinets presently exist; or
  - b. When the change involves the installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any existing ground cabinets.
- (5) A substantial change also occurs for any existing tower or base station when any of the following are found:

- a. When the change involves installation of more than the standard number of new equipment cabinets for the technology involved, or more than four (4) new cabinets, whichever is less.
- b. When the change entails any excavation or deployment outside the current site.
- c. When the change would defeat the concealment elements of the eligible support structure.
- d. When the change does not comply with conditions associated with the original siting approval of the construction or modification of the tower, base station or base station equipment. This limitation does not apply if the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in Subsections (1) through (5)(b), hereof.

*Tower* means a structure built for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

Section 2. Article 10 of Chapter 16 of the Code is hereby amended by the addition of a new Section 16-158, to read as follows:

**Sec. 16-158. Eligible telecommunications facility requests.**

(a) Application materials.

- (1) An applicant for an eligible telecommunications facility request shall be required to submit only such documentation and information as is reasonably necessary to determine whether a proposed modification would substantially change the physical dimensions of an eligible tower or base station.
- (2) The Town shall make available an application form which shall be limited to the information necessary for the Town to consider whether an application would substantially change the physical dimensions of an eligible tower or base station. The application form may not require the applicant to demonstrate a need or business case for the proposed modification or collocation.

(b) Incomplete applications.

- (1) When an application is incomplete, the Town shall provide written notice to the applicant within thirty (30) days, specifically identifying all missing documents or information.

- (2) If an application remains incomplete after a supplemental submission, the Town shall notify the applicant within ten (10) days. Second or subsequent notices of incompleteness may not require the production of documents or information that were not requested in the original notice of incompleteness.

(c) Expedited review.

- (1) For zones in which a CMRS facility is allowed as a Use by Special Review, an eligible telecommunications facility request shall be approved or denied by the Town within sixty (60) days of the date of the Town's receipt of the completed application. This time period may be tolled only by mutual agreement or when an application is incomplete.
- (2) For zones in which a CMRS facility is allowed as a permitted use, an eligible telecommunications facility request shall be approved or denied by the Town Administrator within seven (7) days of the date of the Town's receipt of the completed application. This time period may be tolled only by mutual agreement or when an application is incomplete.
- (3) If the Town fails to approve or deny an eligible telecommunications facility request within the sixty (60) days of the date of the Town's receipt of the completed application (accounting for any tolling), the request shall be deemed granted; provided that this automatic approval shall become effective only upon the Town's receipt of written notification from the applicant after the review period has expired (accounting for any tolling) indicating that the application has been deemed granted.

(d) Review.

- (1) The Planning Commission shall review the application to determine whether the application qualifies as an eligible telecommunications facility request.

(2) Approval.

- a. The Town shall approve an eligible telecommunications facility request that does not substantially change the physical dimensions of a tower or base station.
- b. The Town may approve an eligible telecommunications facility request that substantially changes the physical dimensions of a tower or base station if it complies with the remainder of this Code.
- c. The Town may condition the approval of any eligible telecommunications facility request on compliance with generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety.


- (3) Denial. A final decision by the Town to deny an eligible telecommunications facility request under this Section shall be in writing and shall include the reason(s) for denial.

INTRODUCED, READ IN FULL, AND ADOPTED this 1st day of July, 2015.



TOWN OF HUDSON, COLORADO

  
Raymond Patch, Mayor


  
Linnette Barker, CMC, Town Clerk

PASSED ON SECOND AND FINAL READING this 15th day of July, 2015, AND ORDERED PUBLISHED ONCE IN FULL.




TOWN OF HUDSON, COLORADO

  
Raymond Patch, Mayor

  
Linnette Barker, CMC, Town Clerk

APPROVED AS TO FORM:

  
Corey Y. Hoffmann, Town Attorney