

ORDINANCE 1438

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AMENDING THE PAYETTE MUNICIPAL CODE, BY ADDING A NEW SECTION 17.95.015 APPLICABILITY, OF CHAPTER 17.95 WIRELESS FACILITY, SPIRES, POLES, ANTENNAS, STEEPLES, TOWERS AND OTHER SUCH STRUCTURES IN TITLE 17; AMENDING CHAPTER 17.95.020 TOWERS IN ZONING DISTRICTS; AND AMENDING CHAPTER 17.95.070 AMATEUR RADIO ANTENNAS, IN TITLE 17; SETTING AN EFFECTIVE DATE; ALLOWING PUBLICATION IN SUMMARY FORM; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF PAYETTE, IDAHO:

**Section 1.** Title 17 of the Payette Municipal Code is hereby amended by adding new sections 17.95.012 DEFINITIONS, and 17.95.015 APPLICABILITY under chapter 17.95 PERSONAL WIRELESS FACILITIES, SPIRES, POLES, ANTENNAS, STEEPLES, TOWERS, AND OTHER SUCH STRUCTURES, as follows:

**Chapter 17.95**

**PERSONAL WIRELESS FACILITIES, SPIRES, POLES, ANTENNAS, STEEPLES, TOWERS, AND OTHER SUCH STRUCTURES**

17.95.010: PURPOSE:

17.95.012: DEFINITIONS:

17.95.015: APPLICABILITY

17.95.020: TOWERS IN ZONING DISTRICTS:

17.95.030: COLLOCATION REQUIREMENTS:

17.95.040: TOWER AND ANTENNA DESIGN REQUIREMENTS:

17.95.050: TOWER SETBACKS:

17.95.060: TOWER LIGHTING, SIGNAGE, AND ATTACHMENTS:

17.95.070: AMATEUR RADIO ANTENNAS:

17.95.080: ACCESSORY UTILITY BUILDINGS:

17.95.090: ABANDONED OR UNUSED TOWERS OR PORTIONS OF TOWERS:

17.95.095: PRIORITIES:

17.95.100: ADDITIONAL APPLICATION SUBMITTAL REQUIREMENTS:

17.95.110: PERMITS:

17.95.120: ADDITIONAL REQUIREMENTS FOR NOTICE OF PUBLIC HEARING:

17.95.140: HEIGHT:

17.95.012 DEFINITIONS:

As used in this Zoning Code, the following terms shall have the meanings set forth below:

ALTERNATIVE TOWER STRUCTURE: means man-made trees, clock towers, bell steeples, light poles and similar alternative-design

mounting structures that camouflage or conceal the presence of antennas or towers.

ANTENNA means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals.

FCC means the Federal Communications Commission.

HEIGHT means, when referring to a tower or other structure in this chapter, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

LATTICE TOWER means a support structure consisting of metal crossed strips or bars supporting antennas and related equipment.

LICENSED AMATEUR COMMUNICATIONS means amateur radio operations, also known as amateur radio service, as regulated and licensed by the FCC pursuant to 47 CFR Part 97.

MONOPOLE means a structure composed of a single spire.

PERSONAL WIRELESS FACILITIES means facilities necessary for the provision of personal wireless services (i.e., towers, support buildings, etc.).

PERSONAL WIRELESS SERVICES are Commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

TOWER means 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 radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

#### **17.95.015 APPLICABILITY**

(A) Towers and Antennas. All towers or antennas in Payette shall be subject to these regulations, except as provided in following Sections (B) and (C).

(B) Amateur Radio Station Operators/Receive Only Antennas. This Zoning Code shall not govern any tower/antenna installation that is under seventy feet (70') in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

(C) Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than to meet the requirements of State or Federal Law or to comply with the Uniform Building Code, as amended, and the National Electric Code.

**Section 2.** Title 17 of the Payette Municipal Code is hereby amended by repealing item 1 in sub-section A under chapter 17.95.020 Towers in Zoning Districts, as follows:

**17.95.020 TOWERS IN ZONING DISTRICTS:**

A. Residential Districts:

~~1. On residentially zoned parcels, towers supporting amateur radio antennas shall not be permitted in the front, side or street side yard.~~

21. Personal wireless facilities shall be prohibited in all residential zones.

B. Commercial/Industrial Districts:

1. Wireless antennas may be permitted to be attached to existing light standards and power line support devices (or replacement equivalent of same height) provided, however, the antenna(s) are either flush mounted or mounted in a manner that provide minimum visual impact. Notwithstanding the foregoing, all provisions of this subsection shall be applicable to wireless antennas located on existing light standards and power line support devices.

**Section 3.** Title 17 of the Payette Municipal Code, Chapter 17.95.070 AMATEUR RADIO ANTENNAS, is hereby amended as follows:

**17.95.070 AMATEUR RADIO ANTENNAS:**

In accordance with the federal communications commission's preemptive ruling PRB-1, towers erected for the primary purpose of supporting amateur radio antennas may exceed thirty seven feet (~~30' 70'~~) in height provided that a determination is made by the city that the proposed tower height is technically necessary to successfully engage in amateur radio communications. ~~A conditional use permit is required for any amateur radio antenna in excess of thirty-five feet (35').~~

**Section 4.** This Ordinance may be published in summary form allowed by Idaho Code.

**Section 5.** This Ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.

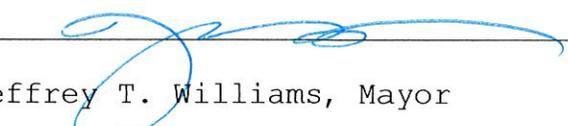
**Section 6.** Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

**Section 7.** If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

PASSED and APPROVED by the Mayor and City Council of the City of Payette, Idaho this 6<sup>th</sup> day of February, 2018.

CITY OF PAYETTE, IDAHO

BY

  
Jeffrey T. Williams, Mayor

ATTEST:

  
City Clerk