

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. COMMUNICATION RADIO TOWERS.
4. WIRELESS COMMUNICATION TOWERS AND STRUCTURES.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

14-101. Regional planning commission designated as municipal planning commission.

14-101. Regional planning commission designated as municipal planning commission. Pursuant to authority provided in *Tennessee Code Annotated*, § 13-3-301, the Chattanooga-Hamilton County Regional Planning Commission is hereby designated as the municipal planning commission of the Town of Lookout Mountain. (1992 Code, § 11-101)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Lookout Mountain shall be governed by ordinance adopted June 13, 1972, titled "Zoning Ordinance, Town of Lookout Mountain, Tennessee," and any amendments thereto.¹ (1992 Code, § 11-201)

¹This ordinance, and any amendments thereto, are published as separate documents and are of record in the office of the town clerk.

CHAPTER 3

COMMUNICATION RADIO TOWERS

SECTION

- 14-301. Towers prohibited.
- 14-302. Existing towers.
- 14-303. Permit required.
- 14-304. Application for a permit.
- 14-305. Zoning variance required.
- 14-306. Permit fees.
- 14-307. Registration.
- 14-308. Revocation of permit.
- 14-309. Ordered removal of equipment.
- 14-310. Exemptions.
- 14-311. Violations and penalty.

14-301. Towers prohibited. It is the policy of the town that construction of communication radio towers and antennas for business or public use within the town is prohibited. This prohibition does not apply to cell phone towers for voice and data transmission covered by chapter 4 of this title. (Ord. #91, Nov. 2013)

14-302. Existing towers. Existing towers and antennas may continue in use, provided, however, that such towers or antennas shall not be altered or enlarged in any fashion except where "state of the art" improvements can be shown by application to the chief of police, to reduce the objections of the town with respect to efficiency or aesthetics of the facility, otherwise those existing towers or antennas may not be altered or enlarged. If they are removed, they cannot be replaced or rebuilt. No frequencies may be added at any location without a permit as specified in §§ 11-303 to 11-307 herein. (Ord. #91, Nov. 2013)

14-303. Permit required. Any owner or occupant of property within the town, who desires to add frequencies or change frequencies on an existing antenna or radio tower on his property, shall apply to the chief of police, for a permit authorizing same. (Ord. #91, Nov. 2013)

14-304. Application for a permit. Each application for a permit shall be signed by the owner or occupant of the property upon which the radio tower or antenna is located, and by the licensee company or agency for whom the frequency will be operated, and shall be accompanied by the following:

- (1) The frequency and power to be used and the anticipated hours of operation;

(2) Written consent of all owners of property contiguously adjacent to the property; and

(3) A statement signed by the property owner and licensee agency or company certifying that the radio frequency:

(a) Will not interfere with radio and television reception or telephone communication of any citizen of the town or with operation of any other electrical apparatus; and

(b) Will not endanger in any manner safety or property of any persons. (Ord. #91, Nov. 2013)

14-305. Zoning variance required. No permit for any such radio frequency addition or change will be issued to any applicant unless a variance from the zoning ordinance has been granted in accordance with the provisions of that ordinance for construction of a radio communication tower or antenna. (Ord. #91, Nov. 2013)

14-306. Permit fees. Upon approval of an application to add or change any radio frequency under this chapter, an installation permit will be issued to the applicant upon payment of an installation permit fee of two hundred fifty dollars (\$250.00). (Ord. #91, Nov. 2013)

14-307. Registration. On or before the tenth day of January of each year, each communication radio tower or antenna and each additional radio frequency transmitted or received within the town shall be registered with, and a permit for the maintenance thereof shall be obtained from, the chief of police. An annual registration fee of three hundred dollars (\$300.00) for each antenna or radio communication tower and for each additional frequency transmitted or received (or for each frequency utilized by a community repeater shared usage station or those of similar nature) shall be paid by the property owner on which the equipment is located. The registration will be signed by the property owner and a responsible officer of the company or agency operating the equipment attesting to the number of antennas, radio communication towers and frequencies which shall be listed thereon. (Ord. #91, Nov. 2013)

14-308. Revocation of permit. (1) Any permit issued authorizing the maintenance, alteration or enlargement of communication radio equipment tower or antenna may be revoked by the board of commissioners if it finds that such installation:

(a) Endangers the safety of any person or the property of any person;

(b) Interferes with radio or television reception or telephone communication of any citizen of the Town of Lookout Mountain; or

(c) Interferes with the operation of any electrical apparatus of any citizen of the Town of Lookout Mountain. No revocation shall be

ordered by the board of commissioners, however, unless it has received a signed complaint in writing from an affected person nor until after a public hearing upon such complaint.

(2) Notice of such hearing shall be mailed by regular mail not less than ten (10) days in advance of the hearing to the owner or occupant of the property upon which the tower or antenna is constructed, the licensee using the installation (and any other person or agency against whom complaint is made), owners or occupants of contiguously adjacent property, complainant, and any other persons requested by complainant or by any person against whom complaint is made.

(3) Upon issuance of any order of revocation, any radio equipment, tower or antenna affected by such order shall be removed promptly by the person against whom the order is issued. (Ord. #91, Nov. 2013)

14-309. Ordered removal of equipment. The Town of Lookout Mountain may, in addition to any other remedies provided herein, order the removal of any communication radio broadcast towers and antennas and related equipment or facilities with respect to which any property owner, occupant, licensee, company or other person or entity has not complied with the provisions of this chapter relating to application for a permit, registration, or payment of construction or registration fees. If such equipment is not removed within thirty (30) days after written notice is served upon the owner or occupant of such property, the town may remove such equipment, and the reasonable cost of removal shall become a lien upon the property upon which such equipment was situated. (Ord. #91, Nov. 2013)

14-310. Exemptions. The following antennas or radio communication towers and related frequencies are exempt from the payment of annual fees due to their public service function:

- (1) Easter Seals (1);
- (2) Federal Bureau of Investigation (2);
- (3) Tennessee American Water Company (1);
- (4) Red Cross (3); and
- (5) City of Chattanooga Police Department (9). (Ord. #91, Nov. 2013)

14-311. Violations and penalty. Violations of this chapter are subject to the penal provisions of this municipal code, and each day's violation shall constitute a separate and distinct offense. (Ord. #91, Nov. 2013)

CHAPTER 4

WIRELESS COMMUNICATION TOWERS AND STRUCTURES

SECTION

- 14-401. Definitions.
- 14-402. Purpose and goals.
- 14-403. Applicability.
- 14-404. Registration of WCFs and TCFs.
- 14-405. Development standards.
- 14-406. Approval procedure.
- 14-407. Temporary communications facilities.
- 14-408. Shared facilities and co-location policy.
- 14-409. Existing WCFs and TCFs.
- 14-410. Coordination with federal law.

14-401. Definitions. (1) "Antenna array" is one (1) or more devices used for the transmission and/or reception of electromagnetic signals, which may include omni-directional antennas, directional antennas, parabolic antennas, microwave dishes or horns and other types of equipment for the transmission and/or receipt of such signals. The antenna array does not include the support structure defined below.

(2) "Attached wireless communication facility" ("WCF") or "attached telecommunications facility" ("TCF") is an antenna array that is attached to an existing building or structure ("attachment structure"), which structures shall include but not be limited to utility poles, signs, water towers, with any accompanying pole devices ("attachment device") which attaches the antenna array to the existing building or structure and associated connection cables, and an equipment facility which may be located either inside or outside of the attachment structure.

(3) "Co-location/site sharing" means the use of a common WCF or TCF or common site by two (2) or more wireless license holders or by one (1) wireless license holder for more than one (1) type of communications technology and/or placement of a WCF or TCF on a structure owned or operated by a utility or other public entity.

(4) "Equipment facility" is any structure used to contain ancillary equipment for WCFs and TCFs which include cabinets, shelters, a build-out of an existing structure, pedestals, and other similar structures.

(5) "Height." When referring to a WCF or TCF, height shall mean the distance measured from the surface of the naturally occurring terrain to the highest point on the WCF or TCF, including the antenna array.

(6) "Review process" means that process set forth in §§ 14-405 and 14-406 below.

(7) "Set back" shall mean the required distance from the property line of the parcel on which the WCF or telecommunication facility is located to the support structure.

(8) "Support structure" is a structure designed and constructed specifically to support an antenna array, and may include a monopole and other similar structures. Any attachment device which is used to attach an attached WCF to an attachment structure shall be excluded from the definition in regulations applicable to support structures.

(9) "Telecommunications facility" is a facility, other than a WCF that transmits and/or receives electromagnetic signals and may include omni-directional antennas, directional antennas, parabolic antennas, microwave dishes or horns, and other types of equipment for the transmission and/or receipt of such signals.

(10) "Temporary communication facility" shall mean a WCF or TCF which is to be placed in use for a limited period of time, is not deployed in a permanent manner, and does not have a permanent foundation.

(11) "Wireless communications" shall mean any personal wireless services as defined in the *Tennessee Code Annotated*, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communications services ("PCS") specialized mobile radio ("SMR"), enhanced specialized mobile radio ("ESMR"), paging, and similar services that currently exist or that may in the future be developed.

(12) "Wireless communication facility" or "WCF" is any unstaffed facility for the transmission and/or reception of wireless communication services, usually consisting of an antenna array, transmission cables, an equipment facility, and a support structure to achieve the necessary elevation. (Ord. #91, Nov. 2013)

14-402. Purpose and goals. (1) The purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for the placement of WCFs and TCFs. The regulations contained herein are designed to protect and promote the public health, safety, community welfare and the aesthetic quality of the Town of Lookout Mountain; while at the same time not unduly restricting the development of needed WCFs and TCFs.

(2) The goals of this chapter are to:

(a) Protect the visual character of the town from the potential adverse effects of WCFs and TCFs;

(b) Provide the permissible locations for WCFs and TCFs within the Town of Lookout Mountain;

(c) Within the permissible locations, provide clear performance standards addressing the siting of WCFs and TCFs;

(d) Encourage the location of WCFs and TCFs on existing structures, including utility poles, signs, water towers, buildings and outer WCFs and TCFs; and

(e) Encourage co-location and site sharing of new and existing WCFs and TCFs. (Ord. #91, Nov. 2013)

14-403. Applicability. (1) Pre-existing WCFs and TCFs. WCFs and TCFs for which a permit has been issued prior to the effective date of this chapter shall not be required to meet the requirements of this chapter unless altered or changed in any way. Upon such change the provision of this chapter shall be complied with.

(2) Relationship to other ordinances. This chapter shall supersede all conflicting requirements of other codes and ordinances regarding the locating and permitting of WCFs and TCFs. (Ord. #91, Nov. 2013)

14-404. Registration of WCFs and TCFs. (1) Registration requested. All existing and applicant telecommunications carriers and providers that offer or provide any telecommunications services for a fee directly to the public, either within the Town of Lookout Mountain, or outside the corporate limits from telecommunications facilities within the town by way of a WCFs or operating TCFs, shall register with the town pursuant to this chapter on forms to be provided by the town, which shall include the following:

(a) The identity and legal status of the registrant, including any affiliates.

(b) The name, address and telephone number of the individual, officer, agent or employee responsible for the accuracy of the registration statement.

(c) A narrative and map description of the registrant's existing or proposed WCFs or TCFs within the town.

(d) A description of the telecommunications services, if any, that the registrant intends to offer or provide, or is currently offering or providing, to persons, firms, businesses or institutions within the town.

(e) Information sufficient to determine that the applicant has applied for and received any construction permit, operating license, or other approvals required by the Federal Communications Commission (FCC) to provide telecommunications services within the town.

(f) Such other information as the town may reasonably require.

(2) Registration fee. Each application for registration as a new telecommunications carrier or provider shall be accompanied by a fee of one thousand five hundred dollars (\$1,500.00).

(3) Purpose of registration. The purpose of registration under this section is to:

(a) Provide the town with accurate and current information concerning the telecommunications carriers and providers who offer or provide telecommunications services within the town or that own or operate TCFs within the town;

(b) Assist the town in enforcement of this chapter;

- (c) Assist the town in the collection and enforcement of any license fees or charges that may be due the town;
- (d) Assist the town in monitoring compliance with local, state and federal laws; and
- (e) Assist the town in collection and enforcement of annual registration fees applicable to antennas within the town and enforcement and collection of ground rents and revenue sharing agreements required hereunder. (Ord. #91, Nov. 2013)

14-405. Development standards. (1) Height and location standards.

(a) Location of TCFs and WCFs shall be permitted in any zone of the town but preference shall be granted for placement at municipally owned properties known as Fort Circle and the town maintenance facility. These locations are located properly and are deemed to provide adequate coverage potential.

(b) Monopole TCFs and WCFs may be built to such height as justified in the circumstances as determined in the discretion of the mayor and board of commissioners.

(2) Set back standards.

(a) Attached WCFs and TCFs. Antenna arrays for attached WCFs and TCFs are exempt from the set back standards of this section and from the set backs of the zone in which they are located. An attached WCFs or TCFs antenna array may extend up to five feet horizontally beyond the edge of the attachment structure so long as the antenna array does not encroach upon an adjoining parcel.

(b) Equipment facilities. All equipment facilities shall meet the set back requirements for buildings for the underlying zone in which they are located.

(c) WCFs and TCFs with support structures. WCFs and TCFs with support structures shall be located not closer than a distance equal to one hundred percent (100%) of the height of the WCFs or TCFs from any adjoining lot line. Guy-wires and appurtenant equipment and buildings shall comply with the set back requirements of the underlying zoning district in which the tower is located.

(3) Landscaping and screening. (a) Generally. In order to minimize the visibility of tower facilities, an evergreen landscape shall be erected if not already provided at the perimeter of the property on all four sides, so as to provide the maximum feasible screening as determined by the town commission. Any screen shall consist of a landscaped strip at least six feet (6') wide outside the perimeter of the compound, evergreen plants shall be a minimum of ten feet (10') in height when planted, shall have a growth potential of at least twenty feet (20') , and shall be planted in staggered rows spaced ten to twelve feet (10'-12') apart. In addition, a fence may be added which shall be a minimum of six feet (6') in height

and shall be of a style of construction that provides a visual shield of the facilities. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.

(b) Maintenance of landscape screen and fencing. The required landscaping screening, and fencing if utilized, must be maintained at all times in a condition satisfying the requirements of this section by the owner of the lot on which the WCFs or TCFs is located or the party owning or operating the WCFs and/or TCFs. This requirement includes the obligation to replace any and all parts of the landscape screen and/or fencing that may be destroyed by weather or other force or event. Any dead or diseased plant material shall be replaced with new plantings that meet the requirements of this section. In the event that such landscape screen and/or fencing is not maintained as required by this section, the owner of the lot on which the WCFs or TCFs is located and the owner or operator of the WCFs or TCFs shall be jointly and severally liable for the cost incurred by the town in providing such maintenance.

(c) Performance bond required. Any party which owns or operates a WCFs or TCFs shall be required to obtain and provide to the town, at the time of application for the requisite permit, a performance bond ensuring compliance with the requirements of this section.

(4) Aesthetics/placement, materials and colors. (a) WCFs and TCFs. Every WCFs and TCFs and any support structure, shall be of neutral colors that are harmonious with, and that blend with, the natural features, buildings and structures surrounding such WCFs and TCFs and support structures; provided, however, that directional or panel antennas and omnidirectional or whip antennas located on the exterior of a building that will also serve as a support structure shall be of colors that match, and cause the antennas to blend with, the exterior of the building.

(b) Equipment facilities. Equipment facilities shall, to the extent practicable, use materials, colors and textures that will blend with the natural setting and built environment

(5) Lighting. WCFs and TCFs shall not be artificially lighted, except for:

(a) Shielded security and safety lighting. Security and safety lighting of equipment buildings if such lighting is appropriately down-shielded to keep light within the boundaries of the site; and

(b) Federally required lighting. Such lighting of the WCFs or TCFs as may be required by the Federal Aviation Administration ("FAA"), FCC, or other applicable authority shall be installed in a manner to minimize impacts on adjacent residences.

(6) Signs. No advertising material or signage other than warning or equipment information shall be allowed on any antenna or tower. This prohibition shall include attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waiving, fluttering or revolving devices, but not including weather devices.

(7) Noise. No equipment shall be operated at a WCF or TCF so as to produce noise in excess of fifty (50) dBA between the hours of 10:00 P.M. and 7:00 A.M. Any noise measurements shall be made at the property line of the impacted property. When instrumentation cannot be placed at the property line, the measurement shall be made as close thereto as is reasonable. However, noise measurements shall not be made at a distance less than twenty-five feet (25') from a noise source.

(8) Security fencing. WCFs or TCFs with support structures shall be enclosed by a security fence not less than six feet (6') in height and the support structure shall be equipped with an appropriate anti-climbing device; provided, however, that the governing authority may waive such requirements, as it deems appropriate; however, nothing herein shall prevent security fencing which is necessary to meet other requirements of state or federal agencies.

(9) Radio frequency emissions. (a) Federal preemption. The Telecommunications Act of 1996 Pub. L. 104-104 (TCA) gives the Federal Communication Commission ("FCC") sole jurisdiction in the field of regulation of radio frequency ("RF") emissions and WCFs and TCFs which meet the FCC standards shall not be conditioned or denied on the basis of RF impacts.

(b) Ongoing information. In order to provide information to its citizens, copies of ongoing FCC information concerning WCFs and radio frequency emission standards shall be available. Applicants for WCFs and TCFs shall be required to provide information on the projected power density of the facility and how this meets the FCC standards.

(10) Appurtenant equipment and buildings. (a) Antennas mounted on structures or roof tops. The equipment cabinet or structure to be used in association with an antenna may be located on a roof provided that such equipment or structure is placed as unobtrusively as possible. Equipment storage buildings or cabinets shall comply with all applicable building and zoning code requirements.

(b) Antennas mounted on utility poles, light poles or towers. The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development standards of the underlying zoning district. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable vegetation, except where the use of non-vegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.

(11) Abandonment and obsolescence. Any WCF or TCF that is not operated for a continuous period of three (3) months shall be considered

abandoned, and the owner of such WCF or TCF shall remove the WCF or TCF within sixty (60) days of receipt of notice from the governing authority notifying the owner of such abandonment. If such WCF or TCF is not removed within said sixty (60) days, the governing authority may remove the WCF or TCF and the owner of the lot on which the WCF or TCF is located and the owner or operator of the WCF or TCF shall be jointly and severally liable for the cost incurred by the town as a result of such removal. If there are two (2) or more users of a single WCF or TCF, then this provision shall not become effective until all users cease using the WCF or TCF. (Ord. #91, Nov. 2013, modified)

14-406. Approval procedure. (1) Permits. (a) Hearing body. The body that shall review and approve WCFs and TCFs pursuant to a hearing body review shall be the mayor and board of commissioners.

(b) Application contents. Each applicant requesting a permit subject to a hearing body review shall submit a scaled plan and scaled elevation view and other supporting drawings, prepared, approved, signed and sealed by a licensed professional engineer registered in the State of Tennessee, along with calculations and other documentation showing the location and dimensions of the WCF or TCF and all improvements associated therewith, including information concerning support structure specifications, antenna location, equipment facilities and landscaping. Each applicant shall also submit a scaled drawing of any existing adjacent structures, a site plan addressing drainage from the site, and if relevant, documentation and supporting drawings regarding topography and existing vegetation. Applicant shall present an acceptable ground lease of revenue sharing proposal to the town. The hearing body may require additional information relevant to its consideration of whether the application meets the development standard.

(c) Liability insurance. The owner(s) of a tower or antenna shall maintain, with financially sound and reputable insurers, insurance satisfactory to the mayor and board of commissioners with respect to such tower or antenna against such casualties and contingencies of such types and on such terms as is customary in the case of entities of established reputations as to similar towers or antennas in the amount of at least ten million dollars (\$10,000,000.00) as to any tower and at least two million dollars (\$2,000,000.00) as to any antenna located on an existing tower where the tower owner has met and continues to meet the requirements of this subsection (1)(c) to the satisfaction of the town, provided, however, that the mayor and board of commissioners may, in its sole discretion, elect to permit a tower or antenna owner to self-insure with respect to such risks, so long as such tower owner either:

(i) Has a Standard & Poor's or Moody's long term debt rating of A or better, in which event, such owner shall provide documentation satisfactory to the town regarding such self-insurance to the town; or

(ii) Is a United States government agency, such as the Tennessee Valley Authority, in which event, such owner shall provide documentation satisfactory to the town regarding such self-insurance to the town ("insurance"). Applicants seeking approval to build a tower shall provide proof of insurance to the town. Applicants seeking approval to place an antenna on an existing tower where the tower owner has met and continues to meet the requirements of the first paragraph of this subsection (1)(c) to the satisfaction of the mayor and board of commissioners shall provide proof of insurance concerning the proposed antenna to the town. The insurance policies described in this subsection (1)(c) that relate to such tower or antenna shall name the Town of Lookout Mountain, Tennessee, Mayor and Board of Commissioners of the Town of Lookout Mountain, Tennessee and all employees and agents of and attorneys for the Town of Lookout Mountain, Tennessee as additional insureds.

(d) Notice. Notice of the application and a public hearing by the hearing body shall be given in accordance with the procedures under the zoning ordinance for notice of applications and hearings before the hearing body.

(e) Hearing. The hearing body shall render a decision on the application under the hearing body review after a public hearing is held in accordance with procedures specified by the zoning ordinance or regulations adopted by the hearing body.

(f) Review criteria. The review criteria to be applied by the hearing body are the development standards set forth in § 14-405, provided that in locations where the visual impact of the WCF would be minimal, the applicable development standards may be reduced or waived so long as the approval of the WCF meets the purpose and goals of this chapter as set forth in §§ 14-402 and 14-405.

(g) Findings. All decisions rendered by the hearing body under a hearing body review shall be supported by findings of fact and conclusions of law based upon substantial evidence in the record.

(h) Timing of decision. The hearing body shall render its decision within sixty (60) days of application, unless the hearing body can demonstrate that more time is required and that the time extension is agreed to by the applicant.

(2) Conditional Use Permits ("CUP"). (a) Approval body. The body that shall review and approve conditional use permits shall be the mayor and board of commissioners.

(b) Applicable contents. Each applicant requesting a CUP under this chapter shall submit a scaled plan and scaled elevation view and other supporting drawings, prepared, approved, signed and sealed by a licensed professional engineer registered in the State of Tennessee, along

with calculations and other documentation showing the location and dimensions of the WCF or TCF and all improvements associated therewith, including information concerning support structure specifications, antenna location, equipment facilities and landscaping. Each applicant shall also submit a scaled drawing of any existing adjacent structures, a site plan addressing drainage from the site, and if relevant, documentation and supporting drawings regarding topography and existing vegetation. Applicant shall present an acceptable ground lease or revenue sharing proposal to the town. The hearing body may require additional information relevant to its consideration of whether the application meets the development standard.

(c) Liability insurance. The owner(s) of a tower or antenna shall maintain, with financially sound and reputable insurers, insurance satisfactory to the mayor and board of commissioners with respect to such tower or antenna against such casualties and contingencies of such types and on such terms as is customary in the case of entities of established reputations as to similar towers or antennas in the amount of at least ten million dollars (\$10,000,000.00) as to any tower and at least two million dollars (\$2,000,000.00) as to any antenna located on an existing tower where the tower owner has met and continues to meet the requirements of this subsection (1)(c) to the satisfaction of the town, provided, however, that the mayor and board of commissioners may, in its sole discretion, elect to permit a tower or antenna owner to self-insure with respect to such risks, so long as such tower owner either:

(i) Has a Standard & Poor's or Moody's long term debt rating of A or better, in which event, such owner shall provide documentation satisfactory to the town regarding such self-insurance to the town; or

(ii) Is a United States government agency, such as the Tennessee Valley Authority, in which event, such owner shall provide documentation satisfactory to the town regarding such self-insurance to the town ("insurance"). Applicants seeking approval to build a tower shall provide proof of insurance to the town. Applicants seeking approval to place an antenna on an existing tower where the tower owner has met and continues to meet the requirements of the first paragraph of this subsection (c) to the satisfaction of the mayor and board of commissioners shall provide proof of insurance concerning the proposed antenna to the town. The insurance policies described in this subsection (1)(c) that relate to such tower or antenna shall name the Town of Lookout Mountain, Tennessee, Mayor and Board of Commissioners of the Town of Lookout Mountain, Tennessee and all employees and agents of and attorneys for the Town of Lookout Mountain, Tennessee as additional insureds.

(d) Notice. Notice of the application and a public hearing by the hearing body shall be given in accordance with the procedures under the zoning ordinance for notice of applications and hearings before the approval body.

(e) Hearing. The approval body may approve the application for a CUP after a public hearing is held in accordance with procedures specified by the zoning ordinance or regulations adopted by the approval body.

(f) Conditional use criteria. (i) Development standards. Every application for a CUP shall be reviewed for compliance with the development standards set forth in § 14-405 above; provided, that the applicable development standards may be reduced or waived so long as the approval of the WCF meets the goals and purpose of §§ 14-402 and 14-405 herein. The development standards may be increased as provided in subsection (f)(ii) below.

(ii) Conditional use conditions. The approval body may impose conditions in addition to the development standards if all of the following findings have been made:

(A) The WCF would result in probable significant adverse visual impacts on nearby residences;

(B) The conditions are based upon the purpose and goals of this chapter as set forth in § 14-402 and other adopted policies or regulations of the jurisdiction; and

(C) The conditions are reasonable and capable of being accomplished.

(g) Findings. All decisions rendered by the approval body under a CUP shall be supported by findings of fact and conclusions of law based upon substantial evidence in the record.

(h) Timing of decision. The approval body shall render its decision within sixty (60) days of application, unless the approval body can demonstrate that more time is required and the time extension is agreed to by the applicant. (Ord. #91, Nov. 2013)

14-407. Temporary communications facilities. Temporary communication facilities are permitted, upon the approval of the mayor and board of commissioners for a term to be determined in the discretion of the mayor and board of commissioners. (Ord. #91, Nov. 2013)

14-408. Shared facilities and co-location policy. (1) FCC licensed wireless communication providers and owners or operators of TCFs are encouraged to construct and site WCFs and TCFs with a view towards sharing facilities with other utilities, to co-location with other existing WCFs and TCFs and to accommodate the future co-location of other WCFs and TCFs where technically, practically, and economically feasible.

(2) FCC licensed wireless communication providers proposing a new WCF or TCF with a support structure shall demonstrate that a reasonable attempt was made to find a co-location site acceptable to engineering standards and that none was practically or economically feasible. (Ord. #91, Nov. 2013)

14-409. Existing WCFs and TCFs. (1) All WCFs and TCFs operative on the effective date of this chapter shall be allowed to continue their present usage. Routine maintenance, including replacement with a new tower or antenna of like construction and height, shall be permitted on such existing WCFs and TCFs. New construction other than routine maintenance shall comply with the requirements of this chapter.

(2) A WCF or TCF that has received town approval prior to the effective date of this chapter, in the form of either a building permit or conditional use exception, but has not yet been constructed or placed in operation shall be considered an existing facility so long as such approval is current and not expired. (Ord. #91, Nov. 2013)

14-410. Coordination with federal law. Whenever the governing authority finds that the application of this chapter would unreasonably discriminate among providers of functionally equivalent personal wireless services or prohibit or have the effect of prohibiting the provision of personal wireless services, a conditional use permit waiving any or all of the provisions of this chapter may be granted. (Ord. #91, Nov. 2013)