

Sec. 117-428. - Towers.

- (a) *Purpose.* In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, the council finds that these regulations are necessary in order to:
  - (1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;
  - (2) Minimize adverse visual effects of towers through careful design and siting standards;
  - (3) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and
  - (4) Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.
- (b) *Towers in residential zoning districts.* Construction of towers to support commercial antennas that conform to all applicable provisions of this Code may be allowed only the following locations:
  - (1) Parcels within the Tower Overlay District as shown on the official zoning map.
  - (2) All church, government, school, utility, and institutional sites
  - (3) If the proposed tower is to be located within a residential district, documentation must be included in the application that demonstrates that the tower cannot be reasonably located within a commercial, industrial, or public/quasi-public zoning district.
- (c) *Towers in Town Center and Critical River Overlay Zoning Districts.* Construction of towers to support commercial antennas shall not be allowed in Town Center and Critical River Overlay Zoning Districts, except that antennas may be attached to existing structures provided the antenna does not extend more than 20 feet above the highest point of the structure or tower.
- (d) *Towers in the H-1 Highway 10 Business District.* Construction of towers to support commercial antennas shall not be allowed in the H-1 Highway 10 Business District. Antennas may not be constructed on existing structures in the H-1 District.
- (e) *Use of city-owned land for wireless telecommunication antennas and towers.*
  - (1) *Priority of users.*
    - a. The city;
    - b. Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the city and private entities with a public safety agreement with the city;
    - c. Other governmental agencies, for uses which are not related to public safety; and
    - d. Entities providing licensed 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.
  - (2) *Minimum requirements.*
    - a. The user must obtain a lease from the city, which shall take the following criteria into consideration:
      - 1. The antennas or tower will not interfere with the purpose for which the city owned property is intended;
      - 2. The antennas or tower will have no adverse impact on surrounding private property;

3. The applicant is willing to obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fees shall be established by the city council after considering comparable rates in other cities, potential expenses, risks to the city, and other appropriate factors;
  4. The antennas or tower will not interfere with other users who have a higher priority as discussed in subsection (e)(1) of this section;
  5. Upon reasonable notice, the antennas or tower may be required to be removed at the user's expense;
  6. The applicant must reimburse the city for any costs which it incurs because of the presence of the applicant's antennas or towers; and
- b. The user must obtain all necessary land use approvals, including a conditional use permit from the city.
- (3) *Special requirements.* The use of certain city-owned property, such as water tower sites and parks, for wireless telecommunication antennas or towers brings with it special concerns due to the unique nature of these sites. The placement of wireless telecommunication antennas or towers on these special city-owned sites will be allowed only when the following additional requirements are met:
- a. *Water tower sites.* The city's water tower represents a large public investment in water pressure stabilization and peak capacity reserves. Protection of the quality of the city's water supply is of prime importance to the city. As access to the city's water storage system increases, so too increases the potential for contamination of the public water supply. For these reasons, the placement of wireless telecommunication antennas or towers on existing or future water tower sites will be allowed only when the city is fully satisfied that the following requirements are met:
    1. The applicant's access to the facility will not increase the risks of contamination to the city's water supply;
    2. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility;
    3. The presence of the facility will not increase the water tower maintenance costs to the city; and
    4. The presence of the facility will not unreasonably interfere with maintaining the water tower.
  - b. *Parks.* Wireless telecommunication antennas will be considered only in parks on existing structures after the recommendation of the park and recreation commission and approval of the city council. Antennas may extend a maximum of 20 feet above existing structures. In addition, antennas are not permitted in those parks that have been titled to the plat in which they were dedicated or have restrictive covenants prohibiting any use except park and recreation use.
- (4) *Application process.* All applicants who wish to locate a wireless telecommunication antenna or tower on city-owned property must submit to the city administrator, or his designee, a completed application and detailed plan that complies with the submittal requirements of the zoning ordinance along with other pertinent information requested by the city.
- (5) *Termination.* The city council may terminate any lease if it determines that any one of the following conditions exists:
- a. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use;

- b. A user's frequency broadcast unreasonably interferes with other users of a higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis; or
- c. A user violates any of the standards in this policy or the conditions attached to the city's permission.

Before taking action, the city will provide 30 days' notice to the user of the intended termination and the reasons for it, and provide an opportunity for the user to address the city council regarding the proposed action. This procedure need not be followed in emergency situations.

- (6) *Reservation of right.* Notwithstanding the above, the city council reserves the right to deny, for any reason, the use of any or all city-owned property by any one or all applicants.
- (7) *Use of revenue.* All revenue generated through the lease of city-owned property for wireless telecommunication towers and antennas shall be made payable to the city and transmitted to the city's department of finance. Revenue shall be credited to the specific operating activity using the land upon which the wireless telecommunication towers and antennas are located:
  - a. To the water utility fund when located on water utility property;
  - b. To the park improvement fund if located on park or open space land;
  - c. Any revenues not meeting the above criteria shall be applied as general revenues of the general fund.
- (f) *Collocation requirements.* All commercial wireless telecommunication towers erected, constructed, or located within the city shall comply with the following requirements:
  - (1) A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the city council finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one-mile search radius of the proposed tower due to one or more of the following reasons:
    - a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
    - b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified professional and the interference cannot be prevented at a reasonable cost.
    - c. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a professional engineer.
    - d. In spite of its best efforts, within 60 days, the applicant was unable to obtain approval to collocate on an existing or approved tower or building.
    - e. Other reasons that make it impractical to locate the planned telecommunications equipment upon an existing or approved tower or building.
  - (2) Shared use of existing communications towers shall be preferred to the construction of a new tower. Any proposed commercial wireless telecommunication service tower shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users.
- (g) *Tower construction requirements.* All towers erected, constructed, or located within the city, and all wiring therefor, shall comply with the requirements set forth in chapter 105
- (h) *Tower and antenna design requirements.* Proposed or modified towers and antennas shall meet the following design requirements:

- (1) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and design, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Tower architectural standards are subject to final city council approval.
  - (2) Commercial wireless telecommunication service towers shall be of a monopole design unless the city council determines that an alternative design is preferred in cases where structural or design considerations, neighborhood compatibility, location availability, or the number of potential collocations warrants this consideration.
  - (3) All towers must be designed so that the tower site and setbacks will contain guyed wires, debris, and the tower in the event of a collapse, except towers of monopole design.
- (i) *Tower bulk standards.* Towers shall conform with each of the following requirements:
- (1) No part of any communication antenna or tower, equipment, guyed wires, or braces shall at any time extend across or over any part of the public right-of-way, public street, highway, sidewalk, or recreation trail.
  - (2) In business and industrial zoning districts, towers shall meet the setbacks of the underlying zoning district with the exception of industrial zoning districts, where towers may encroach into the side or rear setback area, provided that the side or rear property line abuts another nonresidential zoned property and the tower does not encroach upon any easements. When adjacent to a residential district, the tower must meet the setback equal to the height of the tower plus ten feet or the setbacks of the underlying zoning district, whichever is greater.
  - (3) Towers constructed within the Tower Overlay and Public/Quasi-Public Zoning Districts shall maintain a minimum setback equal to the height of the tower plus ten feet from any lot line.
  - (4) Towers shall not be located between a principal structure and a public street, with the following exceptions:
    - a. In industrial zoning districts, towers may be placed within a side yard abutting an internal industrial street.
    - b. On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.
  - (5) The setback shall be measured between the base of the tower located nearest the property line and the actual property line.
  - (6) A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the city council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure.
  - (7) The height of a communication tower shall not exceed 100 feet. with the following exceptions:
    - a. *City Required Stage I and Stage II Improvement Providers. In recognition of the needs of providers of services and infrastructure required by the City as Stage I and Stage II Improvements as defined in City Code Section 117-615 (Construction of Improvements) that provide basic services to the community, utility providers of these improvements may construct a tower not to exceed 199 feet in commercial and industrial districts, with no additional height allowances granted. No part of any tower, including antennas, may exceed 199 feet.*
  - (8) Multi-user towers may exceed the height requirements as stated in this section by up to an additional 20 feet provided that two additional users, as stated in subsection (f) of this section, have collocated their antennas on the monopole structure. A tower extension requires an amended conditional use permit.

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- (9) The city council may increase the height of a tower if the applicant is able to demonstrate to the satisfaction of the city council that the surrounding topography, structures, vegetation, and other factors make the height limit for a complying tower impractical.
- (j) *Tower lighting.* Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower, or if required by the city council for safety reasons. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
- (k) *Signs and advertising.* The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
- (l) *Accessory utility buildings.* All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood, as determined by the city council.
- (m) *Abandoned or unused towers or portions of towers.* Abandoned or unused towers or portions of towers shall be removed as follows:
- (1) All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city council. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application.
  - (2) Unused portions of towers above a manufactured connection shall be removed within 12 months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.
- (n) *Antennas on roofs, walls and existing towers.*
- (1) The placement of wireless telecommunication antennas on roofs, walls, and existing towers, utility poles and structures is permitted in any district, regardless of parcel size, provided the antenna does not extend more than 20 feet above the highest point of the structure or tower. The placement of wireless telecommunications antennas on roofs, walls, and existing towers or structures may be approved by the city engineer, provided the antennas meet the requirements of this Code, after submittal of a final site and building plan as specified by chapter 105, Buildings and Building Regulations, and a report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.
  - (2) The replacement of an existing light pole or lighting standard in order to accommodate the placement of an antenna thereon shall be approved by issuance of a building permit based upon administrative review.
- (o) *Interference with public safety telecommunications.* No new or existing telecommunications service shall interfere with public safety telecommunications, in accordance with the rules and regulations of the Federal Communications Commission. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the city at least ten calendar days in advance of such changes and allow the city to monitor interference levels during the testing process.
- (p) *Additional submittal requirements.* In addition to the information required elsewhere in this Code, development applications for towers shall include the following supplemental information:
- (1) A report from a qualified and licensed professional engineer which:
    - a. Describes the tower height and design including a cross section and elevation;

- b. Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antennas;
  - c. Describes the tower's capacity, including the number and type of antennas that it can accommodate; and
  - d. Includes other information necessary to evaluate the request.
- (2) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
- (3) Before the issuance of a building permit, the following supplemental information shall be submitted:
- a. Affirmation that the proposed tower will comply with any applicable regulations administered by the Federal Aviation Administration; and
  - b. A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the aforementioned structural and electrical (but not radio frequency) standards.
- (q) *Antennas designed for private reception of television and radio signals.* Private antennas designed for reception of television and reception and transmission of radio signals, including antennas (less than 60 feet in height if free standing and 15 feet in height if roof mounted) used for amateur or recreational purposes, provided they are not located in a front yard and do not infringe upon requirements of the Federal Aviation Administration, shall be exempt from the provisions of this section. Antennas that are intended to be 60 feet or more in height if free standing and 15 feet or more in height if roof-mounted shall require a conditional use permit from the city.
- (r) *Conditional use permit required.* Except as otherwise provided for in this section, it shall be unlawful for any person, firm, or corporation to erect, construct in place, place or re-erect, or replace any tower without first making application to the city council and securing a conditional use permit therefor as hereinafter provided. Routine maintenance of towers and related structures shall not require the issuance of a conditional use permit.
- (s) *Existing antennas and towers.* Antennas and towers in existence as of July 14, 1997, which do not conform to or comply with this section are subject to the following provisions:
- (1) Towers may continue in use for the purpose now used and as now existing but may not be replaced or materially altered without complying in all respects with this section.
  - (2) If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit therefor within 180 days of when the damage or destruction occurred, but without otherwise complying with this section; provided, however, that if the cost of repairing the tower to its former use, physical dimensions, and location would exceed 50 percent of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this section.

(Code 1978, § 9.15; Ord. No. 97-08, 7-14-1997; Ord. No. 00-13, 2-26-2001; Ord. No. 01-05, 4-9-2001; Ord. No. 08-24, § 2, 8-12-2008)