

statute, the requirements of this ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this ordinance, the provisions of such statute shall govern.

**Sec. 1702. Separability.**

Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

**Sec. 1703. Repeal of conflicting ordinances.**

All ordinances or parts of ordinances in conflict with this zoning ordinance, or inconsistent with the provisions of this ordinance, are hereby repealed to the extent necessary to give this ordinance full force and effect.

**Sec. 1704. Effective date.**

This ordinance shall take effect and be in force immediately after adoption, the public welfare requiring it.

**ARTICLE XVIII. TELECOMMUNICATIONS TOWERS\***

**Sec. 1801. Purpose.**

The purpose of these guidelines is to establish minimum considerations and criteria for the review of communications towers, hereafter referred to as towers. It is the city council's express intent that the construction of new towers be an option of last resort, to the extent feasible, location of antennae on existing towers, building rooftops, and other suitable structures should first be sought. These guidelines are designed to ensure the

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\*Cross reference—§ 501.2(5), Telecommunications towers in the R-A Agricultural district.

compatibility of towers with and avoid adverse impacts to nearby properties and discourage the proliferation of towers throughout the city.

(Ord. No. 398, § 3, 7-7-03)

### **Sec. 1802. Applicability.**

All communication towers are subject to these guidelines except the following:

- (1) Amateur radio, receive and transmit antennas. This section shall not govern any tower, or the installation of any antenna, that is one hundred (100) feet or less in height and is owned and operated by a federally-licensed amateur radio station operator from the operator's residence, or used exclusively and incidentally for the purposes to support a commercial business.
- (2) Existing towers and antennas. If an additional antenna is co-located on an existing tower after the adoption of the ordinance, then security fencing and landscaping requirements are applicable as part of the permitting process except that operating existing towers shall not be required to be subject to this provision if there is no increase in the height of the tower or of the antenna on such towers present structural capability.
- (3) Residential communications disk less than four (4) feet in diameter.

(Ord. No. 398, § 4, 7-7-03)

### **Sec. 1803. Objectives.**

The proposed locations and design of all communications towers shall duly consider the following public health, safety, and general welfare objectives.

- (1) *Structural safety.* The proposed tower will comply with wind loading and other structural standards contained in applicable building and technical codes (including the minimum design loads chapter) of the standard building codes, Southern Building Code Congress, International, Inc., so as not to endanger the health and safety of

residents, employees or travelers in the event of structural failure of the tower due to extreme weather conditions or other acts of God.

- (2) *View protection.* The proposed tower facility will be designed to minimize adverse visual impacts to surrounding properties and the public right-of-way, given the topography of the proposed site and surrounding area.
- (3) *Land use compatibility.* The proposed tower facility will be compatible with the surrounding land uses, given the character of use and development of the location.
- (4) *Design harmony.* The proposed tower facility will be designed in harmony with the natural setting and the surrounding development pattern as well as the highest industry standards.
- (5) *Existing communications services.* The proposed tower facility will comply with FCC and other applicable agency standards so as not to interfere with existing communications services to the area.
- (6) *Health effect.* The proposed tower will comply with all applicable federal, state and county health standards so as not to cause detrimental health effects to persons in the surrounding area.
- (7) *Protection against climbing.* The proposed tower facility and antenna support structure shall be protected against unauthorized climbing or other access by the public.
- (8) *Licenses and permits.* The operator of every personal wireless services antenna shall submit to the building inspector copies of all licenses and permits by other agencies and governments with jurisdiction over the design, construction, location and operation of such antenna and shall maintain such licenses and permits and provide evidence of renewal or extension thereof when granted.

(Ord. No. 398, § 5, 7-7-03)

**Sec. 1804. Development criteria.**

The building inspector of the city shall review all applications for communications towers requesting permits for compliance with the applicable criteria listed below. For communication towers that are subject to site review by the planning commission, any of these criteria may be waived or adjusted by the planning commission if the circumstances of a particular case so warrant. In any event, these criteria are considered the minimum necessary to protect the public health, safety, and general welfare, the planning commission may impose higher standards if it deems necessary to further the objectives of these guidelines.

- (1) *Setbacks.* Towers shall be setback from all property lines a distance equal to its height. Guy wires and accessory buildings and facilities shall meet the minimum setback requirements of the zoning district. As an alternative to setback requirements for towers located in nonresidential zoning districts, a statement from a registered engineer may be provided certifying that in the event of structural failure the tower would equal height of the tower from a public right-of-way.
- (2) *Appearance.*
  - a. Towers shall maintain a galvanized steel, concrete finish or similar neutral finish as to reduce the visibility or camouflage the structure, unless other standards are required by the FAA.
  - b. The design of towers shall be of a type that has the least visual impact the surrounding area.
  - c. The design of a tower compound shall, to the extent possible, maximize use of building materials, colors, textures, screening and landscaping that effectively blend the tower facilities with the surrounding natural setting and built environment. These guidelines are also required of roof-mounted towers, antennas, and related equipment co-locating on existing towers.
  - d. Where communications towers are deemed appropriate for a given location, the type of tower shall be

restricted to monopoles within one thousand (1,000) feet of residential areas and areas of special aesthetic concerns such as commercial revitalization areas, historic districts and scenic corridors.

- e. No signs or other forms of advertising is permitted on an antenna or tower unless for safety/security precautions.
- (3) *Lighting.* Towers shall not be artificially lighted unless required by the FAA or other authority for safety purposes. Where required, the planning commission shall review the available lighting alternatives and approve that design that would cause the least disturbance to the surrounding views. Dual lighting (red at night/strobe during day) shall be preferred unless restricted by the FAA. Security lighting may be permitted in accordance with E-7 (security devices) below.
- (4) *Landscaping.*
- a. A landscaped buffer shall effectively screen the view of the lower compound from adjacent public ways and residential properties.
  - b. The standard buffer shall consist of a minimum eight (8) foot wide landscaped strip outside the chain link or equivalent security fencing of the perimeter of the tower compound. The buffer strip shall be planted with an attractive combination of trees, shrubs, vines, and/or groundcovers that can achieve the full height of the fence at maturity and enhances the outward appearance of the security fence. For sites within one thousand (1,000) feet of a residence, additional landscaping and buffering may be imposed, to include: a decay resistant, solid wood fence, earth berms and brick or masonry walls in addition to the security fencing. The planning commission shall approve buffer plan and type of plants proposed.
  - c. In isolated nonresidential areas, alternative-landscaping methods may be accepted, such as the use of

earth-toned colored chain link or equivalent security fencing in combination with four (4) feet of ever-green shrubs, trees, vines, and/or other planting.

- d. In certain locations where the visual impact of the tower would be minimal, such as remote, agricultural or rural locations or developed heavy industrial areas, the landscaping requirement may be reduced or waived.
  - e. 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 site on large, wooded lots, preservation of substantial natural growth around the property perimeter may be a sufficient buffer.
  - f. Cellular facilities utilizing underground vaults in lieu of above ground switching gear buildings shall be exempted from any buffer requirements.
- (5) *Roof mounted towers and antenna.*
- a. Rooftop mounted towers and antennas may be located on any nonresidential building.
  - b. Such tower or antenna shall be setback from any R-1, R-2, R-3 district a minimum distance equal to two (2) times the full height of the tower and antenna, but in no event less than one hundred feet (100).
  - c. The building on which such tower or antenna is placed shall be at least seventy (70) feet high and the tower or antenna will add no more than twenty (20) feet total to the height of the building.
  - d. Antennas shall not be mounted to extend horizontally beyond the face of the building.
- (6) *Principal, accessory and joint uses.*
- a. Accessory structures used in direct support of a tower shall be allowed but not for offices, vehicle storage or other outdoor storage. Mobile or immobile equipment not used in direct support of a tower

facility shall not be stored or parked on the site of the tower, unless repairs to the tower are being made.

- b. Towers may be located on sites containing another principal use in the same buildable area. In determining requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within a lot.
  - c. As long as all sitting, setback, separation, and general requirements of this ordinance are met, towers may occupy a parcel meeting the minimum lot size requirements for the zoning district in which it is located.
  - d. The minimum distance between a tower and the principal use located on the same lot shall be for a monopole or lattice tower the greater of twenty (20) per cent of the tower height or twenty-five (25) feet and for a guy tower, the greater of one hundred (100) per cent breakpoint or twenty-five (25) feet.
  - e. Joint use of a site is prohibited when a proposed or existing principal use includes the storage, distribution or sale of volatile, flammable, explosive or hazardous materials such as propane, gasoline, natural gas and dangerous chemicals.
  - f. Towers constructed or antennas installed in accordance with this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (7) *Security devices.* The facility shall be fully secured. A minimum eight (8) foot chain link fence shall be installed around the perimeter of the compound (measured to the top of the fence or barbed wire, if applicable). Security fencing shall require screening. Other security measures shall include locks and alarms. Approved barbed or razor wire and lighting of the compound shall be permitted, if deemed necessary to fully secure the tower compound.

- (8) *Access.*
- a. Driveways and parking shall be provided to assure the operator's access to the facility for maintenance or emergency services. In some cases, parking/ access may be from an adjoining alley, public street, or off street parking area.
  - b. Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector and local street, access for maintenance vehicles shall be exclusively by means of the collector street.
- (9) *Co-location.* No new locator shall be established if space is structurally, technically and economically available on an existing tower which would serve the area that the new tower would serve. Documentation that reasonable efforts have been made to achieve co-location shall be submitted. Towers shall be designed to maximize share use to the extent possible, given the structural and technical limitations of the type of tower proposed. In any event, co-location shall be encouraged. If feasible, each tower shall, at a minimum be designed to accommodate a minimum to two (2) shared users.
- (10) *Removal of obsolete towers.* Any tower that is no longer in use for its original communications purpose shall be removed at the owner's expense. The owner shall provide the Building Inspector with a copy of the notice to the FCC of intent to cease operations and shall be given ninety (90) days from the date of ceasing operations to remove the obsolete tower and accessory structures. In the case of multiple operations sharing use single tower, this provision shall not become effective until all users cease operation. In the event an abandoned or unused tower and related facilities are not removed within twelve (12) months of the cessation of operation at a site, the tower and related facilities may be removed by the city and the costs of removal assessed against the property.
- (Ord. No. 398, § 6, 7-7-03)

**Sec. 1805. Application.**

Any application submitted to the building inspector for approval shall submit the following items, in addition to any other required items, to show compliance with these review guidelines.

- (1) *Statement of impact on health, safety and welfare.* A brief written statement shall address conformance with the health, safety and welfare objectives of these guidelines.
- (2) *Site plan.* A scaled site plan shall show the location and dimensions of all improvements, including setbacks, drives, parking, fencing, landscaping, existing land uses and zoning districts of the surrounding area, and other information necessary to access compliance with the development criteria of these guidelines.
- (3) *Rendering.* A rendering of the tower, accessory facilities, and compound shall show colors, materials, and treatment. If lighting or other FAA requirement for tower color is proposed, evidence of such requirement shall be submitted.
- (4) *Justification for new tower.* A proposal for a new tower shall be documented by the applicant stating the planned equipment for the proposed tower cannot be accommodated on an existing tower or other alternative structure within the proposed service area. The applicant shall submit a written affidavit showing what attempts have been made to share an existing tower or that no such tower exists. The affidavit shall include evidence from a licensed professional engineer or qualified industry expert supporting such claim. The evidence shall include one or more of the following.
  - a. That no existing towers or suitable alternative tower structure are located within the geographic antenna placement area to meet the applicant's engineering requirements.
  - b. That existing towers or structures are not of sufficient height or strength to meet applicant's engineering requirements.

- c. That the applicant's proposed antenna or existing towers and/or antennas would cause electromagnetic interference as a result of the installation of the proposed antenna.
  - d. That the cost or contractual provisions required by the tower owner to share an existing towers or structure are unreasonable.
  - e. That the applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (5) *Certification of shared use design.* A qualified professional engineer, registered in the State of Alabama, shall certify that the proposed towers structural design can accommodate a minimum of two (2) shared users.
- (6) *As built survey.* The city engineer or other qualified professional engineer, registered in the State of Alabama, shall certify that the completed cellular site was built in accordance with the submitted site plan including the installation of any buffer strip.
- (Ord. No. 398, § 8, 7-7-03)

### **Sec. 1806. Building permits for towers.**

Each application for a building permit for a tower, other than an amateur or accessory radio service tower, or for a structure accessory to such a tower shall contain the following information as appropriate:

- (1) A site plan drawn to scale and identifying the tower lot boundary and the tower site boundary, if different, and all required setbacks; location, type and height of tower(s); guy anchors; location, use and dimensions of existing vegetation to be retained; topography of the site; fences; adjacent land uses and current zoning.
- (2) A copy of the subdivision plat, deed, and/or memorandum of lease for the tower site; provided however, the building inspector may require a copy of the lease agreement if necessary to verify compliance with this ordinance.

- (3) A plan drawn to scale showing proposed landscaping, if required, including species type, size, and spacing.
- (4) A report from a registered professional engineer indicating tower height and design, structure, installation, and total number and types of antennas that could be accommodated.
- (5) A notarized letter signed by both the owner and a registered professional engineer stating that the tower complies with all EIA/TIA-222-E standards, as amended.
- (6) A signed affidavit from the applicant verifying the inability to locate the proposed antennas on existing towers or other structures accompanied by supporting documentation.
- (7) A letter of intent stating whether the applicant intends to lease space on the tower to other potential users at reasonable rates and on reasonable terms. The letter shall commit the tower owner and successors in interest to:
  - (a) Negotiate in good faith for shared use by third parties.
  - (b) Allow shared use if an applicant agrees in writing to pay reasonable rental charges or other consideration.
  - (c) Make no more than a reasonable charge for shared use based on generally accepted industry standards and impose no terms or conditions that would render co-location impractical.
- (8) Documentation demonstrating that the proposed site is required to serve the company's planned network or coverage in the city.
- (9) A notarized statement signed by the applicant that the tower facility will conform with applicable FCC standards for radio frequency emissions and copies of any federally required studies or measurements of radio frequency emissions.

- (10) If federal regulations require an environmental assessment, then a copy of the EA shall be submitted as part of the application.
- (11) Documentation demonstrating the amount of liability insurance to be carried by the owner on the proposed tower.
- (12) The FCC assigned frequency for the licensed service, and a copy of all permits, approvals, or licenses issued by the FCC or the FAA in connection with the proposed tower.
- (13) The building inspector shall act upon any application for authorization to place, construct or modify any personal wireless service facility within a reasonable period of time after the application and all required supporting documentation is duly filed, taking into account the nature and scope of such application.

A decision by the building inspector to grant or deny an application to place, construct, or modify any personal wireless service facility shall be in writing and supported by substantial evidence contained in the record.

(Ord. No. 398, § 7, 7-7-03)

**Sec. 1807. Schedule of building permit fees for towers and related structures.**

Total valuation:

\$1,000.00 and less	No fee, unless inspection required, in which case a \$15.00 fee for each inspection shall be charged.
\$1,001.00 to \$50,000.00	\$15.00 for the first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00.

\$50,000.00 to \$100,000.00	\$260.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00.
\$100,001.00 to \$500,000.00	\$460.00 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$500,000.00.
\$500,001.00 and up	\$1660.00 for the first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof.

Applicant must furnish the cost of the tower and related structures.

(Ord. No. 398, § 7, 7-7-03)

**Sec. 1808. Moving fees.**

For the applicant to move any tower, building or structure, the permit fee shall be two hundred dollars (\$200.00). The applicant shall bear all costs involved.

(Ord. No. 398, § 7, 7-7-03)

**Sec. 1809. Penalties.**

Where work for which a permit is required by this Code is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this Code in execution of work nor from any other penalties prescribed herein.

(Ord. No. 398, § 7, 7-7-03)