

CHAPTER 15
TELECOMMUNICATIONS

SECTION:

10-15-1: General Provisions
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Of Antennas And Supporting Towers
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10-15-1: GENERAL PROVISIONS:

A. Definitions: The following words and terms when used in this Chapter shall have the following meanings unless the context clearly states otherwise:

ANTENNA: Any structure or device used for the purpose of collecting or transmitting electromagnetic waves including, but not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes over one meter in diameter, and omni-directional antennas, such as whip antennas.

PERSONAL WIRELESS SERVICE FACILITIES: Any facility for the provision of personal wireless services.

PERSONAL WIRELESS SERVICES: Any commercial mobile services, unlicensed wireless services, and common carrier wireless exchange services or as defined in section 332(c)(7) of the Communications Act of 1934.

PUBLIC UTILITY: Persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or land line telephone service to the general public. For the purpose of this Chapter, "personal wireless service facilities" shall not be considered "public utility" uses, and are defined separately.

TOWER: Any ground- or roof-mounted pole, spire, structure, or combination thereof taller than fifteen feet (15'), including supporting lines, cables, wires, braces, and masts, constructed primarily for the purpose of supporting one or more antennas, meteorological devices, or similar apparatus.

TOWER, MULTI-USER: A tower to which is attached the antennas of more than one personal wireless service or governmental entity.

TOWER, SINGLE-USER: A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this Code. (Ord., 3-25-1997)

10-15-2: PERFORMANCE STANDARDS FOR TOWERS:

A. Purpose: In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the City Council finds that these regulations are necessary in order to:

1. Facilitate the provision of personal wireless 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 antennas in order to reduce the number of towers needed to serve the community.

B. Towers In Residential Zoning Districts: Only the following towers shall be allowed in residentially zoned areas:

1. Towers supporting amateur radio antennas and conforming to all applicable provisions of this Code shall be allowed only in the rear yard of residentially zoned parcels.

2. Towers supporting antennas and conforming to all applicable provisions of this Code shall be allowed only in the following residentially zoned locations:

a. Church sites, when camouflaged as steeples or bell towers;

b. Park sites, when compatible with the nature of the park; and

c. Government, utility, and institutional sites.

C. Co-Location Requirements: All towers erected, constructed, or located within the City shall comply with the following requirements:

1. A proposal for a new tower shall not be approved unless the City Council finds that the personal wireless service facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the City 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 professional engineer acceptable to the City, 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 equipment at the tower or building as documented by a qualified professional engineer acceptable to the City 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 qualified professional engineer acceptable to the City.

d. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

2. Any proposed tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred feet (100') in height or for at least one additional user if the tower is over sixty feet (60') in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

D. Tower Construction Requirements: All towers erected, constructed, or located within the City, and all wiring therefor, shall comply with the requirements set forth in Section 10-15-4 of this Chapter.

E. 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 camouflaging architectural treatment, except in instances where the color is dictated by Federal or State authorities such as the Federal Aviation Administration.

2. Towers shall be of a monopole design unless the City Council determines that an alternative design would better blend into the surrounding environment.

F. Tower Setbacks: Towers shall conform with each of the following minimum setback requirements:

1. Towers shall meet the setbacks of the underlying zoning district with the exception of industrial zoning districts, where towers may encroach into the rear setback area to the extent permitted by this Chapter, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.

2. Towers shall be set back from the public rights of way as shown on the most recently adopted street plan of the City by a minimum distance equal to one-half ($1/2$) of the height of the tower including all antennas and attachments.

3. 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.

4. 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.

5. Towers erected on any protected residential parcel as defined in Section 10-15-3 of this Chapter are also subject to the setback provisions of subsection 10-15-4C8 of this Chapter.

G. Tower Height: All proposed towers shall meet the height restrictions set forth in Section 10-15-3 of this Chapter.

H. 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. When incorporated into the approved design of the tower, light fixtures used to illuminate parking lots or similar areas may be attached to the tower.

I. Signs And Advertising: The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

J. 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 nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

K. 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 twelve (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. In the event that a tower is not removed within twelve (12) months of the cessation of operations at a site, the tower and associated facilities may be removed by the City and the costs of removal assessed against the

property.

2. Unused portions of towers above a manufactured connection shall be removed within twelve (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.

L. Antennas Mounted On Roofs, Walls, And Existing Towers: The placement of antennas on roofs, walls, and existing towers may be approved by the City Council, provided the antennas meet the requirements of this Code, after submittal of: 1) a final site and building plan as specified by this Code, and 2) a report prepared by a qualified professional engineer acceptable to the City indicating the existing structure or tower's suitability to support 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.

M. Interference With Public Safety Telecommunications: No new or existing personal wireless services shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study completed by a qualified professional engineer acceptable to the City which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, personal wireless services shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

N. 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 professional engineer acceptable to the City 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 co-located 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;

d. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;

e. Includes an engineer's stamp and registration number; and

f. Includes other information necessary to evaluate the request.

2. For all towers, a letter of intent committing the tower owner and his or her 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. Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration; and

b. A report from a qualified professional engineer acceptable to the City which demonstrates the tower's compliance with the aforementioned structural and electrical standards, as well as with the aforementioned interference requirements.

O. Violations: Any person who shall violate any of the provisions of this Section shall be guilty of a misdemeanor. (Ord., 3-25-1997)

10-15-3: DISTRICT REGULATIONS; HEIGHT:

A. Purpose: The purpose of this Section is to regulate the height of structures in order to maintain the character and scale of the predominant single family residential development in the City.

B. Definitions:

PROTECTED RESIDENTIAL PROPERTY: Any property within the City that meets all of the following requirements:

1. The property is zoned R-1, R-2, or R-3 and the property may or may not also have a Planned Unit Development (PUD) Overlay classification;

2. The property is designated on the Comprehensive Plan as single family, townhome/condo, duplex/triplex or apartments; and

3. The property is used or subdivided for use as residential.

STRUCTURE HEIGHT: 1. Buildings: The height of buildings shall be determined using two (2) methods and both methods must comply with the restrictions of subsection C of this Section.

a. The number of stories shall be determined by counting the total number of above-grade, habitable floors in the building and shall not include walk-out basements, attics, or underground parking;

b. The height of buildings shall be determined by measuring the vertical distance from the

average level of the highest and lowest point of that point of a lot covered by a building, to the highest point for flat roofs; to the deck line of mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

2. Parking Structures: The height of parking structures shall be determined by measuring the vertical distance from the lowest exterior grade of the parking structure to the highest point of the permanent structure.

3. Towers: The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground or rooftop to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure and tower must meet the height restrictions of this Section, except when an existing building is thirty feet (30') in height or higher, the height of the tower and antenna shall not exceed ten feet (10') in height.

4. Other Structures: The height of all other structures shall be determined by measuring the vertical distance from the lowest exterior grade of the structure to the highest point of any part of the structure.

5. Final Height Determination: The final determination of height shall be made by the City Council in accordance with the guidelines of this Section.

C. Height Limitations:

1. Towers:

a. In all protected residential property the maximum height of any tower, including all antennas and other attachments, shall be thirty feet (30'); if no existing structure that meets the height requirements for the antenna is available for mounting the antenna, such antenna may be mounted on a monopole not to exceed seventy five feet (75') in height. The monopole shall be located a distance of at least the height of the monopole from the nearest residential structure, unless a qualified engineer acceptable to the City specifies in writing that any collapse of the pole will occur within a lesser distance under all foreseeable circumstances and if the City Council approves a lesser setback.

b. In all nonresidential zoning districts, the maximum height of any tower, including all antennas and other attachments, shall not exceed one foot (1') for each two feet (2') the tower is set

back from protected residential property up to a maximum height of one hundred fifty feet (150').

D. Applicability:

1. Exceptions: The requirements of this Section shall apply to all towers otherwise permitted under this Code except:

a. Planned unit developments, when approved as a part of a preliminary and final development plan pursuant to this Code.

b. Public utility structures including, but not limited to, antennas, lights and signals, power and telephone poles, and poles supporting emergency warning devices.

c. Church sanctuaries, steeples and bell towers.

d. In accordance with the Federal Communications Commission's preemptive ruling PRB1, towers erected for the primary purpose of supporting amateur radio antennas may exceed thirty feet (30') in height provided that a determination is made by the City Council that the proposed tower height is technically necessary to successfully engage in amateur radio communications.

E. Noncompliance: Noncompliance of characteristics of structures and site development created by the application of this Section shall not in any manner limit the legal use of the property, nor prevent the repair, maintenance, or reconstruction of a noncomplying characteristic or feature; however, in the event the cost of performing such repair, maintenance, or reconstruction of a structure exceeds ten percent (10%) of the cost of a new structure of like kind and quality, then the structure may not be repaired, maintained, or reconstructed except in full compliance with this Section. In no instance shall the degree of noncompliance be increased except as otherwise permitted by this Code. (Ord., 3-25-1997)

10-15-4: BUILDING CODE PROVISIONS; CONSTRUCTION AND MAINTENANCE OF ANTENNAS AND SUPPORTING TOWERS:

A. Permits:

1. It shall be unlawful for any person, firm, or corporation to erect, construct in place, place or re-erect, replace, or repair any tower without first making application to the City Building Inspector and securing a building permit therefor as hereinafter provided.

2. The applicant shall provide, at the time of application, sufficient information to indicate that construction, installation, and maintenance of the antenna and tower will not create a safety hazard or damage to the property of other persons.

3. Building permits are not required for:

a. Adjustment or replacement of the elements of an antenna array affixed to a tower or antenna, provided that replacement does not reduce the safety factor.

b. Antennas and/or towers erected temporarily for test purposes, for emergency communication, or for broadcast remote pick-up operations, provided that all requirements of subsection C of this Section are met. Temporary antennas shall be removed within seventy two (72) hours following installation.

B. Fee: The fee to be paid is that prescribed from time to time by the City Council according to the Uniform Building Code fee schedule.

C. Construction Requirements: All antennas and towers erected, constructed, or within the City, and all wiring therefor, shall comply with the following requirements:

1. Applicable Provisions: All applicable provisions of this Code.

2. Structural Certification: Towers shall be certified by a qualified professional engineer acceptable to the City to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronics Industry Association.

3. Extensions Over Public Ways And Properties: With the exception of necessary electric and telephone service and connection lines approved by the City Building Inspector, no part of any antenna or tower nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right of way, public street, highway, sidewalk, or property line.

4. Electrical Standards: Towers and associated antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

5. Height Of Conductors: All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet (8') above the ground at all points, unless buried under ground.

6. Anti-Climbing Provisions: Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.

7. Construction Requirements: All towers shall be constructed to conform with the requirements of the Occupational Safety and Health Administration.

8. Residential Areas Protected: Antennas and towers shall not be erected in any protected residential parcel as defined in Section

10-15-3 of this Chapter in violation of the following restrictions:

a. Notwithstanding the provisions of Section 10-15-3 of this Chapter, the required setback for antenna and tower not rigidly attached to a building shall be equal to the height of the antenna and tower. Those antennas and towers rigidly attached to a building, and whose bases are on the ground, may exceed this required setback by the amount equal to the distance from the point of attachment to the ground.

b. No tower shall be in excess of a height equal to the distance from the base of the antenna and tower to the nearest overhead electrical power line which serves more than one dwelling or place of business, less five feet (5').

c. Metal towers shall be constructed of, or treated with, corrosive-resistant material. Wood poles shall be impregnated with rot-resistant substances.

9. Performance Standards: All towers erected within the City must conform to the applicable performance standards in Section 10-15-2 of this Chapter.

10. Support Of Public Warning Systems: Telecommunications operators that utilize towers that are erected after the effective date of this Ordinance shall participate in the Emergency Alert System (EAS), as defined by FCC Rules and Regulations, part 11, by broadcasting warnings of severe weather and other life-threatening emergencies to users of personal equipment served by the tower. Telecommunication operators may be exempt from these requirements under the following circumstances:

a. The telecommunications operator demonstrates that participation in EAS is not technologically feasible;

b. The telecommunications operator is unable to acquire any FCC waivers or exemption from licensing or other regulations that would prohibit participation in EAS; or

c. The State or regional EAS planning committees determine that participation in EAS by the telecommunication operator is not necessary.

11. Health-Related Standards: Antennas placed upon a tower shall be subject to State and Federal regulations pertaining to non-ionizing radiation and other health hazards related to such facilities. If new, more restrictive standards are adopted, the antennas shall be made to comply or continued operations may be restricted by the City. The cost of verification of compliance shall be borne by the owner and operator of the tower.

12. Guyed Towers: The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams or other means.

13. Proof Of Noninterference: Each application for a conditional use permit shall include a preliminary or certified statement that the construction of the tower, including reception and transmission functions, will not interfere with the radio, television, telephone, facsimile machine, computer modems, telephone answering machines, and the like that are services enjoyed by residential and nonresidential properties. The statement shall be prepared by a qualified professional engineer acceptable to the City.

D. Existing Antennas And Towers: Antennas and towers in residential districts and in existence as of April 15, 1974, 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 structurally 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, but without otherwise complying with this Section, provided, however, that if the cost of repairing the tower to the former use, physical dimensions, and location would be ten percent (10%) or more 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.

E. Lights And Other Attachments: No antenna or tower in any protected residential parcel as defined in Section 10-15-3 of this Chapter shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Agency or the Federal Communications Commission, nor shall any tower have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.

F. Number Of Towers And Antennas: Only one tower shall exist at any one time on any one protected residential parcel as defined in Section 10-15-3 of this Chapter.

G. Inspections: All towers may be inspected at least once each year by the City Building Inspector to determine compliance with original construction standards. Deviation from original construction for which a permit is obtained constitutes a violation of this Section.

Notice of violations will be sent by registered mail to the owner and they will have thirty (30) days from the date the notification is issued to make repairs. The owner will notify the City Building Inspector that the repairs have been made, and as soon as possible thereafter, another inspection will be made and the owner notified of the

results.

H. Violations: Any person who shall violate any of the provisions of this Section shall be guilty of a misdemeanor.

I. Interpretation: It is not the intention of this Section to interfere with, abrogate, or annul any covenant or other agreement between parties; provided, however, where this Section imposes a greater restriction upon the use or premises for antennas or towers than are imposed or required by other ordinances, rules, regulations, or permits, or by covenants or agreements, the provisions of this Section shall govern. (Ord., 3-25-1997)

10-15-5: ANTENNA TOWERS ON CITY-OWNED PROPERTY:

A. Introduction: The City has received requests from personal wireless services to place antennas and towers on City-owned property. The City Council has determined that a uniform policy for reviewing these requests is desirable.

B. Priority Of Users: Priority for the use of City-owned land for antennas and towers will be given to the following entities in descending order:

1. City of Lauderdale;

2. Public safety agencies, including law enforcement, fire, and ambulance services, which are and/or are not part of the City and private entities with and/or without a public safety agreement with the City;

3. Other governmental agencies, for uses which are not related to public safety; and

4. Entities providing licensed personal wireless 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.

C. Minimum Requirements: The placement of antennas or towers on City-owned property must comply with the following requirements:

1. The antennas or towers will not interfere with the purpose for which the City-owned property is intended;

2. 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;

3. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the costs of the antenna or tower's removal;
4. The antennas or towers will not interfere with other users who have a higher priority as discussed in subsection B of this Section;
5. Upon reasonable notice, the antennas or towers 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
7. The user must obtain all necessary land use approvals.

D. Special Requirements: The use of certain City-owned property, such as the Community Park, for antennas or towers brings with it special concerns due to the unique nature of these sites. The placement of antennas or towers on these special City-owned sites will be allowed only when the following additional requirements are met:

1. Community Park And Lauderdale Nature Area: The presence of certain antennas or towers represents a potential conflict with the purpose of the City-owned park and nature area. In no case shall towers be allowed in land designated as the Lauderdale Nature Area. Antennas or towers will be considered only in the Community Park after the approval of the City Council.

E. Application Process: All applicants who wish to locate an antenna or tower on City-owned property must submit to the City Zoning Administrator 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.

F. Termination: The City Council may terminate any lease if it determines that any one of the following conditions exists:

1. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use;
2. 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
3. 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 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.

G. 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.

H. Use Of Revenue: All revenue generated through the lease of City-owned property for towers and antennas shall be made payable to the City of Lauderdale. Revenue shall be credited as follows:

1. To the specific operating activity using the land upon which the towers and antennas are located (for example, Sewer Utility Fund when located on lift station property);

2. To the Park Improvement Fund if located on park property;

3. To the General Fund operating activity when the towers and antennas are located on City property serving a General Fund operating program (such as City Hall and the City Garage), and

4. Any revenues not meeting the above criteria shall be applied as general revenues of the General Fund. (Ord., 3-25-1997)