

Section 4.12. Wireless Telecommunication Regulations

A. Purpose

1. Protect residentially zoned areas and land uses from potential adverse impacts of Towers and Antennas;
2. Encourage the location of Towers in nonresidential areas, and on City facilities where feasible;
3. Minimize the total number of Towers and Antennas throughout the community;
4. Strongly encourage the joint use of new and existing Tower and Antenna sites as a primary option rather than the construction of additional single-use facilities;
5. Encourage owners/providers of Towers and Antennas to locate them, to the maximum extent possible, in areas where the adverse impact on the community is minimal;
6. Encourage owners/providers of Towers and Antennas to configure them in a way that minimizes the adverse visual impact of the Towers and Antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
7. Encourage owners/providers of emerging new technologies to evaluate utilization of these technologies in lieu of a proliferation of Towers/Antennas across the community;
8. Enhance the ability of the providers of wireless telecommunications services to provide such services to the community quickly, effectively, and efficiently; and
9. Consider the effect on public safety by communication Towers and Antennas; and (10) avoid potential damage to adjacent properties from Tower failure through engineering and careful siting of Tower and Antenna structures. In furtherance of these goals, the City shall give due consideration to existing land uses, and environmentally sensitive areas in approving sites for the location of Towers and Antennas.

B. Applicability

1. New Towers and Antennas

All new Towers or Antennas in the City shall be subject to these regulations, except as provided in 2. and 3. below.

2. Amateur Radio Station Operators/Receive Only Antennas

This section shall not govern any Tower, or the installation of any Antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only Antenna.

3. AM Array

For purposes of implementing this section, an AM array, consisting of one or more Tower units and supporting ground system which functions as one AM broadcasting Antenna, shall be considered one Tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the Towers included in the AM array. Additional Tower units may be added within the perimeter of the AM array by right.

C. General Requirements

1. Application

When making an application for a permit, the owners/providers shall complete a "Telecommunication Tower/Antenna Siting Application", in its entirety and provide same to the City for review and evaluation by the Director of Public Works.

2. Principal or Accessory Use

Antennas and Towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an Antenna or Tower on such lot.

3. Lot Size

For purposes of determining whether the installation of a Tower or Antenna complies with district development regulations, including, but not limited to, setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the Antenna or Tower may be located on leased parcels within such lot.

4. Inventory of Existing Sites

When making an application for a permit, the applicant for an Antenna and/or Tower shall provide to the City an inventory of its existing Towers, Antennas, or sites approved for Towers or Antennas, that are either within the jurisdiction of the City or within one mile of the border thereof, including specific information about the location, height, and design of each Tower. The City may share such information with other applicants who apply for administrative approvals or specific use permits under this ordinance or other organizations seeking to locate Antennas within the jurisdiction of the City, provided however, that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.



5. Aesthetics

Towers and Antennas shall meet the following requirements:

- a. Towers shall maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness;
- b. At a Tower site, the design of the buildings and related structures shall, to the greatest extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings, as approved by the Director of Public Works; and,
- c. If an Antenna is installed on a structure other than a Tower, the Antenna and supporting electrical and mechanical equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the Antenna and related equipment as visually unobtrusive as possible, as approved by the Director of Public Works.

6. Performance Bond/Insurance/Letter of Credit

- a. For Towers located on City-owned property, any required performance bonds, insurance and/or indemnification shall conform with the city lease agreement; and,
- b. For Towers located on private property, the owners/provider shall provide and maintain in effect at all times a performance bond for each Tower valued at one-third of the cost of the Tower construction (labor and material) to be determined at the time of permit application. The purpose of the performance bond is to insure maintenance/removal of the Towers/buildings/fences, etc., to return the site to its original condition in the event of Tower failure, or damage to the surrounding property. For those companies with multiple Towers in the city, a single bond to cover all Towers shall be acceptable. In lieu of a performance bond, a company may provide to the City either a Certificate of Insurance whose value equals or exceeds that required by a performance bond, with the City as an additional insured, or an irrevocable Letter of Credit whose value would equal or exceed that required by a performance bond.

7. Building and Support Equipment

Buildings and support equipment associated with Towers or Antennas shall comply with the requirements of **G. Buildings or Other Equipment Storage** below.

8. Multiple Tower/Antenna plan

The City encourages the users of Towers and Antennas to submit a single application for approval of multiple Towers and/or Antenna sites.

9. Measurement

For purposes of measurement, Tower setbacks and separation distances shall be calculated and applied to facilities located in the City irrespective of municipal boundaries.

10. Lighting

Towers shall not be artificially lighted unless required by the FAA or other applicable authority, including the City. A nonintrusive security light shall be provided for the base of the Tower and the cabinet building, operational from dusk to dawn. A red light, of a type approved by the FAA, shall be provided on all Towers for visibility of the Tower from aircraft. The red light shall be placed atop the highest point of the Tower.

11. Signs

No signs shall be allowed on a telecommunication facility system except for caution/safety advisory type notices, and/or for addressing purposes. The signs shall be no larger than two square feet.

D. Administratively Approved Uses – Towers

The following provisions shall govern the issuance of administrative approvals for Towers:

1. The Director of Public Works shall make every attempt to respond to each such application within 60 days after receiving it by either approving or denying the application;
2. The Director of Public Works, in order to encourage the use of monopoles, may administratively allow the reconstruction of an existing Tower (one hundred twenty-five [125] feet or less) to monopole construction. The new monopole may be increased in height one time by twenty-five (25) percent of the original approved height, to a maximum of one hundred twenty-five (125) feet, whichever is less.

3. Setbacks

a. Setback Requirements

The setback requirements set forth in **Table 4.12.1** shall apply to all Towers, unless the City Council in granting a specific use permit varies these conditions.

Table 4.12.1. Setback Requirements for Towers

Off-site Use/Designation Area	Setback Distance
Residential zoning or uses	100% height of tower or 125', whichever is greater
Nonresidential zoning or uses	Minimum zoning setbacks apply

b. Additional Requirements

- (1) Guys and accessory buildings shall satisfy the minimum zoning district setback requirements.
- (2) Setbacks measured from the base of the Tower to the closest building line.
- (3) A separation distance of five thousand (5,000) feet between Towers shall apply to all Towers, unless the City Council in granting a specific use permit varies this condition. The separation distances between Towers shall be applicable for and measured between the proposed Tower and preexisting Towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing Tower and the proposed base, pursuant to a site plan, of the proposed Tower.
- (4) A structure which is modified or reconstructed to accommodate the collocation of an additional Antenna shall be of the same type as the existing structure, unless the Director of Public Works allows reconstruction as a monopole.

c. Height

- (1) The height change(s) referred to in this subsection may be increased one time by twenty-five (25) percent of the original approved height, to a maximum of one hundred twenty-five (125) feet, whichever is less.
- (2) The additional height referred to in this subsection shall not require an additional distance separation as set forth in **E. Administratively Approved Uses – Antennas** below. The Tower's pre-modification height shall be used to calculate such distance separations.

d. On-Site Location

- (1) A Tower which is being rebuilt to accommodate the collocation of an additional Antenna may be removed on-site within fifty (50) feet of its existing location.
- (2) After the Tower is rebuilt to accommodate collocation, only one Tower may remain on the site. The owner/provider shall remove the vacated Tower within sixty (60) days after the new Antenna becomes operational. If the Tower is not removed by the specified time, the city shall exercise the Performance Bond/Letter of Credit to remove the Tower.

E. Administratively Approved Uses – Antennas

The following provisions shall govern the issuance of administrative approvals for Antennas:

1. The Director of Public Works shall make every attempt to respond to each such application within 60 days after receiving it by either approving or denying the application.
2. Locating Antennas on existing nonresidential structures or Towers in all zoning districts consistent with the terms of **a** and **b** below.
 - a. Antennas on existing structures. Any Antenna which is not attached to a Tower may be approved by the Director of Public Works as an accessory use, provided
 - (1) The Antenna does not extend more than twenty (20) feet above the highest point of the structure;
 - (2) The Antenna complies with all applicable FCC and FAA regulations;
 - (3) The method of attachment and materials used to attach the Antenna to a structure complies with all applicable building codes; and
 - (4) Minimum zoning setbacks shall apply to all Antenna installations.
 - b. Antennas on Existing Towers

An Antenna which is attached to an existing Tower may be approved by the Director of Public Works as an accessory use, provided:

 - (1) The Antenna does not extend more than twenty (20) feet above the highest point of the structure, and not exceed an overall height of one hundred twenty-five (125) feet;
 - (2) The Antenna complies with all applicable FCC and FAA regulations; and



- (3) The method of attachment and materials used to attach the Antenna to a structure complies with all applicable building codes.

F. Specific Use Permit (SUP)

1. General

The following provisions shall govern the issuance of Specific Use Permits for Towers which do not qualify for administrative approval, or for Antennas over twenty (20) feet above a nonresidential structure or for Antennas on any residential structure.

- a. Applications for specific use permits under this section shall be subject to the procedures and requirements of **Section 6.05. Specific Use Permits** except as modified in this section.
- b. In granting a specific use permit, the City Council may impose conditions to the extent the City Council concludes such conditions are necessary to minimize any adverse effect of the proposed Tower or Antenna on adjoining properties.
- c. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by an engineer.
- d. An applicant for a Specific Use Permit shall submit the information described in this Zoning Ordinance and a nonrefundable fee as established by resolution of the City Council to reimburse the City for the costs of reviewing the application.
- e. Any Specific Use Permit issued under this section shall remain in effect for a period of ten (10) years.

2. Towers

- a. In addition to any information required for applications for an SUP pursuant to **Section 6.05. Specific Use Permits** of the Zoning Ordinance, applicants for a SUP for a Tower shall complete the application as prescribed in **C.1. Application** above and shall submit the following prepared by professionals, licensed to practice their respective disciplines in the State of Texas:

- (1) A scaled site plan clearly indicating, but not limited to, the location, type and height of the proposed Tower, all weather parking pad, fencing, illumination, landscaping, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed Tower and any other structures,

easements, topography, parking, and other information deemed by the City to be necessary to assess compliance with the ordinance.

- (2) Legal description of the parent tract and leased parcel (if applicable).
- (3) The setback distance between the proposed Tower and the nearest residential unit and/or residentially zoned properties shall be in accordance with **D.3. Setbacks** above.
- (4) The separation distance from other Towers described in the inventory of existing sites submitted pursuant to **D.3.b Additional Requirements** above shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing, Tower(s) and the owner/operator of the existing Tower(s), if known.
- (5) A landscape plan showing specific language materials, and which maximizes preservation of existing plant material in accordance with **d. Landscaping** below.
- (6) Method of fencing, illumination, and finish.

b. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology

No new Tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City Council that no existing Tower, structure or alternative technology that does not require the use of an additional Tower or structures can accommodate the applicant's proposed system needs. An applicant shall submit information requested by the City Council related to the availability of suitable existing Towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing Tower, structure or alternative technology can accommodate the applicant's proposed system may consist of any of the following:

- (1) No existing Towers or structures are located within the geographic area which meet applicant's engineering requirements.
- (2) Existing Towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (3) Existing Towers or structures do not have sufficient structural strength to support applicant's proposed system.

- (4) The applicant's proposed system would cause electromagnetic interference with the Antenna on the existing Towers or structures, or the Antenna on the existing Towers or structures would cause interference with the applicant's proposed system.
- (5) The fees, costs, or contractual provisions required by the owner in order to share an existing Tower or structure or to adapt an existing Tower or structure for sharing are unreasonable.
- (6) The applicant demonstrates that there are other limiting factors that render existing Towers and structures unsuitable.
- (7) The applicant demonstrates that alternative technologies are unsuitable.

c. Security Fencing

Towers shall be enclosed by security fencing not less than six (6) feet in height.

d. Landscaping

The following requirements shall govern the landscaping surrounding Towers:

- (1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the Tower compound from residential zoning, or uses. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound, to be approved by the Director of Public Works.
- (2) Existing mature tree growth and natural landforms 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 sufficient buffer, as approved by the Director of Public Works.
- (3) If the natural growth in (2) above is removed or is damaged, the **Director of Public Works** may require equivalent landscaping per (1) above.

3. Antennas

In addition to any information required for applications for specific use permits pursuant to **Section 6.05. Specific Use Permits**, applicants for a specific use permit for an Antenna shall complete the application as prescribed in **C.1. Application** above and shall submit the following prepared for professionals, licensed to practice their respective disciplines in the State of Texas:

- a. A scaled site plan clearly indicating, but not limited to, the uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed Antenna and any other structures, easements, topography, parking, and other information deemed by the City to be necessary to assess compliance with the ordinance.
- b. Legal description of the parent tract and leased parcel (if applicable).
- c. The setback distance between the proposed Antenna and the nearest residential unit and/or residentially zoned properties shall be in accordance with **D.3. Setbacks** above.

G. Buildings or Other Equipment Storage

1. Antennas Located on Towers

The equipment cabinet or structure in association with Antennas shall comply with all applicable building codes. Equipment storage shall be aesthetically pleasing and architecturally compatible with its surroundings.

2. Antennas Mounted on Structures or Rooftops

The equipment cabinet or structure used in association with Antennas shall comply with all applicable building codes. Prior to any roof loading, an Engineer shall certify the building is structurally adequate. Equipment storage shall be aesthetically pleasing and architecturally compatible with the building upon which it is located.

3. Antennas Mounted on Public Utility Poles or Light Poles

The equipment cabinet or structure used in association with Antennas shall comply with all applicable building codes. Equipment storage shall be aesthetically pleasing and architecturally compatible with its surrounding.

H. Removal of Abandoned Towers and Antennas

Any Tower or Antenna that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such Tower or Antenna shall remove the same within sixty (60) days of receipt of notice from the Director of Public Works notifying the owner of such abandonment. Failure to remove an abandoned Tower or Antenna within said sixty (60) days shall be grounds to remove the Tower or Antenna at the owner's expense, or by execution of the Performance Bond. If there are two or more users of a single Tower, then this provision shall not become effective until all users cease using the Tower.