

## Chapter 92 TELECOMMUNICATIONS\*

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\***Cross references:** Buildings and building regulations, ch. 14; zoning, ch. 106.

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Article I. In General  
Secs. 92-1--92-30. Reserved.  
Article II. Antennas and Towers  
[Sec. 92-31. Definitions.](#)  
[Sec. 92-32. Applicability.](#)  
[Sec. 92-33. General guidelines and requirements.](#)  
[Sec. 92-34. Permitted uses.](#)  
[Sec. 92-35. Conditional use permits.](#)  
[Sec. 92-36. Removal of abandoned antennas and towers.](#)

### ARTICLE I. IN GENERAL

Secs. 92-1--92-30. Reserved.

### ARTICLE II. ANTENNAS AND TOWERS

#### Sec. 92-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alternative tower structure* means manmade structures such as elevated tanks, electric utility transmission line towers, nonresidential buildings, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers. Freestanding signs are not considered to be alternative tower structures.

*Antenna* means any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Governing authority* means the governing authority of the city.

*Height* means, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if the highest point is an antenna.

*Pre-existing towers and antennas* has the meaning set forth in section 92-32(d).

*Tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave

towers, common-carrier towers, cellular telephone towers, PCS towers, alternative tower structures, and the like.

(Ord. No. OR97-16, § I(22.01), 11-10-1997)

**Cross references:** Definitions generally, § 1-2.

### **Sec. 92-32. Applicability.**

- (a) *District height limitations.* The requirements set forth in this article shall govern the location of towers that exceed, and antennas that are installed at, a height in excess of the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antennas; however, in no case shall any tower exceed the following height limitations:
  - (1) For a single user, up to 90 feet in height;
  - (2) For two users, up to 120 feet in height; and
  - (3) For three or more users, up to 150 feet in height.
- (b) *Public property.* Antennas located on property owned, leased or otherwise controlled by the governing authority shall be exempt from the requirements of this article, provided a license or lease authorizing such antenna or tower has been approved by the governing authority.
- (c) *Amateur radio receive-only antennas.* This article shall not govern any tower, or the installation of any antennas, that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively as a receive-only antennas.
- (d) *Pre-existing towers and antennas.* Any towers or antenna for which a permit has been properly issued prior to the effective date of the ordinance from which this article shall not be required to meet the requirements of this article, other than the requirements of sections 92-33(e) and (f). Any such towers or antennas shall be referred to in this article as "pre-existing towers" or "pre-existing antennas."

(Ord. No. OR97-16, § I(22.02), 11-10-1997)

### **Sec. 92-33. General guidelines and requirements.**

- (a) *Purpose and goals.* The purpose of this article is to establish general guidelines for the siting of towers and antennas. The goals of this article are to:
  - (1) Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the community;
  - (2) Strongly encourage the joint use of new and existing tower sites;
  - (3) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
  - (4) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and

- (5) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently.
- (b) *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antennas 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 antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (c) *Inventory of existing sites.* Each applicant for an antenna and or tower shall provide to the plan commission an inventory of its existing towers that are either within the jurisdiction of the governing authority, or within one mile of the border thereof, including specific information about the location, height and design of each tower. The plan commission may share such information with other applicants applying for administrative approvals or conditional use permits under this article, or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however, that the plan commission is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (d) *Aesthetics and lighting.* The guidelines set forth in this subsection shall govern the location of all towers, and the installation of all antennas, governed by this article, provided, however, that the governing authority may waive these requirements if it determines that the goals of this article are better served thereby.
- (1) 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.
  - (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
  - (3) If an antenna is installed on a structure other than a tower, the antennas and supporting electrical and mechanical equipment must 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 unobstructive as possible.
  - (4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
  - (5) Towers and antennas shall not be used for displaying any advertising. If FCC rules require that the owner's name to be shown on the tower or antenna, it

shall be posted no more than six feet above the ground on a placard no larger than 1 1/2 square feet.

- (e) *Federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna by the governing authority at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed.
- (f) *Building codes safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state and local building codes, and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within the 30 days, the governing authority may remove such tower at the expense of the tower or antennas owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed.

(Ord. No. OR97-16, § I(22.03), 11-10-1997)

#### **Sec. 92-34. Permitted uses.**

- (a) *General.* The uses listed in this section are deemed to be permitted uses and shall not require a conditional use permit. Nevertheless, all such uses shall comply with section 92-33 and all other applicable articles.
- (b) *Specific permitted uses.* The following uses are specifically permitted:
  - (1) Installing an antenna on an existing alternative tower structure, so long as the additional antenna adds no more than 20 feet to the height of the existing structure; and
  - (2) Installing an antenna on an existing tower of any height, including a pre-existing tower, and further including the placement of additional buildings or other supporting equipment used in connection with the antenna, so long as the addition of the antenna adds no more than 20 feet to the height of the existing tower.

(Ord. No. OR97-16, § I(22.04), 11-10-1997)

## **Sec. 92-35. Conditional use permits.**

- (a) *General.* The following provisions shall govern conditional use permits under this article:
  - (1) If the tower or antenna is not a permitted use under section 92-34, then a conditional use permit shall be required prior to construction of any tower, or the placement of any antenna.
  - (2) Towers and antennas may only be located in the light industrial (I-1), heavy industrial (I-2) and commercial (C-1 and C-2) zoning districts.
  - (3) If a conditional use permit is granted, the governing authority may impose conditions to the extent the governing authority concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
  - (4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
- (b) *Information required.* Each applicant requesting a conditional use permit under this article shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses and other information deemed by the governing authority to be necessary to assess compliance with this article.
- (c) *Factors considered in granting permits.* The governing authority shall consider the following factors in determining whether to issue a conditional use permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the goals of this article are better served thereby.
  - (1) Height of the proposed tower.
  - (2) Capacity of the tower structure for additional antenna equipment to accommodate expansion, or to allow for collocation of another provider's equipment.
  - (3) Proximity of the tower to residential structures and residential district boundaries.
  - (4) Nature of uses on adjacent and nearby properties.
  - (5) Surrounding topography.
  - (6) Surrounding tree coverage and foliage.
- (d) *Landscaping.*

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

(Ord. No. OR97-16, § I(22.05), 11-10-1997)

**Sec. 92-36. Removal of abandoned antennas and towers.**

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt from the governing authority notifying the owner of such abandonment. If such antenna or tower is not removed within the 90 days, the governing authority may remove such antenna or tower at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed. 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.

(Ord. No. OR97-16, § I(22.06), 11-10-1997)