

DIVISION 6. - TOWER REGULATIONS

Sec. 31-600. - Purposes.

The purpose of this division is to promote the health, safety, welfare, and aesthetics of the community by providing appropriate regulations for commercial and personal towers, minimizing the visual impact of towers through design, screening and landscaping, and protecting property by assuring proper engineering and siting of tower structures.

(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-601. - Definitions.

Only for the purpose of this division of the zoning ordinance, the following words and phrases shall have the meaning ascribed to them as follows:

Alteration means any modification, replacement, or reconstruction that materially increases the height or the dimension of a tower structure.

Antenna means any device used to collect or radiate radio waves, microwaves, or electromagnetic spectrum waves. An antenna could include directional or panel antennas, ancillary antenna, parabolic or panel dishes, omni-directional antennas such as whips, and other similar transmitting or receiving equipment intended for personal or communications use.

Back haul means to transmit data/signals through a wire line, microwave, or other connection from the antenna to the wire-line local exchange telephone loop.

Collocation means the use of a single support structure by more than one person, entity, or communication service provider.

Communication Facility (CF) means a facility for the transmission or reception of radio, microwave, or electromagnetic spectrum signals used for communication by a service provider. CFs are composed of one or more of the following components:

- (a) Antenna;
- (b) Equipment enclosure;
- (c) Security barrier; and/or
- (d) Communication tower.

Director shall mean the director of planning for the City of Killeen, or his or her designated representative.

Electric substation and electric substation structure means all enclosed property and structures within any electric public utility substation.

Equipment enclosure is defined as a small structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing communication or other signals received by an antenna or tower. Associated equipment may include air conditioning and emergency generators.

Existing nonresidential structure is any existing nonresidential structure, such as a water tower, commercial building, or electric utility tower to which an antenna may be attached.

Height means the vertical distance between the finished grade at the base of the tower or nonresidential structure, or the lowest point of contact with the building, and the highest point of the structure, including the antennas.

Historic district, structure or site is defined as any district, structure, or site designated as historic by any lawfully authorized local, state, or federal historical preservation entity or governmental entity, including the city.

Monopoles are self-supporting structures consisting of a single pole sunk into the ground and/or attached to a permanent foundation.

Residential structure means any structure that is at least 50% built, designed, or altered to provide living accommodations and at least 50% of the building's intended use is residential.

Residentially zoned property is any real estate located within any of the following districts: agricultural, agricultural single-family residential, single-family residential, single-family garden home residential, residential modular home single-family, residential townhouse single-family, two-family residential, multi-family residential, mobile home, and manufactured housing districts.

Service providers means any company, corporation, alliance, individual, or other legal entity that provides a broadcast or communication service available to the public, or to a select segment of the public, such as the entity's own employees. Services include, but not limited to, portable phones, car phones, pagers, digital data transmission, two-way radio, radio, or television communication.

Tower means any fixed, free standing, uninhabitable, tall/slender structure, not a shelter, used for observation, signaling, communication, and includes any appurtenances and support antennas or other associated hardware. This definition shall include alternative tower structures such as man-made trees, clock towers, bell steeples, flag poles, utility facilities, and other similar structures designed to camouflage or conceal the presence of towers.

(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-602. - Locations and limitations for towers and antennas without conditional use permits.

(a) Towers and antennas meeting applicable setback requirements in section 31-605 may locate without a conditional use permit as follows:

- (1) Within agricultural ('A') and manufacturing districts (M-1 and M-2) if the tower height does not exceed one hundred twenty (120) feet or encroach into any restricted airspaces or zones and is located no closer than one hundred twenty (120) feet from any property used or zoned for residential use. A guy wire or guy anchor and equipment enclosures for a facility must not be closer than twenty-five (25) feet to any property

used or zoned for residential use.

- (2) On the roof of any nonresidential and non-historic structure, within any zoning district, provided the tower does not raise the height of the building or structure more than ten (10) feet or does not measure more than ten (10) feet above any roof parapet wall and does not encroach into any airspaces or zones.
- (3) On the vertical exterior of any nonresidential and non-historic structure, within any zoning district, provided the antenna or antenna support structure or equipment:
 - a. Is mounted flush with the exterior of the structure or projects no more than twenty-four (24) inches from the surface of the structure to which it is attached and does not raise the height of the structure more than ten (10) feet and that said projection is at least fifteen (15) feet above grade; and
 - b. Is textured and colored so as to blend with the surrounding surface of the structure.
- (4) On city-owned properties and structures by city council approval. Location, design and other restrictions applicable to a tower on municipal property or facility are subject to approval by the city council, subject to the height restrictions within this section.
- (b) Citizen band and amateur radio towers may be constructed in any zoning district provided they do not exceed thirty-five (35) feet in height and comply with all city codes and ordinances

(Ord. No. 97-62, § II, 11-25-97; Ord. No. 00-52, § II, 6-27-00; Ord. No. 10-059, § III, 9-28-10; Ord. No. 17-035, § I, 6-13-17)

Sec. 31-603. - Location and limitations for towers with a conditional use permit.

- (a) Any tower that does not comply with both subsections 31-602 and 31-605 may be constructed only upon approval of a conditional use permit as provided in section 31-456 of this chapter.
- (b) Conditional use permits must be approved by the majority of the planning and zoning commission and then by the city council with a three-fourths affirmative vote. The city council may impose reasonable conditions and safeguards deemed appropriate to that application in order to protect the health, safety, and welfare of the public and protect property and property values.

(Ord. No. 97-62, § II, 11-25-97; Ord. No. 10-059, § III, 9-28-10; Ord. No. 17-035, § I, 6-13-17)

Sec. 31-604. - Collocation.

- (a) To minimize the number of CFs to be sited, applicants shall cooperate with other service providers in collocating additional antennas on existing towers and/or structures to the extent that collocation is reasonably economically feasible. An applicant shall exercise good faith in collocating with other providers and sharing the permitted site. Such good faith shall include sharing technical information to evaluate the feasibility of collocation. The burden is on the owner of an existing CF to prove it is not technically or economically feasible for the applicant to collocate.

- (b) Service providers shall, to the maximum extent feasible, promote collocation of antennas by multiple providers through the use of nonexclusive agreements for antenna sites, relocation and reconfiguration of antennas to accommodate additional users, utilization of current technology to maximize antenna separation and minimize antenna/tower height and obtrusiveness, and ensure building support structures are of sufficient strength and do not jeopardize public safety.
- (c) As a condition to erecting a CF within the city, a party agrees to:
 - (1) Design and construct a CF in a way that the structure can support additional antenna systems having the same or similar wind and weight loading characteristics that are proposed by the applicant.
 - (2) Provide tower space on a reasonable, proportioned cost basis to other service providers who seek use of the structure, unless it would result in the creation of a level of radio frequency interference which would degrade applicants' services.
 - (3) Appear and participate in all contested hearings conducted by the planning and zoning commission and/or the city council which pertain to an applicant's request to collocate on the party's CF. Failure to participate in good faith shall be deemed a violation of this ordinance which may be remedied by the revocation of special use permit and/or removal of the party's CF.
- (d) In addition to efforts to collocate antennas, prior to submitting a request for a special use or building permit to construct a tower, the applicant shall identify vertical structures in the applicant's identified target area and assess the capability of one of those sites to accommodate their needs. Modifications to existing structures to accommodate additional antennas may be administratively approved by the building official if the height of the existing structure is not increased by more than fifteen feet and the structure meets original setback requirements.
- (e) This subsection shall not apply to citizen band or amateur radio towers and equipment.

(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-605. - Setback distance requirements of towers.

- (a) All towers shall be located in such a manner that if the tower should fall along its longest dimension it will remain within the premises of the property owner and will avoid public streets and utility lines.
- (b) In addition to the provisions of (a) above, a guy wire or guy anchor for a facility must not be closer than twenty-five (25) feet to any property used or zoned for residential use.
- (c) Property uses and distances referred to in this section shall be determined as of the date and time the tower permit application is approved.
- (d) Equipment enclosures shall be set back from property lines as prescribed for the district in which the enclosure is located or ten (10) feet, whichever is greater.
- (e) The setback required by this section for a telecommunication facility tower that is not adjacent to property used or zoned for residential use shall be reduced to a minimum of fifty (50) feet if the tower will be designed with stress points within the structure and will fall within the reduced setback in

case of major windloads, ice loads or a sustained windspeed of one hundred thirty (130) mph, as determined by a licensed design engineer. The design engineer shall also certify that the tower will avoid public streets and utility lines.

(Ord. No. 97-62, § II, 11-25-97; Ord. No. 17-035, § I, 6-13-17)

Sec. 31-606. - Screening device requirements.

- (a) A CF must be completely enclosed by a fence, wall, or barrier which limits climbing access to such tower and any supporting systems, lines, wires, buildings, or other structures. The facility must be fully screened from view from property used or zoned for residential use and public roadways, as described in section 31-280.
- (b) The screen shall be consistent in color and character to surrounding structures and properties.
- (c) The screen shall have no openings, holes, or gaps larger than four (4) inches measured in any direction.
- (d) The screen may contain gates or doors allowing access to the CF. Such gates or doors shall be kept completely closed and locked except for maintenance purposes and shall be located so that all gates and doors do not intrude into a public street when open.

(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-607. - Maintenance and inspection.

- (a) The owner or operator of a tower shall be responsible for the maintenance of the tower and shall maintain all buildings, structures, supporting structures, wires, fences, or ground areas used in connection with the tower in a safe condition and in good repair and in compliance with the city building, fire, and other applicable codes, regulations, or ordinances. Maintenance shall include, but shall not be limited to, maintenance of the paint, landscaping, screening, equipment enclosure, and structural integrity. If the city building official finds that the tower is not being properly maintained, he shall declare it to be a public nuisance and notify the owner of the tower and of the land if different. If the owner fails to correct the problem within the time allotted by the city, the city may undertake any or all of the following actions: maintenance at the expense of the owner, revoke the special use permit, or require removal of the tower.
- (b) By applying for a building permit for a tower, the applicant specifically grants permission to the city, its duly authorized agents, officials, and employees, to enter upon the property after first making a reasonable attempt to notify a person designated by the applicant, except in the event of an emergency, for the purpose of making all inspections to assure compliance with all city codes and ordinances.

(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-608. - Frequency emission standards.

- (a) The applicant and any subsequent operator or owner shall comply with federal standards for electromagnetic spectrum emissions and must annually

submit a signed statement that the proposed site fully complies with federal standards for radio frequency emissions. The city reserves the right to request that the applicant submit to the city a report sealed by a registered electrical engineer which provides the estimated cumulative field measurements of electromagnetic spectrum emissions of all emitters installed at the subject site and compares the results with established federal standards. If on review the city finds that the proposed or established CF does not meet federal emission standards, the city may take any or all of the following actions: deny or revoke the special use or building permit, require a work stoppage if under construction, require cessation of operations until remedied, or require removal of the CF. Unless the non-compliant condition presents an immediate threat to health and safety, before applying these remedies the city shall provide a sixty (60) calendar day correction period.

- (b) The applicant shall ensure that the facility will not cause localized interference with the reception of area television or radio broadcasts, or other legally existing communications facilities. If on review, the city finds that the facility will interfere with such reception, it may use any remedy identified in subsection (a).

(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-609. - General site development standard and submittal requirements.

- (a) All towers and communications facilities (excluding citizen band and amateur radio) shall conform to the following development standards:
 - (1) All towers must be a monopole construction. An alternative tower design structure, as defined in section 31-601, may be approved by the building official.
 - (2) To minimize potential safety hazards, towers shall be set back as required in section 31-605.
 - (3) All lots on which towers and communications facilities are located must have all-weather access to a public street.
 - (4) Towers shall be constructed in accordance with the city building codes, be certified by a professional engineer as to structural integrity of the tower and its appurtenances and shall be in compliance with the City of Killeen Code of Ordinances.
 - (5) Towers shall be designed and placed on the site in a manner that takes maximum advantage of existing trees, mature vegetation, and structures so as to:
 - a. Disguise as much of the tower as possible from the public view;
 - b. Use site features as a background so that the tower blends into the background with increased sight distances; and
 - c. To the degree technically feasible, locate on a portion of the site that is effectively isolated from view of residential areas by structures or terrain features unless the tower and facility are integrated or act as an architectural element of the structure such as a flag pole or parking lot light or are effectively screened through installed landscaping or other acceptable screening.
 - (6) Communications facilities shall landscape screening. Further, the use of existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting landscaping requirements. The installed landscaping requirements

include:

- a. A row of shade trees a minimum of one inch (1") diameter shall be planted around the CF screen (required in section 31-606) with a maximum spacing of twenty-five (25) feet.
 - b. A continuous hedge of one gallon sized (minimal) evergreen ground cover shall be planted along communications facility screen.
 - c. All landscaping shall be drought-resistant or irrigated and properly maintained to ensure good health and viability.
 - d. The city may waive landscaping requirements if the design of the tower is such that landscaping would cause the tower to be more obtrusive, or the tower is integrated or acts as an architectural element of a structure such as a flag pole, parking lot light, bell tower, or other similar structure and/or the city determines landscaping to be unnecessary.
- (7) All signs, flags, lights, and attachments (other than those required for communications operations, structural stability, or as required for flight visibility by the Federal Aviation Administration [FAA] and Federal Communications Commission [FCC]) shall be prohibited on any tower.
- (8) Communication towers shall be lighted with low intensity lights to provide added visibility for aviation navigation.
- (b) Service providers wishing to construct a tower shall ensure and submit documentation demonstrating:
- (1) That the tower will be erected and operated in compliance with current FCC and FAA rules and regulations and other applicable federal, state, and local standards and particularly those applicable to civil or military airports, airfields, or heliports.
 - (2) That all back haul providers are identified and have all the necessary approvals to operate as such, including holding necessary franchises, permits, and certificates.
 - (3) A notarized statement signed by the CF operator, owner, and the landowner that indicates:
 - a. All agree to allow collocation of additional equipment by other service providers on the applicant's structure or within the same site location, provided that such space is available on a reasonable and non-discriminatory basis and will provide an estimated cost schedule for such collocation services.
 - b. An understanding of section 31-607 relating to maintenance and inspections.
 - c. An agreement to inform the city of any intent to abandon or cease using an antenna or tower within thirty (30) days of the date the use ceases. The agreement must state a willingness to remove the tower and accessory buildings and equipment upon six (6) consecutive calendar months of discontinued use. The six (6) month period may be administratively extended to provide a period of up to one year from the date of operation cessation to market the antenna or tower to other carriers. The responsibility for removal falls upon the landowner. In the event the tower and accessory buildings and equipment are not removed when so ordered, the city may remove the tower and accessory buildings and equipment and recover the costs associated with such removal from the landowner and place a lien upon the property until such costs are paid.
 - (4) A report certified and sealed by a registered professional engineer stating that all structural components of the tower comply with all applicable

codes and regulations. In the case of communication facilities, the report should further note the extent to which the tower is designed and/or built to accommodate collocation. In addition, a sealed report from a registered electrical engineer certifying that electromagnetic spectrum emissions are in compliance with applicable federal standards must be submitted.

- (5) An agreement to reimburse the city for actual costs incurred by the city to review and process the application. Should the city question either the certifications submitted with the application or the level or emissions during subsequent operations, the city may request an independent evaluation. If the submission or level of emission is found to be in error, the actual cost incurred by the city for this evaluation will be billed to the service provider or added to the application fee.
- (6) To enhance the city's ability to plan for collocation, a service provider shall provide a master antenna plan, including maps:
 - a. showing the projected locations and characteristics of all proposed future sites in the city and in its extraterritorial jurisdiction (ETJ);
 - b. indicating coverage areas of the proposed and existing sites within the city and its ETJ.

Updates or revisions of the above documents shall be filed with the city within thirty (30) days of completion. Applicants may identify such information as "confidential and proprietary." Information so marked will not be released to any third party unless the city of Killeen is directed to do so by the state attorney general's office.

- (7) Site and landscaping plans indicating:
 - a. the specific placement of the tower and all related structures on the site;
 - b. the location of existing trees and other significant site features;
 - c. the type and location of landscaping proposed for screening;
 - d. the color(s) for the tower; and
 - e. architectural drawings for the proposed site.

(Ord. No. 97-62, § II, 11-25-97; Ord. No. 05-69, § VIII, 9-13-05)

Sec. 31-610. - Permit limitations.

- (a) Any city permit, including the special use permit, shall become null and void if the permitted tower and communication facility is not constructed within six (6) months of the date of issuance, provided that the special use permit may be extended one time for six (6) months if foundation inspection has been completed before the expiration of the initial six months.
- (b) The applicant/permittee of a tower or antenna constructed on city-owned property shall expressly indemnify, protect, and hold the city harmless to the maximum extent allowed by law. No exceptions to this requirement shall be allowed.
- (c) Any city permit, including a special use permit, for a tower shall expire and the applicant must remove the tower if it is not put into use within one

hundred twenty (120) days after construction or if use is discontinued for a period in excess of six (6) consecutive calendar months. If the tower is not so removed, the city may cause the tower and accessory buildings and equipment to be removed, and all expenses of removal shall be paid by the owner of the land where the tower is located.

(d) The applicant/permittee shall notify the director of all changes in ownership or operation of the tower within thirty (30) days of the change.

(e) Any other limitations imposed by the city council as a condition of a special use permit.

(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-611. - Pre-existing towers.

A tower which was legally in existence on the date of final passage of this division of the zoning ordinance shall not be required to be removed or relocated in order to meet minimum distance requirements. However, any alteration of the physical dimensions (excluding collocation) or renovation due to any cause which exceeds 50% of the value or physical modification which exceeds 50% of the area of existing towers or facilities shall require compliance with the applicable provisions of this division of the zoning ordinance.

(Ord. No. 97-62, § II, 11-25-97)

Secs. 31-612—31-699. - Reserved.