

TELECOMMUNICATION TOWERS

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 13896, AS AMENDED, CODIFIED AS APPENDIX "A" OF THE CODE OF THE CITY OF FORT WORTH, BY AMENDING ARTICLE 1 "STANDARDS FOR SELECTED USES", OF CHAPTER 5, "SUPPLEMENTAL USE STANDARDS" TO AMEND SECTIONS 5.136 "TELECOMMUNICATIONS ANTENNA" AND 5.137 "TELECOMMUNICATION TOWER AND STEALTH TELECOMMUNICATION TOWER" IN THEIR ENTIRETY TO REORGANIZE THE SECTIONS AND REVISE APPLICATION REQUIREMENTS, DESIGN REVIEW RESPONSIBILITY, AND ALLOW ADMINISTRATIVE APPROVALS; TO AMEND SECTION 2.102 "URBAN DESIGN COMMISSION" TO REVISE THE DUTIES OF THE URBAN DESIGN COMMISSION; AND TO AMEND CHAPTER 9, "DEFINITIONS" TO REVISE DEFINITIONS RELATED TO TELECOMMUNICATIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Comprehensive Plan set forth policies and goals toward the protection of the residential character of Fort Worth's residential neighborhoods and the promotion of urban design which is compatible with Fort Worth's unique character and in context with surrounding development; and

WHEREAS, given the increasing use of telecommunications facilities in society today, the City expects to receive applications for permits for such facilities in increasing number, some of which facilities are significantly larger than most similarly situated existing installations; and

WHEREAS, the City does not intend that this ordinance prohibits or has the effect of prohibiting telecommunications service; rather, the City seeks to limit development of telecommunications facilities in and around residential neighborhoods to the fullest extent allowed by law; and

WHEREAS, the City recognizes its responsibilities under the Federal Telecommunications Act of 1996, and believes that it is exercising its regulatory

authority pursuant to the fullest extent under the current state of the law in ensuring that irreversible development activity does not occur that would harm the public health, safety, or welfare; and

SECTION 1.

Article 1 “Standards for Selected Uses”, Chapter 5 “Supplemental Use Standards” of Ordinance No. 13896, the Zoning Ordinance of the City of Fort Worth, is hereby amended to amend Section 5.136 “Telecommunications Antenna” and 5.137 “Telecommunication Tower and Stealth Telecommunication Tower” in its entirety to read as follows:

5.136 Telecommunications Antenna

Telecommunications antennas shall be permitted in any zoning district after an administrative review and administrative approval in accordance with the standards set forth below:

1. Antennas are permitted in all districts on existing commercial, institutional or industrial structures, including, but not limited to, buildings, existing towers, signs, light poles, flag poles, water towers, and/or utility structures, provided, however, that antennas may not extend more than 12 feet above the structure.
2. If placed on the façade of a structure, the antenna shall be of panel construction, and of a 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.
3. Existing antennas on Stealth and Telecommunication Towers may be upgraded as required by changes in technology. Variances to height allowances must be approved by the Board of Adjustment.

5.137 Telecommunications Tower and Stealth Telecommunication Tower

A. Telecommunication Towers:

1. Where Allowed
 - a. Allowed by right in G, I, J, K
 - b. Allowed by Special Exception in ER, E, MU-1, MU-1G, FR, F, MU-2, MU-2G, AG, CF, NS-T4, NS-T5, TU
 - c. Not allowed in residential zoning districts, historic overlay districts, or conservation overlay districts, H, PD, or in scenic areas or corridors as designated in 6.402

2. Setback Requirements
 - a. 500 feet from historic district (HC, HSE) conservation district (CD), or scenic area or corridor as designated in 6.402
 - b. 500 feet from any one-family district or two-family district or 250 feet if the one-family or two-family use is located in any other zoning district
 - c. 250 feet from any multi-family district or use
 - d. 200 feet from the shoreline of the Trinity River or the West Fork, Clear Fork, Marine Creek, Mary's Creek or Sycamore Creek per the map established by the "Trinity River Corridor Mapping Data" prepared by the North Central Texas Council of Governments.
 - e. No Telecommunication Tower or Stealth Telecommunication Tower shall be located within 200 feet from the shoreline of Lake Arlington, Lake Benbrook, Lake Worth, Eagle Mountain Lake, or Marine Creek Lake.
3. A letter of authorization signed by the property owner granting the agent/applicant the authority to represent the property owner if the applicant is required to seek a grant of approval from the Board of Adjustment or any other board or commission.

4. Construction Requirements

- a. All Telecommunication Towers shall be of monopole construction.
- b. Telecommunication Towers shall not be illuminated by artificial means or shall display strobe lights or other warning lighting unless required by the Federal Aviation Administration or any other Federal, State or City law, rule or regulation. Any lighting shall be shielded or directed so as not to project directly onto property zoned residential or any residential use. When incorporated into the approved design, light fixtures used to illuminate ball fields, parking lots, or other similar areas may be attached to a Telecommunication Tower.
- c. All new Telecommunication Towers must be constructed to support at least two separate antenna arrays. In addition, any new Telecommunication Tower must be able to support at least one additional antenna for every fifteen feet (or fraction thereof) above sixty (60) feet in height and provide the ground space for any equipment necessary for the operation of additional antenna.

5. Screening, Fencing, and Landscaping Requirements

All Telecommunications Towers and support facilities shall have the following:

- a. A six-foot solid screening fence constructed of wood, brick, stone, or reinforced concrete products per the specifications of Section 5.304, "Fences" of the zoning ordinance; or
- b. Screening shrubs shall be installed around a fence and screen from view the associated structures. All screening shrubs shall be a minimum of three feet in height at planting, have the potential to grow to a mature height of a minimum of six feet in three years and must have a permanently installed irrigation system that provides total water coverage to all plant materials. The vegetation shall be kept in an attractive state and in good condition at all times.

6. Outdoor Storage

No outdoor storage of vehicles, materials, or equipment is permitted. Equipment not used in direct support of the facility shall not be stored or parked on the premises unless a technician is present.

7. Commercial message prohibited

No signs, including commercial advertising, logos, political signs, flyers, flags, or banners, graphics or other attention devices shall be allowed on any part of the Telecommunication Tower or ancillary support facilities except for warning and safety signage.

8. Removal

- a. Upon cessation for more than 180 days of the use of a Telecommunication Tower structure for the support of active communications antennas, the owner of record must notify the Planning and Development Department. Disconnection of electric service for more than 180 days at the Telecommunications Tower site shall be considered cessation of use.
- b. All transmission Telecommunications Towers or antennas shall be removed by the person who constructed the facility, by the person who operates the facility or by the property owner within one year from the time the facilities have ceased being used to transmit, receive or relay voice and data signals to or from wireless communications devices.
- c. The person who constructed the facility, the person who operates the facility or owner of record must notify the Planning and Development Department of any change in the status of the Telecommunication Tower. If the use of the antennas on the Telecommunication Tower has not been restored within the one year period from the time the facilities have ceased being used to transmit, receive or relay voice and data signals to or from wireless communication devices, the Telecommunication Tower must be removed and the Telecommunication Tower site restored to its original condition to a depth of two feet, at the owners expense.

9. Fees

Notwithstanding any other provision of this ordinance, the City may require, as part of any application fees for a telecommunication facility, an amount sufficient to recover all of the City’s costs in retaining consultants to verify statements made in conjunction with the permit application, to the extent that verification requires telecommunication expertise.

B. Stealth Telecommunication Towers

- 1. Where Allowed
 - a. Allowed by right in E, MU-1, MU-1G, FR, F, MU-2, MU-2G, NS-T4, NS-T5, TU, CB, TUP, G, H, I, J, K
 - b. Allowed by Special Exception in residential districts, ER, AG, CF, in scenic corridors or areas as designated in 6.402, historic overlay districts (HC, HSE) and conservation overlay districts (CD)
- 2. Setback Requirements

- a. Stealth Telecommunication Towers shall be setback two (2) feet for each foot in height from a one-family, two-family or multifamily district or use unless located in such a district and permitted by special exception.
- b. In all other zoning districts, the standard setback shall apply; however, additional setbacks may be required as described in this section.
- d. 200 feet from the shoreline of the Trinity River or the West Fork, Clear Fork, Marine Creek, Mary's Creek or Sycamore Creek per the map established by the "Trinity River Corridor Mapping Data" prepared by the North Central Texas Council of Governments.
- e. 200 feet from the shoreline of Lake Arlington, Lake Benbrook, Lake Worth, Eagle Mountain Lake, or Marine Creek Lake.

3. Administrative Approval of Stealth Telecommunication Towers

A monopole flag, athletic light pole, and parking street light pole or other design for a Stealth Telecommunication Tower design may be approved administratively by the Planning and Development Director, or his/her designee, subject to the following:

- a. conforms to the definition of a Stealth telecommunication tower; or
- b. Has a monotone color of light gray or off-white;
- c. Displays a light fixture of 175 Watts or less, if applicable;
- d. Displays an American, State, or corporate logo flag without copy (must meet proper flag etiquette), if applicable;
- e. Being appropriately located to functionally serve the use(s) of the site;
- f. Screening the support equipment with a six (6) foot masonry wall consistent with the site design materials or architecture, or screening with a black or green rubberized chain-link fence surrounded with three (3) foot high hedge on all sides exclusive of entry gate; and
- g. Being no more than seventy-five (75) feet in height unless the tower is providing space for an additional antenna, allowing up to an additional ten (10) feet of height, with a maximum of eighty-five (85) feet.

4. Design and Appearance Requirements

- a. Any design plan not eligible for administrative approval in accordance with section 5.137.B.3 must be approved by the Board of Adjustment.
- b. A design plan must be submitted by the applicant at the time of application.
- c. The design plan must include:
 - i. Visual study, visualization, or simulation showing the appearance of the proposed Stealth Telecommunication Tower and ancillary facilities, to scale and in the existing natural or built environment from at least two (2) points of public view.
 - ii. General capacity of the proposed tower, in terms of the number and types of antennas it is designed to accommodate.
 - iii. Current overall system plan for the City, documenting telecommunication facilities presently constructed or approved, including a map indicating the proposed provider's current coverage for the City and the area the requested site would cover.

- iv. Statement outlining the rationales for the particular location, design, and height of the Stealth Telecommunication Tower.
- v. Landscape plan drawn to scale showing the proposed and existing fencing and landscaping, including type, spacing, size, and irrigation methods.
- vi. Visual depiction or architect's rendering (drawn to scale) of the Stealth Telecommunications Tower.
- vii. Site plan (drawn to scale) indicating the location and height of the Stealth Telecommunication Tower, with ancillary facilities, as well as their proximity to buildings and to other structures on adjacent properties to include a radius of 200 feet.

5. Construction Requirements

- a. Stealth Telecommunication Towers shall not be illuminated by artificial means or shall display strobe lights or other warning lighting unless required by the Federal Aviation Administration or any other Federal, State or City law, rule or regulation. Any lighting shall be shielded or directed so as not to project directly onto property zoned residential or any residential use. When incorporated into the approved design, light fixtures used to illuminate ball fields, parking lots, or other similar areas may be attached to a Telecommunication Tower.
- b. Any new Stealth Telecommunication Tower must be able to support at least one additional antenna for every fifteen feet (or fraction thereof) above sixty (60) feet in height and provide the ground space for any equipment necessary for the operation of additional antenna.

6. Screening, Fencing, and Landscaping Requirements

All Stealth Telecommunication Towers and all support facilities shall have the following:

- a. A six-foot solid screening fence constructed of wood, brick, stone, or reinforced concrete products per the specifications of Section 5.304, "Fences" of the zoning ordinance; or
- b. Screening shrubs shall be installed around a fence and screen from view the associated structures. All screening shrubs shall be a minimum of three feet in height at planting, have the potential to grow to a mature height of a minimum of six feet in three years and must have a permanently installed irrigation system that provides total water coverage to all plant materials. The vegetation shall be kept in an attractive state and in good condition at all times.

7. Outdoor Storage

No outdoor storage of vehicles, materials, or equipment is permitted. Equipment not used in direct support of the facility shall not be stored or parked on the premises unless a technician is present.

8. Commercial message prohibited

No signs, including commercial advertising, logos, political signs, flyers, flags, or banners, graphics or other attention devices shall be allowed on any part of the Telecommunication Tower or ancillary support facilities except for warning and safety signage.

9. Removal

- a. Upon cessation for more than 180 days of the use of a Stealth Telecommunication Tower structure for the support of active communications

antennas, the owner of record must notify the Planning and Development Department. Disconnection of electric service for more than 180 days at the Stealth Telecommunications Tower site shall be considered cessation of use.

b. All transmission Stealth Telecommunications Towers or antennas shall be removed by the person who constructed the facility, by the person who operates the facility or by the property owner within one year from the time the facilities have ceased being used to transmit, receive or relay voice and data signals to or from wireless communications devices.

c. The person who constructed the facility, the person who operates the facility or owner of record must notify the Planning and Development Department of any change in the status of the Stealth Telecommunication Tower. If the use of the antennas on the Stealth Telecommunication Tower has not been restored within the one year period from the time the facilities have ceased being used to transmit, receive or relay voice and data signals to or from wireless communication devices, the Stealth Telecommunication Tower must be removed and the Stealth Telecommunication Tower site restored to its original condition to a depth of two feet, at the owners expense.

10. Fees

Notwithstanding any other provision of this ordinance, the City may require, as part of any application fees for a telecommunication facility, an amount sufficient to recover all of the City's costs in retaining consultants to verify statements made in conjunction with the permit application, to the extent that verification requires telecommunication expertise.

11. Board of Adjustment

Except for stealth telecommunications towers built under Section 5.137.B.3 above, the Board of Adjustment shall review proposed designs considering the materials, colors, textures, screening and landscaping designs of the equipment structure and any other permitted structures to determine the visibility, aesthetic impact, and compatibility to the surrounding natural or built environments.

SECTION 2.

Chapter 2, Section 2.102 "Urban Design Commission", Subsection E "Powers and Duties", of Ordinance No. 13896, the Zoning Ordinance of the City of Fort Worth, is amended to delete the power and duty of reviewing proposed designs for stealth telecommunication towers and all antennas and renumber the remaining duties, to read as follows:

E. *Powers and duties.*

1. ~~*Stealth telecommunication tower and antenna designs.* The urban design commission shall review and approve, modify, or reject proposed designs for stealth telecommunication towers and all antennas that are surface mounted on~~

~~stealth telecommunication towers, structures, and enclosed buildings considering the materials, colors, textures, screening and landscaping designs of the equipment structure and any other permitted structures to determine the visibility, aesthetic impact, and compatibility to the surrounding natural or built environments.~~

12. *Nomination and designation of design districts.*

a. The urban design commission (UDC) may nominate design districts. Nomination by the UDC shall be in the form of a resolution requesting that the planning and development department submit the nomination to the zoning commission for consideration. The UDC shall not consider a nomination for a design district until standards and guidelines have been submitted for review.

b. Applications and the procedure for designation of an design district shall follow the procedures outlined in Chapter 3, Article 5, "Text or Map Amendment," except that written notice shall be provided as outlined in F. below. No design district shall be approved by the city council as a design district without a recommendation from the UDC on the proposed guidelines for the district.

c. Upon designation of an area as a design district by the city council, the designation indicating the boundaries of the district shall be adopted as an exhibit to the Zoning Ordinance. Design districts are overlay zoning districts or base districts which the UDC or a district-specific body appointed by the City Council, has design review authority, as described in Section E.32.

23. *Design standards and guidelines and certificate of appropriateness:* In order to enhance the character of the districts, encourage economic development and protect property values, the UDC or the district-specific body shall:

a. Review and recommend to the city council the approval or modification of proposed design standards and guidelines for designated design; and

b. Review and approve, modify, or reject an application for a certificate of appropriateness for new construction and renovations for compliance with the adopted design standards and/or guidelines for designated design districts.

34. *Design standards and guidelines directed by city council:* In order to protect and enhance the character of the design districts, encourage economic development and protect property values, the UDC shall review and approve, modify, or reject design standards for other applications as directed by the city council.

SECTION 3.

Chapter 9, "Definitions" of Ordinance No. 13896, the zoning ordinance of the City of Fort Worth, is hereby amended to revise the definitions related to telecommunications to read as follows:

Antenna. Any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves, excluding satellite dish antennas and antennas accessory to residential uses. Antennas ancillary to residential uses shall mean television antennas and amateur radio equipment not used for commercial purposes, including ham radio and CB equipment.

Stealth telecommunication tower. A ~~telecommunication tower~~ facility that is designed in such a way that the facility is not readily recognizable as telecommunication tower or telecommunication equipment. Stealth facilities may include, but are not limited to, totally enclosed antennas; wireless facilities that replicate, duplicate or simulate the construction of common structures such as flagpoles, monopoles with totally enclosed antennas or light poles and that serve as a function of the use(s) of the site; and camouflaged wireless facilities that are constructed to blend into the surrounding environment.

Telecommunication tower. A facility, including self-supporting lattice towers, guy towers or monopole towers, but not including stealth telecommunication towers, designed to support one or more antennas and to contain ancillary facilities designed and used for the purpose of transmitting, receiving, and relaying voice, data and other similar signals to or from various wireless communication devices. For purposes of this definition, amateur radio transmission facilities not used for commercial purposes and facilities used exclusively for the transmission of television and radio signals are not "telecommunication towers."

SECTION 4.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 5.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 6.

Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 7.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Ordinances No. 3011, 13896 and any other ordinances affecting zoning which have accrued at the time of the effective date of this ordinance, and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 8.

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

SECTION 9.

All other provisions of the Zoning Ordinance of the City of Fort Worth not herein amended shall remain in full force and effect.

SECTION 10.

This ordinance shall take effect upon adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: _____
Assistant City Attorney

ADOPTED: _____
EFFECTIVE: _____