

CHAPTER 152

COMMUNICATIONS TOWERS AND ANTENNAS

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152.01 PURPOSE. The Council finds that public safety and reasonable accommodation of commercial wireless communication facilities requires establishment of rules and regulations for the orderly installation and operation of antenna towers and facilities, together with reasonable rights in the City to secure a return of investment on public property. Interpretation of the provisions of this chapter shall be in light of these findings for the benefit of the citizens of the City.

152.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. “Antenna” means a device, dish or array used to transmit or receive telecommunications signals.
2. “Communications tower” or “tower” means any tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, whether the same shall be free standing, guyed or fixed to a building.
3. “Height” of a communications tower is the distance from the base of the tower to the top of the structure.
4. “Telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

152.03 LOCAL REGULATION AND COMPLIANCE. The Telecommunications Act of 1996 prohibits the City from establishing policies that discriminate against one or a group of providers in favor of another or another group of providers or potential providers. The following objectives shall be applied consistently to all commercial telecommunications providers who shall request a location on City property for placement of communications towers and antennas.

1. It shall be a policy to minimize the overall number of towers located in the City, providers may be required to participate in collocation agreements.
2. New towers will be safe and blend into their environment, and providers will propose designs consistent with site characteristics.
3. Placement of wireless equipment in highly populated areas will be considered only as a last resort and residential placement locations will be prohibited.

4. Structures which are approved for location on City-owned or controlled land may be charged fair compensation for use of such land and for the administration of provisions of this chapter.

152.04 LEASE REQUIRED. No person or other entity shall utilize any public property without first obtaining a lease from the City. No leases will be granted without reasonable compensation in the form of a competitively neutral fee for the use of such public property. Leases shall not be granted for a term of more than 25 years and may be granted for shorter terms at the option of the City.

152.05 REQUIREMENTS FOR PLACEMENT ON CITY PROPERTY.

1. The antenna or tower will not interfere with the purpose for which the City-owned property is intended.
2. The antenna or tower will have no adverse impact on surrounding private property. Antennas or towers will be allowed in districts zoned as AG, AC, LD, RS, RM, MH and NC, if a unipole is utilized. No antenna or tower will be closer than 500 feet to any residence.
3. The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to City property and facilities and execute a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The lease terms shall be established by the Council (Section 152.10) and shall reflect potential expenses and risks to the City and other appropriate factors including a reasonable financial return for the nature of the space subject to lease.
4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the cost of removal of the antenna or tower at the close of the lease.
5. Upon reasonable notice, the antennas or towers may be required to be removed at the user's expense. The applicant must reimburse the City for any costs incurred by the City by reason of the presence of the applicant's antenna or tower.
6. The user must obtain all necessary land use approval.
7. The applicant will cooperate with the City's objective to promote collocations and thus limit the number of separate tower or antenna sites which may be requested by other applicants in the future.

152.06 REQUIREMENTS FOR PLACEMENT ON PRIVATE PROPERTY.

1. The antenna or tower located on private property in districts zoned GC, AC and NC shall be of unipole structure. No commercial antennas or towers will be permitted in any districts zoned LD, RS, RM or MH. Other types of antennas and/or towers will be permitted uses in districts zoned AG, LI and HI upon approval by the Council.
2. The antenna or tower will have no adverse impact on surrounding private property.
3. The applicant will produce proof of adequate liability insurance for potential damage which may be caused by antennas or towers to other persons or property.
4. No antenna or tower will be located closer than 500 feet from any residence.

5. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the cost of antenna or tower removal.
6. The user must obtain all necessary land use approval.
7. All applicants will be required to utilize an existing antenna or tower before applying for a new location. The City requires collocation of antenna or existing towers unless an engineering study reflects that collocation is impossible due to interference or signals. The engineering study must be submitted with the application process as provided in Section 152.08.

152.07 GENERAL REQUIREMENTS FOR PLACEMENT ON CITY PROPERTY OR PRIVATE PROPERTY. The following requirements shall apply in addition to the requirements set forth in Section 152.05 and 152.06 for placement of towers or antennas on City owned or privately owned property:

1. Land use regulations, visibility, fencing, screening, landscaping, parking access, lot size, exterior illumination, sign, storage, and other general zoning district regulations except setback and height shall apply to the use. Setbacks on all sides shall be a distance equal to 500 feet to any structure used as a residence. The following height conditions shall apply:

Districts zoned as A-C, N-C and G-C shall have free-standing (unipole) towers with heights not exceeding 150 feet. Towers with heights exceeding 150 feet shall require express prior written approval of the Council. Industrial districts zoned as L-1 or H-1 shall utilize free-standing (unipole) towers with heights not exceeding 200 feet. Towers with heights exceeding 200 feet in L-1 or H-1 districts shall require prior express written approval of the Council. Agricultural districts zoned AG shall use free-standing (unipole) or guyed towers with heights not exceeding 300 feet. Towers with heights exceeding 300 feet in an AG district shall require prior express written approval of the Council.

2. Any tower constructed must be located at a minimum distance equal to 1½ times the height of the tower from any historic property or architecturally significant property and must be set back from all lot lines distances equal to the setback requirements for residential structures. The setback requirements for any tower may be varied only by prior express written consent of the Council. This restriction shall not apply to any structure used in conjunction with tower operation.

152.08 APPLICATION PROCESS. All applicants who wish to locate a communications antenna or tower on City-owned or private property must submit a completed application to the City Manager accompanied by a fee of \$500.00 together with the following documents, if same are applicable to the intended site:

1. One copy of typical specifications for proposed structures and antennas, including description of design characteristics and material to be utilized.
2. A site plan drawn to scale showing property lines, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property. A site plan is not required if the antenna is to be mounted on an approved existing structure.

3. A current map or update for an existing map on file showing locations of applicant's antennas, facilities, existing towers and proposed towers which are reflected in public records, serving any property within the City.
4. A report from a structural engineer showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with the latest revision of Electronics Industries Association's Standards (EIA) 222 pertaining to structural standards for steel antenna towers and antenna support structures as provided in the latest revision of such standards.
5. Identification of the owners of all antennas and equipment to be located on the site.
6. Written authorization from the site owner (if a private person or entity) for the application.
7. Evidence that a valid FCC license for the proposed activity has been issued.
8. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
9. A written agreement to remove the tower and/or antenna within 180 days after cessation of use.
10. Additional information, as required, to determine that all applicable zoning regulations are met.
11. Applicant must show that the proposed communications tower, antenna or accessory structures will be placed in a reasonably available location and will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards proposed by applicable communications regulations and applicant's technical design requirements.
12. Applicant must demonstrate that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirement without unreasonable modifications on any existing structure or tower under the control of the applicant.
13. Prior to consideration of a permit for location on private property which must be required, applicant must show that available publicly owned sites and available privately owned sites occupied by a compatible use are unsuitable for operation of the facility under applicable communications regulations and applicant's technical design requirements.
14. Applicant must provide names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one-half mile radius of the proposed new tower site, including City-owned property, and written documentation that the applicant (1) made diligent but unsuccessful efforts for a minimum of forty (40) days prior to the submission of the application to install or collocate the applicant's telecommunications facilities on towers or useable antenna support structures owned by the City or other persons located within a one-half mile of the proposed tower site, or (2) written technical evidence from an engineer that the proposed tower or facilities cannot be installed or collocated on another person's tower or support structure within a one-half mile radius of the proposed tower and must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system.

15. Applicants must show that a new tower is designed to accommodate additional antenna equal in number to applicant's present and future requirements for the purpose of possible collocation with future installations.

16. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.

17. Applicant shall demonstrate that all towers and communications facilities to be installed shall be of camouflage design standards. Such standards shall include, but are not limited to, architecturally screened roof, roof-mounted antennas, antennas integrated into architectural elements, telecommunications towers designed to blend into the surrounding environment or to look other than a tower, such as light poles, power poles and trees. At a minimum, all towers not requiring FAA painting or markings shall have an exterior finish which is galvanized or painted dull blue, gray or black.

18. Applicant shall demonstrate in the form of a certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Clerk a written indemnification of the municipality and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the municipality, all in the form approved by the City Attorney.

19. The appropriate City authority shall respond to all applications for siting of telecommunications towers and facilities within sixty days after receipt of the written application in which all required materials are received.

152.09 NOISE AND EMISSION STANDARDS.

1. Noise. No equipment shall be operated at towers and telecommunications facilities so as to produce noise in excess of applicable noise standards except during emergencies or periodic routine maintenance which requires the use of a back-up generator, wherein noise standards may be exceeded temporarily.

2. Emissions. The Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction to regulate radio frequency emissions. Facilities that meet the FCC standards shall not be conditioned or denied on the basis of emissions impacts. Applicants for tower sites shall be required to provide information on the projected power density of the facility and how this meets the FCC standards.

152.10 PLACEMENT OF FACILITIES AND RELATED LEASE FEES. Placement and maintenance of communications antennas or towers on City-owned sites, such as water towers and parks, may be permitted at the discretion of the Council when the following additional requirements are met.

1. Water Tower or Reservoir Sites. The placement of communications towers or antennas on water towers or reservoir sites will be permitted in the discretion of the Council only when the following requirements are met:

A. The applicant must have written approval from the public works director each time access to the facility is desired.

B. There is sufficient room on the structure and/or the grounds to accommodate the applicant's facility.

C. The presence of the facility will not increase the water tower maintenance costs to the City.

D. The presence of the facility will not be harmful to the health or safety of the workers maintaining the water tower or reservoir facility.

E. Rents and terms of leases for placement on City towers shall be subject to approval under the provisions of Section 364.7, Code of Iowa, after tentative approval by the Council, a public meeting and final approval of the Council.

2. Parks. Towers shall be prohibited in designated conservation areas. Communications antennas or towers will be considered only in any park property only after recommendation of the Park Board and approval of the Council. Rents and terms of leases for placement in park property shall be subject to the provisions of Section 364.7, Code of Iowa. Regardless of whether criteria for placement of such facilities in parks have been met, the City reserves discretionary authority to deny the placement of any such antennas or towers in any City parks.

152.11 ABANDONMENT. In the event the use of any communications tower or antenna has been discontinued for a period of 180 consecutive days, the tower or antenna shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Building Official who shall have the right to request documentation and/or affidavits from the communications tower owner or operator regarding the use of the tower. Upon abandonment, the owner/operator of the tower shall have an additional 180 days within which to: (1) reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower, or (2) dismantle and remove the tower. At the earliest, 181 days from the date of abandonment, without reactivating or upon completion of dismantling and removal, any special exception and/or variance approval for the tower shall automatically expire.

152.12 TERMINATION. The Council may terminate any lease if it is determined that any one of the following conditions exist.

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 higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis.
3. A user violates any of the standards in this chapter or the conditions attached to the City's lease agreement or any Federal or State licensing regulations.
4. Nonpayment of abandonment as set forth in Section 152.11.

Before taking action, the City will provide notice to the user of the intended termination and the reasons therefor, and provide an opportunity for a hearing before the Council regarding the proposed action. This procedure need not be followed in emergency situations.

152.13 HOME RULE. This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the Iowa Constitution granting cities Home Rule powers. To such end, any limitation on the power of the City contained herein is to be strictly construed and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs and all ordinances and regulations of the City shall be enforced against the holders of any lease.

152.14 NEW TECHNOLOGIES. In the event during any term of any lease herein, there shall be developments within the field which give the holder of the lease an opportunity to be more effective, efficient and economical through the use of a substance or material other than that for

which the lease was originally made, the holder of the lease may petition the Council for the purpose of allowing the use of such new developments, technologies or substances under the terms and conditions of the lease.

152.15 LIABILITY FOR DAMAGES. The applicant shall assume liability for any and all damages, claims, or lawsuits that occur or which may occur from the erection, location, or use of the said antenna and/or tower, whether on City-owned property or private property, and shall hold the City harmless and indemnify the City for any damages incurred or judgments rendered as a result of the erection, operation, and/or location of said antenna or tower on any City-owned property. The application submitted by the applicant shall constitute an acknowledgment by the applicant of the applicant's responsibilities to indemnify the City as provided herein.

152.16 PROTOCOL FOR COMPLAINTS. Any complaints arising from the erection, location, or operation of an antenna and/or tower shall be addressed to the company owning or leasing the antenna and/or tower. If the complaint is not adequately addressed, the complaint shall be addressed to the Council. If the complaint is still not adequately addressed, the complaint will be referred to the FCC (Federal Communications Commission) or the appropriate department thereof.