

**CITY OF PALMDALE
COUNTY OF LOS ANGELES, CALIFORNIA
ORDINANCE NO. 1415**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALMDALE ESTABLISHING REGULATIONS FOR THE DEVELOPMENT OF AMATEUR RADIO ANTENNAS IN AGRICULTURAL AND RESIDENTIAL ZONES AND IN RESIDENTIALLY DEVELOPED PROPERTIES BY DELETING IN ITS ENTIRETY AND RESTATING ZONING ORDINANCE SECTION 95.03; ESTABLISHING AN AMATEUR RADIO ANTENNA PERMIT AS A MISCELLANEOUS ADMINISTRATIVE APPROVAL FOR CERTAIN AMATEUR RADIO ANTENNAS BY CREATING NEW ZONING ORDINANCE SECTION 26.11; AND MODIFYING THE DESCRIPTION OF ACCESSORY STRUCTURES FOR A-1, R-1, R-2 AND R-3 ZONE DESIGNATIONS BY REPLACING THE TERM "VERTICAL ANTENNA" WITH THE TERM "AMATEUR RADIO ANTENNA." (ZONING ORDINANCE AMENDMENT 11-02)

THE CITY COUNCIL OF THE CITY OF PALMDALE DOES ORDAIN AS FOLLOWS:

SECTION 1. Pursuant to Section 65800 and 65850 of the Government Code, the city of Palmdale has adopted a Zoning Ordinance which regulates the use of buildings, structures, and land uses as between industry, business, residences, open space another purposes; regulates signs and billboards; regulates the location, height, bulk, number of stories and size of buildings and structures, the size and use of lots, yards, courts, and other open spaces, the percentage of a lot which may be occupied by a building or structures, and the intensity of and uses; establishes requirements for off-street parking and loading; establishes building setback lines, as authorized by state law; and other matters.

SECTION 2. Pursuant to Government Code Section 65853, Zoning Ordinance Amendment 11-02 amends the text of the Palmdale Zoning Ordinance (Title 17 of the Palmdale Municipal Code) for the purpose of adding Section 95.03 and Section 26.11 incorporating regulations for Amateur Radio Antennas.

SECTION 3. Zoning Ordinance Amendment 11-02 is applicable to agriculturally and residentially zoned and residentially developed properties city-wide.

SECTION 4. On February 17, 2011, an environmental Initial Study was prepared for Zoning Ordinance Amendment 11-02. The Initial Study concluded that the proposed Zoning Ordinance Amendment does not have the potential to result in a significant impact on the environment.

SECTION 5. On March 10, 2011, the Planning Commission of the City of Palmdale, unanimously adopted Resolution No. PC-20-015 recommending that the City Council of the City of Palmdale adopt an Ordinance approving Zoning Ordinance Amendment 11-02 amending Zoning Ordinance Section 95.03, Vertical Antennas, in its entirety. Notice of the time, place and purpose of the aforesaid meeting was duly noticed in accordance with California Government Code Sections 65355 and 65090, and Public Resources Code Section 21092.

SECTION 6. On April 6, 2011, the City Council conducted a duly noticed public hearing to consider Zoning Ordinance Amendment 11-02 at the City Council Chamber, 38300 Sierra Highway, Suite B, Palmdale, California, and continued said meeting to the meeting of June 1, 2011. Notice of the time, place, and purpose of the aforesaid meeting was duly noticed in accordance with California Government Code Section 65090 and Public Resource Code Section 21092.

SECTION 7. On June 1, 2011, the City Council conducted a duly noticed public hearing to consider Zoning Ordinance Amendment 11-02 at the City Council Chamber, 38300 Sierra Highway, Suite B, Palmdale, California, and concluded said hearing

SECTION 8. Based upon substantial evidence presented to the City Council during the above-referenced April 6, 2011, and June 1, 2011, public hearings, including public testimony, written and oral staff reports, this Council specifically finds as follows:

(a) Pursuant to Government Code Section 65860, this Zoning Ordinance Amendment is consistent with the goals, objectives and policies of the City's General Plan. The City of Palmdale is an attractive, well-planned community with a history of high quality design, and open vistas. The City wishes to maintain an environment of the highest values and quality in which all citizens may take pride and enjoyment, while providing for the important communication needs provided by amateur radio operators, consistent with the goals and objectives the Palmdale General Plan. The following General Plan goals, policies and objectives support adoption of this Zoning Ordinance Amendment:

Objective L3.5: Ensure that future residential development provides an attractive living environment and creates long-term value for residents as well as the community.

Objective L3.6: Maintain the integrity, safety, and attractiveness of existing residential neighborhoods.

Objective PS8.2: Ensure that communication facilities are install and operated so as to avoid adverse health impacts on residents of the community from...improperly installed or located facilities, or other health and safety hazards.

Objective PS8.3: Ensure that the installation and operation of communication facilities throughout the City are compatible with existing and planned land uses, and will not cause adverse environmental impacts.

Goal S3: Maintain and enhance City emergency services.

Objective S3.1: Prepare the Palmdale community to be self-sufficient in the event of an emergency.

Objective CD1.1: Consider the relationship of each development project to its setting.

The regulations proposed by Zoning Ordinance Amendment 11-02 are intended to provide a balance between the often-competing benefits of neighbor's enjoyment of views and neighborhood aesthetics and the ability of Amateur Radio operators to communicate with distant locations, frequently assisting communities in emergency situations. The regulations that address antenna/antenna structure heights and location are intended to address Objectives L3.5, L3.6, PS8.2, PS8.3 and CD1.1 by providing an expedited approval process for structures that are consistent with the height and scale of residential neighborhoods. However, the opportunity to develop antenna/antenna structures that exceed traditional neighborhood scales through the Conditional Use Permit process provides for assurances that Goal S3 and Objective S3.1 can be fully implemented.

(b) The proposed Zoning Ordinance Amendment is necessary to implement the General Plan and to provide for public safety, convenience and/or welfare because the amendment will provide regulations that address a number of General Plan policies as listed below. The following General Plan policies are implemented through the regulations and standards provided in Zoning Ordinance Amendment 11-02:

Policy L1.3.3: Through the development review process, evaluate proposals with respect to their impacts on adjacent properties, including their impacts on existing uses of those properties, and require that project designs employ appropriate techniques to increase compatibility between uses.

Policy PS8.2.1: Incorporate applicable FCC standards into the review and approval process for communication facilities.

Policy PS8.2.2: Ensure that the location, design and construction of communication facilities provide an acceptable level of safety to the public.

Policy PS8.3.1: Adopt development standards for siting and design of communication facilities which address the following issues: location and co-location; site area; setbacks; height; aesthetics and design; screening; fencing; landscaping; concealment; lighting; and accessory buildings.

Policy S3.1.1: Ensure that there is not a reduction in effectiveness of emergency services as a result of growth permitted through the implementation of this [General] plan.

Policy CD1.1.1: Each project should reflect and be integrated with the character and design of the surrounding area, with respect to such design elements as size, shape, massing, setbacks, orientation, architecture, colors and landscaping.

Policy CD2.3.4: Protect views of scenic areas from existing development, and enhance views for new development wherever feasible, through the following means:

2. Ensure that new structures within subdivisions do not obscure significant scenic views from uphill development to the extent feasible.

The regulations proposed by Zoning Ordinance Amendment 11-02 are intended to implement the General Plan and to provide for public safety, convenience and/or welfare. The policies relating to protection of public safety include Policies PS8.2.1, PS8.2.2, and PS8.3.1 which are implemented through the application of the construction and design standards set forth in proposed Section 95.03.C, D and E. These standards establish reasonable standards for structure height, requirements for use of materials and construction techniques that will ensure that structures are secure, location standards to ensure that structures do not overhang property lines, and requirements that antennas are operated in compliance with state and federal regulations. Public convenience, as described in Policy S3.1.1, is provided by the application of the minimum practicable regulations necessary for construction and operation of amateur radio antennas. Finally, the public's welfare, as described in Policies L1.3.3, CD1.1.1 and CD2.3.4, is achieved by application of the aesthetic design standards set forth herein, as well as the procedures set forth to allow public input from surrounding property owners or other stakeholders in determining whether a project complies with the required findings for approval.

(c) The proposed Zoning Ordinance Amendment conforms to the intent of the Zoning Ordinance and is consistent with all other related provisions thereof in that the preamble to the Zoning Ordinance describes the document as, "An ordinance providing for the creation of zones in the incorporated are of the City of Palmdale and prescribing area requirements, classes of uses and standards of development for buildings, structures, improvements and premises in said several zones." The standards and regulations described in Zoning Ordinance Amendment 11-02 provide accomplish that intent. Further, the proposed Zoning Ordinance Amendment is not in conflict with existing processes,

procedures, or standards for development for other uses, buildings and structures permitted in residential zones or residentially developed areas.

(d) The proposed Zoning Ordinance Amendment is reasonable and beneficial at this time. A basic community objective, as contained the City's General Plan Land Use and Community Design Elements, is to encourage desirable urban character and appearance. The City finds that regulation of the size, location and height of antennas is necessary to accomplish this objective. The City further finds that regulation of the size, location, and height of antennas is necessary for the preservation of the health, safety and welfare of the community. More stringent regulation of antennas is necessary in residential areas compared to nonresidential areas in order to preserve the characteristics of livable communities such as neighborhood compatibility and the open vistas and appearance of the community.

SECTION 8: Zoning Ordinance Section 95.03, Amateur Radio Antennas, is hereby deleted in its entirety and restated to read as follows:

Section 95.03 Amateur Radio Antennas

A. Purpose and Intent

These regulations apply only to Amateur Radio Antennas in agricultural or residential zones or in residentially developed areas. Amateur Radio Antennas erected in Commercial, Industrial, Open Space or Public Facilities Zones, in locations not residentially developed, are subject to the standards set forth in Section 95.04. Citizen Band radio antennas shall be regulated as Accessory Structures as provided in the underlying zone district.

The regulations adopted herein are the minimum practicable regulations necessary to accomplish the City's legitimate purpose of protecting all of its citizens and their rights as described herein.

The purposes of this Section are:

1. To establish an application process and standards for installation of antennas while preserving the attractive appearance of the community;
2. To promote the public health, safety and welfare and the aesthetic effects, and is compatible with the surrounding neighborhood by preventing adverse visual, health, safety, and other impacts on the surrounding properties and/or the community; and
3. To accommodate reasonably the needs of licensed amateur radio operators.

B. Definitions

Amateur radio antenna shall mean any antenna that is used for the purpose of transmitting and receiving radio signals in conjunction with an amateur radio station licensed by the Federal Communications Commission. The term *Amateur Radio Antenna* is interchangeable with the term *Ham Radio Antenna*.

Antenna shall mean any system of wires, poles, rods, reflecting discs, or similar devised used for the transmission or reception of electromagnetic waves, including but not limited to both vertical and horizontal arrays.

Antenna structure shall mean the supporting mast, pole or tower of one or more antenna(s).

Antenna/antenna structure shall mean collectively the antenna and its supporting structure, if any.

Antenna/Antenna structure height shall mean the distance from the highest point of the antenna/antenna structure to the natural grade at the point the structure touches, or if extended, would touch the ground.

Compact horizontal antenna shall mean a horizontal antenna the longest dimension (boom or element) of which does not exceed ten (10) feet.

Horizontal antenna or horizontal array shall mean an antenna with horizontally oriented radiating element(s) and/or boom other than a compact horizontal antenna.

Nested position shall mean the position in which a retractable antenna/antenna structure is fully retracted.

Retractable antenna structure shall mean an antenna structure that is designed to be adjusted in height in order to be extended while the antenna is in use, but lowered in a retracted position when the antenna is not in use.

Vertical antenna or Whip antenna shall mean an antenna that extends vertically, directly up from its base or structural support.

C. Regulations Generally

1. No amateur radio antenna or support thereof shall be erected, installed, placed or maintained upon any lot or upon any building or structure except in compliance with this Section.
2. Any amateur radio antenna structure shall be reviewed for compliance with the standards set forth herein by the Director of Planning. The structure shall be constructed of metal, graphite composite or other durable construction material. No wood structures shall be permitted. The design will provide for the minimum footprint necessary for structural support, but in no case shall the structure footprint, excluding any concrete foundation, exceed four square feet. Any required building permits shall be acquired prior to construction, installation or modification of any antenna structure.
3. Amateur radios shall be operated in compliance with Federal Communications Commission (FCC) standards including regulations pertaining to frequency interference.
4. No signage shall be allowed on any antennas and/or antenna structure, except for requisite safety text and other labeling required by law.
5. No portion of any antenna and/or antenna structure shall be allowed within any required setback area. Any directional antenna that could extend across a property line when rotated is prohibited.
6. No more than one antenna structure shall be permitted on any lot or structure.
7. Antennas that are mounted directly on a transmitter or receiver, held or aimed by hand or mounted on a portable tripod or support, or a vehicle mounted antenna, are not subject to the regulations contained in this section.

D. Antennas Permitted Through Administrative Zoning Clearance

The following types of antenna/antenna structures may be installed with approval of an administrative zoning clearance, pursuant to the process and requirements set forth in Section 26.03, by the City of Palmdale Planning Department.

The standards described below provide for the maximum size and mass of antenna structure permitted by this section. The Director of Planning shall review any proposed antenna for the project's compatibility with the surrounding neighborhood. Conditions, including but not limited to, lot size, and topographic conditions which may camouflage the antenna from surrounding properties may dictate approval of a shorter antenna/antenna structure and/or elimination or reduction of the width of any horizontal antenna.

Application for an administrative zoning clearance shall be on the forms provided by the Planning Department, and shall include the information listed in Section 26.11.D and any required fees as established by the City Council.

1. A ground or building mounted fixed height antenna/antenna structure that is installed, placed or maintained at a height that does not exceed 45 feet in height when in use and utilizes either a Compact horizontal antenna or Vertical antenna.
2. Antenna installations intended for use by the City of Palmdale or another governmental agency.
3. A retractable antenna/antenna structure that meets all of the following characteristics:
 - a. The antenna/antenna structure is located on a lot of at least one acre in size;
 - b. The antenna/antenna structure does not exceed a maximum height of 45 feet when measured in the nested position;
 - c. The antenna/antenna structure does not exceed 75 feet when in operation;
 - d. The antenna is a Compact horizontal antenna and does not extend into any required setback;
 - e. The antenna/antenna structure is located in the rear yard; and
 - f. The antenna is colored to minimize its reflectivity and blend with its surroundings as much as possible.

E. Antennas Requiring an Amateur Radio Antenna Permit

The following types of antennas may be installed with approval of an Amateur Radio Antenna permit, pursuant to the process and standards set forth in Section 26.11. Application for an Amateur Radio Antenna Permit shall be on the forms provided by the Planning Department, and shall include the information listed in Section 26.11.D and any required fees as established by the City Council.

The standards described below provide for the maximum size and mass of antenna structure permitted by this section. The Director of Planning shall review any proposed antenna for the project's compatibility with the surrounding neighborhood. Conditions, including but not limited to, lot size, and topographic conditions which may help to camouflage the antenna from surrounding properties may dictate approval of a shorter antenna/antenna structure and/or elimination or reduction of the width of any horizontal antenna.

1. A fixed height antenna/antenna structure that is installed, placed, or maintained at a height that does not exceed 45 feet in height and may include a horizontal antenna that does not exceed a 35-foot turning radius.
2. A retractable antenna/antenna structure that meets all of the following characteristics:
 - a. The antenna/antenna structure shall not exceed a maximum height of 45 feet when measured in the nested position;
 - b. The antenna/antenna structure does not exceed 75 feet in height when in operation;
 - c. The horizontal antenna does not exceed a 35-foot turning radius and shall not extend into any required setback;
3. All antennas approved under an Amateur Radio Antenna Permit shall be located within the rear yard and shall be colored to minimize its reflectivity and blend with its surroundings as much as possible.

Findings for Approval of an Amateur Radio Antenna Permit are set forth in Section 26.11.G.

F. Antennas Requiring a Conditional Use Permit.

Any installation of an antenna that is not otherwise allowed by Section E or F shall require a Conditional Use Permit approved by the Planning Commission pursuant to Article 22. Application for a Conditional Use Permit shall be on the forms provided by the Planning Department and shall include the information listed in Section 22.03 of this Zoning Ordinance, and such additional information as requested by the Director of Planning and for amateur radio antennas shall also include the following:

1. The name, address and call letters of the amateur radio operator;
2. Manufacturer's specifications of the antenna structure (if available);
3. Visual representation to scale of the antenna structure and array, either through manufacturer's specifications, or through the preparation of project specific elevations drawn to scale and dimensioned so as to fully describe the proposed project.
4. Information explaining the need for the proposed antenna (for example, if an antenna of a certain size is needed to communicate with a particular location).
5. Additional findings for approval for antennas requiring an Amateur Radio Antenna Permit or a Conditional Use Permit

In addition to the findings required for approval of a Conditional Use Permit pursuant to Article 22, the Planning Commission shall make the following findings prior to approval of a Conditional Use Permit for an antenna and/or antenna structure:

- a. That the applicant has demonstrated that strict compliance with the requirements for establishment and operation of an Amateur Radio Antenna as specified in Section 26.11.E would unreasonably interfere with the applicant's ability to receive or transmit signals, or that strict compliance with said requirements is not, under the circumstances of the particular case, necessary to satisfy the purpose and intent of this Section.
- b. That the antenna, including the antenna structure and accessory equipment shall be located, sized and designed so as to minimize the amount of the antenna that is visible from surrounding properties, public streets and all public rights-of way, recognizing that complete screening may not be possible.
- c. That there is adequate space on the property for the antenna and antenna structure without conflicting with buildings on the property or encroaching into required setback areas.
- d. The antenna would not despoil the primary view of a neighbor.
- e. The antenna/antenna structure is compatible with the surrounding neighborhood with respect to, including but not limited to, scale and massing in comparison to lot size, impact on adjacent properties, and aesthetic impacts.
- f. The permit and any conditions of approval attached thereto would accommodate reasonably the amateur radio operator's desire for communication, while at the same time requiring the minimum practicable regulation to accomplish the City's legitimate purpose of protecting the public health, safety, welfare, aesthetics and compatibility with the neighborhood.

In granting the permit, the approving authority may impose conditions reasonably necessary to accomplish the purpose of this Section, provided those conditions do not unreasonably interfere with the ability of the applicant to receive or transmit signals from or to the intended location.

In evaluating the required findings for Conditional Use Permits under Section 22.05, subsection B, in recognition that amateur radio operations provide an important public service, particularly in times of emergency, it shall be presumed that such operations are beneficial and desirable to the community.

G. Modifications

Any permit or zoning clearance for an amateur radio antenna shall include a condition that the permittee shall report any changes to equipment, antenna or antenna structure from that authorized by the permit and shall if necessary obtain a modification to the permit. A modification may be required, for example, if the antenna/antenna structure height will be increased above the height previously approved, the construction design or materials will change, or additional antennas are added to the antenna/antenna structure previously approved. Any change to equipment, antenna and/or antenna structure authorized by a zoning clearance shall be reviewed and approved through submittal of a new zoning clearance application. Any change to equipment, antenna and/or antenna structure authorized by an Amateur Radio Antenna Permit shall be reviewed and approved as set forth in Section 26.11.H. Any change to equipment, antenna and/or antenna structure authorized by a Conditional Use Permit shall be reviewed and approved through the process set forth in Section 22.06.

H. Time Limit

Any antenna, whether permitted by approval of a zoning clearance, Amateur Radio Antenna Permit or Conditional Use Permit, shall be developed and utilized within a period not to exceed twelve (12) months from and after the date of the granting of such approval, and, if not so developed and utilized, such approval automatically shall become null and void at the expiration of such twelve (12) month period.

I. Building Permit.

When required by the Palmdale Building Code, building permits shall be obtained for the installation of any antenna/antenna structure. The Building Official shall determine that the antenna is in compliance with all applicable sections of the Palmdale Building Code and any local regulations prior to issuance of the building permit.

SECTION 10. Zoning Ordinance Section 26.11, Amateur Radio Antenna Permit, is hereby added to read as follows:

Section 26.11 Amateur Radio Antenna Permit

A. Purpose

The purpose of these provisions is to allow establishment of Amateur Radio Antennas within residential neighborhoods, in order to provide for radio communication while ensuring that the surrounding neighborhood is not adversely impacted by the operation of the antenna and/or communication equipment.

A basic community objective, as contained the City's General Plan Land Use and Community Design Elements, is to encourage desirable urban character and appearance. The City finds that regulation of the size, location and height of antennas is necessary to accomplish this objective.

The City further finds that regulation of the size, location, and height of antennas is necessary for the preservation of the health, safety and welfare of the community. More stringent regulation of antennas is necessary in residential areas compared to nonresidential areas in order to preserve neighborhood compatibility and the open vistas and appearance of the community.

The regulations adopted herein are the minimum practicable regulations necessary to accomplish the City's legitimate purpose of protecting all of its citizens and their rights as described herein.

The purposes of this Section are:

1. To establish an application process and standards for installation of antennas while preserving the attractive appearance of the community;
2. To promote the public health, safety and welfare by ensuring that residential television and amateur radio antennas are designed, installed and located in a way that avoids hazards to public health and safety, minimizes adverse aesthetic effects, and is compatible with the surrounding neighborhood by preventing adverse visual, health, safety, and other impacts on the surrounding properties and/or the community; and
3. To accommodate reasonably the needs of licensed amateur radio operators.

It is the intent of the City in adopting this Chapter to recognize the Federal Communications Commission's limited preemption of local regulations governing amateur radio station facilities and to adopt the minimum practicable regulations to accomplish the City's legitimate purposes.

B. General Provisions

An Amateur Radio Antenna Permit shall be required in order to construct and operate an amateur radio antenna as described in Zoning Ordinance Section 95.03E. Any amateur radio antenna for which an Amateur Radio Antenna Permit is issued shall also comply with all design and operational standards set forth in Section 95.03.

C. Application Procedure

An application to establish an Amateur Radio Antenna shall be filed with the Planning Department, along with a fee as established by the City Council. The review procedure shall be Administrative Review, pursuant to Section 20.01.A.3 of this Ordinance, and all requirements for notice, time limits, modifications and appeal procedures shall be those requirements contained in Chapter 20, or as specifically modified in this section or Section 95.03.

D. Application Requirements

Application for a Amateur Radio Antenna Permit shall be on the forms provided by the Planning Department and in addition to the information required on this form, any additional information as requested by the Director of Planning, including but not limited to the following:

1. The name, address and call letters of the amateur radio operator;
2. Manufacturer's specifications of the antenna structure (if available);
3. Visual representation to scale of the antenna structure and array, either through manufacturer's specifications, or through the preparation of project-specific elevations drawn to scale and dimensioned so as to fully describe the proposed project.

E. Requirements for establishment and operation of an Amateur Radio Antenna.

1. A fixed height antenna/antenna structure that is installed, placed, or maintained at a height that does not exceed 45 feet in height and may include a horizontal antenna that does not exceed a 35-foot turning radius.

2. A retractable antenna/antenna structure that meets all of the following characteristics:
 - a. The antenna/antenna structure shall not exceed a maximum height of 45 feet when measured in the nested position;
 - b. The antenna/antenna structure does not exceed 75 feet in height when in operation;
 - c. The horizontal antenna does not exceed a 35-foot turning radius and shall not extend into any required setback;
3. All antennas approved under an Amateur Radio Antenna Permit shall be located within the rear yard and shall be colored to minimize its reflectivity and blend with its surroundings as much as possible.

F. Determination by the approval authority.

In evaluating an application for an amateur radio antenna permit, the Director of Planning shall determine that the request satisfies the requirements contained in Section 95.03 and, if granted, is consistent with the General Plan and all applicable codes and ordinances. Prior to rendering a decision, the Director of Planning shall provide written notice to owners of property located within one hundred (100) feet of the parcel that is the subject of the application. Such notices shall contain a description and location of the request, along with the anticipated decision date. The notice shall provide for no less than 10 days to submit comments to the City regarding the proposed application. Upon receipt of response(s) from the public or the passage of ten (10) days, whichever occurs first, the Director may render a decision.

G. Findings for approval

The Director of Planning shall make the following findings prior to approving an Amateur Radio Antenna Permit for an antenna and/or antenna structure:

1. That the applicant has demonstrated compliance with the development standards contained in subsection E.
2. That the antenna, including the antenna structure and accessory equipment shall be located, sized and designed so as to minimize the amount of the antenna that is visible from surrounding properties, public streets and all public rights-of way, recognizing that complete screening may not be possible.
3. That there is adequate space on the property for the antenna and antenna structure without conflicting with buildings on the property or encroaching into required setback areas.
4. The antenna would not despoil the primary view of a neighbor.
5. The antenna/antenna structure is compatible with the surrounding neighborhood with respect to, including but not limited to, scale and

massing in comparison to lot size, impact on adjacent properties, and aesthetic impacts.

6. The permit and any conditions of approval attached thereto would accommodate reasonably the amateur radio operator's desire for communication, while at the same time requiring the minimum practicable regulation to accomplish the City's legitimate purpose of protecting the public health, safety, welfare, aesthetics and compatibility with the neighborhood.

In granting the permit, the Director of Planning may impose conditions reasonably necessary to accomplish the purpose of this Section, provided those conditions do not unreasonably interfere with the ability of the applicant to receive or transmit signals.

H. Modification or revocation by the Director of Planning

1. Any permit for an amateur radio antenna shall include a condition that the permittee shall report any changes to equipment or antenna structure from that authorized by the permit and shall if necessary obtain a modification to the permit. A modification may be required, for example, if the antenna/antenna structure height will be increased above the height previously approved, the construction design or materials will change, or additional antennas are added to the antenna/antenna structure previously approved.
2. If the Director of Planning determines that an approved Amateur Radio Antenna is not in compliance with the requirements of this Section or with the conditions of approval applied to the permit, the Director of Planning shall notify the owner of the subject property or his or her authorized agent of the date for a hearing on the use's compliance with this Section and/or the permit conditions. Such notice shall state that the Director of Planning will be reviewing the permit for possible modification or revocation. It shall also state the date, time and place of the hearing. The hearing shall be conducted and notice given in accordance with Section 20.02 of this Zoning Ordinance.
3. The Director of Planning shall fully investigate the evidence and prepare a report regarding the reported violation of the permit requirements. A copy of the report shall be sent to the property owner or his or her authorized agent. Upon conclusion of the hearing, the Director of Planning shall make one of the following determinations and take such accompanying action:

- a. Find that the use is being conducted in an appropriate manner in compliance with this Section and with the conditions of approval and that no action to modify or revoke the Amateur Radio Antenna Permit is necessary; or
- b. Find that the use is not being conducted in an appropriate manner and impose modifications to conditions as are necessary; or
- c. Find that the use is not being conducted in an appropriate manner and that the measures are not available to mitigate the impacts of the use. Upon making this determination, the Director of Planning may revoke the Amateur Radio Antenna Permit approval and order the property owner or his or her authorized agent to cease and desist in the time specified by the Director.

SECTION 11. Sections 30.07.D.8, 41.07.D.10, 42.07.D.8, and 43.07.D.5 are hereby amended to read as follows:

Amateur Radio Antenna and satellite dishes in accordance with Sections 95.02 and 95.03.

SECTION 12. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective, provided the basic purposes of this Ordinance and the benefits to the City and the public are not substantially impaired.

SECTION 13. The City Clerk shall certify to the adoption of this ordinance and shall cause this ordinance to be published or posted as required by law.

PASSED, APPROVED and ADOPTED this _____ day of _____, _____ effective on the _____ day of _____, _____ by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____ ABSENT: _____

James C. Ledford, Jr., Mayor

ATTEST:

Rebecca J. Smith
City Clerk

Approved as to form:

City Attorney