

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, AMENDING FRISCO'S ZONING ORDINANCE, ORDINANCE NO. 11-04-09, AS AMENDED, SUBSECTION 3.02.01 (CONDITIONAL DEVELOPMENT STANDARDS) OF SECTION 3 (LAND USES); SUBSECTIONS 4.07.05 (SPECIAL HEIGHT REGULATIONS) AND 4.07.07 (RADIO, TELEVISION AND MICROWAVE TOWERS) OF SECTION 4 (SITE DEVELOPMENT REQUIREMENTS); SUBSECTIONS 6.15.01 (SPECIFIC USE PERMIT REGULATIONS AND PROCEDURES) AND 6.19.02 (APPEAL OF A DENIAL OF AN UNLISTED COMMERCIAL STEALTH ANTENNA) OF SECTION 6 (DEVELOPMENT REVIEW PROCEDURES); AND SUBSECTION 7.01 (TERMS AND WORDS DEFINED) OF SECTION 7 (DEFINITIONS); MODIFYING CERTAIN DEVELOPMENT STANDARDS APPLICABLE TO COMMERCIAL AND NON-COMMERCIAL ANTENNAS AND ANTENNA SUPPORT STRUCTURES AND STEALTH ANTENNAS; ESTABLISHING AND MODIFYING THE DEFINITION OF CERTAIN TERMS; PROVIDING A PENALTY CLAUSE, SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") has investigated and determined that it is necessary to update certain regulations on antennas and antenna support structures to provide clear and concise standards for the integration of such facilities to serve the community in a manner that preserves community goals and objectives within the City of Frisco, Texas ("Frisco"); and

WHEREAS, the City Council finds that regulating commercial and non-commercial antennas and antenna support structures is necessary for the health, safety and welfare of the general public, the promotion of consistent land uses and development, the protection of property rights and the protection of landowners and residents of Frisco; and

WHEREAS, City Council finds that such regulations also are necessary to protect the aesthetic well-being of the community and to promote the tidy and ordered appearance of developed property; and

WHEREAS, Frisco has complied with all legal notices and public hearings as required by law; and

WHEREAS, the City Council finds that it will be advantageous, beneficial and in the best interest of the citizens of Frisco to amend Subsection 3.02.01 (Conditional Development Standards) of Section 3 (Land Uses); Subsection 4.07.05 (Special Height Regulations) and 4.07.07 (Radio, Television and Microwave Towers) of Section 4 (Site Development Requirements); Subsections 6.15.01 (Specific Use Permit Regulations and Procedures) and 6.19.02 (Appeal of a Denial of an Unlisted Commercial Stealth Antenna) of Section 6

(Development Review Procedures); and Subsection 7.01 (Terms and Words Defined) of Section 7 (Definitions) of the Frisco Zoning Ordinance, Ordinance No. 11-04-09, as amended (“Zoning Ordinance”), to modify certain regulations governing antennas and antenna support structures, as provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to Subsection 3.02.01 (Conditional Development Standards) of Section 3 (Land Uses) of the Zoning Ordinance. Subsection 3.02.01 (Conditional Development Standards) of Section 3 (Land Uses) of the Zoning Ordinance is hereby amended as follows:

“3.02.01. Conditional Development Standards

(A) ...

...

(3) Antenna and/or Antenna Support Structure, Commercial

a. ...

b. All commercial antennas and antenna support structures and shall be permitted by Specific Use Permit in the following zoning districts:

...

c. All commercial antennas and antenna support structures allowed by an SUP shall be subject to the following regulations:

1. Commercial antenna support structures shall be setback from all property lines a distance equal to or greater than the support structure or tower’s height, measured from ground level to the highest point of the support structure or tower, including any attached antennas;
2. Commercial antenna support structures shall be constructed to support at least three carriers;
3. Antenna facilities shall be screened by an eight (8) foot masonry screening wall or an eight (8) foot Open Ornamental Fence with living screen composed of evergreen shrubs eight (8) feet in height at time of planting; and

- 4. Commercial antennas and antenna support structures shall be either silver, gray or black in color.
- d. A new commercial antenna to be located on a lawfully existing antenna support structure or on a lawfully existing antenna facility site that does not substantially change the physical dimensions of the support structure or base station is permitted with the approval of a substantially conforming site plan. A new commercial antenna to be located on a lawfully existing antenna support structure or on a lawfully existing antenna facility site that substantially changes the physical dimensions of the support structure or base station must obtain a new Specific Use Permit. (Refer to 47 U.S.C. § 1455(a) and Federal Communications Commission regulations interpreting the same, as they exist or may be amended.)
- f. The maintenance and repair of a support structure, the replacement of antennas or ground equipment of the same dimensions and/or the addition of a carrier to an existing collocation spot that does not substantially change the physical dimensions of the support structure or base station require a building permit only, subject to approval by the Building Inspections Division.
- g. For Network Nodes, refer to the Network Node Overlay District and the City of Frisco, Texas Design Manual for the Installation of Network Nodes and Node Support Poles for applicable regulations and processes, as they exist or may be amended.

...

SECTION 3: Amendment to Subsection 4.07.05 (Special Height Regulations) and 4.07.07 (Radio, Television and Microwave Towers) of Section 4 (Site Development Requirements) of the Zoning Ordinance. Subsection 4.07.05 (Special Height Regulations) and 4.07.07 (Radio, Television and Microwave Towers) of Section 4 (Site Development Requirements) of the Zoning Ordinance are hereby amended as follows¹:

“4.07.04. Special Height Regulations

(A) ...

(B) ...

~~(C) — Antennas and Other Transmitting and Receiving Devices~~

¹ Deletions are evidenced by ~~strikethrough~~.

- (1) ~~Amateur radio antennas and other transmitting and receiving devices of microwave or electromagnetic waves for broadcasting use, shall not interfere with radio or television reception of adjoining property owners, and shall comply with all regulations of the Federal Communications Commission (FCC).~~
- (2) ~~In no case shall the height of such antennas exceed forty five (45) feet and proper guy wire securement shall be followed.~~
- (3) ~~In no manner shall the use of such equipment physically cross onto adjacent lots.~~

...

4.07.07. Radio, Television and Microwave Towers~~Reserved~~

~~No radio, television or microwave tower for a commercial use shall be located within a distance equal to or less than the height of such tower from any residential structure or from any area zoned residential, or shown as residential on the current Comprehensive Plan. Such distance shall be measured in a straight line from the closest point of the tower to the closest point of such area or residential structure or property line.”~~

SECTION 4: Amendment to Subsections 6.15.01 (Specific Use Permit Regulations and Procedures) and 6.19.02 (Appeal of a Denial of an Unlisted Commercial Stealth Antenna) of Section 6 (Development Review Procedures) of the Zoning Ordinance. Subsections 6.15.01 (Specific Use Permit Regulations and Procedures) and 6.19.02 (Appeal of a Denial of an Unlisted Commercial Stealth Antenna) of Section 6 (Development Review Procedures) of the Zoning Ordinance are hereby amended as follows²:

“6.15.01. Specific Use Permit Regulations and Procedures

...

(E) Enlargement, Modification, or Structural Alteration

- (1) A building, premise, or land used under a Specific Use Permit may be enlarged, modified, structurally altered, or otherwise changed provided the changes do not:
 - a. Increase the height of structures, ~~including antenna support structures;~~
 - b. ...

...

² Deletions are evidenced by strikethrough.

- (2) All other enlargements, modifications, structural alterations, or changes shall require the approval of a new Specific Use Permit. ~~Antennas may be placed on antenna support structure that is already permitted by an existing Specific Use Permit without approval of a separate Specific Use Permit subject to approval of a Final Plat and Site Plan for the property if appropriate.~~

...

(I) New Commercial Antennas and Antenna Support Structures

- (1) A provider area coverage map shall be submitted to demonstrate that an existing commercial antenna or antenna support structure cannot accommodate the applicant's proposed antenna. No new commercial antennas or antenna support structures shall be permitted unless the applicant demonstrates that existing antenna support structures in the relevant coverage area cannot accommodate the applicant's proposed antenna. In addition, the applicant shall demonstrate each of the following:
- a. Existing commercial antennas and antenna support structures located within the relevant coverage area do not meet the applicant's reasonable engineering requirements;
 - b. Existing commercial antennas and antenna support structures located within the relevant coverage area are not of a sufficient height to meet the applicant's reasonable engineering requirements; and
 - c. Existing commercial antennas and antenna support structures located within the relevant coverage area do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

...

6.19.02. ~~Appeal of a Denial of an Unlisted Commercial Stealth Antenna~~Reserved

~~The decision of the Planning & Zoning Commission may be appealed to the City Council using the Site Plan appeal procedure outlined in 6.19.09. Appeal of a Site Plan."~~

SECTION 5: Amendment to Subsection 7.01 (Terms and Words Defined) of Section 7 (Definitions) of the Zoning Ordinance. Subsection 7.01 (Terms and Words Defined) of Section 7 (Definitions) of the Zoning Ordinance is hereby amended as follows:

"7.01. Terms and Words Defined

...

Antenna

A commercial or non-commercial instrument or device consisting of wires, poles, rods, or reflecting discs, designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum.

Antenna, Amateur Radio

An antenna which is used for transmitting and receiving radio signals in conjunction with an amateur radio station licensed by the Federal Communications Commission.

Antenna, Stealth

A Stealth Antenna is a commercial antenna that is designed to be non-obtrusive, virtually transparent or invisible to the surrounding neighborhood. The following constitute stealth antennas:

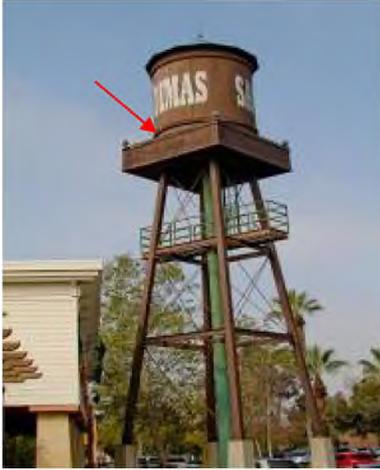
- (A) Antennas that are completely enclosed within a building or structure, such as:
 - (1) Church steeple;
 - (2) Clock tower; or
 - (3) Other similar architectural feature.
- (B) Antennas on the roof of a minimum three-story building, not to exceed ten (10) feet above the height of the building, and not visible from a point six (6) feet above ground level at the property line of the lot on which the antenna is located. If a parapet does not accomplish this screening, screening one (1) foot above the height of the equipment and painted a complimentary color to match the building must be provided.
- (C) Antennas on a public utility structure, such as a water tower or high transmission line support tower, provided that they do not exceed the height of the structure and are painted to match the structure.
- (D) Antennas located on an athletic field light pole provided that they do not exceed the height of the light pole and are painted to match the structure.
- (E) Examples of Stealth Antennas:

Examples of Stealth Antenna Rooftop Concealments
(*Arrows indicate locations of antennas)



Examples of Stealth Antenna Steeple and Tower Concealments





Antenna and/or Antenna Support Structure, Commercial

An antenna and its support structure used for commercial broadcasting or telecommunication purposes, including but not limited to a satellite dish exceeding twelve (12) feet in diameter and a radio, television or microwave tower for a commercial use. All radiating equipment must comply with Federal Communications Commission (FCC), Environmental Protection Agency (EPA), Occupational Health and Safety Administration (OSHA), and all other applicable State and Federal regulatory agency requirements and guidelines for human safety, as they exist or may be amended. Definition includes ancillary ground equipment.

Antenna and/or Antenna Support Structure, Non-Commercial

An instrument or device consisting of wires, poles, rods, or reflecting discs and its support structure not exceeding forty (40) feet in height above the ground elevation at the base of the support structure, designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum. This definition shall also include a satellite dish antenna not to exceed twelve (12) feet in diameter and an amateur radio antenna.

...”

SECTION 6: Savings/Repealing. The Zoning Ordinance shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 7: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 8: Penalty. Any person, firm, corporation or entity violating any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 9: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by law and the City Charter.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS on this 1st day of October, 2019.



**ATTESTED TO AND
CORRECTLY RECORDED BY:**

Kristi Morrow
Kristi Morrow, City Secretary

Jeff Cheney
Jeff Cheney, Mayor
John Keating
John Keating, Mayor Pro-Tem
APPROVED AS TO FORM:

Ryan D. Pittman
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