

ARTICLE 39A

Amateur Radio Antenna Standards

3901A Purpose, Scope and Intent

This Article is intended as a supplement to Article 39, to clarify standards for Amateur Radio Antennas, consistent with federal and state law, taking into account the general welfare of City residents and visual compatibility with the existing surroundings. All definitions set forth in Article 39 are hereby incorporated and made a part of this Article 39A.

3902A Conditional Use Permit, When Required

1. A Conditional Use Permit shall not be required for any Antenna Support Structure such as a mast, tower and/or building, and including the antenna(s) affixed thereto used by authorized amateur radio stations licensed by the FCC, as long as the maximum height does not exceed the greater of (a) thirty-six (36) feet above existing grade or (b) ten (10) feet above the height of the building to which the antenna and/or mast is attached, or (c) ten feet above the maximum structure height prescribed for the zone in which the antenna is located.
2. An Amateur Radio Antenna Support Structure exceeding the maximum height set forth in Section 3902A.1 shall be required to obtain one or more Conditional Use Permits pursuant to Article 41 and the applicable provisions of Article 39. In order to issue such a Conditional Use Permit, the Planning Commission, in addition to any other required findings, must also find that:
 - a. The application is submitted by an amateur radio operator licensed by the FCC;
 - b. The permitted location is listed by the FCC as the address associated with the amateur radio operator or is the primary residence of the amateur radio operator;
 - c. Allowance of the additional height and/or width is necessary to reasonably accommodate amateur radio service communications;
 - d. Based on technical showings by the amateur radio operator applicant no lesser antenna heights and no alternative antenna structures (such as retractable antennas support structures) would reasonably accommodate the amateur radio operator's needs;
 - e. The regulation constitutes the minimum practicable regulation to accomplish the city's goal of promoting public health and safety;
 - f. The regulation does not preclude amateur radio service communications; and

- g. The installation will comply with adopted Building Codes and all other adopted health and safety codes and shall be subject to inspection by the City to determine compliance therewith.
- 3. A permit for an Amateur Radio Antenna shall be personal to the amateur radio operator to whom the permit is granted, and shall not run with the land, and shall only be transferrable to another amateur radio licensee taking possession of the property where the permitted Amateur Radio Antenna is located, upon prior application to and non-discretionary approval by the City;
- 4. A Conditional Use Permit for an Amateur Radio Antenna shall automatically terminate and the permitted facilities shall be removed within 90 days thereafter if the permittee:
 - a. has his or her amateur radio license revoked by the FCC, or
 - b. voluntarily cancels or forfeits his or her amateur radio license, or
 - c. does not renew his or her amateur radio license within three months after its expiration.

3903A Operation and Maintenance Standards

Amateur Radio Antennas requiring a Conditional Use Permit shall comply with the following operation and maintenance standards at all times. Failure to comply shall be considered a violation of the conditions of approval and constitute a violation of this Article subject to any remedy available under the Zoning Ordinance or other applicable law as well as a basis for institution of revocation proceedings of a permit pursuant to this Article, Article 41 and Article 47.

- 1. A maintenance and facility removal agreement shall be executed by the operator and the property owner (if other than the City). No permit shall become effective until such agreement has been executed. Said agreement shall bind the operator and property owner and their successors and assigns to the facility to the following:
 - a. Maintain the appearance of the facility;
 - b. Remove the facility when required by this Article or by any condition of approval, or when it is determined that the facility will not have been used during any current consecutive six month period, or if the facility will be abandoned;
 - c. Reimburse the City for any and all costs incurred for work required by this Article, applicable law, or the conditions of a permit issued by the City for the Facility which the operator and property owner fail to perform within 30 days after written notice from the City to do so or sooner if required by the City for good cause.

3904A Site Development Standards

General Development Standards. All Amateur Radio Antennas shall comply with the following:

1. Height shall be measured as follows:
 - a. Ground mounted antennas. The height of the antenna structure shall be measured from the natural undisturbed ground surface below the center of the base of the antenna support (i.e., tower) to the top of the tower or from the top of the highest antenna or piece of equipment attached thereto, whichever is higher.
 - b. Building mounted antennas. The height of the antenna structure shall be measured from the top of the building roof the antenna is mounted on to the top of the antenna or screening structure, whichever is higher.
 - c. Utility Tower/Pole Mounted Antennas. The height of the antenna structure shall be measured from the base of the utility tower/pole, not the grade of the climbing leg foundation of the structure if the climbing leg foundation of the utility tower/pole structure is not at grade due to exposed footings.
2. Amateur Radio Antennas and support structures shall conform to all building setback requirements, and all equipment associated with their operation shall comply with the development standards for the zone in which they are located.
3. Monopoles, antennas, and support structures for antennas shall be no greater in diameter or any other cross-sectional dimension that is reasonably necessary for the proper functioning and physical support of the Wireless Communication Facility.
4. All Wireless Telecommunication Facilities shall be designed, located and operated to avoid interference with the quiet enjoyment of adjacent properties, and at a minimum shall be subject to the noise standards of Article 38 of the Municipal Code. If the City Planner or Planning Commission as the case may be finds that the noise of such facility may have a detrimental effect on an adjacent property, they may require an independent acoustical analysis, at the applicant's expense, to identify appropriate mitigation measures.

3905A Duration, Revocation And Discontinuance

1. Two-year expiration. A permit for a Wireless Communication Facility shall expire two years after permit approval unless the applicant has obtained a Building Permit and has requested an initial building inspection.
2. Duration of Permits and Approval.

- a. Permits for Wireless Communications Facilities shall be valid for an initial period of ten (10) years from the date of approval unless for a shorter period as authorized by California Government Code section 65964(b), or as specified by the approving body.
 - b. A permit issued pursuant to this Article may be extended at the discretion of the City Planner for a maximum of three two-year terms by the City Planner upon the applicant proving by clear and convincing evidence that the facility continues to comply with all conditions of approval under which the permit was originally approved.
 - c. A permit may be revoked pursuant to Article 47 of the Zoning Ordinance.
 - d. All costs reasonably incurred by the City in verifying compliance and in extending or revoking an approval shall be borne by the applicant and/or permit holder.
3. Abandonment or Discontinuance of Use. Any Operator of a permitted amateur radio Facility who intends to abandon or discontinue the use of the permitted Facility shall notify the City of such intention no less than 60 days prior to the final day of use.
 4. Wireless Facilities with use discontinued shall be considered abandoned 90 days following the final day of use.
 5. All abandoned Facilities shall be physically removed by the Operator no more than 90 days following the final day of use or of determination that the Facility has been abandoned, whichever occurs first. When a Facility has been abandoned, but not removed, the City may cause such facilities to be removed and charge all expenses incurred in such removal to the Operator.

3906A Upgrades With New Technology

The City finds that the technology associated with Wireless Communications equipment is subject to rapid changes and upgrades as a result of industry competition and customer demands, and anticipates that telecommunications antennas and related equipment with reduced visual impacts will be available from time to time with comparable or improved coverage and capacity capabilities. The City further finds that it is in the interest of the public health, safety, and welfare that telecommunications providers be required to replace older facilities with newer equipment of equal or greater capabilities and reduced visual impacts as technological improvements become available. Therefore, any modifications requested to an existing facility shall permit the City Planner or his designee to review the carrier's existing facility to determine whether requiring newer equipment or applying new screening techniques that reduce visual impacts is appropriate if technically feasible.

3907A Green Technology

The City anticipates that the design of “green” sites (i.e., facilities that utilize alternative energy sources and/or employ technologies that leave a smaller carbon footprint than traditional methods) will be introduced as a design alternative in the near future. New facilities that are proposed using “green” technology may not be capable of strictly complying with this Article. To accommodate these facilities and therefore balance the multiple needs of the community for energy efficiency, adequate telecommunications service and aesthetics, the City may consider factors such as whether the facility has no carbon footprint and/or whether the facility produces power through solar or wind generated means.

However, any such proposals shall not eliminate the need to comply with any or all sections of this Article and even “green” facilities shall require a Conditional Use Permit or Administrative Use Permit, as appropriate. Staff shall review each “green” application on a case by case basis and in an appropriate case, may endorse deviations from the specific design requirements of this Article when staff finds that the benefit of being “green” outweighs the potential negative impacts of not meeting all requirements of this Article.

Notwithstanding the endorsement of staff, the Planning Commission shall remain the decision-making body for all Conditional Use Permits, including those determined to be “green,” unless the matter is appealed to, or called for review by the City Council, in which case the City Council shall be the decision-making body.