

1-12-16

ORDINANCE NO. 29984

An ordinance amending Chapter 51, "Dallas Development Code: Ordinance No. 10962, as amended," and Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code by amending Sections 51-4.202, 51A-4.212, 51A-4.408, 51A-4.704, and 51A-13.304; providing amended regulations for tower/antenna for cellular communication use; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Paragraph (12), "Tower/Antenna for Cellular Communication," of Section 51-4.202, "Utility and Service Uses," of Division 51-4.200, "Use Regulations," of Article IV, "Zoning Regulations," of Chapter 51, "Dallas Development Code: Ordinance No. 10962, as amended," of the Dallas City Code is amended to read as follows:

(12) Tower/antenna for cellular communication.

(A) Definitions:

(i) Mounted cellular antenna means a cellular antenna that is attached to an existing structure, that complies with the requirements of Subparagraph (E)(i), and that is part of a cellular system authorized by the Federal Communications Commission. An auxiliary building housing electronic and communication equipment is permitted as part of this use.

(ii) Monopole cellular tower means a single pole structure that supports a platform and cellular antennas, that complies with the requirements of Subparagraphs (E)(ii) and (iii), and that is part of a cellular system authorized by the Federal Communications Commission. An auxiliary building housing electronic and communication equipment is permitted as part of this use.

(iii) Other cellular communication tower/antenna means any cellular communication tower or antenna that is part of a cellular system authorized by the Federal Communications Commission, but that is not covered by the definitions contained in Subparagraphs (A)(i) and (A)(ii). An auxiliary building housing electronic and communication equipment is permitted as part of this use.

(iv) Platform means that portion of a monopole cellular tower that is located on top of the pole and that supports directional, transmitting, and receiving antennas.

(v) Temporary cellular unit means any cellular communication structure, vehicle, trailer mounted apparatus, or device that is part of a system authorized by the Federal Communications Commission that is used to temporarily provide service where an existing tower/antenna for cellular communication is not operable for one or more of the following reasons:

(aa) The existing tower/antenna for cellular communication use is damaged or destroyed other than by the intentional act of the owner or agent; or

(bb) A demolition or construction permit has been issued on a building site that requires the removal of existing mounted cellular antenna, monopole cellular tower, or other cellular communication tower/antenna.

(B) Districts permitted:

(i) Mounted cellular antennas: By right in A, single-family, duplex, townhouse, MF-1, MF-2, and MH districts when attached to an existing structure that is currently occupied or was last occupied by a nonresidential use.

(ii) Mounted cellular antennas: By right in MF-3, MF-4, and all nonresidential districts when attached to any existing structure.

(iii) Monopole cellular towers: By right in LC, HC, industrial, and central area districts with RAR required in LC, HC, and industrial districts. By right in O-2, LO, MO, and GO districts if the height of the tower does not exceed the maximum height for structures in that district as provided in the height regulations of Section 51-4.408, with RAR required in the same districts; otherwise by SUP only. By right in the GR district if the height of the tower does not exceed 65 feet, with RAR required; otherwise by SUP only. By right in the SC district if the height of the tower does not exceed 80 feet, with RAR required; otherwise by SUP only. By SUP only in all residential, NO, O-2, and NS districts. The impact of the tower height on an adjacent residential district must be considered in the SUP process.

(iv) Other cellular communication towers/antennas are permitted as follows: O-2, NO, LO, MO, GO, SC, GR, LC, HC, central area, and industrial districts; SUP required in residential, O-1, and NS districts; specific use permit in NO districts if this use exceeds 30 feet in height and in LO and MO districts if this use exceeds 60 feet in height.

(v) Temporary cellular unit is permitted by right in all districts.

(C) Required off-street parking: None required for temporary cellular units. One space if the cellular communication tower/antenna has an auxiliary building housing electronic and communication equipment (“auxiliary building”) greater than 120 square feet. Physically separate auxiliary buildings will not be aggregated to determine the area of an auxiliary building for the purpose of determining required off-street parking requirements. No handicapped parking is required.

(D) Required off-street loading: None.

(E) Additional provisions:

(i) Mounted cellular antennas may not exceed 12 feet above the structure to which they are attached. Whip antennas are excluded from this calculation.

(ii) The pole portion of a monopole cellular tower may not exceed 42 inches in diameter. Microwave dishes or similar devices up to three feet in diameter may be mounted on the pole portion of a monopole cellular tower. If microwave dishes or similar devices on a monopole cellular tower are concealed within a stealth tower, no maximum; otherwise, n[~~N~~]o more than two dishes or similar devices may be placed on a monopole cellular tower.

(iii) The platform portion of a monopole cellular tower may not have a horizontal cross sectional area greater than 196 square feet. The depth of the platform may not exceed four feet, excluding any whip antenna. Only antennas that are part of a cellular system authorized by the Federal Communications Commissions are permitted on a platform.

(iv) The owner of a monopole or other tower for cellular communication shall notify the building official when the tower is no longer operating as part of a cellular system authorized by the Federal Communications Commission. Within 12 months of the date the tower ceases to operate as part of an authorized cellular system, the tower must either be removed from the site, or a certificate of occupancy must be obtained to allow another permitted use of the tower. If within 12 months the owner fails to remove the tower or obtain proper authorization for use of the tower, the building official shall revoke the certificate of occupancy for the tower and notify the city attorney to pursue enforcement remedies.

(v) Mounted cellular antennas attached to utility structures are exempt from the additional setback regulations in Sections 51-4.401, 51-4.402, and 51-4.403 in certain circumstances. [See Section 51-4.408(a)(1).]

(vi) Temporary cellular unit:

(aa) The building official shall issue a certificate of occupancy for a period not to exceed one year. The building official may grant up to two six-month extensions if a complete application for or amendment to a specific use permit or planned development district has been filed with the director or a building permit is issued for the replacement of the existing tower/antenna for cellular communication.

(bb) A temporary cellular unit must be removed upon the expiration of its certificate of occupancy or upon the completion or expiration of a permit to construct a structure upon which to mount a permanent mounted cellular antenna, a monopole cellular tower, or other cellular antenna, whichever occurs first.

(cc) Except as provided in this provision, a temporary cellular unit must comply with the yard, lot, and space regulations of the district and may not exceed the height of the existing tower/antenna for cellular communication use to be removed. Lightning rods atop a temporary cellular unit are not included in height calculations. If a temporary cellular unit collocates with existing operators on a single vertical temporary cellular unit, the following regulations apply:

(I) If the height of the existing mounted cellular antenna to be removed is less than the maximum structure height of the district, the maximum structure height may extend an additional ten feet in height for each existing operator above one, not to exceed the maximum structure height of the district.

(II) If the height of the existing mounted cellular antennas to be removed is equal to or exceeds the maximum structure height of the district, the maximum height of the temporary cellular unit may not exceed the height of the existing mounted cellular antennas to be removed.

(vii) The specific use permit regulations in Section 51A-4.219 apply to a tower/antenna for cellular communication except as modified in this provision. The director shall send written notice of a public hearing on an application for an SUP for a tower/antenna for cellular communication use to all owners of real property lying within 500 feet of the building site as defined in Section 51A-4.601 on which the tower/antenna for cellular communication use will be located. If the site does not comply with Section 51A-4.601, the director shall send written notice of a public hearing on an application for an SUP for a tower/antenna for cellular communication use to all owners of real property lying within 500 feet of the boundaries of a lot on a preliminary plat that is approved by the city plan commission upon which the tower/antenna for cellular communication use is to be located.

(viii) An application for or an amendment to a specific use permit or planned development district is not required for a modification to an existing tower/antenna for cellular communication or its base station unless the modification substantially changes the physical dimensions of the existing tower/antenna for cellular communication or base station. A modification substantially changes the physical dimensions of an existing tower/antenna for cellular communication or its auxiliary building if it meets the criteria listed in 47 C.F.R. §1.40001(b)(7), as amended.”

SECTION 2. That Paragraph (10.1), “Tower/Antenna for Cellular Communication,” of Section 51A-4.212, “Utility and Public Service Uses,” of Division 51A-4.200, “Use Regulations” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(10.1) Tower/antenna for cellular communication.

(A) Definitions:

(i) Mounted cellular antenna means a cellular antenna that is attached to an existing structure, that complies with the requirements of Subparagraph (E)(i), and that is part of a cellular system authorized by the Federal Communications Commission. An auxiliary building housing electronic and communication equipment is permitted as part of this use.

(ii) Monopole cellular tower means a single pole structure that supports a platform and cellular antennas, that complies with the requirements of Subparagraphs (E)(ii) and (iii), and that is part of a cellular system authorized by the Federal Communications Commission. An auxiliary building housing electronic and communication equipment is permitted as part of this use.

(iii) Other cellular communication tower/antenna means any cellular communication tower or antenna that is part of a cellular system authorized by the Federal Communications Commission, but that is not covered by the definitions contained in Subparagraphs (A)(i) and (A)(ii). An auxiliary building housing electronic and communication equipment is permitted as part of this use.

(iv) Platform means that portion of a monopole cellular tower that is located on top of the pole and that supports directional, transmitting, and receiving antennas.

(v) Temporary cellular unit means any cellular communication structure, vehicle, trailer mounted apparatus, or device that is part of a system authorized by the Federal Communications Commission that is used to temporarily provide service where an existing tower/antenna for cellular communication is not operable for one or more of the following reasons:

(aa) The existing tower/antenna for cellular communication use is damaged or destroyed other than by the intentional act of the owner or agent; or

(bb) A demolition or construction permit has been issued on a building site that includes an existing mounted cellular antenna, monopole cellular tower, or other cellular communication tower/antenna.

(B) Districts permitted:

(i) Mounted cellular antennas: By right in A(A), single family, duplex, townhouse, CH, MF-1(A), MF-1(SAH), MF-2(A), MF-2(SAH), and MH(A) districts when attached to an existing structure that is currently occupied or was last occupied by a nonresidential use. By SUP only in A(A), single family, duplex, townhouse, CH, MF-1(A), MF-1(SAH), MF-2(A), MF-2(SAH), and MH(A) districts when attached to an existing structure that is currently occupied or was last occupied by a nonresidential use and the mounted cellular antenna exceeds the residential proximity slope height restrictions. The impact of the mounted cellular antenna height on an adjacent residential district must be considered in the SUP process.

(ii) Mounted cellular antennas: By right in MF-3(A), MF-4(A), office, retail, CS, industrial, central area, mixed use, multiple commercial, P(A), and UC-3 districts when attached to any existing structure. By SUP only in MF-3(A), MF-4(A), office, retail, CS, industrial, central area, mixed use, multiple commercial, P(A), and UC-3 districts when attached to an existing structure and the mounted cellular antenna exceeds the residential proximity slope height restrictions. The impact of the mounted cellular antenna height on an adjacent residential district must be considered in the SUP process.

(iii) Monopole cellular towers: By right in commercial, industrial, and central area districts with RAR required in commercial and industrial districts. By right in LO(A), MO(A), GO(A), mixed use, and multiple commercial districts if the height of the tower does not exceed the maximum height for structures in that district as provided in the district regulations (Divisions 51A-4.100 et seq.) with RAR required in the same districts; otherwise by SUP only. By right in the CR district if the height of the tower does not exceed 65 feet, with RAR required; otherwise by SUP only. By right in the RR district if the height of the tower does not exceed 80 feet, with RAR required; otherwise by SUP only. By SUP only in all residential, NO(A), ~~and~~ NS(A) districts, and in any district where a monopole cellular tower is permitted by right but exceeds the residential proximity slope height restrictions. The impact of the mounted cellular tower height on an adjacent residential district must be considered in the SUP process.

(iv) Other cellular communication towers/antennas are permitted by right in GO(A), CS, industrial, and central area districts. By SUP only in residential, NO(A), GO(A), MO(A), retail, mixed use, ~~and~~ multiple commercial districts, and in any district where other cellular communication towers/antennas are permitted by right but exceed the residential proximity slope height restrictions. RAR required in GO(A), CS, and industrial districts. The impact of the other cellular communication tower/antenna height on an adjacent residential district must be considered in the SUP process.

(v) Temporary cellular unit is permitted by right in all districts.

(C) Required off-street parking: None required for temporary cellular units. One space if the cellular communication tower/antenna has an auxiliary building housing electronic and communication equipment ("auxiliary building") greater than 120 square feet. Physically separate auxiliary buildings will not be aggregated to determine the area of an auxiliary building for the purpose of determining required off-street parking requirements. No handicapped parking is required.

(D) Required off-street loading: None.

(E) Additional provisions:

(i) Mounted cellular antennas may not exceed 12 feet above the structure to which they are attached. Whip antennas are excluded from this calculation.

(ii) The pole portion of a monopole cellular tower may not exceed 42 inches in diameter. Microwave dishes or similar devices up to three feet in diameter may be mounted on the pole portion of a monopole cellular tower. If microwave dishes or similar devices on a monopole cellular tower are concealed within a stealth tower, no maximum; otherwise, n[~~N~~]o more than two dishes or similar devices may be placed on a monopole cellular tower.

(iii) The platform portion of a monopole cellular tower may not have a horizontal cross sectional area greater than 196 square feet. The depth of the platform may not exceed 4 feet, excluding any whip antenna. Only antennas that are part of a cellular system authorized by the Federal Communications Commission are permitted on a platform.

(iv) The owner of a monopole or other tower for cellular communication shall notify the building official when the tower is no longer operating as part of a cellular system authorized by the Federal Communications Commission. Within 12 months of the date the tower ceases to operate as part of an authorized cellular system, the tower must either be removed from the site, or a certificate of occupancy must be obtained to allow another permitted use of the tower. If within 12 months the owner fails to remove the tower or obtain proper authorization for use of the tower, the building official shall revoke the certificate of occupancy for the tower and notify the city attorney to pursue enforcement remedies.

(v) Mounted cellular antennas attached to utility structures are exempt from the residential proximity slope regulations in certain circumstances. [See Section 51A-4.408(a)(1)(C).]

(vi) Temporary cellular unit:

(aa) The building official shall issue a certificate of occupancy for a period not to exceed one year. The building official may grant up to two six-month extensions if a complete application for or amendment to a specific use permit or planned development district has been filed with the director or a building permit is issued for the replacement of the existing tower/antenna for cellular communication.

(bb) A temporary cellular unit must be removed upon the expiration of its certificate of occupancy or upon the completion or expiration of a permit to construct a structure to mount a permanent mounted cellular antenna, a monopole cellular tower, or other cellular antenna, whichever occurs first.

(cc) Except as provided in this provision, a temporary cellular unit must comply with the yard, lot, and space regulations of the district and may not exceed the height of the existing tower/antenna for cellular communication use to be removed. Lightning rods atop a temporary cellular unit are not included in height calculations. A temporary cellular unit is not subject to residential proximity slope. If a temporary cellular unit collocates with existing operators on a single vertical temporary cellular unit, the following regulations apply:

(I) If the height of the existing mounted cellular antenna to be removed is less than the maximum structure height of the district, the maximum structure height may extend an additional ten feet in height for each existing operator above one, not to exceed the maximum structure height of the district.

(II) If the height of the existing mounted cellular antennas to be removed is equal to or exceeds the maximum structure height of the district, the maximum height of the temporary cellular unit may not exceed the height of the existing mounted cellular antennas to be removed.

(vii) The specific use permit regulations in Section 51A-4.219 apply to a tower/antenna for cellular communication except as modified in this provision. The director shall send written notice of a public hearing on an application for an SUP for a tower/antenna for cellular communication use to all owners of real property lying within 500 feet of the building site as defined in Section 51A-4.601 on which the tower/antenna for cellular communication use will be located. If the site does not comply with Section 51A-4.601, the director shall send written notice of a public hearing on an application for an SUP for a tower/antenna for cellular communication use to all owners of real property lying within 500 feet of the boundaries of a lot on a preliminary plat that is approved by the city plan commission upon which the tower/antenna for cellular communication use is to be located.

(viii) An application for or an amendment to a specific use permit or planned development district is not required for a modification to an existing tower/antenna for cellular communication or its base station unless the modification substantially changes the physical dimensions of the existing tower/antenna for cellular communication, or its base station. A modification substantially changes the physical dimensions of an existing tower/antenna for cellular communication or its base station if it meets the criteria listed in 47 C.F.R. §1.40001(b)(7), as amended.”

SECTION 3. That Subparagraph (D) of Paragraph (1) of Subsection (a), “Special Height Provisions,” of Section 51A-4.408, “Maximum Building Height,” of Division 51A-4.400, “Yard, Lot, and Space Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(D) A tower/antenna for cellular communication [~~monopole cellular tower~~], as defined in Paragraph 51A-4.212(10.1), is exempt from residential proximity slope height restrictions if a specific use permit is required, or if a modification to an existing tower/antenna for cellular communication use is modified in a manner that does not substantially change the physical dimensions of the existing tower/antenna for cellular communication or its auxiliary building. A modification substantially changes the physical dimensions of an existing tower/antenna for cellular communication or its auxiliary building if it meets any of the criteria listed in 47 C.F.R. §1.40001(b)(7), as amended [~~for the monopole cellular tower use~~].”

SECTION 4. That Paragraph (2), “Remodeling a Structure Housing a Nonconforming Use,” of Subsection (b), “Changes to Nonconforming Uses,” of Section 51A-4.704, “Nonconforming Uses and Structures,” of Division 51A-4.700, “Zoning Procedures,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(2) Remodeling a structure housing a nonconforming use. A person may renovate, remodel, or repair a structure housing a nonconforming use if the work does not enlarge the nonconforming use. A person may renovate, remodel, or repair a structure housing a nonconforming tower/antenna for cellular communication use if the modification does not substantially change the physical dimensions of the structure housing the nonconforming tower/antenna for cellular communication use. A modification substantially changes the physical dimensions if it meets the criteria listed in 47 C.F.R. §1.40001(b)(7), as amended.”

SECTION 5. That Paragraph (5), “Enlargement of a Nonconforming Use,” of Subsection (b), “Changes to Nonconforming Uses,” of Section 51A-4.704, “Nonconforming Uses and Structures,” of Division 51A-4.700, “Zoning Procedures,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Subparagraph (D) to read as follows:

“(D) A nonconforming tower/antenna for cellular communication use may be enlarged without board approval if the modification enlarging the nonconforming tower/antenna for cellular communication does not substantially change the physical dimensions of the nonconforming tower/antenna for cellular communication use. A modification substantially changes they physical dimensions if it meets the criteria listed in 47 C.F.R. §1.40001(b)(7), as amended.”

SECTION 6. That Subsection (c), “Nonconforming Structures,” of Section 51A-4.704, “Nonconforming Uses and Structures,” of Division 51A-4.700, “Zoning Procedures,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Paragraph (4) to read as follows:

“(4) A person may renovate, remodel, repair, rebuild, or enlarge that portion of a nonconforming structure supporting a tower/antenna for cellular communication without board approval if the modification does not substantially change the physical dimensions of the tower or base station. A modification substantially changes they physical dimensions if it meets the criteria listed in 47 C.F.R. §1.40001(b)(7), as amended.”

SECTION 7. That Subparagraph (A), “In General,” of Paragraph (5), “Configuration,” of Subsection (k), “Open Space Lot,” of Section 51A-13.304, “Open Space Lot,” of Division 51A-4.300, “District Regulations,” of Article XIII, “Form Districts,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(A) In General.

An open space lot must be configured as set forth in Subparagraphs (B) through (L[~~K~~]).”

SECTION 8. That Paragraph (5), “Configuration,” of Subsection (k), “Open Space Lot,” of Section 51A-13.304, “Open Space Lot,” of Division 51A-4.300, “District Regulations,” of Article XIII, “Form Districts,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Subparagraph (L), “Utilities,” to read as follows:

“(L) Utilities.

Utilities on an open space lot must comply with the use regulations and additional provisions of Section 51A-13.306. If a specific use permit is required for this use, design standards and landscaping requirements that are reasonably consistent with this article may be established in the ordinance granting the specific use permit; otherwise, utilities must meet all design standards and landscaping requirements in this article. Utilities may not be used to satisfy public or private open space requirements.”

SECTION 9. That the director of sustainable development and construction shall revise the use charts to reflect the change in use regulations made by this ordinance, and shall provide these charts for publication in the Dallas Development Code.

SECTION 10. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 11. That Chapters 51 and 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 12. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 13. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

WARREN M.S. ERNST, City Attorney

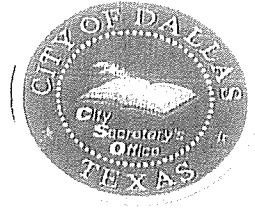
By


Assistant City Attorney

JAN 13 2016

Passed _____

160123



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL JAN 13 2016

ORDINANCE NUMBER 29984

DATE PUBLISHED JAN 16 2016

ATTESTED BY:

A handwritten signature in cursive script, appearing to read "Rose A. Lind".