

Mapleton City Planning Commission Staff Report

Meeting Date: September 12, 2013

Item: 3

Applicant: Mapleton City

Prepared by: Brian Tucker, Planner

Public Hearing Item: Yes

Zone: All

Description: Consideration of an ordinance amending Mapleton City Code Sections 18.84.310 and 18.84.320 related to wireless telecommunication facilities and amateur communications/ham radios respectively. Chapter 18.08 would also be amended to include definitions related to the amended sections.

BACKGROUND

Most cities regulate wireless telecommunication facilities and many cities regulate amateur communications/ham radios but Mapleton City does not have rules that regulate either use. Because all uses that are not specifically allowed are prohibited that means that these low power telecommunication devices are technically not allowed in any zone.

While the wireless network is largely built out there is still a need to improve service in many places which, along with a desire by individuals to operate ham radios, makes leaving these as prohibited uses impractical.

PROPOSED AMENDMENTS

Section 18.84.310, the proposed wireless telecommunication facilities ordinance, is intended to minimize adverse health and safety, visual impacts, design and construction issues and the need for new towers. New wireless telecommunications facilities are restricted to parcels owned by a governmental entity or located within the Neighborhood Commercial (NC-1), General Commercial (GC-1), Central Commercial (CC-1), Industrial and Manufacturing (I&M-1), or Mining and Heavy Industry ((M&HM-1) zoning districts. New wall mounted and roof mounted antennas are allowed as long as they can be properly screened. The collocation of antennas on existing poles is encouraged, as is the conversion of existing flagpoles, athletic field lights, utility poles and other similar structures. Monopoles and some other telecommunication facilities that can't be approved as permitted uses can be reviewed for approval by the Planning Commission if there are technical reasons that a permitted facility cannot be used. Lattice towers, whip antennas and other types of antenna are prohibited. In addition to a building permit, a wireless telecommunication permit is required. The application and approval processes are enumerated in the proposed ordinance.

Temporary emergency wireless telecommunications facilities for emergency communications by public officials, amateur/ham radios, parabolic antennas less than seven feet in diameter, temporary wireless telecommunication facilities, antennas accessory to a dwelling unit and maintenance and repair of an existing facility are exempt from the requirements of Section 18.84.310.

Section 18.84.320, the proposed amateur communications/ham radio ordinance, is intended to regulate ham radios in a very minimal way. Amateur radio antennas and support structures will require a building permit and require review by the Planning Staff or Planning Commission. Antennas that do not exceed the maximum height limit of the zone they are located in are reviewed and approved by the staff while antennas that exceed the maximum height limit will be reviewed by the Planning Commission. Minimum setbacks, location standards and coloring standards are included in the proposed ordinance but unless it can be shown that a hazard or nuisance is created that cannot be mitigated with reasonable conditions the request must be approved.

Chapter 18.08 is amended to include definitions of “amateur radio antenna”, “amateur radio antenna support structure”, “antenna”, “collocation”, “lattice tower”, “monopole”, “open space”, “stealth design”, “telecommunication”, “wireless telecommunication antenna”, “wireless telecommunications equipment shelter”, “wireless telecommunications facility” and “wireless telecommunications tower”.

RECOMMENDATION

Recommend that the City Council adopt the attached ordinance.

ATTACHMENTS

1. Draft Ordinance

18.84.310: ~~RESERVED~~ WIRELESS TELECOMMUNICATION FACILITIES:

A. The purpose of this ordinance is to provide an approval process and a set of standards to deal with issues associated with wireless telecommunication facilities such as demand, competition, visual mitigation, engineering, impacts to neighboring uses, health, safety, and facility siting. This ordinance is intended to minimize adverse health, safety, public welfare or visual impacts through buffering, siting, design and construction, and the reduction in the need for new towers.

B. Except as specifically exempted herein, the requirements of this section apply to both commercial and private telecommunications facilities. All telecommunications facilities shall comply with the following regulations and all other ordinances of the City and any pertinent regulations of the Federal Communications Commission and the Federal Aviation Administration. The following are exempt from the provisions of this ordinance:

1. Temporary emergency wireless telecommunications facilities for emergency communications by public officials.
2. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
3. Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.
4. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
5. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.
6. An antenna that is an accessory use to a residential dwelling unit.

C. Permitted Uses: Permitted telecommunication facilities must comply with the General Plan, required setback and height restrictions, applicable landscaping requirements, and are subject to a site plan review by the Community Development Staff. All permitted telecommunication facilities must be located within an existing building, must utilize stealth design technology or other visual screening techniques that conceal the appearance of the equipment, or must be co-located with existing facilities that make use of stealth design or screening techniques. The following telecommunication facilities are classified as permitted uses:

1. Wall Mounted Antenna. Wall mounted antennas which comply with the following standards:

a. The proposed antenna is located on a parcel owned by a governmental entity or located within the Neighborhood Commercial (NC-1), General Commercial (GC-1), Central Commercial (CC-1), Industrial and Manufacturing (I&M-1), or Mining and Heavy Industry ((M&HM-1) zoning districts.

b. Wall mounted antennas shall not extend above the wall line of the building or extend more than four feet horizontally from the face of the building.

c. Antennas, equipment facilities, and the antenna support structure shall be constructed with stealth design to match the color of the building or structure and be architecturally compatible with building or background against which they are most commonly seen.

2. Roof Mounted Antenna. Roof mounted antennas which comply with the following standards:

a. The proposed antenna is located on a parcel owned by a governmental entity or located within the Neighborhood Commercial (NC-1), General Commercial (GC-1), Central Commercial (CC-1), Industrial and Manufacturing (I&M-1), or Mining and Heavy Industry ((M&HM-1) zoning districts.

b. Roof-mounted telecommunications facilities and antennas are allowed only on a flat roof and shall be screened, constructed and painted to match the structure to which they are attached. The planning commission may grant approval to place roof-mounted stealth antennas on a pitched roof if the antennas do not extend above the peak of the roof.

c. Roof-mounted antennas shall be mounted at least five feet behind any parapet wall. The maximum height of an antenna is limited by the screening effect of the architectural features of the building such that no portion of the antenna shall be visible when standing at any property line adjacent to the street. An antenna may not exceed a height of ten feet above the top of the parapet wall. An antenna may not extend more than fifteen feet above the roofline of the building unless the adverse impacts of the additional height are fully mitigated.

3. Collocation. Collocation of antennas on an existing monopole is a permitted use provided that the antennas do not extend more than 18 inches from the monopole and the equipment is located within the existing building or enclosure.

4. Stealth Design. Telecommunication facilities that incorporate stealth design technology and are located on a parcel owned by a governmental entity or located within the Neighborhood Commercial (NC-1), General Commercial (GC-1), Central Commercial (CC-1), Industrial and Manufacturing (I&M-1), or Mining and Heavy Industry ((M&HM-1) zoning districts.

5. Conversion. The conversion of existing flagpoles, light standards, athletic field lights, or other similar structures provided the existing height is not increased by more than 10 feet.

6. Utility Pole Antennas. Utility pole antennas may only be located on existing utility poles. The utility pole must be in compliance with City standards, specification and details for utility poles in order for it to be used for telecommunications antennas. Consistent with the use of public rights of way by other utility and cable providers, each telecommunications provider is required to enter into an agreement with the City prior to installing telecommunication facilities in the right of way.

D. Technical Exceptions: A proposed telecommunication facility that cannot be approved as a permitted use for technical reasons may request that a conditional use permit be issued by the Planning Commission. A proposal not utilizing a permitted telecommunication facility for other than reasons of demonstrable technical necessity shall be denied. The following standards shall apply to all telecommunication facilities approved by conditional use through a technical exception:

1. An independent radio frequency engineering review must be submitted that demonstrates that a technical exception is necessary to provide coverage that a permitted telecommunication facility cannot provide.

2. New monopoles may be constructed only through a technical exception.

E. All equipment facilities shall be located in an existing wireless telecommunications equipment shelter, the building to which it is attached, or designed to incorporate stealth design technology or other screening to conceal the appearance of the equipment facility. All power lines leading to the telecommunications facility shall be underground. When the equipment facility cannot otherwise be screened through the use of stealth design, existing vegetation or buildings the facility shall be screened by vegetation or fencing that is at least 75% opaque when seen from the any public or semi-public area.

F. Prohibited Uses: The following telecommunication facilities are not allowed in any zoning district:

1. Lattice Towers,

2. Whip antennas on wall mounted support structures, and

3. Any telecommunications facility not specifically listed herein as a permitted or conditional use.

G. Applicants seeking approval for a wireless telecommunication facility must submit an application on a form furnished by the City. In addition to the completed application form, a complete application shall contain the following information:

1. Documentation of the applicant's right, title, or interest in the property where the facility is to be sited, including name and address of the property owner and the applicant.

2. A copy of the FCC license for the facility or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.

3. Location map and elevation drawings of the proposed facility and any other proposed structures, showing color, and identifying structural materials.

4. For the proposed expansion of an existing facility, a signed agreement from the owner of the existing facility.

5. A site plan indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and a boundary survey for the project performed by a licensed land surveyor.

6. Elevation drawings of the proposed facility, and any other proposed structures.

7. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.

8. Telecommunication facilities requiring a technical exception shall submit a master plan that graphically illustrates the need for the proposed facility within the existing and/or future telecommunication network.

9. Telecommunication facilities requiring a technical exception shall submit evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:

a. Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements,

b. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements, and/or

c. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

H. Approval. Wireless telecommunications facilities that are permitted by this ordinance may be approved by the Community Development Director or designee. Technical exceptions and any application the Community Development Director deems to be in need of Planning Commission review may be issued by the Planning Commission.

H. Building Permits. Prior to the construction of any wireless telecommunication facility, the applicant shall obtain the proper building permits, road cut permits, and other permits as required by Mapleton City Code.

18.84.320: ~~RESERVED~~ AMATEUR COMMUNICATIONS/HAM RADIOS

A. This section shall apply to amateur radio antennas and support structures. The equipment and facilities mentioned herein shall be allowed in all zones within the City, and it is the City's intent to provide reasonable accommodation for such communications.

B. This section separates regulations governing amateur communications from commercial wireless communications facilities and related equipment, and establishes provisions relating to visual mitigation, r-f noise, engineering, residential impact, health, safety and facility siting. All facilities shall comply with the following regulations and all other ordinances of the City and any pertinent regulations of the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA).

C. Amateur radio antennas are regulated by the Federal Communications Commission (FCC). Amateur radio antennas and support structures that do not exceed the applicable height limit for a building in the same zone do not require a permit. Amateur radio antennas that are proposed to exceed the applicable height limit for a building in the same zone shall be approved by the Planning Commission as follows:

1. A building permit for an antenna support structure is to be submitted to the Community Development Department with the following items:

a. A site plan identifying the property boundary, location of existing buildings and structures, the proposed location for the support structure, an architecture elevation of the antenna and support structure, and the distance relationship between these illustrated items.

b. A letter documenting why a need to increase the height is necessary to achieve the communication capabilities desired. Support structures shall not exceed the height necessary to meet the technological requirements of installation.

c. Manufacturer's specifications for the antenna support structure, including details of footings, guy wires if required, and height; and

d. A copy of the applicant's Amateur Radio License.

2. No more than one amateur radio antenna and support structure per lot may be installed, and shall be located in the rear or side yard, of a home or main structure. The following additional standards shall apply:

a. Minimum setbacks for all amateur radio antennas and support structures shall be ten feet (10') from neighboring property lines and a minimum thirty feet (30') from the public right of way.

b. Antennas are to be installed on a building or property in the least conspicuous location possible as viewed from the public street.

c. Support structures shall be composed of non-reflective galvanized steel or aluminum, and shall not have obtrusive colors.

3. Building permits are required. The Community Development Director or designee will review building permit applications for amateur radio antennas and support structures that do not exceed the height limit for the applicable zoning district. Approval shall be granted unless the setback, location or coloring standards do not comply with the requirements found herein. The Community Development Director may refer an application made under this part to the Planning Commission for a decision in the case of a possible hazard or nuisance.

4. The Planning Commission, in considering the application, must apply the minimal practicable regulation necessary to achieve its goal of protecting the welfare of the community while ensuring the regulation will not impinge on the needs of the amateur operator to engage in amateur communications. The Planning Commission shall not deny an application for an amateur radio antenna and support structure unless it can be shown that a hazard or a nuisance is created that cannot be mitigated with reasonable conditions.

Chapter 18.08
DEFINITIONS

18.08.032: Amateur Radio Antenna:

“Amateur radio antenna” means an antenna which is used for transmitting and receiving radio signals from a radio station controlled by an operator licensed by the Federal Communications Commission.

18.08.033: Amateur Radio Antenna Support Structure:

“Amateur radio antenna support structure” means a lattice or pole structure which acts as a support to the Amateur radio antenna. Typical support structures are triangular or square in cross-section, crank-up, or guyed, and are constructed with galvanized steel or aluminum.

18.08.037: Antenna:

“Antenna” means a transducer, attached to a support structure, designed to transmit or receive electromagnetic waves.

18.08.097: Collocation:

“Collocation” means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

18.08.202: Lattice tower:

“Lattice Tower” means a support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

18.08.252: Monopole:

“Monopole” means a support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

18.08.297: Open Space:

“Open Space” means land devoted to conservation or recreational purposes and/or land designated by a municipality to remain undeveloped (may be specified on a zoning map).

18.08.388: Stealth Design:

“Stealth design” means the use of alternative support structures to blend or hide the communication equipment with the design, shape, or color of the structure. Examples of stealth are, but not limited to, field lights, clock towers, bell towers, water towers, flag poles, windmills, monuments, etc.

18.08.417: Telecommunication:

“Telecommunication” means the technology which enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

18.08.441: Wireless telecommunications antenna:

“Wireless telecommunications antenna” means the physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

18.08.442: Wireless telecommunications equipment shelter:

“Wireless telecommunications equipment shelter” means the structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

18.08.443: Wireless telecommunications facility:

“Wireless telecommunications facility” means a facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

18.08.444: Wireless telecommunications tower:

“Wireless telecommunications tower” means a structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.