

ORDINANCE NO. 22-1997

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart E, "Zoning," of the Abilene Municipal Code be amended as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

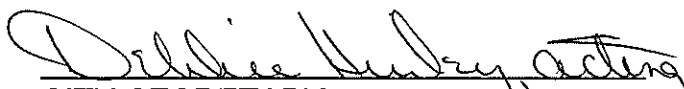
PART 3: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

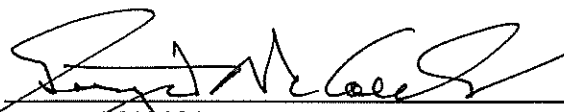
PASSED ON FIRST READING this 8 day of May A.D. 19 97.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 20 day of April, 19 97, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 9:00 a.m., on the 22 day of May, 19 97, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

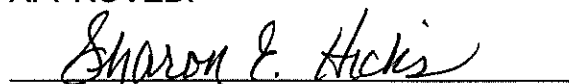
PASSED ON SECOND AND FINAL READING THIS 22 day of May, A.D. 19 97.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:


CITY ATTORNEY

00097

EXHIBIT "A"

Amend Section 23-306.4 PERMITTED USES
Transportation, Communication and Utilities

DELETE: Microwave Communication Facilities (attached to building) Microwave Communication Facilities
Radio Studios (with broadcast tower)
Radio Broadcast Tower
Television Studios (with broadcast tower)
Television Transmitting Stations and Relay Towers

ADD: Television Transmitting Stations and Relay Tower/Radio Broadcast Tower permitted as right of use (X) in CU, GC, HC, LI, HI, and non-residential PDD and as Special Exception (SE) in AO.

Radio or Television Studio (with broadcast tower) permitted as right of use (X) in CU, GC, HC, LI, HI, and non-residential PDD and (not allowed at all in AO).

Receive Only/Amateur Radio Antenna with conditions (C) in all districts.

Antenna Tower with conditions (C) in AO, CU, SC, GC, HC, LI, HI, non-residential PDD, MU.

Antenna on an Alternative Tower Structure with conditions (C) in all districts.

DELETE: Section 23-306.5.J.(6) and 23-306.5.J.(7)
CONDITIONAL USE PROVISIONS
Transportation, Communication and Utilities

(6) Microwave Communication Facilities (attached to structure)

Stub towers for microwave communication shall not extend more than twenty (20) feet above the maximum height of the structure upon which the stub tower is erected.

(7) Microwave Communication Facilities

For all towers on property abutting or directly across a street from a legal residential use, the tower shall be set back from the bounding lot line a minimum distance equal to the height of said tower.

ADD: Section 23-306.5.B CONDITIONAL USE PROVISIONS
Accessory and Incidental Use

(23) Receive Only/Amateur Radio Antenna

- (a) Free standing receive only or amateur radio antennas or antenna structures-including antenna may not be higher than twenty (20) feet above the maximum structure height for the zoning district in which the antenna is located and in no case shall such antenna and/or antenna structure exceed seventy (70) feet in height.
- (b) Roof mounted antennas may not extend more than twenty (20) feet above the highest point of the structure.

(24) Antenna on an Alternative Tower Structure

- (a) Such an antenna may not extend more than twenty (20) feet above the highest point of the structure.
- (b) In RS, RM, and MH districts such antennas are only permissible if on property that is legally developed with a non-residential use.

ADD: Section 23-306.5.J. CONDITIONAL USE PROVISIONS
Transportation, Communication and
Utilities

(6) Antenna Tower

- (a) Each applicant for one or more towers shall provide to the Planning Division, an inventory of its existing towers, including the location, height and design of each tower. The Planning Division shall maintain an inventory of towers.

- (b) No new antenna tower shall be permitted unless the tower is designed and constructed to accommodate co-location of antennas. The City of Abilene reserves the right to occupy space on any antenna tower constructed within its jurisdiction. No new antenna tower shall be constructed unless the applicant provides acceptable written evidence to the Planning Division that no existing tower or alternative tower structure can accommodate the applicant's proposed antenna. Such evidence may consist of the following:
- (1) No existing towers are located within the geographic area required that meet the engineering specifications of the proposed antenna, including, but not limited to, height and/or structural strength.
 - (2) An existing antenna or antenna facility would cause electromagnetic interference with the proposed antenna or the proposed antenna would cause electromagnetic interference with an existing antenna or facilities.
 - (3) The fee costs required to share an existing tower, or adapt an existing tower for sharing would exceed the cost of constructing a new tower.
- (c) All towers shall be separated from residentially zoned property by a minimum distance equal to the height of the tower. Otherwise, towers must meet the minimum setback requirements for the zoning district in which they are located. The tower as well as all structural support devices, including guy wires, shall meet the setback requirement.
- (d) Towers located in SC, GC, or MU districts may not exceed 200 feet in height.
- (e) Towers shall be enclosed by security fencing not less than six (6) feet in height and shall be equipped with an anti-climbing device.
- (f) All towers shall meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the Federal or State government with authority to regulate towers or antennas.
- (g) Any antenna or tower that is not operated for a continuous period of more than twelve (12) months shall be removed within 90 days of the end of the twelve (12) month period.

ADD: Section 23-363 DEFINITIONS

Alternative Tower Structure

Shall mean any building or other man-made structure, except for residential structures and structures accessory to residential uses.

Antenna

Any exterior apparatus designed for wireless radio, television, microwave or telephonic communication through the sending and/or receiving of electromagnetic waves.

Antenna Tower

Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas. For the purpose of this ordinance the term antenna tower shall not include Radio or Television Transmission towers or Receive Only/Amateur Radio Antennae.

Receive Only/Amateur Radio Antenna

Any tower or antenna that is under seventy (70) feet in height and is owned or operated by a federally licensed amateur radio station operator or is used exclusively for reception.