

City of Coral Gables Planning Department Staff Report

To: Planning and Zoning Board Members

From: Planning Department

Date: November 4, 2009

Subject: **Zoning Code Text Amendment – Article 5, Division 20, “Telecommunications”**. An Ordinance of the City Commission of the City of Coral Gables, Florida amending Article 5, Division 20, Telecommunications of the City Zoning Code, amending the previous “Amateur radio antennas” provisions to be renamed “Personal radio services antenna support structures” and amending Article 8, Definitions, providing for definitions; providing for severability, repealer, codification, and an effective date.

Recommendation

The Planning Department recommends approval of an Ordinance of the City Commission of the City of Coral Gables, Florida amending Article 5, Division 20, Telecommunications of the City Zoning Code, amending the previous “Amateur radio antennas” provisions to be renamed “Personal radio services antenna support structures” and amending Article 8, Definitions, providing for definitions; providing for severability, repealer, codification, and an effective date.

Background

On 07.08.09, Zoning Code text amendments for the installation of amateur radio antennas were reviewed and recommended for approval by the Planning and Zoning Board. The recommended amendments were considered and approved by the City Commission on first reading on 07.29.09, and adopted by the Commission on 08.25.09. Since then, additional input and comments have been received from the American Radio Relay League, Inc. (ARRL). A copy of the 09.02.09 ARRL letter is provided as Attachment A.

The Zoning Code text amendments incorporating the revisions suggested by the ARRL are now being brought forward for consideration. The revised amendments have been reviewed by City Staff, and are presented in the draft Ordinance in ~~strike thru~~ / underline format and also in a clean version (see Attachments B and C).

Public Hearing Timeline

Reconsideration of these Zoning Code amendments is under the purview of the Planning and Zoning Board and City Commission since it requires public hearing review. Upon recommendation from the Planning and Zoning Board, the revised text amendments are tentatively scheduled to proceed forward for public hearing before the City Commission as follows:

Zoning Code Text Amendment – Telecommunications

November 4, 2009

Page 2 of 2

City Commission, 1st Reading – November 17, 2009, 9:00 a.m.

City Commission, 2nd Reading – December 15, 2009, 9:00 a.m.

The above dates and times are subject to change.

Public Notification

The Planning and Zoning Board meeting agenda, Staff report and draft Ordinance are posted on the City web page.

Respectfully submitted,

Eric Riel, Jr.
Planning Director

Attachments:

- A. 09.02.09 ARRL letter.
- B. Revised Ordinance in ~~strike thru~~ / underline format.
- C. Revised Ordinance (clean copy).



September 2, 2009

The Honorable Donald Slesnick II
Mayor, City of Coral Gables
City Hall
405 Biltmore Way
Coral Gables, FL 33134

Reference Ordinance: "TELECOMMUNICATIONS"

Dear Mayor Slesnick:

We are in agreement of the present ordinance with the following changes:

1. Antennas are not load bearing therefore the ordinance should cover the support structure for antennas. Suggested name: "amateur radio support structures for antennas".
2. Limiting the number of antennas would hinder communication. Different kinds of antennas are required for long-range and short-range communications.
3. We agree that there should be only one preeminent support structures (tower) for antennas.
4. Towers should be defined as permanent structures affixed to a foundation. Poles and masts should be defined as non-permanent structures. Poles and masts are not permanent or have foundations as they are movable for better communication depending on atmospheric conditions and types of radio transmissions.
5. For safety, the antenna tower shall be cranked down to its nested position and/or tilted over in case of an impending hurricane or other natural disaster. The pole and mast should be dismantled.
6. Instead of using the phrase "citizens band operations" we suggest using "personal radio services in which license documents are neither needed nor issued by the FCC." This would cover the ten-plus services that are licensed free at this time or in the future.

Sincerely yours,

Felipe L. Calderon

American Radio Relay League, Inc. (ARRL)

Emergency Coordinator

Miami-Dade County

1430 Mendavia Avenue

Coral Gables, FL 33146

CC: Elizabeth M. Hernandez
City Attorney

CITY OF CORAL GABLES, FLORIDA

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ORDINANCE NO. 2009-___

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA AMENDING ARTICLE 5, DIVISION 20, TELECOMMUNICATIONS OF THE CITY ZONING CODE, AMENDING THE PREVIOUS "AMATEUR RADIO ANTENNAS" PROVISIONS TO BE RENAMED "PERSONAL RADIO SERVICES ANTENNA SUPPORT STRUCTURES" AND AMENDING ARTICLE 8, DEFINITIONS, PROVIDING FOR DEFINITIONS; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

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WHEREAS, it is the intent of the City of Coral Gables, Florida to exercise its authority to amend its previously enacted rules and regulations under Article 5, Division 20, Section 2001 et seq. of the Zoning Code with respect to the installation of antennas, antenna support structures, poles, masts and towers used for personal radio service operations in the City to the fullest extent allowed by Federal and State Law; and

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WHEREAS, after notice duly published, a public hearing was held before the Planning and Zoning Board on November 4, 2009, at which hearing all interested parties were afforded the opportunity to be heard; and

WHEREAS, the Board was presented with a text amendment to the Zoning Code and after due consideration, recommended _____ (___ - ___ vote) of the amendment; and

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WHEREAS, after notice duly published, a public hearing for First Reading was held before the City Commission on November 17, 2009 at which hearing all interested parties were afforded the opportunity to be heard; and

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WHEREAS, the City Commission was presented with a text amendment to the Zoning Code, and after due consideration and discussion, _____ (___ - ___ vote) the amendment on First Reading; and

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WHEREAS, it is the intent of the City that this Ordinance shall amend the existing regulations codified under Article 5, Division 20, entitled "Telecommunications" Section 2001 et seq. of the Zoning Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA, THAT:

SECTION 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this section.

SECTION 2. Section 5-2002(C) of the Zoning Code of the City of Coral Gables, Florida, in Article 5, Division 20, entitled “Telecommunications,” is hereby amended as follows:

Section 5-2002 (C):

~~Personal Radio Services~~~~Amateur radio operators~~ antennas. This Article shall not govern any telecommunications facilities owned and operated ~~for providing by a federally licensed~~ personal radio services~~amateur radio station and/or citizen band operators~~. Refer to Section 5-2011, for provisions applicable to personal radio services. ~~amateur radio station operators and/or citizens band operator’s provisions.~~

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SECTION 3. Section 5-2011 of the Zoning Code of the City of Coral Gables, Florida, in Article 5, Division 20, entitled “Telecommunications,” is hereby amended as follows:

Section 5-2011. Personal Amateur radio services antennas support structures.

~~Poles, masts and towers for supporting antenna~~ Antenna Support Structures used in the operation of ~~amateur radio station operators and/or citizen band operators~~ Personal Radio Services licensed by the Federal Communication Commission (FCC) for transmitting and receiving on the amateur radio frequencies shall be exempted from the provisions contained within this ~~Article~~ Division except as noted within this Section. Personal radio services’ Amateur radio antennas Antenna Support Structures shall be governed by the following:

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A. Application requirements and fees. An application shall comply with the requirements of sections 52003(B) (1), (3), (4) and (8). The City may establish a filing fee for such application and Section 52003(D) shall apply to such fee. The timeframes for review contained within Section 5-2003 shall not apply to such application. Other application requirements may be requested as determined by the Department completing the review.

B. Required reviews and permits.

1. By right review. Applications for Antenna Support Structures~~towers~~ less than fifty (50) feet in height shall be submitted to the Building and Zoning Department for review and permit issuance.
2. Conditional use review. Antennas Support Structures greater than fifty (50) feet in height require conditional use review pursuant to the Conditional Use provisions of the Zoning Code. Conditional use review applications shall be submitted to the Planning Department for review. The Department shall provide a recommendation which shall be forwarded for public hearing review by the Planning and Zoning Board and City Commission at which all interested persons shall be afforded an opportunity to be heard. The Planning and Zoning Board shall make a recommendation to the City Commission. The City Commission approval, if granted shall be in Resolution form at one advertised public hearing.

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3. Board of Architects review. Board of Architects review and approval is required for all applications. Prior to scheduling an application for a conditional use review, preliminary Board of Architects review and approval is required.

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4. Permits shall be required for installation of all ~~antennas~~ Antenna Support Structures, poles, and masts.

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If approval is recommended and/or granted, City Staff, the Planning and Zoning Board and City Commission may proscribe conditions and safeguards to such approval.

C. Requirements.

1. Such ~~Antenna Support Structures~~ antennas, pole, mast and towers as a minimum shall be subject to the following standards.

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a. Measurement of height. In computing the height of the installation, the top section of the pole, mast or tower, including antenna array, when fully extended, shall be considered the top for the purpose of these provisions.

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b. Permitted locations and number permitted. A maximum of one (1) Antenna Support Structure ~~amateur radio antenna~~ shall be permitted on each building site with a SFR, MF1, MF2, and MFSA zoning districts.

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c. Building site location. ~~Antenna Support Structures, pole, mast and towers~~ shall be located behind the required primary/principle building within the rear and interior side yard of the property. Antenna Support Structures ~~Antennas~~ are prohibited within the front and side street yard areas.

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d. Setbacks. ~~Antennas~~ Antenna Support Structures, pole, mast, antenna array and beam elements shall maintain the same rear and side setbacks as required for the principal building of the building site. All of the above shall also be a minimum of eight (8) feet from any overhead utility line(s) and power line(s). Where such Antenna Support Structure ~~antennas, pole and mast are~~ is located on a building site which is fronting upon two or more streets and/or alleys, the Antenna Support Structure ~~antennas, pole and mast~~ shall maintain the same primary/principle building setback as required for each such street or alley.

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e. Dismantling/tilting provisions for Antenna Support Structures ~~antenna~~ exceeding fifty (50) feet in height. An ~~antenna~~ Antenna Support Structure, pole and mast exceeding fifty (50) feet in height shall have the capability of being cranked up and down or being tilted over. Tilted Antenna Support Structures ~~poles~~ shall comply with all setbacks contained herein. In case of an impending hurricane or other natural disasters, the ~~antenna~~ Antenna Support Structure, pole and mast shall be cranked down to its nested position or tilted over and antenna shall be removed. Antenna engaged in

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emergency communications shall be exempted from the dismantling provisions.

f. Installation. The installation or modification of an ~~antenna~~ Antenna Support Structure pole, mast and foundation shall be in accordance with the manufacturer's prescribed installation and safety procedures and shall meet all applicable City, State and Federal requirements, as amended including but not limited to following: Florida Building Code, City Code, Zoning Code, National Electric Code and F.C.C. regulations.

D. Violations. Violations of any conditions and safeguards, when made part of the terms under which the application is approved, shall be deemed grounds for revocation of the ~~application~~ permit and punishable as a violation of the Zoning Code.

SECTION 4. Article 8, Definitions of the Zoning Code of the City of Coral Gables, Florida, is hereby amended as follows:

Antenna support structures means any poles, masts, towers and/or support structures for supporting antenna used in the operation of personal radio services.

Personal radio services include the following services as defined by the Federal Communications Commission (FCC) as amended: the General Mobile Radio Service, the Family Radio Service, the Radio Control Radio Service, the Citizens Band Radio Service, the Low Power Radio Service, the Wireless Medical Telemetry Service, the Medical Device Radio Communication Service, the Multi-Use Radio Service, and the Dedicated Short-Range Communications Service On-Board Units. Personal Radio Services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other wireless services. The range of applications is wide, spanning from varied one- and two way voice communications systems to non-voice data transmission devices used for monitoring patients or operating equipment by radio control. Licensing and eligibility rules vary. Some personal radio services require a license grant from the FCC, while others require only the use of equipment that is properly authorized under the FCC's rules. The personal radio services are:

Citizens Band (CB) Radio Service - 1-5 mile range two-way voice communication for use in personal and business activities.

Family Radio Service (FRS) - 1 mile range Citizen Band service for family use in their neighborhood or during group outings.

General Mobile Radio Service (GMRS) - 5-25 mile range Citizen Band service for family use in their neighborhood or during group outings.

Low Power Radio Service (LPRS) - private, one-way communications providing auditory assistance for persons with disability, language translation, and in educational settings, health care, law, and AMTS coast stations.

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Medical Implant Communications Service (MICS) - for transmitting data in support of diagnostic or therapeutic functions associated with implanted medical devices.

Multi-Use Radio Service (MURS) - private, two-way, short-distance voice or data communications service for personal or business activities of the general public.

Personal Locator Beacons (PLB) - used by hikers, and people in remote locations to alert search and rescue personnel of a distress situation.

Radio Control Radio Service (R/C) - one-way non-voice radio service for on/off operation of devices at places distant from the operator.

Wireless Medical Telemetry Service (WMTS) - for remote monitoring of patients' health through radio technology and transporting the data via a radio link to a remote location, such as a nurses' station.

SECTION 5. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

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SECTION 6. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

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SECTION 7. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of Ordinance No. 2007-01 as amended and known as the "Zoning Code" of the City of Coral Gables, Florida, which provisions may be renumbered or re-lettered and the word ordinance be changed to "section", "article", or other appropriate word to accomplish such intention.

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SECTION 8. This ordinance shall become effective upon the date of its adoption herein.

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PASSED AND ADOPTED THIS _____ DAY OF _____, A.D., 2009.

APPROVED:

DONALD D. SLESNICK II
MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ
CITY ATTORNEY

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CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2009-____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA AMENDING ARTICLE 5, DIVISION 20, TELECOMMUNICATIONS OF THE CITY ZONING CODE, AMENDING THE PREVIOUS "AMATEUR RADIO ANTENNAS" PROVISIONS TO BE RENAMED "PERSONAL RADIO SERVICES ANTENNA SUPPORT STRUCTURES" AND AMENDING ARTICLE 8, DEFINITIONS, PROVIDING FOR DEFINITIONS; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City of Coral Gables, Florida to exercise its authority to amend its previously enacted rules and regulations under Article 5, Division 20, Section 2001 et seq. of the Zoning Code with respect to the installation of antennas, antenna support structures, poles, masts and towers used for personal radio service operations in the City to the fullest extent allowed by Federal and State Law; and

WHEREAS, after notice duly published, a public hearing was held before the Planning and Zoning Board on November 4, 2009, at which hearing all interested parties were afforded the opportunity to be heard; and

WHEREAS, the Board was presented with a text amendment to the Zoning Code and after due consideration, recommended _____ (___ - ___ vote) of the amendment; and

WHEREAS, after notice duly published, a public hearing for First Reading was held before the City Commission on November 17, 2009 at which hearing all interested parties were afforded the opportunity to be heard; and

WHEREAS, the City Commission was presented with a text amendment to the Zoning Code, and after due consideration and discussion, _____ (___ - ___ vote) the amendment on First Reading; and

WHEREAS, it is the intent of the City that this Ordinance shall amend the existing regulations codified under Article 5, Division 20, entitled "Telecommunications" Section 2001 et seq. of the Zoning Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA, THAT:

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Section 5-2002 (C):

Personal Radio Services antennas. This Article shall not govern any telecommunications facilities owned and operated for providing personal radio services. Refer to Section 5-2011, for provisions applicable to personal radio services.

SECTION 3. Section 5-2011 of the Zoning Code of the City of Coral Gables, Florida, in Article 5, Division 20, entitled “Telecommunications,” is hereby amended as follows:

Section 5-2011. Personal radio services antenna support structures.

Antenna Support Structures used in the operation of Personal Radio Services shall be exempted from the provisions contained within this Article except as noted within this Section. Personal radio services’ Antenna Support Structures shall be governed by the following:

A. Application requirements and fees. An application shall comply with the requirements of sections 52003(B) (1), (3), (4) and (8). The City may establish a filing fee for such application and Section 52003(D) shall apply to such fee. The timeframes for review contained within Section 5-2003 shall not apply to such application. Other application requirements may be requested as determined by the Department completing the review.

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- 2. Conditional use review. Antennas Support Structures greater than fifty (50) feet in height require conditional use review pursuant to the Conditional Use provisions of the Zoning Code. Conditional use review applications shall be submitted to the Planning Department for review. The Department shall provide a recommendation which shall be forwarded for public hearing review by the Planning and Zoning Board and City Commission at which all interested persons shall be afforded an opportunity to be heard. The Planning and Zoning Board shall make a recommendation to the City Commission. The City Commission approval, if granted shall be in Resolution form at one advertised public hearing.*
- 3. Board of Architects review. Board of Architects review and approval is required for all applications. Prior to scheduling an application for a conditional use review, preliminary Board of Architects review and approval is required.*
- 4. Permits shall be required for installation of all Antenna Support Structures.*

If approval is recommended and/or granted, City Staff, the Planning and Zoning Board and City Commission may proscribe conditions and safeguards to such approval.

C. Requirements.

- 1. Such Antenna Support Structures as a minimum shall be subject to the following standards.*
 - a. Measurement of height. In computing the height of the installation, the top section of the pole, mast or tower, including antenna array, when fully extended, shall be considered the top for the purpose of these provisions.*
 - b. Permitted locations and number permitted. A maximum of one (1) Antenna Support Structure shall be permitted on each building site with a SFR, MF1, MF2, and MFSA zoning districts.*
 - c. Building site location. Antenna Support Structures shall be located behind the required primary/principle building within the rear and interior side yard of the property. Antenna Support Structures are prohibited within the front and side street yard areas.*
 - d. Setbacks. Antenna Support Structures shall maintain the same rear and side setbacks as required for the principal building of the building site. All of the above shall also be a minimum of eight (8) feet from any overhead utility line(s) and power line(s). Where such Antenna Support Structure is located on a building site which is fronting upon two or more streets and/or alleys, the Antenna Support Structure shall maintain the same primary/principle building setback as required for each such street or alley.*
 - e. Dismantling/tilting provisions for Antenna Support Structures exceeding fifty (50) feet in height. An Antenna Support Structure exceeding fifty (50) feet in height shall have the capability of being cranked up and down or being tilted over. Tilted Antenna Support Structures shall comply with all setbacks contained herein. In case of an impending hurricane or other natural disasters, the Antenna Support Structure shall be cranked down to its nested position or tilted over and antenna shall be removed. Antenna engaged in emergency communications shall be exempted from the dismantling provisions.*
 - f. Installation. The installation or modification of an Antenna Support Structure and foundation shall be in accordance with the manufacturer's prescribed installation and safety procedures and shall meet all applicable City, State and Federal requirements, as amended including but not limited to following: Florida Building Code, City Code, Zoning Code, National Electric Code and F.C.C. regulations.*

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SECTION 5. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

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SECTION 8. This ordinance shall become effective upon the date of its adoption herein.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D., 2009.

APPROVED:

DONALD D. SLESNICK II
MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ
CITY ATTORNEY