

Chapter 14

Article 1: Separately Regulated Use Regulations

Division 4: Institutional Use Category--Separately Regulated Uses

§141.0420 Wireless Communication Facilities

Wireless communication facilities are permitted as a limited use in accordance with Process One in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and for Spectrum Act eligible wireless communication facilities are permitted as a limited use, subject to the regulations in Section 141.0420. *Wireless communication facilities* that do not comply with Section 141.0420(c)(1) or are in the zones indicated with an “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) may also be permitted with a Neighborhood Use Permit, subject to the regulations in Section 141.0420(d). *Wireless communication facilities* may also be permitted with a Conditional Use Permit decided in accordance with Process Three, in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), except that *wireless communication facilities* in areas described in Section 141.0420(f) may be permitted with a Conditional Use Permit decided in accordance with Process Four, in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations:

- (a) [No change.]
- (b) General ~~Rules~~ Regulations for Wireless Communication Facilities
 - (1) through (5) [No change.]
 - (6) “Spectrum Act eligible wireless communication facilities” are wireless communication facilities that consist of modifications or collocations that will not result in a substantial change to the physical dimensions of existing wireless towers or base stations and that comply with generally applicable building, structural, electric and safety codes and all other objective standards pursuant to the Land Development Code related to health and safety. Spectrum Act eligible wireless communication facilities are subject to Section 142.0420(c)(1)(D).
 - (7) For the purposes of this Section the following definitions shall apply:
 - (A) Base Station. A structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communications between user

equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base Station includes, without limitation:

- (i) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- (ii) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (DAS) and small-cell networks).
- (iii) Any structure other than a tower that, at the time the relevant application is filed with the City under this Section, supports or houses equipment described in paragraphs Section 141.0420(b)(7)(A)(i) and Section 141.0420(b)(7)(A)(ii) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

The term does not include any structure that, at the time the relevant application is filed with the City under this Section, does not support or house equipment described in Section 141.0420(b)(7)(A)(i) and Section 141.0420(b)(7)(A)(ii).

- (B) Collocation. The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- (C) Eligible Facilities Request. Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:
 - (i) Collocation of new transmission equipment;

- (ii) Removal of transmission equipment; or
 - (iii) Replacement of transmission equipment.
- (D) Eligible support *structure*. Any tower or base station as defined in this Section, provided that it is existing at the time the relevant application is filed with the City under this Section.
- (E) Existing. A constructed tower or base station is existing for purposes of this Section if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and reviewed because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this Section.
- (F) Site. For towers other than towers in the *public right-of-way*, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support *structures*, further restricted to that area in proximity to the *structure* and to other transmission equipment already deployed on the ground.
- (G) Substantial Change. A modification substantially changes the physical dimensions of an eligible support *structure* if it meets any of the following criteria:
 - (i) For towers other than towers in the *public right-of-way*, it increases the *height* of the tower by more than 10% or by the *height* of one additional *antenna* array with separation from the nearest existing *antenna* not to exceed 20 feet, whichever is greater; for other eligible support *structures*, it increases the *height* of the *structure* by more than 10% or more than 10 feet, whichever is greater;
 - (ii) For towers other than towers in the *public right-of-way*, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the Tower *structure* at the level of the appurtenance, whichever is greater; for other eligible support *structures*, it involves adding an appurtenance to the body of the *structure* that would

- protrude from the edge of the *structure* by more than 6 feet;
- (iii) For any eligible support *structure*, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets; or, for towers in the *public right-of-way* and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the *structure*, or else involves installation of ground cabinets that are more than 10% larger in *height* or overall volume than any other ground cabinets associated with the *structure*;
- (iv) It entails any *excavation* or deployment outside the current site;
- (v) It would defeat the concealment elements of the eligible support *structure*; or
- (vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support *structure* or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in Section 141.0420(b)(7)(G)(i) through Section 141.0420(b)(7)(G)(iv).
- (H) Transmission Equipment. Equipment that facilitates transmission for any Federal Communications Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, *antennas*, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- (I) Tower. Any *structure* built for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized *antennas* and their associated

facilities, including *structures* that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

(c) Limited Use Regulations

- (1) *Wireless communication facilities* are permitted as a limited use subject to the following regulations:
 - (A) Except as provided in Section 141.0420(d), *wireless communication facilities* in Industrial Zones.
 - (B) Except as provided in Section 141.0420(d), *wireless communication facilities* in Commercial Zones.
 - (C) Collocation of *wireless communication facilities* to existing ~~monopoles~~ *monopoles* that do not increase the area occupied by the *antennas* by more than 100 percent of the originally approved *wireless communication facilities* and do not increase the area occupied by an outdoor equipment enclosure more than 150 square feet beyond the originally approved *wireless communication facilities*.
 - (D) Notwithstanding any other provision of the Land Development Code, Spectrum Act *wireless communication facilities* will be approved as a limited use.
- (2) *Wireless communication facilities* in the *public right-of-way* within or adjacent to City owned property, dedicated in perpetuity, for park or recreation purposes, may be permitted with a Neighborhood Use Permit.

(d) through (i) [No change.]

[Editor's note. Spectrum Act refers to Title VI, section 6409(a) of the 2012 Middle Class Tax Relief and Job Creation Act now codified at 47 U.S.C. section 1455 ("Section 6409 Wireless Facilities Deployment") and Federal Communications Commission Report and Order FCC-14-153 ("Wireless Infrastructure Order").]