

**City Of Aztec
ORDINANCE 2018-483**

Amending Chapter 26, Article III, Division 2. Communications Tower and Antenna

WHEREAS: It has many years since the Communications Tower and Antennae has been amended; and

WHEREAS The Community Development staff has been reviewing Chapter 26 and has determined a number of areas which need to be amending in this chapter;

NOW THEREFORE BE IT ORDAINED By the Governing Body of The City of Aztec, New Mexico that Ordinance 2008-483 amending Chapter 26, Article III, Division 2. Communications Tower and Antenna (as attached) is

PASSED, APPROVED, SIGNED AND ADOPTED this _____ day of _____, 2018.

By the Aztec City Commission, City of Aztec, New Mexico.

Mayor Victor C. Snover

ATTEST:

Karla Sayler, City Clerk

APPROVE AS TO FORM:

????, City Attorney

ADVERTISED DATE OF FINAL ADOPTION: _____

EFFECTIVE DATE OF ORDINANCE: _____

ARTICLE III. SUPPLEMENTARY REGULATIONS

DIVISION 2. COMMUNICATIONS TOWER AND ANTENNA

Sec. 26-3-141. In General.

1. All new towers or antennas in the City of Aztec shall be subject to these regulations. Preexisting towers and preexisting antennas shall not be required to meet the requirements.
2. **Antennas and towers may be considered either principal or accessory uses to the principal use of the property.**
3. **Site Suitability.** In addition to other applicable standards of this section, the city shall consider the following in determining site suitability: height proposed; proximity to other uses, proximity to historic sites and landmarks, vehicle traffic routes, proximity to medical facilities, proposed signs, topographical features, utilities, access, and suitability of alternative sites.
4. **State and federal requirements.** All towers, antennae, and wireless communication facilities must meet or exceed standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate them or their components. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and unless a different compliance schedule is mandated by controlling law.
5. **Maintenance.** Towers, antennae, and wireless communication facilities shall be maintained in compliance with standards contained in the current New Mexico Building Code and the applicable health and safety standards established by the FCC, the city, or other governmental bodies having jurisdiction, as amended periodically. Towers, antennae and wireless communications facilities, which are not in compliance, shall be removed at the owner's expense if not brought into compliance within 30 days after written demand by the city.
6. **Engineered Design.** Any information of an engineering nature that the applicant submits, whether civil, mechanical, structural or electrical, shall be certified by a New Mexico licensed professional engineer.
(Code 2007, 26-141)

Sec. 26-3-142. Height Restrictions.

1. **Freestanding.**
 - 1) *Residential.* Freestanding tower with height not exceeding 35 feet is a permitted conditional use; height exceeding 35 feet requires a special use permit.
 - 2) *Office-Institutional.* Freestanding tower with height not exceeding 35 feet is a permitted conditional use; height exceeding 35 feet requires a special use permit.
 - 3) *Commercial.* Freestanding or guyed tower with height not exceeding 100 feet is a permitted conditional use; height exceeding 100 feet requires a special use permit.
 - 4) *Manufacturing/Industrial.* Freestanding or guyed tower with height not exceeding 200 feet is permitted conditional use; height exceeding 200 feet requires a special use permit.

- 5) *Agricultural-Rural*. Freestanding or guyed tower with height not exceeding 100 feet permitted conditional use, height exceeding 100 feet requires a special use permit.
- 6) *PUD*. Tower with height specified in approved plan is permitted under conditions set forth in plan.

2. Attached to structure.

- 1) All Districts. Tower and/or antenna mounted on building, water tank or structure other than a freestanding or guyed communications tower must not extend more than 30 feet above the highest part of the structure.
(Code 2007, 26-142)

Sec. 26-3-143. Application Requirements.

The applicant for a conditional use land use permit for construction of a communications tower or placement of a commercial telecommunication antenna on an existing structure other than a tower previously permitted must file with the Planning Department an application accompanied by a fee of \$350.00 and the following documents, if applicable:

1. Specifications. One copy of typical specifications for proposed structures and antennae, including description of design characteristics and material.
2. Site Plan. A site plan drawn to scale showing property boundaries, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscaping plan, and existing land uses on adjacent property; (site plan not required if antenna is to be mounted on an approved existing structure).
3. Tower Location Map. A current map, or update for an existing map on file, showing locations of applicant's antennae, facilities, existing towers, and proposed towers which are reflected in public records, serving any property within the city.
4. Antenna Capacity / Wind Load. A report from a structural engineer registered in New Mexico showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANSI/EIA/TIA 222 (latest revision) standards.
5. Antenna Owners. Identification of the owners of all antennae and equipment to be located on the site.
6. Owner Authorization. Written authorization from the site owner for the application.
7. FCC License. Evidence that a valid FCC License for the proposed activity has been issued.
8. Visual Impact Analysis. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
9. Removal Agreement. A written agreement to remove the tower and/or antenna within 180 days after cessation of use.
10. Conditions Met. Evidence that applicable conditions are met.

11. Additional Information. Additional information required by the City Planner for determination that all applicable land use regulations are met.
(Code 2007, 26-143)

Sec. 26-3-144. Conditions.

Applicant must show that all applicable conditions are met.

1. Collocation. A proposed tower shall be structurally and electrically designed to accommodate the applicant's antenna and comparable antennas for additional users. Towers shall be designed to allow for future -rearrangement of antennas and to accept antennas mounted at varying heights.
2. Inability to Locate on Existing Property. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirements without unreasonable modifications on any existing structure or tower under the control of applicant.
3. Location / Visual Impact. The proposed communications tower, antenna or accessory structure will be placed in a reasonably available location which will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements. **To further mitigate visual impact the following shall be implemented:**
 - 1) **Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.**
 - 2) **Towers and antennas shall be of monopole design unless the city commission determines that an alternative design would be more appropriate to or better blend in with the surrounding environment.**
4. Necessity for Location in Residential District. Applicant for a permit in a residential district must show that the area cannot be adequately served by a facility placed in a non-residential district for valid technical reasons.
5. Public Property or Other Private Property Not Suitable. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites occupied by a compatible use, are unsuitable for operation of the facility under applicable communications regulations and applicant's technical design requirements.
6. Design for Multiple Use. Applicant must show that a new tower is designed to accommodate additional antennae equal in number to applicant's present and future requirements.
7. Safety Codes Met. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.
8. Paint; Illumination. A communications tower must not be painted or illuminated unless otherwise provided by state or federal regulations.
9. Distance from Existing Tower. A permit for a proposed tower site within 1,000 feet of an existing tower shall not be issued unless the applicant certifies that the existing tower does not meet

applicant's structural specifications and applicant's technical design requirements, or that a collocation agreement could not be obtained.

10. Indemnity; Claim Resolution. Applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Planning Department a written indemnification of the municipality and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the municipality, in form approved by the municipal attorney.
11. Application of Land Use Requirements. Land development regulations, visibility, fencing, screening, landscaping, parking, access, lot size, exterior illumination, sign, storage, and all other general land use district regulations except setback and height, shall apply to the use. Setback and height conditions in this section apply.
12. ~~Minimum Setbacks. A tower must be a minimum distance equal to one-half the height of the tower from property designated historic or architecturally significant, and must be setback from all lot lines distances equal to the district setback requirements or 25% of the tower height, whichever is greater.~~
The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, standard setback requirements may be decreased if the goals of this section would be better served thereby:
 - 1) Towers must be set back from any lot line a distance equal to the height of the tower.
 - 2) Guy wires, accessory or related structures or control buildings shall be subject to the minimum setback requirements of the underlying zoning district
13. Tower Accessory Building and Structure Design. The design and color of accessory or related structures or control buildings shall be architecturally designed to blend in with the surrounding buildings and environment.
14. Fences and Walls. A fence or wall not less than six feet in height from finished grade shall be constructed around each communication tower and around each guy anchor and peripheral support.

(Code 2007, 26-144)

Sec. 26-3-145 Landscaping and Screening.

1. Ground- and rooftop-mounted mechanical equipment shall be screened from view off-site in accordance with the screening standards.
2. Perimeter trees shall be used to help screen the tower from residences in accordance with the requirements of the subsection.

Sec. 26-3-146. Signs.

No signs shall be allowed on a tower or antenna; provided, however, where high voltage is necessary for the operation of the communication tower and it is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large bold letters the following: "HIGH VOLTAGE DANGER."

Sec. 26-3-147. Removal.

1. Towers and antennae shall be removed, at the owner's expense, within 180 days of the discontinuance of use unless the city extends this time in writing.
2. An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The director may extend the time for removal or reactivation of up to 60 additional days upon a showing of good cause. If the tower and antennae are not timely removed, the city may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the city may remove the structure at the cost of the owner.
3. Upon removal of the wireless telecommunication facility, the site shall be returned to its natural state and topography and vegetated consistent with the natural surroundings.

Sec. 26-3-148. Definitions.

Alternative tower structure

Clock towers, bell steeples, light poles and similar mounting structures that camouflage or conceal the presence of antennas.

Antenna

Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves,, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Backhaul network

The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, an/or long distance providers, or the public switched telephone network.

Collocation

The provision of multiple antennas of more than one commercial wireless communication service provider or government entity on a single tower or structure.

Communications tower

As used in this Division shall mean any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self -supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

Preexisting towers/antennas

Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance.

Telecommunications

As defined in the federal Telecommunications Act of 1996, means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(Code 2007, 26-145)

Sec. 26-3-149 to 26-3-150. Reserved.