

ORDINANCE NO. 2016-09

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SAFETY HARBOR, FLORIDA, AMENDING ARTICLE IV, SPECIAL REGULATIONS, OF THE CITY OF SAFETY HARBOR COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE, SECTION 63.01 TO PROVIDE FOR DEFINITIONS OF SUBSTANTIAL CHANGE AND TRANSMISSION EQUIPMENT, SECTION 63.03 TO PROVIDE CRITERIA FOR PERMITTING ACCESSORY ANTENNAS, SECTION 63.09 TO PROVIDE FOR APPROVAL OF CO-LOCATION, RELOCATION, AND REMOVAL; PROVIDING FOR PUBLICATION IN ACCORDANCE WITH THE REQUIREMENTS OF LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Safety Harbor, through the Safety Harbor Comprehensive Zoning and Land Development Code, currently regulates the installation and placement of telecommunications towers throughout the City; and

WHEREAS, the regulations by the City are subject to federal regulations imposed by Congress, the Federal Communications Commission (FCC), and the Federal Aviation Administration; and

WHEREAS, the United States Congress passed the Middle Class Tax Relief and Job Creation Act of 2012, which included provisions relating to the co-location, replacement, and removal of certain telecommunications towers; and

WHEREAS, the City Commission of the City of Safety Harbor desires to amend the Safety Harbor Comprehensive Zoning and Land Development Code to comply with the recent federal legislation and FCC interpretations thereof concerning co-location, replacement, and removal of certain telecommunications towers.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SAFETY HARBOR, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED THAT:

SECTION 1. Section 63.01 of Article IV, Special Regulations, of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby amended as follows:

63.01 Definitions.

(A) *Accessory antennas*: A facility that is an accessory to an existing use or structure, and is clearly incidental to or subordinate in terms of purpose, area and extent.

(B) *Antenna*: Any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.

(C) *Camouflage techniques*: Sometimes referred to as a concealed or stealth facility. A tower or antenna designed to unobtrusively blend into the existing surroundings, be disguised so as to not have the appearance of a communications facility, or be designed or located in such a manner that the tower or antenna is not easily discernable from the ground. These types of facilities may be attached or freestanding. Attached facilities may be camouflaged through the use of paint to match the building or structure, and through the use of faux windows, dormers or other architectural features that blend in with the building or structure. Examples of freestanding facilities include the form and shape of a tree, bell tower, steeple, clock tower, light standard, flagpole and other techniques which serve to diminish the visual impact of the tower or antenna.

(D) *FAA*: Federal Aviation Administration.

(E) *FCC*: Federal Communications Commission.

(F) *Height*: The distance measured from ground level to the highest point on the tower or other structure, even if the highest point on the tower or structure is the antenna.

(G) *Primary use*: The predominant use of the land or structure.

(H) *Substantial Change*: A modification substantially changes the physical dimensions of an existing support structure if it meets any of the following criteria:

(1) The modification increases the height of a tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, or will protrude from the edge of the tower more than twenty (20) feet; or

(2) For any other support structure, the modification increases the height of the structure by more than 10% or more than ten (10) feet, whichever is greater, or will protrude from the edge of the structure by more than six (6) feet; or

(3) The modification would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or the installation of more than one new equipment shelter; or

(4) The modification entails any excavation or deployment outside the current site.

(I) *Tower*: Any structure designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guy 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.

(J) *Transmission Equipment*: Equipment that facilitates the transmission for any FCC-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.

SECTION 2. Section 63.03 of Article IV, Special Regulations, of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby amended as follows:

63.03 Accessory telecommunications antenna.

(A) An accessory telecommunications antenna shall be permitted by right in all zoning districts subject to the following requirements:

- (1) The antenna is installed as accessory to any existing tower or other structure appropriate for antenna location; including, but not limited to, a building (with the exception of any single-family or two-family residence), sign, light pole, water tower, steeple, transmission tower or other freestanding structure; and
- (2) The antenna shall not add more than twenty (20) feet in height to the existing tower or structure; and
- (3) Other supporting equipment used in conjunction with the antenna shall be allowed as an accessory structure provided the equipment is appropriately screened or camouflaged; and
- (4) The antenna and supporting equipment must be of a neutral color that is identical to, or closely compatible with the color of the supporting structure to make the facility as visually unobtrusive as possible. Where the antenna is attached to an existing structure other than a co-location on an existing communications or electric transmission tower, alternative materials, textures and camouflage techniques shall be utilized to conceal the facility; and
- (5) Artificial lighting shall not be utilized unless required by the FAA or other applicable authority. Any required lighting shall be designed to minimize disturbance to adjoining properties and views; and
- (6) A building permit from the City shall be required; and
- (7) For antenna that co-locates on existing towers, a licensed professional engineer shall certify that the tower can support the number of shared users without structural or technological interference; and
- (8) For antenna that co-locates on existing towers, any request that does not substantially change the physical dimensions of such existing tower shall be permitted.

SECTION 3. Section 63.09(E) of Article IV, Special Regulations, of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby created and shall read as follows:

63.09 Approval process.

(E) All applications for the co-location of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment shall be approved following the application and review process, unless the co-location, removal, or replacement of the transmission equipment results in a substantial change in the physical dimensions of the tower or base station supporting the transmission equipment. A review of an application for the co-location, removal, or replacement of transmission equipment shall be processed within ninety (90) business days unless the application is scheduled for City Commission action at the regularly scheduled meeting following the 90-day period.

SECTION 4. This ordinance shall be published in accordance with the requirements of law.

SECTION 5. Each provision of this ordinance shall be deemed separate and severable and if any section or part thereof is held to be invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION 6. This ordinance shall become effective immediately upon its passage and adoption.

PASSED ON FIRST READING _____, a.d. 2016.

PASSED ON SECOND AND FINAL READING _____, a.d. 2016.

APPROVED AS TO FORM:

Alan S. Zimmet, City Attorney

ATTEST:

Karen Sammons, CMC, City Clerk

Mayor – Commissioner

Vice Mayor – Commissioner

Commissioner

Commissioner

Commissioner