

City of Coral Gables Planning Department Staff Report

To: Planning and Zoning Board Members

From: Planning Department

Date: July 8, 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, entitled “Telecommunications” of the City Zoning Code, by adding a section regulating the installation of amateur radio antennas; providing for severability, repealer, codification, and an effective date.

Background

Attached are proposed Zoning Code text amendments requested by the City Attorney's Office regarding the Code's provisions for the installation of amateur radio antennas. The proposed amendments have been reviewed by the City Attorney's Office and Building and Zoning Department, and are presented in draft Ordinance in ~~strike thru~~ / underline format (see Attachment A).

Public Hearing Timeline

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

City Commission, 1st Reading – July 29, 2009, 9:00 a.m.
City Commission, 2nd Reading – August 25, 2009, 9:00 a.m.

The above dates and times are subject to change.

Public Notification

The Planning and Zoning Board meeting agenda has been advertised and posted on the City web page. The Planning Department staff report and draft Ordinance are also posted on the City's web page.

Respectfully submitted,

A large, bold, handwritten signature in black ink, appearing to read 'ERJ', is written over the text 'Respectfully submitted,'.

Eric Riel, Jr.
Planning Director

Attachments:

A. Draft Ordinance.

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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, ENTITLED "TELECOMMUNICATIONS" OF THE CITY ZONING CODE, BY ADDING A SECTION REGULATING THE INSTALLATION OF AMATEUR RADIO ANTENNAS; 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, poles, masts and towers used for amateur and citizens band 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 July 7, 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 July 29, 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, _____ the amendment on First Reading (vote: _ - _); 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 that became effective on January 9, 2007.

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. Article 5, Division 20, entitled "Telecommunications", by amending section 5-2002(C) of the Zoning Code of the City of Coral Gables, Florida is hereby amended as follows:

Section 5-2002 (C):

~~Broadcasting facilities/amateur Amateur radio operators/receive only antennas. This Article shall not govern any broadcasting facility, telecommunications facilities owned and operated by a federally licensed amateur radio station and/or citizen band operators, or receive only Antennas. Refer to Section 5-2011, for amateur radio station operators and/or citizens band operator's provisions. Antennas as governed under this Article, shall not include any traditional residential television Antennas, satellite earth stations or microwave Antennas, which are governed under separate sections of this Article.~~

SECTION 3. There is hereby created in Article 5, Division 20, a new Section 5-2011 to provide:

Section 5-2011. Amateur radio antennas

Poles, masts and towers for supporting antenna used in the operation of amateur radio station operators and/or citizen band operators 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 Division except as noted within this Section. Amateur radio antennas shall be governed by the following:

- A. Application requirements and fees. An application shall comply with the requirements of sections 5-2003 B (1), (3), (4) and (8). The City may establish a filing fee for such application and Section 5-2003(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 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 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 antennas, poles, and masts. 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 antennas, pole, mast and towers 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 antennae 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) amateur radio antenna shall be permitted on each building site with a SFR, MF1, MF2, and MFSA zoning districts.
 - c. Building site location. Antennas, pole, mast and towers shall be located behind the required primary/principle building within the rear and interior side yard of the property. Antennas are prohibited within the front and side street yard areas.
 - d. Setbacks. Antennas, 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 antennas, pole and mast are located on a building site which is fronting upon two or more streets and/or alleys, the antennas, pole and mast shall maintain the same primary/principle building setback as required for each such street or alley.
 - e. Dismantling/tilting provisions for antenna exceeding fifty (50) feet in height. An antenna, pole and mast exceeding fifty (50) feet in height shall have the capability of being cranked up and down or being tilted over. Tilted poles shall comply with all setbacks contained herein. In case of an impending hurricane or other natural disasters, the antenna, pole and mast shall be cranked down to its nested position or tilted over. Antennae engaged in emergency communications shall be exempted from the dismantling provisions.
 - f. Installation. The installation or modification of an antenna, 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 and punishable as a violation of the Zoning Code.

SECTION 4. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 5. 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.

SECTION 6. 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.

SECTION 7. This ordinance shall become effective upon the date of its adoption herein.

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

DONALD D. SLESNICK II, MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ
CITY ATTORNEY