

SUBSTITUTE ORDINANCE NO. BL2009-462

An Ordinance amending Chapter 17.16 of Title 17 of the Metropolitan Code, Zoning Regulations, to add requirements pertaining to telephone service towers, all of which is more particularly described herein (Proposal No. 2009Z-009TX-001).

BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the codification of Title 17 of the Code of The Metropolitan Government of Nashville and Davidson County, Zoning Regulations, be and the same is hereby amended by amending Section 17.16.080 by deleting subsection C. in its entirety and substituting in lieu thereof the following new subsection C.:

C. Telephone Service.

1. An applicant for a telephone service tower, including a new microwave or cellular tower, shall provide the codes department with the following information at the time of application for the final site plan or building permit:
  - a. A schematic site plan, including schematic landscape plan with an elevation view of the type of facility to be placed on the site. The site plan shall depict where the tower is to be located on the site and where additional co-located communication equipment, shelters or vaults can be placed.
  - b. A statement justifying why co-location is not feasible. Such statement shall include:
    - (i) Such structure and technical information and other justifications as are necessary to document the reasons why co-location is not a viable option; and
    - (ii) The applicant shall provide a list of all existing structures considered as alternatives to the proposed location. The applicant shall provide a written explanation why the alternatives considered were either unacceptable or infeasible due to technical, physical, or financial alternatives.
  - c. Identification of the intended user(s) of the tower.
  - d. The applicant shall demonstrate that through location, construction, or camouflage, the proposed facility will have minimum visual impact upon the appearance of adjacent properties and the views and vistas from adjacent residential neighborhoods while remaining viable opportunities for future co-location.
  - e. Documentation of the number of other users that can be accommodated within the design parameters of the tower as proposed.
  - f. A statement indicating the owner's commitment to allow feasible shared use of the tower within its design capacity for co-location.

2. Landscape Requirements: Along all residential zone districts and districts permitting residential use, screening in the form of Landscape Buffer Yard Standard A shall be applied.

- a. The following plants are prohibited from being used in any District, to buffer a telephone service tower, including a new microwave or cellular tower due to problems with hardiness, maintenance, or nuisance: Kudzu Vine, Purple Loosestrife, Japanese Honeysuckle, Shrub Honeysuckle, Autumn Olive, Common Privet, Tree of Heaven, Lespedeza, Garlic Mustard, Paulownia, Multiflora Rose, Siberian Elm, Silver Poplar, Mimosa, Mulberry and Silver Maple.
- b. The maintenance standards set forth in Section 17.24.080 shall be applicable to all required landscaping.

3. Co-location requirements: New telephone service towers of a height of more than one hundred (150) feet and less than two hundred (200) feet must be designed and built to accommodate three (3) or more personal communication system carrier applications and must be made available upon reasonable terms for co-location to at least three (3) additional single antenna applications such as 911 and emergency management communications. Additionally, the site must be sufficiently large enough to accommodate at least three (3) telecommunication equipment shelters, cabinets or additions to existing structures. New telephone service towers of a height of two hundred feet (200) or more must be designed and built to accommodate at least three (3) personal communication system applications and at least three (3) additional single antenna applications plus at least one (1) additional personal communication system application and at least one additional single antenna application for each additional fifty (50) feet of height, to a maximum of six (6) personal service communication system carriers and six (6) single antenna applications, to be made available upon reasonable terms for co-location.

4. Setbacks. Telephone service towers shall be set back from all property lines on which the tower is located by the distance equal to the height of the lowest engineered failure point on the proposed structure or the height of the tower.

5. Height. The maximum height of telephone facilities shall be determined by the height control provisions of Chapter 17.12. Guy wire anchors, if used, shall be set back a minimum of five feet from all property lines. Where a proposed tower cannot comply with maximum height provisions, the applicant shall be required to submit for a special exception permit per Section 17.16.180(B)(1).

6. Lights. No lights shall be permitted on the tower except such lighting that is required by state or federal law.

7. Notification. Prior to the issuance of a zoning permit, and immediately after receiving an application for a new tower, the zoning administrator shall notify the district councilmember that an application for a new tower has been submitted. Such notification shall only be required when a tower is proposed within a residential district, a district permitting residential uses (excluding the MUI, ORI, CF, CC, and SCR districts), or within 1,000 feet of the zoning boundary line of a residential district or a district permitting residential uses. Within thirty days from the date on which the tower application was filed, the district councilmember may hold a community meeting on the proposed tower. If a meeting is held, the applicant shall attend and

provide information about the tower's safety, technical necessity, visual aspects, and alternative tower sites and designs considered.

8. Other requirements:

- a. Design standards: The proposed site plan and tower design plans meet or exceed all applicable standards, including without limitation those of the Federal Communications Commission (FCC), American National Standards Institute (ANSI), and Institute of Electrical and Electronics Engineers (IEEE) standards for power density levels and structural integrity, American Concrete Institute (ACI), American Standards Testing and Materials Institute (ASTM), the National Electrical Code, and the American Steel Institute.
- b. Final Site Plans: Final Site Plans shall be accompanied by a certification from a qualified structural engineer that the tower has sufficient structural integrity and equipment space to accommodate multiple users shall be required at the time of applying for a building permit.
- c. Landscape plans: Landscape plans that comply with the landscaping requirements of this ordinance shall be required at the time of applying for a building permit or final site plan.
- d. Removal of Abandoned Antennas and Towers: Any tower permitted under this chapter that is not operated as a personal communication system carrier application for a continuous period of twelve (12) months shall be considered abandoned and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the department of codes administration. Failure to do so shall be deemed to be a violation of these regulations. The owner of the antenna or tower may appeal the decision of the department of codes administration to the board of zoning appeals, but at such hearing shall be required to show just cause why the antenna or tower should not be considered abandoned and subject to removal.
- e. The telephone service tower must comply with building codes and other federal, state, and local regulations.

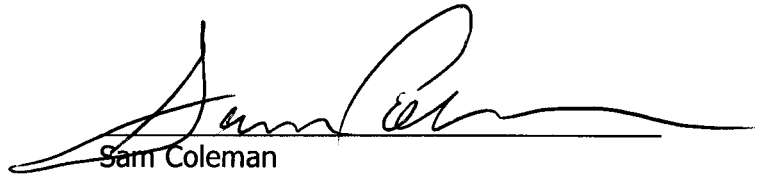
9. Exemptions: Notwithstanding any other provision of this Title to the contrary, the following circumstances shall be permitted by right:

- a. Concealed Devices - Communication equipment or any new structure that is integrated as an architectural feature of a structure so that the purpose of the facility for providing wireless services is not readily apparent to a casual observer or which is concealed within a building or structure so that it is architecturally indiscernible may be permitted in all zoning districts subject to building permit procedures and standards. Architecturally indiscernible shall mean that the addition or feature containing the antenna is architecturally harmonious in such aspects as material, height, bulk, scale and design with the building or structure to which it is to be a part.
- b. Additions To Existing Structures In Any Zoning District- An antenna, a dish or transmitter may be placed inside or on an existing structure, including but not limited to telephone service towers, steeples, silos, spires, utility water tanks or towers, athletic field lighting poles, utility poles and similar structures, subject to

building permit procedures and standards and provided the addition of the antenna and any supporting structure shall not exceed the height control provisions of Chapter 17.12 without obtaining a special exception permit.

Section 2. That this Ordinance shall take effect five (5) days from and after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Sam Coleman", written over a horizontal line.

Sam Coleman  
Member of Council