

## **SECTION 9426. WIRELESS COMMUNICATION FACILITIES.**

### **Section 9426.02. Intent and Purpose.**

The purpose of these requirements is to provide placement, design, and screening criteria to regulate the establishment of wireless communication facilities to protect the public health, safety, general welfare, and quality of life in the City, while providing needed flexibility to wireless communication providers. Additionally, these regulations protect the visual aesthetics of the community through the promotion of stealthing techniques that architecturally integrate or camouflage cellular facilities with their surroundings. This Section shall be applied on a competitively neutral and nondiscriminatory basis to all applicants for wireless communication facilities.

### **Section 9426.04. Development Regulations.**

- (A) Applicants proposing the development of wireless communication facilities in the City shall locate their antennas based on the following priorities:
- (1) Collocation onto an existing standalone/tower facility or on the side, roof, and/or penthouse of an existing building that has other wireless facilities.
  - (2) On the side, roof, and/or penthouse of an existing building that does not have other wireless facilities.
  - (3) Construction of a new standalone/tower facility.
- (B) Wireless communication facilities shall require approval of a Conditional Use Permit, pursuant to Section 9824, and shall be subject to the following regulations:
- (1) Wireless communication facilities shall not be located within the R-1 or R-2 Zones, except on non-residentially improved properties.
  - (2) In the R-3, R-3-O, and M-U zones, wireless communication facilities shall only be located on the side, roof, and/or penthouse of an existing building.
  - (3) In all other zones, wireless communication facilities may be located either on the side, roof, and/or penthouse of an existing building; or may be located on a new standalone/tower facility.
  - (4) In addition to findings set forth in Section 9824, when approving a wireless communication facility, the Commission shall make the following findings:
    - a. All antennas and equipment that are located on the side, roof, and/or penthouse of an existing building are properly integrated into the subject building's design so that they are not identifiable as such by a causal observer.

- b. Standalone/tower facilities have been stealthed in an architecturally appropriate manner and have been designed to be consistent with surrounding land uses.
  - c. The City Council may, by resolution, promulgate additional regulations that further define and clarify the stealthing requirements of Section 9426.04(B)(4), consistent with the intent and purpose of this Section 9426.
- (5) Wireless communication facilities shall not bear any signs or advertising devices except for warnings, certification, or other required seals or signing addressing public safety.
  - (6) All accessory equipment associated with the operation of a wireless communication facility shall be located within a building enclosure, or in an underground vault that complies with the development standards of the zone in which the accessory equipment is located. If the equipment is to be located above ground, it shall be housed in a structure that is visually compatible with the surrounding buildings and include sufficient landscaping to screen the structure from view.
  - (7) Facilities shall be constructed with colors and non-reflective materials that blend with their surroundings.
  - (8) Facilities should be located whenever possible where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.
  - (9) Ground-mounted facilities should be located whenever possible near light poles, trees, water tanks, church steeples, and in areas where the proposed facility will not excessively detract from the image of the City.
  - (10) All wireless communication facilities shall be located at the lowest possible height that will allow them to operate. In no case shall any such facility exceed the maximum permitted height for the applicable zone in which it is to be located, except as listed below:
    - a. Wireless communication facilities that are located on the roof of an existing building may extend to, and shall not exceed, a height of six (6) feet above the roof of the building.
    - b. Antennas that are collocated onto an existing standalone/tower facility, or on the side of a building, may be permitted at any height, provided the height of the standalone/tower facility or existing building is not increased and the antennas do not exceed the existing height of the standalone/tower facility or building.
    - c. Standalone/tower facilities shall not exceed a height of thirty-eight (38) feet in any zone, regardless of any other applicable height limitation for that zone.

- (11) Wireless communication facilities shall comply with all setback, building separation, lot coverage, landscaping, variable height, and all other additional standards established for the zone in which the tower facility is to be located, and as determined by the City Planner. (Amended by Ord. 1248, adopted 7-28-09)

#### **Section 9426.06. Applications.**

In addition to the submittal requirements set forth in Section 9824, the following information shall be submitted with an application for a wireless communication facility:

- (A) Maps of the immediate area that demonstrate network coverage within and without the proposed facility. Said maps shall illustrate, by capacity analysis, propagation analysis and/or decibel level, report the quality of service provided by the applicant both at present and after installation of the proposed wireless facility. The maps/reports shall indicate areas where coverage will be improved, and shall include areas where the applicant currently has no coverage, a significant degradation in coverage or “dead zones.”
- (B) Network master plan that shows the location (including address) of all existing and proposed wireless facilities for the provider within the City of Downey, as well as those located outside of the City of Downey that will serve areas within the City of Downey.
- (C) Photographic simulations that demonstrate how the facility will appear on the site, including all methods that will be used to stealth the facility from view.
- (D) A landscape plan illustrating all trees and foliage that are currently located on the site, and which illustrates new trees and foliage that will be placed on the site for stealthing purposes.
- (E) The applicant’s authorization for the City to retain an independent, qualified consultant to evaluate any technical aspect of the proposed wireless communication facility, including but not limited to, compliance with applicable FCC emissions standards, potential for interference with existing or planned public safety emergency response telecommunication facilities, the improvement in coverage due to the proposed wireless communication facility, or an analysis of the feasibility of alternate sites or stealthing methods. The application shall include a monetary deposit, as set by resolution of the City Council, and an agreement by the applicant to reimburse the City for all reasonable costs associated with the consultation.

An applicant may request a waiver from the requirements of this Section 9426, pursuant to the United States Telecommunications Act of 1996 (47 U.S.C. §332(c)(7)(B)(i)). The City shall have the right to retain the services of an independent, qualified consultant, at the applicant’s expense, as set forth in Section 9426.06(E), to evaluate the issues raised by the waiver request.

#### **Section 9426.08. Citizen Band Equipment.**

Persons establishing, constructing, operating, or maintaining citizen band equipment shall conform to all Federal Communications Commission (FCC) regulations and the Downey Municipal Code.

**Section 9426.10. Satellite Dish Antennas.**

Satellite dish antennas shall be reviewed and approved by the City Planner for compliance with the following development standards:

- (A) Satellite dish antennas shall not be permitted in the required front yard or street side yard (corner lots), except for the following:
  - (1) Satellite dish antennas including portable dish antennas two (2) feet in diameter or smaller.
- (B) Ground-mounted satellite dish antennas shall not exceed a height of fifteen (15) feet to the top of the dish.
- (C) All satellite dish antennas shall be supported on a stable, supported base or tower approved by the Building and Safety Division.
- (D) Application for permits for roof-mounted satellite dish antennas greater than two (2) feet in diameter shall be reviewed and approved through the Site Plan Review process by the Commission. The Commission shall require the applicant to demonstrate that a suitable location does not exist on the property for a ground-mounted antenna. Valid reasons for lack of suitability include electrical interference, lack of space due to existing property improvements, and conflict with other ordinances or easements.
- (E) The maximum diameter of a roof-mounted satellite dish antenna on the principal dwelling or accessory structure shall be five (5) feet, and the roof-mounted satellite dish antenna shall be restricted to the rear one-half ( $\frac{1}{2}$ ) of the principal dwelling or accessory structure from any street frontage.
- (F) The top of a roof-mounted antenna greater than two (2) feet in diameter shall not exceed five (5) feet from the top of the antenna to a point on the roof directly below.
- (G) The Commission shall require that the placement of each approved roof-mounted antenna in conformance with these regulations minimizes visibility from the street.

**Section 9426.12. Abandonment.**

- (A) Lawfully erected wireless communication facilities that are no longer being used shall be removed promptly from the premises and in no circumstance later than thirty (30) days after the discontinuation of said use. A facility is considered abandoned if it no longer provides wireless communication service. Such removal shall be in accordance with proper health and safety requirements.
- (B) All facilities determined to be abandoned and not removed within the required thirty (30) day period from the date of notice shall be in violation of this article, and operators of the facility and the owners of the property shall be subject to penalties for violations under Section 9426.14. The City may remove all abandoned facilities following the thirty (30)

day removal period at the operators' expense. Facilities removed by the City shall be stored for fifteen (15) days before being disposed of by the City.

**Section 9426.14. Violations and Penalties.**

Violations of this section shall constitute a misdemeanor punishable by fine or imprisonment or both pursuant to Chapter 2 of this article. Each day the violation continues is punishable as a separate offense pursuant to Article I, Chapter 2, Section 1200 of the Downey Municipal Code.