

COURT ORDER

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ORDER NO: 2010 0912

DATE: May 25, 2010

STATE OF TEXAS §

COUNTY OF DALLAS §

BE IT REMEMBERED, at a regular meeting of the Commissioners Court of Dallas County, Texas, held on the 25th day of May, 2010, on motion made by Mike Cantrell, Commissioner of District No. 2, and seconded by Maurine Dickey, Commissioner of District No. 1, the following Order was adopted:


WHEREAS, on May 18, 2010, the Dallas County Commissioners Court was briefed on a proposal to adopt regulations which would govern the location of communication facility structures within the County's unincorporated area; and

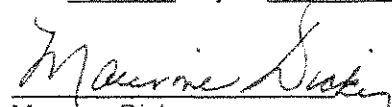
WHEREAS, these proposed regulations, by helping ensure that communication facility structures are appropriately located, will help protect the public's safety, will help facilitate effective communication, and will help minimize any adverse impact that such structures may have on the community, surrounding property values, and local sightlines; and

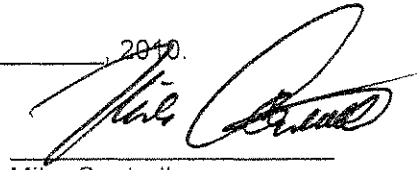
WHEREAS, the adoption of such regulations is consistent with the County's strategic plan which specifically recommends that the County take actions designed to protect the public's health and safety, to improve the public's quality of life, and to have the County become the destination of choice for businesses and residents.


IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Dallas County adopts the attached regulations which shall govern the location and the permitting of communication facility structures within the County's unincorporated area.

DONE IN OPEN COURT this the 25th day of May, 2010.


Jim Foster
County Judge


Maurine Dickey
Commissioner District #1


Mike Cantrell
Commissioner District #2


John Wiley Price
Commissioner District #3

ABSENT
Kenneth A. Mayfield
Commissioner District #4

Recommended by: 

REGULATION OF COMMUNICATION FACILITY STRUCTURES

SECTION 1. PURPOSE.

- 1.1 It is the purpose of these regulations to ensure that communication facility structures are located in such a manner so as to facilitate effective communication while protecting the public's safety and minimizing any adverse effects such structures may have on the community, surrounding property values, and local sightlines.

SECTION 2. AUTHORITY AND APPLICABILITY.

- 2.1 These regulations are authorized under Chapter 240 of the Texas Local Government Code, as amended, and apply only to residential subdivisions located within Dallas County's unincorporated area.

SECTION 3. DEFINITIONS.

- 3.1 ***Residential subdivision:*** A subdivision which has a plat recorded in the County's real property records, has a majority of its lots subject to deed restrictions which limit these lots to residential use, and includes at least five lots with existing residential structures.
- 3.2 ***Communication facility structure:*** Antenna support structures for mobile and wireless telecommunication facilities, whip antennas, panel antennas, microwave dishes, or receive-only satellite dishes; cell enhancers and related equipment for wireless transmission from a sender to one or more receivers for mobile telephones, mobile radio systems facilities, commercial radio service, or other services or receivers; or a monopole tower, a steel lattice tower, or any other communication tower supporting mobile and wireless telecommunication facilities.
- 3.3 ***Director of Planning & Development:*** Dallas County's Director of Planning & Development or his designee.

SECTION 4. LOCATION OF COMMUNICATION FACILITY STRUCTURE.

- 4.1 A communication facility structure subject to these regulations may not be located any closer to a residential subdivision than either 300 feet or a distance equal to the structure's height, whichever is greater.

SECTION 5. EXCEPTIONS.

- 5.1** The following types of community facility structures are not subject to SECTION 4:
- A. Existing communication facilities used for the purpose of colocation, provided the height is not increased by more than 10 feet.
 - B. A communication facility structure built to replace an existing structure if the replacement structure is constructed within 50 feet of the existing structure, it is no higher than and constructed for the same purpose as the existing structure, and the existing structure is removed no later than 14 days after the replacement structure begins operations.
 - C. A communications antenna, antenna facility, or antenna tower or support structure that is used by an amateur radio operator exclusively for amateur radio communications or public safety services.
 - D. Those communication facility structures that are not located in or near what is considered a residential subdivision.

SECTION 6. PERMIT PROCESS.

- 6.1** All individuals, businesses, and organizations interested in constructing or expanding a communication facility structure, including those exempted under SECTION 5, must submit a permit application to the Director of Planning & Development (411 Elm Street, 3rd Floor, Dallas, TX 75202).
- 6.2** Permit applications shall be in a form prescribed by the County, shall be accompanied by a \$50 application fee, and shall contain the following information:
- A. A contact name, firm name, address, and phone number for each of the firms responsible for operating the structure and for constructing the structure.
 - B. A schedule of when the structure is to be constructed.
 - C. A description of the type of structure to be constructed, including its height, proximity to any residential structures, and whether it is an expansion, new structure, or a replacement structure.

- D. A description of the height and location of any existing structure that is to be replaced by the proposed structure.
 - E. A plat or map of the specific proposed location of the structure.
 - F. Copies of any necessary permits from the Federal Communications Commission or the Federal Aviation Administration.
 - G. Any other information that the County may deem necessary.
- 6.3 Permit applications shall be used to determine whether a proposed communication facility structure will be constructed in a manner consistent with these regulations or whether the structure is exempt from these regulations.
- 6.4 No communication facility structure, including those exempted under SECTION 5, can be constructed without a permit issued by the Director of Planning & Development
- 6.5 Permits shall be issued for structures that are either consistent with these regulations or that are exempt from them. The party associated with a proposed structure that is not consistent with these regulations and that is not exempt from them will be informed in writing by the Director of Planning & Development that its permit request has been denied. This notification will also cite the reason(s) why the permit was denied.

SECTION 7. VARIANCES.

- 7.1 A person who desires to construct or increase the height of a communication facility structure in violation of these regulations may apply to the Dallas County Commissioners Court for a variance from these regulations.
- 7.2 A request for a variance must be made in writing and submitted to the County Administrator (411 Elm Street, 2nd Floor, Dallas, TX 75202) no later than fourteen (14) days following the denial of a communication facility structure permit from the Director of Planning & Development.
- 7.3 All variance requests shall describe what type of variance is being requested, why the imposition of these regulations without the variance would result in a practical difficulty or an unnecessary hardship, and why the requested variance would not be contrary to both the public interest and the spirit of these regulations.

- 7.4 The Commissioners Court is under no obligation to grant a variance to any party that submits a request for a variance.
- 7.5 The Commissioners Court may impose any reasonable conditions on a variance that it considers necessary to accomplish the purposes of these regulations.

SECTION 8. VIOLATIONS, OFFENSES, AND REMEDIES.

- 8.1 A person commits an offense if a communication facility structure is constructed that violates the terms and condition of these regulations. Such offenses will be prosecuted in the same manner as an offense defined under State law and will be considered as a Class C misdemeanor.
- 8.2 The County may file an action in district court to enjoin a violation or threatened violation of these regulations.