

ORDINANCE NO. 3153
File No. ZO 97-3

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, BY REVISING VARIOUS SECTIONS AND BY ADOPTING A NEW SECTION 1-700 TELECOMMUNICATIONS TOWERS AND ANTENNAS; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Mesquite has received and expects to receive requests to site telecommunications towers and antennas within the municipal boundaries; and

WHEREAS, the City of Mesquite finds that it is in the public interest to permit the siting of communications towers and antennas within the municipal boundaries; and

WHEREAS, it is the intent of the City of Mesquite to protect and promote the public health, safety and welfare by regulating the siting of communications towers and antennas; and

WHEREAS, the Planning and Zoning Commission did give public notice and did hold public hearings regarding proposed revisions and has recommended amendment of the ordinance; and

WHEREAS, the City Council did give public notice and did hold public hearings regarding the proposed amendments;

NOW, THEREFORE, BE IT ORDAINED BY CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the Mesquite Zoning Ordinance, adopted September 4, 1973, and recodified on November 21, 1988, be and the same is hereby amended as follows, said ordinance in all other respects to remain in full force and effect:

A. Amend existing regulations, as follows:

- (1) **Adopt Section 2-203B.7(3) Telecommunications, Towers and Antennas;** Under Special Conditions state: "SIC 48." Requires compliance with 1-700. (No P or C is to be indicated in district columns).

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- (2) **Delete** existing *Section 2-603E. Antennas, aerials.*, in its entirety and **adopt** a new revised *Section 2-603E. Antennas, aerials.*, to read as follows:

Section 2-603E. *Antennas, aerials.* Antennas, aerials and associated masts shall comply with the requirements of 1-700.

- (3) **Delete** existing *Section 2-604C. Oversize antenna.*, in its entirety.
- (4) **Delete** *Sections 3-203 E.48(c) and 3-203E.48(d)* in their entirety; and **adopt** a new revised *Section 3-203E.48(c) Telecommunications, Towers and Antennas*; Under Special Conditions state: "Requires compliance with 1-700." (No P or C is to be indicated in district columns).
- (5) **Delete** existing *Section 3-702D. Antennas, aerials, flagpoles.*, in its entirety and **adopt** a new revised *Section 3-702D. Antennas, aerials, flagpoles.*, to read as follows:

Section 3-702D. *Antennas, aerials, flagpoles.* Antennas, aerials and associated masts shall comply with the requirements of 1-700. Flagpoles shall comply with all requirements of 3-701, except as otherwise permitted herein, provided however, that a maximum height of 75 feet shall be permitted. When a flagpole is taller than 30 feet, the required setbacks from the side and rear property lines shall be one foot for each foot in height over 30 feet. Flagpoles over 75 feet in height shall require approval as a Special Exception.

- (6) **Delete** existing *Section 3-703B. Oversize antenna, flagpoles.*, in its entirety and **adopt** a new revised *Section 3-703B. Oversize flagpoles.*, to read as follows:

Section 3-703B. *Oversize flagpoles.* To allow a flagpole which exceeds 75 feet in height.

- B. **Adopt** a new *Section 1-700 TELECOMMUNICATIONS, TOWERS AND ANTENNAS.*, to read as set out in the attached Exhibit "A".

SECTION 2. That should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part of the provisions hereof other than the part so decided to be invalid, illegal or unconstitutional and shall not affect the validity of the Mesquite Zoning Ordinance as a whole.

SECTION 3. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and subject to the same penalty as provided for in the Mesquite Zoning Ordinance, as amended, and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense.

SECTION 4. That any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. Whereas the need to regulate proper development of the City of Mesquite, and the need to protect the public interest, comfort and general welfare of the citizens of the City of Mesquite creates an urgency and emergency for the preservation of the public health, safety and welfare, and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 5th day of May, 1997.



Mike Anderson
Mayor

ATTEST:

APPROVED:



Ellen Williams
City Secretary



B.J. Smith
City Attorney

1-700 TELECOMMUNICATIONS TOWERS AND ANTENNAS

1-701 GENERAL PROVISIONS

A. PURPOSE AND GOALS

The purpose of this section is to establish guidelines for the siting of wireless telecommunications facilities which protect residential areas from potential adverse impacts; encourage the location of towers in nonresidential areas; minimize the total number of towers throughout the City; encourage the joint use of tower sites; encourage users to locate in areas where the adverse impact is minimal; encourage users to use configurations that minimize the adverse visual impact through careful design, siting, landscape, screening, and innovative camouflaging techniques; enhance the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; and consider the public health and safety of communications facilities.

B. DEFINITIONS

For the purposes of this section, the following terms shall be defined as set out below.

1. Antenna: A transmitting and/or receiving device used in telecommunications that radiates or captures radio signals.

2. Height: Height shall mean the distance from the ground to the top of the entire telecommunications facility, including the support structure and related antenna(s).

3. Telecommunications Facility: An unmanned facility consisting of equipment

for the reception, switching and/or receiving of wireless telecommunications. Such facility may be elevated (either structure-mounted or ground-mounted) transmitting and receiving antennas, low power mobile radio service base station equipment, and interconnection equipment. The categories of facility types include: a) roof and/or structure mount facilities, and b) telecommunications towers.

4. Telecommunication Tower: A stand-alone structure consisting of a support structure, antenna and associated equipment. The support structure may be monopole, lattice tower, light standards, or other vertical supports.

5. Lattice Tower: A guyed or self-supporting three-or-four sided, open steel frame structure used to support telecommunications equipment.

6. Monopole: A structure composed of a single spire used to support telecommunications equipment.

7. Roof and/or Structure Mount Facility: A telecommunications facility in which antennas are mounted to an existing structure, including mounting on existing electrical transmission towers.

C. MEASUREMENTS

The following methods of measurement shall apply to the standards set out in this section.

1. Lot Size: For the purpose of determining whether the installation of a tower or antenna complies with development regulations, including but not limited to setbacks, lot coverage, and similar requirements, the dimensions of the entire lot shall control, even though the facility may be located on a leased parcel within such lot.

2. Setbacks: All portions of a facility, including tower base, guys, and anchor guys, shall, at a minimum, comply with all setbacks for principal structures required in the respective zoning district in which the facility is located, and shall satisfy any additional setback and separation requirements set out in this section.

3. Distances: Distances measured for the purpose of complying with required separations from residential districts and between towers may be measured from the center of the tower or tower base.

4. City Boundaries. For the purposes of measurement, tower setbacks and separation distances shall be calculated and applied irrespective to municipal or county boundaries.

D. REQUIRED COMPLIANCE

1. State and Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other state or Federal agency with authority to regulate. An applicant for a building permit shall submit an affidavit confirming compliance with applicable regulations.

2. Airport Hazard Zone: All towers erected in the Mesquite Metro Airport Hazard Zone shall be required to obtain a "Permit to Construct in the Airport Hazard

Zone" prior to submitting an application for building permit.

3. Building Permit: Construction of all telecommunications facilities requires application for and issuance of a building permit by the City of Mesquite, including compliance with all applicable building codes.

4. Inspections: The City of Mesquite reserves the right to make inspections of any telecommunications facility within the corporate limits of the City to ensure structural integrity. Based upon the results of the inspection, the City may require repair or removal of the telecommunications facility at the owner's expense.

5. Certified Information: Information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

E. FRANCHISES

Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City of Mesquite, if any, have been obtained. Furthermore, the applicant shall certify that all backhaul services are being obtained from companies with valid franchises. Certifications may be made by affidavit or by submission of copies of appropriate franchise documents.

F. GENERAL DEVELOPMENT STANDARDS

1. Signs: No signs shall be allowed on a telecommunications facility.

2. Lighting: Telecommunications facilities shall not be artificially lighted, unless required by the FAA or other applicable authority.

3. Aesthetics: Telecommunications facilities shall meet the following requirements:

a. Towers shall either maintain a galvanized steel finish, or subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

b. At the tower site, the design of buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and the surrounding buildings.

c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

G. REMOVAL OF ABANDONED ANTENNAS AND TOWERS

A telecommunications facility shall be considered to be abandoned under the following circumstances: 1) If it is not operated for a continuous period of 12 months; and/or 2) If a code violation exists which is not corrected within a 30 day period after notice by the City. The owner of such facilities shall remove the same within 90 days of receipt of notice from the City of

Mesquite notifying the owner of such abandonment. Failure by the owner to remove an abandoned facility within said 90 days shall be grounds for removal by the City, and the owner shall be responsible for all expenses associated with such removal. As compensation for removal expenses, tower sections removed by the City shall become the property of the City if payment of removal expenses is not made by the owner within 180 days of such removal.

H. NONCONFORMING USES

1. Not Expansion: Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming structure.

2. Pre-existing Towers: Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance, including replacement with a new tower of like construction and height, shall be permitted on such pre-existing towers.

3. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas: Nonconforming telecommunications facilities that are damaged or destroyed may be rebuilt, provided the type, height, and location of the tower shall be the same as the original facility. Building permits to rebuild the facility shall comply with current applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained within such time or if said permit expires, the facility shall be deemed abandoned.

1-702 ACCESSORY TELECOMMUNICATIONS FACILITIES

The following situations shall be classified as accessory telecommunication facility uses and shall be permitted in all zoning districts in accordance with the following conditions. All other telecommunications facilities shall be classified as principal uses and shall be regulated by subsequent sections of this regulation.

A. AMATEUR RADIO STATION OPERATORS/RECEIVE ONLY ANTENNAS

Any tower, or installation or antenna, which is operated by a Federally-licensed amateur radio station operator or is used exclusively for receive only antennas shall be permitted in accordance with the standards set out below in any zoning district when said facility is located on a developed building site as an accessory use.

1. Permitted Towers/Antennas: An accessory tower or antenna shall be permitted if the total height of the facility is 75 feet or less, and the structure is set back from any property line a minimum of 5 feet or one foot for each foot in height over 30 feet, whichever is greater. No portion of any structure or support (guys, anchors points, etc.) shall extend into any required front or exterior side yard. When the antenna is attached to the main structure, an encroachment adequate to allow attachment to the roof eaves shall be permitted into any side or rear yard.

2. Special Exception for Oversized Antenna: The Board of Adjustment, in accordance with 5-200, may authorize the erection of a facility which exceeds 75 feet in height where it determines that the exception

will allow greater use and enjoyment of property without creating adverse impacts on adjacent properties and that it will be compatible with the neighborhood.

B. ROOF AND/OR STRUCTURE MOUNT FACILITY

An antenna mounted on a roof or existing structure other than a tower shall be permitted, subject to the following conditions, in any nonresidential zoning district and on any permitted nonresidential use in a residential zoning district, including attachment to electrical transmission towers. Antennas on a rooftop or above the structure shall be constructed and/or colored to match the structure to which they are attached and may not extend more than 20 feet above the highest point of the structure. Antennas mounted on the side of a building or structure shall be painted to match the color of the structure or the background against which they are most commonly seen. Antennas incorporated into flagpole structures shall be permitted as accessory flagpoles. If an accessory structure is present, it must comply with all regulations regarding accessory structures in the respective zoning district, and with the requirements for security fencing, landscaping, and accessory structures as set out in 1-703B.

1-703 PERMITTED TELECOMMUNICATIONS FACILITIES

Telecommunications facilities which are not classified as accessory under the provisions of 1-702 shall be permitted in accordance with the following conditions and requirements.

A. LOCATIONAL REQUIREMENTS

Telecommunications facilities shall comply with the following requirements regarding location. Facilities which do not comply may be considered as a Conditional Use Permit under the provisions set out in 1-704. An applicant for building permit shall be required to submit an inventory of its existing tower locations in the City of Mesquite and within 1/4 mile of the City Limits.

1. Nonresidential Districts and City Property: The telecommunications facility shall be located either on 1) a tract classified in a nonresidential zoning district or in a Planned Development district designated solely for nonresidential use; or 2) a property owned by the City of Mesquite or the Mesquite Independent School District.

2. Separation from Residential Districts: The tower shall be required to be separated from residential districts as follows: 1) a minimum of at least 3 feet for each foot in height from any existing single family or duplex subdivision in a residential zoning district; and 2) a minimum of a least one foot for each foot in height from all other residential districts, including undeveloped districts zoned for single family or duplex use, and multifamily districts. For the purpose of applying the above separation distances, "residential district" shall exclude nonresidential uses which are permitted in a

residential district, such as schools, parks, churches, neighborhood utilities, etc.

3. Maximum Height: The maximum height of facility permitted under this section shall be as follows:

- a. Single Use Facilities 100 ft
- b. Two User Facilities 125 ft
- c. Three or More Use Facilities 150 ft

4. Separation Between Towers: The tower shall be separated from other tower s regulated by this section a minimum distance as set out in Table 1 below; provided however, that when a tower is designed to accommodate collocation (2 or more users), the required separation distance may be reduced by 30%.

Table 1: Required Tower Separation

<i>Existing Towers Proposed Towers</i>	<i>Tower More than 125 Feet in Height</i>	<i>Tower 76 Feet to 125 Feet in Height</i>	<i>Tower 75 Feet or Less in Height</i>
<i>Tower More than 125 Feet in Height</i>	1,500 FT	1,250 FT	1,000 FT
<i>Tower 76 Feet to 125 Feet in Height</i>	1,250 FT	1,000 FT	750 FT
<i>Tower 75 Feet or Less in Height</i>	1,000 FT	750 FT	500 FT

B. SITE DEVELOPMENT STANDARDS

1. Setbacks: Except in the case of towers adjoining residential districts where greater setbacks are required by 1-703A.2 above, towers shall be required to be set back from the respective property lines the same minimum distance required for principal structures on the site.

2. Screening, Buffering, and Security: Telecommunications facilities shall be required to provide a secured site which is visually screened and buffered from residential districts and from general public view, in accordance with the following guidelines.

a. Facilities with minimal visual impact to general public view shall not require special screening or buffering, but shall require security fencing adequate to prohibit general access to the equipment, tower or other parts of a facility, generally a fence at least 6-feet in height. Facilities with minimal visual impact to the general public shall include the following: 1) Where the site is located on a non-arterial street in an industrial or business areas, excluding the Town East Retail and Restaurant Area (TERRA); or Where the site is shielded from the general view on a public street or on a private area which is generally open to the public, such as a retail parking lot, by existing buildings, vegetation, or topography. No site immediately adjoining a residential district shall be considered to have minimal visual impact. A determination by the Development Review Committee regarding *impact on general public view* may be appealed to the Planning & Zoning Commission.

b. All other facilities, i.e. those not classified as having minimal visual impact to the general public view shall provide screening, buffering, and security by one of the following means:

1) A solid masonry screening wall, at least 6 feet in height, enclosing the facility on all sides which are open to public view or residential areas; or

2) A security fence, at least 6 feet in height, enclosing the facility on all sides open to public view or residential areas, with a 10 foot landscape buffer strip established surrounding the fencing. The landscape strip shall be planted with shrubs, a minimum 5 gallon size, approximately 3 feet in height at planting, planted on 3 foot centers. The landscape strip shall be irrigated by an automatic underground irrigation system. Landscaping shall be maintained in a healthy, growing manner at all times, to assure effective screening. When necessary, landscape materials shall be replaced in a timely manner.

3. Accessory Structures: A single-story unmanned accessory building of no more than 300 square feet is permitted to store equipment needed to send and to receive transmissions, but may not include offices or long term storage of vehicles. Buildings or equipment cabinets shall be of a neutral color that is identical to or closely compatible with the color of the supporting or surrounding structures or setting so as to make the structure as visually unobtrusive as possible. The accessory structure must be within the secured area, and within the area for which landscaping and buffering is provided, when required.

1-704 OTHER TELECOMMUNICATIONS FACILITIES - CONDITIONAL USE PERMIT REQUIRED

Any telecommunications facility which does not meet the conditions and requirements of 1-702 or 1-703 may be requested and approved in any zoning district as a Conditional Use Permit subject to the following requirements and considerations.

A. GENERAL PROVISIONS

The following provisions shall govern the approval of Conditional Use Permits for telecommunications facilities.

1. Procedures: Submission, processing and review of requests for approval of a Conditional Use Permit for a telecommunications facility shall be in accordance with 5-300.

2. Conditions of Approval: In granting approval of a Conditional Use Permit, the Council may impose additional stipulations and conditions to the extent that the Council concludes that such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

3. Modification of Standards: All facilities shall comply with the requirements set out in 1-703; provided however, that the City Council may approve modification of the locational and development standards as part of the review and approval of a Conditional Use Permit upon a determination that the modified conditions do not create adverse impacts on the adjacent properties. Proposed modification shall be specified in the required notices as part of the requested approval. When modifying such standards the Council shall specify the allowed modification in its approval.

B. SUBMISSION REQUIREMENTS

Application for a Conditional Use Permit for a telecommunications facility shall include the following materials and information.

1. Site Plan: A scaled site plan clearly indicating the location, type, and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, landscaping, and fencing, including locations and materials to be used.

2. Legal Description: Legal description of the parent tract and the leased parcel (if applicable).

3. Inventory of Existing Sites: Each applicant shall provide an inventory of its existing telecommunications facilities or sites approved for facilities, that are either within the City of Mesquite or within 1/4 mile of the border thereof, including specific information about the location, height, and design of each tower. The City may share such information with other applicants for the purpose of measuring separations between facilities and for the purpose of encouraging co-location.

4. Setbacks from Residential: The setback distance between the proposed tower and the nearest residential district or use.

5. Separation Distances: The separation distance from other towers.

6. Compliance: A description of compliance with applicable state and federal laws, including appropriate documentation, if requested.

7. Collocation Statement: A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

8. Unavailable Site Statement: A statement regarding the efforts to locate a site which complies with the requirements set out in 1-703, and regarding why such sites are not used.

8. Alternatives: A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

9. System Requirements: A description of the analysis/evaluation of system coverage and/or capacity which necessitates the requested location, generally including propagation or similar maps; and indicating the likely location of known additional towers needed to meet system coverage or capacity needs for the provided.

C. REVIEW CRITERIA

In addition to any standards for consideration of Conditional Use Permits pursuant to 5-300, the following factors shall be considered in determining whether to approval a request.

1. Preferred Locations: Approval of sites should be considered based on the following preferences regarding location.

a. On existing structures such as buildings or other communications towers.

b. In locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.

c. In nonresidential districts.

d. On towers providing for collocation with multiple users.

e. In locations providing the maximum separation distance from residential and the maximum separation between towers.

2. Review Items: In reviewing an application for Conditional Use Permit, the following items shall be reviewed as a basis for determining appropriateness and locational preference.

a. The height of the proposed tower.

b. The proximity to residential districts and uses.

c. The nature of uses on adjacent and nearby properties, surrounding topography, and surrounding tree coverage and vegetation.

d. The design of the proposed tower and site, with particular reference to

characteristics which have the effect of reducing or eliminating visual obtrusiveness, such as monopole construction, neutral colors, screening and buffering.

e. The proposed ingress and egress to the site.

3. Availability of Alternatives: The applicant shall demonstrate that no reasonable alternative that does not require the use of a new tower or structure can accommodate the proposed antenna. The Commission and Council may request information necessary to demonstrate that reasonable alternatives do not exist. Information submitted may consist of any of the following:

a. No existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.

b. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements; or existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

c. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the existing antennas would cause interference with the proposed antenna.

d. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

e. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

ORDINANCE NO. 3154

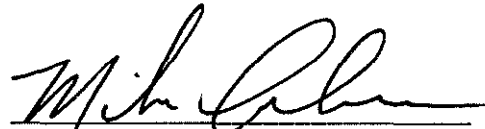
AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS,
CHANGING THE NAME OF AUDUBON PARKWAY TO
COLUMBIA PARKWAY EFFECTIVE UPON PASSAGE AND
APPROVAL OF THIS ORDINANCE, AND DECLARING AN
EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
MESQUITE, TEXAS:

SECTION 1. That the name of the street heretofore named Audubon Parkway is hereby changed to Columbia Parkway.

SECTION 2. The fact that the street name change is to be effective immediately upon passage and approval of this ordinance creates an urgency and an emergency and necessitates that this ordinance become effective immediately from and after its date of passage and the publication of its caption as the law in such cases provides.


DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas,
on the 5th day of May, 1997.



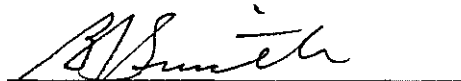
Mike Anderson
Mayor

ATTEST:

APPROVED:



Ellen Williams
City Secretary



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