

ORDINANCE NO. 21-2023

ROLL CALL

VOTING	YES	NO	ABSENT	ABSTAIN
MIKE MENDENHALL <i>Mayor (votes only in case of tie)</i>				
CHAD ARGYLE <i>Councilmember</i>	X			
STACY BECK <i>Councilmember</i>	X			
JESSE CARDON <i>Councilmember</i>	X			
SHANE MARSHALL <i>Councilmember</i>			X	
KEVIN OYLER <i>Councilmember</i>	X			

I MOVE this ordinance be adopted: Councilmember Oyler

I SECOND the foregoing motion: Councilmember Argyle

ORDINANCE No. 21-2023

ORDINANCE AMENDING TITLE 15 OF THE SPANISH FORK MUNICIPAL CODE
REGARDING AMATEUR RADIO ANTENNAS

WHEREAS Spanish Fork City ("City") recognizes the importance of effectively regulating land uses to promote a safe and desirable community;

WHEREAS the City Council recognizes the important federal interest in promoting amateur radio communications;

WHEREAS the City Council has a legitimate interest in regulating public safety, height, and promoting desirable residential neighborhoods;

WHEREAS the City Council finds that a wind storm occurred on July 3, 2023, and wind speeds reached 79 mph;

WHEREAS during that wind storm an amateur radio antenna and support structure toppled to the ground, falling across property lines and into the public street;

WHEREAS the City finds that it is in the best interest of public health and safety that amateur radio antennas should be set back a reasonable distance from property lines and that towers and antennas should be engineered and constructed to withstand the structural load imposed by windspeeds of 80 mph and greater;

WHEREAS the City Council desires to comply with the ruling of the Federal Communications Commission in Amateur Radio Preemption, 101 FCC 2nd 952 (1985) ("PRB-1") and a regulation related to amateur radio service adopted under 47 C.F.R. Part 97 ("Federal Regulations")

WHEREAS the City Council desires to amend the Spanish Fork Municipal Code to adopt regulations pertaining to amateur radio antennas;

WHEREAS a public hearing was held before the Planning Commission on October 4, 2023, after which the Planning Commission made a recommendation on the proposed ordinance to the City Council; and

WHEREAS the City Council finds that making the proposed amendment will further the public health, safety, and general welfare, while still encouraging amateur radio communications within the City, consistent with PRB-1 and Federal Regulations;

NOW, THEREFORE, be it ordained by the Spanish Fork City Council as follows:

Section 1. Amendment of Municipal Code. The Spanish Fork Municipal Code is hereby amended as set forth in Exhibit A attached hereto and incorporated herein. Only the sections listed herein are amended. All other sections remain unchanged.

Section 2. Effective Date. This Ordinance shall take effect upon publication or posting, or thirty (30) days after passage, whichever occurs first.

DATED: October 17, 2023.


MIKE MENDENHALL, Mayor

ATTEST:

Tara Silver, City Recorder



EXHIBIT A

**AMENDMENTS TO THE
SPANISH FORK MUNICIPAL CODE**

15.1.04.020 Definitions

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"Support Structure": A pole, tower, or other structure used to support an amateur radio antenna.

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15.3.24.090 Supplementary Regulations

Accessory Buildings, Structures, or Satellite Earth Stations.

Swimming Pools

Yard/Garage Sales

Irregular Lots

Accessory Dwelling Units (ADUs)

Awnings, Carports or Covered Decks

Animals

Wind Turbines (WT)

Outdoor Storage Areas

Public Rights-of-Way

Temporary Uses

Amateur Radio Antennas

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L. Amateur Radio Antennas:

1. This section shall apply to amateur radio, also known as HAM radio, antennas and support structures.
2. General Regulations. Amateur radio antennas and support structures are allowed as a permitted use in all zones up to a height of forty-five (45) feet, subject to the conditions of this section. All amateur radio antennas and support structures shall comply with the following requirements.
 - a. All facilities shall comply with any pertinent regulations of the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA).

- b. A building permit is required for any antenna and support structure with a combined height over twelve (12) feet. The design and construction of the antenna, as demonstrated by manufacturer specifications or by certification of a design professional (architect, professional engineer, or structural engineer) and support structure must be able to withstand wind loads of 80 mph and greater.
- c. No more than one amateur radio support structure per lot or parcel may be installed. A support structure may only be located in the rear yard of a home or primary structure. A roof-mounted antenna shall be allowed provided that the height of the antenna and support structure does not exceed twelve (12) feet above the roof.
- d. Setbacks for all amateur radio support structures shall be at least twenty feet (20') from neighboring property lines and a minimum of thirty feet (30') from any public right of way.
- e. Support structures and all antennas, including when such antennas are fully extended, shall be located entirely upon and within the owner's private property. No part of a support structure or antenna may extend beyond the boundaries of the lot or parcel upon which it is located, including into the right-of-way of any public or private street. No part of an antenna or support structure may be closer than 15 feet from an electric distribution conductor or 30 feet from an electric transmission conductor.
- f. A support structure shall be composed of non-reflective galvanized steel or aluminum and shall be a neutral color or a color to match the background against which it will be most commonly seen.
- g. Antennas are to be installed on a building or property in the least conspicuous location possible.
- h. A support structure in a residential zone may not make use of guy wires.
- i. Antennas shall be retracted, lowered, nested, or otherwise moved to a resting position when they are not being actively used for transmitting and receiving signals.

3. Conditional Use for Additional Height, Lesser Setbacks. The City desires to provide reasonable accommodations for antennas and support structures.

where appropriate, to ensure the standards contained in this section represent the minimum practicable regulation to accomplish the City's legitimate safety and aesthetic purposes. A conditional use permit shall be granted by the Planning Commission to allow amateur radio antennas and support structures to exceed 45 feet in height or to be setback less than the distance required by this section if it finds that the additional height or lesser setback will not create any negative impact or if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the additional height or lesser setback in accordance with applicable standards. It is the intent of the City to reasonably accommodate antennas and support structures to the greatest extent practicable without negatively impacting public safety or the aesthetic quality of the neighborhood in which they are located. Antennas and support structures will generally not be allowed at a greater height or lesser setback to the extent the greater height or lesser setback negatively impacts the public safety or aesthetics of the neighborhood in which they are located. In determining whether amateur radio antennas and support structures should be allowed to exceed 45 feet in height or have a lesser setback, the Planning Commission shall consider the following factors:

- a. The potential negative impact on public safety, especially the safety of life and property in the public rights-of-way or on adjacent properties.
- b. The potential negative impact that the structure will have on the views of properties in the neighborhood. Special consideration shall be given to the impact on the views of attractive natural features such as the Wasatch Mountains, the Spanish Fork River bottoms, and Utah Lake.
- c. The potential negative impact that the structure will have on the overall aesthetic quality of the neighborhood in which the structure is located.
- d. The potential impact the structure may have on property values in the neighborhood in which the structure is located as demonstrated by a market analysis or appraisal. Speculative testimony is insufficient to establish any impact upon property values.
- e. The need of the owner/operator for an antenna and support structure in excess of 45 feet or for a lesser setback distance.

- f. The extent to which any reasonably anticipated detrimental effects of the structure can be mitigated. Factors that may reduce the negative impact that a structure will have on the aesthetic quality of a neighborhood and which may be made a condition(s) for the allowance of a height greater than 45 feet or lesser setback include but are not limited to the following:
- (1) For additional height, setbacks from adjoining property that significantly exceed the required setbacks listed in subsection (1)(d) above.
 - (2) The current existence and use of trees or other means to screen or camouflage the structure.
 - (3) The use of a retractable support structure, which is retracted when not in use or which is fully extended only during limited hours so long as the antenna, when extended, does not cross property lines.
 - (4) The location of a support structure adjacent to land that is undeveloped and not likely to be developed due to topography or other characteristics. Streets may not be considered as undeveloped land.
 - (5) The location of a support structure in or adjacent to commercial property, churches, schools, parks, or similar property such that the support structure will not unreasonably impair the views of residential property owners.
 - (6) Any other factor that could reasonably mitigate the negative impact of the structure.

The existence of one or more of the conditions listed above does not create a presumption that the negative impacts of an antenna or antenna support structure are adequately mitigated.

4. Abandonment. An antenna or support structure shall be deemed to be abandoned and must be removed if the antenna is not used for a period of two (2) years or more. However, this two-year period shall not run during any time when the owner is away on a temporary leave of absence due to military service, a volunteer service assignment, ecclesiastical assignment, or other similar absence.