

Having been duly posted on the 4th day of September, 2002 and the public having the opportunity to comment on the propriety of the following regulation will be duly promulgated and become effective on the 12th day of September, 2002.

RE: ADMINISTRATIVE REGULATION NO. 02-02
Zoning and Development Code
City of Grand Junction

ISSUED BY: /s/ Robert E. Blanchard 9/3/02
Robert E. Blanchard, AICP
Community Development Director
Date

Topic:

Regarding the Zoning and Development Code, (ZDC) Section 4.3.R.dealing with amateur radio equipment and height restrictions for antennas installed upon residential structures.

Background:

Chapter Four of the ZDC defines “amateur radio” as “radio communications, as licensed or regulated as such by the Federal Communications Commission (FCC) that is less than ten (10) feet tall measured from grade or ten (10) feet higher than the highest point of the roof.” The Code goes on to say in Section 4.3.R.10.h that amateur radio equipment “measured less than ten (10) feet tall from grade or ten (10) feet higher than the highest point of the roof may be approved by the Director.”

The FCC has issued a limited preemption of regulations that “preclude effective amateur communications.” The FCC acknowledges that local authorities can regulate amateur installations to ensure the safety and health of persons in the community.

In order to protect the community the ZDC establishes a maximum ten-foot height for amateur radio antennas above the highest point of the roof. The Code further provides that so long as an antenna is attached to the roof and is 10 feet or less it is not regulated.

In Section 4.3.R.9, the Zoning and Development Code provides that “the term ‘tower’ shall not include amateur radio operators’ equipment,” however, the Code does not define vis a vis amateur radio what equipment is regulated and/or what specific equipment constitutes “an antenna” referred to in Section 4.3.R subsections 3, 9, and 10 h. The Code does not also address the means or methods of mounting, constructing or erecting an amateur radio antenna, whether roof, ground or otherwise mounted.

In Chapter 9 the Code defines “antenna” as any device designed and intended for transmitting or receiving television, radio, microwave signals or other electromagnetic waves. An antenna includes all mounting and stabilizing items such as a tower, a pole, a bracket, guy wires, hardware, connection equipment and related items.”

In another section the Code provides that “the term ‘tower’ shall not include amateur radio operators’ equipment”, however, no separate definition of “antenna” vis a vis amateur radio is specified.

Administrative Interpretation:

1) The Director hereby finds and construes the Code to allow the construction, placement or erection of amateur radio antennas so that when ground or roof mounted no portion of the antenna or the mounting apparatus is more than ten feet higher than the maximum structure height allowed by zoning of the property on which the antenna is placed. If the height of an existing structure is non-conforming with the Code then the maximum height shall be 60’ measured from grade.

2) Notwithstanding Section 4.3R9 of the Zoning and Development Code, a Conditional Use Permit is required for the construction of a 10’ or taller freestanding ground mounted antenna as the term “antenna” is defined in the Code.

3) A Conditional Use Permit is not required for a ground mounted antenna attached to a structure (non-freestanding) provided it extends less than ten feet higher than the maximum structure height allowed by zoning of the property on which the antenna is placed or for a freestanding antenna less than 10’. Such may be approved by the Director.

4) The means and methods of construction and attachment of all antennas (roof and ground mounted, freestanding and non-freestanding) are subject to inspection and approval by the Building Department.

5) The means and methods of construction and attachment of all antennas shall be in accordance with standards established by the Building Department.

6) If the Building Department determines that the means and methods of construction and/or attachment are not to standard the Director may pursue every available legal remedy provided by this Code.

7) The antenna and other equipment shall at all times comply with all applicable FCC regulations.