



City of Lucas  
**Planning and Zoning Commission**  
Video Conference Regular Meeting  
**October 8, 2020**  
**7:00 PM**  
City Hall – Council Chambers  
665 Country Club Road – Lucas, Texas

*Notice is hereby given that a City of Lucas Planning and Zoning Commission meeting will be held on Thursday, October 8, 2020 at 7:00 pm at the Lucas City Hall, 665 Country Club Road, Lucas, Texas 75002 at which time the following agenda will be discussed.*

On March 16, 2020 Governor Abbott suspended some provisions of the Open Meetings Act in response to the COVID-19 emergency. To comply with Governor Abbott's latest Executive Order and to practice safe social distancing, City of Lucas Planning and Zoning Commission meetings will not be open to on-site visitors. In the interim, Planning and Zoning Commission meetings will be available through Zoom Webinar from your computer or smartphone. Please click this URL to join.

<https://zoom.us/j/92691972860?pwd=cWJxTnZGWW1hZDhDVlFNSXJwZFpTQT09>  
and enter your name and e-mail address. You may also join by phone at 1-346-248-7799  
Webinar ID: 926 9197 2860 Passcode: 813188

If the public desires to speak during a specific agenda item, **they must email shenderson@lucastexas.us by 4:00 pm on the day of the meeting.** The email must contain the person's name, address, phone number, and the agenda item(s) for which comments will be made.

## **Call to Order**

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- Roll Call
- Determination of Quorum
- Reminder to turn off or silence cell phones
- Pledge of Allegiance

## **Regular Agenda**

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1. Consider approval of the minutes of the September 10, 2020 Planning and Zoning Commission meeting. (City Secretary Stacy Henderson)

2. Discuss and provide direction to staff regarding amending the City's Code of Ordinances, Chapter 14 Zoning, Article 14.04 Supplementary Regulations, by adding Division 12 Personal Broadband Antenna and Support Structures. **(Development Services Director Joe Hilbourn)**

## **Executive Session Agenda**

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*As authorized by Section 551.071 of the Texas Government Code, the Planning and Zoning Commission may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney regarding any item on the agenda at any time during the meeting. This meeting is closed to the public as provided in the Texas Government Code.*

3. Executive Session: An Executive Session is not scheduled for this meeting.
4. Adjournment.

## **Certification**

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*I do hereby certify that the above notice was posted in accordance with the Texas Open Meetings Act on the bulletin board at Lucas City Hall, 665 Country Club Road, Lucas, Texas 75002 and on the City's website at [www.lucastexas.us](http://www.lucastexas.us) on or before 6:00 p.m. on October 1, 2020.*

*Stacy Henderson, City Secretary*

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*In compliance with the American with Disabilities Act, the City of Lucas will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services should be directed to Stacy Henderson at 972-912-1211 or by email at [shenderson@lucastexas.us](mailto:shenderson@lucastexas.us) at least 48 hours prior to the meeting.*



# City of Lucas

## Planning and Zoning Commission Request

### October 8, 2020

Item No. 01

Requester: City Secretary Stacy Henderson

#### **Agenda Item Request**

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Consider approval of the minutes of the September 10, 2020 Planning and Zoning Commission meeting.

#### **Background Information**

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NA

#### **Attachments/Supporting Documentation**

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1. September 10, 2020 Planning and Zoning Commission minutes.

#### **Budget/Financial Impact**

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NA

#### **Recommendation**

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NA

#### **Motion**

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I make a motion to approve the minutes of the September 10, 2020 Planning and Zoning Commission meeting.



City of Lucas  
**Planning and Zoning Commission**  
Video Conference Regular Meeting  
September 10, 2020  
7:00 PM  
City Hall – 665 Country Club Road – Lucas, Texas  
**MINUTES**

### **Call to Order**

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Chairman Keer called the video conference meeting to order at 7:00 pm. It was determined that a quorum was present, and the Pledge of Allegiance was recited.

Due to the absence of a regular member, alternate member Dusty Kuykendall served as a voting member.

**Commissioners Present:**

Chairman David Keer  
Vice Chairman Tim Johnson  
Commissioner Peggy Rusterholtz  
Commissioner Tommy Tolson  
Alternate Commissioner Dusty Kuykendall

**Staff Present:**

Development Services Director Joe Hilbourn  
City Manager Joni Clarke  
City Secretary Stacy Henderson  
City Attorney Courtney Morris

**Commissioners Absent:**

Commissioner Joe Williams  
Alternate Commissioner Adam Sussman

**City Council Liaison:**

Mayor Jim Olk

### **Regular Agenda**

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- 1. Consider approval of the minutes of the August 13, 2020 Planning and Zoning Commission meeting.**

**MOTION:** A motion was made by Commissioner Rusterholtz, seconded by Commissioner Tolson to approve the minutes as presented. The motion passed unanimously by a 5 to 0 vote.

Chairman Keer moved to Agenda Item No. 3.

- 3. Discuss and provide direction to staff regarding amending the City's Code of Ordinances, Chapter 14 Zoning, Article 14.04 Supplementary Regulations, by adding Division 12 Personal Broadband Antenna and Support Structures.**

Development Services Director Joe Hilbourn gave a presentation discussing FCC regulations and explained that the request was brought forward to consider permitting the installation of wireless antenna support structures in residential zoning districts as currently they were not allowed by the City's Code of Ordinances. Mr. Hilbourn noted that several applications had been received for personal broadband antenna towers, and staff has been using a section of the code related to amateur radio tower requirements; however, a more appropriate process and clarification should be considered.

Mr. Hilbourn stated that staff was seeking direction from the Planning and Zoning Commission on whether to move forward with regulations for private personal broadband antenna and support structure requirements for both clarity and to comply with Section 332(c)(7) of the Communications Act.

Chairman Keer read into the record emails that had been received regarding this request from the following individuals:

- Matt Stroud
- Chad Stock
- Laura Howard
- Ryan and Betty Jacob
- Joseph Wilson
- Brenda Rizos
- Dana Crigger

The following individuals spoke during the video conference meeting:

- Matt Greenwald spoke in favor of providing alternate means to have internet service.
- John Mejia spoke in favor of allowing the towers.
- Mike Blasko spoke in favor of having other resources available for internet service.
- Mike Jarboe spoke in favor of having other resources available for internet service and allowing the tower height to exceed 55 feet.
- Bryan Howard was not in favor of having additional towers throughout residential neighborhoods.
- Paul Rathgeb noted that commercial operators should not work under the hand radio definition and was in favor of providing an alternative for residents to receive faster internet.
- Josh Mercer, Big Wave Wireless, discussed the process for tower installation and equipment associated with the towers. The permitting application with the City was discussed and the FCC regulations that are associated with tower installation and operating requirements. Mr. Mercer said he was not in favor of limiting height to 55 feet.
- Shane Noack discussed how towers placed in residential areas could be used for commercial devices and become unsightly.
- Audrey Young spoke regarding the City creating a policy before a problem had been identified.
- Laura Howard discussed how permitting towers under the HAM radio code section was not appropriate and long-term solutions were needed.

Staff reviewed with the Commission proposed code requirements for the application and installation of personal broadband antennas in a residential area.

The Commission discussed tower structures in residential areas and safety standards surrounding the tower installation. They also discussed with the City Attorney FCC rules for over-the-air-reception devices (OTARD) noting that the City could regulate the tower structure, but the antenna could not be regulated.

The Commission asked about regulating the tower for broadband use to only one user: thereby eliminating a commercial type use from happening.

City Attorney Courtney Morris noted that OTARD rules did not provide a clear definition for commercial use and she would need to gather additional information to understand what was considered commercial.

The Commission discussed whether zoning in a residential district should allow a personal broadband tower structure to be erected and the impacts to surrounding property owners.

The Commission discussed height requirements noting that other towers within the City were 80 to 125 feet high and suggested that the 55-foot height requirement may be too low.

The Commission discussed the placement of towers in front yards, and Ms. Morris noted that according to the FCC, the City could not limit placement in the front yard if placement was needed for line of sight.

Commissioner Rusterholtz displayed pictures to the Commission of towers currently located within residential areas.

The Commission discussed the permitting process and Commissioner Tolson suggested the language be changed to refer to a Texas licensed engineer rather than a registered engineer.

The Commission was in agreement to change the allowable height from 55 feet to 80 feet and asked the City Attorney to provide clarification regarding proposed language in Section 14.04.442 (f) that currently states “No leasing space on an antenna support structure for commercial purposes. Antenna support structures are intended for personal use and may not be leased for commercial purposes.”

The City Attorney agreed to provide additional clarification and bring back for discussion at the next meeting.

**2. Discuss and provide direction to staff regarding amending the City’s Code of Ordinances, Chapter 10 Stormwater Design Manual (Section J) and Chapter 14 Zoning, Article 14.04 Supplementary Regulations, Section 14.04.038 Driveways, to address driveway culvert installation and design criteria.**

Commissioner Tolson summarized the proposed amendments to the stormwater design manual to address the use of gravel driveways, culvert pipe diameter, culvert design for private driveways, and allowable aggregate materials for gravel paved driveways. Commissioner Tolson also summarized proposed changes to the Code of Ordinances, Section 14.04.038 that addressed culvert maintenance by property owners allowing for unimpeded flow to the culvert pipe at all times.

The Commission was in agreement with the proposed amendments.

City Attorney Courtney Morris reviewed language with Commissioner Tolson regarding the proposed amendments for clarification.

The Stormwater Design Manual, Chapter 10, Section J, second paragraph shall be updated to read as follows:

Design of culverts shall include the determination of upstream backwater conditions as well as downstream velocities and flooding conditions. Consideration shall be given to the discharge velocity from culverts with the limitation that culvert pipe diameter shall be a minimum 18 inches. A headwall is required at exposed ends. Under private driveways, permanent culverts (those with reinforced concrete, asphalt, or AASHTO #3 gravel paving over the culvert) and temporary culverts (those without paving over the culvert) shall be constructed with reinforced concrete or minimum 16 gauge galvanized corrugated steel pipe. Temporary culverts and driveways must be removed within 18 months of permit issuance and the open channel reconstructed to its original design. Under public roads reinforced concrete culverts are required. Permanent culvert design for private driveways shall include minimum embedment of Class B+ per the North Central Texas Council of Governments (NCTCOG) design manual drawing 3020 dated October 2004.

The Code of Ordinances, Chapter 14, Section 14.04.038 was also amended and reads as follows:

- (a) The driveway entry radius must not overlap the common property lines as projected to the street.
- (b) Driveway culverts must be sized for each specific application. For new development, culvert size and material will be specified on the civil construction plans for each lot. For all other applications, the culvert size and material will be specified by the city at the time of the building permit or at the time a drive entry is required by the property owner. Culvert pipe material shall be either reinforced concrete or 16 gauge galvanized corrugated steel.

Culvert Material (1)	Minimum Inside Diameter	Minimum Extension (2)	Concrete Header Required
Reinforced concrete	18"	36"	No
Galvanized corrugated steel	18"	N/A	Yes (3)

- 1) Embedment of Class B+ or better per NCTCOG design manual drawing 3020 dated October 2004 required for all permanent culvert installations.
  - 2) Minimum extension beyond the edge of the driveway. If a header is used, no extension is required.
  - 3) No header is required for temporary culverts
- (c) All culverts shall be maintained by property owner to allow unimpeded flow through the culvert pipe at all times.

There was no formal action taken on this item. The proposed amendments would be brought back to the Commission for public hearings before the proposed amendments would be brought before to the City Council for consideration.

## **Executive Session Agenda**

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### **4. Executive Session.**

An Executive Session was not held at this meeting.

### **5. Adjournment.**

**MOTION:** A motion was made by Vice Chairman Johnson, seconded by Chairman Keer to adjourn the meeting at 9:26 pm. The motion passed unanimously by a 5 to 0 vote.

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David Keer, Chairman

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Stacy Henderson, City Secretary





# City of Lucas

## Planning and Zoning Commission Request

### October 8, 2020

Item No. 02

Requester: Development Services Director Joe Hilbourn

#### **Agenda Item Request**

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Discuss and provide direction to staff regarding amending the City's Code of Ordinances, Chapter 14 Zoning, Article 14.04 Supplementary Regulations, by adding Division 12 Personal Broadband Antenna and Support Structures.

#### **Background Information**

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At the September 10, 2020 Planning and Zoning Commission meeting, the Commission was in agreement to change the allowable height of antennas from 55 feet to 80 feet and asked the City Attorney to provide clarification regarding proposed language in Section 14.04.442 (f) that currently states "No leasing space on an antenna support structure for commercial purposes. Antenna support structures are intended for personal use and may not be leased for commercial purposes." Staff will bring forward amendments related to the leasing space as a stand-alone item at a future date.

Planning and Zoning Commission Chairman David Keer has also made changes based on the discussion at the meeting and the draft copy of his proposals are included in the packet.

Staff is seeking direction from the Planning and Zoning Commission on whether to move forward with regulations for private/personal broadband antenna and support structure requirements for both clarity and to comply with Section 332(c)(7) of the Communications Act.

#### **Attachments/Supporting Documentation**

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1. Division 12 Personal Broadband Antenna and Support Structures draft submitted by Chairman Keer.

#### **Budget/Financial Impact**

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NA

#### **Recommendation**

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Staff recommends approving the proposed code changes.

#### **Motion**

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No motion required, provide direction to staff.

## **Chapter 14.04 Supplemental Regulations**

### ***Add new section-***

## **Division 12 Residential Broadband Antenna Support Structures**

### **Sec. 14.04.441 Purpose**

The provisions of this division apply only to broadband antenna support structures in residential and agricultural districts. These regulations are adopted for the following purposes:

- (1) To protect and provide for the public health, safety and general welfare of the city.
- (2) To enhance the ability of the providers of wireless broadband services to provide such services to the community safely, effectively, and efficiently.
- (3) To provide regulations for the safe and secure installation of broadband antenna support structures.
- (4) To minimize the number of broadband antenna support structures in a neighborhood and adjacent area:
  - (a) Broadband antenna support structure owners are encouraged and authorized to allow their Wireless Internet Service Provider (WISP) to use their broadband antenna support structure as a relay, hub, transmitter or micro pop location.
  - (b) Regarding other sections of the municipal code, the use described above shall not be considered a commercial usage.

### **Section 14.04.442 Definitions**

For the purpose of this division and notwithstanding any conflicting definition contained in this chapter:

*Broadband Antenna.* Any exterior transmitting or receiving device mounted on or within a support structure, building, or structure and used exclusively for transmitting, receiving or repeating broadband wireless signals.

*Broadband antenna support structures.* A freestanding structure such as a tower or pole, built and designed to support the antenna and other equipment used to receive wireless broadband services.

*Compelling communication needs.* A need for relief based on the inability of the applicant to obtain line of sight due to engineering, technical, or physical characteristics, such as trees, buildings, or structures located on the subject and adjacent properties that obstruct or significantly impede communications to and from the subject property.

*Design Review Committee.* Group comprised of three (3) staff members including the City Manager, City Engineer and Development Services Director responsible for review and approval for relief of certain regulations in this chapter. An alternate staff member may be appointed in the absence of one of the committee members to facilitate the review process.

### **Section 14.04.443 General requirements**

- (a) Broadband antennas and support structures shall be considered accessory uses.
- (b) Broadband antenna and broadband support structure installations shall comply with all other requirements of city ordinances and the zoning ordinance with the exception of those specified within this division.
- (c) All broadband antennas and broadband antenna support structures must meet or exceed current standards and regulations, and registration requirements of the Federal Aviation administration (FAA), the Federal Communications Commission (FCC), and any other state and federal agency with regulatory authority over support structures and antennas. If standards change, owners must comply as required by the regulating authority.

(d) A building permit is required for all broadband antenna support structures. All broadband antenna support structure installations must comply with applicable state and local building codes and the standards published by the Electronic Industries Association as may be amended from time to time. Review of the building permit and any subsequent review by the Design Review Committee must be conducted within reasonable time frame to prevent or delay installation, maintenance or use of broadband antennas in accordance with FCC regulations.

(e) All broadband support structures and broadband antennas must be constructed and operated in a manner that does not create electromagnetic or other interference with the city's radio frequencies and public safety operations as required by the FCC.

**Sec. 14.04.444 Height**

The maximum height for a broadband antenna support structure in any district shall be eighty (80) feet. Upon showing of a compelling communications need, the design review committee may administratively approve a height greater than eighty (80) feet.

**Sec. 14.04.445 Broadband Antennas and broadband antenna support structure standards**

- (a) Number and size. The number and size of broadband antennas placed upon a broadband antenna support structure used for broadband communications shall be limited by the wind load requirements contained in the current version of the city's building codes or by the manufacturer's specifications for wind loading, whichever is more restrictive.
- (b) Location. To the extent possible, broadband antenna support systems should be in areas to provide minimal impact on the community. Alternative or stealth designs are encouraged for all broadband antenna support structures.
- (c) Setbacks.

(1) Front yards. Broadband antenna support structures (including guy wires, foundations, anchors, and other components of the structure) shall not be permitted in required front yards.

(A) Exception:

Upon showing of a compelling communications need, the design review committee may administratively approve a broadband antenna and broadband support structure placement in front yards.

(2) Rear yards. Guy wires and broadband antenna and broadband support structures shall not be permitted in required rear yard setbacks. Minimum setbacks for broadband antenna support structures shall be the same as those required for accessory buildings in the applicable residential or agricultural district.

(A) Exception:

Upon showing of a compelling communications need, the design review committee may administratively approve guy wires, broadband antenna and broadband support structures in rear yard setbacks.

(3) Side yards. Guy wires and broadband antenna and broadband support structures shall not be permitted in required side yard setbacks. Minimum setbacks for broadband antenna support structures shall be the same as those required for accessory buildings in the applicable residential or agricultural district.

(A) Exception:

Upon showing of a compelling communications need, the design review committee may administratively approve guy wires, broadband antennas and broadband support structures in side yard setbacks.

(d) Separation. There shall be no minimum or maximum separation requirements for broadband antenna support structures from other structures on the same lot of record.

(e) Lights. Lights other than lights required or recommended by the FAA mounted on antenna support structures shall comply with the city's dark sky ordinance.

(f) Construction standards. Broadband antenna support structures shall be installed in accordance with the manufacturer's specifications. Modifications to the manufacturer's installation specifications shall bear the seal and signature of a Texas licensed professional engineer.

(g) Maintenance. Broadband antennas and broadband antenna support structures that have, due to damage, lack of repair, or other circumstances, become unstable, lean significantly out-of-plumb, or pose a danger of collapse shall be removed or brought into repair within 90 days following notice given by the building official; provided that the building official may order immediate action to prevent an imminent threat to public safety or property.

(h) Removal. If the broadband antenna support structure and broadband antennas are no longer being utilized, the owner of the property on which an antenna structure is located shall remove the structure from the property within 90 days.