

From: [Andy Newkirk](#)
To: [Andy Newkirk \(anewkirk@cityofgoleta.org\)](#)
Subject: FW: Suggested ham antenna language to comply with federal and state law...
Date: Friday, May 10, 2019 1:33:00 PM

From: Denis Franklin, MD <denis@ix.netcom.com>
Sent: Friday, May 10, 2019 11:16 AM
To: Kyle Richards <krichards@cityofgoleta.org>; Roger Aceves <raceves@cityofgoleta.org>; ikyriaco@cityofgoleta.org; Paula Perotte <pperotte@cityofgoleta.org>; Stuart Kasdin <skasdin@cityofgoleta.org>
Cc: Anne Wells <awells@cityofgoleta.org>
Subject: Suggested ham antenna language to comply with federal and state law...

Subject: **Suggested Language in order to comply with the provisions of Section 97.15 of Title 47 of the Code of Federal Regulations and California Government Code § 65850.3 (2017).**

Greetings:

Whereas higher authority has mandated that amateur (ham) radio stations serve the interests of citizens beyond the boundaries of the city, and even those of the state of California, and has seen fit to protect those national interests in the laws cited in the Subject line,

And whereas the laws of physics require that radio antennas must be of a certain size and height in order to provide amateur (ham) radio service communications,

Therefore I suggest the following change to section 17.42.020 of the proposed zoning ordinance:

17.42.020 Permit Requirements

This Section establishes the permit requirements for all new and existing wireless communications facilities within the City.

- A. **Exempt.** The following types of telecommunications facilities ~~that do not exceeding (sic) the maximum height permitted by this Title~~ are exempt for (sic) requiring a zoning permit.
1. Licensed amateur (ham) radio antennas that do not exceed sixty feet in height. ~~and citizen band radios.~~

The following types of telecommunication facilities that do not exceeding the maximum height permitted by this Title are exempt for requiring a zoning permit:

2. Hand-held, mobile, marine, and portable radio transmitters and/or receivers.

[... continuing with the list a before]

The Exemption for citizens band radio, completely different from ham radio, for which reason the height dimensions are *not* protected by federal and state law, could be reinstated as number 7 on the list.

I suggest sixty feet because that is the average height easily justifiable by any ham seeking to erect an antenna. And for those few who may believe they have a technical need for a higher antenna, the zoning permit process still offers an opportunity to offer justification to be evaluated by the planning commission, to be weighed against the legitimate community interest, and either approved or disapproved on a case by case basis as the preemptive federal and state laws require.

Naturally the safety and stability of the structure will still be assured by the need to obtain a *building* permit, and the adherence to engineering and building codes that process entails.

Again, I hope you find this information and my suggestion helpful.

Denis Franklin, MD

PS By the way, as you are doubtless aware, the federal and state partial preemption regarding ham antennas do *not* prohibit antenna restrictions by HomeOwners Associations, which are contractual and not governmental in nature, and to which the homeowner has agreed, upon purchase of the property. DF