

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING SECTION 22:431.2 OF THE CITY OF NORMAN CODE OF ORDINANCES CHANGING THE TITLE TO COMMUNICATION FACILITIES, ADDING DEFINITIONS AND UPDATING RELATED TERMINOLOGY, CLARIFYING LANGUAGE APPLICABLE TO COMMERCIAL COMMUNICATIONS TOWERS AND TELEVISION AND RADIO TRANSMISSION TOWERS, AND ADDING REGULATIONS RELATED TO SMALL CELL WIRELESS FACILITIES; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. That, Section 22:431.2 of Chapter 22 of the Code of the City of Norman, Oklahoma shall be amended to read as follows:

SEC. 431.2 - COMMUNICATION FACILITIES

1. Purpose. The intent of these provisions is to provide for the continued establishment of new wireless communication providers and the expansion of existing wireless communication services within the City, while simultaneously protecting neighborhoods, all through minimizing adverse visual and operational effects of facilities through careful design, sighting, screening, camouflage, and co-location.
2. Definitions.
 - (a) “Antenna” means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.
 - (b) “Applicable Codes” means uniform building, fire, electrical, plumbing, or mechanical codes adopted by the City of Norman, a recognized national code organization, local amendments to those codes, and applicable federal regulations.
 - (c) “Applicant” means a person or entity who submits an application pursuant to this section.
 - (d) “Application” means a request submitted by an applicant (i) for a Permit to construct a Commercial Communication Tower or antenna; (ii) for a Permit to co-locate an antenna or a small wireless facility; or (iii) to approve the installation or modification of a Commercial Communication Tower, antenna, utility pole or wireless support structure.
 - (e) “City Owned Pole” means (i) a utility pole owned or operated by the City in the right-of-way or easement, including light poles, traffic signals, and structures

for signage, and (ii) a pole or similar structure owned or operated by the City that supports only Wireless Facilities, but does not include a Commercial Communication Tower.

- (f) “Collocate” means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. Collocation has a corresponding meaning.
- (g) “Commercial Communications Tower” is a structure composed of a single spire erected and maintained by a public service corporation or a communications service provider that supports antennae used as part of a cellular mobile telephone communication system, and an accessory building not to exceed four hundred (400) square feet used to house equipment necessary for the operation of the cellular communication monopole and related facilities. Such term shall not include a Utility Pole or Television and Radio Transmission Towers.
- (h) “Communications service provider” means a cable operator as defined in 47 U.S.C., Section 522(5), a provider of information service as defined in 47 U.S.C., Section 153(24), a telecommunications carrier as defined in 47 U.S.C., Chapter 153(51) or a wireless provider.
- (i) “Day” means calendar day.
- (j) “Decorative pole” means a pole specifically designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than a small wireless facility, light fixtures, or specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed pursuant to City ordinances and policies.
- (k) “Electric distribution pole” means a pole used to support an electric distribution system.
- (l) “Fee” means a one-time charge
- (m) “Rate” means a recurring charge
- (n) “Small Wireless Facility” and “Small Cell Facility,” mean a wireless facility that meets both of the following criteria: (i) each antenna of the wireless provider could fit within an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, and all of its exposed elements could fit within an enclosure of no more than six cubic feet; and (ii) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. Ancillary equipment such as: electric meters, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switches, cut-off

switches, and vertical cable runs for the connection of power and other services are not included in the equipment volume calculation.

- (o) “Small Communication Tower” is a tower, possibly guy-wired, and no more than 190 feet tall, where antennae and communications equipment are placed to serve residential properties with internet service.
- (p) “Right-of-way” means the area within the jurisdiction of the City of Norman that is on, below, or above a public roadway, highway, street, sidewalk, alley or similar property or a public easement that authorizes the deployment sought by the wireless provider, but does not include a federal interstate highway.
- (q) “Television and Radio Transmission Tower” means a structure set up for the purpose of transmitting and receiving radio and television signals.
- (r) “Utility Pole” means a pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control, signage, or a similar function regardless of ownership, including a city owned pole. Such term shall not include structures supporting only Wireless Facilities.
- (s) “Wireless Facility” means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include the structure or improvements on, under, or within which the equipment is collocated, or coaxial or fiber optic cable that is between wireless support structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.
- (t) “Wireless Infrastructure Provider” means any person or entity, including a person or entity authorized to provide telecommunications service in the State of Oklahoma, that builds or installs wireless communication transmission equipment, wireless facilities or wireless support structures, but that is not a wireless services provider.
- (u) “Wireless Provider” means a wireless infrastructure provider or a wireless services provider.
- (v) “Wireless Services” means any services, whether at a fixed location or mobile, provided using wireless facilities.
- (w) “Wireless Services Provider” means a provider of wireless services.

- (x) “Wireless Support Structure” means a freestanding structure, such as a monopole; Commercial Communication Tower, either guyed or self-supporting; billboard; or, other existing or proposed structure designed to support or capable of supporting wireless facilities. Such term shall not include a Utility Pole.

3. Commercial Communications Towers.

- (a) Zoning. Commercial Communications Towers are prohibited within any public right-of-way or residential zoning district. Such towers are allowed by right within the PL, C-1, C-2, C-3, I-1, I-2, M-1, A-1 and A-2 zoning districts subject to the restrictions contained herein.
- (b) Parcel Size. The parcel on which the commercial communications tower is proposed to be located should be of sufficient size to accommodate the tower and any support facilities, and also include access to a public street or accessible parking area. Ownership or lease of a separate parcel to accommodate the tower and support facilities may require platting and improvements before construction permits can be issued.
- (c) Construction. In order to minimize visual impacts that can result from the presence of such facilities, towers (including attached antennae) are limited to monopole construction and may not exceed 200 feet in height, except in the PL and C-1 zoning districts where height is limited 90 feet.
- (d) Setbacks. No commercial tower shall be located closer than 200 feet to the boundary line of any property zoned or used for any residential purpose or within 200 feet of any residential structure on the same lot. In the PL and C-1 Districts, the tower or structure must observe a setback from any property line zoned or used for a residential purpose a distance equal to twice the height of the structure. All towers shall observe a minimum setback from any abutting street right-of-way equal to the height of the tower.
- (e) Appearance. No lights, signals, or illumination shall be permitted on any tower unless required by the Federal Communications Commission (FCC), Federal Aviation Administration (FAA), or City agency. No commercial advertising, signage, or flags shall be allowed on any tower. This shall not prevent the joint use of a legal existing sign structure as a support mechanism for antennae or microwave dishes. Towers and accessory facilities should be colored or painted in muted tones that minimize their visibility, unless otherwise required by the FCC or FAA. Within the PL and C-1 District, only towers utilizing stealth technology will be allowed. A “stealth tower” is a commercial communications tower that is incorporated into other equipment such that the facility is not readily recognizable as telecommunications equipment, and in fact may have a different primary function. Stealth towers may include, but are not limited to: sports lighting facilities at athletic fields, flagpoles which have fully enclosed antennas, “shoe

box” or shielded parking lot lights with fully enclosed or shielded antennas, crosses, church steeples, or clock towers. Such facilities may replicate, duplicate, or simulate the construction of common structures that serve a dual purpose. Any rejection by Staff of proposed stealth technology may be appealed to the Board of Adjustment.

- (f) Site Design. The area containing the monopole and accessory structures and any immediate surrounding area utilized for servicing of the communication tower shall be secured by a 7 foot tall chain link fence, and the area within the fence paved or graveled and kept weed-free. Other than the street side of the site, any side that faces any residential use shall include opaque fencing and six foot tall evergreen shrubs or trees spaced six feet on center that are sufficient to screen the site. If security lighting is installed, such light should be directed into the site and only triggered by motion detectors.
- (g) Co-location. To minimize tower proliferation, all reasonable efforts should be made to co-locate facilities on existing or new towers. If not possible, communication towers shall be located at least 1,000 feet apart. Antennae may be placed wholly within any building legally permitted in a commercial or industrial zoning district, or any publically-owned building .A commercial antenna may be mounted flush to the exterior of such buildings if painted and integrated into the overall architectural design. Roof-mounted antennae may not extend more than 20 feet above the highest point of the roof structure, provided any supporting equipment is screened from nearby residential districts. Antennae may be attached to any utility structure (such as a water tower or electrical transmission tower) or public building not located in a street right-of-way, if the property is owned by a government or public agency, further provided that the antennae do not extend more than 20 feet above the height of the structure.
- (h) Application Process. Before any construction permit can be issued, an application for a Pre-Development meeting must be submitted which complies with the requirements of 22:442.1 and demonstrates compliance with the provisions contained herein, as well as applicable building codes, including an Engineer’s structural certification of the tower structure.
- (i) Maintenance, Operation and Removal. The owner of the communication tower shall ensure that it is maintained in compliance with Applicable Codes and the applicable standards for commercial communication towers established by the Telecommunications Industries Association, as may be amended from time to time, in order to ensure the structural integrity of the tower. The failure to maintain structural integrity through compliance with these standards is hereby declared a public nuisance and the Commercial Communication Tower may be abated, including the removal of the Commercial Communication Tower under authority of and in compliance with the City Council's powers to declare and abate public nuisances. No antenna may be used which, by design or by actual operation, causes interference on any frequency actually used by any police, fire,

or public ambulance service having authority or jurisdiction over any portion of the City of Norman.

- (j) Removal of Abandoned Towers. Any Commercial Communication Tower that is not actually used as an antenna support for a continuous period of twelve (12) months shall be considered abandoned, and the permit owner(s) for such antenna(s) or Commercial Communication Tower shall remove same at their expense within ninety (90) days of receipt of notice from the City of Norman notifying the permit owner of said abandonment. In the event that such a Commercial Communication Tower is not removed, notice of the intent by the City to remove shall be given to the applicant and to the owner of the real estate on which the Commercial Communication Tower is located if different from the applicant. Abandoned Commercial Communication Towers are hereby declared a public nuisance, removable by the City Council in accordance with nuisance abatement procedures or through the claims on a posted bond.
- (k) An application for a Commercial Communication Tower shall be valid for no more than six months, unless a valid building permit is issued and construction proceeds diligently.

4. Television and Radio Transmission Towers.

- (a) Zoning. Television and Radio Transmission Towers are permitted on private property only as a Special Use granted by the City Council in the A-2 zoning district and outside of the Current and Future Urban Services area as described on the most recent enactment of the City's land use plan, in accordance with Section 434.1 of the Norman Zoning Ordinance. Because of the potential visual impact of all transmission towers, the notification area for the Special Use required by Section 434.1 shall be increased to include all property owners within one-half mile from the applicant's property. Towers in excess of 200 feet in height must be located at least one mile from any subdivision filed of record and served by public water and sewer systems.
- (b) Construction. The FCC must authorize the height of any Television or Radio Transmission Tower. Towers up to 200 feet in height must be of a monopole design. Guyed structures are permitted if taller than 200 feet, provided engineering data is provided that shows a collapsed structure will be contained within the area of the guy wires, and the entire facility is located on the applicant's property.
- (c) Setback. The tower must observe a setback from any property line equal to 50% of the height of the tower, but not less than 200 feet. Guy wire anchors must be located at least 25 feet from any property line.
- (d) Appearance. No lights, signals, or illumination shall be permitted on any tower unless required by the FCC, the FAA, or any City agency. If lighting is required,

only “dual lighting shall be allowed (white lights during the day, red lights at night). All lighting shall be the least intrusive on nearby properties. No commercial advertising, signage, or flags shall be allowed on any tower. Towers and accessory facilities should be colored or painted in muted tones that minimize their visibility, unless otherwise required by the FCC or FAA.

- (e) Co-location. To minimize tower proliferation, all reasonable efforts should be made to co-locate facilities on existing or new towers. Provision should be made on new transmission towers to allow antennae for personal wireless service or mobile radio service systems.
- (f) Site Design. All proposed or contemplated structures, towers, parking, and fencing must be included on a Proposed Site Plan, and shall provide for adequate landscaping to mitigate any visually intrusive elements from nearby property owners.

5. Small Communication Towers.

- (a) Zoning. Small communication towers are allowed on private property in the RE, A-1, A-2, C-2, C-3, I-1, I-2 and M-1 Districts provided they conform to the provisions contained herein. Small communication towers are not permitted within any public right-of-way.
- (b) Construction. Small communication towers must not exceed 190 feet in height and shall be constructed in compliance with all Applicable Codes. An Engineer’s structural certification of tower structure must be submitted with a building permit application.
- (c) Setback. Towers shall be set back from the property line a distance that protects adjacent property owners and/or habitable structure from damage if the tower collapses. The area of fall cannot be located on an adjacent property not owned by the applicant or on the public right-of-way. A certified engineer’s report is required to verify adequate area of fall and guy wire installation. Towers shall observe a minimum setback from any abutting street right-of-way equal to the height of the tower.
- (d) Appearance. No lights, signals, or illumination shall be permitted on any tower unless required by the FCC, FAA, or City agency. No commercial advertising, signage, or flags shall be allowed on any tower. Towers and accessory facilities should be colored or painted in muted tones that minimize their visibility, unless otherwise required by the FCC or FAA.
- (e) Removal. If a small communication tower becomes inoperable and is not put back into service within six months, the owner of the tower shall remove the small communication tower and other related equipment.

6. Small Cell Facilities

- (a) Permitted Use. Co-location of a small wireless facility or a new or modified utility pole or wireless support structure for the co-location of a small cell facility shall be a permitted use in all zoning categories subject to the provisions of this Section 6. However, any wireless provider that seeks to construct or modify a utility pole, wireless support structure or wireless facility that exceeds the height or size limits contained in this Section 6, shall be subject to applicable zoning requirements and Applicable Codes.
- (b) Permit Required. No person or entity shall place a small wireless facility in the right-of-way without first filing a small wireless facility siting application and obtaining a building permit.
- (c) Siting Applications.
 - i. The siting application shall be made by the wireless provider or its duly authorized representative and shall include the following:
 - 1. The applicant's name, address, telephone number, and email address;
 - 2. The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application;
 - 3. A siting map depicting the location of proposed sites for small wireless facilities and related construction and engineering drawings for each location sufficient to demonstrate compliance with the provisions herein. Small cell facilities on existing poles, new poles, or modified poles shall not interfere with vehicular access to adjacent property; nor shall they be placed in a location that would interfere with an existing individual tree's canopy. For applications to collocate on an existing pole, the applicant should provide an engineering analysis that demonstrates conformance with Applicable Codes, construction drawings stamped by a professional engineer licensed in Oklahoma, and a description of any make-ready work required, including any modification or replacement of the pole. Up to 25 proposed small cell facilities can be covered by one application.
 - 4. If a small wireless facility is proposed to replace an existing pole, or be located on an existing pole, the application shall indicate the owner of said pole.

5. A statement of compliance with all Applicable Codes from a licensed engineer.
 6. Siting Applications to Collocate Facilities: An application fee equal to \$200 each for the first five small wireless facilities on the same application and \$100 for each additional small wireless facility on the same application.
 7. Siting Applications for Installation, Modification or Replacement of a Utility Pole and Associated Collocation: An application fee equal to \$350 per pole on the same application.
- ii. Within twenty (20) days of receiving an application, the City will determine and notify the applicant in writing whether the application is complete. If an application is incomplete, the City will specifically identify the missing information in its written communication to the applicant. The processing deadlines set forth herein will be tolled from the time the City sends the notice of incompleteness to the time the applicant provides the missing information. The processing deadline may also be tolled by agreement of the Applicant and the City.
 - iii. An application shall not be required for routine maintenance, or the replacement of a small wireless facility with another small wireless facility that is substantially similar or smaller in size, weight and height, or for installation, placement, maintenance, operation or replacement of micro-wireless facilities that are strung on cables between existing utility poles in compliance with the National Electric Safety Code.
 - iv. Review Time for Applications to Collocate Facilities: The City will issue a written decision in response to an application to collocate small cell facilities within 60 days of receipt of the application. If the written decision is to deny the application, reasons for such denial shall be included in the written communication to the applicant. If the City does not issue a written decision within the prescribed timeframe, the application will be deemed approved.
 - v. Review Time for Applications for Installation, Modification or Replacement of a Utility Pole and Association Collocation: The City will issue a written decision in response to an application to install, modify or replace a utility pole and any associated collocation within 75 days of receipt of the application. If the written decision is to deny the application, reasons for such denials shall be included in the written communication to the applicant. If the City does not issue a written decision within the prescribed timeframe, the application will be deemed approved.

- vi. Appeals from the Denial of a Siting Application. Upon receipt of a notice of the City's written decision to deny all or part of a Siting Application, the applicant may choose to cure the deficiencies in the application or may appeal the denial. If the applicant chooses to cure the deficiencies identified by the City, the application must be resubmitted within 30 days of the denial and will not require payment of an additional application fee. Upon receipt of a revised application, the City shall have an additional 30 days to approve or deny the revised application. Applicants may appeal the decision of an Administrative Official regarding a submitted Siting Application in accordance with Section 441(6) of the City of Norman Zoning Ordinance.

(d) Height of Small Wireless Facilities and Associated Poles and Support Structures.

- i. Small wireless facilities, and new or modified utility poles and wireless support structures for the co-location of small wireless facilities may be placed in the right-of-way as a permitted use subject to the following requirements:
 - 1. Each new or modified utility pole installed in the right-of-way shall not exceed the greater of ten (10) feet above the tallest existing utility pole as of November 1, 2018 located within 500 feet of the new pole in the same right-of-way, or 50 feet above ground level.
 - 2. Each new small wireless facility in the right-of-way shall not exceed ten (10) feet above an existing utility pole in place as of November 1, 2018, or for small wireless facilities on a new utility pole, above the height permitted for a new utility pole under Section (d)(i)(1). m
- ii. Small wireless facilities may be placed on property owned, leased, or otherwise controlled by the City of Norman only pursuant to a commercial lease approved by the Norman City Council.

(e) Small Wireless Facilities Standards.

- i. All small wireless facilities affixed to a utility pole which has exterior exposure shall be as close to the color of the utility pole as is commercially available to the wireless provider.
- ii. The design and maintenance of all small wireless facilities, cables, wires, appurtenances, and utility poles, shall include the use of materials, colors, textures, screening and landscaping that will blend the small wireless facilities, appurtenances and utility poles to the natural setting or the built environment of the primary use.

- iii. All small wireless facilities affixed to a decorative light pole must be installed in such a way that the cables, wires, appurtenances, and facilities are concealed within the pole to the maximum extent possible.
 - iv. Spacing Requirements. No small cell facility shall be approved for placement on a new pole if the new pole is proposed to be located within a 500 foot radius of an existing pole.
- (f) Relocation or Modification of Small Cell Facilities. Within 60 days following written notice issued from the City, a wireless provider shall, at its own expense, protect, support temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities within the right-of-way whenever the City has determined that such removal, relocation, change, or alteration is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the right-of-way, or if the City has determined that the facility's signal is interfering with other signals for traffic control devices or emergency communications.
- (g) Emergency removal or Relocation of Small Cell Facilities. The City retains the right and privilege to cut or move any small wireless facility located within the rights-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the wireless provider and provide the wireless provider an opportunity to move its own facilities prior to cutting or removing a facility and shall notify the wireless provider after cutting or removing a small wireless facility.
- (h) Abandonment of Facilities. A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of the facility must remove the small wireless facility within 90 days after receipt of written notice from the City notifying the owner of the abandonment.
- (i) Damage to the Right-of-Way. A wireless provider shall repair all damage to the right-of-way directly caused by the activities of the wireless provider in the right-of-way and return the right-of-way to its functional equivalence before the damage. If the wireless provider fails to make the necessary repairs within 2 weeks of written notice, the City may make the repairs and charge the wireless provider the reasonable, documented cost of such affairs. A wireless provider shall be required to comply with right-of-way and vegetation management practices adopted by the City.
7. Proprietary Powers Reserved. Nothing in this Section concerning the regulation of what is legally permissible or legally forbidden interferes with the proprietary right of the City

Council to control the property held in the City's name or in the name of any of its trusts as either a corporate owner or as public trustee.

§ 2. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decisions shall not affect the validity of the remainder of this ordinance or any part thereof.

ADOPTED this ____ day of _____, 2018.

NOT ADOPTED this ____ day of _____, 2018.

Lynne Miller, Mayor

Lynne Miller, Mayor

ATTEST:

Brenda Hall, City Clerk