

ENROLLED SENATE
BILL NO. 426

By: Eason McIntyre of the
Senate

and

Martin (Steve) and Sherrer
of the House

An Act relating to cities and towns; amending 11 O.S. 2001, Section 47-119, which relates to the use of certain roadways; removing certain requirement; stating that municipalities and other local governments contracting for professional services shall presume certain persons as independent contractors for certain purposes; defining terms; providing for municipal regulation of amateur radio; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2001, Section 47-119, is amended to read as follows:

Section 47-119. A. A municipality situated in three or more counties which contains large areas of rural land not served by water and sewer facilities by the municipality shall recognize and permit the use of private roadways in either platted or unplatted areas consisting of ten (10) acres or less and shall issue building permits to owners of property abutting upon the private roadways without complying with standards as provided for dedicated streets under the following conditions:

1. The private roadway easement shall be at least fifty (50) feet in width;

2. The property abutting the private roadway shall contain not less than two (2) acres;

3. The property shall be more than one-fourth (1/4) mile from sewer and water facilities furnished by the municipality;

4. The private roadway shall not be dedicated to the public but reserved for future dedication and, until such future dedication, be the private roadway of the abutting property owners;

5. The private roadway shall be maintained by the owners of the property within the subdivision;

6. The municipality shall have no responsibility for the maintenance and repair of the private roadway;

7. If the property is platted, there shall be emblemized on the face of the plat, clearly conspicuous, a notice that the streets and drives have not been dedicated to the public, and that the streets shall be maintained by the private property owners within the subdivision, but that the streets shall always be open to police, fire, and other official vehicles of all state, federal, county, and municipal agencies;

8. Every deed shall clearly acknowledge that the roadway is private and not maintained by the municipality; and

9. Prior to the sale of any parcel in the subdivision, a conspicuous sign shall be posted at the entrance to the subdivision: "Private roadway not maintained by _____ (the municipality)".

At any time after the municipality recognizes and permits the use of such private roadway, a petition of at least sixty percent (60%) of the owners, in area, to improve and dedicate the street shall bind all of the owners thereby, to permanently improve the street or roadway in compliance with the requirements of the municipality. All other ordinances and planning commission regulations pursuant to the provisions of this article relating to subdivisions not in conflict herewith shall be applicable in such cases.

B. Multiple subdivisions divided into contiguous ten-acre tracts shall not qualify for the private road exemption provided for in subsection A of this section.

~~C. A municipality situated in three or more counties which contains large areas of rural land not served by water and sewer facilities by the municipality shall recognize and accept the dedication, repair, and maintenance of the roadways in either platted or unplatted areas and shall issue building permits to owners of property abutting upon all roadways complying with the following standards:~~

~~1. The roadbed shall be graded to a width of thirty four (34) feet from the edge of slope to the edge of slope, with a maximum crown of six (6) inches and with side slopes of 3:1 in cut section and a maximum of 2:1 in fill sections;~~

~~2. Ditches, where required for drainage, shall be a minimum of eighteen (18) inches in depth;~~

~~3. The subgrade shall be compacted thirty two (32) feet in width to a depth of six (6) inches to a minimum of ninety five percent (95%) of the Standard Proctor Density;~~

~~4. The base shall be constructed twenty three (23) feet in width to a depth of four (4) inches using stabilized aggregate base in accordance with Department of Transportation specifications or equivalent as determined by the Equivalent Base Thickness Method; and~~

~~5. The minimum roadway surfacing shall be constructed of hot mix asphalt concrete twenty two (22) feet in width, two (2) inches in thickness or approved equivalent as determined by local authority.~~

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-115 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. It is the intention of the Legislature to encourage attorneys, engineers and members of other professions to perform their professional services for local and state governments.

B. An attorney, engineer or member of other profession who performs duties required or permitted by statute as attorney, prosecutor, judge, engineer or other professional for a local or state government in Oklahoma pursuant to a retainer or contract for professional services shall be presumed to be an independent contractor and not an employee for all purposes if the terms of the contract are consistent with established common law pertaining to independent contractors as reflected in 26 C.F.R., Section 31.312(d)-2.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 55-103 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Amateur radio" means the use of amateur radio and amateur satellite radio frequencies and services by qualified and federally authorized persons of any age who are interested in radio technique without pecuniary interest;

2. "Antenna" means an array of wires, tubing, or the like used for the transmission and reception of radio waves; and

3. "Antenna support structure" means a structure or framework that is designed to elevate an antenna above the ground for the purpose of increasing the effective communications range and reliability of an amateur radio station. Amateur radio antenna support structures are removable by design and therefore are a removable structure for assessment purposes.

B. A municipal ordinance regulating amateur radio antenna or amateur radio antenna support structures shall comply with the requirements of 47 C.F.R., Section 97.15(b), as amended from time to time, by allowing for the erection of an amateur radio antenna or an amateur radio antenna support structure at a height and dimension sufficient to accommodate amateur radio service communications.

SECTION 4. This act shall become effective November 1, 2007.

Passed the Senate the 17th day of May, 2007.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2007.

Presiding Officer of the House
of Representatives