

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 HOUSE BILL 2149

By: Jett

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5  
6 AS INTRODUCED

7 An Act relating to cities and towns; creating the  
8 Wireless Communication Zoning Act; providing  
9 definitions; allowing conditional use permits under  
10 certain circumstances; allowing certain towers in  
11 residential-zoned areas under certain circumstances;  
12 requiring the removal of telecommunication towers  
13 under certain condition; requiring a special permit  
14 for certain towers; specifying requirements for the  
15 placement of telecommunication antennas on certain  
16 structures; specifying method of replacing  
17 telecommunication antennas on certain structures;  
18 authorizing the placement of certain antennas under  
19 certain circumstances; providing for codification;  
20 and providing an effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 44-121 of Title 11, unless there  
24 is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Wireless  
Communication Zoning Act".

1           SECTION 2.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 44-122 of Title 11, unless there  
3 is created a duplication in numbering, reads as follows:

4           As used in the Wireless Communication Zoning Act:

5           1. "Antenna array" shall mean a structure attached to a  
6 telecommunication tower that supports an antenna for receiving  
7 and/or transmitting electronic data or telephone communications.  
8 This definition excludes lightning rods and whip antennas not  
9 exceeding five (5) inches in diameter;

10          2. "Cell site" shall mean a tract or parcel of land that  
11 contains the wireless tower, its support structure, accessory  
12 building(s), and parking, and may include other uses associated with  
13 an ancillary to wireless communications transmission;

14          3. "Colocation" shall mean locating wireless communications  
15 equipment from more than one provider on a single site;

16          4. "Dish antenna" shall mean a dish-like antenna used to link  
17 communication sites together by wireless transmission of voice or  
18 data. The term may also be called microwave antenna or microwave  
19 dish antenna;

20          5. "Guyed tower" shall mean a tower that is supported in part  
21 or in whole by guy wires and ground anchors used to support  
22 telecommunications equipment;

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1 6. "Lattice tower" shall mean a self-supporting three- or four-  
2 sided, open, steel-frame structure used to support  
3 telecommunications equipment;

4 7. "Microwave" shall mean an electromagnetic radiation with  
5 frequencies higher than one thousand (1,000) megahertz (MHZ) that is  
6 a highly directional signal used to transmit radio frequencies from  
7 point-to-point at a relatively low-power level;

8 8. "Microwave antenna" shall mean a dish-like antenna  
9 manufactured in many sizes and shapes used to link communication  
10 sites together by wireless transmission of voice or data;

11 9. "Monopole" shall mean a self-supporting tower and/or a  
12 communication tower consisting of a single pole, with no guy wire  
13 support or exposed ground anchors, tapering from base to top, more  
14 than thirty-five (35) feet in height, and so designed to support  
15 telecommunications equipment;

16 10. "Panel antenna" or "sector antenna" shall mean an antenna  
17 that transmits signals in specific directions and is typically  
18 square or rectangular in shape;

19 11. "Roof and/or building mount facility" shall mean a low-  
20 power wireless telecommunications facility in which antennas are  
21 mounted to an existing structure on the roof, including roof-top  
22 appurtenances, or building face;

23 12. "Tower" means any structure that is designed and  
24 constructed primarily for the purpose of supporting one or more

1 antennas, including lattice towers, guyed towers and monopole  
2 towers. This term includes radio and television transmission  
3 towers, microwave towers, common-carrier towers, wireless telephone  
4 towers, and alternative tower structures;

5 13. "Nonwhip antenna" shall mean any antenna which is not a  
6 whip antenna, such as a dish antenna or panel antenna;

7 14. "Telecommunications" shall mean the transmission between or  
8 among points specified by the user, of information of the user's  
9 choosing, and without change in the form or content of the  
10 information as sent and received;

11 15. "Telecommunication antenna" shall mean an antenna used to  
12 provide a telecommunications service;

13 16. "Telecommunications service" shall mean the offering of  
14 telecommunications for a fee directly to the public, or to such  
15 classes of users as to be effectively available directly to the  
16 public, regardless of the facilities used; and

17 17. "Whip antenna" shall mean an omnidirectional dipole antenna  
18 of cylindrical shape which is no more than six (6) inches in  
19 diameter.

20 SECTION 3. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 44-123 of Title 11, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. A conditional use permit may be allowed in the certain  
24 zoning districts, including but not limited to commercially zoned

1 districts and planned unit developments pursuant to the following  
2 conditions:

3 1. The maximum height of the tower, including antenna array,  
4 shall not exceed two hundred (200) feet in height. Any tower which  
5 does not meet the two-hundred-foot height restriction shall be  
6 required to obtain a special permit. In addition, all towers are  
7 limited to the following height and setback restrictions:

8 a. all towers shall be located so as to provide a minimum  
9 distance equal to one hundred twenty-five percent  
10 (125%) of the height of the tower from any residential  
11 district or use,

12 b. all cell or telecommunication sites shall be located  
13 so as to provide a minimum distance of twenty-five  
14 (25) feet from all exterior boundaries of the cell or  
15 telecommunication site to all property lines of any  
16 abutting parcels in the appropriate zoning district as  
17 provided by the governing body; provided, a cell or  
18 telecommunication site may be located closer than  
19 twenty-five (25) feet to such property lines, if the  
20 written consent of all abutting property owners whose  
21 property line(s) would be within twenty-five (25) feet  
22 of the site is obtained. The minimum distance  
23 required by this subparagraph shall be measured from  
24 the fence surrounding the site as required by the

governing body, to all property lines of any abutting property in the appropriate zoning districts, and

c. all towers shall be located so as to provide a minimum distance of fifty (50) feet from the tower to all property lines of any abutting parcels in the appropriate zoning districts; provided, a tower may be located closer than fifty (50) feet to such property lines, if the written consent of all abutting property owners whose property line(s) would be within fifty (50) feet of the site is obtained. The minimum distance required by this subparagraph shall be measured from the base of the tower to all property lines of any abutting parcels in the appropriate zoning districts;

2. All towers over a height of seventy-five (75) feet shall be constructed so that they may be utilized by two or more wireless communication providers. Proof of such capacity shall be submitted before a building permit is issued. Any tower which does not meet the colocation requirement shall be required to obtain a special permit. All towers between the heights of thirty-five (35) and seventy-five (75) feet shall not be required to provide colocation capabilities;

3. New telecommunication towers above seventy-five (75) feet in height shall be a minimum distance of at least one-half (1/2) mile

1 from another telecommunication tower. New telecommunication towers  
2 between the heights of thirty-five (35) and seventy-five (75) feet  
3 shall observe a minimum distance of at least one-quarter (1/4) mile  
4 from another telecommunication tower;

5 4. All towers shall be of monopole-type construction, if  
6 located within five hundred (500) feet of any residential district  
7 or use;

8 5. All guys and guy anchors shall be located within the  
9 buildable area of the lot and not within the front, rear, or side-  
10 yard setbacks and no closer than five (5) feet to any property line;

11 6. All towers shall observe a minimum setback from any abutting  
12 street rights-of-way of twenty-five (25) feet and a minimum setback  
13 from any abutting expressway or highway of twenty-five (25) feet;

14 7. Any related unmanned equipment building shall not contain  
15 more than seven hundred fifty (750) square feet of gross floor area  
16 per carrier and shall not be more than twelve (12) feet in height  
17 from finished floor elevation. Small equipment cabinets which  
18 contain all necessary instruments to the operation of the antenna  
19 are encouraged as an alternative to the equipment building;

20 8. A fence not less than eight (8) feet in height, from the  
21 finished grade, shall be installed around the telecommunication site  
22 with access through a locked gate;

23 9. All telecommunication sites shall be landscaped and  
24 maintained with nondeciduous trees, at least six (6) feet in height,

1 planted on ten-foot centers, on the outside of the required fence,  
2 on all sides of the site; provided, however, if the landscaping  
3 requirement is not consistent with the surrounding area, upon  
4 written request this requirement may be modified or waived;

5 10. No signals or warning lights shall be permitted on any  
6 tower unless required by the Federal Communications Commission  
7 (FCC), Federal Aviation Administration (FAA) or other municipal  
8 agency; and

9 11. No commercial advertising or signage shall be allowed on  
10 any tower.

11 B. This subsection applies to residential-zoned districts and a  
12 waiver. Towers and antennas used for wireless and/or cellular  
13 telecommunications facilities may be located in a residential-zoned  
14 district if:

15 1. The development conditions as provided by law are met;

16 2. The subject site is vacant and/or unplatted; however, the  
17 subject site may be occupied with a nonresidential land use which is  
18 a legal use and/or legal nonconforming use; and

19 3. There are no residential uses located within three hundred  
20 (300) feet of the base of the tower.

21 C. Telecommunication towers which have not been used for a  
22 period of one (1) year shall be removed from a site. The last  
23 service provider shall notify the person in charge of the  
24



1 installation within thirty (30) days that the use has been  
2 discontinued.

3 D. Any tower which does not meet one or more of the conditions  
4 outlined herein shall be required to obtain a special permit.

5 SECTION 4. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 44-124 of Title 11, unless there  
7 is created a duplication in numbering, reads as follows:

8 A. The placement of telecommunication antennas on existing  
9 towers or sign structures shall be subject to the following:

10 1. Telecommunication antennas are allowed, in all zoning  
11 districts, without further zoning proceedings on existing utility,  
12 lighting, telecommunication towers and sign structures, provided  
13 that the antenna does not exceed the height of the structure by more  
14 than twenty (20) feet. All placements are subject to a revocable  
15 permit, if applicable;

16 2. Telecommunication antennas located on existing structures  
17 are not subject to any separation requirement; and

18 3. If any additions, changes, or modifications are to be made  
19 to the existing structure, the person in charge of the installation  
20 shall have the authority to require the submission of an engineering  
21 certification letter to confirm the addition, change or modification  
22 conforms to structural wind-load and all other requirements of the  
23 current building code adopted by the municipal governing body.

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1 B. The replacement of telecommunication antennas on existing  
2 towers or poles shall be subject to the following:

3 1. Existing structures may be rebuilt in all zoning districts,  
4 without further zoning proceedings, if necessary, to support the  
5 load of the new antenna, if the rebuilt structure is substantially  
6 similar in appearance to the existing structure it replaces; and

7 2. If the replacement or rebuilding is necessary for  
8 colocation, then the existing structure may be increased by thirty  
9 (30) feet higher than the existing structure, up to a height not to  
10 exceed two hundred (200) feet in height.

11 C. This subsection applies to the placement of roof-mounted  
12 telecommunication antennas. Roof-mounted placements are allowed on  
13 nonresidential and residential structures located within the  
14 appropriate district which are at least three stories in height,  
15 without further zoning proceedings, provided:

16 1. A nonwhip antenna does not exceed the height of the building  
17 by more than twenty (20) feet;

18 2. A whip antenna does not exceed the height of the building by  
19 more than twenty (20) feet and is located no closer than five (5)  
20 feet to the perimeter of the building; and

21 3. As a part of the building permit proceedings, the person in  
22 charge of the installation shall be provided with certification from  
23 an engineer that the roof will support the proposed antenna and  
24 associated equipment.

1 D. This subsection applies to building-mounted  
2 telecommunication antennas. The placement of nonwhip antennas is  
3 allowed on nonresidential and residential structures located within  
4 the appropriate district which are at least three stories in height,  
5 without further zoning proceedings if the antenna is mounted flush  
6 with the exterior of the building so that it projects no more than  
7 forty-one (41) inches from the surface of the building to which it  
8 is attached.

9 SECTION 5. This act shall become effective November 1, 2007.

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