

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 3220

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; defining terms;
9 allowing conditional use permits under certain
10 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" means 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" means a tract or parcel of land that contains
11 the wireless tower, its support structure, any accessory buildings,
12 and parking, and may include other structures associated with an
13 ancillary to wireless communications transmission;

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

16 4. "Dish antenna" means a dish-shaped antenna used to link
17 communication sites together by wireless transmission of voice or
18 data;

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

22 6. "Lattice tower" means a self-supporting three- or four-
23 sided, open, steel-frame structure used to support
24 telecommunications equipment;

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

5 8. "Microwave antenna" or "microwave dish antenna" means a
6 dish-shaped antenna manufactured in many sizes and shapes used to
7 link communication sites together by wireless transmission of voice
8 or data;

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

14 10. "Panel antenna" or "sector antenna" means an antenna that
15 transmits signals in specific directions and is typically square or
16 rectangular in shape;

17 11. "Roof or building mount facility" means a low-power
18 wireless telecommunications facility in which antennas are mounted
19 to an existing structure on the roof, including roof-top
20 appurtenances, or building face;

21 12. "Tower" means any structure that is designed and
22 constructed primarily for the purpose of supporting one or more
23 antennas, including lattice towers, guyed towers and monopole
24 towers. This term includes radio and television transmission

1 towers, microwave towers, common-carrier towers, wireless telephone
2 towers, and alternative tower structures;

3 13. "Nonwhip antenna" means any antenna which is not a whip
4 antenna, such as a dish antenna or panel antenna;

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

9 15. "Telecommunication antenna" means an antenna used to
10 provide a telecommunications service;

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

15 17. "Whip antenna" means an omnidirectional dipole antenna of
16 cylindrical shape which is no more than six (6) inches in diameter.

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

20 A. A conditional use permit may be allowed in zoning districts
21 including, but not limited to, commercially zoned districts and
22 planned unit developments pursuant to the following conditions:

23 1. The maximum height of the tower, including antenna array,
24 shall not exceed two hundred (200) feet in height. Any tower which

1 does not meet the two-hundred-foot height restriction shall be
2 required to obtain a special permit. In addition, all towers are
3 limited to the following height and setback restrictions:

4 a. all towers shall be located so as to provide a minimum
5 distance equal to one hundred twenty-five percent
6 (125%) of the height of the tower from any residential
7 district or use,

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

23 c. all towers shall be located so as to provide a minimum
24 distance of fifty (50) feet from the tower to all

1 property lines of any abutting parcels in the
2 appropriate zoning districts; provided, a tower may be
3 located closer than fifty (50) feet to such property
4 lines, if the written consent of all abutting property
5 owners whose property lines would be within fifty (50)
6 feet of the site is obtained. The minimum distance
7 required by this subparagraph shall be measured from
8 the base of the tower to all property lines of any
9 abutting parcels in the appropriate zoning districts;

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

18 3. New telecommunication towers above seventy-five (75) feet in
19 height shall be a minimum distance of at least one-half (1/2) mile
20 from another telecommunication tower. New telecommunication towers
21 between the heights of thirty-five (35) and seventy-five (75) feet
22 shall observe a minimum distance of at least one-quarter (1/4) mile
23 from another telecommunication tower;

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

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

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

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

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

19 9. All telecommunication sites shall be landscaped and
20 maintained with nondeciduous trees, at least six (6) feet in height,
21 planted on ten-foot centers, on the outside of the required fence,
22 on all sides of the site; provided, however, if the landscaping
23 requirement is not consistent with the surrounding area, upon
24 written request this requirement may be modified or waived;

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

5 11. No commercial advertising or signage shall be allowed on
6 any tower.

7 B. This subsection applies to residential-zoned districts and a
8 waiver. Towers and antennas used for wireless or cellular
9 telecommunications facilities may be located in a residential-zoned
10 district if:

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

12 2. The subject site is vacant or unplatted; however, the
13 subject site may be occupied with a nonresidential land use which is
14 a legal use or legal nonconforming use; and

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

17 C. Telecommunication towers which have not been used for a
18 period of one (1) year shall be removed from a site. The last
19 service provider shall notify the person in charge of the
20 installation within thirty (30) days that the use has been
21 discontinued.

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

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

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

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

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

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

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

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

3 2. If the replacement or rebuilding is necessary for
4 colocation, the existing structure may be increased by thirty (30)
5 feet higher than the existing structure, up to a height not to
6 exceed two hundred (200) feet in height.

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

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

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

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

21 D. This subsection applies to building-mounted
22 telecommunication antennas. The placement of nonwhip antennas is
23 allowed on nonresidential and residential structures located within
24 the district which are at least three stories in height, without

1 further zoning proceedings if the antenna is mounted flush with the
2 exterior of the building so that it projects no more than forty-one
3 (41) inches from the surface of the building to which it is
4 attached.

5 SECTION 5. This act shall become effective November 1, 2008.

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