

**TOWN OF SLAUGHTERVILLE, OKLAHOMA**

**ORDINANCE NO. 87**

**TOWER ORDINANCE**

AN ORDINANCE OF THE CODE OF ORDER OF THE TOWN OF SLAUGHTERVILLE, CLEVELAND COUNTY, OKLAHOMA.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SLAUGHTERVILLE, OKLAHOMA;

THE BOARD OF TRUSTEES OF THE TOWN OF SLAUGHTERVILLE, OKLAHOMA HEREBY ADOPT THE FOLLOWING "TOWER ORDINANCE OF THE TOWN OF SLAUGHTERVILLE, OKLAHOMA" TO WIT:

AN ORDINANCE OF THE TOWN OF SLAUGHTERVILLE, OKLAHOMA ADOPTING AND ENACTING THE TOWER REGULATIONS AND ORDINANCE, COMPILED AND PUBLISHED BY THE AUTHORITY OF THE TOWN BOARD OF TRUSTEES OF THE TOWN OF SLAUGHTERVILLE, OKLAHOMA, CONTAINING PERMANENT, SPECIFIC, AND GENERAL ORDINANCES REGARDING THE PLACEMENT, CONSTRUCTION, AND MODIFICATION OF ANTENNA SUPPORT STRUCTURES, TOWERS AND TELECOMMUNICATION FACILITIES USED IN SUPPORT OF INTERNET SERVICES, PERSONAL WIRELESS SERVICES, AND OTHER COMMUNICATIONS, WITH CERTAIN EXCEPTIONS TO THE SAME; ALL WITHIN THE JURISDICTIONAL AREA OF THE TOWN OF SLAUGHTERVILLE; DECLARING THE SEVERABILITY OF EACH PART HEREOF.

PASSED AND APPROVED this 15th day of February, 2011.

TOWN OF SLAUGHTERVILLE, OKLAHOMA

BY: BOBBY CLEVELAND, MAYOR

ATTEST: MARSHA BLAIR, CLERK

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## TOWER ORDINANCE

**Citation and Authority.** This ordinance and these regulations shall hereafter be known, cited, and referred to as the "Tower Ordinance of the Town of Slaughterville, Oklahoma." These regulations governing the placement, construction, and modification of antenna support structures, towers and telecommunication facilities used in support of internet services, personal wireless services, and other communications within the jurisdictional area of the Town of Slaughterville, have been prepared, adopted, and enacted by the Board of Trustees in and for the Town of Slaughterville in accordance with and pursuant to the authority granted by Title 11, Oklahoma Statutes, Section 12-106 et.seq. and 14-101, et.seq. (and all subsequent amendments thereto).

**Jurisdiction.** These regulations shall govern the placement, construction, and modification of antenna support structures, towers and telecommunication facilities used in support of internet services, personal wireless services, and other communications, with certain exceptions, all as set forth in this ordinance, within the jurisdictional area of the Town of Slaughterville, Oklahoma.

**Purpose.** The purpose of this ordinance is to establish general guidelines for towers and antennas including placement, construction, and modification of antenna support structures, towers and telecommunication facilities used in support of internet services, personal wireless services, and other communications, in order to protect the health, safety, and welfare of the public, while not unreasonably interfering with the development of any telecommunication system within the Town; and to preserve historic areas as fully set forth herein. Specifically, the purposes of this ordinance are:

- A. to direct the location of antenna support structures, towers and telecommunication facilities within the Town;
- B. to protect residential areas and land uses from potential adverse impact of antenna support structures tower and telecommunication facilities;
- C. to promote and encourage shared use and co-location of antennas on towers as a primary option rather than the construction of additional single-use towers;
- D. to minimize adverse visual impacts of antenna support structures, towers and telecommunication facilities through careful design, sighting, landscaping and innovative techniques;
- E. to avoid potential damages to adjacent properties caused by antenna support structures, towers and telecommunication facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed;
- F. to the greatest extent feasible, ensure that antenna support structures, towers and telecommunication facilities are compatible with surrounding land uses;

G. to ensure that the airspace of the Town as regulated by the Federal Aviation Administration is protected and does not endanger the operation of fixed and rotary wing aircraft.

H. to preserve the historic character and quality of property within the Town.

**Definitions.** As used in this ordinance, the following terms shall have the meanings respectively ascribed to them in this section:

"AGL" means the measurement of tower height plus antennae, structure, and all other apparatus added to the tower "Above Ground Level" at the site the tower is placed.

"Amateur Radio" or "Ham Radio" means a hobby regulated solely by the federal government and enjoyed by many licensed operators who have been issued a call sign by the government serving the following purposes:

- A. promotion and enhancement of the Amateur Radio Service as a voluntary noncommercial public communications service;
- B. continual advancement of the art of radio communication;
- C. expansion of the reservoir of trained radio operators and electronic experts; and
- D. enhancement of international goodwill at the grass roots level.

"Antenna" means a transmitting and/or receiving device used in telecommunications that radiates or captures a signal.

"Antenna support structure" means any structure that is or may be used for the support of antenna(s). An antenna support structure may include but is not limited to:

- A. buildings;
- B. towers constructed for the primary purpose of supporting an antenna; and
- C. other structures that may support antenna(s) ancillary to the primary purpose of the structure.

"Array antenna" means several antennas connected and arranged in a regular structure to form a single antenna. Antenna arrays are able to produce radiation patterns that combined, have characteristics that a single antenna would not.

"Camouflaging techniques" means the use of paint, fencing, screening, landscaping or design to cause the blending architecturally and aesthetically to the area.

“Carrier” is the person, business, or entity that holds the license through the Federal Communication Commission.

"Code enforcement Officer" means the person hired by the Town and designated as the Town's enforcement person.

“Communication Tower” means a structure erected, maintained and used for communication purposes.

“Dilapidated” means a structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public.

"Legal non-conforming tower" means a tower erected prior to the enactment of this ordinance within the Town that does not comply with all the requirements of this ordinance.

"Personal Wireless Services" means internet services, commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services; such as cellular, specialized mobile radio and personal communications services as defined in Section 704 of the Telecommunications Act of 1996.

“Repeater”, “Relay” or “Hub” means a low power mobile radio service telecommunications facility that extends coverage of all personal wireless services to areas not covered by the originating cell.

“Self supporting tower” means a communication tower that is constructed without guy wires and ground anchors.

“Setback formula” means a distance measured from the center of the base of the structure equal to at least the AGL from ground level multiplied by a factor of one point one (1.1) to the nearest property line on which the tower is located or any public street right-of-way or street easement.

"Telecommunication facility" means the antenna support structure, antenna, supporting equipment for the transmission and/or reception of radio, electronic, or other communication signals that may include, but is not limited to shelter(s) for equipment, electric power generators and fences.

“Tower” means a structure designed primarily for the purpose of support of antenna(s) utilized for the transmission/reception of radio, electronic, or other communication signals. This includes but is not limited to:

- A. self supporting, or free-standing;
- B. guyed towers;
- C. monopole;

D. lattice.

“Tower height” means the height calculated in conformance with Federal Communications Commission guidelines. All measurements to top of tower shall include any support structure that the tower may be placed upon. All measurements shall be given as AGL.

**Applicability.** All antenna support structures, towers, or telecommunication facilities used in support of personal wireless services, internet, or any other communication towers, or any portion of which are located within the Town of Slaughterville, are subject to the regulations of this ordinance. These regulations do not apply to antennas used for AM/FM radio, amateur ("ham") radio (see 47 C.F.R. §97.15), Citizen's Band ("CB") radio or Digital Audio Radio Services ("DARS").

**Code Compliance Permit.**

A. A code compliance permit shall be required for every tower that:

1. does not meet the setback formula; or
2. exceeds 100 feet in height.

B. The owner / operator shall prepare an application and pay the appropriate fee for a Code Compliance Permit. The application shall provide:

1. the identity of the owner of the tower including their address and telephone number;
2. the identity of the owner of the property including their address and telephone number;
3. the identity of the operator of the tower including their address and telephone number;
4. the identity of the carrier including their address and telephone number;
5. the identity of the person responsible for maintaining the tower including their address and telephone number.
6. the type of tower and the proposed use for the tower;
7. height and setbacks; guyed wires locations;
8. proposed placement;
9. the type of construction, type of support, proposed security and distance from structures, roads and property lines;

10. whether the proposed tower will be lighted and if so, what kind;
11. whether it is proposed to be located within a subdivision (homeowner's association approval ~~is~~ may be necessary);
12. permission by the property owner and the owner of the tower to go onto the real estate to inspect, yearly, or whenever the Town deems inspections are necessary;
13. signatures from owners of tower and the owner of property certifying to the truth of the information provided in the application.

**Regulations: Placement.**

- A. The placement of towers in support of personal wireless services shall be located in the following manner:
  1. Towers that exceed one hundred (100) feet in height shall not be located in a residential zoned area.
  2. Towers that do not exceed one hundred (100) feet may be located in any zoning district defined by the Town's Zoning Ordinance providing all other requirements of this ordinance are complied with, and so long as the towers do not conflict with homeowners association covenants and restrictions.
  3. There shall be only one (1) tower per parcel of real estate in all residential zoned districts.
  4. Towers shall not be located upon, or within 110 feet from any historic or prehistoric district, site, building, structure, or object included in, or eligible for inclusion on, the National Register of Historic Places.
  5. Towers shall not be constructed, emplaced, or erected unless the requirements of the setback formula are met; PROVIDED HOWEVER, that if written approvals and releases are obtained from all persons lying within the setback area as enumerated in the following paragraphs; then, the setback requirements shall be waived. Approvals and releases shall be obtained from:
    - a. Any owner of permanent residence or commercial building; and
    - b. Any life tenant or remainderman of said permanent residence or commercial building; and
    - c. Any lessee or tenant of permanent residence or commercial building; and
    - d. Any mortgagee of permanent residence or commercial building, and

- e. Any person having an applicable power of attorney over any of the above stated individuals; provided that said attorney in fact shall provide a copy of the said power of attorney documentation authorizing the attorney in fact to act of his behalf, shall provide the address and telephone number of the person for whom he is acting, and provide his own address and telephone number.

**Regulations: Co-Location.** Co-Location provisions intended to encourage locating as many antennas on a single tower as is physically and technologically possible, thus eliminating the need for additional towers.

- A. No Code Compliance Permits for construction of new towers used for personal wireless services with a height in excess of one hundred (100) feet will be issued unless such tower is shown to be capable of accommodating the antennas necessary for one or more similar telecommunications function. Construction plans will demonstrate the capability of the site to co-locate no less than one similar telecommunications facility at the location.
- B. Any tower constructed prior to the enactment of this ordinance that is modified by an increase in height or structure design to accommodate personal wireless services shall meet the requirement of providing for co-location of similar telecommunications facilities on the tower.
- C. For the purpose of encouraging the co-location of antennas, any legal non-conforming tower may be used as a co-location site.
- D. Repeaters are allowed and co-location is encouraged.

**Regulations: Construction Standards for Towers.**

- A. Any person desiring to construct, emplace, modify, or erect any antenna support structures, towers or telecommunication facilities which exceed 100 feet in height or which do not meet the setback formula, shall obtain a Code Compliance Permit from the Town shall pay the appropriate fees, and shall comply with all the Town Ordinances, all state statutes and regulations, all Federal Communication Commission (FCC) and other federal agency standards, requirements and regulations.
- B. The tower and telecommunication facilities, and anticipated levels of electromagnetic radiation which is generated by the telecommunication facilities, and the effective radiated power of the antenna, shall meet all FCC requirements.
- C. The following standards shall govern the construction, emplacement, erection, or modification of any antenna support structure, tower, or telecommunication facility:

1. Antenna support structures, towers or telecommunication facilities shall be constructed, emplaced, erected, or modified, employing sound engineering and building methods to ensure safety to the public.
2. All antenna support structures, towers or telecommunication facilities in excess of one hundred (100) feet must be designed and certified by an engineer to be structurally sound and, at minimum, shall be in conformance with FCC regulations and standards, as well as the Town's Ordinances, any applicable state laws, and other standards.
3. Any person desiring to construct, emplace, erect, or modify any antenna support structures, towers or telecommunication facilities shall obtain required permits or licenses from the Federal Aviation Administration for compliance with structures being constructed, emplaced, or erected within the airspace of the Town. A Code Compliance Permit will not be issued if the applicant fails to obtain the required permit or statement of waiver from the Federal Aviation Administration.
4. Any person desiring to construct, emplace, erect, or modify any antenna support structures, towers or telecommunication facilities shall comply with the Federal Aviation Administration (FAA) regulations, as now in existence, or hereafter amended.
5. The site of the antenna support structures, towers or telecommunication facilities shall be screened by fences, walls, or permanent evergreen planting around the parcel of land containing the antenna support structures, towers or telecommunication facilities and shall be developed in accordance with other provisions of this ordinance.
6. The site area shall also be secured to protect against trespass or unauthorized use.
7. All parcels of land upon which antenna support structures, towers or telecommunication facilities are located shall provide adequate means of water runoff drainage of the property without any adverse effect on surrounding property and be subject to the approval of the Town.
8. All parcels of land on which antenna support structures, towers or telecommunication facilities are located shall provide adequate vehicular access to the structure and equipment for construction and maintenance of the facilities.
9. All persons shall make every reasonable effort to design and construct new antenna support structures, towers or telecommunication facilities to blend into the character and environment of the area in which these improvements are located, including the use of camouflage techniques, array antennas and side mounting antennas unless such use will create a hazard for the public or it is not technically feasible to use such design and co-locate other facilities on the structure. The Town Code Enforcement Officer may request alternative

camouflage techniques and select the most appropriate technique to blend into the character and environment of the area. All towers and accessory telecommunication facilities shall be sited to have the least practical adverse visual effect on the environment. Towers should be a galvanized finish or painted gray or light blue unless other standards are required by the FAA. In all cases, monopole towers shall be preferable to guyed towers or free standing structures. Towers should be designed and sited to avoid, whenever possible, application of FAA lighting and painting requirements.

10. Any person owning, operating or maintaining a telecommunication facility which is subject to permitting as provided in this ordinance, shall place a sign not to exceed six square feet in size, identifying the owner of the tower, the owner of the property, the operator of the tower, the name of the carrier, and the person responsible for maintaining the tower including telephone numbers for each such person and entity.
11. There shall be no advertising on the telecommunication facility site.

**Regulations: Lighting.** Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to surrounding property owners and views.

**Regulations: Setbacks.** All towers and telecommunication facilities shall meet the setback formula unless the applicable written approvals and releases are obtained from all persons lying within the setback area as fully set forth in this ordinance.

All accessory buildings shall meet the setbacks established for the applicable zoning districts provided in the Town's Zoning Ordinance.

**Regulations: Maintenance.**

- A. Any person who owns, operates or maintains a telecommunication facility shall:
  1. At all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failure and accidents which are likely to cause damage, injuries, or nuisance to the public.
  2. Maintain antenna support structures, towers, telecommunication facilities, wire, cables, fixtures and other equipment in compliance with the requirements of the electrical safety codes, and all Federal Communications Commission, Federal Aviation Administration, state and local regulations, as now in existence or as may be adopted or amended.

- B. All antenna support structures, towers and telecommunication facilities shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.
- C. It is responsibility of the carrier to promptly resolve any electromagnetic interference problems created per FCC regulations.

**Regulations: Inspections.**

- A. The Code Enforcement Officer or other designated town official shall be responsible for inspection of any antenna support structures, towers and telecommunication facilities as regulated by this ordinance for compliance.
- B. In order to facilitate the administration and enforcement of the provision of this ordinance, an inventory shall be made of towers that fall within permit requirements set forth herein, which were erected prior to the enactment of this ordinance.

**Discontinuance of Use.** The Town may initiate action to have the telecommunication facility removed if the Code Enforcement Officer or other town official has reason to believe that a telecommunications facility has not been in use for a period of greater than six (6) months.

**Non-conforming Tower.** The provisions of this ordinance do not apply to antenna support structures, towers or telecommunication facilities emplaced, constructed, or erected prior to the enactment of this ordinance. These towers are considered legal non-conforming towers. However, any such legal non-conforming antenna support structures, towers or telecommunication facilities shall not be structurally modified or relocated unless all of the requirements of this ordinance are fully met.

**Variance and Exceptions** The provisions of this ordinance provide for the regulation and placement of antenna support structures, towers and telecommunication facilities within the Town's zoning districts, including setback requirements, and other zoning regulations as established by Town's Zoning Ordinance. Further, the FCC regulations specifically allow municipal zoning requirements so long as certain requirements are met. Because of the federal requirements necessary for municipal zoning of telecommunication facilities, the following applies:

- A. the Board of Adjustment as established by the Town's Zoning Ordinance shall hear and decide appeals of a decision of the Code Enforcement Officer or other town official, refusing to grant a Code Compliance Permit for the construction, erection, emplacement, modification or notice of enforcement of any provision of this ordinance.
- B. a written application for appeal with appropriate fees shall be filed with the Town Clerk within twenty (20) days after written notice of refusal to issue a Code Compliance Permit for construction, erection, emplacement, modification or notice of enforcement of any provision of this ordinance. Each written application for appeal shall fully state and fully describe each and every allegation made against the Code Enforcement Officer or other

town official, including citations to the section of this ordinance or other law that was violated; and shall include all arguments and all written authorities showing how the decision of the town official was wrong. Any propositions or arguments which are not stated in the appellate application in writing will not be considered on appeal by the Board of Adjustment and will not be presented at the meeting.

- C. After the written application is submitted, the Town must file a written response to the arguments made by the appellant including legal citations to the section of this ordinance, to caselaw, and all other law that was not violated; all arguments and all written authorities showing how the decision of the town official was correct. Any propositions or arguments which are not argued in the response in writing will not be considered on appeal by the Board of Adjustment and will not be presented at the meeting.
- D. A court reporter or stenographer must be present for the purposes of making a transcript of the proceedings had before the Board of Adjustment. The appellant shall be responsible for all costs associated with the court reporter or stenographer and obtaining a written copy of the transcript of the proceeding of the Board of Adjustment. Proof of the same shall be required to be presented to the Town Clerk before the appeal will be processed.
- E. The powers of the Board of Adjustment shall be those set forth by Oklahoma statute, specifically, Title 11 O.S. §44-101 et.seq.
- F. Special exceptions shall be allowed to this ordinance to allow a use, or a specifically designated element associated with a use, which is not permitted by right in a particular zoning district because of potential adverse effect, but which is controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted by the Board of Adjustment. The special exceptions are as follows:
  - 1. setbacks that may encroach upon a public right of way so long as the proposed placement of antenna support structures, towers and telecommunication facilities do not pose any threat or a danger to the public, or interfere with adjacent property uses;
  - 2. setbacks that may encroach upon adjacent property, so long as the proposed placement of antenna support structures, towers and telecommunication facilities do not pose any threat or a danger to the public, or interfere with adjacent property uses;

**Enforcement, Violations and Penalties.**

- A. In the event there is a violation of the terms of this ordinance, the Town may seek any relief accorded by the law of the State of Oklahoma or any other relief set forth in this ordinance.

- B. The provisions of this ordinance may be enforced by any affected person through injunctive proceedings in any court of competent jurisdiction. For the purposes of this section, the word “person” shall include, but not be limited to, the Town of Slaughterville and a private citizen. In the event a lawsuit is filed, attorney fees, court costs, and all other costs incurred by the Town shall be recovered.
- C. Any person who violates any provision of this ordinance shall be guilty of an offense and, upon conviction thereof, shall be fined in an amount not to exceed the limits established by State Law. Each day upon which such violation continues shall be deemed a separate offense.
- D. In case any antenna support structures, towers or telecommunication facilities building, structure or land is constructed, altered, converted, maintained or used in violation of this ordinance, the Town of Slaughterville, Oklahoma, in addition to other remedies available, may institute any proper action or proceedings to prevent such unlawful activities, in order to restrain, correct or abate such violation. Nothing contained herein shall prevent the Town of Slaughterville from filing suit against the owner, operator, or licensee for violations of the provisions of this ordinance and seeking injunction, abatement of a nuisance or removal of the non-conformity or any other appropriate relief as may be granted by the District Court.
- E. In the event a lawsuit is initiated, the Town of Slaughterville shall be entitled to all fines, attorney fees and costs incurred in the said lawsuit, which shall include the costs of bringing the action, service of process, expert fees, the costs associated with the Code Enforcement Officer, and any and all other costs which have been incurred.
- F. The cost of removing or abating any non-conformity or nuisance may be collected by any other legal means available.
- G. Any violation of this ordinance shall result in the Town of Slaughterville requesting and recouping from the violator all costs associated with the enforcement of this ordinance, including but not limited to all attorney fees, court costs and all other costs associated with the Code Enforcement Officer’s time and expenses.

**Abatement of Nuisance or Dilapidated Structures.**

- A. The Code Enforcement Officer or duly authorized individual is hereby authorized to order the owner, operator, or licensee or occupant of any premises in the Town of Slaughterville to remove from such premises, at his own expense, any non-conformity or source of hazard, danger, or condition that might contribute to an immediate hazard and danger to the citizens of Slaughterville, or any other condition that could have an immediate adverse affect on the public health within twenty-four (24) hours, or within such other time as might be reasonable. Such order shall be in writing and served on the owner, operator, licensee or occupant, or a copy thereof may be left at the last usual place of abode of such owner, occupant, or licensee; such order may be served by posting a

copy thereof on the premises, or by publication in at least one issue of a newspaper having a general circulation in the Town of Slaughterville.

- B. If the owner, operator, or licensee refuses to remedy the dangerous condition, then the Town may take immediate action and mandate that the antenna support structures, towers or telecommunication facilities building, structure or other dilapidated structure be removed pursuant to Article 1, Section 23 of the Town's Zoning Ordinance.
- C. In cases where it is deemed impractical summarily to abate the nuisance, or if the owner refuses to remedy the situation, then the Town of Slaughterville may bring suit in the District Court. All costs of bringing the suit, which shall include attorney fees, service of process fees, expert fees, all costs associated with abating the non-conformity or nuisance, fines, costs associated with the Code Enforcement Officer, and all other costs shall be assessed against the property owner as provided herein.
- D. Nothing herein shall prevent the Town from seeking all other remedies under the law.

**Separability.** If any section, clause, paragraph, provision or portion of this ordinance and these regulations shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of any other section, clause, paragraph, provision or portion of this ordinance and these regulations.