

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MUSTANG, OKLAHOMA, AMENDING CHAPTER 122, SECTION 122-886 BY CLARIFYING AND ADDING TO THE PURPOSES OF THE ORDINANCE; AMENDING SECTION 122-887 BY DEFINING AMATEUR RADIO TOWER, GUYED TOWER, LATTICE TOWER, MONOPOLE TOWER, AND CLARIFYING THE EXISTING DEFINITION OF TOWER; AMENDING SECTION 122-888 BY ADDING A REQUIREMENT THAT APPLICANTS FOR AMATEUR RADIO TOWERS OBTAIN A PERMIT FOR TOWERS FIFTY FEET OR LESS IN HEIGHT OR A CONDITIONAL USE PERMIT FOR TOWERS GREATER THAN FIFTY FEET IN HEIGHT OR WHICH REQUIRE VARIANCE, DELETING AN EXCEPTION FOR RECEPTION-ONLY TOWERS, AND RENUMBERING CERTAIN SUBSECTIONS; RENUMBERING SECTIONS 122-892 THROUGH 122-894; ADDING A NEW SECTION 122-892 SETTING FORTH PERMIT REQUIREMENTS APPLICABLE TO AMATEUR RADIO TOWERS; AMENDING FORMER SECTION 122-892 (RENUMBERED AS 122-893) TO REQUIRE AMATEUR RADIO TOWERS COMPLY WITH APPLICABLE FEDERAL LAWS; AMENDING FORMER SECTION 122-893 (RENUMBERED AS 122-894) TO REQUIRE THAT ABANDONED AMATEUR RADIO TOWERS BE REMOVED, AND CLARIFYING EXISTING LANGUAGE; AMENDING SECTIONS 122-212, 122-241, 122-472, 122-522, AND 122-641 BY INCLUDING AMATEUR RADIO TOWERS AS A USE PERMITTED BY RIGHT OR UPON REVIEW IN ALL ZONING DISTRICTS; AMENDING CHAPTER 42, SECTION 42-122 TO ADD A FEE FOR PERMITS FOR AMATEUR RADIO TOWER OF FIFTY FEET OR LESS IN HEIGHT; DECLARING REPEALER; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MUSTANG, OKLAHOMA;

Section 1. Section 122-886 of the Municipal Code of the City of Mustang, Oklahoma, is hereby amended by amending the existing language of Section 122-886 so that section shall read as follows:

Sec. 122-886. Purpose.

The purpose of these regulations for telecommunications facilities, towers and antennas are:

(1-2) [These subsections are unchanged.]

(3) To encourage the location of telecommunications facilities in nonresidential zone districts;

(4-8) [These subsections are unchanged.]

(9) To consider public health and safety of telecommunications facilities, towers and antennas;

(10) To avoid damage to adjacent properties from tower failure through careful

engineering and locating of tower structures;

(11) To protect residential areas and lands by minimizing adverse impacts of towers; and

(12) To reasonably accommodate amateur radio communications by imposing the minimum practicable regulation necessary to accomplish the legitimate purposes of the City.

Section 2. Section 122-887 of the Municipal Code of the City of Mustang, Oklahoma, is hereby amended by adding a definition of “amateur radio tower,” “guyed tower,” “lattice tower,” and “monopole tower” and amending the definition of “tower” so that Section 122-887 shall read as follows:

Sec. 122-887. Definitions.

Amateur radio tower shall mean any structure designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers and used by a licensed amateur radio operator for amateur radio reception and transmission, with no commercial activity. The term includes any antenna or antenna array attached to the tower structure.

Guyed tower shall mean a tower that is supported, in whole or in part, by guy wires and ground anchors.

Lattice tower shall mean a guyed or self-supporting, open, steel frame structure, with three or more sides, that is used to support one or more antennas.

Monopole tower shall mean a tower consisting of a single pole, constructed without guy wires and ground anchors.

Tower shall mean any structure designed and constructed primarily for the purpose of supporting one or more antennas, including lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, amateur radio towers, microwave towers, common carriers towers, cellular telephone towers, and other similar structures. This term also includes any antenna or antenna array attached to the tower structure.

Section 3. Section 122-888 of the Municipal Code of the City of Mustang, Oklahoma, is hereby amended by amending the existing language of Section 122-886 so that section shall read as follows:

Sec. 122-888. Permit required.

Telecommunications facilities shall be regulated and permitted pursuant to this division and the zoning ordinances of the city.

- (1) [This subsection is unchanged.]
- (2) Any person desiring to erect an amateur radio tower of fifty (50) feet or less in height shall obtain a permit as a condition for the siting, construction or operation of the amateur radio tower. Any person desiring to erect an amateur radio tower greater than fifty (50) in height, or which requires variance from the requirements set forth in section 122-892, shall obtain a conditional use permit as a condition for the siting, construction or operation of the amateur radio tower.
- (3) These regulations shall apply to all towers and antennas as defined, except:
 - a. Any antenna colocated on an existing telecommunications facility, except as expressly provided in this division.
 - b. A telecommunications facility located or colocated on property which is owned by the city and designated by the city as a site suitable for location of a telecommunications facility.
- (3) [This subsection is unchanged.]

Section 4. Section 122-892 of the Municipal Code of the City of Mustang, Oklahoma, is hereby added to read as follows:

Sec. 122-892. Amateur Radio Tower Standards.

A permit for an amateur radio tower shall require compliance with the standards set forth below. In addition to the following standards, a conditional use permit for an amateur radio tower shall be governed by Section 122-57:

- (a) The applicant must possess an amateur operator license.
- (b) All amateur radio towers, other than a guyed lattice tower, shall be located on a site so as to provide a minimum distance equal to 100 percent of the height of the tower from all property lines. A guyed lattice tower shall be located on a site so as to provide a minimum distance equal to 70 percent of the height of the tower from all property lines. The minimum distance required by this paragraph shall be measured from the base of the amateur radio tower to all abutting property lines.
- (c) All amateur radio towers located within a residential district, or the base of which is within 500 feet of a residential district or use, shall be self-supporting lattice towers, guyed towers or of monopole type construction.
- (d) Guy wires must be anchored within the applicant's property boundary. Guy wires shall not cross or encroach any overhead electric power lines.
- (e) Antennas shall not extend beyond the applicable set back for the property on which the tower is to be erected, and shall be installed in accordance with manufacturer's recommendations and such that the antenna will not fall outside of the applicable fall zone in event of tower failure.
- (f) Amateur radio tower shall be sited to have the least practical adverse visual effect on the environment. No part of the tower, antenna, guy wires or other apparatus may extend beyond the front building line.
- (g) No signals or illumination shall be permitted on any amateur radio tower unless required by the federal, state law or local ordinance. Should lighting be

required by federal, state or local law or ordinance, the lighting shall be placed on the amateur radio tower and designed in such a way as to minimize the glare on adjacent residential and nonresidential properties. Amateur radio towers shall be a galvanized finish, aluminum or painted gray unless other standards are required by the FAA. Towers shall be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

(h) No signs shall be permitted on amateur radio towers with the exception of signs required by FCC regulations or signs containing warning or safety instructions. Signs are limited to four square feet in size and commercial advertising is expressly prohibited.

(i) Every amateur radio tower shall be protected from trespassers in order to discourage the climbing of the tower by unauthorized persons.

(j) The application for a permit shall be submitted on a form designated by the Community Development Director or his designee and at a minimum shall include the following information: (i) a complete site plan containing a drawing showing the property boundaries, tower, guy wires, and other apparatus, fences, and existing land uses surrounding the site, (ii) a statement as to the height of the proposed amateur radio tower; (iii) evidence of the applicant's fee title to the property site or a license or lease from the fee titleholder of the property; and (iv) proof of liability insurance coverage in event of property damage to third persons caused by failure of the tower or antenna.

(k) The Community Development Director or his designee, the Planning Commission or the City Council may require the applicant to submit structural engineering plans and wind loading capabilities from the tower manufacturer, and confirm that installation shall meet the manufacturer's recommendations. The tower and antenna shall comply with the current edition of the National Electrical Safety Code (NESC) and prudent electric utility practices, and shall be able to safely support the proposed antenna and associated attachments. If an applicant does not have tower manufacturer specifications, the applicant may be required to submit certification from an Oklahoma registered engineer that the proposed tower, as installed, will be able to safely support the proposed antenna and associated attachments and able to withstand wind loadings and other design standards applicable in Canadian County, Oklahoma.

(l) In reviewing any application and considering the grant or denial of a conditional use permit for an amateur radio tower, the Planning Commission and City Council may negotiate with the applicant and vary from the requirements imposed by this code division to accommodate reasonably the amateur radio communications, while imposing the minimum practicable regulation to accomplish the legitimate health, safety and aesthetic concerns of the City.

Section 5. Existing Section 122-892 of the Municipal Code of the City of Mustang, Oklahoma, is hereby amended by renumbering that section to Section 122-893 and amending the existing language so that renumbered Section 122-893 shall read as follows:

Sec. 122-893. Specific standards.

(a) All telecommunications facilities and amateur radio towers shall be erected and operated in compliance with current Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and regulations and other applicable federal, state and local standards.

(b-e) These subsections are unchanged.]

Section 6. Existing Section 122-893 of the Municipal Code of the City of Mustang, Oklahoma, is hereby amended by renumbering that section to Section 122-894 and amending the existing language so that renumbered Section 122-894 shall read as follows:

Sec. 122-894. Permit condition.

(a) No owner or occupant of property within the city shall permit, leave or cause to be left on said property any telecommunications facility or amateur radio tower which has been abandoned or discontinued for use. The provider shall remove its facility within 90 days of the date that it discontinues its use of the facility and tower. If the provider fails to remove the facility within the required time, the facility shall be deemed to be abandoned. The city shall have authority to enter the premises and remove the abandoned facilities. All costs of removal shall be collected from the provider in the manner provided for [in the] summary abatement of nuisances. This requirement shall apply to co-located facilities unless the co-location agreement provides for the removal of abandoned facilities by the tower operator.

(b) Defective or unsafe antennas, towers or telecommunications facilities are to be repaired or removed within a reasonable time at the owner or operator's expense. If the facilities are not operated for a continuous period of 24 months they shall be considered abandoned and must be removed within 90 days. If not removed, the city may remove at the expense of the owner or operator.

(c) [This subsection is unchanged.]

Section 7. Section 122-212 of the Municipal Code of the City of Mustang, Oklahoma, is hereby amended by adding amateur radio tower within the table of uses, as follows:

Sec. 122-212. Permitted uses.

Property and buildings in an A-1 district shall be used only for those uses which have a "P" or an "R" in the A-1 category listed in this section. The letter "P" indicates a use that is permitted by right. The letter "R" signifies a conditional use that may be permitted subject to acquiring a Conditional Use Permit in accordance with Section 122-57.

| | |
|---------------|--------|
| Permitted Use | Zoning |
|---------------|--------|

| | |
|--|--------------|
| | District A-1 |
| Accessory identification sign | P |
| Airport or landing field | P |
| Agricultural land uses, buildings and activities | P |
| Amateur Radio Tower (50 feet or less in height) | P |
| Amateur Radio Tower (Greater than 50 feet or requiring variance) | R |
| Animal hospital (with or without outside runs) | P |
| [Remaining uses remain unchanged.] | |

Section 8. Section 122-241 of the Municipal Code of the City of Mustang, Oklahoma, is hereby amended by adding amateur radio tower within the table of uses, as follows:

Sec. 122-241. Table of permitted uses.

Property and buildings in the defined residential districts shall be used only for those uses which have a "P" or an "R" in the zoning districts listed in the following table. The letter "P" indicates a use that is permitted by right. The letter "R" signifies a conditional use that may be permitted subject to acquiring a Conditional Use Permit in accordance with Section 122-57.

| Permitted Use | Zoning District | | | | | | |
|--|-----------------|-----|-----|-----|-----|--------|--------|
| | R-E | R-1 | R-2 | R-3 | R-4 | R-MH-1 | R-MH-2 |
| Agricultural land uses, buildings and activities | P | | | | | | |
| Amateur Radio Tower (50 feet or less in height) | P | P | P | P | P | P | P |
| Amateur Radio Tower (Greater than 50 feet in height or requiring variance) | R | R | R | R | R | R | R |
| [Remaining uses remain unchanged.] | | | | | | | |

Section 9. Section 122-472 of the Municipal Code of the City of Mustang, Oklahoma, is hereby amended by adding amateur radio tower within the table of uses, as follows:

Sec. 122-472. Permitted uses and uses permitted on review.

Property and buildings in the defined commercial districts shall be used only for those uses which have a "P" or "R" in the zoning districts listed below. The letter P indicates a use that is permitted by right. The letter "R" signifies a conditional use that may be permitted subject to acquiring a Conditional Use Permit in accordance with Section 122-57.

| Permitted Uses By Right or Upon Review | Zoning Districts | | | | |
|--|------------------|----------|--------------|----------|----------|
| | Previous | Zoning | Designations | | |
| | C1 OPB | C2 CN | C3 CG | C4 SC | C5 CI |
| Abstract company | P | P | P | P | P |
| Accountants | P | P | P | P | P |
| Advertising | P | P | P | P | P |
| Advertising officers | P | P | P | P | P |
| Alarm system company | | | P | P | P |
| Amateur Radio Tower (50 feet in height or less) | P | P | P | P | P |
| Amateur Radio Tower (Greater than 50 feet in height or requiring variance) | R | R | R | R | R |
| [Remaining uses remain unchanged.] | | | | | |

Section 10. Section 122-641 of the Municipal Code of the City of Mustang, Oklahoma, is hereby amended by adding amateur radio tower within the table of uses, as follows:

Sec. 122-641. Table of permitted uses.

Property and buildings in the defined industrial districts shall be used only for those uses which have a "P" or an "R" in the zoning districts listed in the following table. The letter "P" indicates a use that is permitted by right. The letter "R" signifies a conditional use that may be permitted subject to acquiring a Conditional Use Permit in accordance with Section 122-57.

| Permitted Uses | Zoning District | | |
|------------------|-----------------|-----|-----|
| | I-1 | I-2 | I-3 |
| Acid manufacture | | | R |

| | | | |
|---|---|---|---|
| Advertising signs/billboards | P | P | P |
| Aircraft parts: sales, service, rental or repair, including airframes and engines | | | P |
| Airway beacon or marker | P | P | P |
| Amateur Radio Tower (50 feet in height or less) | P | P | P |
| Amateur radio Tower (Greater than 50 feet in height or requiring variance) | R | R | R |
| [Remaining uses remain unchanged.] | | | |

Section 11. Section 42-122 Chapter 42 of the Municipal Code of the City of Mustang, Oklahoma, is hereby amended by adding subsection (e) to read as follows:

Sec. 42-122. Chapter 122: Zoning.

(a-d) [These subsections are unchanged.]

(e) *Permit for Amateur Radio Tower (50 feet or less in height).* For filing a permit for an amateur radio tower, \$50.00.

Section 12. All other provisions established by chapter shall remain the same, as if specifically set out herein.

Section 13. **REPEALER**

All former ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 14. **SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 14. **EMERGENCY**

It being immediately necessary for the preservation of the public health, peace and safety of the City of Mustang and the inhabitants thereof, an emergency is hereby declared to exist by reason whereof, this ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

PASSED AND APPROVED and the Emergency Clause voted upon separately and passed and approved this _____ day of _____, 2010.

MAYOR

ATTEST:

CITY CLERK

APPROVED as to form this _____ day of _____, 2010.

City Attorney