

CITY OF VAN BUREN, ARKANSAS

ORDINANCE NO. 16 - 1999

AN ORDINANCE TO AMEND ORDINANCE NO. 7-1963 FOR THE PURPOSE OF AMENDING THE ZONING ORDINANCE ESTABLISHING REGULATIONS FOR COMMERCIAL COMMUNICATIONS TOWERS.

WHEREAS, three (3) copies of Amendments to the Zoning Ordinance Establishing Regulations for Commercial Communication Towers are now on file in the Office of the Clerk of the City of Van Buren for inspection and review by the public prior to the passage of this Ordinance; and

WHEREAS, notice has been published in a newspaper of general circulation within the City of Van Buren giving notice to the public prior to consideration for passage of this Ordinance.

NOW, THEREFORE,

BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF VAN BUREN, ARKANSAS, THAT:

SECTION 1: The Amendments Establishing Regulations for Commercial Communication Towers within the Zoning Ordinance of the City of Van Buren are hereby adopted.

SECTION 2: EMERGENCY CLAUSE: It is hereby found and determined that the adoption of amendments, known as the Commercial Communication Towers Amendment to the Zoning Ordinance of the City of Van Buren, is necessary for the proper regulation of uses of property, especially commercial uses of property, within the City of Van Buren, so that the promotion of the health, safety and welfare of the inhabitants of the City requires that the Amendments be effective, as of the date of the approval of this Ordinance.

PASSED AND APPROVED THIS 19th DAY OF JULY, 1999.

SPA

Mayor J. Du Regge
MAYOR

ATTESTED:

R
CITY
CLERK/TREASURER

**AN ORDINANCE ADOPTING AMENDMENTS TO THE
CITY OF VAN BUREN ZONING ORDINANCE
ESTABLISHING REGULATIONS FOR
COMMERCIAL COMMUNICATIONS TOWERS**

COMMERCIAL COMMUNICATION TOWERS

- A. PURPOSE:** The purpose of these regulations is described as follows:
- (1) Minimize the adverse effects and impact of towers through careful design, siting and screening.
 - (2) Conserve the value of adjacent land and buildings;
 - (3) Avoid potential damage to adjacent properties through engineering and careful siting of tower structures; and
 - (4) Maximize use of existing towers in order to reduce and minimize the number of towers needed.
- B. DEFINITIONS:** A Commercial Communication Tower is a structure designed to have a telecom antenna attached to it by a for-profit or not-for-profit entity.
- C. APPROVED TOWER LOCATIONS (ZONING DISTRICTS):** As defined herein, Commercial Communication towers are prohibited within any public right-of-way, utility easement or residential, government or C-I zoning districts unless granted by conditional use permit. Such uses are allowed by right within zoning districts C-2, I-1 and 1-2, subject to applicable zoning restrictions as well as the following restrictions set-forth herein.
- D. OWNERSHIP:** The proposed location for the tower must be large enough to accommodate the communications tower and support facilities, and must include access to a public right-of-way of accessible parking area. Purchase of ownership of a separate parcel may require platting and improvements before construction permits can be issued.
- E. CONSTRUCTION:** In order to minimize visual impacts and possible damage that can result from the presence of such facilities, towers (including attached antennae) are limited to monopole construction and shall not exceed two hundred (200) feet in height. Compliance with all requirements of the Van Buren Building Code, including a licensed engineer's structural certification of the tower structure and foundation, must be demonstrated before a building permit will be issued.
- F. SETBACK:** All commercial towers must meet the minimum setbacks for the zoning districts in which they are located. Additionally, commercial towers must be set back from any residential structure a number of feet equal to the zone of radius failure plus twenty-five percent (25%) as certified by a tower manufacturer's registered structural engineer who shall be licensed in the State of Arkansas.
- G. APPEARANCE:** No lights, signals or illumination shall be permitted on any tower unless required by the Federal Communication Commission (FCC), Federal Aviation Administration (FAA), or other Federal, State, or City agency. No commercial advertising, signage or flags shall be allowed on any tower. This shall not prevent the joint use of a legal existing sign structure as a support mechanism for antennae or microwave dishes. Towers and accessory facilities must be colored or painted in muted tones that minimize their visibility, unless otherwise required by the FCC, FAA, or other Federal, State, or City agency.

- H. SITE DESIGN:** The area containing the monopole, accessory and support structures, and the immediate surrounding area utilized for servicing of the communication tower shall be secured by a minimum eight (8) foot opaque fence. The area within the fence must be either paved or graveled and kept weed-free. Any shrubbery provided will be planted and maintained within the next appropriate growing season. If security lighting is installed, such light should be directed into the site and only triggered by motion detectors.
- I. CO-LOCATIONS:** To minimize tower proliferation, all reasonable efforts should be made to co-locate facilities on existing or new towers. Antennae may be placed wholly within or upon any building located within a C-2 or industrial zoning district, or any publicly owned building, provided any supporting equipment is screened from nearby residential districts. A commercial antenna may be mounted to the exterior of such buildings if integrated into the overall architectural design of the building. Roof mounted antennae may not extend more than twenty (20) feet above the highest point of the roof structure, provided any supporting equipment is screened from nearby residential districts. A commercial antennae may be attached to any utility structure (such as a water tower or electrical transmission tower) or to a public building not located in a street right-of-way and owned by a government or public agency, provided that the antennae does not extend more than twenty (20) feet above the height of the structure, provided any supporting equipment is screened from nearby residential district. At the time a building permit is issued, the Planning Department may notify all existing telecommunication providers of the opportunity for co-location. Notice of a desire to co-locate shall be given within sixty (60) days of the receipt of said notice.
- J. TRAFFIC AND PARKING:** Vehicular access to the tower site shall be limited to a major street if the site adjoins both a major street and a local street. If the tower site contains on-site personnel, at least one space shall be provided for each two (2) on-site personnel plus one additional space.
- K. APPLICATION (SUBMITTAL) REQUIREMENTS:** Prior to commencing development of the tower site, construction plans shall be submitted to the City's Building Department in accordance with the City's building permit review procedures.
- L. EXEMPTION:** An antenna and tower for the following uses are exempt from these requirements and are permitted uses in any zoning district if accessory to a permitted use and if they comply with the applicable regulations of the district in which they are situated:
- (1) Ham radios;
 - (2) Citizen band radios;
 - (3) Radio, Television Receiving and Broadcasting.
- M. CONFLICT WITH FCC OF FAA REGULATIONS:** In the event there is a direct conflict between these regulations and Federal Communication Commission (FCC) regulations or Federal Aviation Administration (FAA) regulations, or any other Federal or State regulations, said regulations shall govern.
- N. ABANDONED FACILITIES:** At such time that the tower ceases to be used for communication purposes for a period exceeding two (2) consecutive months, the owner shall dismantle and completely remove the tower and all associated equipment from the property and make all reasonable efforts to return the property to its prior condition.
- O. VARIANCES:** The Planning Commission shall hear request for variances from the literal provisions of the zoning chapter in accordance with the requirements set forth in Ordinance No. 7-1963. The denial of a variance request shall be in writing and supported by substantial

evidence in a written record.

- P. ANNUAL ACTION PLAN SUBMITTAL:** On or before January 15th of each new year, all telecommunication providers which are not expressly exempted by other provisions of this section shall, on a good faith basis, forecast the number of improvements and/or installations planned with the City of Van Buren within the ensuing twelve consecutive months.

The information shall be submitted to the City of Van Buren Planning Department. The information obtained from all companies shall be analyzed and compared as to redundancy or geographic duplication of facilities. Where it is determined that a potential for co-location exists, the affected companies will be contacted and a meeting shall be arranged for the purpose of plan review.

The City of Van Buren acknowledges that some or all of the data and information to be provided on an annual basis to the City by the telecommunication providers may contain confidential information in which the respective provider has a proprietary interest. The City also acknowledges that such information or data, if disclosed, might give some advantage, economic or otherwise, to the provider(s) competitor(s). Consequently, the City agrees that its Board of Directors, administration staff and employees will maintain the confidentiality of such information or data to the fullest extent possible under the Federal and/or Arkansas Freedom of Information Acts.

If no capital facilities expansion is planned for the coming year, a letter to that effect shall be submitted to the City of Van Buren Building Department.

Improvements in excess of two-thirds of the cost of the structure shall be considered a replacement. All replacements shall be subject to re-application under Paragraph J.

- Q. DAMAGED/DESTROYED FACILITIES:** Damage or destruction to an existing or new tower structure that is in excess of two-thirds of the cost of the original structure shall be considered complete destruction of the structure and the replacement and/or repair of said structure is subject to all existing law, including zoning and building code requirements.

- R. PERMIT CONSTRUCTION TIME LINE:** Upon approval of a conditional use permit, a building permit and/or variance permit, construction must begin within one (1) year or the permit shall be null and void. An applicant requesting an extension of their permit may submit a revised construction schedule to the Van Buren Building Department within the one (1) year period, with said extension not to be unreasonably withheld.

- S. SEVERABILITY:** In the event any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision of application, and to this end, the provisions of this Ordinance are declared to be severable.