

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 12, "ZONING", SECTION 8.20, "WIRELESS TELECOMMUNICATION FACILITIES", AND SECTION 2, "DEFINITIONS", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

- PART 1: That Chapter 12, "ZONING", SECTION 8.20, "WIRELESS TELECOMMUNICATION FACILITIES", and SECTION 2, "DEFINITIONS", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.
- PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.
- PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 8th day of May, 2003.

APPROVED:

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RON SILVIA, Mayor

ATTEST:

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Connie Hooks, City Secretary

APPROVED:

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City Attorney

**EXHIBIT "A"**

That Chapter 12, "ZONING", Section 8.20, "WIRELESS TELECOMMUNICATION FACILITIES", of the Code of Ordinances of the City of College Station, Texas, is hereby amended as set out hereafter to read as follows:

**8.20 WIRELESS TELECOMMUNICATION FACILITIES (WTF)**

- A. The purpose of this section is to establish regulations pertaining to wireless telecommunications facilities that are consistent with federal and state law. The City Council of the City of College Station finds that:

It is in the public interest to promote competition in high quality telecommunications services and the availability of broadband transmission services to all residences and business.

It is in the public interest for the City to protect the public safety and welfare, safeguard community land values, promote orderly planning and development and preserve historic sites, structures and areas. Wireless telecommunications facilities should not be allowed to detract aesthetically from the visual quality of surrounding properties or the City.

The proliferation of wireless telecommunications facilities negatively impacts the appearance, character and property values of the community. Therefore the City should endeavor to minimize the size, number and obtrusiveness of antennas and towers. Collocation and stealth technologies are strongly encouraged to mitigate negative visual impacts and reduce the total number of towers within the City.

- B. WTF USE CATEGORIES: In order to expedite the siting and review process, WTF's have been divided into use categories. The review process is more thorough as the intensity of the use increases.
1. UNREGULATED FACILITIES: The WTF's listed below are not regulated by this ordinance and do not require review or approval. This does not exempt these facilities from other applicable city codes, ordinances, and permits.
    - a. Over the air reception devices exempted from local ordinances by the Federal Communications Commission (FCC)
    - b. Parabolic antenna less than 2 meters in diameter.
    - c. Omni-directional antenna (whip antenna) 6" or less in diameter and not extending more than 12' above support structure.
    - d. Directional antenna 1 meter or less measured across the longest dimension and not extending over 12' above support structure.
    - e. Public safety tower or antenna.
  2. INTERMEDIATE FACILITIES:
    - a. New transmission tower less than 35 feet (10.5 meters) in height.
    - b. Parabolic antenna over 2 meters in diameter.

- c. Omni-directional antenna (whip antenna greater than 6" in diameter and/or extending 12' above the support structure.
  - d. Directional antenna more than 1 meter measured across the longest dimension and extending over 12' above support structure.
  - e. Attached WTF's.
3. MAJOR FACILITIES:
- New transmission tower greater than 35 feet (10.5 meters) in height.

C. PERMITTABLE LOCATIONS

All Intermediate WTF's are permitted by right in the following zoning districts:

A-O	M-1	C-1	PDD (except PDD-11)	M-2
A-P	R&D	C-2	C-B	
WPC	NG	C-3	City owned premises	

Major WTF's are allowed in the following zoning districts with a Conditional Use Permit

M-2	M-1	C-1	C-3
A-P	R&D	C-2	City owned premises

D. REQUIREMENTS FOR NEW TRANSMISSION TOWERS

1. SETBACKS: The standard setbacks for each zoning district will apply to WTF's with additional setbacks or separation being required in the sections below. To protect citizens in their homes, transmission towers shall be placed a distance equal to the height of the tower away from any residential structure or R-1, R-1B, or R-2 zone boundary.
2. PROXIMITY TO MAJOR THOROUGHFARES: To preserve and protect the appearance of the City's major thoroughfares and entrances to the City, additional setbacks are placed on WTF's proposed to be placed near these areas. The setback for these areas is determined by measuring from the centerline of the right-of-way of the thoroughfare. Applicable thoroughfares include freeways and expressways, major arterials and minor arterials, as shown on the Thoroughfare Plan.
  - a. Intermediate WTF's must be 150' from applicable thoroughfares.
  - b. Major WTF's must setback from applicable thoroughfares by the height of the tower x3.
3. SEPARATION BETWEEN TOWERS: In order to prevent tower proliferation and protect the City's natural beauty and skyline, the number of transmission towers per square mile has been limited. New transmission towers must be placed a minimum distance from existing towers as described here:
  - a. New transmission towers 35 feet or less in height shall be separated from existing towers by a minimum distance of 1500 feet.

- b. New transmission towers more than 35 feet and less than 75 feet in height shall be separated from existing towers by a minimum distance of 2500 ft.
  - c. New transmission towers 75 feet or more in height shall be separated from existing towers by a minimum distance of 3500 ft.
4. **HEIGHT LIMITATIONS:** Intermediate WTF's are subject to the normal height restrictions for each zoning district where permitted by right. In any zoning district where a tower is a conditional use, the requested height may be reduced through the review of the visual impact analysis.

In no case shall a proposed transmission tower exceed 150 feet within the city limits, except where a height variance is granted by the Zoning Board of Adjustments to allow a tower or antenna that demonstrates a hardship that can only be remedied by locating a tower or antenna exceeding such height on a proposed site within the city limits.

5. **STEALTH TOWERS**

Any tower determined to meet the Stealth Tower definition of this ordinance by the approving authority may be located in any zoning district with a Conditional Use Permit. Approved Stealth Towers do not have to meet the tower separation or thoroughfare setback requirements of this section.

**E. LANDSCAPING, SCREENING AND AESTHETIC STANDARDS:** The following requirements shall govern any transmission tower or any parabolic antenna larger than 2 meters.

- a. **Landscaping:** Refer to Section 11 of the Zoning Ordinance. Plant materials and/or fencing that effectively screens the WTF site from view of the public right-of-way will be required.
- b. New transmission towers shall maintain a flat (not shiny, reflective, or glossy) finish or be painted in accordance with any applicable standards of the FAA (unfinished galvanized steel is not acceptable).
- c. If an antenna is installed on a support structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- d. WTF's shall not be artificially lighted with the exception of motion detectors as security lighting, unless required by the FAA or other applicable authority. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties.
- e. Towers may not be used to exhibit any signage or other advertising.

**G. ATTACHED WTF'S:** WTF's may attach to the exterior of any non-residential and non-historic building within any zoning district provided the antenna and antenna support structure or equipment are mounted flush with the vertical exterior of the building or projects no more than 24 inches from the surface of the building to which it is attached and does not raise the height of the building more than 10 feet and does not violate the maximum height restriction of that zoning district. The attached WTF must be colored so as to blend with the surrounding surface of the building.

**STEALTH ANTENNAS:** Any antenna meeting the stealth antenna definition of this ordinance and locating on an alternative mounting structure may attach to the exterior of any non-residential building within any zoning district with approval of the zoning official.

## II. APPLICATION PROCEDURES

### 1. Site Plan Requirements

An application for administrative approval or a Conditional Use Permit for a WTF shall include the following items (in addition to the site plan and other information required for a standard CUP application):

- a. An inventory of the applicant's existing and future towers that are either within the City, the City's ETJ, or within at least 1 mile of the City's boundary where the ETJ does not extend that far. The inventory shall include specific information about the location, design, and height of each tower. The owner must have on file with the development department a master list of all existing tower structures owned or controlled by the owner. Such list must specify the name, address and telephone number of the owner of record, the tower locations by address and legal description, tower height, the number of antenna arrays on the tower, and the names, addresses, and telephone numbers of all other users of the tower structures. The zoning administrator may share such information with other applicants or organizations seeking to locate antennas within the City.
- b. Site plan drawn to scale clearly indicating the location, height, and design of the proposed tower, equipment cabinets, transmission buildings and other accessory uses, access, parking, fences, and landscaped areas.
- c. The linear separation distance from other transmission towers within a one mile radius of the proposed tower site. The linear separation distance from all residentially zoned properties, residential structures and applicable thoroughfares (Section D.2) within 500 feet of the proposed tower.
- d. A visual impact analysis, presented as color photo simulations, showing the proposed site of the WTF. At least four views shall be submitted looking toward the site (typically north, south, east and west) including views from the closest residential property and from adjacent roadways. The photo-realistic representation shall depict a "skyline" view showing the entire height of the proposed tower or WTF, to scale, and the structures, trees, and any other objects contributing to the skyline profile.
- e. Plans for the antenna and the antenna tower shall be prepared and signed by a licensed professional engineer and designed to withstand sustained winds of at least 80 miles per hour.

- f. All telecommunication facilities must meet or exceed the current standards and regulations of the FAA, the FCC, and any other agency of the Federal Government with the authority to regulate telecommunication facilities. An applicant for a permit shall submit an affidavit confirming compliance with applicable regulations.
- g. Grid plan (propagation map) of the service area for existing and future structures for a period of not less than 5 years. The submission should include a map showing the "search ring" that was required for siting the proposed facility.

## 2. Collocation Requirements

No new tower shall be built, constructed, or erected in the City unless the tower is capable of supporting additional wireless telecommunication facilities. The applicant must submit a letter addressed to the City declaring an intent and willingness to construct a proposed tower that would allow additional service providers to locate on the new tower.

## 3. Documentation of Need and Alternatives

No new communications tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the approving authority that no existing tower, building, structure, or alternative technology can accommodate the applicant's proposed antenna. The applicant shall submit information related to the availability of suitable existing towers, other structures or alternative technology that can accommodate the applicant's proposed antenna. The zoning official or approving authority may request information necessary to demonstrate that reasonable alternatives do not exist. The applicant must submit:

- a. The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a one-half mile radius of the proposed new tower site, including City-owned property.
- b. A sworn affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to obtain permission to install or collocate the new facility on existing towers or antenna support structures located within one-half mile radius of the proposed tower site. The affidavit shall spell out the efforts taken by the applicant.
- c. A description of the design plan proposed by the applicant to the City. The applicant must demonstrate the need for towers and why technological design alternatives, such as the use of microcell, cannot be utilized to accomplish the provision of the applicant's telecommunications services.

4. **CONDITIONAL USE PERMITS:** Major WTF's must apply for a conditional use permit (CUP) (section C) under the procedures set forth in Section 14 of the zoning ordinance. In addition to the standard guidelines, the following additional factors shall be considered by the Planning & Zoning Commission when determining whether to grant a CUP for WTF's:
- a. height of the proposed tower, surrounding topography and surrounding tree coverage and foliage as they relate to:
    - (1) skyline impact, examining whether the proportions of the structure appears to dominate or blend in with the surrounding environment.
    - (2) shadow impact, whether or not the proposed tower will cast shadows that would prevent the reasonable use or enjoyment of surrounding properties.
  - b. design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
  - c. proximity of the tower to residential structures and residential district boundaries.
  - d. economic impact on adjacent and nearby properties.
  - e. proposed ingress and egress.
  - f. availability of suitable alternatives and/or existing support structures.
  - g. All the information submitted as part of the site plan.

#### I. ABANDONMENT

Any WTF that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such facility shall remove same within 60 days of receipt of notice from the City notifying owner of such abandonment. If such facility is not removed within said 60 days, the City may remove such facility at the property owner's expense. If there are two or more users of a single WTF, then this provision shall not become effective until all users cease operations on the tower.

That Chapter 12, "ZONING", Section 2, "DEFINITIONS", of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

Stealth Tower - a man-made tree, clock tower, church steeple, bell tower, utility pole, light standard, identification pylon, flagpole, or similar structure, that is camouflaged to be unrecognizable as a telecommunications facility and is designed to support or conceal the presence of telecommunication antennas.

Stealth Antenna - a telecommunications antenna located on an alternative mounting structure that is effectively camouflaged or concealed from view. Examples include architecturally screened roof-mounted antennas, building-mounted antennas painted and/or textured to match the existing structure, and antennas integrated into architectural elements.

Alternative Mounting Structure - any building or structure other than a tower which can be used for the location of telecommunication antennas and facilities. Antennas located on these structures may include Attached WTF's or Stealth Antenna.