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by

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D. C.

**AN ORDINANCE AMENDING THE CONWAY ZONING ORDINANCE O-95-54 REGULATIONS CONCERNING TRANSMISSION TOWERS; AND FOR OTHER PURPOSES:**

**WHEREAS**, Current City of Conway zoning regulations do not adequately address the locating and design of transmission towers, particularly cellular telephone towers; and

**WHEREAS**, The City of Conway would like to amend zoning regulations concerning transmission towers to better reflect preferred zoning policies and current transmission technology;

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS THAT:**

**SECTION 1.** That Ordinance O-94-54, Article 301 Definitions, Section 301.2 be amended as follows:

**Public Utility:** Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or Municipal regulations to the public; gas, steam, *water*, electricity, sewage disposal, communication, ~~telegraph, transportation of water~~, or cable television.

**Retail – General:** (List of allowed uses): ~~Telegraph transmitting or receiving station~~

~~**Transmission Tower/Station:** A tower and/or associated station which receives and/or sends radio and/or television waves such as radio towers. This definition does not include amateur radio communication installations. Uses shall include but not be limited to radio transmitting stations or towers other than amateur and television exchange station relay towers.~~

**Transmission Tower/Station:** A tower with antenna(s), and/or associated support equipment providing wireless transmission of voice, data, images, or other other wireless electronic information. Uses include, but are not limited to, cellular telephone service, radio, and television. This definition does not include amateur radio communication installations, public utility, and City of Conway towers less than 50 feet in height whether lattice or monopole.

**SECTION 2.** That Ordinance O-94-54, Article 601 Special Provisions Conditions Applying to Uses, Section 601.14 be amended as follows:

**SECTION 601.14 - HEIGHT**

The regulations herein set forth qualify or supplement, as the case may be, the specific district regulations. See sections 401.4 through 401.9.

In measuring heights, a habitable attic shall be counted as a story unless the area of the attic at a height of four (4) feet above the floor does not exceed two-thirds (2/3) of the floor area of the story immediately below it and which does not contain an independent apartment.

Chimneys, elevators, poles, spires, tanks, towers, (*except for transmission towers/station*) and other projections not used for human occupancy may extend above the height limit. *Transmission towers/station must conform to the height limits established for buildings in their respective zoning districts except in the industrial zoning districts (I-1, I-2 RU-1 (ordinance O-03- 148) and I-3) where transmission towers/station may be up to 150 feet in height. Any transmission tower/station which is not used for a continuous period of twelve (12) months must be dismantled and removed by the telecommunications service provider. (Ordinance O-98-33)*

Utility lines, when crossing public rights-of-way or easement, shall maintain a minimum clearance of eighteen (18) feet measured at the crown of the roadway.

SECTION 3. That Ordinance O-94-54, Article 601 Special Provisions Conditions Applying to Uses, Section 601.26 be amended as follows:

**SECTION 601.26 – TRANSMISSION TOWER/STATION**

~~For information on height controls on transmission towers/station, see SECTION 601.14 – HEIGHT. (Ordinance O-98-33)~~

*Transmission towers/station are permitted in all zoning districts by conditional use permit. Unless outstanding conditions warrant otherwise, the following conditions apply to any transmission tower/station. If the Planning Commission/City Council find outstanding conditions are warranted, deviations from these prescribed conditions may be allowed. Amateur radio communication installations, public utility, and City of Conway towers less than 50 feet in height whether lattice or monopole, are not subject to conditional use review, or regulations stated below.*

*Height. Tower height shall be limited to 150 feet maximum as measured from average undisturbed soil area to the highest tower projection. The City Council reserves the right to limit tower height for any given location to the most appropriate height.*

*Setbacks. Transmission towers shall be setback a distance equal to the tower's height from the property line or any occupiable structure.*

*If the Applicant provides a letter or design drawings stamped by a certified structural engineer documenting that the proposed structure's fall zone is less than the actual height of the structure, the setbacks shall be reduced to applicable structure setbacks per zoning district.*

*Accessory equipment must conform to the setback standards of the applicable zone.*

*Monopole only. Transmission towers shall be a monopole design. A monopole is defined as a single, freestanding pole-type structure supporting one or more antenna. A lattice-type structure whether guyed or freestanding, is prohibited.*

*Internal Antenna and Wiring: All antennas, cabling, and wiring shall be internally mounted. No antennas or wiring shall be visible on the exterior of the tower.*

*Fencing. Ground mounted accessory equipment and support structures shall be secured and enclosed with a fence not less than 6 feet in height. If the tower location is within view of a public right of way, or an aesthetically sensitive area, fence shall be made of a durable material appropriate for the development and/or area. Brick or masonry shall be the preferred materials. Lesser material shall be appropriate for non aesthetically sensitive areas.*

*Landscaping: If the tower location is viewable from a public right of way, or otherwise located in an aesthetically sensitive area, landscaping shall be required surrounding the fencing of accessory equipment. Required landscaping shall be consistent with surrounding vegetation and shall be maintained by the facility owner. The City Council may choose to not require landscaping for sites that are not visible from the public right-of-way or adjacent property or in instances where in the judgment of the City Council, landscaping is not appropriate or necessary.*

*Lighting. Lighting and Marking. Telecommunications Facilities or Support Structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).*

*Signage. Signs located at the transmission tower/station shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.*

*Removal. Any transmission tower/station which is not used for a continuous period of twenty four (24) months must be dismantled and removed by the telecommunications service provider.*

*Colocation. A colocation or installation of transmission equipment to existing structures shall not be required to seek a conditional use permit. All tower co-location installations must conform to any conditions set per transmission site's conditional use permit and/or zoning regulations. Any additional support equipment and/or structures shall be regulated per prior site conditional use permit, zoning district setbacks, overlay districts, historic districts, or other zoning regulation in effect. Any co-location accessory equipment shall obtain appropriate permits such as building, electrical, structural, etc.*

*Carrier on Wheels (COW). A carrier on wheels defined as a portable self-contained telecommunications facility normally mounted on a vehicle, may be allowed to offer temporary or emergency wireless service. The Mayor, or his*

representative may issue a permit to allow a carrier on wheels for special events, or emergency service for a period not to exceed 90 days.

**SECTION 4.** The permitted uses matrix for Transmission Tower/Station, Article 401 Zoning District Regulations, Section 401.4 - Residential District, B. Use Regulations, 1. Permitted Uses, 3. Other Uses, shall be amended as follows:

<i>Transmission Tower/Station</i>	C	C	C	C	C	C	C	C	C
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**SECTION 5.** The permitted uses matrix for Transmission Tower/Station, Article 401 Zoning District Regulations, Section 401.8 - Agricultural Districts, B. Use Regulations, 3. Community Facilities and Public Utilities shall be amended as follows:

<i>Transmission Tower/Station</i>	C
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**SECTION 6.** The permitted uses matrix for Transmission Tower/Station, Addendum A to the Conway Zoning Ordinance, Uses Allowed in the Various Zoning Districts shall be amended as follows:

ALLOWED USES	R-	R--	R-	SR	M	M--	M--	R	HR	C-	C-	C-	C-	O-	O-	O-	I-1	RU	I-3	A-	S-	S-	TJ
<i>Radio-transmitting-station-or-tower-other-than-amateur</i>										€	€	€	€	€	€	€	€	€	€		€		€
<i>Telegraph-transmitting-or-receiving-station</i>										✕	€	✕	✕	€	€		✕	€	€		€	€	€
<i>Telegraph-exchange-station-or-relay-tower</i>	€	€	€	€	€	€	€		€	€	€	€	€	€	€	€	€	€	€	€	€	€	€
<i>Transmission Tower/Station</i>	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C

**SECTION 7.** All RU-1 zoned transmission tower locations throughout the city shall be rezoned to their previous zoning. Conditional Use Permits as approved for these tower locations will remain in effect.

**SECTION 8.** All ordinances in conflict herewith are repealed to the extent of the conflict.

PASSED this 25<sup>th</sup> day of June, 2013.

Approved:



Mayor Tab Townsell

Attest:



Michael O. Garrett  
City Clerk/Treasurer

