



ORDINANCE NO. 136

AN ORDINANCE OF THE CITY OF PATTISON, TEXAS, ESTABLISHING REGULATIONS AND GUIDELINES RELATED TO TELECOMMUNICATIONS TOWER AND ANTENNA INSTALLATIONS WITHIN THE CITY LIMITS.

WHEREAS, the City Council of the City of Pattison finds and determines that it is necessary, proper and in the best interest of the citizens of the City to adopt regulations, guidelines and provisions related to communications antennas and towers erected within the City; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PATTISON, TEXAS:

Section 1. The following ordinance, entitled "Telecommunications", is hereby adopted and established as follows:

DIVISION 1. ANTENNAS AND TOWERS

Section 1. Definitions.

As used in this ordinance, the following terms shall have the meanings indicated and any other meanings or provisions in this ordinance relating to such terms that may be in conflict herewith shall be of no force and effect and the meanings as herein provided shall be applicable.

- a) *Alternative tower structure* shall mean man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures.
- b) *Ancillary facilities* shall mean the buildings, cabinets, vaults, closures and equipment utilized or required for operation of telecommunications systems including but not limited to repeaters, equipment housing, and ventilation and other mechanical equipment.
- c) *Antenna* shall mean any exterior apparatus designed for telephonic, radio, television, or any other type of communications through the sending and/or receiving of electromagnetic waves.
- d) *FAA* shall mean the Federal Aviation Administration.
- e) *FCC* shall mean the Federal Communications Commission.
- f) *Governing authority* shall mean the City Council of the City of Pattison.

- g) *Height* shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
- h) *Tower* shall mean any structure that is designed, constructed or maintained primarily for the purpose of supporting one or more transmitting and/or receiving antennas. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and the like. The term shall also include:
 - 1. *Guyed tower*. A tower which is supported by the use of cables (guy wires) which are permanently anchored.
 - 2. *Lattice tower*. A tower characterized by an open framework of lateral cross members which stabilize the tower.
 - 3. *Monopole*. A single, upright pole, engineered to be self-supporting and does not require lateral cross supports or guys.
- g) *Tower permit* is a permit issued by the City Council of the City of Pattison under the authority of this ordinance and the provisions herein.

Section 2. Applicability.

The requirements of this ordinance shall apply to all telecommunications towers and antennas, except for towers and antennas that are under one hundred (100) feet in height that are owned and operated by a federally licensed amateur radio station or is used as receive only antenna as provided for by FCC rules and regulations.

- a) Antennas or towers located on publicly owned property shall be exempt from the requirements of this ordinance, provided a license or lease authorizing such antenna or tower has been approved by the City Council of the City of Pattison.
- b) *Grandfathered Towers and Antennas*. Any tower or antenna existing on the effective date of this ordinance shall not be required to meet the requirements of this ordinance other than the requirements of this ordinance for grandfathered towers and antennas. Any such towers or antennas that fail to meet the requirements of this ordinance shall be referred to as "grandfathered towers" or "grandfathered antennas."

Section 3. Guidelines and requirements.

- a) *Purpose*. The purpose of this ordinance is to establish rules and regulations for the siting and maintenance of towers and antennas of the type as herein defined and set out. The goals of this ordinance are to encourage and to provide for the location of towers in non-residential areas and minimize the total number of towers

throughout the community, and to encourage strongly the joint use of new and existing towers. In addition, it is the purpose of these regulations to encourage the use of towers and antennas to be located in areas where the adverse impact on the community is minimal and to encourage the user of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas, and to enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.

- b) *Existing Sites.* Each applicant for a tower permit shall provide the City Council an inventory of its existing towers, including specific information about the location, height, and design of each tower. The City Council shall review such data and information as may be submitted, and all data submitted in conjunction with an application as herein provided shall be deemed a part of the open and public record.
- c) *Guidelines.* The guidelines set forth in this ordinance shall govern the location of all towers, and the installation of all antennas, provided, however, that the governing body may in its sole discretion provide other regulations or other requirements that accomplish the objectives of this ordinance where it is found that the goals and purposes of this ordinance are better served by such exceptions.
- d) *Design Requirements.* All new and modified towers and associated ancillary facilities shall be designed, to the extent possible, to blend in with the surrounding environment, except as may be required by rules of the FAA and the FCC.

Section 4. Installation of an antenna on a structure other than a tower.

If an antenna is installed on a 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.

Section 5. Lighting of towers prohibited.

Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the design must take into effect existing and contemplated uses of surrounding property and be configured in a way as to cause the least disturbance to the surrounding views.

Section 6. Federal and other governmental requirements.

All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government or any other governmental entity with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall

bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such revised standards and regulations. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute an immediate and automatic revocation of the authority granted under this ordinance and the City of Pattison may require the removal of any tower or antenna in non-compliance at the cost of the owners.

Section 7. Building codes; safety standards.

To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in the codes and ordinances of the City and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. The City, through the Mayor or his/her designee finds and concludes that the tower or an antenna fails to comply with such codes, ordinances and standards and/or constitutes a danger to persons or property, then the Mayor or his/her designee, upon notice being provided to the owner of the tower, may order that the tower and antenna be brought into compliance with such codes, ordinances and standards within a period not to exceed thirty (30) days. If the owner fails to bring such tower into compliance within thirty (30) days and fails to remove such tower and/or antenna within such time, the City Council may order the removal of such tower and antennas at the expense of the owner. In the event a removal is ordered, the City shall not assume any liability for such removal and shall be entitled to a lien upon the personal property, fixtures or real estate for the purpose of paying its cost incurred in such removal.

Section 8. Tower placement permit required.

The City Council of the City of Pattison finds and determines that it is in the best interest of the health, safety and well-being of the residents, citizens and inhabitants of the City of Pattison that no tower or antenna shall be constructed, erected or maintained in the City of Pattison unless a permit, shall have first been issued by the City Council of the City of Pattison for the placement, location and maintenance of such tower and antenna. Any construction, maintenance or use of a tower or antenna not in accord with the provisions of this ordinance shall be deemed illegal and the owner or operator thereof may be fined to the maximum extent permitted by law for each day a violation shall occur and each day shall be deemed a separate and distinct violation.

Section 9. Application and fees.

From time to time the City Council may adopt an application form or procedures for the issuance of a tower permit. In addition, the City Council may specify such fees, costs, and expenses as must be paid by the applicant as an application fee prior to the review or issuance of the tower permit. In the event the City Council shall fail to specify or provide for a tower permit application or a procedure for the issuance of a tower permit, then the Mayor or his/her designee is hereby directed to establish such procedures as shall be reasonable and necessary to accomplish the objectives of this ordinance. The

application fee approved by the City Council shall be in an amount sufficient to cover the cost incurred by the City in reviewing the application and material submitted by the applicant. In addition, prior to the issuance of any permit and as a condition for the issuance of a tower permit, the applicant shall pay any additional cost as may be incurred by the City, including but not limited to professional fees incurred in the review of any application.

Section 10. Requirements of an application.

Each application filed hereunder shall show and attach thereto all relevant documents showing compliance with all laws and regulations promulgated by the federal government, including laws and regulations relating to the FAA or the FCC or any other governmental entity. In addition, no authority granted under this ordinance shall be deemed to have any final authority until an application for a tower permit has finally been approved by the Mayor of the City of Pattison or his/her designee.

Section 11. General requirements for approval of an antenna tower or structure and the issuance of a tower permit.

The following general provisions shall govern the issuance of a tower permit and shall control all applications for a tower permit. Each applicant requesting a tower permit under this ordinance shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, or other documentation signed and sealed by appropriate professional engineers showing the location and dimensions of the improvement, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information necessary to assess compliance with this ordinance, as well as such other and additional information as may be deemed necessary and required by the City Council of the City of Pattison.

Section 12. Availability of suitable towers or other structures.

No new tower permit shall be issued unless the applicant demonstrates to the reasonable satisfaction of the City Council that no existing tower or other structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna or tower may consist of the following:

- a) No existing towers or structures are located within the geographic area required to meet applicant's engineer's requirements.
- b) Existing towers or structures are not of sufficient height to meet applicant's engineer's requirements.
- c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

- d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers, or structures of the antenna on the existing towers or structures would cause interference with the applicant's proposed antennas.
- e) The fees or costs required to share an existing antenna or structure, which will be paid at the beginning of a sharing relationship or will be paid within one year from the date of the inception of any sharing relationship, exceed the cost of constructing a new tower.
- f) Property owner(s) of existing towers or structures are unwilling to accommodate reasonable the applicant's needs. The applicant must specify the reason for the property owner(s) refusing to accommodate and submit satisfactory proof of non-accommodation including documents evidencing appropriate financial tenders.
- g) The applicants demonstrate that there are other limiting factors that render existing towers and structures unsuitable.

Section 13. Setbacks.

The following setbacks and separation requirements shall apply to all towers and antennas for which a tower permit is required; provided, however, that the governing body may, in its discretion, provide for other or different regulations if it finds that the goals of this ordinance are better served by such modifications.

- a) Towers must be set back a distance equal to one thousand (1,000) feet from the nearest point to any lot platted for residential use or any structure in residential use. If the height of the antenna tower is deemed to be greater than five hundred (500) feet, then the setback herein provided shall be three (3) times the height of the tower.
- b) Towers, guys and accessory facilities must be constructed in a way to avoid adverse impact upon adjoint properties and the uses thereof. In addition, all such structures and apparatus must be properly screened by a visual barrier or fence of a height not less than eight (8) feet and shall be appropriately marked.
- c) For areas which are separated from lots platted for residential use or from structures in residential use by more than one thousand (1,000) feet, towers over ninety (90) feet in height shall not be located within one-quarter (1/4) mile from an existing tower that is over ninety (90) feet in height.

Section 14. Variances.

The City Council of the City of Pattison shall consider the following factors in determining whether or not to grant a variance from these regulations and such other factors as may be deemed appropriate and necessary in order to determine that the goals of this ordinance are properly served:

- a) Height of the proposed tower.
- b) Proximity of tower to residential structures and residential districts; however, the City Council will not approve any tower which is closer than one thousand (1,000) feet to any lot platted for residential use or from any structure in residential use unless good cause is shown to exist, in which case a variance may be granted.
- c) Nature of uses on adjacent and nearby properties;
- d) Surrounding topography;
- e) Surrounding tree coverage and foliage;
- f) Design of the tower with particular reference to design characteristics that have the effect of reducing or eliminating visual obstructiveness;
- g) The availability of suitable and existing towers and other structures presently constructed which are suitable for antenna location; and

A variance may, at the sole discretion of the City Council, be issued for an indefinite duration or for a specified period of time. All conditions imposed by the City Council are enforceable in the same manner as any other applicable requirement of this ordinance.

Section 15. Security.

The base of the tower shall be fenced with materials impervious to sight and secured so that it is not accessible by the general public. No signs, other than warning or equipment signs shall be located on a tower.

Section 16. Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be deemed abandoned, and the owner of such antenna or tower shall remove the same within thirty (30) days of the receipt of a notice from the City Council notifying the owner of such abandonment. If such antenna or tower is not removed within the required thirty (30) days, or such additional period as may be allowed by the City Council upon application, the City Council may remove such antenna or tower at

the expense of the owner and may file a lien upon the real estate and any personal property or fixtures found to pay the cost of removal.

Section 17. Antennas and towers existing as of the date of the adoption of this ordinance.

Any antenna or tower that would otherwise be subject to regulation under the terms and provisions of this ordinance that had been constructed and lawfully in existence at the date of adoption of this ordinance shall be deemed grandfathered and shall not be subject to the regulations provided under this ordinance for the issuance of a tower permit. However, all other provisions of this ordinance applicable to the maintenance, replacement or renovation of an antenna or tower shall be deemed applicable and in existence.

The owner of a previously existing antenna tower shall be entitled to grandfathered status only if the owner and/or lessee of the antenna or tower shall file a declaration and claim of grandfathered status on or before the expiration of six (6) months from the date of adoption of this ordinance. Any person failing to timely claim grandfathered status shall be required as a condition of the maintenance of an antenna or tower to obtain a tower permit as herein required for a newly constructed antenna or tower.

Section 18. Applicant shall acquire no vested rights.

No applicant for a tower permit or person intending to apply for a tower permit shall not at any time acquire any vested rights to a tower permit or other authority or privilege to maintain an antenna or tower in the city limits of the City of Pattison.

The City of Pattison declares that the provisions of this ordinance are necessary for the preservation of the health, safety and well-being of the residents, citizens and inhabitants of the City of Pattison and as such the health, safety and well-being of the residents, citizens and inhabitants of the City of Pattison require that this ordinance be enforced to the maximum extent permitted by law and that all rights of property shall at all times be subordinate to the regulations as herein set out.

Section 19. Regulations to the extraterritorial jurisdiction.


The City Council finds and determines that its regulation of antenna and towers are important for the maintenance of the health, safety and well-being of the residents, citizens and inhabitants of the City of Pattison and, as such, declares that the regulations contained in this ordinance and ordinance shall, to the extent that may from time to time be permitted under the laws of the State of Texas, be applicable to all towers and antennas that may be permitted and constructed in the extraterritorial jurisdiction of the City of Pattison.

Section 2. That the findings of fact and conclusions as set out in the preamble of this Ordinance are adopted herein as a part of this ordinance as if repeated verbatim herein.

Section 3. The ordinance to take effect upon publication.

PASSED AND APPROVED by a majority vote of the City Council of the City of Pattison on this, the 5th day of January 2021.

ATTEST:



City Secretary Lorene Hartfiel

APPROVED:



Mayor Joe Garcia