

CHAPTER 18

PLANNING AND COMMUNITY DEVELOPMENT

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Article 1. Planning Board

Section 18-1. Municipal Planning Board Created.

(See Chapter 1, Section 1-56, this Code of Ordinances.)

Section 18-2. Jurisdiction.

1. The Municipal Planning Board shall have jurisdiction over all land within the corporate limits of the City of Elk City, Oklahoma.
2. The jurisdictional area of the Planning Board shall include, for the purposes of the regulation and review of land subdivision only, any lands outside the corporate limits of the City of Elk City, Oklahoma, whose any one (1) boundary, at any point, shall be at and within a distance of three (3) miles from the corporate limits of said community.

Section 18-3. Rules and Regulations.

1. The Planning Board shall prescribe and adopt rules and regulations governing the transaction of its business, and shall keep a public record of its regulations, transaction and findings.
2. Regular meetings shall be scheduled at least once each month.
3. Special meetings may be called by the Chairman of the Planning Board, in accordance with the State's "Open Meetings" laws.

Section 18-4. Employees; Expenditures.

1. The Planning Board shall have the authority to contract for necessary professional services, within the limits of the appropriation fixed by the City Commission; all compensation for such services shall also be fixed by said City Commission.

2. The Planning Board may incur other necessary expenses, within the limits of the City Commission appropriation, to carry out its purposes and responsibilities.

Section 18-5. Project Review Procedures.

All projects or matters that fall within the duties and powers of the Planning Board (as specific in this Code of Ordinances), shall be referred to said Planning Board for investigation and report, before any final action shall be taken thereon by the City Commission. If said Planning Board fails to make an investigation and report on any matter referred to it within sixty (60) days, or other agreed upon time, the City Commission may proceed to act upon such matter.

Section 18-6. Duties and Powers.

The Planning Board shall have the following duties and powers:

1. To prepare and recommend to the City Commission for adoption, a Comprehensive Plan for the future development of the City of Elk City, Oklahoma, and to ensure that said Plan, once prepared and adopted, is properly utilized and up-dated at appropriate intervals.

2. To make recommendations concerning the community's growth, improvement and beautification;

3. To investigate and report to the City Commission on all matters relating to the location and development of parks and recreational areas, streets, public ground and structures;

4. To investigate, prepare and recommend to the City Commission, for adoption, a suitable Zoning Ordinance to assist in the implementation of the community's Comprehensive Plan, and to assist said City Commission in administering said Zoning Ordinance;

5. To investigate, prepare and recommend to the City Commission, for adoption, rules and standards for use in regulating the subdivision of land within the Planning Board's jurisdictional area, and to assist said City Commission in administering said Land Subdivision Regulations; and

6. To investigate, prepare and recommend to the City Commission, for adoption, such other rules, regulations or standards as may be necessary to implement the Comprehensive Plan for the City of Elk City, Oklahoma.

Section 18-7. Comprehensive Plan Adopted by Reference.

The "Comprehensive Plan" - Volume One (1) as prepared by the South Western Oklahoma Development Authority-Contract Number CPA- OK-06-56-1077, or as amended by the City Commission, and Volume Two (2) as prepared by the South Western Oklahoma Development Authority-Contract Number CPA-OK-06-56-1082, or as amended by the City Commission are hereby adopted by reference and incorporated in the Code of Ordinances of the City of Elk City, Oklahoma, as if set out at length herein.

Sections 18-8 through 18-9. (Reserved for future use.)

Article 2. Zoning

Section 18-10. Municipality's Power to Zone.

1. For the purpose of promoting the health, safety and welfare of all citizens of the community, the City Commission is empowered to regulate and restrict the height, number of stories and size of structures, the percentage of lot that may be occupied, the size of yards and other open spaces, the density of population and the location and use of structures and land.

2. For any of the above purposes, the City Commission may divide the municipality into Zoning District of such number, shape and area as may be deemed most beneficial to the community. Within such Zoning Districts, the erection, construction, reconstruction, alteration, repair or use of structures or land may be regulated. All such regulations shall be uniform throughout each District, but the regulations in any Zoning District may differ from those in other Districts.

Section 18-11. Relationship of Zoning to the Comprehensive Plan.

Any Zoning Ordinance adopted by the City Commission shall be made subsequent to the preparation of, and in accordance with, the community's adopted Comprehensive Plan.

Section 18-12. Planning Board to be Zoning Board.

To avail itself of the powers of State Law, the Municipal Planning Board is hereby designated as the Zoning Board of the City of Elk City, Oklahoma.

Section 18-13. Zoning Ordinance Adopted by Reference.

The "Zoning Ordinance of the City of Elk City, Oklahoma" - Volume Three (3) of the Comprehensive Plan as prepared by the South Western Oklahoma Development Authority - Contract No. CPA- OK-06-56-1082, or as amended by the City Commission, is hereby adopted by reference and incorporated in the Code of Ordinances of the City of Elk City, Oklahoma as if set out at length herein.

Sections 18-14 through 18-19. (Reserved for future use.)

Article 3. Regulation of Land Subdivision

Section 18-20. Subdivision Review Process.

1. All subdivision plats, or replats of land laid out in plats or lots, and the streets, alleys or other portions of the same intended to be dedicated to public or private use, located within the jurisdictional area of the Municipal Planning Board, shall first be submitted to said Planning Board for its review.

2. If the subdivision plat or replat is located within the corporate limits of the City of Elk City, Oklahoma, final approval, prior to the filing of said plat or replat with the Beckham County Clerk, shall be obtained from the City Commission of the City of Elk City, Oklahoma.

3. If the subdivision plat or replat is located within the jurisdictional area of the community's Planning Board, but outside of the corporate boundaries of the City of Elk City, Oklahoma, approval of the community's Planning Board shall be obtained prior to the filing of said plat or replat with the Beckham County Clerk.

4. In reviewing subdivision plats or replats, the Planning Board and the City Commission shall utilize the definitions, procedures and design and improvement standards in the "Elk City Development Guide and Elk City Development Standards" adopted by and for the City of Elk City, Oklahoma, or the appropriate jurisdictional area and entity.

Section 18-21. Subdivision Regulations Adopted by Reference.

The "Elk City Development Guide and Elk City Development Standards" of the City of Elk City are hereby adopted by reference and incorporated in the Code of Ordinances of the City of Elk City, Oklahoma as if set out at length herein.

Section 18-22. Jurisdiction.

These regulation and development standards shall apply to the following forms of land subdivision:

1. The division of land into two or more tracts, lots, sites or parcels, any part of which, when subdivided, shall contain less than ten (10) acres in area;

2. A current subdivision of land previously subdivided or platted into tracts, lots, sites or parcels less than ten (10) acres in area;

3. When the dedication of any street or alley is involved, or off-site extension of utilities is required, regardless of the area involved.

Sections 18-23 through 18-29. (Reserved for future use.)

Article 4. Miscellaneous Provisions

Section 18-30. Flood-Prone Areas.

(See Chapter 4, this Code of Ordinances.)

Sections 18-31 through 18-39. (Reserved for future use.)

Article 5. Regional Planning Commission

Section 18-40. Regional Planning Commission Created.

1. There is hereby created a Regional Planning Commission of the City of Elk City, Oklahoma, as authorized in title 11, Sections 46-101 through 46-104, Oklahoma Statute 1991, et. req.

2. Said commission shall be composed of five members of the Elk City Planning and Zoning Board. The Mayor and City manager of the City of Elk City, Chairman of the Board of County Commissioners of Beckham County, Oklahoma, and the County Engineer shall be ex-officio voting members of the Regional Planning Commission but shall not be counted for purpose of a quorum. Members of the Regional Planning Commission shall serve without pay.

3. The qualifications, appointment and removal and terms, rules and regulations of the Elk City Regional Planning commission shall be the same as those established for the Elk City Planning Board.

Section 18-41. Jurisdiction

In addition to the jurisdiction of the Elk City Planning Board, the Regional Planning Commission shall have jurisdiction over a regional district which shall be construed to mean any land outside the incorporated city limits of the City of Elk City, Oklahoma, within an area whose any one boundary, at any point, shall be a distance of three (3) miles from the incorporated limits of Elk City.

Section 18-42. Duties and Powers

1. The Elk City Regional Planning Commission shall prepare from time to time plans for the systematic development and betterment of the regional district for residence, business or manufacturing purposes. It may consider and investigate any subject matter tending to the development and betterment of such regional district, and make recommendations as it may deem advisable concerning the adoption thereof any department of the City or County Government.

2. The Elk City Regional Planning Commission shall have the power to review and approve or reject, in accordance with its adopted subdivision regulations.

3. Before final action shall be taken by the City or County Government or department

thereof on the location and design of any public buildings, statue, memorial, park, parkway, boulevard, playground, public grounds, or bridge within such regional district, the question shall be submitted to the Regional Planning Commission for investigation and report.

4. All plans, plats, replats of land laid out in lots or blocks, and the streets, alleys, or other portions of the same intended to be dedicated to public or private use within such regional district, shall first be submitted to Elk City Regional Planning Commission and approved by it before it shall be entitled to record in the office of the County Clerk.

5. For large areas of rural land not served by water and sewer facilities by any governmental entities, the use of private roadways in either platted or unplatted area shall be recognized and authorized and building permits to property owners abutting upon the private roadways shall be issued without complying with standards as provided for dedicated streets under the following conditions:

- a. The private roadway easement shall be at least fifty (50) feet in width;
- b. The property abutting the private roadway shall contain not less than two (2) acres;
- c. The property shall be more than one-fourth (3) mile from sewer and water facilities furnished by the City of Elk City;
- d. The private roadway shall not be dedicated to the public but reserved for future dedication and, until such future dedication, be the private roadway of the abutting property owners;
- e. The owners of the property within the subdivision shall maintain the private roadway. Not the City of Elk City or the County shall have responsibility for maintenance and repair of the private roadway;
- f. If the property is platted, there shall be emblemized on the face of the plat, clearly conspicuous, a notice that the streets and drives have not been dedicated to the public, and that the streets shall be maintained by the private property owners within the subdivision, but that streets shall always be open to police, fire, and other official vehicles of all state, federal, county and municipal agencies;
- g. Every deed shall clearly acknowledge that the roadway is private and not maintained by any municipality or county;
- h. Prior to the sale of any parcel in the subdivision, a conspicuous sign shall be posted at the entrance of the subdivision: "Private roadway not maintained by Elk City or the County";
- i. At any time after use of such private roadway is recognized and authorized pursuant law, a petition of at least sixty percent (60%) of the owners, in area, to improve and dedicate the street shall bind all of the owners thereby to permanently improve the street or roadway in compliance with the applicable requirements of the City of Elk

City or the County. All other ordinances and Regional Planning Commission regulations pursuant to the provisions of this article relating to subdivisions not in conflict herewith shall be applicable in such cases;

- j. The Regional Planning Commission may require the developer of such property to reserve appropriate utility easements for water, sewer, and any other utility installations as may be required for present and future development.

Section 18-43 through 18-49. (Reserved for future use.)

Article 6. Telecommunications Facilities

Section 18-50. Purpose.

The purpose of these regulations for telecommunications facilities is:

1. To facilitate the provisions of telecommunications services throughout the City;
2. To enhance the ability to provide telecommunications services to the community quickly, effectively, and efficiently;
3. To encourage the location of towers in non-residential zone districts;
4. To minimize the total number of towers in the community;
5. To encourage the joint use of new and existing tower locations;
6. To ensure that towers are located in areas that minimize adverse impacts;
7. To ensure towers and antennas are configured in a way that minimizes adverse visual impacts by careful design and appropriate siting;
8. To encourage the attachment of antennas to existing structures;
9. To consider public health and safety of telecommunications facilities;
10. To avoid damage to adjacent properties from tower failure through careful engineering and locating of tower structures; and
11. To protect residential areas and lands by minimizing adverse impacts of towers.

Section 18-51. Definitions.

1. ACCESSORY SUPPORT FACILITIES--shall mean support buildings, and structures and equipment cabinets for telecommunications facilities containing electrical mechanical equipment and devices used for the reception of or transmission of voice, data, image, graphic, and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities.

2. ALTERNATE TOWER STRUCTURE--shall mean manmade trees, clock towers, bell steeples, building structures, or building equipment normally maintained above the roof line of a structure, light poles or similar alternative design-mounting structures. An alternative tower structure must be compatible with the natural setting and surrounding structures, and must camouflage or conceal the presence of antennas and/or towers. This term also includes any antenna array attached to the alternative tower structure.

3. ANTENNA--shall mean any exterior transmitting or receiving devices mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signs, analog signals, radio frequencies, (excluding radar signals), wireless telecommunications signals, or other communication signals.

4. BACKHAUL NETWORK-- shall mean the lines that connect a provider=s tower/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

5. FAA- Federal Aviation Administration

6. FCC- Federal Communications Commission

7. TELECOMMUNICATIONS FACILITIES- shall mean the plant, equipment and property, included but not limited to, cables, wires, conduits, ducts, pedestals, antennae, towers, alternative tower structures, electronics and other appurtenances used to transmit, receive, distribute, provide or offer telecommunications services.

8. TELECOMMUNICATIONS SERVICE- shall mean the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit or any closed transmission medium.

9. 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. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and other similar structures. This term also includes any antenna or antenna array attached to the tower structure.

10. TOWER HEIGHT- shall mean, when referring to a tower or other alternative tower structure, the distance measured from the lowest point within ten (10) feet of the structure to the

highest point on the tower or other alternative tower structure, including the base pad and any antenna.

Section 18-52. Permit required.

Telecommunications facilities shall be regulated and permitted pursuant to this Ordinance.

1. A telecommunications facility shall obtain a permit as a condition for the siting, construction, or operation of the telecommunications facility. The fee for the permit shall be \$10.00 for each foot of tower height.

2. These regulations shall apply to all towers and antennas, as defined, except:

a. Any tower or antenna, not more than seventy (70) feet in height, owned or operated by a federally-licensed amateur radio station operator, if it is used exclusively as a receive-only facility;

b. Any antenna collocated on an existing telecommunications facility, except as expressly provided in this Ordinance;

c. A telecommunications facility located or collocated on property, which is owned by the City of Elk City and designated by the City of Elk City as a site suitable for location of a telecommunications facility.

3. Any violation of this Ordinance is hereby declared to be a nuisance. In addition to any other relief or penalty provided by law, the City of Elk City may apply to District Court for an injunction to prohibit the continuation of any violation of this Ordinance.

Section 18-53. Collocation Requirements.

1. All applicants for a telecommunications facility permit shall collocate on an existing facility if it is feasible to do so. An existing facility shall be deemed available for collocation if (1) the facility is within the search ring of the applicant or within a reasonable distance so as to fit into the applicant's design; (2) space is available on the facility; and (3) the applicant and the facility owner will lease space to applicant at a reasonable market rate.

a. If the applicant finds that collocation is not feasible, it shall submit to the City of Elk City a written statement of the reasons for the infeasibility. The City may retain a technical expert in the field of radio frequency (RF) engineering to determine whether collocation at the site is feasible. The cost for such a technical expert will be at the expense of the applicant.

2. A telecommunications tower shall not be permitted unless the owner of the proposed tower certifies to the City that the tower is available for use by other telecommunications service providers on a reasonable and non-discriminatory basis. Towers shall be designed and built to

accommodate a minimum of three telecommunications facilities.

3. To facilitate collocation and coordination of telecommunications sites, all telecommunications service providers shall, within ninety (90) days of the publications of this Ordinance, provide the City with their prospective antenna plans. Said plans shall include detailed maps showing the locations of all telecommunications towers serving any portion of the City and indicating coverage areas for current and, the extent possible, future telecommunications towers.

4. Providers shall also provide the City with any updates to the above documents within ninety (90) days of their creation.

Section 18-54. Telecommunications Facility Standards.

1. **ATTRACTIVE NUISANCE.** No tower may be located within 250 feet of a playground, ball field or other area used for active recreation within a park or school. Where such locations are well suited for placement of towers on municipal property, special fencing may be required.

2. **COMPATIBILITY.** Telecommunications facilities shall either maintain a galvanized or finished or, subject to applicable standards of the FAA, be painted so as to reduce visual obtrusiveness. Dish antennas shall be of neutral, non-reflective color with no logos.

The exterior equipment buildings and/or metal equipment cabinets visible from residential areas or public rights-of-way must have a neutral aggregate finish or be painted to reflect the color and character of adjoining structures or blend with adjacent landscape and other surroundings.

3. **GUY WIRES** must be anchored no closer than 25 feet from any property line. Guy wires shall not cross or encroach any overhead telephone or electric power lines.

4. **HEIGHT.** No telecommunications tower shall exceed 200 feet in height, including antenna array.

5. **INTERFERENCE.** Applicants shall demonstrate that the planned telecommunications facility will not cause radio frequency interference with other existing or planned equipment. Such interference is prohibited.

6. **LANDSCAPING.** All telecommunications sites shall be landscaped with non-deciduous trees, at least six (6) feet in height, which will attain a height of at least fifty (50) feet in height at maturity. The trees shall be planted on ten-foot centers, on all sides of the site, on the outside of the required fence.

7. **LIGHTING.** Illumination of telecommunications towers is prohibited except as required by the FAA. Any required lighting shall be directed upward and away from adjoining properties. Ground level security lights shall not be more than twenty (20) feet in height.

8. **PARKING.** Each telecommunications site shall have a minimum of one space per

provider with no more than three parking spaces per site located adjacent to the ingress/egress point.

9. SECURITY FENCE. A fence not less than eight (8) feet, nor greater than ten (10) feet, from finished grade shall be installed around the site to completely enclose the towers and anchored location of guy wires, if used. Such features shall be constructed of chain link, woven wire, or solid metal.

10. SETBACK AND FALL ZONES. No new tower shall be sited within three-hundred (300) feet of any residential structure. Any new tower adjacent to a public right-of-way shall be set back a minimum of one (1) foot for each foot of tower height or seventy five (75) feet, whichever distance is greater.

11. SIGNS. Signs on telecommunications towers shall be limited to those displaying the name, registration number, and emergency contact number of the tower owner or signs required by the FCC regulations, or signs containing warning or safety instructions. Signs shall be limited to four (4) square feet. Advertising on signs is prohibited.

12. SPACING. No tower shall be located closer than 500 feet from other towers. Any new tower in excess of 100 feet in height shall be located a minimum of one mile from any existing tower in excess of 100 feet in height.

Section 18-55. Alternative Structure Standards.

A telecommunications facility may be permitted on an alternative tower structure at least thirty (30) feet tall under the following conditions, which shall be in addition to the requirements of Sections 5 and 7.

1. The facility and its accessory support facilities comply with all zoning requirements applicable to the alternate structure and the provisions of Section 5 of this Ordinance;

2. If the facility or any accessory support facility is located upon the roof of a structure, each such facility shall be set back a distance of at least equal to the height of the telecommunications facility unless the facilities are screened or camouflaged in a manner that is compatible with the surrounding property. The top of the antenna or other facility shall not be more than thirty percent (30%) of the height of the structure, or seventy-five (75) feet, whichever is less.

3. The alternative structure must be similar in color, scale and character to adjoining buildings or structure or blend with the landscaping and other surroundings immediately adjacent to them so as to generally avoid the creation of unique visual objects that stand out in the environment; and

4. Prior to the installation of any building/roof mounted telecommunications facility, the applicant shall furnish to the City an engineer=s certifications that the structure will support and not be adversely affected by the proposed antenna and accessory support facility or equipment.

Section 18-56. Specific Standards.

All telecommunications facilities shall be erected and operated in compliance with current FCC and FAA rules and regulations and other applicable federal, state, and local standards. Applicant must provide a copy of its FCC license or, if the applicant is not an FCC license holder, a copy of at least one letter from a FCC license holder to locate at least one antenna on the applicants tower.

1. ENVIRONMENTAL STANDARDS. Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 DB at the property line. Roof-mounted or side-mounted equipment for personal wireless services shall not generate noise in excess of 50 DB at ground level at the base of the building closest to the antenna.

2. STRUCTURAL STANDARDS. Telecommunications tower structures must conform to the most current revision of EIA222 standards. Guyed telecommunications towers shall be designed and located such that, if the structure should fall, it will avoid habitable structures and public ways. An engineer=s certifications of the structural integrity of the tower and associated equipment shall be required.

3. WIND STANDARDS. Telecommunications facilities shall be designed and engineered to withstand wind loadings and other design standards as defined by BOCA and ANSI for the county in which the municipality is located.

Section 18-57. Permit Conditions.

1. ABANDONMENT. A telecommunications service provider shall post a bond or other security sufficient to pay for the removal of any abandoned facility. No owner or occupant of property within the City shall permit, leave or cause to be left on any said property any telecommunications facility, which has been abandoned or discontinued for use. The provider shall remove its facility within ninety (90) days of the date that it discontinues its use of the facility. If the provider fails to remove the facility within the required time, the facility shall be deemed abandoned. The City shall have the authority to enter the premises and remove the abandoned facilities. All costs of removal that exceed the amount of the bond or security posted for that purpose shall be collected from the provider or property owner in the manner provided for summary abatement of nuisances. This requirement shall apply to collocated facilities unless the collocation agreement provides for the removal of abandoned facilities by the tower operator.

2. DEFECTIVE FACILITIES. Defective or unsafe antennas, telecommunications facilities shall be repaired or removed within three months at the owner or operator=s expense. If not removed, the City may remove at the expense of the owner or operator.

3. NON-CONFORMING USE. Existing towers that do not comply with the new regulations may continue. They may not be expanded or replaced unless they meet the new

regulations. If they are damaged or destroyed, they may be repaired or restored to their former use, location and physical dimensions without complying with the new regulations.

Section 18-58. Permit approval process.

1. PUBLIC NOTIFICATION. Except for a proposed telecommunications facility, which collocated on an existing tower, the applicant for a permit shall notify all property owners within three-hundred (300) feet of the outer boundary of the property proposed for the location of the facility. Such notice shall explain the character and dimensions of the proposed telecommunications facility and give an address for the property owners to submit written comments to the applicant. The notice shall include a drawing or other representation of the visual aspects of the proposed facility.

2. PERMIT TERM. The permit issued for any telecommunications facility which has a tower over fifty (50) feet in height shall be valid for fifteen (15) years. At the end of that period, the facility shall be removed by the carrier or a new permit shall be required.

Section 18-59 through 18-64. (Reserved for future use.)

Article 7. Penalty

Section 18-65. Penalty.

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of an offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter . Each day's continuation of any such violation shall constitute a separate offense.