

**Amendments to the Wichita-Sedgwick County of the Unified Zoning Code
Required by Senate Substitute for House Bill No. 2131
and Including Recommended Delano Overlay Amendments**

Section II-B.14.p. and Section II-B.14.q.

- p. Wireless Communication** means ~~wireless services covered by the Location/Design Guidelines of the Wireless Communication Master Plan. It includes the following terms as defined in the Wireless Communication Master Plan as adopted by the Governing Bodies: broadcast systems, cellular, commercial mobile radio services, common carrier wireless access exchange services, enhanced specialized mobile radio, functionally equivalent services, personal communication services, paging, personal wireless services, public service and emergency systems, specialized mobile radio, tower builder, unlicensed wireless services and wireless cable system. It does not include amateur radio or private dispatch system as defined in the Wireless Communication Master Plan as adopted by the Governing Bodies~~ personal wireless services and personal wireless service facilities as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through a Wireless Communication Facility or any fixed or mobile wireless services provided using a Wireless Communication Facility.
- q. Wireless Communication Facility** means ~~facilities covered by the Location/Design Guidelines of the Wireless Communication Master Plan. It includes the following terms as defined in the Wireless Communication Master Plan as adopted by the Governing Bodies: antenna, antenna array, equipment shelter, guyed tower, lattice tower, location, monopole, site, support Structure and tower. a Lot containing equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to: (A) a wireless support structure consisting of a freestanding support structure, such as a monopole, guyed, or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities; (B) a base station that supports or houses an antenna, transceiver, coaxial cables, power cables or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics; (C) equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and/or (D) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.~~

Section III-C.8.b.

- b. Use Regulations.** The Use regulations of this Overlay District shall control over the Underlying zoning District.

- (1) **Prohibited Uses.** Subject to Section III-C.8.c(1)(b), the following Uses are explicitly prohibited in the D-O District, regardless if said Uses are stated as permitted or Conditional Uses in the Underlying Districts:

Asphalt or Concrete Plant, Limited and General
Businesses of an adult entertainment nature requiring a license under the Code of the City of Wichita, Chapters 3.05, 3.07, 3.56 and 3.74
Correctional Facility
Correctional Placement Residence, Limited and General
Gas and Fuel, Storage and Sales
Manufactured Home Subdivision
Manufactured Home Park
Mining or Quarrying
Oil and Gas Drilling
Rock Crushing
Sign (off-site)
Solid Waste Incinerator Vehicle
Storage Yard
~~Wireless Communication Facility~~
Wrecking/Salvage Yard

- (2) **Conditional Uses.** Subject to Section III-C.8.c(1)(b), the following Uses shall be allowed only as a Conditional Use in the D-O District, regardless if said Uses are stated as permitted Uses in the Underlying Districts:

Car Wash
Convenience Store
Freight Terminal
Manufacturing, General and Limited
Parking Area, Commercial
Restaurant (drive-in/drive-through)
Service Station
Storage, Outdoor
Utility, Major
Vehicle and Equipment Sales (indoor)
Vehicle and Equipment Sales, Outdoor
Vehicle Repair, General
Vehicle Repair, Limited
Warehouse, Self-service Storage
Warehousing
Wholesale or Business Services
Wireless Communication Facility, subject to Sec. III-D.6.g

Section III-D.6.

6. **Supplementary Use Regulations.** No permit shall be issued for any Development or Use of land unless the activity is in compliance with all applicable supplementary use regulations specified in this section, or unless the supplementary use regulations have been modified or waived by the Governing Body pursuant to the Development Review Procedures contained in Article V. The supplementary use regulations of this section are not applicable to Lots in the AFB Air Force Base

District. In the case of conflict with zoning District property Development standards or other regulations of this Code, the more restrictive requirement shall apply, unless otherwise specifically provided.

Section III-D.6.g.

g. Wireless Communication ~~Facilities~~ Facility. Whether allowed by right, subject to a Building Permit, by Administrative Permit, by CUP adjustment/amendment, by P-O adjustment/amendment or by Conditional Use approval, a Wireless Communication ~~Facilities~~ Facility shall be subject to the following provisions.

(1) ~~All~~ A Wireless Communication ~~Facilities~~ Facility shall be evaluated in terms of ~~their~~ conformance to the guidelines in the "Wireless Communication Master Plan" as adopted by the Governing Body, and applications for such facilities shall include information for review as required in that Plan.

(2) ~~The~~ A following Wireless Communication ~~Facilities are~~ Facility is permitted by right in any zoning District, subject to the issuance of a Building Permit, if ~~they conform~~ it conforms to the Location/Design Guidelines in ~~this chapter~~ that Plan:

(a) new ~~facilities~~ facility that ~~are~~ is concealed in or mounted on top of or the side of existing buildings (excluding single-family and duplex residences) and other Structures, including support structures up to 20 feet above the Building or the maximum height permitted by a Building Permit or an Administrative Permit in the underlying zoning District, whichever is greater;

(b) modification and/or replacement of support structures (light poles, flag poles, electrical poles, private dispatch towers, etc.) that are not significantly more visible or intrusive, including cumulative height extensions of up to 25 percent above the original Structure height;

(c) modification and/or replacement of a Wireless Communication ~~Facilities~~ Facility, including cumulative height extensions of up to 25 percent above the original structure height that comply with the compatibility height standards as outlined in Sec. IV-C.5;

(d) new or modified lattice towers no larger than 18 inches wide on any side up to 80 feet in height measured from grade.

~~(d)~~ (e) small cell facility or distributed antennae system located in an interior Structure or upon the site of any campus, stadium, or athletic facility.

If the Zoning Administrator determines that the Wireless Communication Facility does not conform to the Location/Design Guidelines, the Building ~~P~~ Permit shall be denied. Denied Building Permits may be appealed by applying for an Administrative Permit or a Conditional Use. An Administrative Permit shall be approved subject to conditions that

maintain conformance with the Location/Design Guidelines. A Wireless Communication ~~Facilities—Facility~~ that does not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant.

- (3) ~~The following~~A Wireless Communication ~~Facilities—Facility~~ shall be approved by Administrative Permit in any zoning District, under the procedures in Sec. VI-G.9 and Sec. VI-H.5, if ~~they conform~~it conforms to the Location/Design Guidelines in the "Wireless Communication Master Plan" and, for zoning Lots located within the City, ~~are~~is designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map" of Sec. I- L.:

- (a) new disguised ground-mounted facilities up to 85 feet in height;
- (b) new undisguised ground-mounted facilities up to 65 feet in the SF- 10, SF-5, TF-3, MF-18, MF-29, B and MH zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.~~de~~;
- (c) new undisguised ground-mounted facilities up to 85 feet in the NO, GO and NR zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.~~de~~;
- (d) new ground-mounted facilities up to 120 feet in height in the RR, SF- 20, U, LC, OW, and GC zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.~~de~~; or
- (e) New ground-mounted facilities up to 150 feet in height in the IP, CBD, LI and GI zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.~~de~~.

If the property on which the facility is located is within a CUP or P-O, the Administrative Permit shall also be considered as an application for an adjustment of the CUP or P-O as outlined in Sec. V-E.14, excluding the requirement of V-E.14.a, or Sec. V-C.14, excluding the requirement of V-C.14.a., as applicable.

- (4) ~~All~~A Wireless Communication ~~Facilities—Facility~~ that does not meet the requirements of Sec. III-D.6.g(2) or Sec. III-D.6.g(3) shall be reviewed through the Conditional Use process as outlined in Sec. V-D or, if the property on which the facility is located is within a CUP or P-O, as an amendment to the CUP or P-O as outlined in Sec. V-E.13. or Sec. V-C.13, as applicable.
- (5) There shall be no nighttime lighting of or on a Wireless Communication

~~Facilities~~ Facility except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. Flashing white obstruction lights shall not be permitted for nighttime operation. Lighting for security purposes shall be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs shall be permitted.

(6) No signs shall be allowed on ~~an antenna support structure~~ a Wireless Communication Facility other than those required by applicable governmental agencies.

~~(7) At the time of requesting a Conditional Use, a CUP amendment, a P-O amendment, an Administrative Permit, or a Building Permit for a new ground mounted Wireless Communication Facility, as applicable, the applicant shall demonstrate to the satisfaction of the approving authority that: (a) there is no available space on existing or approved wireless communication facilities or other structures that can be utilized to meet the communication needs (an existing site will be considered "available space" only if the site is technically feasible with a ready, willing, and able landlord); and (b) there is no other economically and technically feasible opportunity to modify or rebuild an existing structure on which the communication equipment may be located. The technical feasibility of existing, modified or rebuilt structures may be reviewed by consultants to the Planning Department.~~

~~(8) At the time of requesting a Conditional Use, a CUP amendment, a P-O amendment, an Administrative Permit, or a Building Permit for a Wireless Communication Facility, as applicable, the owner of a proposed new undisguised ground mounted Wireless Communication Facility, and the Owner of the land, if not the same, shall agree in writing that (a) the support structure is designed, and the ground area is adequate or will be made adequate, to accommodate at least one other carrier, if more than 80 feet in height, and at least two other carriers, if more than 100 feet in height; (b) reasonable accommodations will be made to lease space on the facility to other carriers so as to avoid having a proliferation of support structures that are not fully utilized; and (c) the owner(s) shall make available in the future the opportunity for another party to pay the cost to modify or rebuild the Structure to support additional communication equipment where economically and technically feasible. Lattice towers no larger than 18 inches on any side shall be excluded from the co location requirements of subsection (a) of this paragraph.~~

~~(9)~~(7) Unused facilities, including the uppermost 20 percent of support structures that are unused (except where removal of the uppermost 20 percent would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use), shall be removed by the owner within 60 days if the Wireless Communication Facility, or portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City or County may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove

it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, "owner" shall include both the Owner of the real property and the owner of the Wireless Communication Facility, whether such ownership is divided or in the same person.

~~(40)~~(8) All Wireless Communication Facilities shall comply with all federal, state, and local rules and regulations.

Section IV-C.5.

5. Compatibility Height standards. The following Height standards shall apply to Development that is subject to compatibility standards, unless reduced or waived through the provisions of Sec. V-I.2.

- a. No Structure ~~(except for wireless communication facilities)~~ shall exceed 35 feet in height within 50 feet of the lot line of property zoned TF-3 or more restrictive. Structures located more than 50 feet from the Lot Line of property zoned TF-3 or more restrictive may increase Height (if permitted by the base District regulations) at a ratio of one foot in Height for each three feet of Setback beyond 50 feet. For example, a Building-Structure limited to 35 feet in Height at 50 feet from the Lot Line of property zoned TF-3 or more restrictive could be increased to a Height of 85 feet at a distance of 200 feet from the Lot Line of property zoned TF-3 or more restrictive.
- b. ~~Wireless Communication Facilities shall not exceed a Height equal to the distance to the Lot Line of property zoned TF 3 or more restrictive. For example, a Wireless Communication Facility located 100 feet from the Lot Line of property zoned TF 3 or more restrictive cannot exceed a Height of 100 feet.~~

Section VI-B.7. (new)

7. Zoning Adjustments. The Governing Body shall have the authority to approve, approve with conditions or modifications, or deny zoning adjustments when requested in association with an application to amend the Official Zoning Map, an application for Community Unit Plan approval, or an application for Conditional Use approval.

Section VI-C.7. (new)

7. Zoning Adjustments. The Planning Commission shall have the authority to approve, approve with conditions or modifications, or deny zoning adjustments when requested in association an application for Conditional Use approval or for amendment to a Community Unit Plan and shall have the authority to recommend to the Governing Body approval, approval with conditions, or denial of a zoning adjustment when requested in association with an application to amend the Official Zoning Map or amend a Planned Unit Development or Protective Overlay.

Section VI-G.9.

9. **Administrative Permits.** The Planning Director, with the concurrence of the Zoning Administrator, shall have the authority to approve, approve with conditions or modifications, or deny applications for a Wireless Communication ~~Facilities-Facility~~ pursuant to Sec. III-D.6.g. The Planning Director's decision on such an application may be appealed by filing an application for a Conditional Use.

Section VI-H.5.

5. **Administrative Permits.** The Zoning Administrator shall have the authority to review and recommend to the Planning Director approval, approval with conditions or modifications, or denial of applications for ~~wireless-communication facilities~~a Wireless Communication Facility pursuant to Sec. III-D.6.g. An Administrative ~~permits-Permit~~ for a Wireless Communication ~~Facilities-Facility~~ may be granted by the Planning Director only with the concurrence of the Zoning Administrator.