

ORDINANCE NO. 17-27

AN ORDINANCE OF SOUTH OGDEN CITY, UTAH, REVISING AND AMENDING THE CITY CODE, TITLE 10 CHAPTER 20 TO DEAL WITH WIRELESS TELECOMMUNICATION EQUIPMENT; MAKING NECESSARY LANGUAGE CHANGES TO THE CITY CODE TO EFFECT THOSE CHANGES; AND ESTABLISHING AN EFFECTIVE DATE FOR THOSE CHANGES.

Section 1 - Recitals:

WHEREAS, SOUTH OGDEN City (“City”) is a municipal corporation duly organized and existing under the laws of Utah; and,

WHEREAS, the City Council finds that in conformance with Utah Code (“UC”) §10-3-717, and UC §10-3-701, the governing body of the city may exercise all administrative and legislative powers by resolution or ordinance; and,

WHEREAS, the South Ogden City Council finds that certain changes should be made to the City Code to more appropriately deal with Wireless Telecommunication Equipment and the evolving industry standards related thereto; and to provide additional clarity in dealing with Wireless Communications matters within the City; and, recognizing that these actual and contemplated changes may have City-wide effect and the potential to directly benefit city residents through economic and commercial changes resulting from this technological evolution and implementation; and

WHEREAS, the City Council finds that certain changes should be made to the City Code in order more effectively manage these identified issues; and,

WHEREAS, the City Council finds that South Ogden City Code, at Title 10 Chapter 20 and various subsections should be amended by adding new language; and,

WHEREAS, the City Council finds that the requirements should be effective upon passage of this Ordinance; and,

WHEREAS, the City Council finds that the public safety, health and welfare is at issue and requires action by the City as noted above;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SOUTH OGDEN CITY, UTAH that the City Code be changed and amended as follows:

Amended Section:

Upon The Adoption Of This Ordinance, Title 10 Chapter 20 Is, For the Sections and Subsections Listed, Amended To Read As Set Out In Attachment "A" And Incorporated Fully Herein By This Reference.

Section 2 - Repealer of Conflicting Enactments:

All orders, ordinances and resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which conflict with this Ordinance, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part, repealed.

Section 3 - Prior Ordinances and Resolutions:

The body and substance of any and all prior Ordinances and Resolutions, with their specific provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

Section 4 - Savings Clause:

If any provision of this Ordinance shall be held or deemed or shall be invalid, inoperative or unenforceable such reason shall not have the effect of rendering any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Ordinance being deemed the separate independent and severable act of the City Council of South Ogden City.

Section 5 - Date of Effect

This Ordinance shall be effective on the 2nd day of January, 2018, and after publication or posting as required by law.

DATED this 2nd day of January, 2018

SOUTH OGDEN, a municipal corporation

by: _____
Mayor James F. Minster

Attested and recorded

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT “A”

ORDINANCE NO. 17-27

An Ordinance Of South Ogden City, Utah, Revising And Amending The City Code, Title 10 Chapter 20 To Deal With Wireless Telecommunication Equipment; Making Necessary Language Changes To The City Code To Effect Those Changes; And Establishing An Effective Date For Those Changes.

02 Jan 18

[Attachment to be provided by City Manager]

South Ogden City Code

Title 10, Chapter 20

WIRELESS TELECOMMUNICATIONS EQUIPMENT

10-20-1: APPLICATION OF COMMERCIAL AND RESIDENTIAL REQUIREMENTS IN FORM-BASED CODE SUBDISTRICTS

Edge and Gateway Edge subdistricts should be considered residential when applying wireless communication equipment requirements. All other form-based code sub districts should be considered commercial when applying the requirements.

10-20-~~2~~⁴: COMMERCIAL ~~AND MANUFACTURING~~-DISTRICTS:

Wireless telecommunication equipment may be allowed with the following requirements:

A. Wall Mounted Antennas: Wall mounted antennas are permitted in the commercial ~~and manufacturing~~ zones. Wall mounted antennas must comply with the following criteria:

1. Wall mounted antennas shall not extend above the roof line of the building more than four feet (4').
2. Antennas and all associated equipment shall be galvanized, painted powder coated, or have another similar suitable finish to match the color of the building infrastructure or surrounding area.
3. Wall mounted antennas may have a maximum area of five percent (5%) of the wall area of each side elevation of the building. Area of a penthouse wall shall be included in the wall area of the building. The area of the antennas is determined by drawing straight lines between the outermost portions of the antennas until enclosed.
4. All equipment associated with the use must be screened by a view obstructing structure and located a minimum of ten feet (10') from the edge of the building wall.
5. If the associated equipment is located on the ground, it must be landscaped to be compatible with the surrounding area and approved by staff.
6. Any appeals from a decision by the staff shall be to the planning commission hearing officer and must be in writing, filed within ~~ten~~ fourteen (~~10~~14) days of the written staff decision.

B. Roof Mounted Antennas: Roof mounted antennas are permitted in the commercial ~~and manufacturing~~ zones. The following provisions and any applicable provisions in subsection A of this section shall apply to roof mounted antennas:

1. Pitched-roof mounted antennas:

a. The antenna will be mounted on the roof of a building such that the roof will obstruct the view of the antenna from the front of the building as seen from the front property line.

b. The antenna will be less visible from the ground level than the typical antenna mounted on a flat roof.

c. Disagreements to staff decisions may be appealed to the ~~planning commission~~ [hearing officer](#).

2. Flat-roof mounted antennas must be set back from the building edge one foot (1') for every one foot (1') of antenna height to a maximum of fifteen feet (15'). (Ord. 903, 3-4-1997)

C. Monopole Towers: Monopole towers are allowed in commercial ~~and districts~~ [manufacturing districts](#) as a conditional use. Towers must comply with all requirements set forth in subsection 10-20-2C of this chapter.

D. Collocation on Existing Monopole Towers and small cell antenna poles: Collocation on existing monopole towers is a permitted use in commercial zones. However, if the compound area needs to be expanded to handle additional equipment, then the expansion must comply with all of the existing conditions of approval. (Ord. 903, 3-4-1997; amd. 2001 Code)

E. Pole-mounted Small Cellular Antennas: Small cellular (DAS) antenna poles may be allowed as conditional uses. Any applicable criteria in subsections A, B and C of this section, as well as the following criteria, shall apply to small cell towers and facilities:

1. All small cellular (DAS) antenna poles must be of a monopole construction. No lattice constructed towers of any kind shall be allowed.

2. The height of small cell wireless support structures shall not exceed 30' unless otherwise approved by the Planning Commission. Evidence documenting the need for exceptions to the height limitation should be indicated in the application.

3. No more than sixteen (16) small cell wireless poles or similar equipment on similar types of wireless support structures shall be permitted within a two-mile radius. However, if a master cell site plan is presented by industry representatives and approved by the planning commission and city council, this requirement may be waived.

4. Collocation on an existing small cell pole structure is a permitted use and is handled administratively.

5. The agent must supply the city with a letter stating that if technology renders the pole obsolete and it is vacated, the agent will remove the pole, all other apparatus associated with it, and restore the site to its original condition within ninety (90) days of vacation.

6. Antennas and all associated equipment shall be sited, designed and galvanized, painted powder coated, or have another similar suitable finish so as to be harmonious with the surrounding area non-rusting and durable. They shall also be maintained by the owner to ensure they remain durable and harmonious with the surrounding area.

7. Any appeals from a decision by the planning commission shall be to the hearing officer and must be in writing, filed within fourteen (14) days of the written planning commission decision. ~~Disagreements to staff decisions may be appealed to the hearing officer.~~

10-20-~~32~~: RESIDENTIAL DISTRICTS:

Wireless telecommunication equipment may be allowed with the following requirements:

A. Wall Mounted Antennas: Wall mounted antennas are conditional in residential zones at institutional uses such as city buildings, hospitals, churches, post offices, schools, etc. Wall mounted antennas must comply with the following criteria:

1. Wall mounted antennas shall not extend above the roof line of the building more than four feet (4').
2. Antennas and all associated equipment shall be painted to match the color of the building or surrounding area.
3. Wall mounted antennas may have a maximum area of five percent (5%) of the wall area of each side elevation of the building. Area of a penthouse wall shall be included in

the wall area of the building. The area of the antennas is determined by drawing straight lines between the outermost portions of the antennas until enclosed.

4. All equipment associated with the use must be screened by a view obstructing structure.

5. If the associated equipment is located on the ground, it must be landscaped to be compatible with the surrounding area and approved by staff.

6. Any appeals from a decision by the planning commission shall be to the hearing officer and must be in writing, filed within fourteen (14) days of the written planning commission decision. ~~Disagreements to staff decisions may be appealed to the hearing officer.~~

B. Roof Mounted Antennas: Roof mounted antennas are conditional in residential zones and institutional uses such as city buildings, hospitals, post offices, schools, churches, etc. The following provisions and any applicable provisions in subsection A of this section shall apply to roof mounted antennas:

1. Pitched-Roof Mounted Antennas:

a. The antenna will be mounted on the roof of a building such that the building will obstruct the view of the antenna from the front of the building as seen from the front property line.

b. The antenna will be less visible from the ground level than the typical antenna mounted on a flat roof.

2. Flat-Roof Antennas: Flat-roof antennas must be set back from the building edge one foot (1') for every one foot (1') of antenna height to a maximum of fifteen feet (15').

3. Any appeals from a decision by the planning commission shall be to the hearing officer and must be in writing, filed within fourteen (14) days of the written planning commission decision. ~~Disagreements to staff decisions may be appealed to the hearing officer.~~

C. Monopole Structures: Monopole towers may be allowed as conditional uses. Any applicable criteria in subsections A and B of this section, as well as the following criteria, shall apply to monopole structures:

1. All towers must be of a monopole construction. No lattice constructed towers of any kind shall be allowed.

2. All towers must allow for collocation and supply engineering calculations by a state certified engineer that will allow for as many as three (3) separate users on a single pole. A letter must also be supplied stating that the owners of the tower will allow for collocation and that the structure has been constructed to allow for this.

3. No tower may be located within a one-mile radius to another tower until supporting documentation is supplied by an independent consultant stating that collocation will create a hardship. However, if a master cell site plan is presented by industry representatives and approved by the planning commission and city council, the one-mile radius does not apply.

4. Collocation on an existing monopole structure is a permitted use and is handled administratively.

5. The agent must supply the city with a letter stating that if technology renders the tower obsolete and the tower is vacated, the agent will remove the tower, all other apparatus associated with it, the top three feet (3') of the footing and restore the site to its original condition within ninety (90) days of vacating the tower.

6. Antennas and all associated equipment shall be galvanized, painted powder coated, or have another similar suitable finish so as to be harmonious with the surrounding area non-rusting and durable. They shall also be maintained by the owner to ensure they remain durable and harmonious with the surrounding area.

7. Any appeals from a decision by the planning commission shall be to the hearing officer and must be in writing, filed within fourteen (14) days of the written planning commission decision. ~~Disagreements to staff decisions may be appealed to the hearing officer.~~

D. Pole-mounted Small Cellular Antennas: Small cellular (DAS) antenna poles may be allowed as conditional uses. Any applicable criteria in subsections A, B and C of this section, as well as the following criteria, shall apply to small cell towers and facilities:

1. All small cellular (DAS) antenna poles must be of a monopole construction. No lattice constructed poles of any kind shall be allowed.

2. The height of small cell wireless support structures shall not exceed 30' unless otherwise approved by the Planning Commission. Evidence documenting the need for exceptions to the height limitation should be indicated in the application.

3. No more than sixteen (16) small cell wireless poles or similar equipment on similar types of wireless support structures shall be permitted within a two-mile radius.

However, if a master cell site plan is presented by industry representatives and approved by the planning commission and city council, this requirement may be waived.

4. Collocation on an existing small cell pole structure is a permitted use and is handled administratively.

5. The agent must supply the city with a letter stating that if technology renders the pole obsolete and it is vacated, the agent will remove the pole, all other apparatus associated with it, and restore the site to its original condition within ninety (90) days of vacation.

6. Antennas and all associated equipment shall be sited, designed and galvanized, painted powder coated, or have another similar suitable finish so as to be harmonious with the surrounding area non-rusting and durable. They shall also be maintained by the owner to ensure they remain durable and harmonious with the surrounding area

7. Any appeals from a decision by the planning commission shall be to the hearing officer and must be in writing, filed within fourteen (14) days of the written planning commission decision. ~~Disagreements to staff decisions may be appealed to the hearing officer.~~

~~D.~~ F Additional Criteria: The additional following criteria may be addressed for approval of electronic communication equipment in residential zones:

1. Whether collocation of the antenna on existing structures in the same vicinity, such as, towers, buildings, water towers, standalone poles, utility poles, athletic field lights, parking lot lights, poles, etc., is feasible without impacting neighboring uses.

2. Whether the location of the antenna in relation to existing vegetation, topography, buildings, residential uses and zoning districts is acceptable.

3. Whether there are any negative impacts associated with the use that must be mitigated through screening, height limits, pole or tower design, specifying construction materials and colors, etc. (Ord. 903, 3-4-1997)

10-20-~~43~~: BUSINESS LICENSE REQUIRED:

All approved locations shall obtain an annual business license from the city. (Ord. 903, 3-4-1997)