

ORDINANCE NO. (O)18-11

AN ORDINANCE OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING CHAPTER 25, USE REGULATIONS, SECTION 25.1, REQUIREMENTS FOR SPECIFIC USES OF THE ORO VALLEY ZONING CODE REVISED; REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER

WHEREAS, on March 13, 1981, the Mayor and Council approved Ordinance (O)81-58, which adopted that certain document entitled "Oro Valley Zoning Code Revised (OVZCR); and

WHEREAS, the proposed amendment to Section 25.1, Requirements for Specific Uses, of the Oro Valley Zoning Code Revised will 1) revise the setback standards for new ground-mounted facilities; 2) define the threshold for approving collocations or modifications to existing facilities as required by federal law; and 3) allow the Planning and Zoning Administrator the authority to waive requirements that would result in denial of an application without "substantial evidence"; and

WHEREAS, the Planning and Zoning Commission held a meeting on July 10, 2018, and voted to recommend approval of amending Chapter 25, Use Regulations, Section 25.1, Requirements for Specific Uses as it relates to standards for communication facilities; and

WHEREAS, the Mayor and Council have considered the proposed amendments and the Planning and Zoning Commission's recommendation and finds that they are consistent with the Town's General Plan and other Town ordinances and are in the best interest of the Town.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Oro Valley that:


SECTION 1. That certain document entitled Chapter 25, Use Regulations, Section 25.1, Requirements for Specific Uses of the Oro Valley Zoning Code Revised, attached hereto as Exhibit "A" and incorporated herein by this reference, and declared a public record on July 18, 2018 is hereby adopted

SECTION 2. All Oro Valley ordinances, resolutions or motions and parts of ordinances, resolutions or motions of the Council in conflict with the provision of this Ordinance are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of the resolution or any part of the General Plan Amendment adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.


PASSED AND ADOPTED by the Mayor and Council of the Town of Oro Valley, Arizona, this 18th day of July, 2018.

TOWN OF ORO VALLEY



Dr. Satish I. Hiremath, Mayor

ATTEST:



Michael Standish, Town Clerk

Date: 7/20/18

**PUBLISH: DAILY TERRITORIAL
JULY 23, 24, 25, 26, 2018**

APPROVED AS TO FORM:



Tobin Sidles, Legal Services Director

Date: 7/20/18

POSTED: 7/23/18 - 8/22/18

EXHIBIT "A"

AMEND the following in Section 25.1 of the Zoning Code. Additions shown in ALL CAPS, Deletions shown in strikethrough

B. Requirements for Specific Non-Residential Uses

5. Communication Structures and Facilities

b. Communication Facilities

i. Applicability

This section applies to all new communication facilities or new appurtenances to existing facilities except:

- a) Facilities used for police, fire, ambulance, and other emergency dispatch functions.
- b) Small cell wireless facilities located in the public rights-of-way which shall adhere to the standards, processes and fees established in the small cell wireless code.

C) REQUIREMENTS PREVENTING INSTALLATION OF A FACILITY MAY BE WAIVED BY THE PLANNING AND ZONING ADMINISTRATOR WHEN THERE IS A CONFLICT WITH FEDERAL LAW.

ii. General Requirements for All Communications Facilities

a) Stealth Applications

- 1) All facilities, **INCLUDING MODIFICATIONS TO EXISTING FACILITIES**, shall be constructed using stealth applications ~~for the antennas~~. A stealth application entails the camouflaging of an antenna, appurtenance, fixture, and/or structure with a building or the landscape in terms of design, colors, materials, height, and width.
- 2) Site location and development shall preserve the existing character of the surrounding community, buildings, land uses and zoning district. Facilities shall be integrated through location and design to blend in with the existing characteristics of the site. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized.
- 3) Antennas mounted on buildings, utility poles, or structures shall be covered by appropriate casings that are designed to match existing structural or architectural features.
- 4) The camouflaging of antennas shall include architectural integration, painting and texturing to match the existing structure, or if groundmounted, of such design to be compatibly integrated with the surrounding landscape. Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.

- b) No communication facilities shall be permitted on developed or undeveloped lots where the primary use ~~is or is platted for a dwelling~~. **OR PURPOSE IS FOR A DWEILLING.**

c) Setback Requirements for All Ground-Mounted Facilities, Excluding Joint-Use Installations on Street Lights, Traffic Lights, Electric Utility Poles and/or other Utility Structures and Collocations on Existing Facilities:

1) Structures ARE SUBJECT TO THE UNDERLYING ZONING DISTRICT BUILDING SETBACKS AND ~~shall~~ MUST be set back two (2) feet for every one (1) foot in height from ~~buildings, property lines and overhead wires.~~ THE BOUNDARY OF ANY PROPERTY WHERE THE PRIMARY USE OR PURPOSE IS FOR A DWELLING, WHICHEVER IS MORE RESTRICTIVE

2) All new facilities within the Tangerine Road Corridor Overlay District and Oracle Road Scenic Overlay District must be set back from the right-of-way edge by a distance of three (3) feet for every one (1) foot in height.

d) Equipment Buildings, AND Cabinets, ~~and/or Structures~~

1) Equipment buildings or ~~structures~~ CABINETS shall be concealed from public view and made compatible with the architecture of the surrounding buildings and consistent with the general character of the area.

2) Above-ground equipment shall be completely screened from view by a compatible solid wall or opaque fence except when a ground-mounted cabinet or ~~structure~~, or combination of all cabinets or ~~structures~~, is smaller than one hundred and eighty (180) cubic feet. Units that are smaller than one hundred and eighty (180) cubic feet may, at the discretion of the Planning and Zoning Administrator, not be required to be screened from view if they have been designed with a structure, materials, colors or detailing that emulates the character of the area. All gates shall be opaque

3) Equipment buildings must be placed in compliance with the underlying zoning setbacks for accessory buildings.

4) The equipment building or ~~structure~~ CABINET must be regularly maintained.

5) The maximum building height shall not exceed eighteen (18) feet.

6) All above-ground equipment with air conditioning units shall be enclosed by walls, if located within three hundred (300) feet of developed or undeveloped lots where the primary use is or is platted for single-family dwellings

7) Any exterior lighting, unless required by the Federal Aviation Administration, shall be positioned within the walled area and shall be mounted below the height of the screening fence or wall.

e) Additional Standards for Development in Parks and Open Space Zoning: For areas not utilized as a developed public or private park, golf course, or similar use, the following standards shall apply:

1) All facilities must be collocated on an existing manmade structure or ground-mounted and disguised as a natural feature such as rock or saguaro.

2) All accessory and equipment buildings shall be ~~vaulted~~-LOCATED underground unless they can be entirely camouflaged as a natural feature.

3) New roads shall not be constructed to specifically access the site.

4) Significant resources, as defined in Section 27.6, may not be disturbed.

- f) Discontinuance of Use
 - 1) Any antenna or tower for which the use is discontinued for six (6) months or more shall be removed, and the property shall be restored to its condition prior to the location of the antenna or tower, all at the expense of the provider. The Town may require financial assurances to ensure compliance with this provision.
- g) Noninterference with Public Safety
 - 1) No wireless communication transmitter, receptor, or other facility shall interfere with police, fire, and emergency public safety communications.
- h) Technical Evaluation
 - 1) The Town may engage the services of a third party consultant, at the applicant's sole expense, to evaluate the accuracy of the application, Federal Communications Commission compliance, and other technical issues as needed.
- i) Monopole and Tower Site Standards
 - 1) Any new monopole shall be separated from the nearest monopole –regardless of ownership and jurisdictional boundaries – by a distance of one-quarter (1/4) mile, unless it is adjacent to an existing monopole or tower within a common screened wall
 - 2) New towers require a minimum separation of one (1) mile from any existing tower – regardless of ownership and jurisdictional boundaries – unless one can verify that no reasonable alternative exists.
 - 3) All new monopoles or towers that are forty (40) feet or higher shall allow for collocation by other wireless communication providers.
 - 4) Use of guy wires is prohibited.

J) COLLOCATIONS OR MODIFICATIONS TO EXISTING TOWERS OR STRUCTURES

- 1) THE PLANNING AND ZONING ADMINISTRATOR SHALL NOT DENY ANY ELIGIBLE COLLOCATIONS OR MODIFICATIONS TO EXISTING STRUCTURES, EXCEPT WHEN THE COLLOCATION OR MODIFICATION IS A SUBSTANTIAL CHANGE TO THE PHYSICAL DIMENSIONS OF THE STRUCTURE, AS DEFINED BELOW.
 - A. SUBSTANTIAL CHANGES ARE THOSE WHICH MEET ANY OF THE FOLLOWING CRITERIA:
 - i. AN INCREASE IN HEIGHT OF THE UTILITY POLES THAT ADD MORE THAN TEN PERCENT (10%) TO THE ORIGINAL HEIGHT OR MORE THAN THE HEIGHT OF ONE ADDITIONAL ANTENNA ARRAY WITH SEPARATION FROM THE NEAREST ANTENNA ARRAY NOT TO EXCEED TWENTY (20) FEET, WHICHEVER IS GREATER, UP TO A MAXIMUM OF EIGHTY (80) FEET
 - ii. AN INCREASE IN HEIGHT OF THE EXISTING STRUCTURES THAT ADD MORE THAN TEN PERCENT (10%) OR MORE THAN TEN (10) FEET, WHICHEVER IS GREATER AND NOT TO EXCEED

THE REGULATED HEIGHT OF THE EXISTING STRUCTURE.

- iii. THE ADDITION OF AN APPURTENANCE THAT
 - 1. PROTRUDES FROM THE EDGE OF THE STRUCTURE MORE THAN SIX (6) FEET, OR
 - 2. MORE THAN THE WIDTH OF THE STRUCTURE AT THE LEVEL OF THE APPURTENANCE, WHICHEVER IS GREATER, OR
 - 3. IS MORE THAN TWENTY-FIVE PERCENT (25%) OF THE EXISTING NUMBER OF APPURTENANCES
- iv. THE INSTALLATION OF NEW EQUIPMENT CABINETS
 - 1. WHEN THERE ARE NO PRE-EXISTING GROUND CABINETS ASSOCIATED WITH THE STRUCTURE, OR
 - 2. MORE THAN THE STANDARD NUMBER OF NEW EQUIPMENT CABINETS FOR THE TECHNOLOGY INVOLVED, BUT NOT TO EXCEED FOUR (4) CABINETS, OR
 - 3. MORE THAN TEN (10%) PERCENT LARGER IN HEIGHT OR OVERALL VOLUME THAN ANY OTHER GROUND CABINETS ASSOCIATED WITH THE STRUCTURE
- v. ENTAILS ANY EXCAVATION OR DEPLOYMENT OUTSIDE THE CURRENT SITE
- vi. DEFEATS EXISTING CONCEALMENT ELEMENTS OF THE STRUCTURE
- vii. DOES NOT COMPLY WITH CONDITIONS ASSOCIATED WITH PRIOR APPROVALS OF THE STRUCTURE, UNLESS NON-COMPLIANCE IS DUE TO AN INCREASE IN HEIGHT, WIDTH, OR ADDITION OF CABINETS OR EXCAVATION THAT DOES NOT EXCEED THE SUBSTANTIAL CHANGE THRESHOLD.

2) COLLOCATIONS OR MODIFICATIONS THAT ARE SUBSTANTIAL CHANGES SHALL COMPLY WITH THE TIER I, TIER II OR MAJOR COMMUNICATION FACILITY REQUIREMENTS OF THIS CODE.

3) ALL COLLOCATIONS OR MODIFICATIONS SHALL BE CONSTRUCTED USING STEALTH APPLICATIONS.

jK) Access and Signage

- 1) All facilities, especially roof-mounted antennas, must be designed in a manner to clearly prevent and/or deter access by the public.

2) All facilities shall be identified by a permanently installed plaque or marker, no larger than four (4) inches by six (6) inches, clearly identifying the provider's name, address and emergency phone number. The sign shall be placed in a location visible to passersby.

kL) Provider's Communication Plan

1) The Provider Communication Plans shall be utilized to require collocation and/or clustering of new facilities where technically feasible.

~~M) Application Requirements~~

~~1) Applications required under this Chapter shall be submitted in a form and in such numbers as required by the official responsible for accepting the application.~~

iii. Minor Communication Facilities

a) General Standards for Minor Facilities

1) Minor facilities may not exceed forty (40) feet in height unless otherwise specified herein.

2) Minor facilities are exempt from parking requirements specified in Chapter 11, unless required by Planning and Zoning Administrator or Planning and Zoning Commission.

b) Tier I Minor Facilities

1) The Planning and Zoning Administrator shall make a determination on a Tier I application.

2) All Tier I minor facilities shall be constructed using stealth applications that result in the communication facility being entirely indiscernible as a facility because it appears as a functional component of a building, structure, or the landscape.

3) All Tier I minor facilities shall meet the following criteria:

A) They shall be located on existing buildings, utility poles, communication facilities, or other existing structures.

i) A replacement utility pole or structure may be utilized only if it closely resembles the original utility pole or structure.

ii) The height of the utility poles, communication facilities, or other existing structures shall not add more than twenty percent (20%) to the original height up to a maximum of eighty (80) feet or the regulated height of the EXISTING utility poles, communication facilities, or other existing structures, whichever is less.

iii) For utility poles or other similar structures the diameter OF THE POLE may be increased up to sixty percent (60%).

B) Or they shall be located within concealment structures such as flagpoles, cacti, or desert trees that are entirely camouflaged.

C) Unlimited collocations on all existing facilities.

D) Flagpoles utilized as an alternative concealment structure shall not exceed one and one-quarter (1.25) times the height of the nearest structure and a total diameter of thirteen (13) inches.

c) Tier II Minor Facilities

1) The Planning and Zoning Commission shall make a final determination on all Tier II applications, except when a proposed new facility exceeds the building height restrictions of the underlying zoning district. In this case, the Planning and Zoning Commission shall provide a recommendation prior to Town Council determination.

2) All property owners and HOAs within six hundred (600) feet of the facility will be notified by mail and provided with fifteen (15) days to respond. The Planning and Zoning Administrator may require a neighborhood meeting.

3) All Tier II minor facilities shall be constructed using stealth applications that result in the communication facility being incorporated into a building, structure, or the landscape to the greatest extent feasible; however, it remains discernible as a facility.

4) All Tier II minor facilities shall meet the following criteria:

A) New monopoles or towers that are forty (40) feet or less in height. The overall height may be increased to fifty (50) feet only if the site will be immediately utilized for collocation. The increase in height will be the minimum required to support collocation.

B) Collocation on existing structures is subject to the following requirements:

1) The height of the utility poles, communication facilities, or other existing structures shall not add more than thirty percent (30%) to the original height up to a maximum of eighty (80) feet or the regulated height of the EXISTING utility poles, communication facilities, or other existing structures, whichever is less.

2) For utility poles or other similar structures the diameter OF THE POLE may be increased up to sixty percent (60%).

~~3) Collocations on all existing monopoles or towers whereby the total number of additional appurtenances is less than twenty five percent (25%) of the original number may be approved by the Planning and Zoning Administrator.~~

iv. Major Communication Facilities

a) Major communication facilities are those facilities that do not meet the minor communications facilities criteria.

b) They are subject to a conditional use permit AND REQUIREMENTS OF SECTION 22.5. ~~All property owners within six hundred (600) feet must be notified for the use permit. Once a use permit has been obtained, a communication facility application shall be submitted for Planning and Zoning Commission approval.~~

c) Tier II stealth criteria apply to all major communication facilities.

d) All major communication facilities shall meet the following criteria:

1) The height of a facility shall not exceed the height established in the criteria for minor facilities, except that they are allowed up to one hundred fifty (150) feet in C-1, C-2, and T-P Zoning Districts.

2) A minimum of one (1) parking space must be provided unless specifically waived by the ~~Planning and Zoning Commission~~ and Town Council.
