

ORDINANCE NO. 2010- 19

An ordinance amending Section 21-108 of the Victoria City Code to amend regulations for telecommunication towers, repealing conflicting ordinances, providing for severability, providing for codification and savings, providing for enforcement, providing a penalty not to exceed \$500 upon conviction and publication; and declaring an effective date.

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

1.

Sec. 21-108. Telecommunication Towers.

- (a) **Definitions.** The following definitions shall apply to this section:
- (1) Telecommunications tower shall mean any structure erected for the purpose of supporting equipment that serves as a telecommunications relay point for cellular telephones, personal communications services (PCS), digital communications, or similar service that is regulated by the 1996 Federal Telecommunications Act.
 - (2) Stealth tower shall mean a tower that is camouflaged to be unrecognizable as a telecommunications facility and shall include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structures, antennas integrated into architectural elements such as church spires or window walls, and antenna structures designed to resemble light poles, flag poles or trees.
 - (3) Monopole tower shall mean a self-supporting structure composed of a single vertical pole, fixed into the ground and/or attached to a foundation with no guy wires containing one or more mounted antennas and associated equipment.
- (b) ~~Stealth towers~~ Location. Telecommunication towers located within a historic district shall be stealth towers. All Telecommunications towers constructed elsewhere in the City of Victoria shall ~~may~~ be stealth monopole towers. Towers secured by guy wires and lattice style towers are expressly prohibited.
- (c) *Setback from residential structures.* All telecommunications towers shall be set back from any residential structures a distance of at least ten (10) feet plus one (1) foot for each foot of height of the tower.
- (d) *Co-location encouraged.* The Director of Development Services shall maintain a list of available telecommunications sites that are owned by the City and other owners of existing structures, such as towers, buildings, windmills, poles, etc. who wish to make their structures available for placement of telecommunications facilities thereon. Lease or use rates may be provided on this list.
- (e) *Site plan requirements.* In addition to the requirements of section 21-91 of this code, a site plan for a telecommunications tower shall be accompanied by a drawing and any supporting documents that identify the type and height of the proposed facility.
- (f) *Tower removal.* A removal deposit in the amount of \$100 for each foot in height of a proposed telecommunications tower from its base (if ground based) or mount (if mounted on another structure) shall accompany an application for a telecommunications tower permit. The amount shall be held by the City and shall be refundable to the owner of the property upon which the tower is located, after the owner has removed the tower in accordance with all City requirements. If the deposit is returned to the owner, it shall be returned with accumulated interest at the rate received by the City, less a City processing fee of 10% of the aggregated amount of the deposit and interest. Upon written request, the Director of Development Services shall lower the tower removal deposit to a level proven by an applicant to be sufficient to cover the estimated probable cost of removing the tower. The Director's actions in failing to lower such removal deposit in accordance with a request may be appealed to the Planning Commission.
- (g) *Exemptions.* This section shall apply to the renovation, modification, or installation of any telecommunication tower, except for the following facilities, which shall be exempt from the requirements of this section:

- (1) Structures intended only for and capable only of use as amateur radio facilities;
- (2) Ground based telecommunications towers that do not exceed a height of forty (40) feet from the base of the tower that are not lattice style towers or towers secured by guy wires;
- (3) Telecommunications facilities and tower structures that are attached to, placed upon, or constructed on top of a building, provided the height of the tower structure does not exceed twenty (20) feet above the height of the building upon which the tower is constructed and the tower structure is not a lattice style tower or tower secured by guy wires;
- (4) Towers or other facilities placed on land or right-of-way owned by the federal government, the State of Texas, County of Victoria, or the City of Victoria;
- (5) Telecommunications equipment that is mounted on a pre-existing operational telecommunications facility, light mast, or operational engineered structure other than a telecommunications facility, such as a sign; and
- (6) Telecommunications towers that were constructed prior to the date of approval of this ordinance, except that this section shall apply to the renovation, modification or repair of any telecommunication tower where the anticipated cost of the renovations, modifications or repairs exceeds the percentage of the original cost of the tower (as said cost is shown in the permit application) by more than the amount provided by the following schedule:

Date of Renovation, Modification or Repair of Tower	Percentage of Cost of Tower
Between January 1, 2002 and January 1, 2003	90% of the original cost
Between January 1, 2003 and January 1, 2004	80% of the original cost
Between January 1, 2004 and January 1, 2005	70% of the original cost
Between January 1, 2005 and January 1, 2006	60% of the original cost
Between January 1, 2006 and January 1, 2007	50% of the original cost
Between January 1, 2007 and January 1, 2008	40% of the original cost
Between January 1, 2008 and January 1, 2009	30% of the original cost
Between January 1, 2009 and January 1, 2010	20% of the original cost
after January 1, 2010	10% of the original cost

2.

All parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

3.

If any provision of this ordinance, or the application thereof to any person or circumstance, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

4.

It is the intention of the City Council that this ordinance shall become a part of the Code of the City of Victoria, Texas, and it may be renumbered and codified therein accordingly. The Code of the City of Victoria, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

5.

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed \$500.00 as provided in Section 1-8 of the City Code. The City Secretary shall publish the caption or a descriptive title of this ordinance one time within 10 days after final passage of the ordinance in a newspaper of general circulation in the City of Victoria in accordance with Article II, § 10 of the City Charter.

6.

This ordinance shall become effective 10 days after final passage and approval by the City Council of the City of Victoria, Texas.

PASSED FIRST READING, this the 17th day of August, 2010.

AYES: 7
NAYS: 0
ABSTENTIONS: 0

PASSED SECOND READING, this the 7TH day of SEPTEMBER, 2010.

AYES: 6
NAYS: 0
ABSTENTIONS: 0

PASSED THIRD READING, this the 7TH day of SEPTEMBER, 2010.

AYES: 6
NAYS: 0
ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 7TH day of SEPTEMBER, 2010.



ATTEST:

Scarlet Swoboda
SCARLET SWOBODA, City Secretary

Will Armstrong
WILL ARMSTRONG, Mayor of the
City of Victoria, Texas

APPROVED AS TO LEGAL FORM:

Thomas A. Gwosdz
THOMAS A. GWOSDZ, City Attorney

Distribution: Development Services
Development Services Department

Copies Sent: **SEPTEMBER 8, 2010**