

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF LANCASTER COUNTY, NEBRASKA

COUNTY TEXT AMENDMENT NO. 14020: )  
TEXT AMENDMENT TO THE LANCASTER )  
COUNTY ZONING RESOLUTION, TO AMEND ) RESOLUTION NO. R-15-0005  
VARIOUS SECTIONS OF ARTICLE 10, )  
PERSONAL WIRELESS )  
TELECOMMUNICATIONS FACILITIES, )  
AS PROVIDED IN ATTACHMENT A )

WHEREAS, pursuant to Neb. Rev. Stat. § 23-114 (Reissue 2012), the Lancaster County Board of Commissioners is authorized to make amendments to the 1979 Zoning Resolution of Lancaster County, which are consistent with the County's Comprehensive Plan and after receipt of specific recommendations from the Lincoln/Lancaster County Planning Commission ("Planning Commission"); and

WHEREAS, the Director of the Lincoln-Lancaster County Planning Department has requested a text amendment to the Lancaster County Zoning Resolution by amending Article 10, Personal Wireless Telecommunications Facilities, to eliminate the requirement for special and administrative permits for wireless facilities to be renewed every 15 years; to extend the amount of time allowed before facilities are considered abandoned; to clarify that rooftop mounted antennas may be approved by administrative permit instead of special permit; and, to not require a zoning permit to co-locate on a facility previously approved by administrative or special permit, as provided in Attachment "A," attached hereto and incorporated by this reference; and

WHEREAS, the Lincoln-Lancaster County Planning Department has recommended approval of this amendment concluding that it is appropriate that wireless facilities be treated in the same manner as most every other zoning permit in the Zoning Resolution, and that deleting the renewal provisions will not diminish the County's ability to maintain compliance with an

approved permit and will save significant time, effort and resources on the part of carriers and staff; and

WHEREAS, on December 10, 2014, after public hearing, the Lincoln-Lancaster County Planning Commission agreed with the staff recommendation and voted 9 to 0 to recommend approval of said text amendments; and

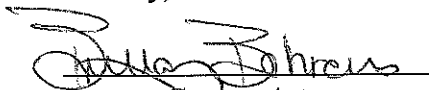
WHEREAS, on January 13, 2014, the Board of Commissioners of Lancaster County conducted a public hearing regarding said text amendment and voted to approve said amendments.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Lancaster County, Nebraska that the amendments to Article 10 of the Lancaster County Zoning Resolution, as provided in Attachment "A," are hereby adopted and approved.

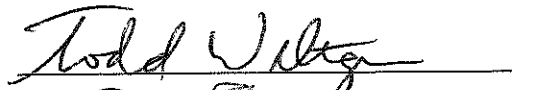


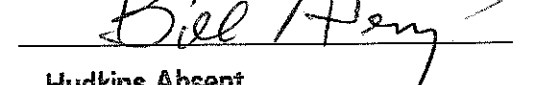
BE, IT FURTHER RESOLVED, that any other references in said Resolution which may be affected by the above specified amendments be, and they hereby are, amended to conform to such specific amendments.

DATED this 13 day of January, 2015, in the County-City Building, Lincoln, Lancaster County, Nebraska.

APPROVED AS TO FORM  
this 13 day of  
January, 2015.

  
Deputy County Attorney  
for JOE KELLY  
Lancaster County Attorney

BY THE BOARD OF COUNTY  
COMMISSIONERS OF  
LANCASTER COUNTY, NEBRASKA

  
  
  
  
Hudkins Absent

**10.002 Definitions -**

A. Abandonment, in the case of a co-located or non co-located facility, shall mean: (a) failure to start operations within ~~90~~ 180 days of completion of the structure, or (b) to cease operation for a period of ~~90~~ 180 or more consecutive days. ~~In the case of a co-located facility, abandonment shall mean: (a) failure to start operations within 180 days of completion of the structure, or (b) to cease operation for a period of 180 or more consecutive days.~~ In the event that factors beyond a provider's control postpone the start of or cause the temporary cessation of operations of a co-located or non-colocated facility, the time limitations specified herein shall be extended for such period of delay.

R. Partial abandonment in the case of a facility shall mean to cease use of a portion of the antenna structure for 180 or more consecutive days.

RS. Personal wireless service, personal wireless service facilities, personal wireless facilities and facilities used in this Article shall be defined in the same manner as in Chapter 47, United States Code, Section 332 (c)(7)(C), as they may be amended now or in the future and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

ST. Provider shall mean every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual which provides personal wireless service over personal wireless service facilities.

TU. Screening shall mean materials which effectively hide personal wireless facilities from view, or landscaping in accordance with design standards recommended by the Planning Department.

UV. Security barrier shall mean a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

VW. Site shall mean a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, building, accessory buildings, and parking and may include other uses associated with and ancillary to personal wireless services.

WX. Special permit shall mean a process and approval as currently described in Article 13 of the Lancaster County Zoning Regulations, or as otherwise set forth in County regulations.

XY. Tower shall mean any structure that is designed, constructed or used for the primary purpose of supporting one or more antennas, including self-supporting lattice

towers, guyed towers, or monopole towers. The term encompasses personal wireless service facilities including microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

~~YZ.~~ Unlicensed wireless services shall mean commercial mobile services that operate on public frequencies and do not need a FCC license.

**10.003 Permits Required -** (b) Maintenance or repair of a personal wireless service facility and related equipment, excluding structural work or changes in height, dimensions ~~or number of antenna~~, towers, or buildings, is excluded from the requirement to obtain an administrative or special permit. However, building permits may still be required.

(c) Installation of personal wireless service facilities requires either an administrative permit issued by the Planning Director or approval of a special permit by the Planning Commission and approval by the County Board, except co-location on existing wireless facilities previously authorized by either an administrative permit or special permit.

(1) Administrative Permit: In any zoning district, the Planning Director may issue an administrative permit approving an application to replace an existing tower or to ~~co-~~locate ~~additional antennas on a camouflaged facility or rooftop facility, or facility subject to an existing special permit~~, if the application does not exceed the permitted height in the district or the height as allowed by special permit, and will have minimal adverse effect on the surrounding property, entryway corridors to the City, Capitol Environs District, Capitol View Corridors as described in Section 27.56.017, landmarks or landmark districts designated in accordance with Chapter 27.57, or properties listed or eligible to be listed on the National Register of Historic Places.

**~~10.004 Term of Permit:~~**

~~An administrative or special permit granted hereunder shall be in effect for a term of fifteen years unless it is sooner terminated due to abandonment or failure to comply with this Code.~~

**~~10.005 Renewal Applications:~~**

~~A permittee that desires to renew its administrative or special permit hereunder shall, not more than 365 days nor less than 90 days before expiration of the current permit, file an application with the City for renewal of its permit which shall include the applicable information required pursuant to the permit application.~~

**~~10.006 Renewal Determinations:~~**

~~After receiving a complete application hereunder, the Planning Director in the case of an administrative permit and the Planning Commission in the case of a special permit, shall make a determination granting or denying the renewal application in whole or in part. If the renewal application is denied, the determination shall include the reasons for non-renewal. The standards enumerated in this Code shall apply when determining to~~

~~grant or deny the application, plus a determination of the applicant's compliance with the requirements of this Code.~~

~~**10.007. Obligation to Cure As a Condition of Renewal.**~~

~~No permit shall be renewed until any ongoing violations or defaults in the permittee's performance of the requirements of this Chapter, and all applicable laws, statutes, codes, ordinances, rules and regulations have been cured, or a plan detailing the corrective action to be taken by the permittee has been approved by the County.~~

**10.012 General Requirements.**

(e) Surety and Indemnity Requirements.

(1) Prior to issuance of a building permit, the applicant shall post a surety, approved by the City Attorney, with the City in the minimum amount necessary, as determined by the City, to guarantee the future removal of the facilities. The surety may not be revoked or terminated during the term life of the permit. The City may use the surety for any expenses it incurs in removing any of the provider's facilities.

**10.013 Non-use; Abandonment.**

~~In addition to the definition of abandonment provided in Section 27.68.020, facilities shall be considered abandoned ninety (90) days after the expiration of an administrative permit or special permit and partially abandoned in the event that a portion of the antenna support structure is no longer used.~~

Abandonment: No less than thirty (30) days prior to the date that a personal wireless service provider plans to abandon, partially abandon or discontinue operation of a facility, the provider must notify the County by certified U.S. mail of the proposed date of abandonment, partial abandonment or discontinuation of operation. In the event that a provider fails to give notice, the facility shall be considered abandoned upon the County's discovery of discontinuation of operation for more than ~~90 and~~ 180 days, as the case may be, on all or part of such facility. Upon such abandonment, the provider shall have sixty (60) days or such additional period of time determined in the reasonable discretion of the County within which to:

(1) Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or

(2) Dismantle and remove facility. If the facility or portion thereof is not removed within the sixty (60) days time period or additional period of time allowed by the County, the County may remove such tower or portion thereof or antenna at the provider's expense. If there are two or more providers co-locating on a facility, then this provision shall not become effective until all providers cease using the facility or until a portion of the antenna support structure is no longer used. At the earlier of sixty (60) days from the date of abandonment without reactivation or upon completion of dismantling and removal, County approval for the facility or a portion thereof shall automatically expire.

(b) If ownership of a facility is transferred from one provider to another, the previous provider and the new provider shall be required to notify the County of the change of ownership within thirty days of the change of ownership or transfer of the facility. The new provider shall be required to make amendments to the application that is on file

with the County, in order to provide current information. The new provider shall also provide a surety in accordance with section 10.012(e)(1).