

AN ORDINANCE AMENDING CHAPTER 200 OF THE CODE OF ORDINANCES OF THE CITY OF GLADSTONE, MISSOURI, TO ENACT SAFETY AND BUILDING REGULATIONS FOR TOWERS.

WHEREAS, the City desires to reenact or adopt various building and safety regulations and enforcement provisions within the City Building Codes and/or other Code locations to ensure that such safety provisions are not inadvertently preempted as the City continues to have an important public safety role in reviewing applications and seeking to protect the public and others from the numerous documented safety hazards that can arise from communications facilities. *see* Missouri Municipal League Comments to FCC (<http://apps.fcc.gov/ecfs/document/view?id=7521070661>) (document various safety hazards); and FCC 13-122 (https://apps.fcc.gov/edocs_public/attachmatch/FCC-14-153A1.pdf) (FCC Ruling citing MML at note 507 and 595 in preserving local government health and safety codes and application requirements); and

WHEREAS, the City wishes to amend Chapter 200 to enact Miscellaneous Building Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:

Section 1. The whereas clauses are hereby specifically incorporated herein by reference.

Section 2. Chapter 200, Building Regulations, of the Gladstone City Code is hereby amended to enact a new Section 9.200.010 to read as follows:

Sec. 9.200.010. - Miscellaneous Building Regulations.

- A. *Tower structures.* Unless otherwise provided by law or variance, the following additional requirements shall apply to the construction, alteration, or maintenance of Towers:
1. *Definition.* For purposes of this Section, the term "Tower" shall mean a permanent structure, having a total height in excess of 50 feet measured from the ground and having one or more legs designed for the support of one of more sign, antenna, light, wind, turbine, solar array, or other object but excluding buildings serving other purposes and meeting the building requirements for all purposes. A Tower shall not include existing electrical utility poles installed by a provider holding a certificate of convenience from the Missouri Public Service Commission and installed consistent with industry practice and in conformance with all otherwise applicable federal, state, and local requirements.

2. *Safety fall zone required.* All portions of any Tower including related structures, fences, and walls (except for parking associated with the wireless facility) shall be separated from any public rights-of-way, sidewalk or street, alley, parking areas, playground, or other building, and from the property line of any adjacent property at least a distance equal to the height of the Tower. Towers shall be reasonably designed to reduce the potential damage to person or property from falling ice or equipment from the Tower or from wind damage or structural failure.
3. *Safety fencing.* In addition to other applicable requirements, the Tower and any appurtenances shall be safely maintained and fenced or otherwise secured to prevent unauthorized access or climbing of the Tower. Barbed, electrified, or razor wire is prohibited in commercial districts. Tower legs shall be of a monopole design without use of lattice or guy wire support and be engineered and designed with sufficient depth, counter-weight, and other mechanisms to address wind-loading and other failure risks under all reasonably anticipated conditions and circumstances.
4. *Abandonment bond; nuisance.* Any Tower not operated for a period of six (6) months or more, shall be deemed abandoned and the Building Official or designee shall cause notice of such determination to be sent and request for removal within a reasonable time not to exceed ninety (90) days. If a Tower is abandoned, it shall be removed at the owner's expense. Failure to comply with this provision shall constitute a public nuisance and Building Code violation that may be remedied by the City at the Tower or property owner's expense. Any applicant for a new Tower shall place a bond or other security with the City prior to any final approval to ensure abandoned Towers can be removed. The bond or security shall be in the form approved by the Building Official. The amount of the bond shall be \$15,000, or such other amount as determined by the Building Official to satisfy the requirements hereof with regard to the specific Tower to which it would apply based on the estimated total cost of removal of that Tower.
5. *Structural analysis.* Before any modifications or alterations to an existing Tower may be approved, a sealed structural analysis from a qualified structural engineer, verifying that the Tower with such modifications or alterations meets or exceeds all applicable structural requirements, must be submitted to the City.
6. *Maintenance.* All Towers and appurtenances shall be adequately maintained and in compliance with all applicable Building Codes and standards. If upon inspection, it is determined that any Tower fails to comply with applicable Codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the Tower, the owner shall have thirty (30) days to remedy any defects and bring the Tower into compliance with applicable Codes and standards. Failure by the owner to bring a deficient Tower into compliance with applicable Codes and standards shall be cause for removal of the deficient Tower by the City with all cost of removal being the owner's responsibility (and the City shall be authorized to use the abandonment bond, if any, that may have been required pursuant to the City

Code or other authority. The bond or security may also be used to compensate the City for performing proper maintenance of such Towers to ensure such structures do not become unsafe.

7. *Lighting.* Towers may be lighted at the base of the structure for security purposes but only when approved by the City, after submission of a description of the proposed lighting scheme as part of the application to install, build, alter, or modify the Tower and a finding by the City that such lighting shall not unreasonably shine on adjacent properties or rights-of-way or otherwise pose a safety concern.
8. *Paved access.* To ensure access to the property to address any safety concerns on which the Tower is located, paved access to the Tower and related facilities must be provided and maintained at all times that such Tower and/or related facilities are located on the property.
9. *Stormwater control.* Any new Tower or modification thereto shall be required to be reviewed for storm water control and shall comply with any storm water control requirements. All Towers constructed within a designated floodplain or floodway shall comply with all state, local, and federal requirements and obtain all necessary permits.
10. *Incorporated.* All requirements in Section 7.166.010 – 7.166.090 of the Code as to towers defined therein shall apply to the construction, modification, and maintenance of each Tower under this Code where applicable and are reincorporated herein as building Code requirements to the extent permitted by law.

Section 3. That this Ordinance shall be in full force and effect from and after its passage.

INTRODUCED, PASSED, SIGNED, AND MADE EFFECTIVE BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, ON THIS 14TH DAY OF JUNE, 2018.



Mayor Bill Garnos

ATTEST:



Ruth E. Bocchino, City Clerk

First Reading: June 14, 2018

Second Reading: June 14, 2018



Request for Council Action

RES ☐ # City Clerk Only

BILL ☒ # 18-29

ORD # 4.436

Date: 6/7/2018

Department: General Administration

Meeting Date Requested: 6/11/2018

Public Hearing: Yes ☐ Date: [Click here to enter a date.](#)

Subject: Revisions to Title IX Building and Construction Ordinance

Background: Revisions to Title IX Building and Construction Ordinance are necessary to ensure that towers, as defined by the revisions, are constructed, maintained, and secured properly. Additionally, the revisions require the owner of a tower, as defined by the revisions, to place a bond to be utilized should the tower be abandon.

Budget Discussion: Funds are budgeted in the amount of \$ from the Fund. Ongoing costs are estimated to be \$ annually. Previous years' funding was \$

Public/Board/Staff Input:

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

Chris Williams
Department Director/Administrator

PC
City Attorney

SW
City Manager