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TOWN OF TULL ORDINANCE NO: 1-2022

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BE IT ENACTED BY THE TOWN OF TULL, COUNTY OF GRANT, AND STATE OF ARKANSAS, AN  
ORDINANCE TO BE ENTITLED:

GRANT COUNTY, AR  
BY [Signature] DC

AN ORDINANCE OF THE TOWN OF TULL ESTABLISHING STANDARD RULES AND GUIDELINES  
FOR THE INSTALLATION, PLACEMENT, AND LOCATION OF CELL TOWERS, ESTABLISHING A  
PERMIT APPLICATION FEE, PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING FOR A  
SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF THIS ORDINANCE

## CHAPTER I - AUTHORITY, JURISDICTION AND PURPOSE

### Section 1.001 Authority

These regulations are adopted under the authority granted to cities by Arkansas  
Code Annotated 14- 56-502 et seq., as from time to time amended.

### Section 1.002 Jurisdiction

The provisions of this Ordinance shall apply to all land and structures within the  
territorial jurisdiction, as defined by Arkansas Code Annotated 14-56-413 as from  
time to time may be amended, of the Town of Tull, Arkansas, as they now or may  
hereafter exist.

### Section 1.003 Purpose

This ordinance is adopted for the purpose of promoting and advancing the health,  
safety, and general welfare of the people of Tull. It is designed to protect and stabilize  
some areas of the City while guiding new development in others.

More specifically, these regulations prescribe the use of land. The regulations in this  
zoning ordinance attempt:

1. To ensure future development enhances the livability of the community
2. To protect natural resources
3. To promote sustainable land development practices
4. To conserve and stabilize property values

5. To promote the general welfare of the city

**WHEREAS**, given the increasing use of telecommunications facilities in society today, the City expects to receive applications for permits for such facilities in increasing number, some of which facilities are significantly larger than most similarly situated existing installations; and

**WHEREAS**, the City does not intend that this ordinance prohibits or has the effect of prohibiting telecommunications service; rather the City seeks to limit development of telecommunications facilities in and around residential neighborhoods to the fullest extent allowed by law; and

**WHEREAS**, the City recognizes its responsibilities under the Federal Telecommunications Act of 1996, and believes that it is exercising its regulatory authority pursuant to the fullest extent under the current state of the law in ensuring that irreversible development activity does not occur that would harm the public health, safety, or welfare; and

**Section 1.004 Conflict with Other Regulations**

In the case of conflict between these regulations and other covenants and regulations in force in the Corporate Area, the highest standard shall apply. These regulations are not intended to abrogate or annul other easements or covenants.

**Section 1.005 Severability**

The provisions of these regulations are severable. If any section, paragraph, sentence, or clause shall be declared invalid, the remainder of the regulations shall not be affected.

**Section 1.006 Definitions**

**"CELL TOWER"** An elevated structure designed to support equipment used for wireless communication of purpose for transmitting and/or receiving commercially provided wireless internet, WI-FI, cellular phone and/or data services, and/or any form of wireless communication.

**"CELL TOWER SITE"** A Cell Tower including Communication Equipment.

**"COMMUNICATION EQUIPMENT"** Any equipment attached, mounted, or installed at a Cell Tower Site, including antennas, control boxes, cables, conduit, power sources, and other equipment, structures, plane, and appurtenances necessary for the purpose of servicing or operating a Cell Tower Site.

**"CELL TOWER SITE APPLICATION"** A process established so that the Building Official or other city official responsible for code and/or ordinance enforcement can review surveys, engineered drawings, and other documents associated with the installation of a Cell Tower Site to ensure that the planned installation does not conflict with any ordinances, whether here or in the future passed by the City Council of the Town of Tull.

**"MONOPOLE TOWER"** A self-supported single mast hollow steel pipe tower which utilizes a single foundation at its base that takes the vertical, horizontal and most importantly, overturning load of the tower.

**"UTILITY POLE"** A column or post used to support overhead power lines and various other public utilities such as telephone wires, cable, fiber optic cable, and related equipment such as transformers and street lights.

**"PRIVATE PROPERTY"** Any lot or tract within the Town of Tull owned by a Person, Firm, or Corporation.

**"CITY PROPERTY"** Any lot or tract owned entirely by the Town of Tull that is not considered a part of a Right-of-Way.

**"RIGHT-OF-WAY"** The surface of, and the space above and below, any publicly dedicated street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, boulevard, parkway, drive, or other easement now or hereafter-held by the City or over which the City exercises any rights of management control.

**"HEIGHT"** The distance between the top of a Cell Tower and the natural grade soil at a Cell Tower site.

**"BUILDING OFFICIAL"** The City Manager or the person or department to whom the City Manager may delegate the Building Official duties including regulation of this ordinance.

**"STREET LINE"** The line of a tract or lot which adjoins a street or roadway. Where curbing is present, the farthest edge of the curbing from the center of the street shall be considered the Street Line. Where a curb is not present, the Street Line shall be considered to be ¼ of a mile from the center of the street.

**"PERSON, FIRM OR CORPORATION"** Includes a natural person, entity, firm, partnership, association, limited liability company, joint venture, or corporation.

Other terms herein shall have the meanings defined in other ordinances of the City, except where the context clearly requires otherwise.

#### **Section 1.007 State and Federal Regulations.**

This ordinance does not, and is not intended to release any Person, Firm or Corporation from any applicable state or federal regulation or requirements in regards to the installation, construction, maintenance, or operation of any Cell Tower Site within the Town of Tull.

#### **Section 1.008 Existing Cell Towers.**

This ordinance does not make unlawful any Cell Towers that are presently erected. All other Cell Tower sites with no existing Cell Towers erected at the time of the adoption of this ordinance are subject to the rules and regulations outlined in this ordinance.

#### **Section 1.009 Unlawful Location (Installation) of Cell Tower Sites.**

It shall be unlawful for any Person, Firm or Corporation to install, construct or erect, or cause to locate any Cell Tower Site at any location within the municipal boundaries of the City of Tull in such a way that conflicts with this or any other city ordinance.

#### **Section 1.010 Violations and Penalties.**

Any Person Firm or Corporation who commits any of the following shall be deemed guilty of a violation of this ordinance and shall be subject to a fine of \$450.00 per violation for:

- a. Any violation of this ordinance;
- b. Providing false information to a City official concerning a Cell Tower Site Application under this ordinance or compliance with this ordinance.

Each day or portion of a day during which any violation occurs or continues shall be a separate offense.

#### **Section 1.011 Permissible Location of a Cell Tower Site.**

A Cell Tower Site is expressly prohibited on any Private Property or City Property located in an area which is zoned Single Family Residential. A Cell Tower may be installed upon any other lot or tract of land or Right-of-Way as long as such Cell Tower Site complies with the terms and provisions of this ordinance and the provisions of this ordinance and the provisions of state law. Permissible locations include:

- c. **PRIVATE PROPERTY** Conditional to requirements in Sections 1.012 and 1.015 of this ordinance, a Cell Tower Site may be installed on Private Property as long as it meets the established zoning setback requirements by the Town of Tull.
- d. **EXISTING CITY TOWERS** Conditional to approval by the Tull City Council, Communication Equipment may be installed on any existing tower owned by the Town of Tull.
- e. **CITY PROPERTY** Conditional to requirements in Sections 1.012 and 1.015 of this ordinance, a Cell Tower Site may be installed on City Property.
  - I. A Cell Tower Site may not be installed on any City Property without first securing a lease for the use of the property in accordance with local and state law.
- f. **RIGHT OF WAY** Conditional to requirements in Section 1.012 and 1.015 of this ordinance and approved by the Tull City Council, a Cell Tower Site may be installed on any city Right-of-Way within the municipal boundaries of the Town of Tull.
  - I. Utility service poles which are located in any Right-of-Way may be used as a Cell Tower.

- II. Any part of a Cell Tower Site which is constructed within a Right-of-Way shall not be installed nearer than ¼ mile of any Street Line and no further than ¼ mile from any alley.
- IV. The Cell Tower Site shall not be installed in a location where Building Official deems, at Building Official's sole discretion that the Cell Tower Site would pose a visual or travel hazard to vehicular traffic.
- V. Any part of a Cell Tower Site which is constructed within an alley shall not be installed in such a manner that it blocks vehicular use of the alley.
- VI. A Cell Tower Site may not be installed on any Right-of-Way without first securing a lease, occupancy agreement, or license with the City in accordance with local and state laws.

**Section 1.012 Permissible Cell Tower Types and Height Limits.**

- a. Wood utility poles may be used as a Cell Tower as long as the Height does not exceed fifty (50) feet.
- b. Any Cell Tower which is to be installed with a Height of fifty (50) feet or more shall be a steel- Monopole Tower.
- c. In no case shall a Cell Tower be installed with a Height to exceed fifty (50) feet.
- d. In no case shall a Cell Tower be installed without approval of the City Council.
- e. Existing building and structures such as water towers, church steeples, grain elevators, or other similar buildings may be used as a Cell Tower upon approval of the City Council.

**Section 1.013 Emergency Contact Information Required.**

Any Person, Firm or Corporation who erects, owns, or operates a Cell Tower Site shall affix emergency contact information at each Cell Tower Site. It shall be the Person, Firm or Corporation's duty to keep the emergency contact information current at all times.

**Section 1.014 Cell Tower Site Application.**

Any Person, Firm or Corporation who desires to erect, own, or operate a Cell Tower Site as permitted in this ordinance shall file a Cell Tower Site Application for each proposed location with the Building Official.

- a. A non-refundable fee for each Cell Tower Site Application is hereby established and said fee shall be **\$20.00** dollars per foot height of the Cell Tower.
- b. The Cell Tower Site Application form shall include:
  - i. A survey depicting the proposed Cell Tower Site, the boundaries of the Right-of-Way, and adjacent property lines.
  - ii. Engineering design and specification drawings for the Cell Tower and all equipment to be installed.
  - iii. Where Communication Equipment is attached to a Utility Pole, applicant must include a load bearing study to determine whether the attachment of the Communication Equipment may proceed without pole modification or whether the installation will require pole reinforcement or replacement.
  - iv. Where Communication Equipment is attached to an existing building or other structure, applicant must include a load bearing study to determine whether the attachment of the Communication Equipment will significantly affect the structural integrity of the building or structure.
- c. Upon filing of a Cell Tower Site Application, the Building Official shall process the application within one hundred twenty (120) days. The Building Official shall:
  - i. Verify that the Cell tower Site Application is complete.
  - ii. Review engineering design documents to determine compliance with this ordinance and any other ordinances of the Town of Tull.
  - iii. As appropriate, the Building Official shall require applicant to make design modifications in order to comply with applicable requirements under this ordinance and any other ordinances of the Town of Tull.
  - iv. Failure to make the requested design modifications shall result in an incomplete Cell tower Site Application which may not be processed.
- d. Upon finding that the Cell Tower Site Application is complete and in compliance with all applicable requirements as outlined in this ordinance, the Building Official shall schedule a Public hearing before the Tull City Council, as

required in Section 1.015.

- e. The Cell Tower Site Application form may be modified from time-to-time by the Building Official as deemed necessary in order to more efficiently process applications.

**Section 1.015 Public Hearing and City Council Approval Required.**

Prior to the City Council, considering action to approve any Cell Tower Site Application within the City, the City Council shall conduct a Public hearing, notice of which shall be mailed to each property owner within two hundred (200) feet of the proposed Cell Tower Site at least fourteen (14) days in advance of said Public Hearing. Additionally, notice of the Public Hearing shall be posted in keeping with the requirements of local and state laws.

Following a Public Hearing, the City Council may consider approval of the Cell Tower Site Application. If approved, the applicant shall be authorized to proceed to obtain all generally applicable ministerial permits that are required.

Exception - A Public Hearing is not required for upgrading or adding Communication Equipment to an existing Cell Tower Site, or for Communication Equipment which is to be attached to an existing tower, structure, or building as a part of a Cell Tower Site.

**Section 1.016 Non-Applicability for Governmental Use.**

This ordinance shall not be applicable to any Cell Tower Site that is:

- a. Owned and operated by the Town of Tull
- b. On property owned by any other governmental agency, when the Cell Tower Site is used for a governmental purpose.
- c. On property owned by any other governmental agency, subject to the terms of Arkansas Code, as it may be amended.

**Section 1.017 Nonliability.**

The City and its officers, agents and employees shall have no liability of any nature for any actions, omissions, or other matters in any way concerning the subject matter



of this ordinance.

**Section 1.018 Constitutionality.**

If any section, sub-section, sentence, clause, phrase or portion of this ordinance shall be held to be unconstitutional or invalid by a court of competent jurisdiction, such section, sub-section, sentence, clause, phrase or portion shall be deemed a separate, distinct, and independent provision and such invalidity shall not affect the validity of the remaining portions of this ordinance.

**Section 1.019 Effective Date.**

This ordinance shall be in **full** force and effect from the date of its passage and adoption by the City Council of the Town of **Tull**.