

**ORDINANCE NO. 1826**

**AN ORDINANCE AMENDING CHAPTER 84 “UNIFIED DEVELOPMENT CODE” OF THE CODE OF ORDINANCES OF THE CITY OF EULESS, TEXAS, BY AMENDING SECTION 84-84, “PERMITTED USES TABLE,” TABLE 4-A, “PERMITTED PRIMARY USES;” AMENDING SECTION 84-85, “SPECIAL CONDITIONS BY USE TYPE,” BY ADDING SUBSECTION (ai), “TELECOMMUNICATION FACILITIES;” AND AMENDING CHAPTER 30, “FEES,” BY ADDING A NEW SECTION 30-46, “TELECOMMUNICATION FACILITIES CONTRACT FEES;” PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVING CLAUSE AND AN EFFECTIVE DATE.**

**WHEREAS**, there is practical benefit to adopt regulations governing antennas and telecommunication facilities within the City in Chapter 84 Unified Development Code; and,

**WHEREAS**, the City Council of the City of Euless, Texas, after study, finds and determines that the following regulations regarding antennas and telecommunication facilities within the City will promote the health, safety and general welfare of the citizens of the City of Euless. Texas.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EULESS, TEXAS:**

**SECTION 1**

**THAT** Section 84-84, “Permitted Uses Table,” Table 4-A, “Permitted Primary Uses,” “Primary Use” section, “*Public Utilities and Communication Facilities,*” of Chapter 84 “Unified Development Code” of the Code of Ordinances of the City of Euless, Texas, be amended by adding “(ai)” to the column, “Special Condition Section 84-85,” for the following items:

- 48\*\* Antennas of any height
- 48\*\* Telecommunication facilities (unmanned)
- 483\* Telecommunication facilities and broadcast stations (manned)

**SECTION 2**

**THAT** Section 84-85, “Special Conditions by Use Type,” of Chapter 84 “Unified Development Code” of the Code of Ordinances of the City of Euless, Texas, be amended by the addition of a new subsection, “(ai)”, to hereafter be and read as follows:

(ai) *Telecommunication facilities.* Specifically, notwithstanding any other provision of this ordinance, telecommunication antennas and/or towers, when such are permitted by federal law and the laws of the State of Texas, shall be regulated and governed by the following use regulations and requirements:

(1) For purpose of this section the following words and phrases are defined as follows:

*"antenna"* means any exterior transmitting or receiving device mounted on or within a support structure, building, or structure and used in communications that radiate or collect electromagnetic waves, digital signals, analog signals, radio frequencies, (excluding radar signals), wireless telecommunication signals, television signals, or other communication signals.

*"antenna array"* means a structure attached to a telecommunication tower that supports a telecommunication antenna.

*"telecommunication antenna"* means an antenna used to provide a telecommunication service.

*"telecommunication facilities"* means any unmanned facility consisting of equipment for the transmission, switching, and/or receiving of wireless communications. Such facility may be elevated (either structure-mounted or ground mounted) transmitting and receiving antennas, low power mobile radio service base station equipment, and interconnection equipment. The categories of facility types include both roof and/or structure-mount facilities and telecommunication support structure.

*"telecommunication tower"* means a structure more than ten (10) feet tall, built primarily to support one (1) or more telecommunication antennas.

*"whip antenna"* means an antenna consisting of a single, slender, rod like element which is no more than six (6) inches in diameter and supported only at or near its base.

*"non-whip antenna"* means an antenna which is not a whip antenna, such as dish antennas, panel antennas, etc.

*"EIA-222"* means Electronics Industries Association Standard 222, "Structural Standards for Steel Antenna Towers and Antenna Support Structures".

(2) Telecommunication Facilities-Antennas/Towers

- a. A site plan shall be submitted pursuant to said Section 84-84 and the following requirements:
  1. Submit a site plan, drawn to scale, indicating the location and height of all components of the facility, potential locations of ground-mounted equipment necessary to support future wireless providers, and the distance from other structures on the same and adjacent properties to include a radius equal to the required setback.
  2. All towers will be of a tapering monopole construction, except that another type tower shall only be allowed upon a showing that it would cause less visual impact on surrounding property than a similar monopole structure.
  3. The applicant shall provide an architects rendering, photo-realistic representation, or other true visual representation of the actual tower.
  4. Tower height, including antenna array, may not exceed one hundred twenty (120) feet.
  5. Telecommunication towers must be a minimum of two hundred (200) feet or three (3) to one (1) distance to height ratio, whichever is greater.
  6. New telecommunication towers must be a minimum distance of five thousand (5,000) feet from another telecommunication tower, including from those towers located in an adjacent municipality. The service provider must provide information that identifies other facilities that are owned by the service provider.
  7. All guys and guy anchors are located within the buildable area of the lot and not within the front, rear, or sideyard setbacks and no closer than five (5) feet to any property line.
  8. The base of the tower and equipment buildings must be screened by a masonry wall consistent with Section 84-336 (b)(4).

9. A telecommunication tower must be:
  - (a) Used by three (3) or more wireless communication providers; or
  - (b) Designed and built so as to be capable of use by three (3) or more wireless communication providers and the owner of the tower and the property on which it is located must certify to the city that the antenna is available for use by another wireless telecommunication provider on a reasonable and nondiscriminatory basis and at a cost not exceeding the market value for the use of the facilities. If the property on which the tower is proposed to be located is to be leased, the portions of the actual or proposed lease that demonstrate compliance with the requirements of this paragraph shall be submitted with the zoning application.
- b. Telecommunication towers should be constructed to minimize potential safety hazards. Telecommunication towers shall be constructed so as to meet or exceed the most recent EIA-222 standards and prior to issuance of a building permit the building official shall be provided with an engineer's certification that the tower's design meets or exceeds those standards. Guyed towers shall be located in such a manner that if the structure should fall along its longest dimension, it will remain within property boundaries and avoid habitable structures, public streets, utility lines and other telecommunication towers.
- c. If any additions, changes, or modifications are to be made to the monopole, the Building Official shall verify that such changes meet all applicable conditions contained in the original S.U.P. enabling construction of the monopole and shall have the authority to require proof, through the submission of engineering and structural data, that the addition, change, or modification conforms to structural wind load and all other requirements of the current Building Code adopted by the City of Euless.
- d. Telecommunication towers which have not been used for a period of one year shall be removed from a site. The last telecommunication service provider to use a tower shall notify the Building Official or designee within thirty (30) days that use of a tower has been discontinued.

- e. In addition to the usual application fee for a specific use permit, the applicant shall reimburse the city for the actual cost to the city for the services of an engineer to review the application and provide engineering expertise, or other related professional services required to verify any information provided by the applicant, in the amount as set forth in Section 30-46, "Telecommunication Facilities Contract Fees."
  - f. The tower is erected and operated in compliance with current Federal Communication Commission and Federal Aviation Administration rules and regulations and other applicable federal and state standards.
- (3) Telecommunication Facilities - Antennas mounted on existing structures.
- a. Antennas mounted on buildings.
    - 1. Roof-mounted telecommunication antennas are allowed on non-residential buildings in all zoning districts without further zoning proceedings, provided a non-whip antenna does not exceed the height of the building by more than ten (10) feet and is screened from view from any adjacent public roadway and provided a whip antenna does not exceed the height of the building by more than fifteen (15) feet and is located no closer than fifteen (15) feet to the perimeter of the building. Prior to installation of a roof-mounted antenna, the Building Official shall be provided with an engineer's certification that the roof will support the proposed antenna and associated roof-mounted equipment. Roof-mounted antennas and associated equipment must be screened with enclosures or facades having an appearance that blends with the building on which they are located.
    - 2. Building-mounted telecommunication antennas of the non-whip type are allowed on nonresidential buildings in all zoning districts without further zoning proceedings, provided the antenna is mounted flush with the exterior of the building so that it projects no more than thirty (30) inches from the surface of the building to which it is attached; and the antenna's appearance is such as to blend with the surrounding surface of the building.

- 3. Associated equipment shall be placed either within the same building or in a separate building which matches the existing building in character and building materials or blends with the landscaping and other surroundings immediately adjacent to the separate building housing the equipment. Associated equipment for roof-mounted antennas may be located on the roof of the building if screened with enclosures or facades having an appearance that blends with the building on which they are located.
- b. Telecommunication antennas located on existing structures are not subject to the five thousand (5,000) foot separation requirement.
- c. When an application for a building permit to locate a telecommunication antenna on an existing building or other structure is made, the Building Official shall be provided with color photo simulations showing the site of the existing structure with a photo-realistic representation of the proposed antenna and the existing structure or any proposed reconstruction of the structure as it would appear viewed from the closest residential property and from adjacent roadways. The applicant shall also submit photographs of the same views showing the current appearance of the site without the proposed antenna.
- d. Telecommunication antennas shall not be constructed or used within the City of Euless without all approvals and permits first having been secured.

**SECTION 3**

**THAT** Chapter 30, "Fees," of the Code of Ordinances of the City of Euless, Texas, as amended, be hereby amended by adding a new Section 30-46, "Telecommunication Facilities Contract Fees," to hereafter be and read as follows:

Sec. 30-46. Telecommunication Facilities Contract Fees

Contract Fee paid by applicant for  
 technical expertise for review of  
 application, not to exceed ..... \$5,000.00

**SECTION 4**

**SEVERABILITY CLAUSE.** That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid or unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 5**

**SAVING CLAUSE.** That applicable chapters of the Code of Ordinances, City of Euless, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION 6**

**EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication as provided by the Euless City Charter and the laws of the State of Texas.

**PRESENTED AND APPROVED ON FIRST AND FINAL READING** at a regular meeting of the Euless City Council on the 9<sup>th</sup> day of September, 2008, by a vote of \_\_\_\_\_ ayes, \_\_\_\_\_ nays, and \_\_\_\_\_ abstentions.

**APPROVED:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Mary Lib Saleh, Mayor

\_\_\_\_\_  
Bob McFarland, City Attorney

**ATTEST:**

\_\_\_\_\_  
Susan Crim, TRMC, City Secretary