

(Summary Published in the Leavenworth Times on April 14, 2017)

ORDINANCE NO. 8037

AN ORDINANCE AMENDING APPENDIX E OF THE CODE OF ORDINANCE, DEVELOPMENT REGULATIONS, ARTICLE 10, SUPPLEMENTAL STANDARDS OF THE CITY OF LEAVENWORTH, KANSAS BY AMENDING AND PROVIDING ADDITIONAL AND SUBSTITUTE PROVISIONS.

Whereas, an ordinance of the City of Leavenworth, Kansas, Amending Article 10 Supplemental Standards; Appendix E 2016 Development Regulations of the Code of Ordinances; repealing any and all other ordinances and parts of ordinances in conflict therewith.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1. That the following articles/sections of the Appendix E, Development Regulations of the City of Leavenworth, Kansas be and are hereby amended to read as follows:

Article 10. Supplemental Standards

That Article 10 Supplemental Standards shall be deleted and amended to read as follows:

10.01 - Solar Energy

The following provisions regulate the use of renewable (alternative) energy systems where the use of an alternative energy system is requested by a property owner. This section does not permit or regulate renewable energy production facilities owned or operated by private firms or public utilities, which generate energy beyond that needed by a single dwelling or commercial operation with less than 10,000 square feet of floor space.

- A. **Special Use Permit Required:** All solar energy systems with over 500 square feet of collection surface shall be a Special Use Permitted accessory use allowed in all zoning districts. All “reflective type” solar systems where mirrors redirect solar energy onto a collector shall require a Special Use Permit.
- B. **Solar Array Defined:** A “solar array” shall mean a freestanding, ground-mounted solar collection system consisting of a linked series of photovoltaic modules, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating.
- C. **Solar Array Standards:** All solar arrays shall comply with the following requirements:
 - 1. **Setbacks, Location, and Height:**
 - a. Solar array shall not be located in the front yard between the principal structure and the public right-of-way.
 - b. A solar array shall be located a minimum of six feet from all property lines and other structures.

- c. An accessory solar array in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of accessory arrays in mixed-use and nonresidential districts shall not exceed one-half of the footprint of the principal structure.
 - d. There shall be no size limits on solar arrays as a primary use on a site. However, the maximum lot coverage of any solar array shall not exceed 80 percent.
 - e. A solar array shall not exceed 20 feet in height and shall not create any solar reflectivity that measurably impacts surrounding properties.
 - 2. *Code Compliance:* Solar arrays shall comply with all applicable building and electrical codes contained in the adopted building code.
 - 3. *Solar Easements:* A property owner who has installed or intends to install a solar array shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county register of deeds. The creation of a solar easement is at the property owner's option and is not a condition of approval.
- D. ***Solar Collection System Defined:*** A "solar collection system" shall mean a roof-mounted or wall-mounted panel or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating.
- 1. *Solar Collection Setbacks, Location, and Height:*
 - a. A solar collection system shall be located a minimum of six feet from all property lines and other structures, except the structure on which it is mounted.
 - b. A solar collection system shall not extend more than five feet above the roofline or the maximum height permitted in the zoning district in which it is located, whichever is less.
 - c. A solar collection system may be located on an accessory structure.
 - d. A development that is proposed to have a solar collection system located on the roof or attached to a structure, or an application to establish a system on an existing structure, shall provide a structural certification as part of the building permit application.
 - 2. *Solar Collection Code Compliance:* Solar collection systems shall comply with all applicable building and electrical codes contained in the city's adopted building code. The solar collection system shall be maintained and in productive use or removed within 90 days of notice from the city that the system is not in compliance with city regulations.
 - 3. *Solar Easements:* A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county register of deeds.

10.02 - Wind Energy

The following provisions regulate the use of renewable (alternative) energy systems where the use of an alternative energy system is requested by a property owner. This section does not permit or regulate renewable energy production facilities owned or operated by private firms or public utilities, which generate energy beyond that needed by a single dwelling or commercial operation with less than 10,000 square feet of floor space.

This section is intended to promote the compatible use of small wind energy systems. Wind energy is an abundant, renewable, and nonpolluting energy resource. When converted to electricity, it reduces our dependence on nonrenewable energy resources and reduces air and water pollution that result from conventional sources. Distributed wind energy structures also enhance the reliability and power quality of the power grid, reduce peak power demands, and increase local electricity generation.

- A. ***Special Use Permit Required:*** All wind energy systems shall be a Special Use Permitted accessory use allowed in all zoning districts except the CBD; where they are prohibited.
- B. ***Small Wind Energy Standards:*** All wind energy systems are subject to the following requirements:
 - 1. ***Setbacks:*** A wind tower for a small wind energy system shall be set back a distance of 1.05 times its total height from:
 - a. Any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;
 - b. Any overhead utility lines, unless written permission is granted by the affected utility;
 - c. All property lines, unless written permission is granted from the affected landowner or neighbor.
 - 2. ***Access:*** All ground-mounted electrical and control equipment shall be locked or secured to prevent unauthorized access. The wind tower shall be designed and installed without step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.
 - 3. ***Height:*** The maximum height of a small wind energy system shall be 75 feet.
- C. ***Vertical Axis Wind Turbine Standards:*** A vertical axis wind turbine (VAWT) using vertical wind turbine technology shall be permitted in all zoning districts, except the CBD, as an accessory use subject to the following requirements:
 - 1. ***Residential District Requirements:***
 - a. A maximum of one VAWT is permitted per lot or one per acre, whichever is greater.
 - b. Building mounted VAWTs shall not exceed 40 feet in height measured from the base attached to the structure to the highest point on the VAWT.

- c. The maximum height for a freestanding VAWT shall not exceed 75 feet measured from the base of the tower to the highest point on the VAWT.
 - d. A VAWT shall be setback a distance of 1.05 times its total height from:
 - (1) Any public road right of way.
 - (2) Any overhead utility lines
 - (3) All property lines.
2. *Non-Residential District Requirements:* Multiple VAWTs are permitted on any nonresidential lot subject to the following requirements:
- a. Building mounted VAWTs shall not exceed 40 feet in height measured from the base attached to the structure to the highest point on the VAWT.
 - b. Lightpole mounted VAWTs shall not exceed 25 feet in height measured from the top of the lightpole to the highest point on the VAWT.
 - c. The maximum height for a freestanding VAWT shall not exceed 75 feet measured from the base of the tower to the highest point on the VAWT.
 - d. A VAWT shall be setback a distance of 1.05 times its total height from:
 - (1) Any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;
 - (2) Any overhead utility lines, unless written permission is granted by the affected utility;
 - (3) All property lines, unless written permission is granted from the affected neighbor.

D. *General Standards for Small Wind and VAWT:*

- 1. *Lighting:* A small wind energy system or VAWT shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration. A light temporarily used to inspect a turbine, tower, and associated equipment is permissible, providing the light is only used for inspection purposes and not left on for an extended period.
- 2. *Decibel Levels:* Decibel levels for a small wind energy system or VAWT shall not exceed the lesser of 60 decibels (Dba) as measured at the closest neighboring inhabited dwelling, except during short-term events such as utility outages and severe windstorms.
- 3. *Signs:* All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system or VAWT visible from any public road shall be prohibited.
- 4. *Code Compliance:* A wind energy structure, including tower, shall comply with all applicable state construction and electrical codes, and the electrical code as adopted by the city.

5. **Screening:** Ground-level mechanical equipment associated with the wind energy system shall be screened.
6. **Other Standards:**
 - a. The structure shall comply with all applicable Federal Aviation Administration requirements, including but not limited to Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations in excess of 200 feet in height and, installations close to airports. The system shall also comply with all Kansas aeronautics regulations.
 - b. All electrical wires associated with a wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
 - c. A VAWT tower shall be designed and installed without step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.
 - d. No part of the system, including guy wire anchors, may be closer than five feet from any property boundary,
 - e. Temporary meteorological (Met) towers shall be permitted under the same standards as a small wind energy system, except that the requirements shall be the same as those for a temporary structure. A permit for a temporary MET tower shall be valid for a maximum of three years after which an extension may be granted. Permanent Met towers may be permitted under the same standards as a small wind energy system.
- E. **New Technology:** The Director may waive the provisions of these requirements through the alternative equivalent compliance process in Article VI – Redevelopment Overlay District where the availability of proven new technology alleviates the issues addressed by these regulations.
- F. **Private Restrictions Prohibited:** Any person(s) or association(s): regardless of date of establishment - is prohibited from imposing private covenants, conditions, restrictions, deed clauses, or other agreements between the parties, that prevent person(s) from installing and using alternative energy systems.

10.03 – Commercial Communication Towers and Antennae

- A. **Definitions:** For purpose of this Article, and where consistent with the context of a specific Section, the defined terms, phrases, words and abbreviations and their derivations shall have the meanings given in this Section.
 1. **Accessory Facility** means an accessory facility, building, structure or equipment serving or being used in conjunction with Communications Facilities and generally located on the same Site as the Communications Facilities, including, but not limited to, utility or Transmission Equipment, power supplies, generators, batteries, cables, equipment buildings, storage sheds or cabinets, or similar structures.

2. **Antenna** means communications equipment that transmits or receives electromagnetic radio signals used in the provision of Wireless Services.
3. **Distributed Antenna System (DAS)** means a network that distributes radio frequency signals and consisting of:
 - a. Remote communications or Antenna nodes deployed throughout a desired coverage area, each including at least one Antenna for transmission and reception;
 - b. A high capacity signal transport medium that is connected to a central communications hub site; and
 - c. Radio transceivers located at the hub's site to process or control the communications signals transmitted and received through the Antennas to provide Wireless or mobile Service within a geographic area or structure.
4. **Small Cell Facility** means a Communications Facility that meets both of the following qualifications:
 - a. Each Antenna is located inside an enclosure of no more than six (6) cubic feet in volume, or in the case of an Antenna that has exposed elements, the Antenna and all of the Antenna's exposed elements could fit within an imaginary enclosure of no more than six (6) cubic feet; and
 - b. Primary equipment enclosures that are no larger than 17 cubic feet in volume, or facilities comprised of such higher limits as the FCC has excluded from review pursuant to 54 U.S.C. § 306108. Accessory Facilities may be located outside the primary equipment, and if so located, are not to be included in the calculation of equipment volume. Accessory facilities includes, but is not limited to, any electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switch and vertical cable runs for the connection of power and other services.
5. **Small Cell Network** means a collection of interrelated Small Cell Facilities designed to deliver wireless service.
6. **Base Station** means a station that includes a structure that currently supports or houses an Antenna, transceiver, coaxial cables, power cables or other Accessory Facilities at a specific Site that enables FCC-licensed or authorized Wireless Service to mobile stations, generally consisting of radio transceivers, Antennas, coaxial cables, power supplies and other associated electronics. The term does not mean a Tower or equipment associated with a Tower; and it does not include any structure that, at the time the relevant Application is filed with the City, does not support or house equipment

described in this paragraph or that was not previously approved under the applicable zoning or siting process.

7. **Collocation** means the mounting or installation of Transmission Equipment on an Eligible Support Structure for the purpose of transmitting and/or receiving radio frequency signals for Wireless Service.
8. **Communications Facility** means a structure, facility, or location designed, or intended to be used as, or used to support Antennas or other Transmission Equipment used in Wireless Services. This includes without limit, Towers of all types, and Base Stations, including but not limited to buildings, church steeples, water towers, signs, or other structures that can be used as a support structure for Antennas or the functional equivalent of such. It further includes all related Accessory Facilities associated with the Site. It is a structure and facility intended for transmitting and/or receiving, Wireless Services, Specialized Mobile Radio (SMR), personal communications services (PCS), commercial satellite services, microwave services, radio, television, and any commercial Wireless Service not licensed by the FCC.
9. **Eligible Facilities Request** means any request for Modification of an Existing Tower or Base Station that does not Substantially Change (*see definition*) the physical dimensions of such Tower or Base Station, involving:
 - a. Collocation of new transmission equipment;
 - b. Removal of transmission equipment; or
 - c. Replacement of transmission equipment.
10. **Eligible Support Structure** means any Tower or Base Station (*see definition*), provided that it is existing at the time the relevant Application is filed.
11. **Modification or Modify** means the addition, removal or change of any of the physical and noticeably visible components or aspects of a Communications Facility such as Antenna, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any noticeably visible components, vehicular access, parking, upgrade or exchange of equipment for better or more modern equipment. Modification shall not include Replacement of such components in kind. A Collocation which changes the physical configuration of the Existing facility or structure shall be considered a Modification.
12. **Replacement** means Replacement of an Existing Communications Facility that exists on a previously approved Site, utility easement, or an approved special use permit area, with a new facility of comparable proportions and of comparable height or such other height that would not constitute a Substantial Change to an Existing structure to support Communications Facilities or accommodate Collocation. A Replacement includes any associated removal of the pre-Existing Communications Facilities. A Replacement Tower shall be within 15 feet, as measured horizontally along the ground, of an Existing Tower, and the Existing Tower shall be removed within 30 days from the installation of the Replacement Tower. The Director may approve a separation greater than 15 feet.
13. **Stealth or Stealth Technology** means using the least visually and physically intrusive facility by minimizing adverse aesthetic and visual impacts on the land, property, buildings and other facilities adjacent to, surrounding, and generally in the same area as the requested location of a Communications Facility. Specifically, this

means ensuring that all Antenna arrays, cables, and other Accessory Facilities used for providing the Wireless Service are not obtrusive or noticeably visible from adjacent properties or adjacent right-of-ways. Any Accessory Facilities mounted onto a Tower or structure shall not project greater than one (1) foot, as measured horizontally, from the surface of the Tower or structure and shall be painted or screened with materials that are a complementary color as the Tower or structure. Cables shall not be allowed to travel along the exterior of a Tower or structure. Understanding that new technologies are anticipated to change the components of Communications Facilities, the Director may determine if a Communications Facility or component of a Communications Facility is designed to be Stealth.

14. **Substantial Change** means a Modification that substantially changes the physical dimensions of an Eligible Support Structure (*Tower or Base Station*) by any of the following criteria:
- a. Height
 - (1) For Towers not in the public rights-of-way, an increase in the height of the Tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater.
 - (2) For other Eligible Support Structures (*e.g., Towers in the public rights-of-way or Base Stations*), an increase in the height of the structure by more than 10% or more than 10 feet, whichever is greater.
 - b. Width/Girth
 - (1) For Towers not in the public rights-of-way, adding an appurtenance to the body of the tower that protrudes from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.
 - (2) For other Eligible Support Structures (*e.g., Towers in the public rights-of-way or Base Stations*), adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet.
 - c. New equipment cabinets
 - (1) For any Eligible Support Structure (*see definition*), the installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.
 - (2) For Towers in the public rights-of-way and Base Stations, the installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else the installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure.

- d. Any excavation or deployment outside the current Site.
 - e. Defeating the Stealth Technology or concealment elements of the Eligible Support Structure.
 - f. Not complying with conditions associated with the siting approval of the construction or Modification of the Eligible Support Structure or Base Station equipment, provided however that this limitation does not apply to any Modification that is non-compliant only in a manner that would not exceed the thresholds identified in subsections 1. through 4. above.
15. **Transmission Equipment** means equipment that facilitates transmission for any FCC-licensed or authorized Wireless Service, including, but not limited to, radio transceivers, Antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with Wireless Services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed Wireless Services and fixed Wireless Services such as microwave backhaul.
16. **Tower** means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized Antennas and their Accessory Facilities, including structures that are constructed for Wireless Services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed Wireless Services and fixed Wireless Services such as microwave backhaul, and the associated Site.

B. Application Approval Authority

1. **Administrative Approval** - The Director may approve Applications for Communications Facilities for the following:
- a. The Modification of an Existing Tower or Base Station that does not incur a Substantial Change (*see definition*) to the Tower or Base Station or that otherwise qualifies as an Eligible Facilities Request (*see definition*).
 - b. New Small Cell/DAS Facilities on an Existing Tower, utility pole or street light in the public right-of-way. This provision is also applicable when the Existing Tower, utility pole or street light is replaced by a Tower, utility pole or street light that is not a Substantial Change (*see definition*) from the original.
 - c. New Antenna (*including Small Cell/DAS Facilities*) on an Existing Tower or Base Station (*such as a building*) that does not incur a Substantial Change (*see definition*) to the Tower/Base Station and that: (1) is permitted by right in the underlying zoning district; and (2) meets applicable performance standards.
 - d. New Tower or utility pole for Small Cell/DAS Facilities in the public right-of-way.
2. **Special Use Permit Approval** – A Special Use Permit (SUP) is required for

applications for Communications Facilities for the following:

- a. A Substantial change to an existing tower or base station.
- b. Any other application for placement, installation or construction of transmission equipment that does not constitute an Eligible Facilities Request.

3. **Small Cell and DAS Facilities – Consolidated Application and Exemption**

- a. Consolidated Application: Pursuant to Kansas Statute, and applicant may file one consolidated application for a Small Cell Network up to 25 individual Small Cell Facilities of a substantially similar design. Notwithstanding, the City may require a separate application for any Small Cell Facilities that are not of a substantially similar design.
- b. Exemption: No zoning or siting approval is required for the construction, installation or operation of any Small Cell or DAS Facilities located in an interior structure or upon the site of any campus, stadium or athletic facility; provided, however, this exemption does not exempt any such facility from any applicable building or electrical code provision.

C. ***Application Requirements*** – An Application for the Replacement or Modification of an Existing Communications Facility or the construction of a new Communications Facility shall include the following information and requirements, unless waived by the Director:

1. As applicable, a site plan or preliminary development plan, and if applicable, any other Special Use Permit submission requirements.

A descriptive statement of the proposed Communications Facility. For Towers or Base Stations, the statement shall provide the capacity of the structure, including the number and type of Antennas it can accommodate.

3. Elevation drawings of the proposed Communications Facilities showing all Towers, Base Stations, Antennas, Transmission Equipment, Accessory Equipment, cabinets, fencing, screening, landscaping, lighting, and other improvements related to the facility. Specific colors and materials shall be noted.
4. Digital photo simulations of the site providing “before and after” views demonstrating the true visual impact of the proposed Communications Facilities on the surrounding environment. Staff or the Approval Authority may require photo simulations from any specific vantage point.
5. A report from a licensed professional engineer which describes the Communications Facility’s structural capacity, including a statement to the effect that the Communications Facility can safely accommodate all Antennas, Transmission Equipment and/or Accessory Equipment. This may include structural calculations,

geotechnical foundation studies, and other data as determined by the Director, as applicable, and in compliance with all City codes. In the event an Existing Communications Facility is to be used, the report shall describe the condition of the Existing Communications Facility based on a physical inspection and its ability to accommodate any additional Accessory Equipment and/or Antennas.

6. A landscape plan that demonstrates the effective screening of the proposed Communications Facility and any Accessory Facilities.
7. If lighting is required by the FCC or the FAA, the Applicant shall submit the proposed lighting plan and identify an available lighting alternative.
8. If an emergency power system will be utilized, the Applicant will provide: sufficient details showing the location and proposed use of the same; a proposed plan for any intended non-emergency use (e.g., testing); and certification that the system will not violate local health and safety requirements and local noise control ordinances.
9. An engineer's certification that the proposed Communications Facility and the cumulative effect of all Communications Facilities on the Site comply with all FCC standards, including but not limited to, certifying that all facilities meet all provisions and regulations for radio frequency (RF) emissions or exposure, and that anticipated levels of electromagnetic radiation to be generated by all facilities on the Site, including the effective radiated power (ERP) of the Transmission Equipment, shall be within the guidelines established by the FCC.
10. When applicable, a signed copy of the lease between the Applicant and the landowner or other acceptable documentation signed by the landowner evidencing the landowner's approval for the proposed Communications Facility. The lease or other documentation shall contain a provision stating that the landowner shall be responsible for the demolition and/or removal of the Communications Facility in the event the lessee fails to remove it upon abandonment of the facilities or the termination of the lease.

D. Performance Standards for Communications Facilities

1. Height

- a. Towers - The maximum height which may be approved for a Tower is 170 feet, which includes any Transmission Equipment on top of the Tower. A lightning rod, 10 feet in height or less, shall not be included within the height limitations.
- b. Towers in Right-of-Way – The maximum height which may be approved for a Tower and related Transmission Equipment in the public right-of-way is: 50 feet along a thoroughfare; 40 feet along a collector; and 20 feet along a residential street.

2. **Design and Color**

- a. Design - Towers shall be a Monopole or of some other Stealth or Stealth Technology design. Towers must be designed in compliance with all current applicable technical, safety, and safety-related codes adopted by the City or other applicable regulatory authority.
- b. Color and Finish - Towers shall have a galvanized finish unless an alternative Stealth or camouflaged finish is approved by the Approval Authority.

3. **Setbacks**

- a. **Towers** - In all zoning districts, for each foot of tower height there shall be a minimum of 1.05 foot of setback from any property line.
- b. **Small Cell/DAS Facilities** located on utility poles or street lights shall not be subject to setback requirements.

4. **Accessory Facilities** - Accessory Facilities shall include only such structures and facilities necessary for transmission functions for Wireless Services, but shall not include broadcast studios, offices, vehicle storage areas, or other similar uses not necessary for the transmission function. Accessory Facilities shall be constructed of building materials consistent with the primary use of the Site and shall be subject to the applicable approval process. Where there is no primary use other than the Communications Facility, the Accessory Facility and the building materials for the Accessory Facility shall be subject to the review and approval of the Approval Authority.

5. **Equipment Storage** - Mobile or immobile equipment not used in direct support of a Communications Facility shall not be stored or parked on the Site of the Communications Facility unless repairs to the Communications Facility are being made.

6. **Screening** - Accessory Facilities located at the base of a Tower or Base Station shall be screened from view with a solid screen fence or wall a minimum of six (6) feet in height. The landowner or provider shall be responsible for maintenance of the screening. The Approval Authority shall have the ability to waive or reasonably modify this requirement where the design of the Accessory Facility is architecturally compatible to the primary use of the Site or where the Accessory Facility will have no visible impact on the public right-of-way and any other nearby property.

7. **Landscaping** - A continuous landscaped area shall be provided around the perimeter of the accessory building or screening wall. Drought tolerant plant materials are encouraged. The owner or provider shall be responsible for maintenance or all approved landscaping. Where the visual impact of the accessory building would be minimal, the landscaping requirement may be reduced or waived by the Director.

8. **Lighting** – Communications Facilities shall only be illuminated as required by the FCC and/or the FAA. If lighting is required, the Approval Authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Security lighting around the base of a Tower may be provided if the lighting is shielded so that: no light is directed towards adjacent properties or rights-of-ways; the lighting avoids illuminating the Tower; and the lighting meets any other applicable City requirements.
9. **Utilities** - All utilities at a Communications Facility Site shall be installed underground and in compliance with applicable codes.
10. **Security** - All Communications Facilities shall be located, fenced, or otherwise secured in a manner that prevents unauthorized access.
11. **Signage** – Signage at the Site is limited to non-illuminated warning and equipment identification signs required by the FCC or applicable regulatory body or otherwise approved by the Approval Authority.
12. **Removal of Abandoned Communications Facilities** - Any Communications Facility that is not operated for a continuous period of 12 months shall be considered abandoned and a nuisance, and the owner of such facility or the landowner shall remove the same within 90 days of a receipt of notice from the City. If such facility is not removed within said 90 days, the City may remove such facility at the facility owner or landowner's expense. If there are two or more users of a single Tower, then this provision shall not become effective until all users cease using the Tower.

Section 2. All sections and portions thereof intended to be omitted clearly marked to show any such omission or showing sections, articles, chapters, parts or portions that are incorporated as the case may be, and to which shall be attached a copy of the incorporated ordinance filed with the City Clerk to be open to inspection and available to the public at all reasonable business hours.

Section 3. That all ordinances found to be in conflict with the amendment to the Appendix E "Development Regulations" be and the same are hereby repealed.

Section 4. That this ordinance shall take effect and be in force from and after its passage, approval, and publication as provided by law.

Passed by the Leavenworth City Commission on this 11th day of April, 2017.

Nancy D. Bauder, Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk