

ORDINANCE NO. 6601

**AN ORDINANCE ADOPTING SMALL CELL AESTHETIC STANDARDS
VERSION 2.0 FOR THE CITY OF ATCHISON, KANSAS.**

WHEREAS, the governing body of the City of Atchison, Kansas finds it advisable to adopt clear and consistent aesthetic standards for placement of small cell antenna structures within the public right-of-way; and

WHEREAS, the governing body of the City of Atchison, Kansas likewise finds it advisable to adopt a review process for applications submitted in accordance with the aesthetic standards for placement of small cell antenna structures; and

WHEREAS, the governing body of the City of Atchison, Kansas likewise finds it advisable to adopt a fee schedule for applications submitted in accordance with the aesthetic standards for placement of small cell antenna structures.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ATCHISON, KANSAS THAT:

- Section 1. The aesthetic standards Version 2.0 for placement of small cell antenna structures set out below in Section 3 is hereby adopted and declared to be the Official aesthetic standards for the jurisdiction of the City.
- Section 2. Aesthetic Standards Version 2.0 for placement of small cell antenna structures:
- Section 3. The following aesthetic standards reflect the desire of the City of Atchison ("City" or "Atchison") to maintain the aesthetics within the City, while allowing for an increase in the availability and quality of wireless broadband.

This ordinance applies to all small cell wireless facility applications for placement of new small cell antennas and related equipment in the public right-of-way, whether on City-owned or non-City-owned poles or ground mounted. Applications that conform to these standards will be reviewed by the Atchison Planning Commission for review and subsequent approval by the governing body of the City of Atchison.

Principles

This document is intended to create a simplified and streamlined aesthetic review, establishing a clear and consistent aesthetic standard for placement in the City. For small cell antenna

structures installed on City-owned poles in the public right-of-way, these guidelines seek:

1. To establish a clear, defined aesthetic standard for use throughout the city.
2. To establish a menu of design options for providers to select from when applying for new small cell antenna placement of city poles.
3. To minimize unnecessary quantities of new poles by encouraging co-location of small cell facilities.
4. To require, in situations where new poles will be placed, that equipment be placed on new, pre-designed and approved stealth poles, such that all equipment, including any wiring, can be concealed inside the pole.
5. To require, in situations where attachments will be made to existing poles, that the equipment, cabling, and conduit be concealed through the use of approved shrouding or camouflaging equipment.
6. To preserve the safety, integrity, look and property values of property owners and the City of Atchison.

Application Requirements

The City may develop new or additional permit application forms, checklists, updated aesthetic standards, and other related materials as required to optimally meet the goals of Atchison, its citizens, and its leadership. To avoid unnecessary delay in application processing, applicants are required to attend a pre-application conference before submitting application paperwork.

1. Pre-application conference required. Any person or company intending to apply for the placement or operation of a cellular or wireless communication antenna, tower or site within the City of Atchison shall first schedule a pre-application conference with the City Engineer or his or her assignee. At this conference, the prospective applicant must present to the City Engineer any proposed locations for the equipment or site. This information should identify the area within which the tower may be located, the maximum height of the proposed tower, and identify any possible users that may co-locate at the site. The purposed of the pre-application conference will be to, generally, evaluate the impact on adjacent areas and neighborhoods, discuss possibilities of co-location and identify alternative suitable sites that may minimize the negative impact on residential area.

2. Site plans and Structural Calculations: The applicant must submit fully-dimensioned site plans, elevation drawings and structural calculations prepared, sealed, stamped and signed by a Professional Engineer licensed and registered by the State of Kansas. Drawings must depict any existing wireless facilities, with all existing transmission equipment and other improvements; and the boundaries of the area

surrounding the proposed facility and any associated access or utility easements and setbacks.

A. Photo Simulations: For all applications, photo simulations from at least three reasonable line-of-site locations near the proposed project site. The photo simulations must be taken from the viewpoints for the greatest pedestrian or vehicular traffic. Angle of photo simulation separation must be at least 90 degrees or greater and provide a full profile depiction. Photo simulation must be included in the application packet.

B. Equipment Specifications: For all equipment depicted on the plans, the applicant must include:

1. the manufacture's name and model number;
2. the physical dimensions including, without limitation, height, width, depth, volume and weight with mounts and other necessary hardware;
3. Technical rendering of all external components, including enclosures and all attachment hardware; and
4. which selection(s) from the approved aesthetic standards match the desired design.

C. Technical Consultation: The City of Atchison shall have the right to retain an independent technical consultant to assist the City in the review of the application. Th reasonable costs shall be paid by the applicant.

D. The City of Atchison reserves the right to review site plans and structural calculations as detailed in section one (1) and may require that plans be revised if they do not meet the guidelines set forth herein.

General Design and Construction Standards

Atchison desires to promote safe, cleanly organized and aesthetically acceptable facilities using the smallest and least intrusive means available to provide wireless services to the community. All wireless facilities in the public right-of-way must comply with all applicable provisions in this section. If any other laws, regulations or code requires any more restrictive structural design and/or construction requirements, the most restrictive requirements will control.

1. The Applicant must construct, install and operate the small cell installations in strict compliance with the plans and specifications included in the application.
2. Where feasible, as new technology becomes available, the Applicant shall replace larger, more visually intrusive facilities with small, less visually intrusive facilities, after receiving all the necessary permits and approval requested by the City of Atchison.

3. Applicant shall submit, and maintain current at all times, basic contact and site information on a form to be supplied by the City of Atchison. The Applicant shall notify the city, in writing, of any changes to the information submitted within 7 (seven) days of any change, including the name of legal status of the owner or operator.

Co-location: Atchison desires and encourages co-locations between limited numbers of multiple separate wireless service providers on the same support structure whenever feasible. The City of Atchison may deny an application to construct a new cellular or wireless communications tower if the City determines the applicant has not made a good-faith effort to mount the equipment on existing structures.

Small cell installations, telecommunication towers and antennas shall not be located within 1500 feet of a property with an existing tower unless the proposed installation will be co-located. This shall not receive only antennas installed for individual residences.

Safety: The applicant shall provide engineering calculations demonstrating anticipated levels of effective radiated power and shall provide a study which demonstrated the mapping of radiation levels actually produced by all antennas on a tower under maximum operating conditions; such mapping showing radiation levels at ground level within eight hundred (800) feet of the tower. Said reading shall be taken at 45 degree intervals around the tower at every one hundred (100) feet from the tower (plus or minus 10 feet). Upon written request of the applicant, the City Engineer, in his or her discretion, can waive the requirements for measurements at particular intervals or distances from the tower, or may require different points of measurements if, in his or her opinion, it is unlikely that any person will be exposed at the location specified in this provision. The City Engineer's denial of any permit shall not be based on radiation level calculation unless such radiation exceeds the standards established by the FCC.

The proposed small cell installations shall have an adequate fall zone to minimize the possibility of damage or injury resulting from pole collapse or failure, ice fall or debris fall, and to avoid or minimize all other impacts upon adjoining properties.

Each small cell must be at least 500 feet away from any existing residential structure.

New Pole Installations: When proposing the location for possible new pole installations, applicant shall adhere to the following pole position preference guidelines. Installation preferences from most preferred to least preferred are as follows:

1. Industrial zoned areas

2. Commercial zoned areas
3. Mixed commercial and residentially zoned areas
4. Residentially zoned areas

If an applicant can demonstrate that there are no suitable sites under industry or engineering standards for a wireless communications site within an Industrial Zone or Commercial Zone, the company may apply for a permit to place a tower or antenna in a mixed commercial/residential area or a residential area.

Any new pole installations shall be position in line with existing utility poles to avoid encroaching further into the right-of-way than is necessary.

Any new pole installations shall meet the placement guidelines listed in this document.

Antennas: The antenna must be top-mounted and concealed within a radome that also conceals the cable connections, antenna mount and other hardware. GPS antennas must be placed within the radome or directly above the radome not to exceed six inches. The radome or side-mounted antenna and GPS antenna must be non-reflective and painted or otherwise colored to match the existing pole.

Pole-Mounted Equipment Cages/Shrouds: When pole-mounted equipment is either permitted or required, all equipment other than the antenna(s), electric meter and disconnect switch must be concealed within an equipment shroud not to exceed eleven (11W) cubic feet in total volume. The equipment must be installed no lower than fifteen (15') feet above ground level. The equipment shroud must be non-reflective and painted, wrapped or otherwise colored to match the existing pole. It is preferred that equipment shrouds be mounted flush to the pole, subject to the pole owner's approval. Standoff mounts are permitted for the equipment shroud, but may not exceed six (6") inches and must include metal flaps (or "wings") to conceal the space between the shroud and the pole.

Poles with additional features: New poles should be black in color, using Gloss Black #17038 per Federal Color Standard 595, and designed to include blank connections (handholds and J-hooks) for city permitted uses, such as: cameras, wi-fi and wayfinding signage or banners.

Ground-Mounted Equipment: Ground-mounted equipment is allowed when placed in conjunction with a new stealth pole and

concealed in a ground mounted cabinet. The maximum acceptable dimensions of ground-mounted cabinet will be thirty (30") inches wide by thirty (30") inches deep by four (4') feet high and must be square in shape. Ground mounted cabinets must be installed flush to the ground and will be black in color, using Gloss Black #17038 per Federal Standard 595. Ground mounted equipment on sidewalks must not interfere with the flow of pedestrian traffic and must conform to the American's with Disabilities Act (ADA) in regards to appropriate sidewalk spacing.

Concealment: Atchison requires the applicant to incorporate concealment elements into the proposed design. Concealment will include approved camouflage or shrouding techniques.

Utility Lines: New service lines must be undergrounded whenever possible to avoid additional overhead lines. For metal poles, undergrounded cables and wires must transition directly into the pole base without any external junction box.

Lights: Unless otherwise required for compliance with FAA or FCC regulations, the facility shall not include any permanently installed lights. Any lights associated with the electronic equipment shall be appropriately shielded from public view. This subsection is not meant to prohibit installations on streetlights or the installation of luminaires or additional street lighting on new poles when required by Atchison.

Generally Applicable Health and Safety Regulations: All facilities shall be designed, constructed, operated and maintained in compliance with all generally applicable health and safety standards, regulations, and laws, including without limitation all applicable regulations for human exposure to RE emissions.

General Location Criteria

Obstructions: Any new pole and/or equipment and other improvements associated with a new pole or an existing pole must not obstruct any:

1. access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors;
2. access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop (including, without limitation, bus stops, streetcar stops, and bike share stations);

3. access to above-ground or underground infrastructure owned or operated by any public or private utility agency;
4. fire hydrant access;
5. access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the right-of-way; and/or
6. access to any fire escape.

New and Replacement Poles

Replacement of Atchison-Owned Street Infrastructure in Right of Way: Any new locations must coincide with existing pole locations and the new structure must adhere to the aesthetic standards included in this document. Replacement pole height shall not exceed the height of the existing pole by more than 15%.

Smart Poles: The provider shall purchase the Smart Pole or Replacement Pole and shall be responsible for the maintenance of the Pole during the period of occupancy by the provider. Ownership of the Pole will be vested with the City.

Poles will be designed to include LED luminaire(s) attached to match adjacent poles, blank connections (handholds and J-hooks) for city permitted uses, such as: cameras, wi-fi and wayfinding signage or banners. Smart Poles are considered to be a suitable replacement for both ornamental and wood poles where applicable.

Overall Height: New pole height may not exceed the height of surrounding utility poles or streetlights, whichever is greater. If no utility poles are present, the maximum height, including antennas or any other extensions, is limited to thirty-nine (39') feet. Atchison shall consider other poles in the vicinity of the proposed location, the built environment, the neighborhood character, the overall site appearance and the purposes, in connection with these Standards.

Lighting: Atchison may require the applicant to install functional streetlights when technically feasible and Atchison determines that such additions will enhance the overall appearance and usefulness of the proposed facility.

Menu of Options

Telecommunication Facilities Located Within the Public Right-of-Way:

Any telecommunications facility installation on City owned poles within the public right of way shall conform to antenna and equipment volume or dimensional limitations set forth in these aesthetic standards and any other applicable guidelines in the City. The pictures and profile drawings below represent appropriate installation designs for a small cell antenna installations both on new poles and on existing poles in the right of way.

Existing Pole Replacement:

Existing poles in the right of way may be replaced with a Smart Pole where applicable. Replacement poles must match adjacent poles in style and form (round, octagonal, fluted, tapered, etc.) Replacement poles must have LED luminaire(s) attached to match adjacent poles

Color Choices:

New poles placed during the installation of small cell antennas will be black in color, using Gloss Black #17038 per Federal Standard 595. Where existing poles are used, the color of all attachments associated with the small cell antenna will, as closely as possible, match the existing pole color.

Pole Options for Drop and Swap and New Pole Placement in the Public Right-of-Way:

Integrated Pole with Pedestal Base:

1. Pedestal base shall be square in shape with design dimensions not to exceed thirty (30") inches wide by thirty (30") long by forty-eight (48") inches in height.
2. Total height of the pole shall not exceed thirty-nine (39') feet, and the height shall match adjacent poles.
3. Pole diameter shall not exceed twenty-four (24") inches and must be octagonal, fluted, or round in shape dependent on matching adjacent city poles.
4. Top mount antenna shroud dimensions shall not exceed twenty-four (24") in diameter by sixty (60") inches height.
5. Poles must be constructed of concrete, aluminum, or steel.

6. Attached lunninaire(s) and luminaire arm(s) must match adjacent city lighting standard and must contain an LED fixture in accordance with City specifications.

7. All Drop and Swap and New Poles placed in the Public Right-of-Way shall be black in color using Gloss Black #17038 per Federal Color Standard 595.

Savings and Modifications: Each term and provision in this ordinance shall be interpreted, whenever possible, in such a manner as to be effective and valid under applicable law. Should any term or provision of this ordinance be determined through judicial or extrajudicial proceedings to be invalid or unenforceable, as a matter of law, such determination shall apply only to such term or provision and shall not operate to invalidate or make unenforceable any other term or provision in this ordinance.

The Atchison City Commission maintains authority to modify any term or provision of this ordinance that may be determined through judicial or extrajudicial proceedings to be invalid or unenforceable as a matter of law to conform with such law without the necessity of reintroducing and passing a replacement ordinance.

Said standards shall constitute the basis for determination of approval of applications submitted for placement of small sell antenna structures.

This Ordinance shall become effective from and after its passage, approval and publication one time in the official newspaper of the City.

ADOPTED AND APPROVED BY THE GOVERNING BODY this ____ day of _____, 2019.

Shawn Rizza MAYOR

ATTEST:

Deb Clem CITY CLERK