

WIRELESS TELECOMMUNICATION SITING AND PERMITS

§ 150.250 PURPOSE AND INTENT.

The primary intent of this subchapter is to establish standards and general guidelines for the siting of telecommunications towers, antennas and equipment to be located within the county in a manner that will protect the public health, safety and welfare of the citizens of the county by promoting goals of this subchapter as follows:

- (A) Ensure compliance of all telecommunications facilities with current federal, state and local regulations;
- (B) Encourage the use of existing structures as an alternative to new tower construction;
- (C) Encourage co-location and site sharing of new and existing wireless communication facilities;
- (D) Recognize the commercial communication requirements of all sectors of the business and residential community;
- (E) Encourage the continued improvement of wireless telecommunications in the county; and
- (F) Facilitate the design and construction of towers and antennas which minimize adverse visual impacts.

(Ord. 11-21, passed 11-9-2021)

§ 150.251 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANTENNA. Structure or device which is used for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennas, such as panels, rods, discs, microwave dishes, satellite dishes and omnidirectional antennas, such as whip antennas.

ANTENNA ARRAY. One or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include an omnidirectional antenna (rod), a directional antenna (panel) and a parabolic antenna (disc). The **ANTENNA ARRAY** does not include the support structure defined below.

COLLOCATION/SITE SHARING. Use of a common WCF or common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology and/or placement of a WCF on a structure owned or operated by a utility or other public entity.

COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES. Licensed commercial wireless telecommunication services, including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

COUNTY-OWNED INFRASTRUCTURE. Streetlights and traffic signals owned, operated and maintained by the county and within public right-of-way.

EQUIPMENT HOUSING. A combination of one or more equipment buildings or enclosures housing equipment that operates in conjunction with the antennas of a facility and the equipment itself.

FAA. The Federal Aviation Administration of the United States Department of Transportation.

FACILITY. The part of the signal distribution system used or operated by a telecommunications carrier or AM broadcast station under a license from the FCC consisting of a combination of improvements and equipment including:

- (1) One or more antennas;
- (2) A supporting structure and the hardware by which antennas are attached;
- (3) Equipment house; and
- (4) Ancillary equipment, such as signal transmission cables and miscellaneous hardware.

FCC. The Federal Communications Commission.

HEIGHT. The total height of the facility's supporting structure and any antennas that will extend above the top of the supporting structure; however, if the supporting structure's foundation extends more than three feet above the uppermost ground level along the perimeter of the foundation, then each full foot in excess of three feet shall be counted as an additional foot of the facility **HEIGHT**. The **HEIGHT** of a facility's supporting structure is to be measured from the highest point of the supporting structure's foundation.

LATTICE. A framework or structure of crossed metal strips typically resting on three members constructed vertically to which antennas are affixed.

MONOPOLE. A single, slender, continuously tapered and typically cylindrical- or polygon-sided, vertical structure to which antennas or antenna support structures are affixed.

PROVIDER. Excludes any person who is providing service to or for a private niche market.

SUPPORT STRUCTURE. A structure designed and constructed specifically to support an antenna, and may include a monopole, self-supporting (lattice) tower, guy-wire support tower and other similar structures. Any device which is used to attach an attached WCF to an existing building or structure shall be excluded from the definition of **SUPPORT STRUCTURE**.

TOWER. Any ground or roof-mounted pole, spire, antenna, structure, monopole or combination thereof, taller than 15 feet, including supporting lines, cables, wires, braces and masts, intended primarily for the purpose of elevating antenna, a meteorological device or similar apparatus above grade.

(1) **TOWER, MULTI-USER.** A tower to which are attached the antennas of more than one commercial wireless telecommunication service provider or governmental entity.

(2) **TOWER, SINGLE-USER.** A tower to which are attached only the antenna(s) of a single-user, although the tower may be designed to accommodate the antennas of multiple users as required in this code.

WIRELESS COMMUNICATIONS. Any personal wireless service as defined in the Telecommunications Act of 1996, which includes FCC-licensed commercial wireless telecommunications services including personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may in the future be developed.

WIRELESS COMMUNICATION FACILITY (WCF). Any unstaffed facility for the transmission and/or reception of wireless telecommunications services, usually consisting of antenna connection cables, an accessory building and a support structure to achieve the necessary elevation. A **WCF** does not include the structure or improvements on, under or within which the equipment is collocated, or wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures, utility poles, coaxial or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

(Ord. 11-21, passed 11-9-2021)

§ 150.252 APPLICABILITY.

WCFs for which a permit has been issued prior to the effective date of this subchapter, being November 9, 2021, shall not be required to meet the requirements of this section except as further specified in § 150.250.

(A) *New WCF.* A proposal for a new WCF shall not be approved unless the tower is being built for a licensed commercial wireless services, including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

(B) *Design and construction.* Any proposed commercial WCF service tower shall be engineered, designed and constructed, structurally, electrically and in all respects to accommodate and share both the applicant's antennas and comparable antennas for future rearrangement of antennas upon the tower and to accept and allow normal work in operation of antennas mounted at varying heights.

(C) *Outdoor advertising.* No WCF shall be used in such a manner to support or display any outdoor signage or banners for any commercial or advertisement purposes.

(D) *Relationship to other ordinances.* Where allowed by law, this subchapter shall supersede all conflicting requirements of other codes and ordinances regarding the location and permitting of WCFs, except for environmental regulations.

(E) *Compliance to all federal and state aviation laws* When applicable, proponents must provide documentation that all pertinent requirements of the Federal Communications Commission (FCC), Federal Aviation Administration (FAA) and any required aviation easements have been satisfied prior to application for a local permit.

(Ord. 11-21, passed 11-9-2021)

§ 150.253 APPLICATION PROCESS; FEES.

(A) *Application methods.* All development applications for towers shall include written documentation evidencing compliance with each provision of this subchapter, as well as the applicable building regulations in addition to the following supplemental information:

- (1) A report from a qualified and licensed professional engineer which:
 - (a) Describes the tower height and design, including a cross-section in elevation;
 - (b) Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation between antennas that it can accommodate;
 - (c) Describes the tower's capacity, including the number and type of antennas that it can accommodate;
 - (d) Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
 - (e) Includes an engineer's qualifications, stamp and registration number; and
 - (f) Includes other information necessary to evaluate the request.

(2) Architectural drawings depicting the constructed tower with camouflaging treatment set in the surrounding area. These drawings shall include at least one perspective from the north, south, east and west;

(3) An overhead map of the site showing a one-mile radius of the subject tower's location, as well as the location of each existing telecommunications facilities;

(4) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and successor(s) to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use;

(5) Proof that the proposed tower complies with the regulations and standards, including, without limitation, emission standards, promulgated by the FAA, FCC, ANSI and IEEE;

(6) Proof of technological evidence which indicates that the height of the tower requested is the minimum necessary to fulfill the cell site's function; and

(7) Proof of bond or financial security sufficient to provide for cost of removal in the case of abandonment as described within this subchapter.

(B) *Application contents.* Each applicant requesting a permit shall submit a completed application on a form provided by the County Code Administrator accompanied by a sealed complete set of drawings prepared by a state-licensed architect and engineer that shall include a site plan, elevation view, other supporting drawings, calculations and other supporting documentation showing the location and dimensions of the wireless communications facility and all improvements associated therewith, including information concerning specifications, antenna locations, equipment facilities and shelters.

(C) *Application fees.* Permits for placement of wireless telecommunication facilities are required. Except as otherwise provided in this subchapter, the procedures for the application for, approval of and revocation of such a permit shall be those required in the county fee schedule as adopted by the County Board. The County Code Administrator shall authorize the issuance of permits required by this subchapter and shall collect the fees therein accordance with the following:

(1) A non-refundable plan review fee due at plan submission;

(2) Fee for a new telecommunications facility shall be based on a set fee per foot of the tower height;

(3) Fee for each multiple wireless telecommunication facilities (maximum of 20) included in a single application to co-locate on existing structures; and

(4) A single wireless telecommunication facility on an existing structure fee.

(Ord. 11-21, passed 11-9-2021)

§ 150.254 BUILDING PERMIT APPROVAL PROCESS.

Thirty days prior to the issuance of a building permit for a facility necessitating the erection of a new tower, the permit applicant shall provide written notice of its intent to the following entities:

(A) Thirty days prior to the issuance of construct the facility to the State Representative(s) and the State Senator(s) of the district in which the subject facility is to be constructed and all County Board members of the county;

(B) A public hearing notice shall be published at least 15 days before the hearing in a newspaper of general circulation published in the county;

(C) Notice of the public hearing shall also be sent by certified mail at least 15 days prior to the hearing to the owners of record of all residential property that is adjacent to the lot upon which the facility is proposed to be sited;

(D) The county's Public Safety Committee review of a building permit application for a facility shall be completed within 30 days with their recommendations to the County Board; and

(E) The County Board shall make its decision within 75 days after the submission of a complete application by the telecommunications carrier.

(Ord. 11-21, passed 11-9-2021)

§ 150.255 CONSTRUCTION REQUIREMENTS.

(A) *Tower construction requirements.* It shall be unlawful for any person, firm or corporation to erect, construct in a place, re-erect or replace any tower without first making application to the County Code Administrator and securing a permit therefor as herein provided.

(1) The applicant shall provide at the time of application sufficient information to indicate that construction, installation and maintenance of the antenna and tower will not create a safety hazard, damage to or interference with the property of other persons.

(2) The extent to which the design of the proposed facility reflects compliance with the following: No building or tower that is part of a facility should encroach onto any recorded easement prohibiting the encroachment unless the grantees of the easement have given their approval.

(3) Lighting should be installed for security and safety purposes only. Except with respect to lighting required by the FCC or FAA, all lighting should be shielded so that no glare extends substantially beyond the boundaries of a facility.

(4) No facility shall encroach onto an existing septic field.

(5) Any facility located in a special flood hazard area or wetland shall meet the legal requirements for those lands.

(6) Existing trees more than three inches in diameter should be preserved if reasonable feasible during construction. If a tree more than three inches in diameter is removed during construction, a tree three inches or more in diameter of the same or similar species shall be planted as a replacement if reasonably feasible. Tree diameter shall be measured at a point three feet above the ground level.

(7) If any elevation of a facility faces an existing, adjoining residential use within a residential area, low maintenance landscaping should be provided on or near the facility lot to provide at least partial screening of the facility. The quantity and type of that landscaping should be in accordance with any county landscaping regulations of general applicability, except that division (A)(5) above shall control over any tree-related regulations imposing a greater burden.

(8) Fencing shall be installed around a facility. The height and materials of the fencing shall be at least six feet in height and in accordance with any county fence regulations.

(9) WCF with support structures shall be constructed to the Telecommunications Industries Association ANSI/TIA-222-H Revision F Standard entitled "Structural Standards for Steel Antennas, Towers and Antenna Support Structures" (or equivalent), as it may be updated and amended from time to time. Each support structure shall be capable of supporting multiple antenna arrays. The tower shall be certified by a qualified and state-licensed professional engineer to conform to the latest structural standards and wind loading requirements of the International Building Code and the National Electric Code as adopted by the County Board.

(10) Written documentation under a state-licensed engineer's stamp to verify the need for a guy-wire support tower when no other means of support structure is available due to technical or engineering constraints.

(11) With the exception of necessary electric and telephone service connection lines, no part of any antenna or tower, nor any lines, cable, equipment, wires or braces in connection with either, shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.

(12) All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower and antenna and a structure, or between towers, shall be at least eight feet above the ground at all points unless buried underground.

(13) Towers shall comply with all applicable provisions of this code of ordinances; an ordinance providing for the control of stormwater drainage and detention, soil erosion, and sediment control within the unincorporated areas of the county, being Chapter 153 of this code of ordinances; an ordinance regulating development in the county floodplain areas, being Chapter 152 of this code of ordinances; and the International Property Maintenance Code as adopted by the County Board, being §§ 150.150 through 150.162.

(14) Antennas and towers in existence as of the adoption date of this subchapter which do not conform to or comply with this subchapter are subject to the following provisions:

(a) Towers may continue in use for the purpose now used and as now existing, but may not be replaced or structurally altered without complying in all respects with this subchapter; and

(b) If such towers are hereafter damaged or destroyed, due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location and physical dimensions upon obtaining a building permit therefor, but without otherwise complying with this section, provided however, that if the cost of repairing the tower to the former use, physical dimensions and location would be 10% or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored, except in full in compliance with this subchapter.

(B) *Tower setbacks.* Towers shall conform to the following minimum setback requirements:

(1) Notwithstanding the general provisions of the applicable provisions of the IBC Code and the Subdivision Ordinance, being Chapter 156 of this code of ordinances, the required setback for a facilities supporting structure or equipment housing shall not be less than 35 feet from the front lot line of the facility lot or less than 15 feet from any other lot line;

(2) Tower separation shall be at least 1,500 feet between new wireless communication towers; and

(3) Separation distance to the nearest principal residential building or structure located on the same parcel shall not be less than the height of the supporting structure.

(C) *Tower height.*

(1) No new telecommunication facility shall exceed 200 feet in height, except that if the facility is located more than one and one-half miles from the corporate limits of any municipality with a population of 25,000 or more, the height of the facility shall not exceed 350 feet. This includes antennas and other supporting equipment.

(2) The horizontal separation distance to the nearest principal building or structure on the same parcel shall not be less than the height of the supporting structure.

(3) Above-ground equipment buildings shall be required to obtain a building permit. The maximum size shall be 700 square feet and the maximum height shall be 12 feet.

(4) A variation to this height may be granted by the County Board after receiving an application to request a variation through the Public Safety Committee, therefore holding a public meeting. The Public Safety Committee shall make its recommendation to the County Board at a regular scheduled meeting. The applicant must establish a clear and convincing evidence that he, she or it will be unable to provide wireless communication services without such a variation. Under no circumstances shall a tower be erected to a height greater than that required to provide wireless communication services.

(5) A new or replacement antenna array may exceed up to five feet horizontally beyond the edge of the attachment structure so long as the antenna array does not encroach upon an adjoining parcel.

(D) *Co-location requirements.*

(1) Licensed carriers shall share personal telecommunication facilities and sites whenever possible, thereby reducing the number of stand-alone facilities.

(2) All support structures shall be designed so as not to preclude co-location.

(3) Applicants shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes demonstration by the applicant to:

(a) Contract with other licensed carriers for commercial mobile radio services operating in the county;

(b) Share information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location;

(c) Provide a written statement indicating the reasons why the telecommunication project is not feasible as a co-location Site I the event co-location is found not to be feasible; and

(d) Design and construct WCFs in a manner to allow future WCF co-location opportunities, if feasible.

(4) The wireless provider shall install, maintain, repair and modify its small wireless facilities in a safe condition and good repair and in compliance with this subchapter.

(5) The maximum height of a small wireless facility shall be not more than ten feet above the support structure on which the small wireless facility is co-located, or 45 feet above the ground.

(6) The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications. Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency. The wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC, including 47 C.F.R. §§ 22.970 through 22.973 and 47 C.F.R. §§ 90.672 through 90.675.

(E) *Tower lighting.* Towers shall not be illuminated by artificial means and shall not display any strobe or flashing lights unless such lighting is required by the Federal Aviation Administration or other federal or state authority for a particular tower.

(F) *Accessory utility buildings.* All utility buildings and structures accessory to a tower shall require a building permit be issued by the County Code Administrator for the installation of all structures.

(G) *Abandoned or unused towers or portions of towers* Abandoned or unused towers or portions of towers shall be removed as follows.

(1) Within 30 days of its filing with the FCC, the owner of any telecommunications facility shall provide the building official with a copy of any notice of its intent to cease operations. Unless an extension is obtained from the building official, the telecommunications tower and accessory structures shall be removed within 90 days of the date operations cease.

(2) A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower is not removed in a timely manner as provided herein, the tower and associated facilities may be removed by the county and the cost of the removal assessed as a lien on the premises or against a bond or other financial security provided for herein.

(3) A wireless provider shall provide to the County Code Administrator with written notice if it sells or transfers small wireless facilities within the jurisdictional boundary of the county. Such notice shall include the name and contact information of the new wireless provider.

(Ord. 11-21, passed 11-9-2021) Penalty, see 150.999

§ 150.999 PENALTY.

(A) Penalties for violations of any of the provisions of the codes being adopted in this chapter shall be in accord with the jurisdictional fee schedule adopted under § 150.154(E).

(B) Any person, firm or corporation who violates any portion of the International Property Code Maintenance or adopted ordinances shall, upon conviction in the County Circuit Court, be subject to a fine of up to \$750 per violation. Each day that

such violation exists shall constitute a separate offense.

<i>Fines</i>	
Failure to notify the Code Administrator of a required inspection	\$100 plus court costs
Failure to obtain a commercial permit prior to construction	\$500 plus court costs
Failure to obtain a residential permit prior to construction	\$250 plus court costs

(C) The fine or penalty for violating any provisions of §§ 150.250 through 150.255 shall, upon conviction in the Circuit Court, not exceed \$750 for any one specified offense or violation, provided that, if an act, omission or condition prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof in violation of §§ 150.250 through 150.255 may not exceed \$750 for each day of such unlawful continuation.

(Ord. passed 4-9-2019; Ord. 3, passed 11-9-2021; Ord. 11-21, passed 11-9-2021)