

ARTICLE X: TELECOMMUNICATIONS TOWERS

Section 10.1 : PURPOSES

The general purpose of this Article is to regulate the placement, construction, and modification of telecommunications towers, support structures, and antennas in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the provision of wireless telecommunications in WARREN COUNTY. Specifically, this Section is intended to:

- A.** Provide for the appropriate locations and development of telecommunication facilities and systems with the least amount of impact for the citizens and businesses of WARREN COUNTY;
- B.** Minimize adverse visual impacts of communications antennas and support structure through the careful design, siting, landscape screening and innovative camouflaging techniques;
- C.** Maximize the use of existing and new support structures so as to minimize the need to construct new or additional facilities; and
- D.** Maximize the co-location of facilities on any new support structures;
- E.** Ensure that any new telecommunications tower or structure is located in an area compatible with the neighborhood or surrounding community to the extent possible;
- F.** Ensuring that regulation of telecommunications towers and structures does not have the effect of prohibiting the provision of personal wireless services, and does not unreasonably discriminate among functionally equivalent providers of such service.
- G.** Ensuring that annual inspections and provisions providing for ongoing maintenance are in place.
- H.** Provide for the appropriate mechanism to remove abandoned and unstable towers.

Section 10.2: Legislative Findings and Regulatory Compliance

- A.** The Telecommunications Act of 1996 preserves the authority of the COUNTY to regulate the placement, construction, and modification of Towers and Antennas Support Structures and to protect the health, safety and welfare of the public.
- B.** The COUNTY has been granted the authority to enact legislation to regulate the construction, placement, and operation of Telecommunications towers and antennas pursuant to its zoning powers established in Chapter 64 of the Revised Statutes of Missouri and additionally pursuant to the general and specific police powers established by statute authorizing the regulations herein to protect the public health, safety and welfare.

- C. All antennas and support structures shall meet or exceed current standards and regulations of the FAA, FCC and any other state or federal agency with the authority to regulate communications antennas and support structures. No approval for any placement, construction or modification of any antenna or structure permitted by this Section shall be granted for any applicant having an unresolved violation of this Section or any other governmental regulatory requirement related to such structures.

Section 10.3: General Requirements

The requirements set forth in this Section shall be applicable to all commercial towers, antennas, and other support structures approved after the effective date of this amendment. This shall not apply to amateur radio or receive-only towers and support structures.

A. Zoning

Communication towers or facilities placed in any district shall require a Conditional Use Permit.

B. Construction and Appearance of Tower

1. All antenna support structures shall be built in compliance with all state and local codes.
2. Towers, cabinets, and all associated structures, including fences, shall have an exterior finish compatible with the natural or built environment of the site. Antennas attached to a building or stealth structure shall be of a color identical to or closely compatible with the surface to which they are mounted.
3. The placement of advertising on structures regulated by this Section is prohibited, unless a sign is designed as part of a stealth structure. Any sign that is part of a stealth structure shall also be in compliance with any sign regulations.
4. No telecommunication tower, except the 200' towers, shall be of a type or height, or placed in a location that the Federal Aviation Administration would require the telecommunication tower to be lighted or painted. The applicant shall be required to certify that the proposed telecommunication tower is not required to be painted or illuminated by any FAA rule or regulation. Equipment cabinets and shelters may have lighting as approved by the Director. A lighting plan shall be required with the submittal of the tower site plan.
5. Separation from other towers. Any telecommunication tower built after the date of these regulations shall be separated from any other communication tower a distance of at least one (1) mile.

C. Fall Zone and Setbacks

1. In all zoning districts, towers shall be separated from any off-site single family, multi-family residential or non-residential structure a distance equal to 1.5 times height of the tower. This area of separation shall be known as the Fall Zone.
2. Towers shall be setback from all public or private rights of way a distance equal to the height of the tower.

3. If a property cannot be found in a desired area that is large enough to fully contain the fall zone on the property, an easement shall be obtained for the fall zone area or a letter from a certified engineer verifying the subject tower will collapse on itself and be contained within the property lines.
 - a. Both the easement and the letter from the engineer are subject to the approval of the Planning and Zoning Administrator.
 - b. If the tower is required to get an easement, this easement shall be recorded and submitted to the Planning and Zoning office before the tower may be built.
4. Ground anchors of all guyed towers, if permitted, shall be located on the same parcel or within an easement on an adjoining parcel. These ground anchors shall meet the setbacks of the applicable zoning district, unless the setback is from the property on which the tower lies.

D. Security and Layout of Site

1. Screening and buffering.
 - a. A communication tower facility shall be landscaped with a buffer of plant materials, not less than 10 feet in width and 6 feet in height, that effectively screens the view of the communication tower base and accessory structures from adjacent property that is residentially zoned or is a residential use. This may be waived by the Zoning Administrator where natural growth and land forms provide an equivalent buffer.
 - b. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.
 - c. In lieu of the required wall and landscape strip, an alternative means of screening may be approved by the Zoning Administrator.
2. Fencing. A communication tower shall be enclosed by fencing not less than six (6) feet in height and equipped with an appropriate anti-climbing device
3. All antennas and support structures shall be protected from unauthorized access by appropriate security measures. A description of proposed security measures shall be provided as part of any application to install, build or modify antennas or support structures.
4. Vehicle or outdoor storage on any tower site is prohibited.
5. At least one on-site parking for periodic maintenance and service shall be provided at all antenna or tower location.

E. Shared use

1. All new towers with a height of 60 to 100 feet shall be built to accommodate at least one other user. All new towers with a height greater than 100 feet and less than 150 feet shall be built to accommodate the co-use of at least two (2) additional providers. New towers with a height of 150' or more shall be built to accommodate of the co-use of at least three (3) additional providers.
2. Prior to the issuance of any permit to construct a new tower or to modify any tower existing on the effective date of this amendment, the owner shall provide to the COUNTY a written and notarized agreement committing to make said tower available for use by others subject to reasonable technical limitations and reasonable financial terms. The willful and knowing failure of a tower owner to agree to shared use or to negotiate in good faith with potential users shall be unlawful and shall, among other remedies of the COUNTY, be cause for the withholding of future permits to the same owner to install, build or modify antennas or towers within the COUNTY.
3. Prior to the issuance of any permit to install any new towers, the tower owner shall furnish the Planning and Zoning Administrator an inventory of all of that owner's towers in WARREN COUNTY. The inventory shall include the towers' street location, parcel number, structure type, and height.
4. Prior to any application for the construction of a new commercial tower or stealth structure, a copy of the application or a summary containing the height, design, location and type and frequency of antennas shall be delivered by certified mail to all known potential tower users as identified by a schedule maintained by the Department of Planning and Zoning. Proof of such delivery shall be submitted with the application to the COUNTY. The Land Use Administrator may establish a form required to be used for such notifications.
5. Prior to approval of any application for a new tower, the tower owner shall submit a signed and notarized document guaranteeing that they will allow local public service providers to use the tower at no charge. The COUNTY Commission will determine which agencies can take advantage of this provision.
6. Prior to the tower being built, the tower site shall be assigned an address.

F. Height of tower

1. The maximum height for a commercial communication tower is 200 feet.
2. The maximum height for a stealth structure located within a non-commercial or non-industrial district shall be 80 feet.
3. The maximum height for a stealth structure located within a commercial or industrial zoning district shall be 120 feet.

G. Other requirements

Tower signal shall not interfere with other communications facilities.

H. Exemptions

1. It is the position of WARREN COUNTY that towers owned and controlled by any governmental entity or emergency management agency serves a vital function to the health, safety and welfare to all citizens. Accordingly, these regulations shall not restrict the right of governmental or municipal agencies (state, city or county government) or emergency services (such as fire departments or districts, ambulance districts, and police agencies) to locate and establish such facilities as are considered essential for the provision of adequate emergency services to the public.
2. The actual construction of communication towers for entities which are otherwise exempt shall be subject to building codes and safety regulations in place at time of construction.

Section 10.4: Zoning Permit

A. The placement of Antenna and Towers are permitted with a Zoning Permit:

1. The attachment of additional or replacement of antennas or shelters to any tower existing on the effective date of this amendment or subsequently approved in accordance with these regulations, provided that additional equipment shelters or cabinets are located within the existing tower compound area.
2. The attachment of additional or replacement antennas or shelters to any tower existing on the effective date of this amendment or subsequently approved in accordance with these regulations and requiring the enlargement of the existing tower compound area as long as all other requirements of this Section and the underlying zoning district are met.
3. The mounting of antennas on any existing building or structure such as a water tower, provided that the presence of the antennas is concealed by architectural elements or satisfactorily camouflaged by painting of a color identical surface to which they are attached.
4. The mounting of antennas on or within any existing high-voltage electric transmission tower, but not exceeding the height of such tower by more than 10 feet.
5. The installation of antennas or the construction of a tower or support structure on buildings or land owned by the COUNTY.

B. Application procedures

- 1.** The following items shall be submitted to apply for a Zoning Permit:
 - a.** Completed application.
 - b.** Processing Fee in accordance with the established Fee Schedule.
 - c.** A site plan, based on a survey, showing the following:
 - i.** All existing and proposed improvements including buildings, drives, walkways, parking areas and other structures.
 - ii.** The nearest public and private rights-of-way.
 - iii.** The location and height of the existing or proposed tower
 - iv.** Any modifications to the site.
 - d.** An elevation of the structure clearly showing the proposed modifications.
 - e.** Written authorization from the owner to apply for this permit.
- 2.** The Zoning Administrator shall issue a decision on all Zoning Permits within 45 days of the date of the application. The Zoning Administrator may deny the application or approve the application as submitted or with such modifications as are, in his/her judgment, reasonably necessary to protect the safety or general welfare of the citizens consistent with the purposes of this Section. The decision shall be issued in writing, and in the case of a denial, shall state the specific reasons for the denial.

Section 10.5: Conditional Use Permit

- A.** All proposals to build a communications tower or facility shall require the approval of a Conditional Use Permit following a duly advertised public hearing by the Planning and Zoning Commission.

B. Application procedures

- 1.** The following items shall be submitted to apply for a Conditional Use Permit:
 - a.** Completed application.
 - b.** Fee \$1500.
 - c.** Fifteen copies of a detailed site plan, based on a survey, showing the following:
 - i.** All existing and proposed improvements including buildings, drives, walkways, parking areas and other structures.
 - ii.** The nearest public and private rights-of-way.
 - iii.** Fall zone radius and any necessary easements.
 - iv.** The location and distance to off-site residential or non-residential structures within 600 feet.
 - v.** Required setbacks.
 - vi.** Required buffer and landscape areas and any hydrologic features on the site.
 - vii.** The location and height of the proposed tower.
 - viii.** Details about the lighting of the site if applicable.
 - ix.** Any modifications to the site.
 - x.** Information about the security of the tower compound area, including the fence and gate, if applicable.
 - xi.** The access road to the property with the width indicated.
 - d.** An elevation of the structure clearly showing any proposed modifications.
 - e.** A list of the users of the tower.

- f. Written authorization from the property owner to apply for this permit. An access permit from the Highway Department or MoDot for the driveway entrance.
 - g. A letter of intent committing the tower owner and any successors to allow shared use of the tower (The site plan shall demonstrate how the shared facilities would potentially be situated on the proposed site).
 - h. A map showing the location of all towers within a 1-mile radius to this site, including those in other counties or jurisdictions.
 - i. Fifteen copies of computer-generated coverage map in color with adequate explanation and labeling.
- 2. Some of the above items may be waived at the discretion of the Zoning Administrator.
 - 3. The applications and materials shall be reviewed by the Zoning Administrator for completeness. The Zoning Administrator shall then transmit the application for review and comment to other departments and public agencies that may be affected by the proposed facility.
 - 4. Applications for Conditional Use Permits shall be filed and processed subject to and in the manner and time frame as established in the Zoning Order.

Section 10.6: Findings Required

- A. All applications for new towers or modifications to towers shall meet the General Requirements for communications towers as described in these regulations.
- B. Existing non-conforming towers may add and modify antennas as needed, however major changes to the site shall comply with Section 10.3.
- C. No Conditional Use Permit shall be issued unless the applicant has clearly demonstrated by substantive evidence that placement of an antenna or support structure is not technologically or economically feasible. The Planning and Zoning Commission may consider current or emerging industry standards and practices, among other information, in determining feasibility.
- D. In addition to the determinations or limitations specified herein for the consideration of conditional use permits, the Commission shall also base its decision upon, and shall make findings as to, the existence of the following conditions:
 - 1. No existing towers, structures or buildings within the necessary geographic area for the applicant's tower meet the applicant's necessary engineering requirements considering the following:
 - a. Height,
 - b. Structural strength,
 - c. Resulting signal interference,
 - d. Feasibility of retrofitting,
 - e. Feasibility of redesigning the applicant's tower network, or
 - f. Other limiting conditions that render existing towers, structures or buildings with the applicant's required geographic area unsuitable.

2. That the design of the tower or structure, including the antennas, shelter and ground layout maximally reduces visual degradation and otherwise complies with provisions and intent of this Section. New towers shall be of a monopole design, unless it is shown that an alternative design would equally or better satisfy this provision.
3. That the proposal minimizes the number and/or size of towers or structures that will be required in the area.
4. That the applicant has not previously failed to take advantage of reasonably available shared use opportunities or procedures provided by this amendment or otherwise.
5. That no land owned by any agency of the federal or state government, or by any political subdivision of the state, is available for locating the structure or tower.

If anyone, but not more than one, of the five determinations is not satisfied, approval may be granted only on a finding of unique circumstances otherwise necessitating approval to satisfy the purposes of this section.

Section 10.7: Appeals

Appeals from the decision of the Zoning Administrator shall be made in the same manner as otherwise provided through the Board of Zoning Adjustment.

Section 10.8: Abandonment and Removal

- A. In general, any tower no longer in use for its original communications purpose or any tower which is not occupied for a period of twelve (12) months shall be considered abandoned. The owner of the tower shall provide the County with a copy of any notice given to the FCC relating to its intent to cease operations.
- B. Removal. Abandoned towers, the Communication Facility and all accessory structures shall be removed at the owner's expense within ninety (90) days of the date of cessation of operations. Upon removal, the tower owner(s) shall re-vegetate the Communication Facility to blend with the existing surrounding vegetation at their expense.
- C. Multiple users sharing a single tower. In the case of multiple antenna operators sharing use of a single tower, the provisions of this section regarding removal of abandoned towers shall not become effective until all users have ceased communications operations, provided all other provisions of this section are fully complied with.

- D.** Failure to remove abandoned tower. All obligations imposed by this section shall be the joint obligation of the applicant(s) and, if applicable, the lessee of the property upon which the tower and/or antenna(s) are located. In the event that any tower or antenna is not properly and timely removed as required, then the Land Use Administrator (and any persons he or she has designated) may proceed to remove the abandoned tower and/or antenna(s) and the Communication Facility and thereafter recover the costs of removal, together with the costs of enforcement of this section (including reasonable attorney's fees), from the financial guarantee or from the applicant (s) and owner (s). In this connection the applicant shall provide the COUNTY with a financial guarantee in the form of an irrevocable letter of credit or cash or a performance bond, in such amount, which guarantees the removal of the applicable tower and Communication Facility according to the terms thereof.
- E.** If the site is to be reused for a Communications Tower after being abandoned for twelve (12) months, a new Permit shall be acquired.

Section 10.9: Amateur Towers and Antennas

The following restrictions and requirements apply to all amateur radio towers erected after the effective date of these regulations. In all instances, WARREN COUNTY shall reasonably accommodate amateur communications and shall impose the minimal practicable regulation necessary. Any amateur radio towers existing on the effective date of these regulations shall be exempt from the provisions of this Section, unless such towers were erected in violation of any WARREN COUNTY regulation.

- A.** Amateur radio towers shall be permitted in the residential and commercial zoning districts with a maximum height of 65'.
- B.** Amateur radio towers shall be permitted in agricultural and industrial zoning districts with a maximum height of 120'.
- C.** Amateur radio towers shall comply with the following:
 - 1.** Towers shall be set back at least a distance equal to the height of the tower from all surrounding rights-of-way and property lines.
 - 2.** Towers, including any guying required, shall be placed in the rear or side yards of the property and shall not be placed in the front yard.
 - 3.** Amateur radio operators with less than one acre shall be allowed to erect a maximum of two (2) towers. One additional tower shall be allowed for each additional acre with a maximum of five (5) towers. (Towers may be grouped on the lot according to the needs of the amateur radio operator).
 - 4.** Towers shall be engineered to meet the FCC, Part 97 rules and regulations.
- D.** Amateur radio operators that wish to exceed the above height restrictions shall be required to obtain a Conditional Use Permit.

- E.** Due to the public service performed by amateur tower operators, all fees for amateur radio tower permits shall be waived.
- F.** Amateur Radio Towers that are not located within 500 feet of the owner's residence may be subject to greater requirements regarding security, access, and screening.
- G.** Applicants who wish to erect an amateur radio tower shall submit the following:
 - 1.** Completed application.
 - 2.** Site plan showing locations of all property lines, roadways, and easements, structures, existing towers, and proposed towers.
 - 3.** Elevation showing the height and appearance of the proposed tower.
 - 4.** For conditional use permits only, the applicant must submit additional documentation to explain or demonstrate why he/she reasonably requires the proposed tower for communication purposes.

Section 10.9: Commercial Operation or Unlawful Tower or Antennas

Notwithstanding any right that may exist for a governmental entity to operate or construct a tower or structure, it shall be unlawful for any person to erect or operate for any private commercial purpose any new antenna, tower or Stealth Structure in violation of any provision of this Amendment, regardless of whether such antenna or structure is located on land owned by a governmental entity.

Section 10.10: Severability

If any section, subsection, sentence, clause, phrase or portion of this amendment is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 10.11: Repeal of Laws in Conflict

This amendment supersedes all past amendments or parts of amendments adopted prior hereto which are in conflict herewith, to the extent of such conflict.

Warren County Planning and Zoning Application

PARCEL ID _____ PERMIT # _____

_____ IMPROVEMENT _____ UPGRADE _____ SHARED USE

Type _____ Dimensions _____

NAME _____

Check One: **OWNER (S)** _____ **OTHER (Owner (S) Affidavit Required)** _____

MAILING ADDRESS:

STREET: _____

CITY: _____ STATE: _____ ZIP CODE: _____

PHONE # _____

PROPERTY ADDRESS: (If different from mailing address)

STREET: _____

CITY: _____ STATE: _____ ZIP CODE: _____

DIRECTIONS TO PROPERTY: _____

Signature valid only if notarized or witnessed by Planning & Zoning Office staff.

PHOTO ID REQUIRED

SIGNATURE: _____ **DATE:** _____

(By signing this application you acknowledge you have been informed and agree to the stipulations and/or conditions required under the Warren County Zone Order to obtain the necessary permit(s).)

MONIES FOR PERMITS ARE NON-REFUNDABLE

Witness _____