
ORDINANCE No. _____
AMENDING THE ZONING ORDINANCE
TO PROVIDE REGULATIONS FOR
PERMITTING COMMUNICATIONS TOWERS

WHEREAS, communications technology has produced an increased need for installation of towers and antennae to serve areas within municipalities; and

WHEREAS, the Mayor and Council desire to enact zoning regulations which will permit the placement of communications towers and antennae in locations which will allow telecommunications services to be rendered in conformity with the authority in the federal Telecommunications Act of 1996, and the goals of the municipal comprehensive plan and zoning ordinance to serve and protect the public health, safety, convenience, order, appearance, prosperity, and general welfare pursuant to Title 6, Chapter 29, South Carolina Code of Laws (1976), as amended;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City/Town of _____, that the Zoning Ordinance is amended by adding the following provisions:

Chapter/Article/Division _____
COMMUNICATIONS TOWER and ANTENNA

Section _____-1. Definitions.

- a. "Communications tower" as used in this ordinance shall mean a tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free-standing, guyed, or on a building.
- b. "Telecommunications," as defined in the federal Telecommunications Act of 1996, means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.
- c. "Antenna" means a device, dish or array used to transmit or receive telecommunications signals.
- d. "Height" of a communication tower is the distance from the base of the tower to the top of the structure.

Section _____-2. Communications tower and antenna permitted as conditional use.

A communications tower and/or antenna may be permitted by the Zoning Administrator without further review upon determination that all of the applicable conditions in this ordinance are met.

a. Districts in which conditional uses are permitted; height limitations.

DISTRICTS	PERMITTED HEIGHT - FREE-STANDING OR GUYED TOWER
Residential [list districts]	Free-standing tower with height not exceeding 100 feet is a permitted conditional use; height exceeding 100 feet requires special exception.
Commercial [list districts]	Free-standing or guyed tower with height not exceeding 180 feet is a permitted conditional use; height exceeding 180 feet requires special exception.
Industrial [list districts]	Free-standing or guyed tower with height not exceeding 360 feet is a permitted conditional use; height exceeding 360 feet requires special exception.
Development; Agricultural [list districts]	Free-standing or guyed tower with height not exceeding 500 feet is a permitted conditional use; height exceeding 500 feet requires special exception.
Planned Development	Tower with height specified in approved plan is permitted under conditions set forth in plan.
PERMITTED HEIGHT ABOVE STRUCTURE	
All districts	Tower and/or antenna mounted on building, water tank or structure other than a free-standing or guyed communications tower must not extend more than 30 feet above the highest part of the structure.
SPECIAL EXCEPTIONS AND VARIANCES	
All districts except planned development	Free-standing or guyed tower and/or antenna exceeding height limitations may be permitted by the Zoning Board of Appeals as a special exception. See requirements for special exceptions in Section _____-3.
All districts	Variations from conditions imposed by this section may not be granted by the Zoning Board of Appeals. Variations from other general district regulations may be granted under standards in S.C. Code 6-29-800.

<p>b. Application requirements:</p> <p>specifications;</p> <p>site plan;</p> <p>tower location map;</p> <p>antenna capacity; wind load;</p> <p>antenna owners;</p> <p>owner authorization;</p> <p>FCC license;</p> <p>visual impact analysis;</p> <p>removal agreement;</p> <p>conditions met;</p> <p>additional information.</p>	<p>The applicant for a conditional use zoning permit for construction of a communications tower or placement of a commercial telecommunication antenna on an existing structure other than a tower previously permitted must file with the Zoning Administrator an application accompanied by a fee of \$_____ and the following documents, if applicable:</p> <ol style="list-style-type: none"> 1. One copy of typical specifications for proposed structures and antennae, including description of design characteristics & material. 2. A site plan drawn to scale showing property boundaries, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property; [site plan not required if antenna is to be mounted on an approved existing structure]; 3. A current map, or update for an existing map on file, showing locations of applicant's antennae, facilities, existing towers, and proposed towers which are reflected in public records, serving any property within the city; 4. A report from a structural engineer registered in South Carolina showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANSI/EIA/TIA 222 (latest revision) standards. 5. Identification of the owners of all antennae and equipment to be located on the site; 6. Written authorization from the site owner for the application; 7. Evidence that a valid FCC license for the proposed activity has been issued; 8. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts; 9. A written agreement to remove the tower and/or antenna within 180 days after cessation of use; 10. Evidence that applicable conditions in subsection c. are met; and 11. Additional information required by the Zoning Administrator for determination that all applicable zoning regulations are met.
--	---

<p>c. Conditions:</p> <p>location, visual impact</p> <p>Inability to locate on existing structure</p> <p>Necessity for location in residential district</p> <p>public property or other private property not suitable</p> <p>design for multiple use</p> <p>safety codes met</p> <p>paint; illumination</p> <p>distance from existing tower</p>	<p>Applicant must show that all applicable conditions are met.</p> <ol style="list-style-type: none"> 1. The proposed communications tower, antenna or accessory structure will be placed in a reasonably available location which will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements. 2. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirements without unreasonable modifications on any existing structure or tower under the control of applicant. 3. Applicant for a permit in a residential district must show that the area cannot be adequately served by a facility placed in a non-residential district for valid technical reasons. 4. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites occupied by a compatible use, are unsuitable for operation of the facility under applicable communications regulations and applicant's technical design requirements. 5. Applicant must show that a new tower is designed to accommodate additional antennae equal in number to applicant's present and future requirements. 6. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met. 7. A communications tower must not be painted or illuminated unless otherwise provided by state or federal regulations. 8. A permit for a proposed tower site within 1,000 feet of an existing tower shall not be issued unless the applicant certifies that the existing tower does not meet applicant's structural specifications and applicant's technical design requirements, or that a collocation agreement could not be obtained.
--	---

<p>c. Conditions (cont.)</p> <p>indemnity; claim resolution</p> <p>application of zoning regulations</p> <p>minimum setbacks</p>	<p>9. Applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Zoning Administrator a written indemnification of the municipality and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the municipality, in form approved by the municipal attorney.</p> <p>10. Land development regulations, visibility, fencing, screening, landscaping, parking, access, lot size, exterior illumination, sign, storage, and all other general zoning district regulations except setback and height, shall apply to the use. Setback and height conditions in this section apply.</p> <p>11. A tower must be a minimum distance equal to one-half the height of the tower from property designated historic or architecturally significant, and must be set back from all lot lines distances equal to the district setback requirements or 25% of the tower height, whichever is greater.</p>
---	--

<p>d. Appeal to Board</p> <p>time limit for action by zoning administrator on complete application</p> <p>Variance</p> <p>Special exception</p>	<p>Applicant may appeal to the Board of Zoning Appeals as follows:</p> <ol style="list-style-type: none"> 1. Failure of the Zoning Administrator to act on an application which is determined to be complete under this section within 45 days, unless extended by agreement, may be considered by applicant to be a denial of a permit which is subject to appeal to the Board of Zoning Appeals. 2. Applicant may appeal to the Board for a variance from general zoning district regulations and setback requirements in this section, but not from any other conditions in this section. Towers exceeding height limitations may be permitted only by special exception pursuant to Section _____-3. 3. Applicant may apply directly to the Board for a permit for any tower as a special exception pursuant to Section _____-3.
--	---

Section _____-3. Special exceptions.

A tower, pole, or antenna may be permitted by special exception granted by the Board of Zoning Appeals after public hearing and findings of fact based on the following criteria:

<p>Special exception criteria:</p> <p>application; conditions</p> <p>height limitations</p> <p>necessity for additional height</p> <p>setback requirements; additional conditions</p> <p>denial on substantial evidence</p> <p>variance prohibited</p>	<p>The Board of Zoning Appeals must find and conclude:</p> <ol style="list-style-type: none"> 1. All application requirements and conditions imposed by Section _____-2 of this ordinance for conditional uses are met except height limitations and setbacks. 2. If additional tower height is requested, total tower height will not exceed 150% of the maximum height permitted in the district as a conditional use. 3. Applicant has demonstrated that additional height above that permitted by conditional use regulations is necessary for service to occupants of an area within the municipality. 4. Setback requirements and such additional conditions are established by the Board as it deems necessary to remove danger to health and safety, and to protect adjacent property. 5. The Telecommunications Act of 1996 requires that a denial of a permit be supported by substantial evidence. 6. The Board may not grant a variance from the standards imposed for a communications tower or antenna in connection with granting a special exception, except as permitted by Section _____-2d.
---	--