

## ARTICLE XII. COMMUNICATION TOWERS AND ANTENNAS

### Sec. 42-1061. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Communication antenna* means an antenna, appurtenant to a structure, designed to transmit and/or receive communications authorized by the Federal Communications Commission (FCC). The term "communication antenna" shall not include antennas utilized by amateur operators licensed by the FCC, or residential receiving antennas.

*Communication tower* means a principal structure which is principally intended to support communication equipment for telephone, radio and similar communication purposes. The term "communication tower" shall not include towers not exceeding 75 feet in height. Communication towers are generally described as either monopole (freestanding), lattice (self-supporting), or guyed (anchored with guy wires or cables).

*County manager* refers to the county manager, the county manager's designee, or the designee of the board of county commissioners.

*Essential service* means the provision of fire safety; law enforcement; weather; provision of electric, natural gas, water, or sanitary sewer service; emergency medical; or stormwater services.

*Height (of a building or structure)* shall mean the vertical distance measured from the existing average grade elevation at the base of each side of the structure to the highest point of each side of a building or structure. When applied to a building, height shall be measured to the highest coping of a flat roof or the average height level between eaves and ridge for gable, hip, or gambrel roofs. Rooftop equipment shall be added to the measurement of the height of a building, as determined in this definition, if the equipment extends more than four feet above the highest portion of the roof, except that the height of communication antennas added to the roof of a building shall not be included in measuring the height of a building.

*Residential lot* means any parcel of land upon which one or more dwelling units are located; which is designated on the county's future land use map as allowing residential use; upon which a residential subdivision plat (preliminary or final) has been approved; or which has been designated for residential uses by any other unexpired development order.

*Tower permit* means a permit for the use and location of a communication tower subject to the requirements of this article.

*Tower site* means a parcel of land smaller than the minimum lot size required in the land use district completely contained within a lot meeting the requirements of the land use district for the purposes of locating a communications tower. The tower site does include property used to anchor guy wires.

(Ord. No. 2001-2, § 1(S), 3-20-2001)

**Cross references:** Definitions generally, § 1-2.

Sec. 42-1062. Nonconforming communication towers.

To the extent set forth in this article, the restrictions on nonconforming uses and structures contained in this chapter are modified and supplemented by this article. An existing nonconforming communication tower may be repaired if the tower has received damage to no more than 50 percent of its structure. If an existing nonconforming communication tower receives damage to more than 50 percent of its structure, the tower may not be repaired or rebuilt unless it complies with the provisions of this article. Building permits to rebuild the tower shall comply with the applicable county codes and shall be obtained within 90 days from the date the tower is damaged or destroyed. If no permit is applied for, or obtained, or if such permit expires, the communication tower shall be deemed abandoned as specified in section 42-1072.

(Ord. No. 2001-2, § 1 (N), 3-20-2001)

Sec. 42-1063. Applicability; use of existing structures.

(a) All new communication antennas and communication towers in the county shall be subject to the regulations of this article and all other applicable building and construction codes. In the event of any conflict between other regulations of this chapter and the regulations contained in this article, the provisions of this article shall override and supersede such other regulations unless otherwise specifically set forth herein.

(b) All communication towers existing on March, 20, 2001, shall be allowed to continue to be used as they presently exist. Routine maintenance or minor modifications to accommodate the collocation of an additional user or users shall be permitted on such existing towers subject to the criteria in this subsection. New construction, other than routine maintenance and modifications to accommodate collocation on an existing communication tower, shall comply with the requirements of this article. For communication antennas, replacement of antennas on a structure with different antennas shall be considered routine maintenance or a minor modification to accommodate the collocation of an additional user or users so long as the replacement antenna does not increase the height of any structure other than a communication tower on which it is placed by more than 25 feet.

(c) For purposes of this article, a communication tower that has received final approval in the form of a building permit for an approved site and development plan, or where substantial construction has been completed, shall be considered an existing tower so long as such approval is valid and unexpired as of the effective date of the ordinance from which this article is derived.

(d) No variance shall be required to locate a communication antenna on an existing nonresidential structure or multifamily residential structure; provided, however, that the communication antenna does not extend more than 50 feet above the existing structure. Such structures may include, but are not limited to, nonresidential buildings, water towers, existing communication towers, recreational light fixtures and essential service provider facilities.

(e) A communication antenna may be attached to an existing nonresidential structure, or multifamily residential structure 35 feet in height or greater as identified in subsection (d) of this section, upon approval of a building permit and written notice to the planning director or his designee, at least 30 days prior to the installation of the antenna, provided such notice certifies that any such collocation is accomplished in a manner consistent with the following:

(1) A communication tower which is modified or reconstructed to accommodate the collocation of an additional communication antenna shall be of the same tower type as the existing tower, unless reconstructed as a monopole.

(2) Height requirements are as follows:

a. An existing communication tower may be modified or rebuilt to a taller height not to exceed 40 feet over the communications tower's existing height to accommodate the collocation of an additional communication antenna, but in no case shall the height of the tower and proposed extension be greater than the distance to an existing residential structure.

b. In order to accommodate more than one additional collocation, an applicant may seek approval for a height increase in excess of the 40 feet allowed in subsection (e)(2)a of this section, but in no case shall the height of the tower and the proposed extension be greater than the distance to an existing residential structure.

c. Whenever modified in accordance with the provisions of this article, the new height of the modified or rebuilt communication tower shall not exceed the maximum height of 350 feet unless the height restriction is inconsistent with Federal law or the applicant demonstrates to the county that a tower height in excess of the maximum height is necessary to provide the proposed telecommunication service.

(3) Onsite location requirements are as follows:

a. A communication tower which is being rebuilt to accommodate the collocation of an additional communication antenna may be moved onsite within 50 feet of its original location, and shall be exempt from the setback requirements of this article.

b. A communication tower which is being rebuilt to accommodate the collocation of an additional communication antenna may be moved onsite in excess of 50 feet of its original location, if the new tower location meets the setback requirements of this article.

c. After the communication tower is rebuilt to accommodate collocation, the existing tower must be dismantled and removed within 60 days after the rebuilding so only one communication tower may remain on the tower site.

(f) All communication towers or antennas proposed shall comply with any airport regulations of this Code.

(g) The provisions of this section shall not apply to communications towers or antennas located on property owned by the United States, the state or the county, provided those towers are owned by those public entities and are used exclusively for the provision of fire safety, law enforcement, emergency management and/or emergency medical services telecommunications.

(Ord. No. 2001-2, § 1(A), 3-20-2001)

#### Sec. 42-1064. Multiple towers and antennas.

The county encourages the users of towers and antennas to submit a single application as provided in this article for approval of multiple towers and/or antenna sites, and to utilize existing public facilities owned by the county through lease situations as sites.

(Ord. No. 2001-2, § 1(M), 3-20-2001)

#### Sec. 42-1065. Location.

(a) A communication tower or communication antenna may be located in any land use classification allowed by section 42-408, so long as it meets the requirements of this article and conforms with any historic preservation elements of the county's comprehensive plan.

(b) A communication tower may be located on a lot used for other principal uses on a parcel smaller than the minimum lot size required in the land use district. This parcel shall be considered as the tower site. The tower site, but not the entire lot, shall be subject to all the requirements of this article, except as specifically provided herein.

(Ord. No. 2001-2, § 1(B), 3-20-2001)

#### Sec. 42-1066. Minimum distance of communication towers from other property.

(a) All towers permitted under this article shall be located at least 500 feet, but not less than the height of the proposed tower itself, from the nearest privately owned property line, unless a waiver is obtained from all property owners within 500 feet or the height of the tower, whichever is greater.

(b) All towers shall be located at least 1,000 feet from the nearest residential structure, unless a waiver is obtained from all residential structure owners within 1,000 feet.

(c) Distances shall be measured from the center or the base of the communication tower to the nearest residential lot line.

(d) Where a communication tower is being proposed on a site with an existing residential structure, the distance of the proposed tower from the structure shall not be less than the height of the tower itself and shall comply with the provisions of subsections (a) and (b) of this section.

(Ord. No. 2001-2, § 1(C), 3-20-2001)

Sec. 42-1067. Tower permitting.

(a) *Feasibility of collocation.* Collocation shall be deemed to be feasible for purposes of this article unless the applicant demonstrates that one or all of the following items cannot be met:

(1) The tower or person who otherwise controls the communication tower or other structure under consideration for collocation will undertake to charge fair and reasonable market rent or other fair and reasonable market compensation for collocation.

(2) The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide sufficient structural support.

(3) The collocation being considered is technologically reasonable; e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure and antennas.

(4) The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the county manager or his designee, taking into consideration the several standards contained in this article.

(b) *New communication towers, antennas and other communication devices.*

(1) A tower permit must be obtained from the county before any communication tower can be constructed. A permit must also be obtained from the county before any antenna or other communication device is attached to or collocated on an existing tower. The applicant must submit a nonrefundable fee to the county when the application for a permit is submitted, in the amount set by resolution of the county.

(2) A tower permit for the location and use of a communication tower shall not be granted unless and until the applicant demonstrates that a feasible collocation, pursuant to subsection (a) of this section, is not available for the coverage area and capacity needs.

(3) All new communication towers shall be designed and constructed so as to accommodate collocation of at least six service providers. The county shall maintain a list of all communication towers, and shall make such list available to new communication tower applicants. No new communication tower shall be permitted unless the applicant demonstrates, in writing, that no existing communication tower or structure can accommodate the applicant's proposed antenna, consistent with the requirements of this article.

(4) No tower permit will be granted and no communication towers shall be constructed, unless the applicant has a carrier ready for immediate location/occupancy thereon, and presents evidence to the county of such.

(5) All applicants receiving a permit must in fact allow for collocation of antennas or other communication devices of at least six service providers, at a reasonable fee, and shall make or allow to be made minor modifications to the tower to accept such collocation.

(c) *Tower application and provisions governing the issuance of tower permits.*

(1) Prior to receiving a building permit for construction of the communication tower, the county shall require the posting of security or performance bond, in an amount to be determined by the county, not to exceed the cost of removal, to ensure removal of such communication tower if it becomes abandoned as described in section 42-1072.

(2) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer, as otherwise required by law.

(3) An applicant for a tower permit shall submit the information described in this article and a nonrefundable fee as established by resolution of the county commissioners.

(4) In addition to any information required by this chapter in accordance with the development review requirements, applicants for a tower permit shall submit the following information:

a. A scaled site plan clearly indicating the location, type and height of the proposed communication tower, on-site land uses and land use classification, adjacent land uses and zoning (including when adjacent to other municipalities), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed communication tower and any other structures, topography, parking, and other information deemed by the county to be necessary to assess compliance with this article.

b. Legal description of the parent tract and tower site or leased parcel, if applicable.

- c. The setback distance between the proposed tower and the nearest residential unit, platted residential properties, and nonplatted residential properties.
- d. The location of all communication towers and communication antennas within a one-mile radius of the location of the proposed communication tower.
- e. A landscape plan showing specific landscape materials.
- f. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
- g. A description of compliance with the requirements of this article and all applicable federal, state, or local laws.
- h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- i. A description of the suitability of the use of existing communication towers or others structures to provide the services to be provided through the use of the proposed new tower.
- j. The location of the proposed communication tower in digital format compatible with the county's GIS system.
- k. A list of all property owners within 500 feet, or the height of the tower, whichever is greater.

(5) The county shall consider the following factors in determining whether to issue a tower permit:

- a. Height of the proposed communication tower;
- b. Proximity of the communication tower to residential structures and residential district boundaries;
- c. Nature of uses on adjacent and nearby properties, within 1,000 feet of the tower site property line;
- d. Surrounding topography;
- e. Surrounding tree coverage and foliage;
- f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- g. Proposed ingress and egress; and
- h. Availability of suitable existing towers or other structures.

(6) No new communication tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the county that no existing communication tower or structure can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the county related to the availability of suitable existing communication towers or other structures. The county may hire, at the expense of the applicant, an expert to evaluate this information and advise the county. Evidence submitted to demonstrate that no existing communication tower or structure can accommodate the applicant's proposed communication antenna may consist of any of the following:

- a. No existing communication towers or structures are located within the geographic area that meets the applicant's engineering requirements.
- b. Existing communication towers or structures are not of sufficient height to meet applicant's engineering requirements, and may not be altered to meet such requirements.
- c. Existing communication towers or structures do not have sufficient structural strength to support applicant's proposed communication antenna and related equipment.
- d. The applicant's proposed communication antenna would cause electromagnetic interference with the communication antenna on the existing communication towers or structures, or the communication antenna on the existing communication towers or structures would cause interference with the applicant's proposed communication antenna.
- e. The fees, costs, or contractual provisions required by the owner in order to share an existing communication tower or structure or to adapt an existing communication tower or structure for sharing renders collocation infeasible or unreasonable. Costs exceeding new communication tower development are presumed to be unreasonable.
- f. The applicant demonstrates that there are other limiting factors that render existing communication towers and structures unsuitable.

(7) No new communication tower shall be permitted unless the applicant submits proof of compliance with Suwannee River Water Management District permitting requirements.

(Ord. No. 2001-2, § 1(D), 3-20-2001)

Sec. 42-1068. Tower and site requirements.

(a) *Maximum height.* No tower under this article shall be designed to a height greater than 350 feet unless the applicant demonstrates to the county that a tower height greater than 350 feet is necessary to provide the proposed telecommunications service or the maximum height restriction is inconsistent with Federal law.



(b) *Minimum yard requirements.* There are no minimum yard requirements for communication towers.

(c) *Illumination.* Communication towers shall not be artificially lighted except to assure human safety or as required by the Federal Aviation Administration (FAA).

(d) *Finished color.* Communication towers not requiring FAA painting/markings shall be painted red and white.

(e) *Structural design.* Communication towers shall be designed and constructed to ensure that the structural failure or collapse of the tower will not create a safety hazard, according to the latest EIA/TIA 222 Standards, to adjoining properties. Communication towers shall be constructed to the latest EIA/TIA 222 Standards, as published by the Electronic Industries Association, which may be amended from time to time, and all applicable county building codes. Further, any improvements and/or additions (e.g., antenna, satellite dishes, etc.) to existing communication towers shall require submission of site and structural plans sealed and verified by a professional engineer which demonstrate compliance with the latest EIA/TIA 222 Standards in effect at the time of said improvement or addition. Such plans shall be submitted to and reviewed and approved by the county in accordance with its site plan review process.

(f) *Fencing.* A minimum six-foot fence or six-foot masonry wall with not less than 85 percent opacity shall be required around all communication tower sites. Access to the tower shall be through a locked gate.

(g) *No advertising.* Neither the communication tower nor the tower site shall be used for advertising purposes and shall not contain any signs for the purpose of advertising.

(h) *Landscaping.* The visual impacts of residentially or commercially located communication towers shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures as follows:

(1) A row of shade trees a minimum of ten feet tall and a maximum of 20 feet apart shall be planted around the perimeter of the leased parcel;

(2) A continuous hedge at least 36 inches high at the time of planting, capable of growing to at least 48 inches in height within 18 months, shall be planted in the landscape buffer;

(3) All required landscaping shall be of the evergreen variety;

(4) All required landscaping shall be xeriscape tolerant or irrigated and properly maintained to ensure good health and vitality;

(5) Required landscaping shall be installed outside the fence or wall; and

(6) Existing vegetation shall be preserved to the maximum extent practicable and may be credited as appropriate toward meeting landscaping requirements.

An applicant may request deviation to the standards in this article in accordance with applicable provisions of this Code.

(Ord. No. 2001-2, § 1 (E)--(L), 3-20-2001)

Sec. 42-1069. Certification of compliance with FCC standards.

Prior to receiving final inspection in accordance with this article, adequate proof shall be submitted to the county manager or his designee documenting that the communication tower complies with all current FCC regulations for non-ionizing electromagnetic radiation (NIER). The county manager or his designee shall indicate on the site plan approval that this certification has been received.

(Ord. No. 2001-2, § 1(P), 3-20-2001)

Sec. 42-1070. Ownership marking.

All communication towers under this article shall be marked with proper indicia of ownership, located at the entry gate.

(Ord. No. 2001-2, § 1(Q), 3-20-2001)

Sec. 42-1071. Certificate of occupancy.

All provisions of this article must be met prior to the issuance of a certificate of occupancy.

(Ord. No. 2001-2, § 1(R), 3-20-2001)

Sec. 42-1072. Abandonment.

(a) If the county manager or his designee suspects that the use of any communication tower has been discontinued for a period of 30 consecutive days, the county manager or his designee shall send written notice to the address provided on the permit application so notifying the owner of the tower and the property owner. Such notices shall be sent by both regular and certified mail, return receipt requested. If no written response is received by the county within 30 days after mailing the notice, the tower shall be deemed abandoned as of the thirtieth day set out in this subsection.

(b) Upon timely receipt of written response, the board of county commissioners may summarily determine the tower in question is not abandoned or hold an evidentiary hearing and determine whether the tower is in fact abandoned and, if so, the date of abandonment.

(c) To find the tower has been abandoned, the board of county commission must determine by the greater weight of the evidence presented at such hearing that the tower had not been used for any communication purpose for 60 days or more prior to the date of mailing the notice set out in subsection (a) of this section. The party asserting the tower is not abandoned shall bear the burden of proof at such hearing.

(d) Upon the determination of such abandonment, the owner/operator of the tower shall have an additional 60 days within which to demonstrate to the county that the owner/operator has: (i) reactivated the use of the tower or transferred the tower to another owner/operator who makes actual use of the tower, or (ii) dismantled and removed the tower. At the earlier of 60 days from the date of abandonment without reactivation or upon completion of dismantling and removal, any exception and/or variance approval for the tower shall automatically expire.

(e) If the communications tower is not reactivated or removed as provided for in subsection (d) of this section, the county may dismantle and/or remove the communications tower, and the owner/operator or owner of real property upon which the tower is located agrees that the county may recover the expense of the removal from the owner/operator, or such owner of real property, or both.

(1) Any abandoned communications tower dismantled and/or removed by the county shall immediately become the property of the county, along with all equipment or other personal property attached thereto, and the county may retain or dispose of such towers and other personal property as it deems is in the best interest of the county.

(2) In no event shall the county be required to dismantle and/or remove any abandoned communication tower. In lieu of or in addition to dismantling and/or removing abandoned communication towers, the county may utilize its code enforcement powers as set out in F.S. ch. 162.

(Ord. No. 2001-2, § 1(O), 3-20-2001)