



# **MODEL WIRELESS TELECOMMUNICATIONS FACILITY SITING ORDINANCE**

**PCIA--THE WIRELESS INFRASTRUCTURE ASSOCIATION**

2012

## **About PCIA**

PCIA – The Wireless Infrastructure Association is the principal organization representing the companies that build, design, own and manage telecommunications facilities throughout the world. Its over 220 members include carriers, infrastructure providers, and professional services firms.

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## MODEL WIRELESS TELECOMMUNICATIONS ORDINANCE

### I. Purpose and Legislative Intent.

The purpose of this Wireless Telecommunications Ordinance is to ensure that residents, public safety operations and businesses in [Jurisdiction] have reliable access to wireless telecommunications networks and state of the art communications services while also ensuring that this objective is achieved in a fashion that preserves the intrinsic aesthetic character of the community and is accomplished according to [Jurisdiction's] zoning, planning, and design standards. The Telecommunications Act of 1996 preserved, with certain limitations, local government land use and zoning authority concerning the placement, construction, and modification of wireless telecommunications facilities.

To accomplish the above stated objectives and to ensure that the placement, construction or modification of wireless telecommunications facilities complies with all applicable Federal laws and is consistent with [the Jurisdiction's] land use policies, [the Jurisdiction] is adopts this single, comprehensive, wireless telecommunications ordinance. No provisions of this Ordinance shall apply to the siting of Distributed Antenna Systems (DAS) or wireless facilities located within and intended to provide wireless coverage within a structure.

This Ordinance establishes parameters for the siting of Wireless Telecommunications Facilities. By enacting this Ordinance it is [the Jurisdiction's] intent to:

- (1) Ensure [Jurisdiction] has sufficient wireless infrastructure to support its public safety communications throughout [Jurisdiction];<sup>1</sup>
- (2) Ensure access to reliable wireless communications services throughout all areas of [the Jurisdiction];<sup>2</sup>
- (3) Encourage the use of Existing Structures for the collocation of Telecommunications Facilities;<sup>3</sup>
- (4) Encourage the location of Support Structures, to the extent possible, in areas where any potential adverse impacts on the community will be minimized;

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<sup>1</sup> Many public safety operations utilize commercial networks; this trend will continue to grow as commercial providers further deploy wireless broadband systems.

<sup>2</sup> This is important because wireless users depend on their mobile devices everywhere – in their homes and offices, and while on travel.

<sup>3</sup> A core policy goal here is to encourage co-location of wireless facilities on existing structures.

- (5) Facilitate the responsible deployment of Telecommunications Facilities in residential areas to ensure comprehensive wireless services across [Jurisdiction];
- (6) Minimize the potential adverse effects associated with the construction of Monopoles and Towers through the implementation of reasonable design, landscaping, and construction practices;
- (7) Ensure public health, safety, welfare, and convenience.
- (8) To help jurisdictions amend their ordinances in light of federal legislative changes to zoning authority under the 1996 Telecommunications Act.

## **II. Definitions.**

For the purposes of this Ordinance, the following definitions apply:

**Abandon** – Occurs when an owner of a Support Structure intends to permanently and completely cease all business activity associated therewith.

**Accessory Equipment** -- Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

**Administrative Approval** -- Zoning approval that the [Zoning Administrator] or designee is authorized to grant after Administrative Review.

**Administrative Review** -- Non-discretionary evaluation of an application by the [Zoning Administrator] or designee. This process is not subject to a public hearing. The procedures for Administrative Review are established in Section IV E of this Ordinance.

**Antenna** -- Any structure or device used to collect or radiate electromagnetic waves for the provision of services including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

**Carrier on Wheels or Cell on Wheels (“COW”)** -- A portable self-contained Telecommunications Facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.

Collocation<sup>4</sup> -- The act of siting Telecommunications Facilities on an Existing Structure without the need to construct a new support structure and without a Substantial Increase in the size of a Existing Structure.

Concealed Telecommunications Facility<sup>5</sup> -- Any Telecommunications Facility that is integrated as an architectural feature of an Existing Structure or any new Support Structure designed so that the purpose of the Facility or Support Structure for providing wireless services is not readily apparent to a casual observer.

Existing Structure – Previously erected Support Structure or any other structure, including but not limited to, buildings and water tanks, to which Telecommunications Facilities can be attached.

Major Modifications -- Improvements to existing Telecommunications Facilities or Support Structures that result in a Substantial Increase to the Existing Structure. Collocation of new Telecommunications Facilities to an existing Support Structure without Replacement of the structure shall not constitute a Major Modification.

Minor Modifications -- Improvements to Existing Structures that result in some material change to the Facility or Support Structure but of a level, quality or intensity that is less than a Substantial Increase. Minor Modifications include the Replacement of the structure.

Monopole --A single, freestanding pole-type structure supporting one or more Antenna. For purposes of this Ordinance, a Monopole is not a Tower.

Ordinary Maintenance -- Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a Support Structure's foundation or of the Support Structure itself. Ordinary Maintenance includes replacing Antennas of a similar size, weight, shape and color and Accessory Equipment within an existing Telecommunications Facility and relocating the Antennas of approved Telecommunications Facilities to different height levels on an existing Monopole or Tower upon which they are currently located.<sup>6</sup> Ordinary Maintenance does not include Minor and Major Modifications.

Replacement -- Constructing a new Support Structure of proportions and of equal height or such other height that would not constitute a Substantial Increase to a pre-existing Support Structure in order to support a Telecommunications Facility or to accommodate Collocation and removing the pre-existing Support Structure.

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<sup>4</sup> This definition is consistent with the FCC's Declaratory Ruling on Wireless Infrastructure Siting.

<sup>5</sup> The decision to employ Concealed technology involves a variety of engineering, structural and financial factors, and should be made by the network operators.

<sup>6</sup> The description of antenna swaps as "ordinary maintenance" is important because carriers regularly upgrade antennas as part of periodic network improvements.

Substantial Increase:<sup>7</sup> Occurs when:

(1) [t]he mounting of the proposed antenna on an Existing Structure would increase the existing height of the Existing Structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or

(2) [t]he mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

(3) [t]he mounting of the proposed antenna would involve adding an appurtenance to the body of the Existing Structure that would protrude from the edge of the Existing Structure more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or

(4) [t]he mounting of the proposed antenna would involve excavation outside the current Existing Structure site, defined as the current boundaries of the leased or owned property surrounding the Existing Structure and any access or utility easements currently related to the site.

Support Structure(s) – A structure designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers, and other freestanding self-supporting structures.

Telecommunications Facility(ies) -- Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A Telecommunication Facility can consist of one or more Antennas and Accessory Equipment or one base station.

Tower -- A lattice-type structure, guyed or freestanding, that supports one or more Antennas.

### **III. Approvals Required for Telecommunications Facilities and Support Structures.**

#### **(A) Administrative Review**

(i) Collocations and Minor Modifications shall be permitted in any zoning district after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance.<sup>8</sup>

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<sup>7</sup> This definition is taken from the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas.

<sup>8</sup> Pursuant section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (H.R. 3630), state and local governments must approve an eligible facilities request for the modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. The Act was signed into law on February 22, 2012. The Act defines “eligible facilities request” as any request for modification of an existing wireless tower or base station that involves: (1) Collocation of new transmission equipment; (2) Removal of transmission equipment; or (3) Replacement of transmission equipment. *See also* Jeffery Steinberg, Deputy Chief, Spectrum & Competition Pol’y Division, Wireless Telecommunications Bureau, Fed. Comm’n’s Comm’n, FCC

(ii) New Support Structures that are less than sixty (60)<sup>9</sup> feet in height shall be permitted in any zoning district except residential after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance.

(iii) Concealed Telecommunications Facilities that are less than sixty (60) feet in height shall be permitted in any residential district after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance.

(iv) Concealed Telecommunications Facilities up to 150 feet shall be permitted in any zoning district other than residential after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance except as noted above.

(v) New Support Structures up to one hundred ninety-nine (199) feet in height shall be permitted in any Industrial District after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance.

(vi) Monopoles or Replacement poles located in utility easements or rights-of-way shall be permitted in any zoning district after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance.

(vii) The use of COWs shall be permitted in any zoning district after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance if the use is not otherwise exempt. If the use of the COW is either not in response to a declaration or emergency, or will last in excess of one hundred-twenty (120) days, Administrative Review and Administrative Approval shall also be required.

(B) Special Permit.<sup>10</sup> Telecommunications Facilities and Support Structures not permitted by Administrative Approval shall be permitted in any district upon the granting of a Special Permit from the [Zoning Board] in accordance with the standards set forth in this Ordinance.

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Presentation: The Legal Framework at the FCC Workshop: Promoting Mobile Broadband in your Community by Collocating Wireless Antennas on Communications Towers and other Structures (May 1, 2012) (available at <http://www.fcc.gov/events/collocation-workshop>).

<sup>9</sup> Sixty feet is a suggested height but actual height requirements may vary based upon local topography.

<sup>10</sup> This process refers to whatever quasi-judicial process the Jurisdiction already has in place. Such processes are also known as “special use” and “conditional use” among other names. Jurisdictions should conform this section to their existing language.

- (C) Exempt. Ordinary Maintenance of existing Telecommunications Facilities and Support Structures, as defined herein, shall be exempt from zoning and permitting requirements. In addition, the following facilities are not subject to the provisions of this Ordinance: (1) antennas used by residential households solely for broadcast radio and television reception; (2) satellite antennas used solely for residential or household purposes; (3) COWs placed for a period of not more than one hundred twenty (120) days at any location within [the Jurisdiction] after a declaration of an emergency or a disaster; and (4) television and AM/FM radio broadcast towers and associated facilities.

**IV. Telecommunications Facilities and Support Structures Permitted by Administrative Approval.**

(A) Telecommunications Facilities Located on Existing Structures

- (1) Telecommunications Facilities are permitted in all zoning districts when located on any Existing Structure subject to Administrative Approval in accordance with the requirements of this Part.
- (2) Antennas and Accessory Equipment may exceed the maximum building height limitations within a zoning district, provided they do not constitute a Substantial Increase.
- (3) Minor Modifications are permitted in all zoning districts subject to Administrative Approval in accordance with the requirements of this Part.

(B) New Support Structures

- (1) New Support Structure less than sixty (60) feet in height shall be permitted in all zoning districts except residential districts in accordance with the requirements of this Part.
- (2) Concealed Telecommunications Facilities that are less than sixty (60) feet in height shall be permitted in any residential district after Administrative Review and Administrative Approval provided that it meets the applicable Concealed Telecommunications Facility standards in accordance with this Ordinance
- (3) New Support Structures up to one hundred ninety-nine (199) feet in height shall be permitted in all Industrial Districts in accordance with the requirements of this Part. The height of any proposed support structure shall not exceed the minimum height necessary to meet the coverage or capacity objectives of the Facility. The setback of the structure shall be governed by the setback requirements of the underlying zoning district.

- (4) A Monopole or Replacement pole that will support utility lines as well as a Telecommunications Facility shall be permitted within utility easements or rights-of-way, in accordance with requirements of this Part.<sup>11</sup>
- (a) The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.
  - (b) The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height.
  - (c) The height of the Monopole or replacement pole may not exceed by more than thirty (30) feet the height of existing utility support structures.
  - (d) Monopoles and the Accessory Equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.
  - (e) Single carrier Monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by Subsection (c) above.
  - (f) Poles that use the structure of a utility tower for support are permitted under this Part. Such poles may extend up to twenty (20) feet above the height of the utility tower.
- (5) Monopoles or Replacement poles located on public property or within public rights-of-way that will support public facilities or equipment in addition to Telecommunications Facilities shall be permitted in accordance with requirements of this Part. Examples include, but are not limited to, municipal communication facilities, athletic field lights, traffic lights, street lights, and other types of utility poles in the public right-of-way.

(C) Concealed Telecommunications Facilities

- (1) Concealed Telecommunications Facilities shall be permitted in all zoning districts after Administrative Review and Administrative Approval in accordance with the requirements below. Concealed facilities in residential areas must not exceed sixty (60) feet and comply with the requirements below in order to qualify for Administrative Review.
- (a) Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.

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<sup>11</sup> This section allows for efficient use of public rights-of-way for the provision of wireless services.

- (b) Existing Structures utilized to support the Antennas must be allowed within the underlying zone district. Such structures may include, but are not limited to, flagpoles, bell towers, clock towers, crosses, monuments, smoke stacks, parapets, and steeples.
  - (c) Setbacks for Concealed Facilities that utilize a new structure shall be governed by the setback requirements of the underlying zoning district.
- (D) COW Facilities and Minor Modifications
  - (1) The use of COWs shall be permitted in any zoning district after Administrative Review and Administrative Approval in accordance with the standards set forth in this Ordinance if the use of the COW is either not in response to a declaration or emergency by the Governor or will last in excess of one hundred-twenty (120) days.
- (E) General Standards, Design Requirements, and Miscellaneous Provisions
  - (1) Unless otherwise specified herein, all Telecommunications Facilities and Support Structures permitted by Administrative Approval are subject to the applicable general standards and design requirements of Section VI and the provisions of Section VII.
- (F) Administrative Review Process
  - (1) All Administrative Review<sup>12</sup> applications must contain the following:
    - (a) Administrative Review application form signed by applicant.
    - (b) Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms.
    - (c) Site plans detailing proposed improvements which complies with [Jurisdiction's existing site plan requirements].<sup>13</sup> Drawings must depict improvements related to the requirements listed in this Part, including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements.
    - (d) In the case of a new Support Structure:

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<sup>12</sup> The name of this process should be conformed to the jurisdiction's existing name for a similar process.

<sup>13</sup> The jurisdiction should include a cross reference to its existing site plan requirements.

- (i) Statement documenting why collocation cannot meet the applicant's requirements. Such statement may include justifications, including why collocation is either not reasonably available or technologically feasible as necessary to document the reasons why collocation is not a viable option;<sup>14</sup> and
  - (ii) The applicant shall provide a list of all the existing structures considered as alternatives to the proposed location. The applicant shall provide a written explanation why the alternatives considered were either unavailable, or technologically or reasonably infeasible.
  - (iii) Applications for new Support Structures with proposed Telecommunications Facilities shall be considered together as one application requiring only a single application fee.
- (e) Administrative Review application fee as listed in [Jurisdiction's published fee schedule].<sup>15</sup>
- (2) Procedure<sup>16</sup>
- (a) Within thirty (30) days of the receipt of an application for Administrative Review, the [Zoning Administrator] shall either: (1) inform the Applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete. If the Zoning Administrator informs the Applicant of an incomplete application within thirty (30) days, the overall timeframe for review is suspended until such time that the Applicant provides the requested information.
  - (b) An applicant that receives notice of an incomplete application may submit additional documentation to complete the application. An applicant's unreasonable failure to complete the application within sixty (60) business days after receipt of written notice shall constitute a withdrawal of the application without prejudice.<sup>17</sup> An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.

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<sup>14</sup> This evidentiary requirement allows local jurisdictions an opportunity to review an application's alternatives, and requires providers to prove that collocation is not viable in a specific circumstance.

<sup>15</sup> The jurisdiction should include a cross reference to its published fee schedule.

<sup>16</sup> The FCC has issued a Declaratory Ruling establishing the timeframes for a jurisdiction to act on an application to site wireless infrastructure. The procedure here is reflective of that Ruling, however Jurisdiction can substitute its current procedure so long as it complies with the FCC's decision.

<sup>17</sup> Jurisdictions should conform this time requirement to meet their existing code for information submission.

(c) The [Zoning Administrator] must issue a written decision granting or denying the request within ninety (90) days of the submission of the initial application unless:

- (i) [Zoning Administrator] notified applicant that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the ninety (90) day total review time is suspended until the Applicant provides the missing information; or
- (ii) Extension of time is agreed to by the Applicant.

Failure to issue a written decision within ninety (90) days shall constitute an approval of the application.

(d) Should the [Zoning Administrator] deny the application, the [Zoning Administrator] shall provide written justification for the denial. The denial must be based on substantial evidence of inconsistencies between the application and this Ordinance.

(f) Applicant may appeal any decision of the [Zoning Administrator] approving, approving with conditions, or denying an application or deeming an application incomplete, within thirty (30) days to [the Local Appeals Board] in accordance with this Ordinance.<sup>18</sup>

**V. Telecommunications Facilities and Support Structures Permitted by Special Permit.**

(A) Any Telecommunications Facility or Support Structures Not Meeting the Requirements of Section IV Shall Be Permitted by Special Permit in all Zoning Districts Subject to:

- (1) The submission requirements of Section V (B) below; and
- (2) The applicable standards of Sections VI and VII below; and
- (3) The requirements of the special permit general conditions at Code Section \_\_\_\_\_. [Insert cross reference to Jurisdiction code section that establishes general conditions applicable to Special Permits.]<sup>19</sup>

(B) Submission Requirements for Special Permit Applications

- (1) All Special Permit applications for Telecommunications Facility and Support Structures must contain the following:

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<sup>18</sup> The jurisdiction should substitute its standard process for appeal.

<sup>19</sup> This allows for Special Permit/Conditional Permit review of proposed facilities that do not meet the “preferred” standards of Section IV.

- (a) Special Permit application form signed by applicant.
- (b) Copy of lease or letter of authorization from the property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms
- (c) Written description and scaled drawings of the proposed Support Structure, including structure height, ground and structure design, and proposed materials.
- (d) Number of proposed Antennas and their height above ground level, including the proposed placement of Antennas on the Support Structure.
- (e) When locating within a residential area, a written technical and operational analysis of why a Monopole or similar structure at a height of less than one hundred (100) feet cannot be used.<sup>20</sup>
- (f) Line-of-sight diagram or photo simulation,<sup>21</sup> showing the proposed Support Structure set against the skyline and viewed from at least four (4) directions within the surrounding areas.
- (g) A statement justifying why Collocation is not feasible. Such statement shall include:
  - (i) Such technical information and other justifications as are necessary to document the reasons why collocation is not a viable option; and
  - (ii) A list of the existing structures considered as possible alternatives to the proposed location and a written explanation why the alternatives considered were either unavailable or technologically infeasible.
- (h) A statement that the proposed Support Structure will be made available for Collocation to other service providers at commercially reasonable rates.
- (i) Notification of surrounding property owners as required by [insert Jurisdiction's relevant existing code provisions]
- (j) Special Permit application fee as listed in [Jurisdiction's published fee schedule].<sup>22</sup>

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<sup>20</sup> If you are proposing a monopole under 100' in a residential area no additional submission is required.

<sup>21</sup> Photo simulations provide the community with valuable visual data showing the effect of the proposed new structure on the visual landscape.

<sup>22</sup> The jurisdiction should include a cross reference to its published fee schedule.

(C) Procedure<sup>23</sup>

- (1) Within thirty (30) days of the receipt of an application for Administrative Review, the [Zoning Administrator] shall either: (1) inform the Applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete and meet with the applicant. If the Zoning Administrator informs the Applicant of an incomplete application within thirty (30) days, the overall timeframe for review is suspended until such time that the Applicant provides the requested information.
- (2) If an application is deemed incomplete, an Applicant may submit additional materials to complete the application. An applicant's unreasonable failure to complete the application within sixty (60) business days after receipt of written notice shall constitute a withdrawal of the application without prejudice.<sup>24</sup> An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.
- (3) A complete application for a Special Permit shall be scheduled for a hearing date as required by [insert Jurisdiction's relevant existing code provisions].
- (4) Applications for new Support Structures with proposed Telecommunications Facilities shall be considered as one application requiring only a single application fee.
- (5) The posting of the property and public notification of the application shall be accomplished in the same manner required for any Special Permit application under this Ordinance.
- (6) The [Zoning Administrator] must issue a written decision granting or denying the request within one hundred-fifty (150) days of the submission of the initial application unless:
  - (i) [Zoning Administrator] notified applicant that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the one hundred-fifty (150) day total review time is suspended until the Applicant provides the missing information; or
  - (ii) Extension of time is agreed to by the Applicant.

Failure to issue a written decision within one hundred-fifty (150) days shall constitute an approval of the application.

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<sup>23</sup> Same as IV(E)(2) above.

<sup>24</sup> Jurisdictions should conform this time requirement to meet their existing code for information submission.

**VI. General Standards and Design Requirements.**

(A) Design

(1) Support Structures shall be subject to the following:

- (a) Shall be designed to accommodate a minimum number of collocations based upon their height:<sup>25</sup>
  - (i) Support structures sixty (60) to one hundred (100) feet shall support at least two (2) telecommunications providers;
  - (ii) Support structures from one hundred (100) to one hundred-fifty feet (150) shall support at least three (3) telecommunications providers;
  - (iii) Support structures greater than one hundred-fifty (150) feet in height shall support at least four (4) telecommunications carriers.
- (b) The compound area surrounding the Monopole must be of sufficient size to accommodate Accessory Equipment for the appropriate number of telecommunications providers in accordance with Section VI(A)(1)(a).

(2) Concealed Telecommunications Facilities shall be designed to accommodate the Collocation of other Antennas whenever economically and technically feasible.

(3) Upon request of the Applicant, the [Zoning Board or Zoning Administrator] may waive the requirement that new Support Structures accommodate the collocation of other service providers if it finds that collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer Antennas will promote community compatibility.

(B) Setbacks

(1) Property Lines. Unless otherwise stated herein, Support Structures shall be set back from all property lines a distance equal to their height measured from the base of the structure to its highest point.

(2) Residential Dwellings. Unless otherwise stated herein, Monopoles, Towers and other Support Structures shall be set back from all off-site residential dwellings a distance equal to the height of the structure. There

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<sup>25</sup> This provision will limit the proliferation of new structures by providing for future co-location opportunities.

shall be no setback requirement from dwellings located on the same parcel as the proposed structure. Existing or Replacement structures shall not be subject to a setback requirement.

- (3) Unless otherwise stated herein, all Accessory Equipment shall be set back from all property lines in accordance with the minimum setback requirements in the underlying zoning district. Accessory Equipment associated with an existing or Replacement utility pole shall not be subject to a setback requirement.
- (4) The [Zoning Board or Zoning Administrator] shall have the authority to vary any required setback upon the request of the applicant if:
  - (a) Applicant provides a letter stamped by a certified structural engineer documenting that the proposed structure's fall zone is less than the actual height of the structure.
  - (b) The Telecommunications Facility or Support Structure is consistent with the purposes and intent of this Ordinance.

(C) Height

- (1) In non-residential districts, Support Structures shall be designed to be the minimum height needed to meet the service objectives of the applicant.
- (2) In residential districts, Support Structures shall not exceed a height equal to one hundred ninety-nine (199) feet from the base of the structure to the top of the highest point, including appurtenances. Any proposed Support Structure shall be designed to be the minimum height needed to meet the service objectives of the applicant.
- (3) In all districts, the [Zoning Board] shall have the authority to vary the height restrictions listed in this section upon the request of the applicant and a satisfactory showing of need for a greater height. With its waiver request the Applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the [Zoning Board].

(D) Aesthetics

- (1) Lighting and Marking. Telecommunications Facilities or Support Structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
- (2) Signage. Signs located at the Telecommunications Facility shall be limited to ownership and contact information, FCC antenna registration

number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.

(3) Landscaping. In all districts, the [Zoning Board or Zoning Administrator] shall have the authority to impose reasonable landscaping requirements surrounding the Accessory Equipment. Required landscaping shall be consistent with surrounding vegetation and shall be maintained by the facility owner. The [Zoning Board or Zoning Administrator] may choose to not require landscaping for sites that are not visible from the public right-of-way or adjacent property or in instances where in the judgment of the [Zoning Board or Zoning Administrator], landscaping is not appropriate or necessary.

(E) Accessory Equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the Telecommunication Facility or Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.

The Accessory Equipment must conform to the setback standards of the applicable zone. In the situation of stacked equipment buildings, additional screening/landscaping measures may be required by the [Zoning Board or Zoning Administrator].

## **VII. Miscellaneous Provisions.**

(A) Fencing

(1) Ground mounted Accessory Equipment and Support Structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the [Zoning Board] or [Zoning Administrator].

(2) The [Zoning Board or Zoning Administrator] may waive the requirement of Subsection (1) above if it is deemed that a fence is not appropriate or needed at the proposed location.

(B) Abandonment and Removal. If a Support Structure is Abandoned, and it remains Abandoned for a period in excess of twelve (12) consecutive months, the [Jurisdiction] may require that such Support Structure be removed only after first providing written notice to the owner of the Support Structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the Support Structure within thirty (30) days of receipt of said written notice. In the event the owner of the Support Structure fails to reclaim the Support Structure within the thirty (30) day period, the owner of the Support Structure shall be required to remove the same within six (6) months thereafter. The [Jurisdiction] shall ensure and enforce removal by means of its existing regulatory authority.

- (C) Multiple Uses on a Single Parcel or Lot. Telecommunications Facilities and Support Structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

**VIII. Telecommunications Facilities and Support Structures in Existence on the Date of Adoption of this Ordinance.**

- (A) Telecommunications Facilities and Support Structures that were legally permitted on or before the date this Ordinance was enacted shall be considered a permitted and lawful use.<sup>26</sup>
- (B) The provisions of this Part are limited to those structures that do not meet the height or setback requirements set forth in these regulations.
- (C) Non-conforming Support Structures
  - (1) Non-conforming Support Structure. Ordinary Maintenance may be performed on a Non-conforming Support Structure or Telecommunications Facility.
  - (2) Collocation and/or Minor Modifications of Telecommunications Facilities on an existing non-conforming Support Structure shall not be construed as an expansion, enlargement or increase in intensity of a non-conforming structure and/or use and shall be permitted through the Administrative Approval process defined in Section IV.
  - (3) Major Modifications may be made to non-conforming Support Structures utilizing the regulatory approval process defined in Section V.

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<sup>26</sup> This provides for the continued operation of existing facilities, which is necessary for maintenance of today's wireless networks, and which will serve as platforms for future network improvements.