

**CLARKE COUNTY TELECOMMUNICATIONS TOWER
AND ANTENNA ORDINANCE**

ARTICLE I PURPOSE

The purpose of this ordinance is to establish guideline for the siting of all wireless, cellular, television and radio telecommunications towers and antenna. The goals of this ordinance are:

- To encourage the location of towers in non-residential areas;
- To minimize the total number of towers within the community necessary to provide adequate personal wireless services to residents of Clarke County;
- To encourage the joint use of new and existing tower sites among service providers;
- To locate telecommunications towers and antennas in areas where adverse impacts on the community are minimized;
- To encourage the design and construction of towers and antennas to minimize adverse visual impacts; and
- To enhance the ability of the providers of telecommunications services to deliver such services to the community effectively and efficiently.

ARTICLE II DEFINITIONS

Except as specifically defined herein, all words used in this ordinance shall be defined in The New Illustrated Book of Development Definitions (1993, Rutgers). Words not defined herein or in the above referenced text shall be construed to have the meaning given by common and ordinary use, and shall be interpreted within the context of the sentence, Section and Article in which they occur.

For the purpose of this Resolution, certain words or terms used herein shall be defined as follows:

- Words used in the singular include the plural and words used in the plural include the singular.
- Words used in the present tense include the future tense.
- The words “erected” includes the words “constructed”, “located”, or “relocated”.
- The work “map” or “zoning map” means the Zoning Map of Clarke County, Iowa.
- The word “parcel” includes the word “plot” or “lot”.
- The word “person” includes the words “individuals”, “firms”, “partnerships”, “corporations”, “associations”, “governmental bodies”, and all other legal entities.
- The word “shall” is always mandatory and never discretionary.
- The words “used” or “occupied” include the words “intended, arranged, or designed to be used or occupied”.

Administrator: the Clarke County Zoning Administrator or his/her designee.

Alternative tower structure: clock towers, bell towers, church steeples, light/power poles, electric transmission towers, man-made trees (without accessory buildings/structures), and similar natural or man-made alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna: Any exterior apparatus designed for wireless telecommunication, radio, or television communications through the sending and/or receiving of electromagnetic waves.

Chair: The Chairperson of the Clarke County Board of Adjustment or his/her designee.

Co-locations: the placement of the antennas of two or more service providers upon a single tower or alternative tower structure.

Board: The Clarke County Board of Adjustment.

FAA: The Federal Aviation Administration.

FCC: The Federal Communications Commission.

Geographic antenna placement area: The general vicinity within which the placement of an antenna is necessary to meet the engineering requirements of an applicant’s cellular network or other broadcasting need.

Governing Authority: The Board of Supervisors of Clarke County, Iowa, or other governmental entity controlling affected real property.

Height: When referring to a tower or other structure, shall mean the distance measured from ground level to the highest point on the tower structure or appurtenance.

Preexisting towers and antennas: Structures as set forth in Section 303 of this ordinance.

Scenic Views: Are those geographic areas containing visually significant or unique natural features, as identified in the Clarke County Comprehensive Plan.

Tower: Any structure that is deigned and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telecommunication towers, man-made trees (with accessory buildings/structures) and other similar structures.

Visual Quality: Is the appropriate design, arrangement and location of tower structures in relation to the built or natural environment to avoid abrupt or severe differences.

ARTICLE III APPLICATION OF ORDINANCE

Section 300 District Height Limitations. Except as set forth in Section 302 herein, the requirements of this ordinance shall govern the location of telecommunications towers that exceed, and antennas that are installed at a height in excess of, fifty (50) feet.

Section 301 Governmental Exemption. The provisions of this ordinance shall not apply to governmental facilities and structures. Private facilities and structures proposed for placement on governmentally-owned property shall not be exempt.

Section 302 Amateur Radio: Receive-Only Antennas. This ordinance shall not govern any tower, or the installation of any antenna, that is 75 feet or less in height and is owned and operated by a federally-licensed amateur radio station operator from the operator's residence, or is used exclusively as a receive-only antenna.

Section 303 Pre-Existing Towers and Antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this ordinance shall not be required to meet the provisions of this ordinance, other than the requirements of Section 409 and 410. Any such towers or antennas shall be referred to in this ordinance as "preexisting towers" or "preexisting antennas".

If an additional antenna is co-located upon a pre-existing tower after adoption of this ordinance, then fencing and landscaping requirements of Sections 406 and 407 shall be met as part of the permitting process.

ARTICLE IV GENERAL PROVISIONS

Section 400 Principal or Accessory Use. A tower and/or antenna is considered a principal use if located on any lot or parcel of land as the sole or primary structure, and is considered an accessory use if located on a lot or parcel shared with a different existing primary use or existing structure. An existing use or structure on the same lot or parcel shall not preclude the installation of an antenna or tower. For purposes of determining whether the installation of a tower or antenna complies with zoning district requirements, including but not limited to set-back, buffer and other requirements, the dimensions of the entire lot or parcel shall control, even though the antenna or tower may be located on a leased area within such lot or parcel. Towers that are constructed and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

Section 401 Inventory of Existing Sites. To facilitate the co-location of antennas, each applicant seeking to locate a new tower, alternative tower structure or antenna, or modify any such existing structure, shall provide to the Administrator an inventory of its existing towers or alternative tower structures. Applicants seeking to erect an amateur radio tower or antenna shall be exempt from this provision.

The inventory shall include all such structures that are within the jurisdiction of the governing authority; within a municipality located, in whole or in part, within Clarke County; or, within one-quarter mile of the border of Clarke County, and shall include specific information about the location (latitude and longitude coordinates), height, design, tower type and general suitability for antenna co-location of each tower, and other pertinent information as may be required by the Administrator. The Administrator may share such information with other applicants for a Tall Structures Permit under this ordinance or other organizations seeking to locate towers or antennas within the jurisdiction of the governing authority, provided, however that the Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

Section 402 Co-location; Design Requirements. In addition to all applicable building and safety codes, all towers, except amateur radio towers, shall be designed to accommodate the co-location of cellular telecommunication antennas according to the following:

1. For towers up to 150 feet in height, the structure and fenced compound shall be designed to accommodate at least two providers, and
2. For towers greater than 150 feet in height, the structure and fenced compound shall be designed to accommodate at least three providers.

Section 403 Co-location; Availability of Suitable Existing Structures. No new tower, except amateur radio towers, shall be permitted unless the applicant demonstrates to the satisfaction of the Administrator and Board of Adjustment that no existing tower or existing alternative tower structure can accommodate the applicant's proposed antenna. All evidence submitted shall be signed and sealed by appropriate licensed professionals or qualified industry experts. Evidence submitted to demonstrate that no existing tower or structure can accommodate the proposed antenna shall consist of one or more of the following:

1. That no existing towers or suitable alternative tower structures are located within the geographic antenna placement area required to meet the applicant's engineering requirements.
2. That existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
3. That existing towers or structures do not have sufficient structural strength to support the applicant's antenna and related equipment.
4. That the applicant's proposed antenna(s) would cause electromagnetic interference with the antenna(s) on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
5. That the cost or contractual provisions required by the tower owner to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
6. That the applicant adequately demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

Section 404 Aesthetics. The guidelines set forth in this Section shall govern the design and construction of all towers, and the installation of all antennas, governed by this ordinance.

1. Towers and/or antennas shall either maintain a galvanized steel or concrete finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
2. At all tower sites, the design of all buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and building environment.
3. For antennas installed on a structure other than a tower, the antenna and supporting electrical and mechanical ground equipment shall be of a neutral color so as to make the antenna and related equipment visually unobtrusive.
4. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
5. No signage or other identifying markings of a commercial nature shall be permitted upon any tower or alternative tower structure within Clarke County.

Section 405 Setbacks and Separation. The following setbacks and separation requirements shall apply to all towers.

1. Towers shall be setback a distance equal to the height of the tower from its base to any public right-of-way or property line of the lot or parcel containing to tower.
2. Guy-wires and accessory buildings and facilities shall meet the minimum accessory use location and setback requirements.
3. In zoning districts other than Industrial and Agricultural, towers over 150 feet in height shall not be located closer than 1,500 feet from any existing tower that is over 150 feet in height. This requirement shall not apply to amateur radio towers.

Section 406 Security Fencing/Anti-Climbing Devices. All towers and supporting equipment shall be enclosed by solid screening fencing not less than six (6) feet in height and shall also be equipped with appropriate anti-climbing devices. Fencing shall be of chain link, wood, or other approved alternative. Amateur radio towers and antennas, or receive-only antennas shall not be subject to the provisions of this Section unless required by the Board of Adjustment through the Tall Structure Permit process.

Section 407 Landscaping. The following requirements shall govern landscaping surrounding all towers.

1. Where adequate vegetation is not present, tower facilities shall be landscaped with a landscaped strip of plant materials which effectively screens the view of the tower compound. Landscaped strips shall be a minimum of ten (10) feet in width and located outside the fenced perimeter of the compound. Landscaped strips shall satisfy the minimum design and planting requirements for buffers established in the Clarke County Zoning Ordinance.
2. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized.

Amateur radio towers and antennas, or receive-only antennas shall not be subject to the provisions of this Section unless required by the Board of Adjustment through the Tall Structures Permit process.

Section 408 Review of Tower and Antenna Erection by Airport Division. If upon receipt of an application for the erection of any tower or alternative tower structure governed by this ordinance, the Administrator deems that the proposed structure may interfere with the use of the airways of the County by the public or interfere with the operation of existing or proposed airport facilities, a copy of the application shall be submitted by the Department to the Airport Division of the Department of Transportation for review and recommendation.

Section 409 Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a more or less stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

Section 410 Building Codes: Safety Standards. To ensure the structural integrity of towers, the owner, permittee or subsequent lessee of a tower or alternative tower structure shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Administrator concludes that a tower fails to comply with all applicable codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice by the owner, Permittee or lessee of the tower, said party shall have fifteen (15) days; the governing authority may remove the tower at the owner, permittee or lessee's expense. Prior to the removal of any tower, the Administrator may consider detailed plans submitted by the owner, permittee or subsequent lessee for repair of substandard towers, and may grant a reasonable extension of the above references compliance period.

Section 411 Change of Ownership Notification. Upon the transfer of ownership of any tower, alternative tower structure, or lot upon which such a structure has been erected, the tower permittee shall notify the Administrator of the transaction in writing within 30 days.

ARTICLE V PERMITTED USES

Section 500 General. The uses listed in Article V are deemed to be permitted uses and shall not require administrative review. However, all such uses shall comply with requirements set forth in Article IV of this ordinance and all other applicable codes and ordinances.

Section 501 Co-location of Antennas Required. Applicants for the erection of a tower or placement of an antenna shall be required to co-locate upon an existing tower or alternative tower structure. An exception to co-location shall only be made if the applicant adequately demonstrates that an existing tower suitable for co-location does not exist in the geographic antenna placement area utilizing the tower inventory maintained by the Administrator, and that no suitable alternative tower structure is available as set forth in Section 403 contained herein.

Section 502 Permitted Uses. If it is adequately demonstrated that antenna co-location, as required in Section 501 above, is not possible for a given geographic antenna placement area, the following uses are permitted:

1. Constructing a new tower, including the placement of additional buildings or other supporting equipment uses in connection with said tower or antenna, in the following zoning districts:
 - a. Rural Residential (including PUD districts and subdivisions)--Tower with height not exceeding fifty (50) feet is a permitted conditional use; height exceeding fifty (50) feet requires a special exception.
 - b. Commercial (including PC/ID districts)--Tower with height not exceeding one hundred eighty (180) feet is a permitted conditional use; height exceeding one hundred eighty (180) feet requires a special exception.
 - c. Industrial--Tower with height not exceeding three hundred sixty (360) feet is a permitted conditional use; height exceeding three hundred sixty (360) feet requires a special exception.
 - d. Agricultural--Tower with height not exceeding five hundred (500) feet is a permitted conditional use; height exceeding five hundred (500) feet requires a special exception.

Provided, however, that all structures shall meet the setback, screening and buffer requirements contained herein, and are located a minimum distance of two (2) times the height of the tower from any residentially-zoned property.

2. Installation of an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower, or other free-standing non-residential structure) that is fifty (50) feet in height or greater, if the additional antenna height adds no more than twenty (20) feet to the height of the existing structure, subject to the zoning district restrictions of Section 502.1.

Section 503 Appeal of Administrative Determination. If a Building Permit application for a tower as a permitted use is determined by the Administrator to not meet all applicable criteria of this Ordinance, the Building Permit applicant may appeal the determination to the Board of Adjustment.

ARTICLE VI ADMINISTRATIVE APPROVALS

Section 600 General.

1. The Administrator may administratively approve the placement of additional antenna(s) upon towers or alternative tower structures as set forth in Section 602.
2. Each applicant requesting an administrative approval under this ordinance shall submit a scaled site plan, scaled elevation view and supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including topography (utilizing minimum two (2) foot contour intervals), tower height requirements, setbacks, access driveways or easements, parking, fencing, landscaping, adjacent uses, and any other information deemed by the administrator to be necessary to assess compliance with this ordinance and compatibility with surrounding uses.

Amateur radio antennas shall meet the requirements of the Clarke County Construction Code. Certain documentation requirements of this Section may be waived by the Administrator for amateur radio antenna applications.
3. The Administrator shall respond to each application within thirty (30) days of its receipt by either approving or denying the application. One thirty (30) day extension of this review period may be exercised by the Administrator if such additional time is deemed necessary to adequately assess the request. If the Administrator fails to respond to the applicant within a maximum of sixty (60) days, the application shall be deemed to be approved.
4. As part of any administrative approval, the Administrator may administratively reduce setback requirements by up to ten percent (10%) to compensate for irregularly shaped lots or parcels.
5. If a request for administrative approval is denied, the applicant may appeal the decision in accordance with the Clarke County Zoning Ordinance. In such an instance, the Board of Adjustment may authorize such variances from the terms of the Telecommunications Tower and Antenna Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the Ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variances may be granted in such individual cases of unnecessary hardship upon a finding by the Board of Adjustment that the denial of the variance presents a significant detriment to the telecommunications service provider making application, and that the denial of the variance is insubstantially related to the public welfare.

Section 601 Co-location of Antennas Required. Applicants for the erection of an antenna, except amateur radio operators, shall be required to co-locate upon an existing tower structure. An exception to co-location shall only be made if the applicant adequately demonstrates that an existing tower suitable for co-location does not exist in the geographic antenna placement area utilizing the tower inventory maintained by the Administrator, and that no suitable alternative tower structure is available as set forth in Section 403 contained herein.

Section 602 Uses Allowed by Administrative Approval. The following uses may be approved by the Administrator after conducting an administrative review;

1. Installation of an antenna on any alternative tower structure, and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as such addition does not add more than twenty (20) feet to the height of the existing structure;
2. Installation of an antenna on an existing tower of any height, including a pre-existing tower, and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than twenty (20) feet to the height of said existing tower.

ARTICLE VII TALL STRUCTURES PERMIT REQUIRED

Section 700 General. If the proposed location, height, setback or other aspect of a tower or antenna cannot comply with the minimum requirements established in **Article V. Permitted Uses** or **Article VI. Administrative Approvals** of this ordinance, then a Tall Structures Permit shall be required for the construction of a tower or the placement of an antenna in any zoning district.

The following provisions shall also govern the issuance of Tall Structures Permits for telecommunications and personal wireless service towers and antennas.

1. In granting a Tall Structures Permit, the Board of Adjustment shall impose conditions to the extent that it concludes such conditions are necessary to minimize adverse effects from the proposed tower on adjoining or nearby properties.
2. All information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer or qualified industry expert. However, amateur radio antennas shall meet the requirements of the Clarke County Construction Code.

Section 701 Application; contents; fee. All applications for Tall Structures Permits shall be submitted to the Administrator. Each application shall contain as a part thereof detailed plans and specifications as set forth in Section 702. An application for a Tall Structure Permit shall not be accepted for processing without the information required in this article. An application fee shall be charged by the Commission in an amount stated in the schedule of fees and charges.

Section 702 Exhibits Required. Each applicant requesting a Tall Structures Permit under this ordinance shall submit a scaled site plan, scaled elevation view and supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals or qualified industry experts, showing the location and dimensions of all improvements, including topography (utilizing minimum two (2) foot contour intervals), tower height requirements, setbacks, access driveways or easements, parking, fencing, landscaping, adjacent uses, and any other information deemed by the Department to be necessary to assess compliance with this ordinance and compatibility with surrounding uses.

Section 703 Co-location of Antennas Required. Applicants for the erection of a tower or antenna, except amateur radio operators, shall be required to co-locate upon an existing tower structure. An exception to co-location shall only be made if the applicant adequately demonstrates that an existing tower suitable for co-location does not exist in the geographic antenna placement area utilizing the tower inventory maintained by the Administrator, and that no suitable alternative tower structure is available as set forth in Section 403 contained herein.

Section 704 Considerations in Approval or Denial of a Tall Structures Permits. Any denial of a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence contained in a written record. The Board of Adjustment shall consider the following factors in acting upon a Tall Structures Permit application under the provisions of this ordinance:

1. The height and setbacks of the proposed tower;
2. The proximity of the tower to residential structures and residential district boundaries;
3. The nature of uses on adjacent and nearby properties;
4. The surrounding topography;
5. The surrounding tree coverage and foliage;
6. The design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
7. The proposed ingress and egress;
8. The availability of suitable existing towers or other structures for antenna co-location; and
9. The impact of the proposed tower upon scenic views and visual quality of the surrounding area.

ARTICLE VIII REMOVAL OF ABANDONED TOWERS AND ANTENNAS

Section 800 Removal of abandoned antennas and towers. Any tower or antenna that is not operated for a continuous period exceeding twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the structure within ninety (90) days of receipt of notice from the Administrator notifying the owner of such abandonment. If said tower or antenna is not received within said ninety (90) days,

the governing authority may remove such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease utilizing the tower.

ARTICLE IX LEGAL STATUS PROVISIONS

Section 900 Conflict with Other Laws. Whenever the regulations of this ordinance require a greater width, depth or size of yard or impose other more restrictive standards than are required in or under any other statute or covenants, the requirements of this ordinance shall govern. Whenever the provisions of any other statute or covenants require more restrictive standards than those of this Resolution, the provisions of such statutes or covenants shall govern.

Section 901 Severability. In the event any article, section, subsection, sentence, clause or phrase of this ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other articles, sections, subsections, sentences, clauses or phrases of this ordinance, which shall remain in full force and effect, as if the article, section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof. The Board of Supervisors hereby declares that it would have adopted the remaining parts of the Ordinance if it had known that such part or parts thereof would be declared or adjudged invalid or unconstitutional.

Section 902 Repeal of Conflicting Resolutions. All Resolutions and ordinances or portions thereof in conflict with this ordinance are hereby repealed.

Passed and approved this 6th day of April, 1998.

SIGNED: Terry Robins, Chairman
Clarke County Board of Supervisors

ATTEST: Anita Chandler
Clarke County Auditor

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