

ARTICLE IV. - COMMUNICATION TOWERS

Sec. 32-131. - Authority of article provisions.

The authority to regulate communication towers in the county is found in the South Carolina Code of Laws, Title 6, Chapter 29.

Sec. 32-132. - 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:

Antenna means a device, dish or array used to collect or radiate electromagnetic waves for the purpose of transmitting or receiving telecommunications signals.

Board means the county zoning board of appeals.

Communication tower means a tower, pole, or similar structure that supports or functions as a telecommunications antenna; that is constructed above ground level at a fixed location; and that is either self-supporting, guyed, or mounted on a building or structure.

Height (of a Communication tower) means the distance from the base of the Communication tower, as measured from the average elevation of the finished grade upon which the Communication tower is constructed to the highest point of the ~~the top of the~~ Communication tower.

Performance standards means performance zoning as authorized by S.C. Code 1976, § 6-29-720(C) et seq.

Stealth tower means a Communication tower designed and installed in a manner such that the antenna, supporting apparatus and associated structures are aesthetically and architecturally complimentary and appropriate with regard to an existing structure or immediate environment in which the Communication tower is located. Examples include, without limitation, church steeples, bell towers, flagpoles, etc.

Telecommunications (as defined in the Federal Telecommunications Act of 1996) means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Cross reference— Definitions generally, § 1-2.

Sec. 32-133. - Communications tower and antenna permitted.

- (a) *Determination by Community Development Director or his designated staff representative (collectively "Director")*. All applications for tower placement must be submitted to the Director for review. Applications must be complete and shall include all of the materials required by this article (application requirements) and must meet all applicable requirements and/or conditions in this article before an application will be processed. Incomplete applications will be returned to the applicant. Under the following circumstances, the Director may administratively approve applications for placement of towers and associated antennas:

Comment [DR1]: Staff seeking guidance from Planning Commission as to whether additional, or other, language is desired.

Comment [DR2]: Staff seeking guidance from Planning Commission as to use / requirements relating to "stealth" designs throughout ordinance.

- (1) As a Communication tower and/or antenna in any district co-located on existing towers or structures.
- (2) As co-locations, reconstruction or new construction in any district within the footprints of existing electric utility company transmission line towers (such as Duke Power Company transmission line towers).
- (3) As co-locations on existing electric utility company transmission line towers (such as Duke Power Company towers) which increase the height of the towers by no more than 20 feet.
- (4) As stealth towers in any district designed and installed in such a way so as not to detract from or conflict with surrounding uses.
- (5) As a tower in a site preselected by the Board as a recommended location based upon the county's county-wide Communication tower site study.
- (6) As an Individual Communication tower and associated antennas that do not exceed 75 feet in total height.

Applications approved by the Director must comply with all other requirements of this article. The Director may refer any application to the Board for final review and approval as a special exception.

See the Zoning Use Matrix found in Chapter 38 of the Oconee County Code of Ordinances for Communication tower citing restrictions as applied to various districts.

- (b) *Special exceptions granted by the Board.* Other than as permitted by Section 32-133 (a), Communication towers are permitted in the county for use only as a special exception. Applications for tower construction as are subject to review and approval by the Board. Priority in approving additional telecommunications facilities in the county shall be given to co-location on existing towers or structures, including electric utility company transmission line towers.

Only when these possibilities have been exhausted or when it can be demonstrated by an applicant that the alternatives are not technically feasible to provide adequate coverage for the county, or when it can be documented by the applicant that the cost of the proposed lease for a site or location is more than 20 percent above the prevailing rate of leases in comparable Metropolitan Statistical Areas (M.S.A.'s) in the southeast, shall other sites be considered for approval. Communication towers approved by the Board in Residential districts, as defined in O.C. Code § 38-10.7 shall be constructed as stealth designs. Towers in other districts may, at the discretion of the Board, be required to be constructed as a stealth design depending on the impact of the tower on the surrounding area. Communication towers are not permitted in locally designated historic districts or within 1,000 feet of the right-of-way of Scenic U.S. Highway 11.

Comment [DR3]: Staff seeking guidance from Planning Commission as to whether this clause should remain.

- (c) *Appeals to the Board.* Whenever there is an alleged error by the Director in an order, requirement, decision, or determination, an applicant may request a hearing before the Board. The Board has the authority to correct, reverse, or uphold the decision of the Director.

- (d) *Time limit for determination.* Failure of the Director to act within 45 days from the date of the submission of a properly completed application, unless extended by mutual agreement, may be considered by applicant to be a denial of a permit and may be appealed to the Board.
- (e) *Co-locations.* Co-locations on existing Communication towers or other structures such as existing electric utility company towers which do not increase the height of the existing Communication tower or structure are strongly encouraged. Co-locations, construction of freestanding structures (such as monopoles) which are located within the footprint of the existing tower or reconstruction of existing towers, any of which increase the height of the existing tower by more than 20 feet may be approved by special exception if they do not exceed the total tower height permitted in section 32-136. All new towers shall be designed to accommodate the principal provider and at least two additional carriers. At the discretion of the Board, new stealth towers shall also be designed to accommodate additional carriers. The county, prior to final approval, must be satisfied that the Communication tower makes reasonable accommodations for an additional user. The applicant shall make unused tower space available at fair market value.

Sec. 32-134. - General requirements.

- (a) *Illumination.* Communication towers shall be illuminated only as required by the Federal Communication Commission (FCC) and/or the Federal Aviation Administration (FAA).
- (b) *Color.* Communication towers shall only be painted with a gray, non-reflective paint unless otherwise required by state or federal regulations.
- (c) *Signs.* A sign, two square feet in size which included the names of the companies operating the equipment and a phone number for emergencies shall be displayed in a visible location on or near the Communication tower. This sign shall be in addition to any signage requirements set by state and federal regulators. No commercial advertising of any type may be attached to a Communication tower.
- (d) *Removal.* A Communication tower which use has been discontinued for a continuous period of one year, shall be removed within 120 days of the date of the end of such period. Companies must notify the county within 30 days if telecommunications cease operations at a tower or antenna. All structures, fencing, screening and other improvements must be removed, and the site must be returned to its original condition at the company's expense.
- (e) *Security.* A self-supporting freestanding Communication tower and associated structures shall be appropriately secured by means of a wall, fence, or other device at least eight feet in height and installed an appropriate distance from the outer edge of the Communication tower at all points (collectively "Security Fencing").
- (f) *Screening.* The purpose of this subsection is to establish control for the visual quality of Communication towers from the ground level. A Communication tower, as pertains to this subsection, includes the tower, the land, and everything within the required Security Fencing including any other building and equipment. The screen shall be a minimum depth of ten feet of land surrounding the tower except for one service access. An appropriate plant material screen shall be evergreen plants of a quality and planted in accordance with the standards of the American Nurserymen Association that are indigenous or native to the county area. Such plantings shall be appropriately spaced and of such a size so as to achieve

Comment [DR4]: Staff seeking guidance from Planning Commission as to whether to alter this as to Communication towers 75 feet or less in height.

Comment [DR5]: Staff seeking guidance from Planning Commission as to whether to alter this as to Communication towers 75 feet or less in height.

a dense screen with a minimum height of six feet within a three-year period from erection of a tower. Additional screening with deciduous or evergreen trees is desirable and encouraged. Existing trees shall be preserved unless a waiver has been granted by the Director to selectively cut specified trees. If in extreme or unusual situations and where it is proven impossible to properly construct the plant material screen, the Director may grant permission to construct the security fence as a solid masonry wall, either brick or stucco-type finish with a minimum height of six feet above ground level and constructed in accordance with applicable construction codes. A certificate of occupancy shall not be issued by the county codes department until the required planting is completed. When the occupancy of a structure is desired prior to the completion of the required planting, a certificate of occupancy may be issued only if the owners or developers provide to the county a form of surety satisfactory to the county attorney and in an amount equal to 125 percent of the costs of the remaining plant materials, related materials, and installation (with the costs agreed to by the Director). The form of the surety shall be in conformity with the land development regulations for the county. All required plantings must be installed and approved by the first planting season following issuance of the certificate of occupancy or the bond will be forfeited to the county. The owners and their agents shall be responsible for providing, protecting, and maintaining all required plant material in healthy condition, replacing unhealthy or dead plants within one year or by the next planting season, whichever comes first. Replacement material shall conform to the original intent of the approved plan.

- (g) *Tower wind load.* The Communication tower shall be designed to withstand winds in accordance with ANSI/EIA/TIA 222 (latest revision) standards based on the wind load presented by antenna, feedlines, and other associated hardware to be supported by the Communication tower. Certification from a structural engineer registered in the state shall constitute proof that such standard has been met.
- (h) *FCC authorization .* The owner of the antenna and transmission/reception equipment to be installed on the Communication tower shall possess either a valid FCC license/construction permit or a statement establishing FCC compliance for the proposed operation.
- (i) *Design for multiple use.* A new Communication tower shall be designed to accommodate additional antennae as provided for elsewhere in this article.
- (j) *Safety codes.* A Communication tower shall comply with all applicable health, nuisance, noise, fire, building and safety code requirements.
- (k) *Distance between towers.* A proposed Communication tower in excess of 100 feet shall not be permitted within 1,300 feet of an existing Communication tower in excess of 100 feet in height unless the applicant certifies to the Board that the existing communication tower does not meet applicant's structural specifications and applicant's technical design requirements, or that a co-location agreement could not be obtained.
- (l) *Application of county land use regulations.* Land development regulations and other performance standards shall apply to the use, unless otherwise provided in this article.

(m) *Minimum setbacks.* A Communication tower (not including guy anchors) must be, at a minimum, setback as follows:

- (1) A distance equal to the total height of the Communication tower from all property lot lines..

Comment [DR6]: Staff seeking guidance from Planning Commission as to setback requirements.

- (2) A distance equal to the total height of the Communication tower from the nearest point of any structure meeting minimum standards for human occupation as put forth in applicable building codes adopted by the county.
- (3) A distance equal to the total height of the Communication tower from any properties containing churches, schools, colleges, children's homes and shelters, hospitals and nursing homes; except that Communication towers which meet the definition of Stealth tower in section 32-132 may be permitted by special exception on these properties.
- (4) A distance equal to the total height of the Communication tower from the right-of-way of all streets and roads.
- (5) A Communication tower may not be sited (1) within a distance equal to two hundred and fifty (250) feet of the boundary of a history district; (2) on or within 250 feet of a structure that is a designated a National Historic Landmark or that is listed in, or eligible for listing in, the National Register of Historic Places; or (3) on or within property that is the subject of a pending complaint alleging an adverse effect on a historic property.

All guy cables and anchors must be set back at a minimum of 20 feet from all lot lines and habitable structures.

Variances may be granted from the requirements of subsections (1) and (2) upon submission of a properly prepared engineered fall zone design / construction document(s).

Sec. 32-135. - Additional requirements for location near the county airport.

- (a) With the exception of towers for aeronautical purposes, in no case may a Communication tower penetrate any imaginary surface, as described in chapter 14 of the Code of Federal Regulations, Federal Aviation Regulation (FAR) Part 77, associated with existing or proposed runways at any publicly owned airport. All Communications towers located within the first 12,000 feet of the approach surface of an existing or proposed runway at such facility, or within the horizontal surface associated with such runways as described in FAR Part 77, shall be lighted. Such towers shall be illuminated by strobe lights during daylight and twilight hours, and red lights during nighttime hours.
- (b) A copy of any plans whereby a Communication tower will be located within such 12,000 feet area shall be provided by the applicant to the county airport manager and the Director for comment. Any comments shall be made within ten days of delivery to such manager with a copy to the Director and the applicant. Prior to issuance of a building permit, the applicant shall provide documentation to the Director that the proposed Communication tower has been reviewed by the Federal Aviation Administration (FAA), if so required, and that a finding of no hazard to air navigation has been determined.

Sec. 32-136. Maximum height of Communication towers. See the Zoning Use Matrix found in Chapter 38 of the Oconee County Code of Ordinances.

Sec. 32-137. Permitted height of building-mounted Communication towers.

Comment [DR7]: Staff seeking guidance from Planning Commission as to whether to establish different maximum height limitations for different Districts.

A Communication tower shall not exceed 20 feet in height, as measured from the base of the Communication tower to the highest point of the Communication Tower, if mounted on a building or any structure other than a freestanding or guyed Communications tower.

Comment [DR8]: Staff seeking guidance from Planning Commission as to whether to change this language.

(Ord. No. 1999-14, § 4.7, 4-4-2000)

Sec. 32-138. Application requirements.

The following information shall be submitted for all applications for approval of a Communication tower:

- (1) Structural Specifications. Two copies of the specifications for proposed structure, including description of design characteristics and material.
- (2) Technical Specifications.

For each antenna to be installed

- Manufacturer and model number
- Frequency band used for transmitting and receiving
- Effective radiating power
- Mounting position above groundA Study demonstrating compliance with FCC RF exposure limits (all antennas)

- (3) *Site plan*. Two copies of a site plan drawn to scale showing property boundaries, Communication tower location, Communication tower height, guy wires and anchors, Security Fencing, Screening, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property. A site plan is not required if antenna is to be mounted on an approved existing structure. Prototypical drawings indicating various types of equipment to be located on the Communication tower may be submitted at the time of the permit application. Identification of the owners of all antennae and equipment to be located on the site. Other equipment may be added to the Communication tower without additional permits or inspections as long as electrical wiring is not required.
- (3) *Location map*. Two copies of a current map, or update for an existing map on file, showing geographic coordinates of the Communication tower's , calculated coverage areas, facilities, location of existing nearby (within 3 miles) Communication towers, and proposed Communication towers, serving contiguous areas. An applicant may request that specific proprietary or confidential information be withheld from the public record.
- (4) *Owner authorization*. Written authorization from the site owner for the application.
- (5) *Visual impact analysis*. A line of sight analysis showing the potential visual and aesthetic impact on adjacent residential districts.
- (6) *Alternative to co-location or stealth design*. Co-located or stealth designs shall be required unless satisfactory documented evidence can be provided indicating that:

- a. The proposed antenna and equipment cannot be accommodated and function as required;
 - b. The applicant's technical design requirements are such that without unreasonable modifications they cannot function on any existing structure or Communication tower under the control of applicant; and
 - c. The applicant has considered all available publicly owned sites, and available privately owned sites occupied by a compatible use, including all applicable sites or locations or a combination of sites and locations as described under section 32-133(b) for priority of approval and the applicant has demonstrated that for the reasons described in section 32-133(b) that these sites and/or locations are unsuitable for operation of the facility under applicable state and federal communications regulations, the applicant's technical design requirements and/or valid economic reasons.
- (7) *Indemnity.* The applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Director a written indemnification agreement, on a form approved by the county. The applicant must also file with the County proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the county, in a form approved by the county attorney.
- (8) *Application fees.* All Communication tower applications shall include a check made out to the county treasurer in an amount to be determined by the Director, based upon a schedule of fees enacted by the county council. Additional fees may be imposed in order to offset the costs associated with processing applications for special exceptions, appeals, or variances.

Sec. 32-139. Special exceptions, variances and appeals.

- (a) *Special exception.* Unless indicated otherwise, Communications towers are permitted in the county only by special exception, approved by the Board, within the criteria of the performance standards ordinance. The Board shall conduct a public hearing on each request for a special exception. All public hearings shall be advertised in a newspaper of general circulation in the county at least 15 days in advance of the hearing.
- (b) *Variance.* An applicant may submit a request to the Board for a variance from this or any other applicable land use ordinance. The Board shall hear and decide appeals for a variance from the requirements of the performance standards ordinance when strict application of the provisions of the article would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing a unique, exceptional and otherwise unusual circumstance as provided for in general criteria for granting a variance in Article I of this chapter. Special exceptions and variances, may be applied for simultaneously and considered by the Board simultaneously.
- (c) *Appeals.* Applications for appeal shall be submitted through the Director to the Board. All appeals shall be accompanied by copies of the original application, supporting maps and documentation and shall include a detailed written summary of the alleged error or

misinterpretation of this article by the Director in not granting approval to the original application. A copy shall be provided for each Board member and the Director, and other copies as may be required by the Director. Appeals shall be heard by the Board within 45 days of submission of the completed application to the Director.

Sec. 32-140. Additional criteria for evaluating special exceptions and variances.

- (a) *Application; conditions.* All application requirements imposed by section 32-138 must be met.
- (b) *Setback requirements; additional conditions.* The applicant must demonstrate that the proposed Communication tower location is sufficient to satisfy setback requirements and must satisfy such other additional conditions, if any, necessary to remove dangers to safety and to protect adjacent property.
- (c) *Residential service area.* If location in a Residential district, as defined in O.C. Code § 38-10.7 has been requested, the applicant must show that the area cannot be adequately served by a facility placed in a nonresidential district for valid technical reasons.
- (d) *Greenspaces.* If location in a Residential district has been requested, the tower shall not be located on land designated for public recreational uses on the county land use plan.
- (e) *Priority of approval.* If a location is requested which does not meet the requirements under section 32-133(b) for priority of approval the applicant must demonstrate that all alternative sites and locations or combinations thereof provided for in section 32-133(b) have been considered by the applicant, and the applicant has demonstrated that for the reasons described these sites and/or locations or combinations thereof cannot adequately serve the area for valid technical or economic reasons and are unsuitable for operation of the facility under applicable communications regulations.
- (f) *Denial on substantial evidence.* The Federal Telecommunications Act of 1996 requires that a denial of a permit be supported by substantial evidence. The Board shall maintain a written record of all appeal proceedings and shall maintain supporting documentation for any and all decisions.

Sec. 32-141. Annual report required.

All companies that operate or maintain ownership of Communication towers in the county shall submit an annual report to the County Community Development department no later than January 15 of each year. The report shall include a description of all of the company's active and inactive facilities located in the county, co-locations of its own equipment, co-locations of other companies using its facilities, and shall include telephone numbers and addresses for company officials and maintenance personnel.

Sec. 32-142. Technical assistance required.

The Director (prior to issuing a permit) and the Board (prior to issuing a permit by special exception or deciding an appeal or request for variance) may make use of technical consultants to review applications and to determine if the standards in this article are met. The permit applicant shall be required to bear the cost of the required technical services. The Director shall estimate any expenses and shall require payment with the completed application. Additional

expenses shall be invoiced by the county finance department to the applicant. Amounts in excess of required fees and actual expenses shall be returned to the applicant.

Secs. 32-143—32-170. - Reserved.

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To further remedy setback-related issues, the following is also presented for Commission review and comment:

Sec. 38-10.2. – Control Free District (CFD).

The control free district is intended to be the initial zoning district for all parcels within the jurisdiction at the time of initial adoption of zoning in Oconee County, only; any parcel subsequently rezoned to any other district shall not be a part of the control free district at any future date.

*Dimensional requirements:**

Residential Uses	Density and Lot Size			Minimum Yard Requirements			Max. Height	
	Min. Lot Size	Lot Size	Max. Density	Min. Width (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	N/A	Greater than or equal to ½ acre	N/A	N/A	25	5	10	65
	N/A	Less than ½ acre to greater than or equal to ¼ acre	N/A	N/A	15	5	5	65
	N/A	Less than ¼ acre	N/A	N/A	10	5	5	65
Nonresidential Uses	Minimum Lot Size			Minimum Yard Requirements			Max. Height	
	Min. Lot Size	Lot Size	Min. Width (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)	
	N/A	Greater than or equal to ½ acre	N/A	25	5	10	65	
	N/A	Less than ½ acre to greater than or equal to ¼ acre	N/A	15	5	5	65	
	N/A	Less than ¼ acre	N/A	10	5	5	65	

2017 Planning Schedules	
PC	BZA
1/2/2017	
1/16/2017	1/23/2017
2/6/2017	
2/20/2017	2/27/2017
3/6/2017	
3/20/2017	3/27/2017
4/3/2017	
4/17/2017	4/24/2017
5/1/2017	
5/15/2017	5/22/2017
6/5/2017	
6/19/2017	6/26/2016
7/3/2017?	
7/17/2017	7/24/2017
8/7/2017	
8/21/2017	8/28/2017
9/4/2017	
9/18/2017	9/25/2017
10/2/2017	
10/16/2017	10/23/2017
11/6/2017	
11/20/2017	11/27/2017
12/4/2017	
12/18/2017	12/25/2017