

Performance Standards, Chapter 4

4.0 COMMUNICATION TOWERS

4.1 Authority

Chapter 29, Title VI of the 1976 Code of Laws of South Carolina *et seq.*

4.2 Definitions

“Communication tower” as used in this ordinance means a tower, pole, or similar structure which supports or performs as a telecommunications antenna operated for commercial purposes above ground in a fixed location, freestanding, guyed, or on a building.

“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.

“Antenna” means a device, dish or array used to transmit or receive telecommunications signals.

“Height” of a communication tower is the distance from the base of the communication tower to the top of the communication tower.

“Performance Standards” or Performance Zoning as authorized by the 1976 South Carolina Code of Laws (6-29-720, C) *et seq.*

“Board” means the Oconee County Zoning Board of Appeals.

“Stealth Tower” as used in this ordinance 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, flag poles, etc.

“Residential Districts” are those areas of Oconee County that are (a) predominantly residential in nature consisting of single or multifamily housing, residential subdivisions, residential manufactured housing units, or uses ancillary to residential uses such as churches, schools, neighborhood parks, neighborhood swimming pools etc. or, (b) platted for the future development of residential uses, or (c) areas identified in the Oconee Comprehensive Plan as “Future Primary Population Areas”.

“Commercial Districts” are those areas that are comprised primarily of business and commercial uses including, but not limited to, retail and wholesale establishments, offices, service providers, public buildings, service stations, shopping centers, restaurants, fast food establishments etc.

“Industrial Districts” are those areas that are in use as or platted for use for industrial plants, factories, warehouses, public utilities, waste treatment facilities, solid waste facilities and ancillary uses such as parking lots, shipping facilities, depots and the like.

“Agricultural Districts” are those areas that are comprised primarily of farms, forested areas, or other areas that are undeveloped, not platted for development, and are otherwise not occupied by residential, commercial, and industrial uses.

4.3 Communications Tower and Antenna Permitted.

4.3.1 Determination by Planning Director. All applications for tower placement must be submitted to the County Planning Director for review. Applications must be complete and shall include all of the materials required by this chapter (Application requirements) and must meet all applicable requirements and/or conditions in this ordinance before an application will be processed. Incomplete applications will be returned to the applicant.

Under the following circumstances, the Planning Director may administratively approve applications for placement of towers:

- As a communication tower and/or antenna in any district co-located on existing towers or structures
- 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)
- 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 twenty (20) feet
- As stealth towers in any district designed and installed in such a way so as not to detract from or conflict with surrounding uses.
- As a tower in a site pre-selected by the Board as a recommended location based upon Oconee County’s county-wide communication tower site study.

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

4.3.2 Special Exceptions Granted by the Board. Communication towers are permitted in Oconee 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 Oconee County shall be given to:

- (1) co-location on existing towers or structures, including electric utility company transmission line towers;
- (2) reconstruction of, or new construction within the footprints of existing electric utility company transmission line towers;
- (3) new construction meeting the requirements of this ordinance and proposed for location at a pre-selected site based upon Oconee County's county-wide communication tower site study.

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 Oconee 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% 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.

Towers approved by the Board in residential districts 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. Under no circumstances are communication towers permitted in locally designated historic districts. Under no circumstances may communication towers be built within 1000 feet of the right-of-way of Scenic U.S. Highway 11.

4.3.3 Appeals to the Board. Whenever there is an alleged error by the Planning 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 Planning Director.

4.3.4 Time Limit for Determination. Failure of the Planning 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.

4.3.5 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 4.6.

All new towers shall be designed to accommodate the principal provider and at least two (2) 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 tower does make reasonable accommodations for an additional user. The applicant shall make unused tower space available at fair market value.

4.4 General Requirements for All communication Towers.

4.4.1 Illumination. Communication towers shall be illuminated only as required by the Federal communication Commission (F.C.C.) and/or the Federal Aviation Administration (F.A.A.).

4.4.2 Color. Communication towers shall only be painted with a gray, non-reflective paint unless otherwise required by state or federal regulations.

4.4.3 Signs. A single sign, two (2) square feet in size which included the name(s) of the company(ies) operating the equipment and a phone number for emergencies shall be displayed in a visible location on or near the communication tower. No advertising of any type may be attached to a communication tower.

4.4.4 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 returned to its original condition at the company's expense.

4.4.5 Security. A freestanding communication tower and associated structures shall be appropriately secured by means of a wall, fence or other device at least eight (8) feet in height.

4.4.6 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 and the land and everything within the required security fencing including any other building and equipment. The screen shall be a minimum of ten (10) 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 Oconee County area. Such plantings shall be appropriately spaced and of such a size so as to achieve a dense screen with a minimum height of six (6) feet within a three (3) 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 Planning 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 Planning 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 (6) 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 owner(s) or developer(s) provide(s) to the County a form of surety satisfactory to the County Attorney and in an amount equal to one hundred twenty-five percent (125%) of the costs of the remaining plant materials, related materials, and installation (with the costs agreed to by the Planning Director or designee). The form of the surety shall be in conformity with the Land Development Regulations for Oconee County. All required planting must be installed and approved by the first planting season following issuance of the Certificate of Occupancy or bond will be forfeited to Oconee 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.

4.4.7 Antenna Capacity; Wind Load. The communication tower shall be designed withstand winds in accordance with ANSI/EIA/TIA 222 (latest revision) standards. Certification from a structural engineer registered in South Carolina shall constitute proof that such standard has been met.

4.4.8 FCC License. The owner(s) of a communication tower shall possess a valid FCC license for the proposed activity, or at the discretion of the Board, the owner shall provide other substantial documentation in lieu of FCC licensing proving to the Board that the owner has a verifiable history of satisfactory communications tower construction and operation.

4.4.9 Design for Multiple use. A new communication tower shall be designed to accommodate additional antennae as provided for elsewhere in this chapter.

4.4.10 Safety Codes. A communication tower shall comply with all applicable health, nuisance, noise, fire, building and safety code requirements.

4.4.11 Distance Between Towers. A proposed communication tower shall not be permitted within 1,300 feet of an existing communication tower 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.

4.4.12 Application of County Land Use Regulations. Land development regulations and other performance standards shall apply to the use, unless otherwise provided in this ordinance.

4.4.13 Minimum Setbacks. Minimum Setbacks of communication tower (not including guy anchors) must be a minimum distance equal to **one foot horizontally for every one foot in height plus 50 feet from:**

- (a) All lot lines of residential or commercial property;
- (b) The nearest point of any structure meeting minimum standards for human occupation as put forth in applicable building codes adopted by Oconee County;
- (c) Properties or districts designated historic;
- (d) Properties containing churches, schools, colleges, children's homes and shelters, hospitals and nursing homes; except that communication facilities which meet the definition of stealth tower in Section 4.2 above may be permitted by special exception on these properties;
- (e) The right of way of all streets and roads;

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

4.5 Additional Requirements for Location Near the County Airport.

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 runway(s) as described in FAR Part 77, shall be lighted. Such towers shall be illuminated by strobe lights during daylight and twilight hours, red lights during nighttime hours.

A copy of any plans whereby a communication tower will be located within such 12,000 ft. area shall be provided by the applicant to the Oconee County Airport Manager and the Oconee County Planning Director for comment. Any comments shall be made within ten (10) days of delivery to said manager with a copy to the Planning Director and the applicant. Prior to issuance of a building permit, applicant shall provide documentation to the Planning Director that the proposed communications 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.

4.6 Maximum Height of Freestanding Communication Towers.

<u>District</u>	<u>Maximum Height</u>
Residential	Not exceeding 175 feet
Commercial	Not exceeding 200 feet.
Industrial/Agricultural	Not exceeding 250 feet

4.7 Permitted Height of Building-Mounted Communication Towers.

A communication tower shall not exceed 20 feet in height if mounted on a building or any structure other than a freestanding or guyed communications tower.

4.8 Application Requirements.

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

4.8.1 Specifications. Two copies of the specifications for proposed structures and antennae, including description of design characteristics and material.

4.8.2 Site Plan. Two copies of a site plan drawn to scale showing property boundaries, communication tower location, communication tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property. 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 owner(s) 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.

4.8.3 Location Map. Two copies of a current map, or update for an existing map on file, showing locations of applicant's antennae, coverage areas, facilities, existing communication towers, and proposed communication towers, serving any property within the County. An applicant may request that specific proprietary or confidential information be withheld from the public record.

4.8.4 Owner (s) Authorization. Written authorization from the site owner (s) for the application.

4.8.5 Visual Impact Analysis. A line of sight analysis showing the potential visual and aesthetic impact on adjacent residential districts.

4.8.6 Alternative to Co-location or Stealth Design. Co-located or stealth designs shall be required unless satisfactory documented evidence can be provided indicating:

- (1) that the proposed antenna and equipment cannot be accommodated and function as required; and
- (2) that 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
- (3) that 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 4.3.2 above for priority of approval and the applicant has demonstrated that for the reasons described in Section 4.3.2 that these sites and/or locations are unsuitable for operation of the facility under (1) applicable state and federal communications regulations, (2) applicant's technical design requirements and/or (3) valid economic reasons.

4.8.7 Indemnity. 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 Planning Director a written indemnification of the County and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the County, in form approved by the County Attorney.

4.8.8 Application Fees. All communication tower applications shall include a check made out to the Treasurer of Oconee County in an amount to be determined by the Planning Director based upon a schedule of fees enacted by County Council. Additional fees may be imposed in order to offset the costs associated with processing applications for special exceptions, appeals, or variances.

4.9 Special Exceptions, Variances and Appeals.

4.9.1 Special Exception. Communications Towers are permitted in Oconee 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 Oconee County at least 15 days in advance of the hearing.

4.9.2 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 ordinance 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 Chapter 1, of this ordinance. Special exceptions and variances, may be applied for simultaneously and considered by the Board simultaneously.

4.9.3 Appeals. Applications for appeal shall be submitted through the Planning 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 ordinance by the Planning Director in not granting approval to the original application. A copy shall be provided for each Board member and the Planning Director, and other copies as may be required by the Planning Director. Appeals shall be heard by the Board within 45 days of submission of the completed application to the Planning Director.

4.10 Additional Criteria for Evaluating Special Exceptions and Variances.

4.10.1 Application; Conditions. All application requirements imposed by Section 4.8 of this ordinance must be met.

4.10.2 Setback Requirements, Additional Conditions. 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.

4.10.3 Residential Service Area. If location in a residential district has been requested, the applicant must show that the area cannot be adequately served by a facility placed in a non-residential district for valid technical reasons.

4.10.4 Preferred Locations in Residential Districts. In the unusual circumstance the Board shall grant a special exception and permit the location of a communications tower in a residential district, the communication tower shall not be located on a parcel occupied by a residential structure. Preferred locations may include, but are not limited to, schools, churches, and public utilities.

4.10.5 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 Oconee County Land Use Plan.

4.10.6 Priority of Approval. If a location is requested which does not meet the requirements above under Section 4.3.2 for priority of approval the applicant must demonstrate that all alternative sites and locations or combinations thereof provided for in Section 4.3.2 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.

4.10.7 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.

4.11 Annual Report Required

All companies that operate or maintain ownership of communication towers in Oconee County shall submit an Annual Report to the Oconee County Planning Department no later than January 15th of each year. The Report shall include a description of all of its

active and inactive facilities located in Oconee 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.

4.12 Technical Assistance Required

The Planning 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 Ordinance are met. The permit applicant shall be required to bear the cost of the required technical services. The Planning 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.