

**ARTICLE XII
TELECOMMUNICATIONS TOWERS
AND ANTENNAE**

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SECTION 120 PURPOSE AND INTENT

This ordinance is designed to aid in the siting of communications towers in Clarendon County. It is the intent of this ordinance to create regulations that allow for the harmonious co-existence of communications towers and other land uses. It is also the intent of this ordinance to reduce the overall negative impact of communications towers by: (1) reducing the number of towers needed through a policy of encouraging co-location, and (2) if co-locations are not feasible, encouraging either the clustering of towers ("owner farms"), the disguising of towers through alternative designs, or the location of communications equipment on existing tall structures.

SECTION 121 DEFINITIONS

Antenna. A device, dish or array used to transmit or receive telecommunication signals.

Communications tower. (as used in this section) A tower, pole, or similar structure which supports a telecommunication antenna operated for commercial purposes above ground in a fixed location.

Height (of a communications tower). The distance from the base of the tower to the top of the structure.

Telecommunications. (as defined in the Federal Telecommunications Act of 1996) 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.

SECTION 122 PERMITTED AS CONDITIONAL USE

A communication tower and/or antenna may be permitted by the planning director or his/her designee without further review upon determination that all of the applicable conditions in this section are met.

Section 122.01 - Districts in which conditional uses are permitted; height limitations.

- (a) Permitted height; free standing or guyed tower.
 - (1) Residential RE: Free-standing tower with height not exceeding 100 feet is a permitted conditional use; height exceeding 100 feet requires special exception.
 - (2) Commercial GC: Free-standing or guyed tower with height not exceeding 180 feet is a permitted conditional use; height exceeding 180 feet requires special exception.
 - (3) Industrial IND & INS: Free-standing or guyed tower with height not exceeding 360 feet is a permitted conditional use; height exceeding 360 feet requires special exception.
 - (4) Development AGR: Free-standing or guyed tower with height not exceeding 500 feet is a permitted conditional use; height exceeding 500 feet requires special exception.
 - (5) Performance Zone PZ: Tower with height specified in approved plan is permitted under conditions set forth in plan.
- (b) Permitted height above structure.
 - (1) All districts: Tower and/or antenna mounted on building, water tank or structure other than a free-standing or guyed communications tower must not extend more than 30 feet above the highest part of the structure:
- (c) Special exceptions and variances.
 - (1) All districts except performance: Free-standing or guyed tower and/or antenna exceeding height limitations may be permitted by the Zoning Board of Appeals as a special exception. See requirements for special exceptions. All districts: Variances from conditions imposed by this section may not be granted by the Zoning Board of Appeals. Variances from other general districts regulations may be granted under standards in S.C. Code 1976 § 6-29-800.

Section 122.02 Application requirements.

The application for a conditional use zoning permit for construction of a communications tower or placement of a commercial telecommunication antenna on an existing structure other than a tower previously permitted must file with the planning director or his/her designee an application accompanied by a fee and the following documents, if applicable as determined by the planning director or his/her designee:

- (a) Specifications. One copy of typical specifications for proposed structures and antennae, including description of design characteristics and material.
- (b) Site plan. A site plan drawn to scale showing property boundaries, tower location, 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.
- (c) Search Ring. A copy of the tower search ring and search ring for other towers determined appropriate by the planning director or his/her designee.
- (d) Tower location map. A current map, or update for an existing map on file, showing locations of applicant's antennae, facilities, existing towers, and proposed towers which are reflected in public records, serving any property within the county.
- (e) Antenna capacity; wind load. A report from a structural engineer registered in South Carolina showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANSI/EIA/TIA-222 (latest revision) standards.
- (f) Antenna owners. Identification of the owners of all antennae and equipment to be located on the site.
- (g) Owner authorization. Written authorization from the site owner for the application.
- (h) FCC license. Evidence that a valid FCC license for the proposed activity has been issued.
- (i) Visual impact analysis. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
- (j) Removal agreement. A written agreement to remove the tower and/or antenna within 180 days after cessation of use. In the event of bankruptcy, it will remain the sole responsibility of the tower's owner to remove the tower along with all appendages.
- (k) Conditions met. Evidence that the applicable conditions in subsection (b) of this section are met.
- (l) Additional information. Additional information required by the planning director or his/her designee for determination that all applicable zoning regulations are met.

Section 122.03 Conditions.

Applicant must show that all applicable conditions are met.

- (a) Location, visual impact. The proposed communications tower, antenna or accessory structure will be placed in a reasonably available location which will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements.
- (b) Inability to locate on existing structure. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirements without unreasonable modifications on any existing structure or tower under the control of applicant. Financial reconsideration is not an appropriate consideration.
- (c) Necessity for location in residential district. Applicant for a permit in a residential district must show that the area cannot be adequately served by a facility placed in a non-residential district for valid technical reasons.
- (d) Public property or other private property not suitable. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites occupied by a compatible use, are unsuitable for operation of the facility under applicable communications regulations and applicant's technical design requirements.
- (e) Design for multiple use. Applicant must show that new tower is designed to accommodate additional antennae equal in number to applicant's present and future requirements.
- (f) Safety codes met. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.

- (g) Paint, illumination. A communications tower must not be painted or illuminated unless otherwise provided by state or federal regulations.
- (h) Fencing. A six foot non-climbable fence must be placed around the tower and any associated building. Guy wires may be fenced separately.
- (i) Distance from existing tower. A permit for a proposed tower site within one mile of an existing tower (regardless of ownership) shall not be issued unless the applicant certified that the existing tower does not meet applicant's structural specifications and applicant's technical design requirements, or that a co-location agreement could not be obtained.
- (j) Speculation towers are prohibited.
- (k) Indemnity, claim resolution. Applicant must show by certification from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the planning director or his/her designee 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 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.
- (l) Application of zoning regulations. Land development regulations, visibility, fencing, screening, landscaping, parking, access, lot size, exterior illumination, sign storage and all other general zoning district regulations except setback and height shall apply to the use. Setback and height conditions in this section apply.
- (m) For aesthetic and visual consideration, the tower must be located no closer to a residential structure than a distance equal to one and one-half (1 ½) feet for each foot in height of the proposed tower plus fifty (50) feet as measured from the center of the proposed tower. At a minimum, there must be a one-hundred-fifty (150) feet distance between the proposed tower and a residential structure, except structures associated with the tower.
- (n) Minimum setbacks. The proposed tower must be located such that adequate setbacks are provided on all sides to prevent the tower's fall zone from encroaching onto adjoining properties (the fall zone shall be determined by an engineer certified by the State of South Carolina in a letter which includes the engineer's signature and seal).
- (o) Surrounding property owner notification. Within ten (10) days of receipt of a completed application for a communications tower zoning permit.
- (p) New uses. New uses are strictly prohibited in corridor overlay, historic overlay and community preservation or residential conservation areas and shall not adversely affect any property, road or waterway which has been officially recognized or designated as scenic within the county. The expansion or replacement of existing towers in a community preservation area shall require a special use permit and are limited to 150 feet in height.

Section 122.04 Appeal to board

Applicant may appeal to the Zoning Board of Appeals as follows:

- (a) Time limit for action by planning director or his/her designee on complete application as determined by the planning director or designee. Failure of the planning director or designee to act on an application which is determined to be complete under this section within 45 days, unless extended by agreement, may be considered by applicant to be a denial of a permit which is subject to appeal to the Zoning Board of Appeals.
- (b) Variance. Applicant may appeal to the Zoning Board of Appeals for a variance from general zoning districts regulations and setback requirements in this section, but not from any other conditions in this section. Towers exceeding height limitations may be permitted only by special exception pursuant to Section 123 of this Section.

SECTION 123 SPECIAL EXCEPTIONS

A tower, pole or antenna may be permitted by special exception granted by the Zoning Board of Appeals after public hearing and findings of fact based on the following criteria. The Zoning Board of Appeals must find and conclude:

Section 123.01 Application; conditions

All application requirements and conditions imposed by this conditional use are met except height limitations and setbacks.

Section 123.02 Height limitations

If additional tower height is requested, total tower height will not exceed 150 percent of the maximum height permitted in the district as a conditional use.

Section 123.03 Necessity for additional height

Applicant has demonstrated that additional height above that permitted by conditional use regulations is necessary for service to occupants of an area within the county.

Section 123.04 Setback requirements; additional conditions

Setback requirements and such additional conditions are established by the Zoning Board of Appeals as it deems necessary to remove danger to health and safety, and to protect adjacent property.

Section 123.05 – Denial on substantial evidence

The Telecommunication Act of 1996 requires that a denial of a permit be supported by substantial evidence.

Section 123.06 – Variance prohibited

The Zoning Board of Appeals may not grant a variance from the standards imposed for a communications tower or antenna in connection with granting a special exception, except as permitted by Section 122.04 of this Section.