

Article 21

Telecommunication Antennas and Towers

21-1 DEFINITIONS

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1. Alternative tower structure: Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas towers.
 2. Antenna: Any apparatus designed for telephonic, data, radio or television communications through the sending and/or receiving of electromagnetic waves.
 3. Co-location: The policy of allowing and encouraging the attachment of multiple antennas/users on every communications tower.
 4. FAA: The Federal Aviation Administration.
 5. FCC: The Federal Communications Commission.
 6. Height: When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if the highest point is an antenna or lightning rod.
 7. Telecommunications Antenna Structure (TAS): Any structure, including a pole, mast, or tower, whether freestanding or mounted on another building or structure, which supports and antenna or an array of antennas
 8. Tower: Any structure that is designed 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 telephone towers, alternative tower structures and the like.
 9. Amateur radio. This term refers to the radio communications system used by those with personal aim and without pecuniary interest, as regulated by the FCC rules and regulations specific to amateur radio.

Purpose and Intent

The purpose of the Telecommunications Antennas and Towers article, hereinafter referred to as “this Article” is to implement Greene County’s land use and zoning policies regarding telecommunications antenna structures and related telecommunications facilities constructed and operated in the county. The secondary purpose is to ensure compliance with applicable federal laws, including the Telecommunications Act of 1996 and the Middle-Class Tax Relief and Job Creation Act of 2012, rules and interpretations of the FCC, and the Code of Virginia.

The intent of this Article is to:

- 1) Establish clear siting standards, permitting processes, and approval criteria for TASs and related facilities depending on the scale and type of facility;
- 2) Utilize set standards to allow administrative permitting of small-scale TASs and related facilities, such as towers and antennas for the provision of fixed wireless internet, where such facilities have been determined to have relatively low impacts;
- 3) Encourage co-located facilities where suitable towers and/or alternative tower structures exist;
- 4) Avoid unnecessary propagation of towers by ensuring all towers can accommodate multiple carriers and service providers;
- 5) Ensure towers do not negatively affect viewsheds or the county’s environmental resources;
- 6) Provide specific approval criteria for government-owned TASs and facilities, within state and federal law, so as to allow the provision of an adequate, efficient, and reliable public safety communications system, and the provision of broadband internet to underserved citizens;
- 7) Promote consistency with the adopted Comprehensive Plan; and
- 8) Protect the health, safety, convenience, and general welfare of the public.

21-2-2 Applicability

- .1 District Height Limitations The requirements set forth in this ordinance shall govern the location of towers that exceed, and antennas that are installed at greater than fifty (50) feet in height.
- .2 Amateur Radio and Receive-Only Antennas: This ordinance shall not govern any tower or the installation of any antenna that is: 1) under 75 feet in height and is owned and operated by a federally-licensed amateur radio station operator, or 2) used exclusively for receive only antennas for amateur radio station operation.
- .3 Existing Structures and Towers: The placement of an antenna on or in an existing structure such as a building, sign, light pole, water tank, or other free-standing structure or existing tower or pole shall be permitted so long as the addition of said antenna shall not add more than twenty (20) feet in height to said structure or tower and shall not require additional lighting pursuant to FAA or other applicable requirements. Such permitted use may include the placement of additional buildings or other supporting equipment used in connection with said antenna so long as such building or equipment is placed within the existing structure or property and is necessary for such use

Should any provision of state and/or federal law, or any rule or interpretation by the FCC, impose a higher standard or a more restrictive standard than is contained within this Article, that standard shall control. Should any provision of this Article conflict with another section of the Greene County Code of Ordinances, this Article shall control.

21-2-3 General Guidelines and Requirement

- .1 Principal or Accessory Use: For purposes of determining compliance with area requirements, antennas and tower may be considered either principal or accessory uses. An existing use or an existing structure on the same lot shall not preclude the installation of antennas or towers on such lot. For purposes of determining whether the installation of a tower or antenna complies with district regulations, the dimensions of the entire lot shall control even though the antennas or towers may be located on leased area within such lots. 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.
- .2 Co-location: Applicants for new tower construction permits are encouraged to allow additional permitted uses of the tower by future applicants, provided that these future uses do not interfere with use(s) of the tower by its owner(s) or other leasee(s).
- .3 Inventory of Existing Sites: Each applicant for an antenna and/or tower is expected to provide to the County of Greene an inventory of its existing facilities that are either within the locality or within five miles of the border thereof, including specific information about the location, height, and existing use and available capacity of each tower. The County of Greene may share such information with other applicant applying for approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the locality, provided, however that the County of Greene shall not, by sharing such information, in anyway represent or warrant that such sites are available or suitable.
- .4 Design and Lighting: The requirements set forth in this section shall govern the location of all towers and the installation of all antennas governed by this ordinance; provided, however, that the County of Greene may waive any of these requirements if it determines that the goals of this ordinance are better served thereby.
 - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness. Dish antennas will be of a neutral, non-reflective color with no logos.
 - b. At a facility site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting of surrounding structures.

- c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- d. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the County of Greene may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- e. No advertising any type may be placed on the tower or accompanying facility.
- f. To permit co-location, the tower shall be designed and constructed to permit extensions to a maximum height of 199 feet.
- g. Towers shall be designed to collapse within the lot lines/lease area in case of structural failure.
- h.. If an application is denied, the applicant will be provided with a written notice of the denial that will include the reason for said denial.

21-2-4 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.

21-2-5 Building Codes

To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable federal, state and local building codes and regulations.

21-2-6 Information Required

Each applicant requesting a special use permit under this ordinance shall submit a scaled plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, set backs, drives, parking fencing, landscaping and adjacent uses. The County of Greene may require other information to be necessary to assess compliance with this ordinance.

- .1 An engineering report, certifying that the proposed tower is compatible for co-location must be submitted by the applicant. Towers between 100' to 199' tall shall allow for a minimum of three (3) users including the primary user. Towers less than 100' tall shall allow for two (2) users including the primary user. This provision may be waived by a governing body in a particular case.
- .2 The County of Greene shall notify adjoining property owners in accordance with Virginia Code §15.2-2204. (Revised 9/9/14)
- .3 The applicant shall provide copies of its co-location policy.
- .4 A draft copy of the lease for the subject property, if applicable.
- .5Photographs of the proposed site and of the point(s) of access to the state road network.

a) Photographs of visual simulations and of a balloon test shall be conducted at the proposed site. The photographs shall simulate the visibility of the maximum height of the TAS, if constructed. Photographs shall be simulated/taken from at least four (4) vantage points on public roads and/or public properties to adequately simulate the visual impact of the proposed TAS on neighboring and nearby properties When a balloon test is conducted, it shall last a duration of at least six (6) hours during clear, daytime weather. The applicant shall provide notice of the date(s) and time(s) of the test in a local newspaper of general circulation at least seven (7) days prior to the actual test, and provide proof of said notice to the county.

4 21-2-7 Factors Considered in Granting Special Use Permits for New Towers

The applicant shall obtain a special use permit from Greene County before erecting towers or antennas covered by this article. Greene County shall consider the following factors in determining whether to issue a special use permit, although Greene County may waive or reduce the burden

on the applicant of one or more of these criteria if Greene County concludes that the goals of this ordinance are better served thereby.

- .1 Height of the proposed tower;
- .2 Proximity of the tower to residential structures and residential district boundaries;
- .3 Nature of uses on adjacent and nearby properties;
- .4 Surrounding topography;
- .5 Surrounding tree coverage and foliage;
- .6 Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- .7 Proposed ingress and egress;
- .8 Co-location policy;
- .9 Language of the lease agreement dealing with co-location if applicable;
- .10 Consistency with the comprehensive plan and the purposes to be served by zoning;
- .11 Availability of suitable existing towers and other structures as discussed below; and
- .12 Proximity to commercial or private airports, or other established emergency aircraft landing sites.

21-2-8 Availability of Suitable Existing Towers or Other Structures

No new tower shall be permitted unless the applicant demonstrates the reasonable satisfaction of the County of Greene that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

- .1 No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
- .2 Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- .3 Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- .4 The applicant's proposed antenna would cause electromagnetic interference with the antenna 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 The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Cost exceeding the cost of new tower development are presumed to be unreasonable.
- .6 The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

21-2-9 Setbacks

The following setback requirements shall apply to all towers and antennas for which a special use permit is required.

- .1 The tower must be setback from any off-site residential structure by no less than 100% the maximum permissible height of the tower. This provision does not pertain to the property owner's residence upon whose property the tower is located.
- .2 Towers, guys, and accessory facilities must satisfy the minimum zoning district setback for primary structures.

21-2-10 Security Fencing

Towers shall be enclosed by security fencing no less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the County of Greene may waive such requirements, as it deems appropriate.

21-2-11 Landscaping

The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the County of Greene may waive such requirements if the goals of this ordinance would be better served thereby:

- .1 Tower facilities shall be landscaped with a buffer of plant materials that effectively screen the view of the support buildings from adjacent property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the facilities.
- .2 In locations in which the County of Greene finds that the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
- .3 Existing mature tree growth and natural land forms on the site shall be preserved to the maximum

extent possible. In some cases, such towers sited on large, wooded lots, the County of Greene may determine the natural growth around the property perimeter may be a sufficient buffer.

.4 Existing trees within 200 feet of the tower shall not be removed except as may be authorized to permit construction of the tower and installation of access for vehicle utilities. The provision may be waived by a governing body in a particular case.

21-2-12 Local Government Access

Owners of towers are encouraged to provide the County co-location opportunities as a community benefit to improve radio communication for County departments and emergency services, provided it does not conflict with the co-location requirement of 21-2-6.1.

21-2-13 Removal of Abandoned Antennas and Towers

Any telecommunication antenna structure or antenna not operated or used for a continuous period of twenty-four (24) months shall be considered abandoned. The owner of the tower or the property owner, as the case may be, shall remove the structure and all associated facilities within ninety (90) days of receipt of the notice from the Zoning Administrator to do so. Ground equipment and any buildings may remain with written approval from the property owner. Should the owner fail to comply with the removal requirement notice, the County may remove the telecommunications antenna structure and any related facilities, the costs for which shall be paid by the property owner. Alternatively, with consent of the owner, the County may assume ownership of the telecommunications antenna structure and any related facilities for its own use.

21-2-14 Exempt and Government-owned Telecommunications Towers and Facilities.

- (a) *Exempt installations.* The following categories of telecommunication antenna structures shall be exempt from the provisions of this Article and subject to any requirements of this section:
- (1) Any telecommunication antenna structures constructed and owned by the County, pursuant to subsection (b) below.
 - (2) Any telecommunication antenna structures constructed by a state or federal entity which is otherwise exempt from local regulation.
 - (3) Any temporary telecommunication antenna structures erected by a governmental entity for the duration of a declared state of emergency, provided that the facility is removed within three (3) months of the end of the state of emergency.
 - (4) Any temporary telecommunication antenna structures erected by a commercial entity to provide coverage of a special event. Such a facility shall be allowed for a maximum of thirty (30) days, or removed within seven (7) days after conclusion of the event, whichever occurs first.
 - (5) Any noncommercial antennas and other similar devices for private, in-home residential use, such as broadcast television antennas, wireless access points/routers, wireless network range extenders, and the like. However, any such antenna or device shall be subject to the maximum height requirements of the underlying zoning district.
- (b) *County-owned facilities.* The following procedures and criteria shall govern any permanent telecommunication antenna structures and related facilities constructed by the County:
- (1) Prior to construction, the location of the telecommunication antenna structures and related facilities shall be generally shown and/or described in the Comprehensive Plan pursuant to § 15.2-2232 of the Code of Virginia.
 - (2) Prior to construction, the Board shall issue a written determination of public necessity for the proposed telecommunication antenna structures and related facilities. This determination shall include a detailed description of the proposed telecommunication antenna structures, including height and design specifications, necessary to meet the public necessity. Prior to issuing this determination, the Board shall allow for public comment on the proposal for a period no shorter than thirty (30) days.

- (3) Any telecommunication antenna structures and related facilities constructed by the County shall comply with all applicable state and federal regulations, including NEPA and NHPA reviews if necessary.
- (4) In the event the County desires to transfer its ownership of a telecommunication antenna structures to a private commercial entity, a Special Use Permit (SUP) for the use shall be required pursuant to this Article. This shall be in addition to any required public hearing related to the disposition of public property.

21-2-15 Nonconforming Telecommunications Towers and Facilities.

- (a) Any telecommunication antenna structure constructed prior to xxxx, 2020 which otherwise does not comply with the provisions of this Article shall be deemed a lawful nonconformity. A lawful nonconforming telecommunication antenna structures may be permitted for co-located antennas/facilities, but shall not be expanded, enlarged, or altered except in full conformance with this Article and with Article 15 (Non-Conforming Uses) of the Zoning Ordinance. Any nonconforming telecommunication antenna structures may be moved to another portion of the same property on which it is constructed upon approval of a Special Exception by the Board